



New South Wales

Justice Legislation Amendment (Miscellaneous) Bill (No 2) 2025

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2025

Clerk of the Parliaments



New South Wales

Justice Legislation Amendment (Miscellaneous) Bill (No 2) 2025

Act No , 2025

An Act to amend various Acts relating to courts, crimes and other Communities and Justice portfolio matters.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Justice Legislation Amendment (Miscellaneous) Act (No 2) 2025*.

2 Commencement

This Act commences, or is taken to have commenced, as follows—

- (a) for Schedule 7[1] and [3]—on 12 May 2025, immediately after the commencement of the *Crimes (Administration of Sentences) Amendment Act 2025*,
- (b) for Schedule 10—immediately after the commencement of the *Inspector of Custodial Services Amendment Act 2025*, Schedule 1[25],
- (c) otherwise—on the date of assent to this Act.

3 Explanatory notes

An explanatory note in a schedule of this Act does not form part of this Act.

4 Repeal of Act

The *Crimes Amendment (Prosecution of Certain Offences) Act 2023* No 47 is repealed.

Schedule 1 Amendment of Advocate for Children and Young People Act 2014 No 29

Section 21 Membership of Council

Insert “at least” before “12 part-time members” in section 21(1)(a).

Explanatory note

The proposed amendment increases the number of members on the Youth Advisory Council from 12 part-time members to a minimum of 12 part-time members.

Schedule 2 Amendment of Bail Act 2013 No 26

Section 42 Notice required if accused person granted bail remains in custody

Omit “the person is received into custody” from section 42(2).

Insert instead “the day bail is granted”.

Explanatory note

The proposed amendment provides that notice that an accused person granted bail remains in custody must be given within 8 days of bail being granted, instead of within 8 days after the person is received into custody, to account for situations where a person is received into custody at an earlier date for an unrelated matter.

Schedule 3 Amendment of Births, Deaths and Marriages Registration Act 1995 No 62

[1] Section 4 Definitions

Omit “as to the particulars contained in an entry in the Register” from section 4(1), definition of *birth certificate*.

[2] Section 32E Decision by Registrar

Omit section 32E(5).

[3] Section 32F Decision by District Court

Omit section 32F(5).

[4] Section 49 Issue of certificate

Omit section 49(1)(a). Insert instead—

- (a) certifying some or all of the particulars contained in an entry, or

[5] Section 49(6)

Insert after section 49(5)—

- (6) A certificate issued under this section for a person whose record of sex was altered under Part 5A—
 - (a) must include the record of the person’s sex as altered without indicating the record was altered, and
 - (b) if the person has also registered a change of name under Part 5—
 - (i) may indicate the person’s name has changed, but
 - (ii) must not include the person’s name before it was changed, unless the Registrar is requested to do so by the person.

[6] Section 51A

Insert after section 51—

51A Issue of old birth certificates

- (1) If a record of sex was altered under Part 5A in relation to a person, the Registrar may, on application by the following persons, issue a certificate that shows the person’s sex before the record was altered—
 - (a) the person whose record of sex was altered,
 - (b) a person prescribed by the regulations, but only if the Registrar believes the person has an adequate reason for wanting the certificate.
- (2) The Registrar must not issue a person’s certificate under subsection (1)(b) unless the Registrar has taken steps to consult with the person to whom the certificate relates where reasonably practicable.
- (3) Subsection (2) does not apply if—
 - (a) the person to whom the certificate relates has died or lost capacity, or
 - (b) the application was made by a law enforcement agency, within the meaning of section 46A.
- (4) In deciding whether the person has an adequate reason for wanting the certificate, the Registrar must have regard to—

- (a) the nature of the person's interest, and
- (b) the sensitivity of the information, and
- (c) the use to be made of the information, and
- (d) other relevant factors.

Explanatory note

Items [1] and [4] of the proposed amendments make it clear certificates issued by the Registrar of Births, Deaths and Marriages (the **Registrar**) do not need to display all particulars recorded on the Births, Deaths and Marriages Register (the **Register**).

Item [5] makes it clear that, for a person whose record of sex was altered on the Register, a certificate issued in relation to the person must state the record of sex as altered, without indicating the record has been altered, and must not, if a change of name has also been registered, state the person's former name unless the Registrar is requested to do so by the person. Items [2] and [3] are consequential amendments.

