

**COMMUNITY WELFARE (CHILD ASSAULT)
AMENDMENT BILL 1985**

EXPLANATORY NOTE

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

This Bill is cognate with the Crimes (Child Assault) Amendment Bill 1985.

The objects of this Bill are—

- (a) to require certain categories of persons who, in the course of their work, become aware of, or suspect, any sexual assault of children to notify the Department of Youth and Community Services (the categories of persons being prescribed and being a larger group than those presently required to notify all cases of abuse); and
- (b) to ensure that the length of any guardianship of a child for the purpose of medical examination as to abuse of the child remains a maximum of 72 hours as provided for in the Child Welfare Act 1939 instead of exactly 72 hours in every case (which would apply under the Principal Act).

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day or days to be appointed by the Governor-in-Council.

Clause 3 is a formal provision dealing with references to the Community Welfare Act 1982.

Clause 4 is a formal provision that gives effect to the Schedule of amendments.

Schedule 1 (1) (a) omits the definition of "prescribed person" from section 102 of the Principal Act as a consequence of inserting subsections (2A) and (2B) into that section.

Schedule 1 (1) (b) inserts into section 102 of the Principal Act a definition of "sexually assaulted" in relation to a child.

Schedule 1 (1) (c) inserts into section 102 of the Principal Act subsections (2A) and (2B). Subsection (2A) provides that medical practitioners and other persons prescribed for the purposes of the subsection who, in the course of their work, have reasonable grounds to suspect that a child has been abused (sexually or otherwise) shall comply with the notification requirements of subsection (3). Subsection (2B) provides that persons prescribed for the purposes of the subsection who, in the course of their work, have reasonable grounds to suspect that a child has been sexually assaulted shall comply with the notification requirements of subsection (3). Ministers of religion will not be required to notify any cases of abuse and the provisions permit the making of regulations to exempt other persons from the notification requirements.

Schedule 1 (1) (d)—

- (a) substitutes section 102 (3) of the Principal Act so as to require the persons to whom subsections (2A) and (2B) apply to notify the Director-General of the Department of Youth and Community Services promptly of cases of sexual or other abuse of children; and
- (b) inserts a subsection (3A) into section 102 of the Principal Act to allow regulations to be made in relation to notifications under subsection (3).

Schedule 1 (2) substitutes section 103 (6) (b) of the Principal Act (which provides for the period of guardianship of children for the purposes of medical examination as to any abuse of the child to be 72 hours in every case) by replacing it with the corresponding provision presently contained in the Child Welfare Act 1939 (which provides for guardianship for the period of the examination or for 72 hours, whichever is the shorter period).

Schedule 1 (3) omits certain provisions in section 306 of the Principal Act dealing with the giving of evidence by children in proceedings under the Principal Act. Those provisions will be unnecessary upon the amendment of the Oaths Act 1900 to deal with the giving of evidence or the making of statements by children in relation to any proceedings.

**COMMUNITY WELFARE (CHILD ASSAULT)
AMENDMENT BILL 1985**

No. , 1985

A BILL FOR

An Act to amend the Community Welfare Act 1982 in relation to children
who are sexually or otherwise assaulted.

Community Welfare (Child Assault) Amendment 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5 Short title

1. This Act may be cited as the "Community Welfare (Child Assault) Amendment Act 1985".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

10 (2) Except as provided by subsections (1) and (3), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

(3) Schedule 1 (3), and section 4 in its application to that provision, shall commence on the day appointed and notified under section 2 (2) of
15 the Oaths (Children) Amendment Act 1985.

Principal Act

3. The Community Welfare Act 1982 is referred to in this Act as the Principal Act.

Amendment of Act No. 76, 1982

20 4. The Principal Act is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 102 (**Notification of assault, etc., on child**)—

25 (a) From subsection (1), omit the definition of "prescribed person".

*Community Welfare (Child Assault) Amendment 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) After subsection (1), insert:

(1A) In this section—

- 5 (a) a reference to a child's having been sexually assaulted is a reference to any of the following offences having been committed with or upon the child:
- (i) an offence under section 61B, 61C, 61D, 61E, 61F, 66A, 66B, 66C or 66D of the Crimes Act 1900;
- 10 (ii) an offence under section 67, 68, 71, 72, 73, 74, 78A or 78B of that Act, as in force before the commencement of Schedule 2 to the Crimes (Child Assault) Amendment Act 1985;
- 15 (iii) an offence under section 63, 65, 76 or 76A of that Act, as in force before the commencement of Schedule 1 to the Crimes (Sexual Assault) Amendment Act 1981; and
- (b) a reference to a child's having been abused includes a reference to the child's having been sexually assaulted.

(c) After subsection (2), insert:

(2A) A person who, in the course of—

- 20 (a) practising as a medical practitioner;
- (b) following another profession, calling or vocation prescribed for the purposes of this subsection (other than the profession of a barrister or solicitor); or
- (c) exercising the functions of an office so prescribed,
- 25 has reasonable grounds to suspect that a child has been abused (whether the abuse consisted of sexual assault or any other form of abuse) is required to comply with subsection (3) in respect of those grounds unless the person is a minister of religion or a person who is declared by the regulations to be exempt from the
- 30 provisions of this subsection.

