



EXTRAORDINARY
OFFICIAL GAZETTE
THE BAHAMAS
PUBLISHED BY AUTHORITY

NASSAU

2nd May, 2014

(A)

SEXUAL OFFENCES (AMENDMENT) ACT, 2014

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No. 7 of 2014

SEXUAL OFFENCES (AMENDMENT) ACT, 2014

**AN ACT TO AMEND THE SEXUAL OFFENCES ACT TO PROVIDE
FOR A SEX OFFENDER REGISTER AND REGISTRY**

[Date of Assent - 1st May, 2014]

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act, which amends the Sexual Offences Act (*Ch. 99*), may be cited as the Sexual Offences (Amendment) Act, 2014.
- (2) This Act shall come into operation on such day as the Minister may, by notice published in the Gazette, appoint.

2. Insertion of new sections 26A - 26J into the principal Act.

The principal Act is amended by the insertion immediately after section 26 of the following new subheading and sections —

“Sex Offender Register and Registry

26A. Sex Offender Register and Registry.

- (1) There shall be a Sex Offender Register and a Sex Offender Registry.
- (2) The Registry in New Providence shall be under the day to day management of the Superintendent of Prisons and the Register shall be maintained therein.
- (3) The Register shall consist of information supplied by persons who are required to make a report under section 26B and such other information as may be prescribed.
- (4) The Minister responsible for national security may make regulations prescribing the procedure for entry of information into the Register.

- (5) The Minister responsible for national security may by Order designate —
- (a) any police station in a Family Island as a Sex Offender Registry Registration Centre for the purposes of sections 26A to 26J (hereinafter referred to as “of this Part”);
 - (b) any other location in New Providence where the Register may be accessible.

26B. Particulars of convictions to be furnished to Registry.

- (1) The particulars of every conviction for a specified offence committed after the coming into operation of sections 26A - 26J shall be furnished to the Sex Offender Registry, if the circumstances specified in subsection (2) apply—
 - (a) if the conviction is recorded in a Magistrates Court, by the Clerk of the Court;
 - (b) if the conviction is recorded in the Supreme Court, by the Registrar of the Supreme Court; or
 - (c) if the conviction is recorded in the Court of Appeal, by the Registrar of the Court of Appeal.
- (2) The circumstances referred to in subsection (1) are that —
 - (a) the offender has been previously convicted for a specified offence; or
 - (b) the offence has not been exempted, pursuant to subsection (3) from the registration and reporting requirements of this Part.
- (3) At the time of conviction, the court may direct that the person who has been convicted of a specified offence (hereinafter called “the offender”) be exempt from any or all of the registration and reporting requirements of this Part by virtue of —
 - (a) the conviction of the offender being a first time conviction for a specified offence;
 - (b) the offender being a child;
 - (c) the sentence imposed for the offence being of minimal severity (being of such category as may be prescribed); or
 - (d) the court being satisfied that the effect of the imposition of such requirements on the offender, including how his privacy or liberty, would be grossly disproportionate to the public interest to be achieved by registering the offender as a sex offender.
- (4) On receipt of the particulars mentioned in subsection (1), the Superintendent shall cause to be entered in the Register —
 - (a) the name of the offender; and

(b) the particulars of the conviction.

- (5) For the purposes of sections 26A to 26J, a "specified offence" means an offence specified in Part A of the *Schedule*, and for the purposes of section 26B(3)(a), a "specified offence" means an offence specified in Part B of the *Schedule*.

26C. Amendment to Register.

Where on appeal the conviction of a person has been set aside, the judge shall direct that the Register be amended in relation to the conviction recorded.

26D. Termination of registration.

- (1) Subject to subsections (2), (3) and (4), a sex offender shall after the expiration of a period of ten years after the date of the imposition of the registration and reporting requirements, (hereinafter called "the original period") be eligible for termination of the registration and reporting requirements imposed on the sex offender under this Part.
- (2) Upon the expiration of the original period, a judge in Chambers shall make an order determining whether the registration and reporting requirements imposed on a sex offender —
 - (a) shall be terminated; or
 - (b) shall continue (with or without variation) for a further period not exceeding ten years.
- (3) Upon the expiration of the further period, the provisions of subsection (2) shall apply as in relation to the original period.
- (4) A sex offender may apply to a judge in Chambers for an order for termination of the registration and reporting requirements (whether imposed pursuant to subsection (2) or (3) in relation to a specified offence of which the offender has a conviction.
- (5) In considering whether to make an order under subsection (2), (3) or (4), the judge shall have regard to the matters stated in subsection 26B(3)(d).

26E. Superintendent to furnish information.

