

2012

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Crimes (Child Sex Offenders) Amendment Bill 2012

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(Attorney-General)

Crimes (Child Sex Offenders) Amendment Bill 2012

A Bill for

An Act to amend the *Crimes (Child Sex Offenders) Act 2005*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *Crimes (Child Sex Offenders) Amendment Act 2012*.

3 **2 Commencement**

4 This Act commences on a day fixed by the Minister by written
5 notice.

6 *Note 1* The naming and commencement provisions automatically commence on
7 the notification day (see Legislation Act, s 75 (1)).

8 *Note 2* A single day or time may be fixed, or different days or times may be
9 fixed, for the commencement of different provisions (see Legislation
10 Act, s 77 (1)).

11 *Note 3* If a provision has not commenced within 6 months beginning on the
12 notification day, it automatically commences on the first day after that
13 period (see Legislation Act, s 79).

14 **3 Legislation amended**

15 This Act amends the *Crimes (Child Sex Offenders) Act 2005*.

16 *Note* This Act also amends the *Court Procedures Act 2004* (see s 26).

17 **4 Purpose and outline**
18 **New section 6 (1) (c)**

19 *insert*

20 (c) prohibit registrable offenders from engaging in conduct that
21 poses a risk to the lives or sexual safety of children.

22 **5 New section 6 (2) (ga)**

23 *insert*

24 (ga) allows the chief police officer to apply to the Magistrates Court
25 for orders prohibiting registrable offenders from engaging in
26 conduct that poses a risk to the lives or sexual safety of
27 children; and

1 **6 Offence—offender must report after sentencing**
2 **Section 23 (b) (i)**

3 *after*

4 is not in

5 *insert*

6 , or does not begin, full-time

7 **7 Section 23 (b) (ii)**

8 *substitute*

9 (ii) if the offender is in, or begins, full-time government
10 custody on the day the offender is sentenced for the
11 registrable offence and later stops being in full-time
12 government custody in the ACT—within 7 days after the
13 day the offender stops being in full-time government
14 custody (excluding days in government custody); or

15 **8 Offence—offender must report return to ACT**
16 **Section 47 (d)**

17 *substitute*

18 (d) the offender does not, within the 7 days, take all reasonable
19 steps to—

20 (i) report the offender's return to the ACT to the chief police
21 officer, in an approved way; and

- 1 (ii) if the offender travelled outside Australia—give the chief
2 police officer a copy of the offender’s passport and
3 documents that verify or support the offender’s travel
4 details; and

5 **Examples—documents**

- 6 1 an airline ticket
7 2 a receipt for payment of accommodation

8 *Note* An example is part of the Act, is not exhaustive and may
9 extend, but does not limit, the meaning of the provision in
10 which it appears (see Legislation Act, s 126 and s 132).

11 **9 Offence—offender in ACT must report change of details**
12 **Section 54 (1) (b)**

13 *substitute*

14 (b) the offender does not take all reasonable steps to report the
15 change to the chief police officer, in the way required under
16 subsection (2)—

17 (i) for personal details mentioned in section 59 (e)—within
18 24 hours after the day the change happens (excluding
19 days in government custody); or

20 (ii) for any other personal details—within 7 days after the
21 day the change happens (excluding days in government
22 custody); and

23 **10 Section 54 (3)**

24 *omit*

25 7-day period

26 *substitute*

27 7 days or 3 days

11 New section 54 (4)

insert

- (4) The Legislation Act, section 151A (Periods of time ending on non-working days) does not apply to subsection (1) (b) (i).

**12 Offence—offender returning to ACT must report change of details
Section 55 (1) (c)**

substitute

- (c) the offender does not take all reasonable steps to report the change to the chief police officer, in the way required under subsection (2)—

(i) for personal details mentioned in section 59 (e)—within 24 hours after the day the offender has been in the ACT for 7 consecutive days (excluding days in government custody); or

(ii) for any other personal details—within 7 days after the day the offender has been in the ACT for 7 consecutive days (excluding days in government custody); and

**13 What are *personal details*?
Section 59 (e), notes**

omit

7 days

substitute

3 days

1 **14 New section 59 (o) to (t)**

2 *insert*

3 (o) if the offender has ever been subject to a corresponding
4 prohibition order—details of—

5 (i) the order; and

6 (ii) when and where the order was made;

7 (p) details of any carriage service used by the offender;

8 (q) details of any internet service provider or carriage service
9 provider used by the offender;

10 (r) details of the kind of any internet connection used by the
11 offender;

12 **Examples**

13 wireless, broadband, ADSL or dial-up connection

14 *Note* An example is part of the Act, is not exhaustive and may extend,
15 but does not limit, the meaning of the provision in which it
16 appears (see Legislation Act, s 126 and s 132).

17 (s) details of any email addresses, internet user names, instant
18 messaging user names, chat room user names or any other user
19 name or identity used by the offender through the internet or
20 another electronic communication service;

21 (t) the passport number and country of issue of each passport held
22 by the offender.

23 **15 New section 59 (2)**

24 *insert*

25 (2) In this section:

26 *carriage service*—see the *Telecommunications Act 1997* (Cwlth),
27 section 7 (Definitions).

1 *carriage service provider*—see the *Telecommunications Act 1997*
2 (Cwlth), section 87 (Carriage service providers).

3 *corresponding prohibition order* means an order made under a law
4 of a foreign jurisdiction that substantially corresponds to a
5 prohibition order or interim prohibition order.

6 *internet service provider*—see the *Broadcasting Services Act 1992*
7 (Cwlth), schedule 5, part 2, clause 8 (Internet service providers).

8 **16 Meaning of some concepts in s 59** 9 **Section 60 (b) and (c)**

10 *omit*

11 7 days

12 *substitute*

13 3 days

14 **17 When reporting period begins** 15 **Section 83 (b)**

16 *substitute*

17 (b) if the offender is in, or begins, full-time government custody
18 on the day the offender is sentenced for the registrable
19 offence—when the offender stops being in full-time
20 government custody.

21 **Example**

22 when a person ends full-time detention and begins periodic detention

23 *Note* An example is part of the Act, is not exhaustive and may extend,
24 but does not limit, the meaning of the provision in which it
25 appears (see Legislation Act, s 126 and s 132).

1 **18 Offence—secrecy**
2 **Section 121**

3 *relocate as section 133A*

4 **19 New chapter 5A**

5 *insert*

6 **Chapter 5A Orders prohibiting offender**
7 **conduct**

8 **Part 5A.1 Preliminary**

9 **132A Definitions—ch 5A**

10 In this chapter:

11 *application*, for an order for a person under this chapter, includes an
12 application for the registration of a corresponding protection order.

13 *conduct* includes a course of conduct.

14 *corresponding prohibition order* means an order made under a law
15 of a foreign jurisdiction that substantially corresponds to a
16 prohibition order.

17 *CYP director-general* means the director-general of the
18 administrative unit responsible for the *Children and Young People*
19 *Act 2008*.

- 1 ***CYP director-general's report*** means the report mentioned in
2 section 132C.
- 3 ***daily care responsibility***—see the *Children and Young People*
4 *Act 2008*, section 19.
- 5 ***interim prohibition order***—see section 132H (Court may make
6 interim prohibition order).
- 7 ***long-term care responsibility***—see the *Children and Young People*
8 *Act 2008*, section 20.
- 9 ***make***, an order for a person under this chapter, includes register a
10 corresponding prohibition order.
- 11 ***parental responsibility***, for a child or young person—see the
12 *Children and Young People Act 2008*, section 15.
- 13 ***prohibition order***—see section 132D (Court may make prohibition
14 order).
- 15 ***registered corresponding prohibition order*** means a corresponding
16 prohibition order registered under section 132N (Registration of
17 corresponding prohibition order—no amendment) or section 132P
18 (Registration of corresponding prohibition order—with
19 amendment).
- 20 ***registration notice***—see section 132O (Notice of registration of
21 unamended corresponding prohibition order).
- 22 ***return date***, for an application, means the day set by the Magistrates
23 Court for return of the application before the court.

