

**CHILDREN (CARE AND PROTECTION) AMENDMENT
BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Community Welfare (Amendment) Bill 1987.

The object of this Bill is to amend the Children (Care and Protection) Act 1987 so as—

- (a) to extend the operation of that Act with respect to residential child care centres;
- (b) to amend the definition of “sexual assault” in the light of recent amendments to the Crimes Act 1900;
- (c) to vary the provisions of the Principal Act with respect to adjournments; and
- (d) to make other provisions of a minor, consequential or ancillary nature.

Clause 1 specifies the short title of the proposed Act.

Clause 2 gives effect to the Schedule of amendments.

Schedule 1 (1) (a) substitutes the definition of “residential child care centre” in section 3 (1) of the Principal Act so as to include within the ambit of the new definition centres at which one or more (rather than 6 or more, as is presently the case) children reside and centres that are conducted otherwise than for fee, gain or reward.

Schedule 1 (1) (b) omits section 3 (7) of the Principal Act as a consequence of the amendment effected by Schedule 1 (1) (a).

Schedule 1 (1) (c) amends section 3 (9) of the Principal Act so as to extend the range of offences under the Crimes Act 1900 that are to constitute “sexual assault” within the meaning of the Principal Act.

Schedule 1 (2) amends section 22 of the Principal Act so as to restrict the operation of that section to children who are under the age of 16 years.

Children (Care and Protection) Amendment 1987

Schedule 1 (3) inserts a new section 33A into the Principal Act. The proposed section limits the licensing provisions relating to residential child care centres (contained in Division 2 of Part 3 of the Principal Act) to such centres as are prescribed by the regulations under the Principal Act.

Schedule 1 (4)–(6) amend sections 34, 35 and 37 of the Principal Act as a consequence of the amendment effected by Schedule 1 (3).

Schedule 1 (7) amends section 74 of the Principal Act so as to limit the obligation of the Children's Court to ensure that a child to whom care proceedings relate be given a copy of an assessment report prepared in respect of those proceedings in cases in which the child is under 10 years of age or in which it appears that the report may cause psychological harm to the child.

Schedule 1 (8) amends section 76 of the Principal Act so as to repeal the restriction that is currently contained in that section under which proceedings in a care application may not be adjourned for periods totalling more than 42 days, but imposes a requirement that the Attorney General must be notified in situations where that limit is exceeded.

Schedule 1 (9) amends section 80 of the Principal Act so as to enable an authorised justice to adjourn proceedings for periods totalling 8 days rather than, as is currently provided by that section, 5 days.

CHILDREN (CARE AND PROTECTION) AMENDMENT BILL 1987

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TABLE OF PROVISIONS

1. Short title
2. Amendment of Act No. 54, 1987

SCHEDULE 1—AMENDMENTS

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**CHILDREN (CARE AND PROTECTION) AMENDMENT
BILL 1987**

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Children (Care and Protection) Act 1987 with respect to the regulation of residential child care centres, adjournments of care proceedings and certain other matters.

Children (Care and Protection) Amendment 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Children (Care and Protection) Amendment Act 1987.

5 Amendment of Act No. 54, 1987

2. The Children (Care and Protection) Act 1987 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 2)

10 (1) Section 3 (**Definitions**)—

(a) Section 3 (1), definition of “residential child care centre”—
Omit the definition, insert instead:

15 “residential child care centre” means any premises at which one or more children (disregarding any children who are related to the person in charge of the premises) reside, but does not include any premises that are exempt premises;

(b) Section 3 (7)—
Omit the subsection.

20 (c) Section 3 (9) (a)—
Omit “66A, 66B, 66C or 66D”, insert instead “65A, 66A, 66B, 66C, 66D, 66F, 78H, 78I, 78J, 78K, 78L, 78M, 78N, 78O, 78P or 78Q”.

(2) Section 22 (**Notification of child abuse**)—

25 Section 22 (1)–(4)—
After “that a child” wherever occurring, insert “who is under the age of 16 years”.

(3) Section 33A—
Before section 34, insert:

Application of Division

30 33A. This Division applies to such class of residential child care centres as may be prescribed by the regulations for the purposes of this Division.

(4) Section 34 (**Unauthorised persons not to conduct residential child care centres**)—

35 Section 34 (1)—
After “centre” where firstly occurring, insert “to which this Division applies”.

*Children (Care and Protection) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*(5) Section 35 (**Unlicensed premises etc. not to be used as residential child care centres**)—

Section 35 (1)—

5 After “centre” where firstly occurring, insert “to which this Division applies”.

(6) Section 37 (**Removal of children from unlicensed residential child care centres**)—

Section 37 (1) (a) (i)—

After “centre”, insert “to which this Division applies”.