Community Welfare (Child Assault) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(2B) A person who, in the course of—

(a) following a profession, calling or vocation prescribed for the purposes of this subsection (other than the profession of a barrister or solicitor); or

5 (b) exercising the functions of an office so prescribed,

has reasonable grounds to suspect that a child has been sexually assaulted is required to comply with subsection (3) in respect of those grounds unless the person is a minister of religion or a person who is declared by the regulations to be exempt from the provisions of this subsection.

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(d) Omit subsection (3), insert instead:

(3) A person who is required to comply with this subsection in respect of having any grounds to suspect that a child has been abused (whether the abuse consisted of sexual assault or any other form of abuse) shall—

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(a) notify the Director of the name or a description of the child and those grounds; or

(b) cause the Director to be so notified,

promptly after those grounds arise.

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(3A) Regulations may be made with respect to the form of a notification under subsection (3) or with respect to the manner of making such a notification.

(e) From subsection (4), omit “prescribed”.

(2) Section 103 (**Medical examination of reputedly injured children**)—

25

Omit subsection (6) (b), insert instead:

Community Welfare (Child Assault) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- 5 (b) the Director shall, commencing with the time at which the child is presented to the medical practitioner and until the expiration of such period of time as is reasonably necessary for the child to be examined in accordance with paragraph (a) or 72 hours, whichever period first expires, be deemed to be the guardian of the child for the purpose only of enabling the examination to be conducted; and
- (3) Section 306 (**Evidence of young children**)—
- 10 (a) Omit subsections (1)–(4).
- (b) From subsection (6), omit “, but the same conditions shall apply as in the case of the reception of evidence under subsections (1), (2), (3) and (4)”.

COMMUNITY WELFARE (CHILD ASSAULT) AMENDMENT ACT
1985 No. 150

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

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Act No. 150, 1985

An Act to amend the Community Welfare Act 1982 in relation to children who are sexually or otherwise assaulted. [Assented to, 28th November, 1985.]

Community Welfare (Child Assault) Amendment 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Community Welfare (Child Assault) Amendment Act 1985".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsections (1) and (3), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

(3) Schedule 1 (3), and section 4 in its application to that provision, shall commence on the day appointed and notified under section 2 (2) of the Oaths (Children) Amendment Act 1985.

Principal Act

3. The Community Welfare Act 1982 is referred to in this Act as the Principal Act.

Amendment of Act No. 76, 1982

4. The Principal Act is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 102 (**Notification of assault, etc., on child**)—

(a) From subsection (1), omit the definition of "prescribed person".

Community Welfare (Child Assault) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) After subsection (1), insert:

(1A) In this section—

(a) a reference to a child's having been sexually assaulted is a reference to any of the following offences having been committed with or upon the child:

(i) an offence under section 61B, 61C, 61D, 61E, 61F, 66A, 66B, 66C or 66D of the Crimes Act 1900;

(ii) an offence under section 67, 68, 71, 72, 73, 74, 78A or 78B of that Act, as in force before the commencement of Schedule 2 to the Crimes (Child Assault) Amendment Act 1985;

(iii) an offence under section 63, 65, 76 or 76A of that Act, as in force before the commencement of Schedule 1 to the Crimes (Sexual Assault) Amendment Act 1981; and

(b) a reference to a child's having been abused includes a reference to the child's having been sexually assaulted.

(c) After subsection (2), insert:

(2A) A person who, in the course of—

(a) practising as a medical practitioner;

(b) following another profession, calling or vocation prescribed for the purposes of this subsection (other than the profession of a barrister or solicitor); or

(c) exercising the functions of an office so prescribed,

has reasonable grounds to suspect that a child has been abused (whether the abuse consisted of sexual assault or any other form of abuse) is required to comply with subsection (3) in respect of those grounds unless the person is a minister of religion or a person who is declared by the regulations to be exempt from the provisions of this subsection.

Community Welfare (Child Assault) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(2B) A person who, in the course of—

- (a) following a profession, calling or vocation prescribed for the purposes of this subsection (other than the profession of a barrister or solicitor); or
- (b) exercising the functions of an office so prescribed,

has reasonable grounds to suspect that a child has been sexually assaulted is required to comply with subsection (3) in respect of those grounds unless the person is a minister of religion or a person who is declared by the regulations to be exempt from the provisions of this subsection.

(d) Omit subsection (3), insert instead:

(3) A person who is required to comply with this subsection in respect of having any grounds to suspect that a child has been abused (whether the abuse consisted of sexual assault or any other form of abuse) shall—

- (a) notify the Director of the name or a description of the child and those grounds; or
- (b) cause the Director to be so notified,

promptly after those grounds arise.

(3A) Regulations may be made with respect to the form of a notification under subsection (3) or with respect to the manner of making such a notification.

(e) From subsection (4), omit “prescribed”.

(2) Section 103 (**Medical examination of reputedly injured children**)—

Omit subsection (6) (b), insert instead:

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (b) the Director shall, commencing with the time at which the child is presented to the medical practitioner and until the expiration of such period of time as is reasonably necessary for the child to be examined in accordance with paragraph (a) or 72 hours, whichever period first expires, be deemed to be the guardian of the child for the purpose only of enabling the examination to be conducted; and

- (3) Section 306 (**Evidence of young children**)—
 - (a) Omit subsections (1)–(4).
 - (b) From subsection (6), omit “, but the same conditions shall apply as in the case of the reception of evidence under subsections (1), (2), (3) and (4)”.





