

First print



New South Wales

# **Children (Care and Protection) Amendment (Disclosure of Information) Bill 1996**

## **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

### **Overview of Bill**

The object of this Bill is to amend the *Children (Care and Protection) Act 1987* so as to enable the Director-General of the Department of Community Services to exchange with certain other agencies information relating to the welfare of:

- any children who are believed, on reasonable grounds, to have been (or to be in danger of being) abused, and
- children under the age of 16 who are believed, on reasonable grounds, to be in need of care (within the meaning of the Act).

The Bill also provides for notifications to the Director-General of suspected abuse of a child aged 16 or 17. (The Act currently provides only for notifications in respect of children aged 15 or less.)

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Explanatory note

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The Bill also provides that the provisions of the Act that afford protection from liability for defamation and certain other proceedings in relation to notifications of suspected child abuse also apply to the exchange of information permitted by the proposed Act.

The Bill also inserts a provision permitting the making of savings and transitional regulations consequent on the enactment of the proposed Act.

### Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent.

**Clause 3** is a formal provision giving effect to the amendments to the *Children (Care and Protection) Act 1987* set out in Schedule 1.

**Schedule 1 [1]** inserts proposed subsection (1A) in section 22 (Notification of child abuse) of the Act. The proposed subsection allows a person who forms the belief on reasonable grounds that a child aged 16 or 17 has been, or is in danger of being, abused to notify the Director-General accordingly.

**Schedule 1 [2]** inserts proposed subsections (7A), (7B) and (7C) in section 22.

Proposed subsection (7A) allows the Director-General to investigate a notification of suspected child abuse relating to a child aged 16 or 17 and to take action on it in the same way as he or she may take action on such notifications relating to children aged 15 or less.

Proposed subsection (7B) permits the Director-General, for the purposes of any investigation into a notification of suspected child abuse (or of any action arising out of an investigation), to furnish a prescribed body (which is defined to include the Police Service, a Government Department, a public authority, a school, hospitals of various kinds and an area health service) with information concerning the welfare of a particular child or class of children, and to direct such a body to furnish the Director-General with information of that kind.

Proposed subsection (7C) requires a person to whom such a direction is given to comply with it.

Explanatory note

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**Schedule 1 [3]–[6]** extends the application of section 22 (8) (a), (b) and (c) to cover notifications made under proposed section 22 (1A) and information furnished under proposed section 22 (7B) or (7C). Section 22 (8) (a), (b) and (c) currently afford certain protections (such as protection from liability for defamation) to persons who notify the Director-General, under section 22 (1) or (4), of suspected child abuse. **Schedule 1 [3]** and **[6]** make it clear that section 22 (d) and (e), which currently provide that notifications under section 22 (1) or (4) are not admissible (and the persons who made them cannot be compelled to produce them or give evidence of their contents) in legal proceedings, extend to notifications made under proposed section 22 (1A), but not to information furnished under proposed section 22 (7B) or (7C).