10 (7) Section 74 (**Assessment reports**)—

(a) Section 74 (1) (b)—

After “child”, insert “(being a child who is of or above the age of 10 years)”.

(b) Section 74 (3)—

15 After section 74 (2), insert:

(3) Nothing in this section requires a copy of the whole or any part of an assessment report to be given to a child if, in the opinion of the Children’s Court, the prejudicial effect of the child being unaware of the information contained in the whole or that part of the report is outweighed by the psychological harm that is likely to be occasioned to the child if the child becomes aware of that information.

(8) Section 76 (**Adjournments by the Children’s Court**)—

(a) Section 76 (2) (b)—

25 After “days”, insert “except where it is impracticable to determine the proceedings within that period”.

(b) Section 76 (3)—

After section 76 (2), insert:

30 (3) If, in the circumstances referred to in subsection (2) (b), the Children’s Court adjourns proceedings for a period, or for periods in the aggregate, exceeding 42 days, it shall forthwith furnish to the child, to the Minister and to the Attorney General a statement of the reasons for its decision.

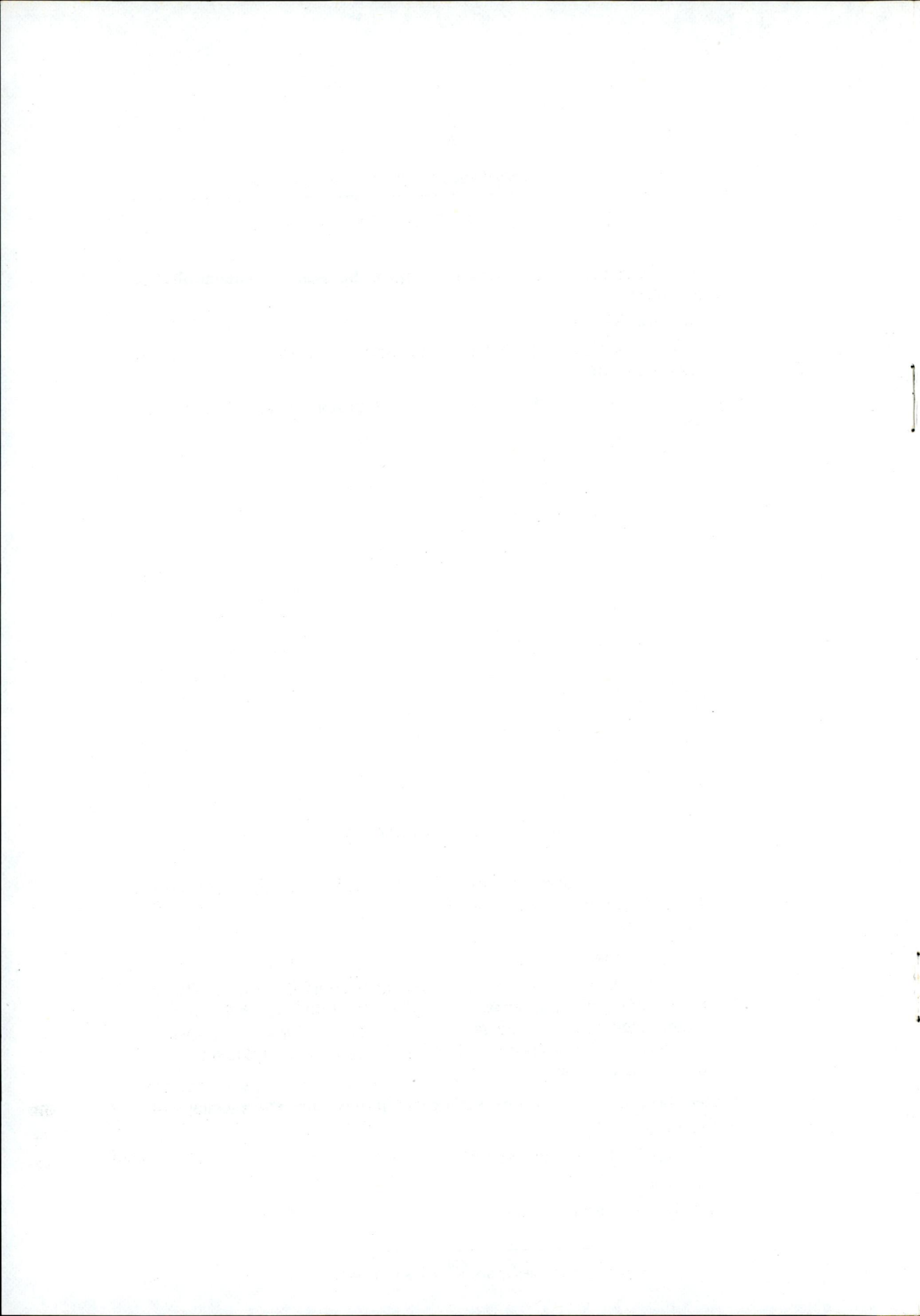
(9) Section 80 (**Adjournments by authorised justices prior to hearings**)—