1 **Part 5A.2 Prohibition orders**

2 **132B Application for prohibition order**

3 (1) The chief police officer may apply to the Magistrates Court for a
4 prohibition order for a person if the chief police officer believes on
5 reasonable grounds that—

6 (a) the person is a registrable offender; and

7 (b) the person has engaged in conduct the nature or pattern of
8 which poses a risk to the lives or sexual safety of 1 or more
9 children, or of children generally; and

10 **Examples**

11 1 loitering at or near a park fitted with playground equipment regularly
12 used by children

13 2 seeking employment or volunteer work that will involve the person
14 coming into contact with children, including, for example,
15 door-to-door sales or collecting

16 3 living near a child care centre

17 4 boarding in a household with children under 16 years old

18 *Note* An example is part of the Act, is not exhaustive and may extend,
19 but does not limit, the meaning of the provision in which it
20 appears (see Legislation Act, s 126 and s 132).

21 (c) prohibiting the conduct stated in the application will reduce the
22 risk.

23 *Note* If a form is approved under the *Court Procedures Act 2004*, s 8 for this
24 provision, the form must be used.

25 (2) The application must—

26 (a) state each registrable offence for which the person has been
27 found guilty; and

28 (b) state the particulars of the conduct the chief police officer
29 believes the person has engaged in; and

-
- 1 (c) state when the chief police officer believes the person engaged
2 in the conduct; and
- 3 (d) state the conduct of the person proposed to be prohibited under
4 the prohibition order, including the conditions (if any) sought
5 by the chief police officer; and
- 6 (e) if the person is a young person—include a copy of the CYP
7 director-general’s report for the person.
- 8 (3) The application may state that the chief police officer is seeking an
9 interim prohibition order on the application.

10 **132C CYP director-general’s report**

- 11 (1) This section applies if the chief police officer intends to apply to the
12 Magistrates Court under section 132B for a prohibition order for a
13 young person.
- 14 (2) The chief police officer must ask the CYP director-general in
15 writing for a written report containing the director-general’s opinion
16 on—
- 17 (a) whether the nature or pattern of conduct the chief police officer
18 believes the young person has engaged in poses a risk to the
19 lives or sexual safety of 1 or more children, or of children
20 generally; and
- 21 (b) whether there are other reasonably appropriate ways of
22 managing the young person; and
- 23 (c) whether the prohibition of the proposed conduct of the young
24 person is reasonable having regard to the conduct mentioned in
25 paragraph (a); and
- 26 (d) what impact a prohibition order may have on the best interests
27 of the young person, including the young person’s
28 accommodation, educational, health, cultural, family or other
29 social needs.

- 1 (3) The report may contain any other information, assessments or
2 reports that the CYP director-general considers appropriate.
- 3 (4) However, a report need not include protected information under the
4 *Children and Young People Act 2008* about the young person.
- 5 *Note* The CYP director-general may give protected information to the chief
6 police officer if the director-general is satisfied that the information is
7 materially relevant to an investigation a police officer is carrying out
8 (see *Children and Young People Act 2008*, s 865A).
- 9 (5) The CYP director-general must give the report to the chief police
10 officer within 28 days after the day the chief police officer requests
11 the report.

12 **132D Court may make prohibition order**

- 13 (1) The Magistrates Court may, on application, make an order (a
14 *prohibition order*) prohibiting a person from engaging in conduct if
15 satisfied that—
- 16 (a) the person is a registrable offender; and
- 17 (b) the person has engaged in the conduct stated in the application
18 for the order; and
- 19 (c) having regard to the nature or pattern of the conduct engaged
20 in—
- 21 (i) the person poses a risk to the lives or sexual safety of 1 or
22 more children, or of children generally; and
- 23 (ii) the making of the order will reduce the risk; and
- 24 (d) having regard to the matters mentioned in section 132E, the
25 order is appropriate.
- 26 *Note* For the kind of conduct the Magistrates Court may prohibit, see s 132F.

- 1 (2) Also, the Magistrates Court may only make a prohibition order for a
2 young person—
- 3 (a) after considering the CYP director-general’s report for the
4 young person; and
- 5 (b) if satisfied that all other reasonably appropriate ways of
6 managing the young person have been considered by the chief
7 police officer before the chief police officer applied for the
8 order.
- 9 (3) For subsection (1), it is not necessary for the Magistrates Court to
10 identify a risk to a particular child, particular children, or a
11 particular class of children.
- 12 (4) The application for the order may be heard, and the order made, in
13 the person’s absence if the Magistrates Court is satisfied that the
14 person was served with the application under section 132Z (Service
15 of applications).
- 16 (5) If a person against whom a prohibition order is sought is already
17 subject to a prohibition order and no application has been made to
18 revoke the existing order, the Magistrates Court must, if it decides to
19 make the order—
- 20 (a) revoke the existing order and replace it with a new order
21 (which may contain matters relating to the existing order); or
- 22 (b) amend the existing order to include the matters in relation to
23 which it has decided to make the order.
- 24 (6) A failure to comply with subsection (5) does not affect the validity
25 of an existing prohibition order or the new prohibition order.

- 1 **132E Matters court must consider before making prohibition**
2 **order**
- 3 (1) For section 132D (1) (d), the matters are as follows:
- 4 (a) for each registrable offence for which the person is a
5 registrable offender—
- 6 (i) the seriousness of the offence; and
7 (ii) the period since the offence was committed; and
8 (iii) the person’s and victim’s ages when the person
9 committed the offence, and the difference in age between
10 the person and victim;
- 11 (b) the person’s present age;
- 12 (c) the seriousness of the person’s criminal history;
- 13 (d) whether the level of risk that the person may commit another
14 registrable offence outweighs the effect of the order on the
15 person;
- 16 (e) the person’s circumstances, to the extent that they relate to the
17 conduct sought to be prohibited;
- 18 **Examples**
- 19 1 the person’s accommodation, employment, health, cultural and social
20 needs
- 21 2 the need to integrate the person into the community
- 22 *Note* An example is part of the Act, is not exhaustive and may extend,
23 but does not limit, the meaning of the provision in which it
24 appears (see Legislation Act, s 126 and s 132).
- 25 (f) if the person is a young person—the person’s best interests,
26 including the person’s educational needs and access to family
27 members.
- 28 (2) The Magistrates Court may have regard to anything else the court
29 considers relevant.

- 1 (3) In this section:
- 2 ***criminal history***, about a person, means—
- 3 (a) a finding of guilt against the person for a registrable offence or
- 4 relevant offence; and
- 5 (b) a charge made against the person for a registrable offence or
- 6 relevant offence, other than—
- 7 (i) a charge that has been withdrawn, discontinued or
- 8 dismissed; or
- 9 (ii) a charge for an offence for which the person was
- 10 acquitted or found guilty.
- 11 ***family member***—see the *Children and Young People Act 2008*,
- 12 section 13.
- 13 ***relevant offence*** means any of the following offences (whether
- 14 committed in the ACT or elsewhere):
- 15 (a) a sexual offence;
- 16 (b) an offence against the person;
- 17 (c) an offence involving violence;
- 18 (d) an offence involving dishonesty or fraud;
- 19 (e) an offence relating to property;
- 20 (f) an offence relating to illegal drugs;
- 21 (g) an offence against an animal;
- 22 (h) any other offence the chief police officer considers relevant.

