



THE PARLIAMENT OF
TRINIDAD AND TOBAGO

BILL ESSENTIALS

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Minister of Legal Affairs

Senate Bill No: 2 of 2019

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BILL ESSENTIALS

BILL ESSENTIALS NO. 7, 2018–19

30 JANUARY, 2019

The Sexual Offences (Amendment) Bill, 2019

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BACKGROUND

1. The **Sexual Offences (Amendment) Bill, 2019**¹ (hereinafter referred to as “**the Bill**”) seeks to amend the **Sexual Offences Act, Chap. 11:28**² (hereinafter referred to as “**the Act**”).
2. This Bill was introduced in the Senate by the Attorney General and Minister of Legal Affairs on January 29, 2019.
3. The Bill is inconsistent with **Sections 4 and 5** of the **Constitution of the Republic of Trinidad and Tobago** and would therefore be required to be passed by a special majority of three-fifths of the members of each House.

KEY FEATURES OF THE BILL

COMMENCEMENT

4. **Clause 2** of the Bill provides for the Act to come into effect on such date as fixed by the President by Proclamation.

INTERPRETATION

5. **Clause 5** of the Bill proposes to amend **Section 2** of the Act by introducing the following definitions of certain terms used in the Bill, *inter alia*:
 - “*Chief Immigration Officer*” has the meaning assigned to it under Section 2 of the **Immigration Act Chap 18:01**³ and means the person appointed and includes a person to whom the Chief Immigration Officer delegates any of his powers, duties or functions;
 - “*child*” means a person under the age of eighteen (18) years;
 - “*Designated Officer*” means a police officer of or above the rank of sergeant;
 - “*health care facility*” means the hospitals, health centres and any other public health facilities listed in the Third Schedule in accordance with the Regional Health Authorities Act⁴;
 - “*main address*” means in relation to a registered sex offender, the place in Trinidad and Tobago where the registered sex offender resides permanently or habitually;
 - “*mental disorder*” means mental illness, arrested or incomplete development of mind and “*mentally disordered*” in accordance with the **Mental Health Act Chap 28:02**⁵;

¹ <http://www.ttparliament.org/publications.php?mid=28&id=826>

² http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/11.28.pdf

³ **Chap 18:01**: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/18.01.pdf

⁴ **Chap 29:05**: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/29.05.pdf

⁵ **Chap 28:02**: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/28.02.pdf

- “*non-intimate sample*” means a specimen of blood obtained by a pin prick, epithelial cells obtained by means of a buccal swab, plucked hair or saliva in accordance with the **Administration of Justice (Deoxyribonucleic Acid) Act Chap 5:34**⁶;
- “*prison*” means the Port-of-Spain Prison, the Golden Grove Prison, the maximum security prison at Golden Grove, Carrera’s Island and any other convict depot appointed by Order, district prisons declared by Order, labour yards and other places appointed by Order in accordance with the **Prisons Act 13:01**⁷;
- “*psychiatric hospital*” means any place appointed as such in accordance with the Mental Health Act;
- “*Psychiatric Hospital Director*” means the medical director of a general hospital, a psychiatric hospital or any other medical practitioner designated by the Minister to be a psychiatric hospital director in accordance with Section 2 of the **Mental Health Act Chap. 28:02**;
- “*Registrar*” means the person holding or acting in the Office of Registrar and Marshal of the Supreme Court in accordance with the **Judicial and Legal Service Act Chap 6:01**⁸;
- “*secondary address*” in relation to a registered sex offender means the place where a registered sex offender who does not ordinarily reside in Trinidad and Tobago, resides during his stay in Trinidad and Tobago;
- “*sex offender*” means a person who is convicted of a registrable offence and who at the time of the commission of the registrable offence was eighteen (18) years of age or over.

6. **Clause 5** of the Bill also proposes to delete the definition of “*minor*” in the Act.

Amendment of References to Minors

7. **Clause 6** of the Bill proposes to amend the Act by deleting the word “*minor*” wherever it appears and substituting it with the word “*child*”.

Act binds the State

8. **Clause 7** of the Bill proposes to insert a new **Section 2A** to expressly provide that the Act would bind the State.

