

FIRST PRINT

**CRIMES (REGISTRATION OF INTERSTATE RESTRAINT  
ORDERS) AMENDMENT BILL 1992**

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 Crimes Act 1900 to provide for the registration and enforcement in New South Wales of restraint orders (i.e. orders in the nature of apprehended violence orders) made under the laws of other States or Territories. Once registered, such an order will have the same effect as, and be enforced as if it were, an apprehended violence order made under Part 15A of the Crimes Act 1900.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 gives effect to the Schedule of amendments to the Crimes Act 1900.

**SCHEDULE 1—AMENDMENTS**

Schedule 1 (2) inserts definitions relating to the new provisions for the registration and enforcement of interstate restraint orders. Such an order is defined as an order made by a court of another State or a Territory that has been made to prevent a person from acting in a manner specified in section 562B of the Act (i.e. committing a personal violence offence against another person or from harassing or molesting the other person).

Schedule 1 (4) inserts a new Division in Part 15A to provide for the registration and enforcement of interstate restraint orders. The new Division contains the following proposed sections:

- Proposed section 562S provides for the application to the clerk of the appropriate court (i.e. a Local Court or a Children's Court, depending on the age of the person against whom the interstate restraint order has been made) for the registration of such an order

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- Proposed section 562T requires the clerk to register the order or to refer it to a Magistrate or Children's Magistrate for adaptation or modification. If the order is referred, the Magistrate may vary the period during which the order is to have effect in New South Wales or make such other adaptations or modifications as the Magistrate considers necessary for the effective operation of the order in New South Wales. The order as adapted or modified must then be registered by the clerk. The clerk is required to provide the Commissioner of Police with a copy of the registered order. However, the person against whom the order has been made is not to be notified of the registration unless the person who applied for registration consents to such notice being served
- Proposed section 562U provides that a registered interstate restraint order has the same effect, and may be enforced against a person, as if it were an apprehended violence order made under Part 15A
- Proposed section 562V enables a "prescribed person" (e.g. the person who applied for the registration of the interstate restraint order or the person against whom it has been made) to apply to the appropriate court for variation of the order as it applies in New South Wales, for the extension or reduction of the period it has effect in New South Wales or for the revocation of the registration of the order.

Schedule 1 (5) provides that the proposed amendments extend to an interstate restraint order made before the commencement of the proposed Act.

Schedule 1 (1) and (3) are consequential amendments.