- 1 **132F Conduct that may be prohibited by prohibition order etc**
- 2 (1) For section 132D (1) (Court may make prohibition order) or
- 3 section 132H (1) (Court may make interim prohibition order), the
- 4 kind of conduct the Magistrates Court may prohibit includes the
- 5 following:
- 6 (a) associating with, or otherwise contacting, stated people or a
- 7 stated kind of person;
- 8 **Example**
- 9 corresponding with other registrable offenders
- 10 *Note* An example is part of the Act, is not exhaustive and may extend,
- 11 but does not limit, the meaning of the provision in which it
- 12 appears (see Legislation Act, s 126 and s 132).
- 13 (b) being in stated places or a stated kind of place;
- 14 **Example**
- 15 within 200m of a school between 7am and 7pm on school days
- 16 (c) living at 1 or more stated premises, a stated kind of premises or
- 17 premises at a stated place;
- 18 **Examples**
- 19 1 a house where children under 16 years old live
- 20 2 any premises that are within 200m of a child care centre
- 21 (d) engaging in stated behaviour;
- 22 **Example**
- 23 taking photographs of children
- 24 (e) being in stated employment, or a stated kind of employment,
- 25 whether paid or voluntary, that is likely to bring the person into
- 26 contact with children.
- 27 **Examples**
- 28 1 door-to-door sales or collecting
- 29 2 employment at a place that is within 200m of a school

- 1 (2) The Magistrates Court—
- 2 (a) may prohibit conduct absolutely or on the conditions it
- 3 considers appropriate; and
- 4 (b) must state the conduct and any conditions in the order.
- 5 (3) If the Magistrates Court prohibits a person from engaging in
- 6 conduct at or near a place and the person has personal property at
- 7 the place, the court must, if satisfied that it is necessary to do so,
- 8 ensure that the order provides for the person to recover the person's
- 9 personal property from the place.

10 **132G Term of prohibition order**

- 11 (1) A prohibition order for a person takes effect—
- 12 (a) if the person is before the Magistrates Court when the order is
- 13 made—when it is made; or
- 14 (b) if the person is not before the Magistrates Court when the order
- 15 is made—when a copy of the order is served on the person
- 16 under section 132ZC (Giving copy of order to person not
- 17 before court).
- 18 (2) The order remains in force for the term, not longer than the
- 19 following, that the Magistrates Court states in the order:
- 20 (a) for a young person—
- 21 (i) 1 year; or
- 22 (ii) if the young person's reporting period ends in less than
- 23 1 year—the young person's reporting period;
- 24 (b) in any other case—
- 25 (i) 5 years; or
- 26 (ii) if the person's reporting period ends in less than
- 27 5 years—the person's reporting period.

1 **Part 5A.3 Interim prohibition orders**

2 **132H Court may make interim prohibition order**

3 (1) The Magistrates Court may make an order (an *interim prohibition*
4 *order*) prohibiting a person from engaging in conduct if satisfied
5 that—

6 (a) the person is a registrable offender; and

7 (b) having regard to the nature or pattern of conduct stated in the
8 application to have been engaged in by the person, the person
9 poses a risk to the lives or sexual safety of 1 or more children,
10 or of children generally; and

11 (c) it is necessary to make the interim prohibition order to reduce
12 the risk until the application for the prohibition order is
13 decided.

14 *Note* For the kind of conduct the Magistrates Court may prohibit, see s 132F.

15 (2) For subsection (1), it is not necessary for the Magistrates Court to
16 identify a risk to a particular child, particular children, or a
17 particular class of children.

18 (3) The Magistrates Court may make an interim prohibition order—

19 (a) only on an application for a prohibition order; and

20 (b) at any time during the proceeding on the application for the
21 prohibition order to which it relates.

22 (4) The application for the prohibition order may be heard, and an
23 interim prohibition order made, in the person's absence if the
24 Magistrates Court is satisfied that the person was served with the
25 application under section 132Z (Service of applications).

26 (5) If the Magistrates Court makes an interim prohibition order for a
27 person, the court must set another return date for the application for
28 the prohibition order for the person.

- 1 **132I Term of interim prohibition order**
- 2 (1) An interim prohibition order for a person takes effect—
- 3 (a) if the person is before the Magistrates Court when the order is
- 4 made—when it is made; or
- 5 (b) if the person is not before the Magistrates Court when the order
- 6 is made—when a copy of the order is served on the person
- 7 under section 132ZC (Giving copy of order to person not
- 8 before court).
- 9 (2) The interim prohibition order remains in force until the earlier of—
- 10 (a) the end of the relevant period for the order; and
- 11 (b) 1 of the following:
- 12 (i) if the Magistrates Court makes a prohibition order for the
- 13 person—the day the order takes effect;
- 14 (ii) if the Magistrates Court decides not to make a prohibition
- 15 order for the person—the day the court makes the
- 16 decision;
- 17 (iii) if the chief police officer discontinues the application for
- 18 the prohibition order for the person—the day the
- 19 application is discontinued;
- 20 (iv) if the order is revoked by the court under section 132L
- 21 (Court may amend or revoke prohibition order or interim
- 22 prohibition order) or set aside (however described) on
- 23 appeal—the day the order is revoked or set aside;
- 24 (v) if a proceeding for a prohibition order is not started by
- 25 the return date set by the court under section 132H (5)
- 26 and the court does not extend the interim prohibition
- 27 order under section 132J—the return date;
- 28 (vi) if the person’s reporting period ends before the relevant
- 29 period ends—the day the reporting period ends.

- 1 (3) In this section:
2 *relevant period*, for an interim prohibition order, means—
3 (a) 28 days; or
4 (b) the period for which the order is extended under section 132J.
- 5 **132J Extending interim prohibition order if application for**
6 **prohibition order adjourned**
- 7 (1) This section applies in relation to an application for a prohibition
8 order for a person if—
9 (a) an interim prohibition order is in force for the person; and
10 (b) the Magistrates Court adjourns the application; and
11 (c) the interim prohibition order will end before the application is
12 decided.
- 13 (2) The Magistrates Court may, on application by the chief police
14 officer or on its own initiative, extend the interim prohibition order
15 for not more than 28 days.
- 16 (3) The interim prohibition order may be extended in the person's
17 absence if the Magistrates Court is satisfied that the person was
18 served with the application for the prohibition order under
19 section 132Z (Service of applications).

1 **Part 5A.4** **Amending or revoking**
2 **prohibition and interim**
3 **prohibition orders**

4 **132K** **Application to amend or revoke prohibition order or**
5 **interim prohibition order**

6 (1) This section applies to a prohibition order or interim prohibition
7 order for a person.

8 (2) The person or chief police officer may apply to the Magistrates
9 Court for an order amending or revoking the order.

10 *Note* If a form is approved under the *Court Procedures Act 2004*, s 8 for this
11 provision, the form must be used.

12 (3) However, other than in relation to an order made in the person's
13 absence, the person may only make an application under
14 subsection (2) with the Magistrates Court's leave.