Age

9. **Clause 8** of the Bill proposes to amend **Section 26** of the Act by inserting a reference to specified sections of the **Trafficking in Persons Act Chap. 12:10**⁹ (Sections 16, 17, 18, 19 and 23) to harmonise the age of liability for the commission of a sexual offence under this

⁶ **Chap 5:34:** http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/5.34.pdf

⁷ **Chap 13:01:** http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/13.01.pdf

⁸ **Chap 6:01:** http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/6.01.pdf

⁹ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/12.10.pdf

Act, the **Children’s Act Chap. 46:01**¹⁰ (Part IV to VI and VIII) and the **Trafficking in Persons Act Chap. 12:10**.

Mandatory reporting of suspected abuse of minors

10. **Clause 9** of the Bill proposes to amend **Section 31(1)** of the Act by deleting the word “sexual” and substituting the word “registrable” and deleting the words “under this Act or Section 9, 10, 18 or 19 of the Children Act,” which would expand the number of offences for which specified persons are to report suspected abuse of a minor.

SECTION 35 INSERTED, PART III REPEALED AND SUBSTITUTED, PART IV AND SCHEDULES INSERTED

11. **Clause 10** of the Bill proposes to amend the Act by repealing Part III of the Act to allow for the reestablishment of the National Sex Offender Register and the amendment of the notification requirements for registered sex offenders, the insertion of a new Part IV and Schedules.

Mandatory medical examination of person charged with registrable offence

12. **Clause 10** of the Bill proposes to amend the Act by inserting a new **Section 35** which establishes that for any person charged with a registrable offence, the Court shall Order that the person be medically examined to determine whether the person is suffering from any sexually transmitted infection.
13. New **Section 35(2)** provides that if such a person who is required to be medically examined does not consent to such an exam then he can be examined without consent.
14. New **Section 35(3)** provides that if the examination conducted reveals that the person examined is found to be suffering from a sexually transmitted infection then such information shall be immediately communicated to the person examined, the virtual complainant and a representative (if the virtual complainant has died).
15. New **Section 35(4)** provides that the virtual complainant of a registrable offence may be medically examined to determine whether they’re suffering from a sexually transmitted infection.
16. New **Section 35(5)** provides that the results of any examination conducted in accordance with subsections (1), (2) or (4) shall be confidential with the exception of subsection (3).

¹⁰ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/46.01.pdf

17. New **Section 35(6)** provides that where an examination conducted on the virtual complainant reveals that they are found to be suffering from a sexually transmitted infection which they may have contracted from the accused person then the High Court may upon being satisfied on a balance of probabilities (civil standard) that the virtual complainant contracted the infection as a result of the commission of the offence for which the accused was convicted and upon application by the virtual complainant or representative where the virtual complainant has died, Order the person convicted of the offence to pay compensation to the virtual complainant or their representative.
18. New Section 35 (7) defines “representative” in relation to an adult virtual complainant.

Further Compensation

19. **Clause 10** of the Bill proposes to amend the Act by inserting a new Section 36 which establishes that the virtual complainant may also apply to the court for compensation and the Court shall order that the convicted person pay compensation to the virtual complainant where a person is convicted of a registrable offence, notwithstanding any law to the contrary. The virtual complainant of a registrable offence is also eligible for relief under **Section 29 of the Criminal Injuries Compensation Act Chap 5:31**¹¹.
20. This new section also provides that where an order for compensation to the virtual complainant is made in Court and the virtual complainant seeks further compensation n another court then the Court that awards further compensation must take into account the amount of compensation already ordered.

PART III – NATIONAL SEX OFFENDER REGISTER

21. **Clause 10** of the Bill proposes to insert a new Part III, which would allow for the reestablishment of the **National Sex Offender Register** and the amendment of the notification requirements for registered sex offenders.
22. **Clause 10** applies to a sex offender who is a national or resident of Trinidad and Tobago and who was convicted of a registrable offence by a court within or outside Trinidad and Tobago on or before 25th September, 2000 and who completed their sentence before commencement of this part or has not completed their sentence before commencement of this part or is convicted of a registrable offence by a Court within or outside of Trinidad and Tobago on or after commencement of this part. Additionally, this part does not apply to a person who was a child at the time of the commission of the registrable offence (Section 38).

