

**CHILDREN (DETENTION CENTRES) 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 (Detention Centres) Act 1987 so as—

- (a) to distinguish between the offence of escaping and the offence of absconding;
- (b) to clarify certain matters relating to the granting of remission;
- (c) to enable loss of remission to be a punishment that can be imposed in respect of misbehaviour committed by a detainee; 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) amends the definition of “misbehaviour” in section 3 (1) of the Principal Act so as to provide that that definition encompasses the offence of absconding from lawful custody.

Schedule 1 (2) amends section 9 of the Principal Act so as to ensure that that section is not construed as limiting the operation of sections 9A, 33A and 33B of the Children (Criminal Proceedings) Act 1987 as to be inserted by the proposed Children (Criminal Proceedings) Amendment Act 1987.

Schedule 1 (3) amends section 21 of the Principal Act so as to enable a detainee to be punished for misbehaviour by loss of no more than 7 days’ remission.

Schedule 1 (4) amends section 22 of the Principal Act so as to ensure that the treatment prohibited by that section is limited to treatment carried out for the purpose of punishing a detainee.

Children (Detention Centres) Amendment 1987

Schedule 1 (5) and (6) amend sections 23 and 24 of the Principal Act so as to provide that a person who fails to return to custody at the expiration of a leave of absence shall be deemed to have absconded from lawful custody unless the failure to return extends to more than 7 days, in which case the person is deemed to have escaped from lawful custody.

Schedule 1 (7) amends section 25 of the Principal Act so as to provide that a person who fails to return to custody from a hospital shall be deemed to have escaped from lawful custody.

Schedule 1 (8) amends section 29 of the Principal Act by way of statute law revision.

Schedule 1 (9) amends section 30 of the Principal Act so as to ensure that that section does not limit the operation of the Probation and Parole Act 1983 with respect to a person subject to control.

Schedule 1 (10)–(14) amend Part 4 of the Principal Act (in particular, sections 33, 34, 36 and 37) so as to provide that that Part applies to escapes rather than mere abscondings.

Schedule 1 (15) amends section 38 of the Principal Act so as to ensure that the power of arrest conferred by that section applies to both escapees and absconders.

CHILDREN (DETENTION CENTRES) AMENDMENT BILL 1987

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TABLE OF PROVISIONS

1. Short title
2. Amendment of Act No. 57, 1987

SCHEDULE 1—AMENDMENTS



**CHILDREN (DETENTION CENTRES) AMENDMENT BILL
1987**

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Children (Detention Centres) Act 1987 with respect to escaping from custody, the granting of remission and certain other matters.

Children (Detention Centres) Amendment 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Children (Detention Centres) Amendment Act 1987.

5 Amendment of Act No. 57, 1987

2. The Children (Detention Centres) Act 1987 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 2)

- 10 (1) Section 3 (**Definitions**)—
 Section 3 (1), definition of “misbehaviour”—
 After “means”, insert “the offence committed by the detainee in absconding from lawful custody or”.
- 15 (2) Section 9 (**Persons on remand and persons subject to control to be detained in detention centres**)—
 Section 9 (5)—
 After section 9 (4), insert:
 (5) This section does not limit the operation of sections 9A, 33A and 33B of the Children (Criminal Proceedings) Act 1987.
- 20 (3) Section 21 (**Punishments for misbehaviour**)—
 Section 21 (1) (e)—
 After section 21 (1) (d), insert:
 (e) loss of remission, not exceeding 7 days.
- 25 (4) Section 22 (**Prohibited punishments**)—
 (a) Section 22 (1)—
 After “shall not be”, insert “punished by being”.
 (b) Section 22 (3)—
 Omit “treats”, insert instead “punishes”.
 (c) Section 22 (3)—
- 30 Omit “treated”, insert instead “punished”.
- (5) Section 23 (**Persons on remand may be granted leave etc.**)—
 (a) Section 23 (4)—
 Omit “at the end of 7 days”.
 (b) Section 23 (5)—

*Children (Detention Centres) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

After section 23 (4), insert:

(5) If, at the end of 7 days after a leave of absence granted under subsection (1) has expired, a person on remand has failed to return to the detention centre from which the person is absent, the person shall be deemed to have escaped from lawful custody.

(6) Section 24 (**Persons subject to control may be granted leave, discharged etc.**)—

(a) Section 24 (6)—

Omit “at the end of 7 days”.

(b) Section 24 (7)—

After section 24 (6), insert:

(7) If, at the end of 7 days after a leave of absence granted under subsection (1) (a) has expired, a person subject to control has failed to return to the detention centre from which the person is absent, the person shall be deemed to have escaped from lawful custody.

(7) Section 25 (**Removal to hospital of detainees**)—

Section 25 (5)—

Omit “absconded”, insert instead “escaped”.

(8) Section 29 (**Remission**)—

Section 29 (1)—

Omit “section 460A of the Crimes Act 1900”, insert instead “section 69 of the Prisons Act 1952”.

(9) Section 30 (**Discharge generally**)—

Section 30 (3)—

After section 30 (2), insert:

(3) This section does not limit the operation of the Probation and Parole Act 1983 with respect to a person subject to control.

(10) Part 4, heading—

Omit “ABSCONDING”, insert instead “ESCAPING”.