15 (4) The Magistrates Court may grant the leave if satisfied that—

16 (a) it is in the interests of justice, having regard to changes in the
17 person's circumstances, or circumstances affecting the person,
18 since the prohibition or interim prohibition order was made or
19 last amended by the court; or

20 **Examples—person's circumstances**

21 the person's accommodation, employment, health, cultural or social needs

22 **Example—circumstances affecting person**

23 Under a prohibition order, the person is prohibited from going within 200m
24 of a stated child care centre, and the child care centre has closed down since
25 the order was made.

26 *Note* An example is part of the Act, is not exhaustive and may extend,
27 but does not limit, the meaning of the provision in which it
28 appears (see Legislation Act, s 126 and s 132).

1 (b) it is appropriate on compassionate grounds, including having
2 regard to the person's culturally specific needs.

3 **Example**

4 to attend a relative's funeral

5 **132L Court may amend or revoke prohibition order or interim**
6 **prohibition order**

7 (1) The Magistrates Court may, on application, make an order
8 amending or revoking a prohibition order or interim prohibition
9 order.

10 (2) In considering an order in relation to a prohibition order, the
11 Magistrates Court must have regard to—

12 (a) the matters mentioned in section 132D (Court may make
13 prohibition order) to the extent the court that made the
14 prohibition order was required to have regard to those matters;
15 and

16 (b) any changes in the person's circumstances since the prohibition
17 order was made or last amended by the court.

18 (3) In considering an order in relation to an interim prohibition order,
19 the Magistrates Court must have regard to—

20 (a) the matters mentioned in section 132H (Court may make
21 interim prohibition order) to the extent the court that made the
22 interim prohibition order was required to have regard to those
23 matters; and

24 (b) any changes in the person's circumstances since the interim
25 prohibition order was made or last amended by the court.

26 (4) An order amending a prohibition order or interim prohibition order
27 takes effect—

28 (a) if the person is before the Magistrates Court when the
29 amending order is made—when it is made; or

- 1 (b) if the person is not before the Magistrates Court when the
2 amending order is made—when a copy of the order is served
3 on the person under section 132ZC (Giving copy of order to
4 person not before court).
- 5 (5) An order revoking a prohibition order or interim prohibition order
6 takes effect when it is made.

7 **Part 5A.5 Corresponding prohibition** 8 **orders**

9 **132M Application for registration of corresponding prohibition** 10 **order**

- 11 (1) The chief police officer may apply to the Magistrates Court for the
12 registration of a corresponding prohibition order for a person.
- 13 *Note* If a form is approved under the *Court Procedures Act 2004*, s 8 for this
14 provision, the form must be used.
- 15 (2) The application must—
- 16 (a) be accompanied by a copy of the corresponding prohibition
17 order; and
- 18 (b) if the law of the foreign jurisdiction in which the order was
19 made required the order to be served on the person—include
20 evidence that the corresponding prohibition order was served
21 on the person under that law; and
- 22 (c) include details of any amendment sought for the corresponding
23 prohibition order to operate effectively in the ACT.
- 24 *Note* If an application includes details in par (c), the Magistrates Court must
25 set a return date for the hearing of the application (see s 132Y).

- 1 **132N Registration of corresponding prohibition order—no**
2 **amendment**
- 3 (1) This section applies if—
- 4 (a) an application is made under section 132M for the registration
5 of a corresponding prohibition order for a person; and
- 6 (b) the application does not include details of amendment sought
7 for the corresponding protection order to operate effectively in
8 the ACT under section 132M (2) (c).
- 9 (2) The Magistrates Court must register the corresponding prohibition
10 order if the court is satisfied that—
- 11 (a) the person is a registrable offender; and
- 12 (b) the corresponding prohibition order is in force; and
- 13 (c) if the law of the foreign jurisdiction in which the order was
14 made required the order to be served on the person—the order
15 was served on the person under that law.
- 16 (3) However, if the Magistrates Court considers that the corresponding
17 prohibition order requires amendment to operate effectively in the
18 ACT, the court may, on its own initiative, deal with the application
19 under section 132P (Registration of corresponding prohibition
20 order—with amendment).
- 21 *Note* If the Magistrates Court considers the corresponding prohibition order
22 requires amendment to operate effectively in the ACT, the court must
23 set a return date for the hearing of the application (see s 132Y).
- 24 **132O Notice of registration of unamended corresponding**
25 **prohibition order**
- 26 (1) As soon as practicable after registering a corresponding prohibition
27 order for a person under section 132N, the Magistrates Court must
28 give the chief police officer notice (a *registration notice*) that the
29 order has been registered.

-
- 1 (2) The chief police officer must personally serve a copy of the
2 registration notice on the person.
- 3 (3) For a registered corresponding prohibition order for a young person,
4 the chief police officer must also personally serve a copy of the
5 registration notice on—
- 6 (a) if the young person lives with a person with parental
7 responsibility for the young person—the person with parental
8 responsibility; and
- 9 (b) if the CYP director-general has long-term care responsibility or
10 daily care responsibility (alone or shared with someone else)
11 for the young person—the CYP director-general.
- 12 (4) The police officer serving the copy of the registration notice must,
13 as far as practicable in the circumstances, explain to the person—
- 14 (a) the purpose, terms and effect of the notice; and
- 15 (b) any consequences that may follow if the person against whom
16 the corresponding prohibition order is made fails to comply
17 with the registered corresponding prohibition order.
- 18 (5) The police officer must explain the matters mentioned in
19 subsection (4) in language likely to be readily understood by the
20 person.
- 21 (6) A failure to comply with subsection (4) or (5) does not affect the
22 validity of the registered corresponding prohibition order.

23 **132P Registration of corresponding prohibition order—with**
24 **amendment**

- 25 (1) This section applies if—
- 26 (a) an application is made under section 132M (Application for
27 registration of corresponding prohibition order) for the
28 registration of a corresponding prohibition order for a person;
29 and

- 1 (b) either—
- 2 (i) the application includes details of amendments sought for
- 3 the corresponding protection order to operate effectively
- 4 in the ACT under section 132M (2) (c); or
- 5 (ii) the Magistrates Court decides, under section 132N (3)
- 6 (Registration of corresponding prohibition order—no
- 7 amendment) to deal with the application under this
- 8 section.
- 9 (2) The application may be heard in the person’s absence if the
- 10 Magistrates Court is satisfied that the person was served with the
- 11 application under section 132Z (Service of applications).
- 12 (3) The Magistrates Court may make an order amending the
- 13 corresponding prohibition order for its registration in a way the
- 14 court considers is necessary or desirable for its effective operation in
- 15 the ACT.
- 16 (4) In considering an order under subsection (3), the Magistrates Court
- 17 must have regard to—
- 18 (a) anything that must be considered under section 132D (Court
- 19 may make prohibition order) on an application for a
- 20 prohibition order; and
- 21 (b) any changes in the person’s circumstances since the
- 22 corresponding prohibition order was made.
- 23 (5) The Magistrates Court must register the corresponding prohibition
- 24 order as amended under this section if the court is satisfied that—
- 25 (a) the person is a registrable offender; and
- 26 (b) the corresponding prohibition order is in force; and
- 27 (c) if the law of the foreign jurisdiction in which the order was
- 28 made required the corresponding prohibition order to be served
- 29 on the person—the order was served on the person under that
- 30 law.