¹¹ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/5.31.pdf

Establishment of National Sex Offender Register

23. The **National Sex Offender Register** is established under new **Section 39**.
24. This Register shall contain the information on each registered sex offender (**Schedule 2**) which shall not be accessible to the public, subject to **Section 40(1)**.
25. Moreover, the Commissioner of Police is vested with custody and control of the Register and would be responsible for maintaining the Register, ensuring that information entered into the Register is in accordance with this Act and any other written law and that the information entered in the Register is accurate.

Public access to information on registered sex offender

26. The new **Section 40** under Part III of the Bill establishes that the Commissioner of Police must ensure that information relating to each registered sex offender is made accessible to the public via a website designated for that purpose. Such information includes the name, former names and aliases, date of birth, photograph, main/secondary address and convictions of registrable offences committed by the sex offender including dates of each conviction.
27. Additionally, the Commissioner of Police must ensure that such information relating to the registered sex offender is displayed in a conspicuous place in the police station where the registered sex offender was registered.
28. This Section also provides that where a registered sex offender has completed his reporting requirement his information shall be removed from the registered sex offender website.

Court to order sex offender to comply with Part

29. The new **Section 41** under Part III of the Bill establishes that where a person convicted of a registrable offence, on or after commencement of this Part, the Court shall order that person to report to a police station to register as a sex offender upon completing his sentence and to comply with the provisions under this Part. Additionally, the Registrar must inform the Commissioner of Police in writing of the conviction and the sentence imposed on the person.
30. However, where a person is convicted of a registrable offence against a child then the Registrar must inform the Chief Immigration Officer in writing of the conviction and the sentence imposed on the person

National and resident to comply with Part

31. New **Section 42** provides that where a national of Trinidad and Tobago or a resident does an act outside of Trinidad and Tobago which if done in Trinidad and Tobago would constitute a registrable offence under this Act then such a person must comply with the provisions of Part III upon entry into Trinidad and Tobago.
32. Additionally, the Chief Immigration Officer must inform the Commissioner of Police of the name and secondary address of any sex offender within forty-eight (48) hours of the entry of such person into Trinidad and Tobago.

Police to be notified of discharge of sex offender

33. New **Section 43** establishes that the Commissioner of Police must be informed in writing no later than four (4) months before the discharge of a sex offender by the by the Commissioner of Prisons in the case of a prison or the psychiatric hospital director in the case of a psychiatric hospital, of the date of discharge of the sex offender from the prison or psychiatric hospital.

Police to collect information from sex offender before discharge

34. New **Section 44** requires the Commissioner of Police to cause a designated officer to attend the prison or psychiatric hospital no later than two (2) months before the discharge of a sex offender to interview the sex offender, collect information such as the name/former names and aliases, date of birth, photograph, address which sex offender intends to reside permanently or habitually after discharge and convictions of registrable offences committed by the sex offender. The sex offender must also be informed of his duty to report to the nearest police station nearest to the address given within seven (7) calendar days of his discharge from prison or psychiatric hospital.
35. Additionally, the designated officer must forward the information collected to the designated officer of the nearest police station to the address which the sex offender intends to reside permanently or habitually after discharge, within three (3) days of collecting such information.

Initial report of a sex offender

36. New **Section 45** provides that the sex offender must report to the nearest police station of his main or secondary address-
 - within seven (7) calendar days of his discharge from prison or psychiatric hospital when convicted by a court in Trinidad and Tobago,