Item [6] allows a person whose record of sex has been altered, or another person with adequate reason, to be issued a birth certificate showing the person's sex before the record was altered.

Schedule 4 Amendment of Children (Community Service Orders) Act 1987 No 56

[1] Section 16 Assignment of officer by Secretary

Insert after section 16(1)—

- (2) The Secretary may determine the remuneration and allowances for the officer or other person.

[2] Section 20A Extension of period of children's community service orders

Insert after section 20A(4)—

- (5) An application under this section must be—
 - (a) in writing, and
 - (b) in a form approved by the Secretary.

[3] Section 21 Application for revocation of children's community service order

Insert after section 21(3)—

- (4) An application under this section must be—
 - (a) in writing, and
 - (b) in a form approved by the President of the Children's Court.

[4] Section 29 Regulations

Omit “work, and” from section 29(1)(h).

Insert instead “work, including by authorising the Secretary to make the arrangements, and”.

[5] Section 29(1)(i)

Omit “work.”

Insert instead “work, including by authorising the Secretary to determine the payments.”

Explanatory note

Item [1] of the proposed amendments authorises the Secretary to determine the remuneration and allowances for an officer or other person assigned by the Secretary in relation to a children's community service order.

Items [2] and [3] prescribe requirements for applications made to extend or revoke children's community service orders.

Items [4] and [5] allow the regulations to make provision in relation to the Secretary's role in making travel arrangements and arranging for the payment of expenses for persons performing community service work.

Schedule 5 Amendment of Children (Criminal Proceedings) Act 1987 No 55

[1] Section 33 Penalties

Omit “, on such conditions as it may determine,” from section 33(1)(e).

[2] Section 33(1AB)

Insert after section 33(1AA)—

(1AB) If a person is released on probation by an order imposed under subsection (1)(e), the person’s release is subject to the following conditions—

- (a) the person must appear before the court if called on to do so during the term of the probation,
- (b) the person must be of good behaviour during the term of the probation,
- (c) other conditions specified in the order.

[3] Section 33A Cumulative or concurrent orders etc

Insert after section 33A(4)—

- (4A) To avoid doubt, when calculating the continuous period under subsection (4), a person was previously detained only while the person was in custody.

[4] Section 33AA Cumulative or concurrent orders—assault on juvenile justice officers

Insert after section 33AA(5)—

- (6) To avoid doubt, when calculating the continuous period under subsection (5), a person was previously detained only while the person was in custody.

Explanatory note

Items [1] and [2] of the proposed amendments impose standard conditions on control orders made under the *Children (Criminal Proceedings) Act 1987*, section 33(1)(e).

Items [3] and [4] clarify the meaning of “detained” for the making of cumulative or concurrent control orders.

Schedule 6 Amendment of Children (Detention Centres) Act 1987 No 57

[1] Section 3 Definitions

Omit section 3(1), definition of *misbehaviour*. Insert instead—

misbehaviour, in relation to a detainee, means—

- (a) an offence under section 37A, or
- (b) behaviour prescribed by the regulations.

[2] Section 20 Complaints of misbehaviour

Omit section 20(2). Insert instead—

- (2) Subject to subsection (3), a complaint must be dealt with and determined in accordance with the regulations.

[3] Section 20(3) and (6)

Omit “The person by whom a complaint is being heard shall” wherever occurring.

Insert instead “The person dealing with the complaint must”.

[4] Section 20(3)(a) and (b) and (4)

Omit “the hearing” wherever occurring.

Insert instead “a hearing or inquiry”.

[5] Section 20(3)(c) and (5)

Omit “by whom the complaint is being heard” wherever occurring.

Insert instead “dealing with the complaint”.

[6] Section 20(5)

Omit “by whom a complaint is being heard”.

Insert instead “dealing with a complaint”.

[7] Section 20(6)(c)

Omit “of the hearing”.

Insert instead “of dealing with the complaint”.

[8] Section 32A Regulations

Omit section 32A(j)(iii). Insert instead—

- (iii) orders the Secretary or centre manager may make, including the procedure for making the orders, to ban a person or class of persons from visiting—
 - (A) a detainee or class of detainees or detainees generally, or
 - (B) a detention centre or class of detention centres or detention centres generally, and

[9] Section 32A(k)

Insert “, including the way and circumstances in which telephone calls may be recorded or listened to” after “detainees”.