- 1 **132Q Term of registered corresponding prohibition order**
- 2 (1) Registration of a corresponding prohibition order for a person under
3 section 132N (Registration of corresponding prohibition order—no
4 amendment) takes effect when the registration notice for the order is
5 served on the person.
- 6 (2) Registration of a corresponding prohibition order for a person under
7 section 132P takes effect—
- 8 (a) if the person is before the Magistrates Court when the
9 corresponding prohibition order as amended is registered—
10 when it is registered; or
- 11 (b) if the person is not before the Magistrates Court when the
12 corresponding prohibition order as amended is registered—
13 when a copy of the registered corresponding prohibition order
14 is served on the person under section 132ZC (Giving copy of
15 order to person not before court).
- 16 (3) A registered corresponding prohibition order is registered for the
17 lesser of—
- 18 (a) 5 years; and
- 19 (b) the period during which the corresponding prohibition order, as
20 originally made, is in force.
- 21 (4) However, if the person is a young person, the registered
22 corresponding prohibition order is registered for the lesser of—
- 23 (a) 3 months; and
- 24 (b) the period during which the corresponding prohibition order, as
25 originally made, is in force.

- 1 **132R Application to amend or cancel registration of registered**
2 **corresponding prohibition order**
- 3 (1) A person against whom a registered corresponding prohibition order
4 is in force, or the chief police officer, may apply to the Magistrates
5 Court for an order amending or cancelling the registration of the
6 order.
- 7 *Note* If a form is approved under the *Court Procedures Act 2004*, s 8 for this
8 provision, the form must be used.
- 9 (2) However, other than in relation to an order made in the person’s
10 absence, the person may only make an application under
11 subsection (1) with the court’s leave.
- 12 (3) The Magistrates Court may grant the leave if satisfied that—
- 13 (a) it is in the interests of justice, having regard to changes in the
14 person’s circumstances, or circumstances affecting the person,
15 since the corresponding prohibition order was made or last
16 amended by the court; or
- 17 **Examples—person’s circumstances**
18 the person’s accommodation, employment, health, cultural or social needs
- 19 **Example—circumstances affecting person**
20 Under a corresponding prohibition order, the person is prohibited from
21 going within 200m of a stated child care centre, and the child care centre
22 has closed down since the order was made.
- 23 *Note* An example is part of the Act, is not exhaustive and may extend,
24 but does not limit, the meaning of the provision in which it
25 appears (see Legislation Act, s 126 and s 132).
- 26 (b) it is appropriate on compassionate grounds, including having
27 regard to the person’s culturally specific needs.
- 28 **Example**
29 to attend a relative’s funeral

- 1 **132S Court may amend or cancel registration of registered**
2 **corresponding prohibition order**
- 3 (1) The Magistrates Court may, on application, make an order
4 amending or cancelling the registration of a registered
5 corresponding prohibition order.
- 6 (2) In considering an order, the Magistrates Court must have regard
7 to—
- 8 (a) the matters mentioned in section 132D (Court may make
9 prohibition order); and
- 10 (b) any changes in the person’s circumstances since the registered
11 corresponding prohibition order was made or last amended by
12 the court.
- 13 (3) An order amending a registered corresponding prohibition order
14 takes effect—
- 15 (a) if the person is before the Magistrates Court when the
16 amending order is made—when it is made; or
- 17 (b) if the person is not before the Magistrates Court when the
18 amending order is made—when a copy of the order is served
19 on the person under section 132ZC (Giving copy of order to
20 person not before court).
- 21 (4) An order cancelling the registration of a registered corresponding
22 prohibition order takes effect when it is made.

1 **Part 5A.6** **People with legal disabilities**

2 **132T** **Definitions—pt 5A.6**

3 In this part:

4 *person with a legal disability* means—

- 5 (a) a young person; or
- 6 (b) a person with a mental disability.

7 *person with a mental disability* means a person who is not legally
8 competent to be a party to a proceeding on an application for an
9 order under this chapter because of a mental or intellectual
10 disability, and includes such a person even if a disability guardian
11 under the *Guardianship and Management of Property Act 1991* has
12 been appointed.

13 **132U** **Appointing litigation guardian for person with legal**
14 **disability**

- 15 (1) This section applies in relation to a proceeding on an application for
16 an order for a person (the *relevant person*) under this chapter if the
17 Magistrates Court considers that the person is or may be a person
18 with a legal disability.
- 19 (2) The following people may be appointed as a litigation guardian for
20 the relevant person:
 - 21 (a) an individual who is not a person with a legal disability;
 - 22 (b) the public advocate.
- 23 (3) An individual is appointed under subsection (2) by filing with the
24 Magistrates Court a statement—
 - 25 (a) about whether, to the best of the individual's knowledge, the
26 relevant person has a guardian or manager, other than the
27 individual; and

- 1 (b) to the effect that the individual—
- 2 (i) has no interest in the proceeding that is adverse to the
- 3 interests of the relevant person; and
- 4 (ii) agrees to be appointed.
- 5 (4) However, if the relevant person has a guardian or manager, other
- 6 than the individual, the individual may be appointed as the relevant
- 7 person's litigation guardian only with the Magistrates Court's leave.
- 8 (5) For this section:
- 9 *guardian*—see the *Guardianship and Management of Property*
- 10 *Act 1991*, dictionary.
- 11 *manager*—see the *Guardianship and Management of Property*
- 12 *Act 1991*, dictionary.
- 13 *Note* Section 132X sets out what happens if a party with a legal disability
- 14 does not have a representative, or an appropriate or suitable
- 15 representative.

16 **132V Functions of litigation guardian**

- 17 (1) This section applies if a litigation guardian has been appointed in a
- 18 proceeding on an application for an order for a person under this
- 19 chapter.
- 20 (2) Anything that the person is allowed to do under this chapter may be
- 21 done by the person's litigation guardian.
- 22 (3) Anything that the person is required to do under this chapter must be
- 23 done by the person's litigation guardian.
- 24 *Note* The litigation guardian may not give the person's evidence for the
- 25 person (see *Evidence Act 1995* (Cwlth), pt 3.2).
- 26 (4) The person's litigation guardian must do everything that is
- 27 necessary in the proceeding to protect the person's interests.

1 **132W Removal of litigation guardian**

- 2 (1) The Magistrates Court may, on application or its own initiative—
- 3 (a) remove the litigation guardian of a person with a legal
- 4 disability in a proceeding on an application for an order for the
- 5 person under this chapter; and
- 6 (b) order that the proceeding be stayed until someone else has been
- 7 appointed as litigation guardian in place of the person
- 8 removed.
- 9 (2) An applicant for an order under subsection (1) must, unless the
- 10 Magistrates Court otherwise directs, serve notice of the application
- 11 on the person whose removal is sought and on the person with a
- 12 legal disability.
- 13 (3) An application under subsection (1) may be made by a party to the
- 14 proceeding or anyone else.

15 **132X Representation of parties with legal disability**

- 16 (1) This section applies if a party to a proceeding on an application for
- 17 an order for a person under this chapter—
- 18 (a) is a person with a legal disability; and
- 19 (b) does not have a representative, or an appropriate or suitable
- 20 representative.
- 21 (2) The Magistrates Court may, on application or its own initiative—
- 22 (a) adjourn the proceeding so the party can get representation; and
- 23 (b) give the party the information necessary to allow the party to
- 24 get representation; and
- 25 (c) tell the public advocate that the proceeding has been adjourned
- 26 so the party can get representation.

1 **Part 5A.7** **Other provisions about orders** 2 **prohibiting offender conduct**

3 **132Y** **Court sets return date**

- 4 (1) This section applies to an application for an order for a person under
5 this chapter if a hearing will be held for the application.

6 *Note* A hearing is not required to register a corresponding prohibition order
7 without amendment (see s 132N).

- 8 (2) On receiving the application, the Magistrates Court must—

9 (a) enter the application into the court's record; and

10 (b) set a return date for the application; and

11 (c) state the return date on the application and any copies of the
12 application for service.