- within seven (7) calendar days of his discharge from prison where he is transferred to Trinidad and Tobago to complete his sentence pursuant to the **Transfer of Prisoners Act Chap. 12:06**¹²,
 - within seven (7) calendar days of his entry into Trinidad and Tobago where he is deported to Trinidad and Tobago,
 - within forty-eight (48) hours of his entry into Trinidad and Tobago where he is convicted by a court outside Trinidad and Tobago and is in Trinidad and Tobago for more than two (2) calendar days or
 - within six (6) months of the commencement of this Part where he is a registered sex offender.
37. Additionally, a registered sex offender must report to the nearest police station in person, within the applicable period and if the registered sex offender has a mental disorder then he may be accompanied by a representative of his choice. Upon reporting to the police station, the designated officer must interview the sex offender and request the information required under **Schedule 3** and other documentary evidence required. Such requests of the designated officer must be complied by the sex offender.
38. New **Section 45(5)** provides that the designated officer must record the information provided by the sex offender and take a photograph, fingerprints, non-intimate sample of the sex offender.
39. Additionally, if the sex offender is convicted of a registrable offence against a child, then the Chief Immigration Officer must be notified in writing of the registration of the sex offender. The sex offender must be directed in writing if he holds a valid Trinidad and Tobago passport or other travel document issued by the Chief Immigration Officer to report to the Immigration Department within seven (7) days to inform him, failing which an offence is committed.
40. Pursuant to **Section 45(6)**, if a sex offender refuses to allow a designated officer to take his photograph, fingerprints or non-intimate sample then the designated officer is authorised to take them and record that such items were taken without the consent of the sex offender.
41. New **Section 45(7)** provides that the designated officer must give a sex offender written acknowledgement that he has reported to the police station for the purposes of registering as a registered sex offender, that the designated officer has complied with the requirements and that he has informed the sex offender who holds a Trinidad and Tobago passport or other travel document issued by the Chief Immigration Officer of his

¹² http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/12.06.pdf

obligation to report to the Immigration Department within seven (7) days. Such acknowledgement must contain the date the sex offender reported to the police station, the police station which the sex offender reported to and the name, signature and service number of the designated officer who recorded the information provided by the sex offender.

42. New **Section 45(9)** provides that within seven (7) days of recording the information of a sex offender, the designated officer shall verify that such information recorded is correct before entering it upon the Register, register the sex offender as a registered sex offender and notify the registered sex offender in writing that he has been registered as such.
43. New **Section 45(10)** establishes that a sex offender who does not report to the police station, comply with the request of the designated officer or report to the Immigration Department without reasonable excuse commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars (\$150,000.00) and to imprisonment for fifteen (15) years.

Frequency of reporting

44. New **Section 46** establishes that the registered sex offender must report to the nearest police station upon expiration of every six (6) months from the date on which he first reported to the police station, for the duration of his reporting period and provide any information the designated officer may require.
45. Additionally, if the registered sex offender fails to report to the nearest police station upon expiration of every six (6) months from the date he first reported to the police station then he commits an offence and is liable on summary conviction to a fine of seventy-five thousand dollars (\$75,000.00) and to imprisonment for ten (10) years.

Duration of reporting period under Schedule 4

46. New **Section 47** provides that the reporting period of a registered sex offender on whom a sentence specified in Schedule 4 was imposed upon conviction for a registrable offence shall correspond with the period specified in the same Schedule. Such reporting period of a registered sex offender shall commence on the date reported to the nearest police station.
47. Additionally, where a registered sex offender is sentenced in relation to two or more registrable offences to consecutive terms of imprisonment or partly concurrent terms of imprisonment then the reporting period in the case of consecutive terms is equal to the aggregate of those terms or in the case of concurrent terms is equal to the aggregate of

those terms after making such deduction as may be necessary to ensure that no period of time is counted more than once.

Registered sex offender to inform of change of information

48. New **Section 48** mandates that where there is a change in any of the information initially provided by the registered sex offender then he shall report to the nearest police station and provide a designated officer with such information of the change within fourteen (14) calendar days after occurrence of the change and shall provide documentary evidence of the change.
49. The designated officer must record the change/correction to the information provided by the registered sex offender and give the registered sex offender written acknowledgement of the notification of the change such as the date the registered sex offender reported to the police, the police station which the sex offender reported to and the name, signature and service number of the designated officer who recorded the change/correction. The designated officer must also verify the information provided by the registered sex offender is accurate before entering it into the Register.
50. The designated officer after verification that the information provided by the registered sex offender is correct must record the change in the Register and forward the information to the Commissioner of Police within three (3) days of recording the change.
51. The registered sex offender must continue to comply with this section after the expiration of his reporting period and until his information is expunged from the Register.
52. Failure to inform the designated officer by the registered sex offender of the change in any of the information provided by the registered sex offender commits an offence and is liable on summary conviction to a fine of thirty thousand dollars (\$30,000.00) and to imprisonment for five (5) years.

Suspension from reporting

53. New **Section 49** provides that the registered sex offender is not required to report to any police station if he is detained at a police station, remanded in or committed to custody by Court order, serving a sentence of imprisonment, warded at a health care facility, or is outside of the jurisdiction. However, upon the sex offender being discharged from detention or imprisonment, discharged from a health care facility or re-enters the jurisdiction then he must report to the nearest police station within forty-eight (48) hours of his release, discharge or re-entry and provide reasons for not reporting.