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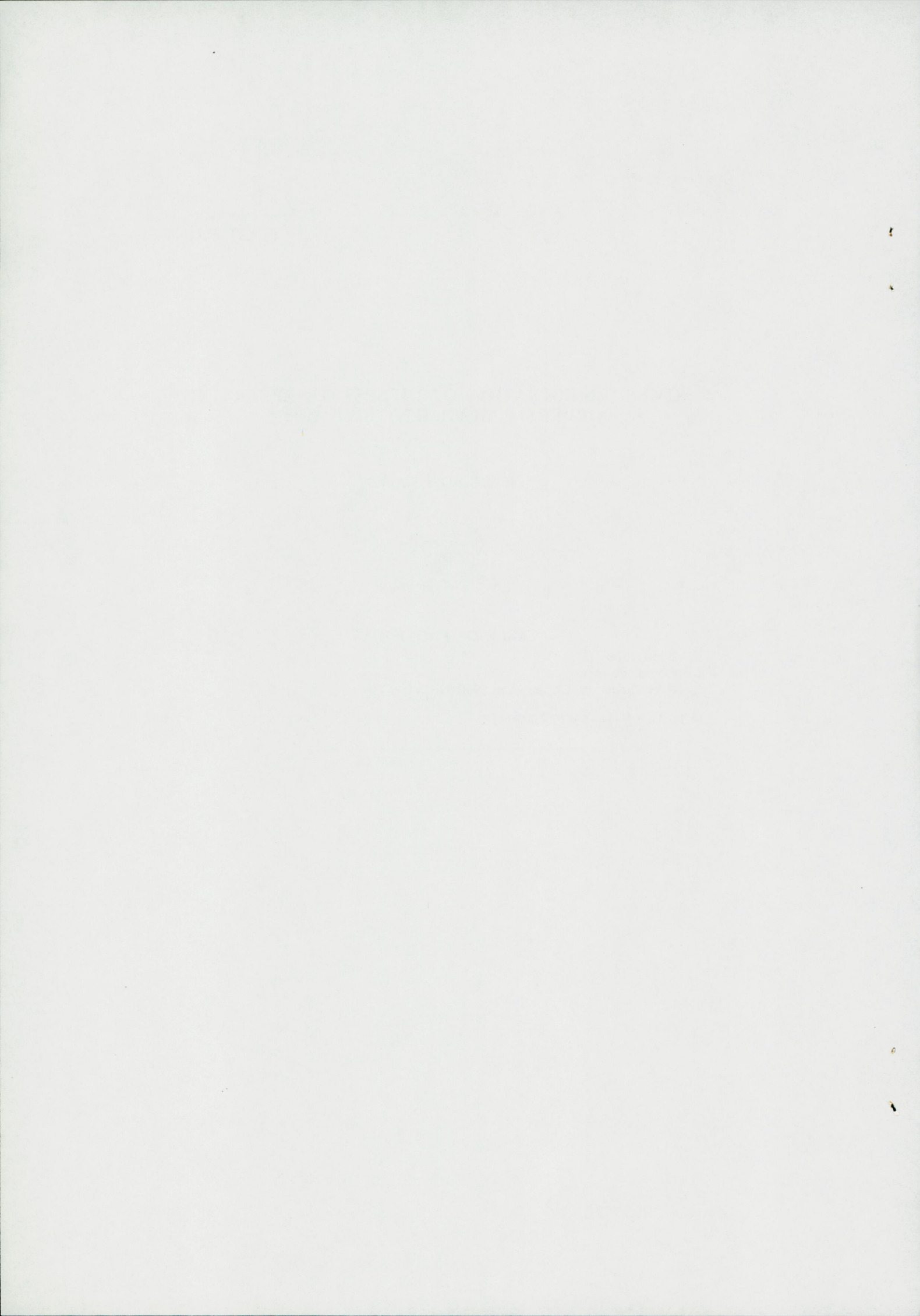


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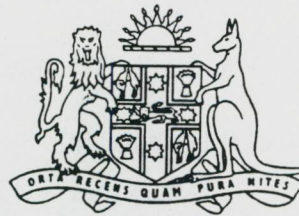
SCHEDULE 1—AMENDMENTS

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**CRIMES (REGISTRATION OF INTERSTATE RESTRAINT  
ORDERS) AMENDMENT BILL 1992**

NEW SOUTH WALES



No.       , 1992

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**A BILL FOR**

An Act to amend the Crimes Act 1900 to make provision for the registration and enforcement in New South Wales of orders in the nature of apprehended violence orders made under the laws of other States or Territories.

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*Crimes (Registration of Interstate Restraint Orders) Amendment 1992*

The Legislature of New South Wales enacts:

**Short title**

1. This Act may be cited as the Crimes (Registration of Interstate Restraint Orders) Amendment Act 1992.

5 **Commencement**

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

**Amendment of Crimes Act 1900 No. 40**

3. The Crimes Act 1900 is amended as set out in Schedule 1.

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**SCHEDULE 1—AMENDMENTS**

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(Sec. 3)

(1) Part 15A, Division 1, heading:

Before section 562A, insert:

**Division 1—Definitions**

(2) Section 562A (**Definitions**):

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Insert in alphabetical order:

“**interstate restraint order**” means an order made by a court of another State or Territory that has been made to prevent a person from acting in a manner specified in section 562B;

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“**registered interstate restraint order**” means an interstate restraint order registered under Division 3;

“**the appropriate court**”, in relation to an interstate restraint order, means:

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(a) a Local Court if the person against whom the order has been made is 18 or more years of age; or

(b) the Children’s Court if the person against whom the order has been made is less than 18 years of age,

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on the day on which an application is made under Division 3 for the registration of the interstate restraint order.