(11) Section 33 (**Escaping**)—

(a) Section 33 (1)—

Omit “absconds or attempts to abscond”, insert instead “escapes or attempts to escape”.

(b) Section 33 (4)—

Children (Detention Centres) Amendment 1987

SCHEDULE 1—AMENDMENTS—*continued*

Omit “absconded from lawful custody by section 23 (4), 24 (6)”, insert instead “escaped from lawful custody by section 23 (5), 24 (7)”.

(12) Section 34 (**Aiding escapes**)—

5 (a) Section 34 (a)—

Omit “absconding or attempting to abscond”, insert instead “escaping or attempting to escape”.

(b) Section 34 (b)—

Omit “absconding”, insert instead “escaping”.

10 (13) Section 36 (**Permitting escapes**)—

Omit “abscond”, insert instead “escape”.

(14) Section 37 (**Harbouring escapees**)—

Omit “absconded”, insert instead “escaped”.

(15) Section 38 (**Arrest of escapees etc.**)—

15 Section 38 (1)—

After “has”, insert “escaped or”.

**CHILDREN (DETENTION CENTRES) AMENDMENT ACT
1987 No. 272**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Amendment of Act No. 57, 1987

SCHEDULE 1—AMENDMENTS



CHILDREN (DETENTION CENTRES) AMENDMENT ACT 1987
No. 272

NEW SOUTH WALES



Act No. 272, 1987

An Act to amend the Children (Detention Centres) Act 1987 with respect to escaping from custody, the granting of remission and certain other matters. [Assented to 16 December 1987]

Children (Detention Centres) Amendment 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Children (Detention Centres) Amendment Act 1987.

Amendment of Act No. 57, 1987

2. The Children (Detention Centres) Act 1987 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 2)

(1) Section 3 (**Definitions**)—

Section 3 (1), definition of “misbehaviour”—

After “means”, insert “the offence committed by the detainee in absconding from lawful custody or”.

(2) Section 9 (**Persons on remand and persons subject to control to be detained in detention centres**)—

Section 9 (5)—

After section 9 (4), insert:

(5) This section does not limit the operation of sections 9A, 33A and 33B of the Children (Criminal Proceedings) Act 1987.

(3) Section 21 (**Punishments for misbehaviour**)—

Section 21 (1) (e)—

After section 21 (1) (d), insert:

(e) loss of remission, not exceeding 7 days.

(4) Section 22 (**Prohibited punishments**)—

(a) Section 22 (1)—

After “shall not be”, insert “punished by being”.

(b) Section 22 (3)—

Omit “treats”, insert instead “punishes”.

(c) Section 22 (3)—

Omit “treated”, insert instead “punished”.

(5) Section 23 (**Persons on remand may be granted leave etc.**)—

(a) Section 23 (4)—

Omit “at the end of 7 days”.

(b) Section 23 (5)—

*Children (Detention Centres) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

After section 23 (4), insert:

(5) If, at the end of 7 days after a leave of absence granted under subsection (1) has expired, a person on remand has failed to return to the detention centre from which the person is absent, the person shall be deemed to have escaped from lawful custody.

(6) Section 24 (**Persons subject to control may be granted leave, discharged etc.**)—

(a) Section 24 (6)—

Omit “at the end of 7 days”.

(b) Section 24 (7)—

After section 24 (6), insert:

(7) If, at the end of 7 days after a leave of absence granted under subsection (1) (a) has expired, a person subject to control has failed to return to the detention centre from which the person is absent, the person shall be deemed to have escaped from lawful custody.

(7) Section 25 (**Removal to hospital of detainees**)—

Section 25 (5)—

Omit “absconded”, insert instead “escaped”.

(8) Section 29 (**Remission**)—

Section 29 (1)—

Omit “section 460A of the Crimes Act 1900”, insert instead “section 69 of the Prisons Act 1952”.

(9) Section 30 (**Discharge generally**)—

Section 30 (3)—

After section 30 (2), insert:

(3) This section does not limit the operation of the Probation and Parole Act 1983 with respect to a person subject to control.

(10) Part 4, heading—

Omit “ABSCONDING”, insert instead “ESCAPING”.

(11) Section 33 (**Escaping**)—

(a) Section 33 (1)—

Omit “absconds or attempts to abscond”, insert instead “escapes or attempts to escape”.

(b) Section 33 (4)—

Children (Detention Centres) Amendment 1987

SCHEDULE 1—AMENDMENTS—*continued*

Omit “absconded from lawful custody by section 23 (4), 24 (6)”, insert instead “escaped from lawful custody by section 23 (5), 24 (7)”.

(12) Section 34 (**Aiding escapes**)—

(a) Section 34 (a)—

Omit “absconding or attempting to abscond”, insert instead “escaping or attempting to escape”.

(b) Section 34 (b)—

Omit “absconding”, insert instead “escaping”.

(13) Section 36 (**Permitting escapes**)—

Omit “abscond”, insert instead “escape”.

(14) Section 37 (**Harbouring escapees**)—

Omit “absconded”, insert instead “escaped”.

(15) Section 38 (**Arrest of escapees etc.**)—

Section 38 (1)—

After “has”, insert “escaped or”.