54. Additionally, a registered sex offender who, without reasonable excuse fails to report to the nearest police station within forty-eight (48) hours of his release, discharge or re-entry commits an offence and is liable upon summary conviction to a fine of twenty five thousand dollars (\$25,000.00) and to imprisonment for three (3) years.

Offender to inform of intention to travel outside the jurisdiction

55. New **Section 50** provides that where a registered sex offender residing within Trinidad and Tobago intends to travel outside the jurisdiction, he must at least seven (7) calendar days before departure report to the nearest police station and furnish the designated officer with information relating to the date of his intended departure, countries of intended stay, countries through transit, address/es of place/s of intended stay, duration of stay in each country, duration of stay abroad, date of intended return and any other relevant information as required by designated officer.
56. Additionally, if there are “exceptional circumstances”¹³ in which a registered sex offender who resides in Trinidad and Tobago intends to travel outside the jurisdiction in less than seven (7) calendar days, then he must report to the nearest police station and provide a designated officer with the information stipulated above not less than twenty-four hours before his intended time of departure along with reasons for failing to comply within the specified period.
57. Further to this, if as a result of a change in travel plans the registered sex offender no longer intends to leave or does not leave the jurisdiction on the date intended then he must report to the nearest police station before the expiration of two (2) calendar days after that date and inform the designated officer of the change.
58. Moreover, if a registered sex offender becomes aware of any change in the information provided before travelling out of the jurisdiction then he must report to the nearest police station within two (2) calendar days of becoming aware of the change and inform the designated officer of the change.
59. A registered sex offender must also continue to comply with this Section after expiration of his reporting period until his information is expunged from the Register.
60. Lastly, a registered sex offender who fails to provide a designated officer with any information required, without reasonable excuse commits an offence and is liable on

¹³ Subsection 3 defines exceptional circumstances as circumstances relating to death or serious illness of a relative or friend, business or family affairs of an urgent nature or obtaining employment, medical treatment or other assistance.

summary conviction to a fine of twenty-five thousand dollars (\$25,000.00) and imprisonment for three (3) years.

Persons to accompany offender with mental disorder

61. New **Section 51** provides that any registered sex offender with a mental disorder is who is required to report to a police station or immigration department, may be accompanied by a representative of his own choosing.

Application to court for cessation of reporting period

62. Under new **Section 52**, a registered sex offender may apply to the court for the cessation of his reporting period: if he

- was not mandated to report for a period of twenty-five (25) years,
- has served three-quarter of his reporting period and
- was not charged with or convicted of any other registrable offence during his reporting period.

63. The Court must inform the Commissioner of Police of such an application made and the Commissioner must within seven (7) days inform the public via the sex offenders website of the application of the registered sex offender to cease his reporting period.

64. The Court may after consideration of the application made and any other pertinent information and one month after the expiration of the period, make an order for the cessation of the reporting period of the registered sex offender.

Information to be expunged from Register

65. New **Section 53** provides that a registered sex offender may upon the completion of his reporting period or based on any compelling reasons apply to the Court to have the information contained in the Register relating to him expunged.

66. The Commissioner of Police must designate an officer to expunge the information contained in the Register relating to the registered sex offender where the Court makes such an order. Such officer designated by the Commissioner must certify the removal of the record of the registered sex offender from the Register in the form set out in **Schedule 5**.

67. The Commissioner of Police must ensure that a proper record is kept of the information expunged from the Register, the reason for expunging the information and the certificates issued. The Commissioner of Police must also submit a report to the Minister before 31st March in each year of the information expunged from the Register including the names of the persons expunged from the Register, the registrable offences which

the persons expunged from the Register were convicted of and the reason for expunging the information.

Offence of providing false information

68. New **Section 54** provides that if a registered sex offender furnishes a designated officer with any information required which he knows or ought reasonably to have known to be false, then he commits an offence and is liable on summary conviction to a fine of fifty thousand dollars (\$50,000.00) and imprisonment for seven (7) years.

Confidentiality

69. New **Section 55** establishes that any person involved in the administration of this Part must keep all facts, information and records obtained or furnished under this Act confidential except where this Act or any other written law permits such persons to disclose them, report or take official action relating to them. Any person who contravenes this commits an offence and is liable on summary conviction to a fine of seventy-five thousand dollars (\$75,000.00) and imprisonment for ten (10) years.

PART IV – MISCELLANEOUS

70. **Clause 10** of the Bill proposes to insert a new Part IV, which would allow for the Minister by Order subject to the affirmative resolution of Parliament to amend **Schedule 1**.

71. It would also allow for the Minister by Order subject to the negative resolution of Parliament to amend **Schedules 2, 3 and 5**. The Minister can also make resolutions to give effect to the provisions of Part III.

Schedule 1 – Registrable Offences

72. **Schedule 1** establishes the Registrable Offences mentioned and contained in the Act relating to those mentioned in the **Sexual Offences Act Chap. 11:28, Trafficking in Persons Act Chap. 12:10** and the **Children Act Chap. 46:01**.

Schedule 2 – Information contained in the national sex offender register

73. The requisite information needed from convicted sex offenders to be placed on the national Register is set out in **Schedule 2**.

Schedule 3 – Information to be provided by registered sex offender

74. **Schedule 3** outlines the requisite information to be supplied directly from the registered sex offender to the designated officer at the nearest police station in proximity to his main or secondary address.

Schedule 4 – Duration of reporting period

75. **Schedule 4** establishes the duration of the reporting period in which the registered sex offender has to report to the nearest police station in proximity to his main or secondary address, based on the sentence imposed upon conviction.

Schedule 5 – Certificate of removal of record from Register

76. The certificate in prescribed form for the officer designated by the Commissioner of Police to expunge the record of the sex offender from the register upon successful application to the Court for same is found at **Schedule 5**.

Consequential Amendments

77. **Clause 11** of the Bill proposes to insert a new Schedule of consequential amendments to be made to certain existing Acts, namely the **Criminal Injuries Compensation Act Chap. 5:31, Administration of Justice (Deoxyribonucleic Acid) Act Chap. 5:34, Immigration Act Chap. 18:01, Police Service Act Chap. 15:01** and **Family and Children Division Act 2016**.

Comparative Legislation

SIMILARITIES WITH THE BILL	DIFFERENCES WITH THE BILL
NEW ZEALAND-Child Protection (Child Sex Offender Government Agency Registration Act) 2016	
<ul style="list-style-type: none"> ▪ This Act excludes in the definition of registrable offender a person who was a minor at the time of the commission of the offence. ▪ This Act also treats with corresponding registrable offenders or persons with a conviction in a foreign jurisdiction for a corresponding offence. ▪ The Act also sets out in detail the information which must be captured on each registrable offender in relation to the Register. ▪ The Act also vests the responsibility for the administration of the register with the Commissioner of Police. ▪ The Act also requires the Registrar to give written notice as soon as practicable after the registrable offender is sentenced to the Commissioner and Chief Executive of Department of Corrections. ▪ The Act mandates a registrable offender to report any changes to the Commissioner and it establishes certain factors which would qualify as such. 	<ul style="list-style-type: none"> ▪ The Act provides certain instances in which a person may cease to be a registrable offender such as the quashing of the conviction, the reduction or alteration of the sentence to remove the offender from falling within the definition and if the registration order is set aside by the court. ▪ This Act establishes certain factors in detail which the court must take into consideration in assessing the risk of the sex offender. ▪ The Act provides that the sentencing Judge must at the time of sentencing explain to the registrable offender that he is a registrable offender under the Act. However, failure to give this explanation does not affect the validity of the sentence or his reporting obligations. ▪ The Registrar must also give written notice to the offender as soon as practicable of his reporting obligations and penalties for failing to comply with those obligations. ▪ The Act requires that the registrable offender must make an initial report to the Commissioner of all