- 13 (3) The return date must be—

14 (a) not later than 2 days after the day the application is made; or

15 (b) not later than 10 days after the day the application is made if—

16 (i) the chief police officer is not seeking an interim
17 prohibition order on the application; and

18 (ii) the Magistrates Court is satisfied that the longer time is
19 necessary to allow the person to be served with the
20 application.

21 **132Z** **Service of applications**

- 22 (1) This section applies to an application for an order for a person under
23 this chapter if a hearing will be held for the application.

24 *Note* A hearing is not required to register a corresponding prohibition order
25 without amendment (see s 132N).

- 1 (2) A copy of the application must be—
2 (a) personally served on the person; and
3 (b) served on anyone else the court directs.
- 4 *Note* For how orders may be served under par (b), see the Legislation Act,
5 pt 19.5.
- 6 (3) If the application relates to an order for a young person, the
7 application must also be personally served on—
8 (a) if the young person lives with a person with parental
9 responsibility for the young person—the person with parental
10 responsibility; and
11 (b) if the CYP director-general has long-term care responsibility or
12 daily care responsibility (alone or shared with someone else)
13 for the young person—the CYP director-general.
- 14 (4) The application must be served as soon as practicable after—
15 (a) if the return date set under section 132Y is not the day the
16 application is made—the day the application is made; or
17 (b) if the return date set under section 132Y is the day the
18 application is made—the day the application has gone before
19 the Magistrates Court and the court has set a further date for
20 the application's return before the court.

21 **132ZA If personal service impractical or impossible**

- 22 (1) This section applies if—
23 (a) an application, order or other document must be personally
24 served on a person under this chapter; and
25 (b) personal service of the application, order or document is not
26 reasonably practicable.

- 1 (2) The Magistrates Court may order that the application, order or
2 document be served in the way, stated in the order, that the court
3 considers is likely to bring the application, order or document to the
4 attention of the person required to be served.

5 **132ZB Court may issue warrant for person's arrest**

- 6 (1) This section applies if—
7 (a) an application for an order for a person under this chapter has
8 been made to the Magistrates Court; and
9 (b) a hearing will be held for the application; and
10 *Note* A hearing is not required to register a corresponding prohibition
11 order without amendment (see s 132N).
12 (c) the court is satisfied that the person has been served with a
13 copy of the application under section 132Z (Service of
14 applications).

- 15 (2) If the Magistrates Court considers it appropriate, the court may—
16 (a) issue a warrant for the person to be arrested and brought before
17 the court; and
18 (b) adjourn the hearing of the application until the person is
19 brought before the court.

20 **132ZC Giving copy of order to person not before court**

- 21 (1) This section applies if—
22 (a) the Magistrates Court makes an order for a person under this
23 chapter on hearing the application for the order; and
24 *Note* A hearing is not required to register a corresponding prohibition
25 order without amendment (see s 132N).
26 (b) the person is not before the court when the order is made.

- 1 (2) A police officer must personally serve on the person—
2 (a) a copy of the order; and
3 (b) if the order is a prohibition order or interim prohibition order—
4 a notice stating that, if a law of a foreign jurisdiction provides
5 for registration of the order in the jurisdiction, the order may be
6 registered in the jurisdiction.
- 7 (3) A failure to comply with this section in relation to an order revoking
8 an order, or cancelling the registration of a registered corresponding
9 prohibition order, does not affect the validity of the order.

10 **132ZD Giving copy of order for young person etc**

- 11 (1) This section applies if—
12 (a) the Magistrates Court makes an order for a young person under
13 this chapter on hearing the application for the order; and
14 *Note* A hearing is not required to register a corresponding prohibition
15 order without amendment (see s 132N).
16 (b) the order is likely to result in the young person needing to
17 change where the person lives.
- 18 (2) The chief police officer must, as soon as practicable after the
19 Magistrates Court makes the order, serve a copy of it on—
20 (a) if the young person lives with a person with parental
21 responsibility for the young person—the person with parental
22 responsibility; and
23 (b) if the CYP director-general has long-term care responsibility or
24 daily care responsibility (alone or shared with someone else)
25 for the young person—the CYP director-general.
- 26 (3) A failure to comply with this section does not affect the validity of
27 the order.

1 **132ZE Explaining orders if person before court**

- 2 (1) This section applies if—
- 3 (a) the Magistrates Court makes an order for a person under this
4 chapter on hearing the application for the order; and
- 5 *Note* A hearing is not required to register a corresponding prohibition
6 order without amendment (see s 132N).
- 7 (b) the person is before the court when the order is made.
- 8 (2) For an order, other than an order revoking or cancelling an order,
9 the Magistrates Court must explain to the person—
- 10 (a) the purpose, terms and effect of the order; and
- 11 (b) any consequences that may follow if the person fails to comply
12 with the order; and
- 13 (c) that, if a law of a foreign jurisdiction provides for registration
14 of the order in the jurisdiction, the order may be registered in
15 the jurisdiction.
- 16 (3) For an order revoking or cancelling an order, the Magistrates Court
17 must explain to the person the effect of the order.
- 18 (4) The Magistrates Court must explain the matters mentioned in
19 subsection (2) or (3) in language likely to be readily understood by
20 the person.
- 21 (5) A failure to comply with this section does not affect the validity of
22 the order.

23 **132ZF Explaining orders if person not before court**

- 24 (1) This section applies if—
- 25 (a) the Magistrates Court makes an order for a person under this
26 chapter on hearing the application for the order; and
- 27 *Note* A hearing is not required to register a corresponding prohibition
28 order without amendment (see s 132N).

- 1 (b) the person is not before the court when the order is made; and
2 (c) the chief police officer is required to personally serve a copy of
3 the order on—
4 (i) the person; or
5 (ii) if the person is a young person—the person with parental
6 responsibility for the young person.
- 7 (2) For an order, other than an order revoking or cancelling an order,
8 the police officer serving the copy of the order must, as far as is
9 practicable in the circumstances, explain to the person—
10 (a) the purpose, terms and effect of the order; and
11 (b) any consequences that may follow if the person against whom
12 the order is made fails to comply with the order; and
13 (c) that, if a law of a foreign jurisdiction provides for registration
14 of the order in the jurisdiction, the order may be registered in
15 the jurisdiction.
- 16 (3) For an order revoking or cancelling an order, the police officer must,
17 as far as is practicable in the circumstances, explain to the person
18 the effect of the order.
- 19 (4) The police officer must explain the matters mentioned in
20 subsection (2) or (3) in language likely to be readily understood by
21 the person.
- 22 (5) A failure to comply with this section does not affect the validity of
23 the order.

24 **132ZG Proceedings for orders to be closed to public**

- 25 (1) This section applies in relation to a proceeding on an application for
26 an order for a person (the *relevant person*) under this chapter.
27 (2) The application must be heard in the absence of the public.

- 1 (3) However, the Magistrates Court may, if it considers it appropriate,
2 order that a person other than the relevant person, chief police
3 officer or lawyer representing the relevant person or chief police
4 officer may be present.

5 **Part 5A.8 Offences**

6 **132ZH Offences—prohibition of publication of identity**

- 7 (1) A person commits an offence if the person—
8 (a) publishes protected identity information about a protected
9 person in relation to a proceeding on an application for an
10 order for the person under this chapter; and
11 (b) intentionally publishes the information.

12 Maximum penalty: 100 penalty units, imprisonment for 1 year or
13 both.

- 14 (2) A person commits an offence if the person—
15 (a) publishes protected identity information about a protected
16 person in relation to a proceeding on an application for an
17 order for the person under this chapter; and
18 (b) is reckless about whether the information is protected identity
19 information about the protected person.