[10] Section 32A(n)

Omit the paragraph. Insert instead—

- (n) the making of complaints, including—
 - (i) who may make complaints, and
 - (ii) the procedures to be followed by a person dealing with complaints, and
 - (iii) limiting or modifying the application of, or content of, complaint guidelines issued under section 32AA,

[11] Section 32A(s)

Insert “or a visitor” after “detainee”.

[12] Section 32A(y)

Omit the paragraph. Insert instead—

- (y) without limiting section 109(2), decisions, approvals or directions the Secretary or centre manager may make or give about matters referred to in the regulations,

[13] Section 37M Regulations

Omit section 37M(g). Insert instead—

- (g) the approval of persons or laboratories conducting analyses for the presence of prohibited drugs,

[14] Section 102 Unlawful disclosure of information

Insert after section 102(2)—

- (3) Despite this section or another law, a minister of religion appointed for a detention centre may disclose information in relation to the welfare of a detainee to the centre manager of the detention centre if the disclosure is in the best interest of the detainee or another detainee.

Explanatory note

Item [1] of the proposed amendments clarifies the definition of ***misbehaviour*** for the *Children (Detention Centres) Act 1987* (***the Act***).

Items [2]–[7] clarify that complaints about misbehaviour are dealt with and determined, rather than heard.

Item [8] makes it clear that the regulations may make provision in relation to orders the Secretary or a centre manager of a detention centre may make to ban a person or class of persons from visiting detainees or detention centres.

Item [9] allows the regulations to make provision in relation to listening to and recording telephone calls made by detainees.

Item [10] allows the regulations to make provision in relation to the making of complaints, including the procedures to be followed, who may make complaints and the application of certain guidelines.

Item [11] allows the regulations to make provision in relation to the circumstances in which a juvenile justice officer may use force against a visitor.

Item [12] allows the regulations to make provision in relation to the decisions, approvals or directions the Secretary or centre manager may make or give about matters referred to in the regulations.

Item [13] allows the regulations to make provision in relation to the approval of persons or laboratories conducting analyses for the presence of prohibited drugs.

Item [14] provides for the disclosure of information, despite the Act or another law, by ministers of religion appointed for a detention centre if the information relates to the welfare of a detainee and the disclosure is in the best interest of the detainee or another detainee.

Schedule 7 Amendment of Crimes (Administration of Sentences) Act 1999 No 93

[1] Section 236Q Misconduct offence

Insert after section 236Q(2)—

- (3) Proceedings for an offence against this section must be commenced not later than 2 years after the date the offence is alleged to have been committed.

[2] Section 258 Supreme Court to review list of persons on remand who are in custody

Omit the section.

[3] Schedule 5 Savings, transitional and other provisions

Insert at the end of the schedule, with appropriate part and clause numbering—

Part Provision consequent on enactment of Justice Legislation Amendment (Miscellaneous) Act (No 2) 2025

Proceedings for misconduct offence

The amendment made to section 236Q by the *Justice Legislation Amendment (Miscellaneous) Act (No 2) 2025* does not apply to an offence committed, or alleged to have been committed, before 12 May 2025.

Explanatory note

Item [1] of the proposed amendments extends the statute of limitations for an offence against the *Crimes (Administration of Sentences) Act 1999*, section 236Q to 2 years from the default period of 6 months under the *Criminal Procedure Act 1986*, section 179.

Item [2] omits a section the objective of which is achieved by other case management mechanisms that have come into effect since the section was made.

Item [3] inserts a transitional provision to make it clear that the proposed amendment to section 236Q does not apply to an offence committed, or alleged to have been committed, before section 236Q was amended by the *Crimes (Administration of Sentences) Amendment Act 2025*.

Schedule 8 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92

Section 47 Commencement of sentence

Omit section 47(5). Insert instead—

- (5) A direction under subsection (2)(b) must not be made in relation to a sentence of imprisonment, or an aggregate sentence of imprisonment, imposed on an offender who—
 - (a) is serving some other sentence of imprisonment by way of full-time detention if—
 - (i) a non-parole period has been set for the other sentence, and
 - (ii) the non-parole period for the other sentence has expired, and
 - (iii) the offender is still in custody under the other sentence, or
 - (b) is serving some other sentence of imprisonment by way of full-time detention if—
 - (i) the offender is in full-time detention for a revoked intensive correction order, and
 - (ii) no other full-time custodial sentence applies to the offender.