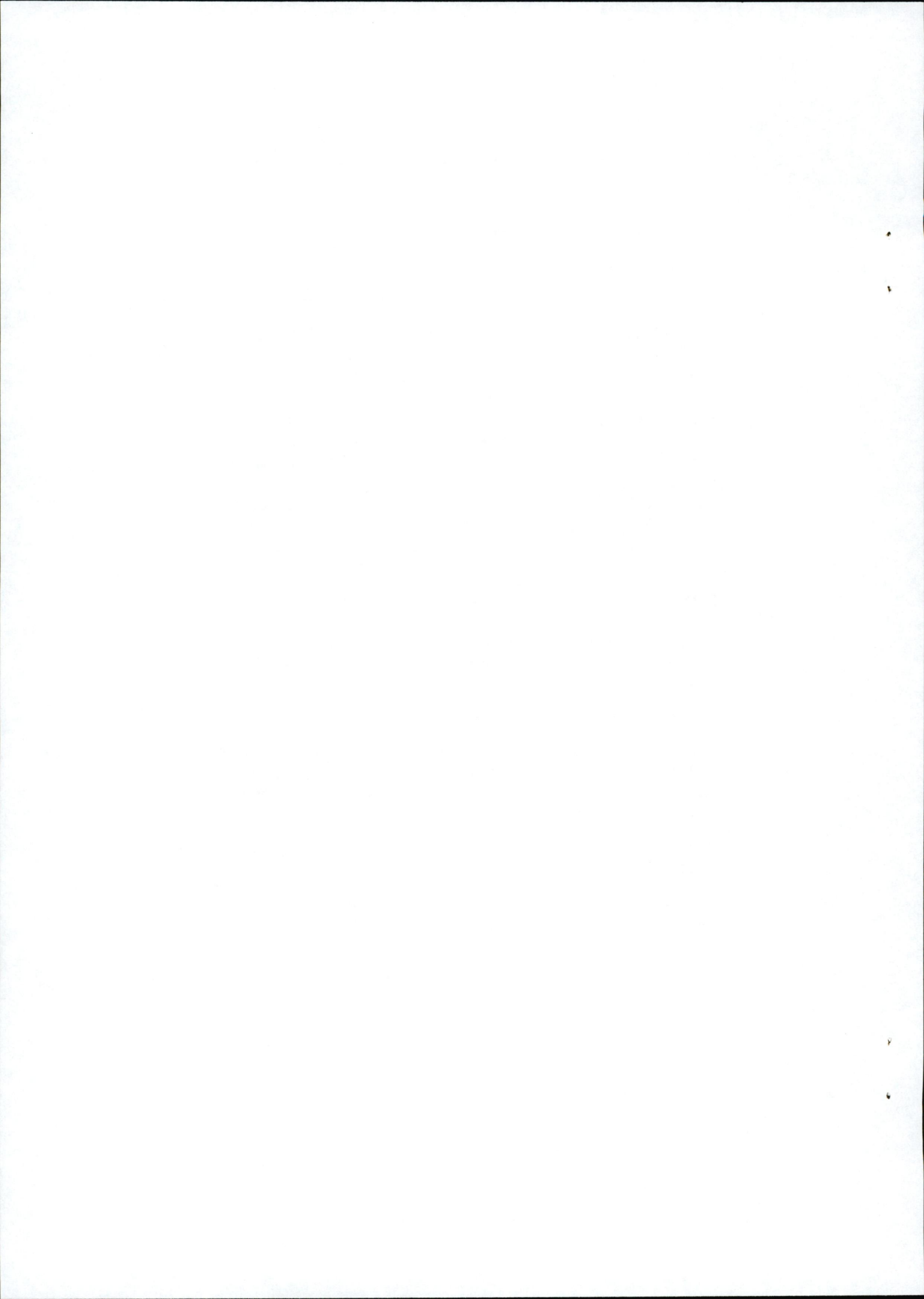
**Schedule 1 [7]** inserts proposed subsection (8A) in section 22. The proposed subsection makes it clear that the protections afforded by section 22 (8) in relation to information furnished under section 22 (7B) or (7C) extend to any information furnished under the relevant subsection in good faith and with reasonable care.

**Schedule 1 [8]** inserts proposed subsections (12) and (13) in section 22.

Proposed subsection (12) overrides any other provision of an Act or law that prohibits or restricts the disclosure of information, but only to the extent that the other provision would prevent the disclosure of information permitted or required to be furnished under section 22.

Proposed subsection (13) defines the term *prescribed body* that is used in proposed section 22 (7B).

**Schedule 1 [9]** permits the making of savings and transitional regulations consequent on the enactment of the proposed Act.