(a) Section 80 (3) (a)—

35 Omit “3”, insert instead “5”.

(b) Section 80 (3) (b)—

Omit “2”, insert instead “3”.



**CHILDREN (CARE AND PROTECTION) AMENDMENT
ACT 1987 No. 269**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Amendment of Act No. 54, 1987

SCHEDULE 1—AMENDMENTS



CHILDREN (CARE AND PROTECTION) AMENDMENT ACT 1987
No. 269

NEW SOUTH WALES



Act No. 269, 1987

An Act to amend the Children (Care and Protection) Act 1987 with respect to the regulation of residential child care centres, adjournments of care proceedings and certain other matters. [Assented to 16 December 1987]

Children (Care and Protection) Amendment 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Children (Care and Protection) Amendment Act 1987.

Amendment of Act No. 54, 1987

2. The Children (Care and Protection) Act 1987 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 2)

(1) Section 3 (**Definitions**)—

(a) Section 3 (1), definition of “residential child care centre”—

Omit the definition, insert instead:

“residential child care centre” means any premises at which one or more children (disregarding any children who are related to the person in charge of the premises) reside, but does not include any premises that are exempt premises;

(b) Section 3 (7)—

Omit the subsection.

(c) Section 3 (9) (a)—

Omit “66A, 66B, 66C or 66D”, insert instead “65A, 66A, 66B, 66C, 66D, 66F, 78H, 78I, 78J, 78K, 78L, 78M, 78N, 78O, 78P or 78Q”.

(2) Section 22 (**Notification of child abuse**)—

Section 22 (1)–(4)—

After “that a child” wherever occurring, insert “who is under the age of 16 years”.

(3) Section 33A—

Before section 34, insert:

Application of Division

33A. This Division applies to such class of residential child care centres as may be prescribed by the regulations for the purposes of this Division.

Children (Care and Protection) Amendment 1987

SCHEDULE 1—AMENDMENTS—*continued*

- (4) Section 34 (**Unauthorised persons not to conduct residential child care centres**)—
 Section 34 (1)—
 After “centre” where firstly occurring, insert “to which this Division applies”.
- (5) Section 35 (**Unlicensed premises etc. not to be used as residential child care centres**)—
 Section 35 (1)—
 After “centre” where firstly occurring, insert “to which this Division applies”.
- (6) Section 37 (**Removal of children from unlicensed residential child care centres**)—
 Section 37 (1) (a) (i)—
 After “centre”, insert “to which this Division applies”.
- (7) Section 74 (**Assessment reports**)—
 (a) Section 74 (1) (b)—
 After “child”, insert “(being a child who is of or above the age of 10 years)”.
- (b) Section 74 (3)—
 After section 74 (2), insert:
 (3) Nothing in this section requires a copy of the whole or any part of an assessment report to be given to a child if, in the opinion of the Children’s Court, the prejudicial effect of the child being unaware of the information contained in the whole or that part of the report is outweighed by the psychological harm that is likely to be occasioned to the child if the child becomes aware of that information.
- (8) Section 76 (**Adjournments by the Children’s Court**)—
 (a) Section 76 (2) (b)—
 After “days”, insert “except where it is impracticable to determine the proceedings within that period”.
- (b) Section 76 (3)—
 After section 76 (2), insert:
 (3) If, in the circumstances referred to in subsection (2) (b), the Children’s Court adjourns proceedings for a period, or for periods in the aggregate, exceeding 42 days, it shall forthwith furnish to the child, to the Minister and to the Attorney General a statement of the reasons for its decision.

Children (Care and Protection) Amendment 1987

SCHEDULE 1—AMENDMENTS—*continued*

- (9) Section 80 (**Adjournments by authorised justices prior to hearings**)—
- (a) Section 80 (3) (a)—
Omit “3”, insert instead “5”.
 - (b) Section 80 (3) (b)—
Omit “2”, insert instead “3”.