Explanatory note

The proposed amendment extends the exception to the *Crimes (Sentencing Procedure) Act 1999*, section 47(2)(b) so an offender who is in full-time custody only as a result of having an intensive correction order revoked must not be sentenced to a sentence of imprisonment that commences after the sentence is imposed.

Schedule 9 Amendment of Firearms Act 1996 No 46

Section 75 Administrative reviews by Civil and Administrative Tribunal of certain decisions

Insert after section 75(1B)—

- (1C) Subsection (1A) does not apply to a person who is a disqualified person only because the person is less than 18 years of age.

Explanatory note

The proposed amendment allows certain under-age persons to apply for a review of a firearms prohibition order.

Schedule 10 Amendment of Inspector of Custodial Services Act 2012 No 55

Section 25A Compellability of Inspector

Omit “section 33 or 37.” from section 25A(2)(f). Insert instead—

section 33 or 37,

- (g) proceedings under the *Ombudsman Act 1974*, Part 3,
- (h) proceedings under the *Independent Commission Against Corruption Act 1988*, Part 4,
- (i) proceedings under the *Law Enforcement Conduct Commission Act 2016*, Part 6.

Explanatory note

The proposed amendment extends the disapplication of the *Inspector of Custodial Services Act 2012*, section 25A(1) to proceedings specified in the amendment so the Inspector of Custodial Services, a member of the Inspector’s staff or another specified person may be compelled to give evidence or produce documents in the proceedings.

Schedule 11 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103

[1] Section 32 Preservation of privacy and dignity during search

Omit section 32(7A)(b). Insert instead—

- (b) a person or of a class of persons—
 - (i) prescribed by the regulations for the purposes of this subsection, or
 - (ii) that, in the opinion of the Commissioner, has appropriate training, qualifications or experience in conducting personal searches.

[2] Section 32

Insert “(7B)” before “The search by that other person”.

[3] Section 87M Power to seize and detain things

Omit section 87M(4). Insert instead—

- (4) The regulations may provide for—
 - (a) the seizure, removal, detention and return of vehicles, mobile phones or other things referred to in subsection (1)(a), and
 - (b) the payment of fees for the seizure, removal, detention and return of vehicles, mobile phones or other things referred to in subsection (1)(a), and
 - (c) the persons responsible for the payment of the fees.

[4] Section 132 Regulations

Omit “persons participate.” from section 132(c). Insert instead—

- persons participate,
- (d) the designation, by the Commissioner, of police stations or other places of detention to which persons who are detained under this part must, if practicable, be taken.

Explanatory note

Item [1] of the proposed amendments makes it clear a search may be conducted by a person or class of persons prescribed by the regulations or a person or class of persons that, in the opinion of the Commissioner of Police, has appropriate training, qualifications or experience.

Item [2] corrects a subsection numbering error.

Item [3] makes it clear the regulations may provide for the payment of fees, and the persons responsible for the payment of fees, for the seizure, removal, detention and return of vehicles, mobile phones or other items.

Item [4] allows regulations to be made in relation to the designation, by the Commissioner of Police, of police stations or other places of detention to which persons who are detained must be taken.

Schedule 12 Amendment of Medicines, Poisons and Therapeutic Goods Act 2022 No 73

[1] Section 76 Granting of DMT authority

Omit “or produce” from section 76(2)(a)(ii). Insert instead “, produce or cultivate”.

[2] Schedule 4 Amendment of Drug Misuse and Trafficking Act 1985 No 226

Insert “cultivate,” after “produce,” in Schedule 4[14], proposed section 18B(4)(a).

[3] Schedule 4[14A] and [14B]

Insert after Schedule 4[14]—

[14A] Section 23 Offences with respect to prohibited plants

Insert after section 23(4)—

- (4A) This section does not make it unlawful for a person to cultivate, possess or supply a prohibited plant if authorised under the *Medicines, Poisons and Therapeutic Goods Act 2022*.

[14B] Section 23A Offences with respect to enhanced indoor cultivation of prohibited plants in presence of children

Insert after section 23A(3)—

- (3A) This section does not make it unlawful for a person to cultivate a prohibited plant if authorised under the *Medicines, Poisons and Therapeutic Goods Act 2022*.

Explanatory note

The proposed amendments make it clear a person is authorised to cultivate, rather than manufacture, a prohibited plant if authorised to do so under the *Medicines, Poisons and Therapeutic Goods Act 2022*.