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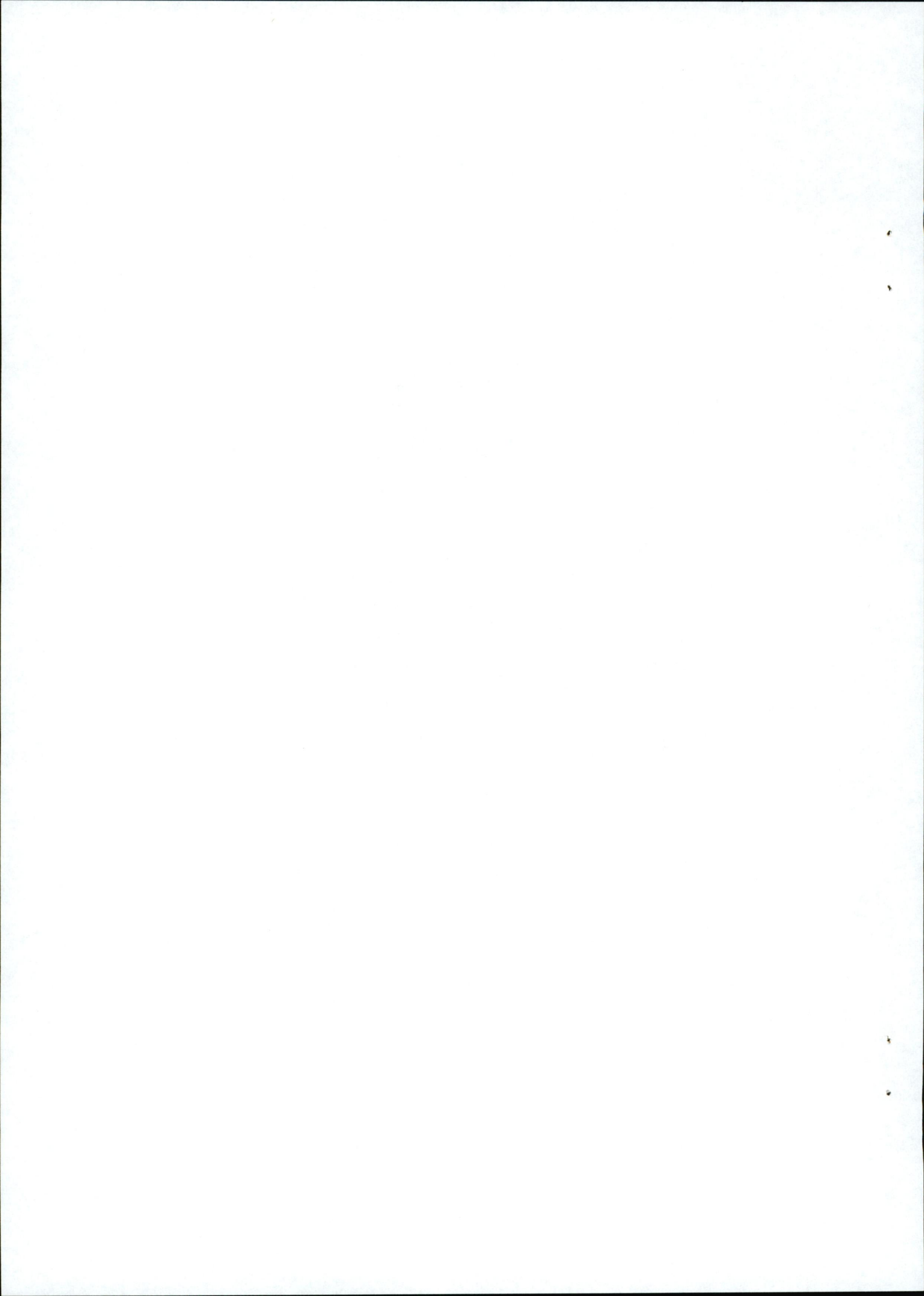
# **Children (Care and Protection) Amendment (Disclosure of Information) Bill 1996**

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New South Wales

# **Children (Care and Protection) Amendment (Disclosure of Information) Bill 1996**

No. , 1996

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## **A Bill for**

An Act to amend the *Children (Care and Protection) Act 1987* in relation to the disclosure of information concerning the welfare of children who are believed to be in need of care; and for other purposes.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Children (Care and Protection) Amendment (Disclosure of Information) Act 1996*.

**2 Commencement**

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This Act commences on the date of assent.

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

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



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## Schedule 1 Amendments

(Section 3)

### [1] Section 22 Notification of child abuse

Insert after section 22 (1):

- (1A) Any person who forms the belief on reasonable grounds that a child who is aged 16 or 17 years has been, or is in danger of being, abused may notify the Director-General of that belief, and of the grounds for that belief, either orally or in writing. 5

### [2] Section 22 (7A), (7B) and (7C)

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Insert after section 22 (7):

- (7A) