

FIRST PRINT

**CHILDREN (CARE AND PROTECTION) (SCHOOL
ATTENDANCE) AMENDMENT BILL 1989**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Children (Care and Protection) Act 1987 to enable care applications and orders to be made concerning children who fail (not through any parental default or neglect) to attend school regularly.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on a proclaimed day.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

Clause 4 contains a transitional provision enabling care applications to be made concerning children whose failure to attend school regularly occurred or commenced before the commencement of the proposed section 10 (4) of the Principal Act.

SCHEDULE 1—AMENDMENTS

Schedule 1 (1) amends section 10 (Children in need of care) to include a child of school age who fails, without lawful excuse, to attend school regularly as a child in need of care within the meaning of the Principal Act. Such a child is only in need of care if the failure to attend school does not arise because of the neglect or failure of the child's parents to make all reasonable efforts to cause the child to attend. Parental neglect or default in this area is dealt with in the Education and Public Instruction Act 1987 and would also be a matter to be considered in deciding whether a child is in need of care on other grounds contained in section 10.

Children (Care and Protection) (School Attendance) Amendment Bill 1989

Schedule 1 (2) amends section 73 (Restrictions on making orders under sec. 72) to prevent the Children's Court from making a child who fails, without lawful excuse, to attend school regularly a ward under the Principal Act unless the child may be in need of care because there is evidence of an irretrievable breakdown in the parent/child relationship or of abuse or inadequate care and a lesser order has been previously tried unsuccessfully.

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SCHEDULE 1—AMENDMENTS

**CHILDREN (CARE AND PROTECTION) (SCHOOL
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No. , 1989

A BILL FOR

An Act to amend the Children (Care and Protection) Act 1987 to enable care applications and orders to be made in respect of children who fail to attend school regularly; and for other purposes.

Children (Care and Protection) (School Attendance) Amendment Bill 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Children (Care and Protection) (School Attendance) Amendment Act 1989.

5 Commencement

2. This Act commences on a day to be appointed by proclamation.

Amendment of Children (Care and Protection) Act 1987 No. 54

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

10 Transitional provision

4. A care application may be made under section 57 of the Children (Care and Protection) Act 1987 in respect of a child referred to in section 10 (4) of that Act (as inserted by this Act) even though the relevant failure to regularly attend school occurred or commenced before the 15 commencement of section 10 (4) of that Act.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 10 (**Children in need of care**)—

After section 10 (3), insert:

- 20 (4) Without limiting the generality of subsection (1), a child is in need of care if—
- 25 (a) the child is of or above the age of 6 years and below the age of 15 years; and
- (b) the child fails, without lawful excuse, to attend school regularly; and
- (c) that failure does not arise because of the neglect or failure of the child's parents to make all reasonable efforts to cause the child to attend school regularly.

(2) Section 73 (**Restrictions on making orders under sec. 72**)—

30 After section 73 (4), insert:

- (5) An order shall not be made under section 72 (1) (c) (iii) in respect of a child who, because the child fails, without lawful excuse, to attend school regularly, is in need of care unless—
- 35 (a) the Children's Court is satisfied that there is some evidence that the child may be in need of care because—
- (i) adequate provision is not being made, or is likely not to be made, for the child's care; or

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SCHEDULE 1—AMENDMENTS—*continued*

- (ii) the child is being, or is likely to be, abused; or
 - (iii) there is a substantial and presently irretrievable breakdown in the relationship between the child and one or more of the child's parents; and
- 5 (b) another order has been previously made under section 72 (1) (b) or (c) (i) or (ii) and despite that order the child has continued, without lawful excuse, to fail to attend school regularly.
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