20 Maximum penalty: 50 penalty units, imprisonment for 6 months or
21 both.

- 22 (3) It is a defence to a prosecution for an offence against this section if
23 the protected person—
24 (a) is not a young person; and

1 (b) consented to the publication of the protected identity
2 information about himself or herself before the publication
3 happened.

4 *Note* The defendant has a legal burden in relation to the matters mentioned in
5 s (3) (see Criminal Code, s 59).

6 (4) In this section:

7 ***protected identity information***, about a protected person, means the
8 following:

9 (a) the person's name;

10 (b) information about the private, business or official address,
11 email address or telephone number of the person, or that would
12 allow those contact details to be worked out;

13 (c) information that discloses the identity of the person, or would
14 allow the identity of the person to be worked out.

15 ***protected person***, in relation to a proceeding on an application for
16 an order for a person under this chapter, means—

17 (a) the person; or

18 (b) a victim of a registrable offence committed by the person; or

19 (c) a person mentioned in the proceeding as a person at risk
20 (however described) because of conduct that is proposed to be,
21 or is, prohibited under the order.

22 ***publish*** means communicate or disseminate information in a way or
23 to an extent that makes it available to, or likely to come to the notice
24 of, the public or a section of the public or anyone else not lawfully
25 entitled to the information.

26 *Note* The Criminal Code includes an offence for publishing identifying
27 information about children or young people the subject of a childrens
28 proceeding (see s 712A).

1 **132ZI Offence—contravention of prohibition order etc**

- 2 (1) A person commits an offence if—
- 3 (a) a prohibition order or interim prohibition order is in force for a
- 4 person; and
- 5 (b) the person contravenes the order; and
- 6 (c) the person is reckless about whether the person is contravening
- 7 the order.

8 Maximum penalty: 500 penalty units, imprisonment for 5 years or

9 both.

- 10 (2) Subsection (1) does not apply to a person if the person has a
- 11 reasonable excuse for contravening the order.

12 *Note 1* The defendant has an evidential burden in relation to the matters

13 mentioned in s (2) (see Criminal Code, s 58).

14 *Note 2* For the matters relevant to the defence of reasonable excuse under this

15 section, see s 132ZK.

16 **132ZJ Offence—contravention of registered corresponding**

17 **prohibition order**

- 18 (1) A person commits an offence if—
- 19 (a) a registered corresponding prohibition order is in force for a
- 20 person; and
- 21 (b) the person contravenes the registered corresponding
- 22 prohibition order; and
- 23 (c) the person is reckless about whether the person is contravening
- 24 the registered corresponding prohibition order.

25 Maximum penalty: 500 penalty units, imprisonment for 5 years or

26 both.

1 (2) Subsection (1) does not apply to a person if the person has a
2 reasonable excuse for contravening the registered corresponding
3 prohibition order.

4 *Note* The defendant has an evidential burden in relation to the matters
5 mentioned in s (2) (see Criminal Code, s 58).

6 **132ZK Matters relevant to reasonable excuse defence**

7 In deciding whether a person has a reasonable excuse for
8 contravening a prohibition order or interim prohibition order under
9 section 132ZI, or a registered corresponding prohibition order under
10 section 132ZJ, the court must have regard to the following:

- 11 (a) the person's age;
- 12 (b) whether the person had, at the time of the contravention, a
13 disability that affected the person's ability to understand, or to
14 comply with, the order;
- 15 (c) whether the form of notice given to the person about the order
16 was adequate to tell the person about the person's obligations
17 under the order, having regard to the person's circumstances;
- 18 (d) any other matter the court considers appropriate.

1 **Part 5A.9** **Obtaining and disclosing**
2 **particular information**

3 **132ZL** **Meaning of *government agency*—pt 5A.9**

4 In this part:

5 *government agency* means—

- 6 (a) an administrative unit; or
7 (b) a territory instrumentality; or
8 (c) a statutory office-holder and the staff required to assist the
9 statutory office-holder.

10 **132ZM** **Chief police officer may require information about person**

- 11 (1) This section applies if the chief police officer is considering making
12 an application for an order for a person that may be made under this
13 chapter.
- 14 (2) The chief police officer may direct a government agency in writing
15 to give the chief police officer any information—
- 16 (a) held by the government agency; and
17 (b) that the chief police officer considers to be reasonably
18 necessary to assess whether the person poses a risk to the lives
19 or sexual safety of 1 or more children, or of children generally.
- 20 (3) The direction must state the day by which the information must be
21 given.
- 22 (4) The government agency must give the chief police officer the
23 information sought in the direction.

24 *Note* The Legislation Act, s 171 deals with the application of client legal
25 privilege.

1 (5) However, the government agency need not give personal health
2 information in a health record under the *Health Records (Privacy*
3 *and Access) Act 1997*.

4 *Note* See the *Health (Privacy and Access) Act 1997*, privacy principle 10 for
5 the limits on disclosure of personal health information. In particular, a
6 record keeper may disclose a personal health record if the record keeper
7 believes on reasonable grounds that the disclosure is necessary to
8 prevent or lessen a serious and imminent risk to the life or physical,
9 mental or emotional health of someone.

10 **132ZN Chief police officer may give information about order to**
11 **prescribed entities**

12 (1) The chief police officer may give a prescribed entity the following
13 information about an order for a person under this chapter:

- 14 (a) the person's name and date of birth;
- 15 (b) the term of the order;
- 16 (c) the conduct by the person that the order prohibits;
- 17 (d) anything else the chief police officer reasonably considers is
18 necessary to allow the prescribed entity to identify the person
19 to ensure the safety of—
- 20 (i) a child or children in the prescribed entity's care; or
- 21 (ii) the person.

22 **Example**

23 a photograph of the person

24 *Note* An example is part of the Act, is not exhaustive and may extend,
25 but does not limit, the meaning of the provision in which it
26 appears (see Legislation Act, s 126 and s 132).

1 (2) If the chief police officer gives information under this section about
2 an order to a prescribed entity and the order is later amended or
3 revoked, or registration cancelled, the chief police officer must give
4 the prescribed entity written notice of the amendment, revocation or
5 cancellation as soon as practicable.

6 (3) In this section:

7 *prescribed entity* means an entity prescribed by regulation.

8 **132ZO Chief police officer may give information about order to**
9 **person with parental responsibility for child at risk**

10 (1) The chief police officer may give information about an order for a
11 person under this chapter to a person who has parental responsibility
12 for a child or children protected by the order.

13 (2) However, the chief police officer must only give information under
14 subsection (1) if the officer considers on reasonable grounds that it
15 is necessary and appropriate to reduce a risk to the lives or sexual
16 safety of the child or children.

17 **132ZP CYP director-general to be given information about**
18 **young person**

19 (1) This section applies if the CYP director-general is asked for a CYP
20 director-general's report for a young person.

21 (2) The CYP director-general may ask a government agency in writing
22 to give the CYP director-general any information—

23 (a) held by the government agency; and

24 (b) relevant for the report.

25 (3) The request must state the day by which the information is to be
26 given.

1 (4) The government agency must give the CYP director-general the
2 information requested.

3 *Note* The Legislation Act, s 171 deals with the application of client legal
4 privilege.

5 (5) However, the government agency need not give personal health
6 information in a health record under the *Health Records (Privacy
7 and Access) Act 1997*.