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| <ul style="list-style-type: none"> ▪ The Act also requires the registrable offender to report any intended travel plans longer than 48 hours to the Commissioner at least 48 hours before. ▪ The Act provides that the registrable offender must notify the Commissioner of any changes to the travel plans and he must also report his return or decision not to leave also. ▪ The Act provides that the constable or authorised person must acknowledge the making of the report as soon as practicable after receiving the report. ▪ The Act establishes the length of the reporting period and the length of period on the register as well as instances in which reporting obligations may be suspended. ▪ The Act creates offences for failing to comply with reporting obligations as well as for providing false or misleading information. | <ul style="list-style-type: none"> relevant personal information within 72 hours of being released from custody for a qualifying offence or being subject to a registration order. ▪ The Act requires that a registrable offender must make periodic reports of his relevant information to the Commissioner until his reporting period ends and a periodic report must also be made in each year during the reporting period from the first year in which the initial report is made. ▪ When reporting any travel plans to the Commissioner one of the information requirements to be furnished is whether any child will or is likely to reside together with the offender at any of the addresses. ▪ The Act establishes that a person making a report in person at a Police Station approved by the Commissioner has the right to make such reports in privacy away from the public and is entitled to be accompanied by a support person of their choosing. An interpreter may also be present if needed. ▪ The Act requires that additional matters be provided such as the offender's driver licence or other form of ID to verify or support the details in the report. ▪ The Act also allow a constable or authorised person to take fingerprint scans of the registrable offender. The constable or authorised person is also allowed to take photographs of the offender for the purposes of ongoing identification. ▪ The Act makes provisions for modified reporting procedures in instances where the registrable offender is a participant in the witness protection programme. ▪ The Act provides for the Commissioner to revoke a suspension from the register granted if there is a threat or risk posed. ▪ The Act establishes that the register is to only be accessed by authorised person/s. ▪ The Act allows for the sharing of information contained on the register between listed government agencies in the interest of public safety. |
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	<ul style="list-style-type: none"> ▪ The Act also allows for disclosure of information to corresponding Registrars or corresponding agencies or to an affected person where there is a threat to child safety or welfare. ▪ The Act establishes certain rights which the registrable offender has in relation to the Register.
<p>CANADA- Sex Offender Information Registration Act 2004</p>	
<ul style="list-style-type: none"> ▪ The Act establishes that a sex offender must report before leaving Canada. ▪ The Act provides that a sex offender must report to a registration centre and provide the requisite listed information to an authorised person. ▪ The Act requires a sex offender to notify any authorised person collecting information at the registration centres of any changes in the information provided. ▪ The Act also provides for the sex offender to notify the authorised person at the registration centre of his intended departure from Canada and the additional supporting information required. ▪ The Act provides that any person registering information must ensure that the registration is done to ensure its confidentiality. ▪ The person collecting the information must ensure that the sex offender’s privacy is reasonably respected and the information provided and collected is done in a manner to ensure its confidentiality. 	<ul style="list-style-type: none"> ▪ The Act establishes that a person who is subject to an Order must report to a registration centre within seven days. ▪ The Act provides that where a sex offender is outside Canada when they are required to report must report not later than seven days after returning to Canada. ▪ The Act provides for additional personal information from the sex offender to be supplied such as the address of every educational institution at which they are enrolled, telephone number at which they may be reached, if any, their height and weight and a description of every physical distinguishing mark that they have, the licence plate number, make, model, body type, year of manufacture and colour of the motor vehicles that are registered in their name or that they use regularly, the licence number and the name of the issuing jurisdiction of every driver’s licence that they hold and the passport number and the name of the issuing jurisdiction of every passport that they hold. ▪ The Act also provides for the authorised person collecting the information to record any observable characteristics which may assist in identification of the sex offender, including their eye colour, hair colour, and they may require that their photograph be taken. ▪ The Act provides that a sex offender under 18 years of age has the right to have an appropriate adult chosen by them in attendance when reporting to a registration centre and when information is collected. ▪ The Act allows for the fingerprints of any person reporting to a registration centre as a sex offender to be taken from them in order to confirm their

	identity. Additionally, such fingerprints must not be used for any other purpose and must be destroyed without delay.
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References

Comparative Legislation

NEW ZEALAND

- **Child Protection (Child Sex Offender Government Agency Registration) Act 2016**

http://www.legislation.govt.nz/act/public/2016/0042/latest/whole.html?search=ts_act%40bill%40regulation%40deemedreg_Sex+Offender_resele_25_a&p=1#DLM6463913

CANADA

- **Sex Offender Information Registration Act 2004**

<https://laws-lois.justice.gc.ca/PDF/S-8.7.pdf>



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