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SCHEDULE 1—AMENDMENTS—*continued*

- (3) Part 15A, Division 2, heading:  
Before section 562B, insert:

**Division 2—Apprehended violence orders generally**

- (4) Part 15A, Division 3: 5  
After section 562R, insert:

**Division 3—Registration of interstate restraint orders**  
**Application for registration of interstate restraint order**

562S. (1) A person may apply to the clerk of the appropriate court for the registration of an interstate restraint order. 10

(2) An application is:

- (a) to be made in a form approved by the clerk of the appropriate court; and  
(b) to be accompanied by a copy of the interstate restraint order; and 15  
(c) to be accompanied by such evidence of effective service of the interstate restraint order on the person against whom it has been made as the clerk considers appropriate. 20

**Registration of interstate restraint order**

562T. (1) On receipt of an application under section 562S, the clerk of the appropriate court must:

- (a) register the interstate restraint order to which the application relates; or 25  
(b) refer the interstate restraint order to a Magistrate (or a Children's Magistrate if the appropriate court is the Children's Court) for adaptation or modification.

(2) On the referral of an interstate restraint order, the Magistrate or Children's Magistrate may do either or both of the following: 30

- (a) vary the period during which the order has effect in its operation in New South Wales;



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SCHEDULE 1—AMENDMENTS—*continued*

5 (b) make such other adaptations or modifications to the order as the Magistrate or Children's Magistrate considers necessary or desirable for its effective operation in New South Wales.

(3) The clerk of the appropriate court must register an interstate restraint order which has been adapted or modified under subsection (2).

10 (4) On registering an interstate restraint order, the clerk of the appropriate court must provide the Commissioner of Police with a copy of the registered interstate restraint order.

15 (5) Notice of the registration of an interstate restraint order is not to be served on the person against whom the order has been made unless the person who applied for that registration has consented to that service.

(6) A registered interstate restraint order is registered for the period during which the order, or the order as adapted or modified, is in force.

**Effect of registration of interstate restraint order**

20 562U. (1) An interstate restraint order which has been registered under section 562T:

- (a) has the same effect as an order made under Division 2; and
- 25 (b) may be enforced against a person as if it were an order which had been made under Division 2 and as if a copy of the record of the order had been served on that person in accordance with section 562J.

30 (2) The variation or revocation of an interstate restraint order by a court of the State or Territory in which it was made after the order has been registered under section 562T has no effect in New South Wales.

**Variation etc. of registered interstate restraint orders**

562V. (1) In this section:

35 "prescribed person" means:

- (a) a person for whose protection a registered interstate restraint order has been made; or
- (b) a person against whom a registered interstate restraint order has been made; or



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SCHEDULE 1—AMENDMENTS—*continued*

- (c) a police officer; or
- (d) a person whom the appropriate court in which the interstate restraint order has been registered has granted leave to make an application under this section. 5
- (2) A prescribed person may apply to the appropriate court for one or more of the following:
- (a) the variation of a registered interstate restraint order as it applies in New South Wales; 10
- (b) the extension or reduction of the period during which a registered interstate restraint order has effect in its operation in New South Wales;
- (c) the revocation of the registration of a registered interstate restraint order. 15
- (3) The appropriate court may determine the application by doing one or more of the following:
- (a) by varying the order as it applies in New South Wales;
- (b) by extending or reducing the period during which the order has effect in its operation in New South Wales; 20
- (c) by revoking the registration.
- (4) A registered interstate restraint order is not to be varied or revoked on the application of a person referred to in subsection (1) (a), (c) or (d) unless notice of the application has been served on the person against whom the order has been made. 25
- (5) A registered interstate restraint order is not to be varied or revoked on the application of the person against whom the order has been made unless notice of the application has been served on the person for whose protection the order has been made. 30
- (6) Notice of an application is to be served personally or in such other manner as the appropriate court hearing the application directs.
- (7) A registered interstate restraint order varied under subsection (3) (a) or (b) is registered for the period during which the order, as varied, has effect in its operation in New South Wales. 35

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SCHEDULE 1—AMENDMENTS—*continued*

(5) Eleventh Schedule (Savings and transitional provisions):

After Part 2, insert:

**Part 3—Crimes (Registration of Interstate Restraint  
Orders) Amendment Act 1992**

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**Interstate restraint orders**

8. Part 15A, as amended by the Crimes (Registration of Interstate Restraint Orders) Amendment Act 1992; extends to an interstate restraint order (within the meaning of that Part) made before the commencement of that Act.

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