8 *Note* See the *Health (Privacy and Access) Act 1997*, privacy principle 10 for
9 the limits on disclosure of personal health information. In particular, a
10 record keeper may disclose a personal health record if the record keeper
11 believes on reasonable grounds that the disclosure is necessary to
12 prevent or lessen a serious and imminent risk to the life or physical,
13 mental or emotional health of someone.

14 **132ZQ Certain material may be kept**

15 (1) This section applies if the following (the *relevant material*) has
16 been obtained by the chief police officer in relation to an order for a
17 person under this chapter:

18 (a) copies of documents;

19 (b) fingerprints;

20 (c) photographs.

21 (2) The chief police officer may, during the person's reporting period,
22 keep the relevant material for law enforcement, crime prevention or
23 child protection purposes.

24 (3) At the end of the person's reporting period, the chief police officer
25 must ensure that any item of relevant information is destroyed.

1 **Part 5A.10** **Appeals to Supreme Court**

2 **132ZR** **Meaning of *appealable decision*—pt 5A.10**

3 In this part:

4 *appealable decision* means a decision of the Magistrates Court to—

- 5 (a) make or refuse to make a prohibition order; or
- 6 (b) make or refuse to make an order amending or revoking a
- 7 prohibition order; or
- 8 (c) register or refuse to register a corresponding prohibition order,
- 9 including an order amended under section 132P; or
- 10 (d) make or refuse to make an order amending or cancelling the
- 11 registration of a registered corresponding prohibition order.

12 **132ZS** **Appeals to Supreme Court**

- 13 (1) A person may appeal to the Supreme Court against an appealable
- 14 decision if the person was a party to the proceeding in which the
- 15 decision was made.
- 16 (2) The person must file a notice of appeal (the *notice of appeal*) with
- 17 the Supreme Court not later than 21 days after—
- 18 (a) if the appealable decision is the registration of a corresponding
- 19 prohibition order under section 132N—the day the registration
- 20 notice is served on the person against whom the corresponding
- 21 prohibition order is made; or
- 22 (b) if the appealable decision is another order for a person under
- 23 this chapter and the person was not before the court when the
- 24 order was made—the day the order was served on the person
- 25 against whom the order was made; or
- 26 (c) in any other case—the day the appealable decision is made.

1 (3) However, the Supreme Court may allow a person to file a notice of
2 appeal after the period mentioned in subsection (2) if satisfied that it
3 is appropriate to do so.

4 *Note* See the *Court Procedures Rules 2006*, pt 5.3 (Appeals to Supreme
5 Court).

6 **132ZT Powers of Supreme Court on appeal**

7 On an appeal, the Supreme Court may—

- 8 (a) confirm, reverse or amend the appealable decision appealed
9 from; or
- 10 (b) make the decision or order that, in all the circumstances, it
11 considers appropriate; or
- 12 (c) refuse to make an order; or
- 13 (d) set aside the appealable decision appealed from, completely or
14 partly, and remit the proceedings to the Magistrates Court for
15 further hearing, subject to the directions the Supreme Court
16 considers appropriate.

17 **20 New section 133B**

18 *insert*

19 **133B Offence—failure to tell chief police officer about**
20 **application to change offender’s name**

- 21 (1) A person commits an offence if the person—
- 22 (a) applies under a relevant law to change the name of a
23 registrable offender; and

1 (b) fails to tell the chief police officer in writing about the
 2 application not later than 2 days after the day the person makes
 3 the application.

4 Maximum penalty: 500 penalty units, imprisonment for 5 years or
 5 both.

6 (2) In this section:

7 *relevant law* means—

8 (a) the *Births, Deaths and Marriages Registration Act 1997*, part 3
 9 (Change of name); or

10 (b) a law of a State or external territory that corresponds (or
 11 substantially corresponds) to the *Births, Deaths and Marriages*
 12 *Registration Act 1997*, part 3.

13 **21 Schedule 1, part 1.2, item 10**

14 *substitute*

10	any offence under a law of a foreign jurisdiction that, if it had been committed in the ACT, would have been a class 1 offence		
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1 **22 Schedule 2, part 2.2, item 36**

2 *substitute*

36	any offence under a law of a foreign jurisdiction that, if it had been committed in the ACT, would have been a class 2 offence		
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3 **23 Dictionary, note 2**

4 *insert*

- 5 • administrative unit
- 6 • external territory
- 7 • statutory office-holder
- 8 • territory instrumentality

9 **24 Dictionary, new definitions**

10 *insert*

11 ***appealable decision***, for part 5A.10 (Appeals to Supreme Court)—
12 see section 132ZR.

13 ***application***, for an order for a person, for chapter 5A (Orders
14 prohibiting offender conduct)—see section 132A.

15 ***conduct***, for chapter 5A (Orders prohibiting offender conduct)—see
16 section 132A.

17 ***corresponding prohibition order***, for chapter 5A (Orders
18 prohibiting offender conduct)—see section 132A.

19 ***CYP director-general***, for chapter 5A (Orders prohibiting offender
20 conduct)—see section 132A.

- 1 **CYP director-general's report**, for chapter 5A (Orders prohibiting
2 offender conduct)—see section 132A.
- 3 **daily care responsibility**, for chapter 5A (Orders prohibiting
4 offender conduct)—see the *Children and Young People Act 2008*,
5 section 19.
- 6 **government agency**, for part 5A.9 (Obtaining and disclosing
7 particular information)—see section 132ZL.
- 8 **interim prohibition order**, for chapter 5A (Orders prohibiting
9 offender conduct)—see section 132H (Court may make interim
10 prohibition order).
- 11 **long-term care responsibility**, for chapter 5A (Orders prohibiting
12 offender conduct)—see the *Children and Young People Act 2008*,
13 section 20.
- 14 **make**, an order for a person under this chapter, for chapter 5A
15 (Orders prohibiting offender conduct)—see section 132A.
- 16 **parental responsibility**, for a child or young person, for chapter 5A
17 (Orders prohibiting offender conduct)—see the *Children and Young
18 People Act 2008*, section 15.
- 19 **person with a legal disability**, for part 5A.6 (People with legal
20 disabilities)—see section 132T.
- 21 **person with a mental disability**, for part 5A.6 (People with legal
22 disabilities)—see section 132T.
- 23 **prohibition order**, for chapter 5A (Orders prohibiting offender
24 conduct)—see section 132D (Court may make prohibition order).
- 25 **registered corresponding prohibition order**, for chapter 5A (Orders
26 prohibiting offender conduct)—see section 132A.
- 27 **registration notice**, for chapter 5A (Orders prohibiting offender
28 conduct)—see section 132O (Notice of registration of unamended
29 corresponding prohibition order).

1 *return date*, for an application, for chapter 5A (Orders prohibiting
2 offender conduct)—see section 132A.

3 **25 Further amendments, penalties**

4 *omit*

5 Maximum penalty: 200 penalty units, imprisonment for 2 years or
6 both.

7 *substitute*

8 Maximum penalty: 500 penalty units, imprisonment for 5 years or
9 both.

10 *in*

- 11 • sections 22 to 25
- 12 • sections 28 to 30
- 13 • section 34
- 14 • section 37
- 15 • section 42
- 16 • sections 45 to 49
- 17 • sections 54 to 56
- 18 • sections 70 and 71
- 19 • section 77

20 **26 Court Procedures Act 2004, new section 41 (2) (ba)**

21 *insert*

22 (ba) the *Crimes (Child Sex Offenders) Act 2005*, section 132ZG
23 (Proceedings for orders to be closed to public); and

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 16 February 2012.

2 Notification

Notified under the Legislation Act on 2012.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
