

**2014**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**CRIMES (CHILD SEX OFFENDERS)  
AMENDMENT REGULATION 2014 (No 1)  
SL2014-14**

**EXPLANATORY STATEMENT**

**Presented by  
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## Crimes (Child Sex Offenders) Amendment Regulation 2014 (No 1)

### Outline

The purpose of the *Crimes (Child Sex Offenders) Act 2005* is to reduce the likelihood of convicted child sex offenders re-offending, and to facilitate the investigation and prosecution of future offences that they may commit, by requiring them to keep police informed of their whereabouts and other personal details for a period of time. The purpose is also to prevent registrable child sex offenders from working in child-related employment and prohibit registrable offenders from engaging in conduct that poses a risk to the lives or sexual safety of children.

To achieve this, chapter 4 of the Act establishes a Child Sex Offenders Register that requires certain offenders who are, or have been, sentenced for registrable offences to report specified details to police for inclusion in the register. These offenders must then report to police annually. If there is a change in offenders' personal details, the changes must also be reported to police. The register is established and maintained by the Chief Police Officer (CPO).

Chapter 4 of the Act also regulates who can access the register and for what purpose the information contained on the Register can be disclosed. Section 118 of the Act provides that the personal information in the register can only be disclosed by a person with access to the register, or the relevant part of the register, for law enforcement functions or activities and then only to an entity prescribed by regulation.

The *Crimes (Child Sex Offenders) Regulation 2005* supports the Act. Section 16A of the Regulation prescribes a series of entities to ensure that any disclosures made from the Register to the entities listed are made in accordance with the Act.

The purpose of the *Crimes (Child Sex Offenders) Amendment Regulation 2014 (No 1)* is to prescribe the Director-General of the Territory and Municipal Services Directorate (TAMS) as an entity that can receive information from the Register. TAMS has responsibility for a number of functions where issues relating to the safety and protection of children may arise. This amendment will contribute to the purpose of the Act and will allow relevant information to be shared in a timely and appropriate manner with TAMS where necessary.

#### *Impact on Human Rights*

The disclosure of personal information engages and limits the right to privacy contained in section 12 of the *Human Rights Act 2004*, which states that "Everyone has the right not to have his or her privacy . . . interfered with unlawfully or arbitrarily".

However, the right to privacy is a qualified right and section 28 of the Human Rights Act provides legislative recognition that human rights may be limited in certain circumstances. Limitations on the right to privacy can be applied where it can be shown that it is necessary in a free and democratic society to do so and if there is a legal basis for such interference.

On balance and considering the factors outlined in section 28, the limitation on the right to privacy is justified in this instance. Allowing access to the Director-General of TAMS in certain circumstances is appropriate and will support the purposes of the Act. The purposes of preventing registrable offenders from engaging in conduct that poses a risk to the lives or sexual safety of children, and reducing the likelihood that they will reoffend, are important and necessary. The limitation on the right to privacy related to the disclosure of personal information on the register is justified and reasonable for this purpose.

Additionally, the engagement of the right is limited as the information sharing provisions are restricted and controlled by the Act. Prescribing the entities that can receive information from the register ensures that the disclosure does not happen unlawfully, or arbitrarily, and provides a stringent framework within which information sharing entities must operate. This is the least restrictive means of supporting the purposes of the Act and the efficient and effective operation of the register.

For these reasons, the amendment is a proportionate limitation on the right to privacy.

## **Crimes (Child Sex Offenders) Amendment Regulation 2014 (No 1)**

### **Detail**

#### **Clause 1 – Name of regulation**

This is a technical clause that explains that the regulation is the *Crimes (Child Sex Offenders) Amendment Regulation 2014 (No 1)*.

#### **Clause 2 – Commencement**

This clause provides that the regulation commences on the day after its notification.

#### **Clause 3 – Legislation amended**

This clause explains that the regulation will amend the *Crimes (Child Sex Offenders) Regulation 2005*.

#### **Clause 4 – New section 16A (1) (ha)**

Section 16A (1) (ha) prescribes the Director-General of TAMS as an entity that can receive information from the child sex offender register.