The Superintendent of Prisons shall —

- (a) notify the police of the release of every person, whether released on licence or otherwise, who was convicted of a specified offence, and who is subject to the registration and reporting requirements of this Part; and
- (b) in such form or manner as may be prescribed, inform such person of his duty to report in accordance with sections 26F and 26G.

26F. First report by offenders.

- (1) Every person who —
 - (a) is convicted of a specified offence;
 - (b) is found guilty but insane so as not to be responsible according to law for his actions at the time of the act or omission charged; or
 - (c) is released from custody pending the determination of an appeal relating to a conviction for a specified offence,shall, within three days of the first occasion that he falls to be categorized under paragraph (a), (b) or (c) and is not in lawful custody, report in person to the Sex Offender Registry Registration Centre that serves the area in which he resides and an entry of the report shall be made in the Sex Offender Register.
- (2) No sex offender shall leave The Bahamas before first reporting to the Registry of his intention to leave The Bahamas.

26G. Subsequent obligation to report.

- (1) Every sex offender shall, after first reporting to the Sex Offender Registry Registration Centre in accordance with section 26F subsequently report, in the prescribed manner, to the Registration Centre that serves the area in which he resides —
 - (a) within seven days after he has changed his main residence or any secondary residence;
 - (b) within seven days after he has changed his name;
 - (c) at any time between eleven months and one year after he has last reported to a registration centre.
- (2) In this section and section 26H —

"main residence" means the place in The Bahamas where a person lives or, as the case may be, can be found most often;

"secondary residence" means a place in The Bahamas other than a main residence where a person regularly lives.

26H. Notice about absence.

Every sex offender shall notify a person who collects information at the Sex Offender Registry Registration Centre that serves the area in which the sex offender resides of —

- (a) every address or location at which he stays or intends to stay, and of his actual or estimated dates of departure from and return to his main residence or a secondary residence, not later than seven days after departure, if he is in The Bahamas but is absent from his main

residence and every other residence for a period of at least seven consecutive days;

- (b) his actual or estimated date of departure from his main residence and any secondary residence, not later than seven days after departure if he is outside The Bahamas for a period of at least seven consecutive days; and
- (c) his actual return to his main residence or any secondary residence after a departure referred to in paragraph (a) or (b), not later than seven days after he returns, unless he is required to report under section 26G within that period.

26L. Reporting offences.

A sex offender who contravenes the reporting or notification requirements of this Part commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

26J. Public notification of sex offenders.

- (1) The Minister responsible for national security shall have regard to the need to protect the general public or any particular individual and may make regulations governing the disclosure of information in relation to sex offenders who are considered to present a risk of significant harm to the health or safety of the public or any particular individual.
- (2) The regulations may provide for —
 - (a) the procedure to be followed prior to any notification to the general public;
 - (b) the procedure to be followed prior to any notification to a specific individual; and
 - (c) the identification information that may be included in a notification regarding a sex offender.
- (3) The Minister responsible for national security shall consult with the Superintendent of Prisons before determining to give any notification in relation to a particular sex offender in accordance with regulations."

3. Insertion of Schedule into the principal Act.

The principal Act is amended by the insertion immediately after section 30 of the following Schedule —

"SCHEDULE

(section 26B(5))

**Specified Offences in Relation to which Reporting Obligations
under sections 26A to 26J Apply**

PART A

1. The following offences under this Act —
 - (a) section 6 (*Rape*)
 - (b) section 7 (*Procuration*)
 - (c) section 10 (*Sexual intercourse with a person under fourteen years*)
 - (d) section 11 (*Sexual intercourse with a person between fourteen and sixteen years*)
 - (e) section 12 (*Sexual intercourse with a person suffering from a mental disorder*)
 - (f) section 13 (*Incest*)
 - (g) section 14 (*Sexual intercourse with a dependent*)
 - (h) section 15 (*Sexual assault by spouse*)
 - (i) section 17 (*Indecent assault*)
 - (j) section 19 (*Defilement of young person on premises*)
 - (k) section 20 (*Forcible taking or detaining of person with intent*)
 - (l) section 21 (*Unlawful detention with intent to have sexual intercourse*)
 - (m) section 22 (*Abduction of unmarried person under sixteen*)
 - (n) section 23 (*Abduction of unmarried person between sixteen and eighteen*)
 - (o) section 16A (*Child pornography*).
2. Offences under section 3 of the Trafficking in Persons (Prevention and Suppression) Act, Ch. 106.

PART B

3. The following offences under this Act —
 - (a) section 5A (*Voyeurism*)
 - (b) section 26 (*Sexual harassment*)".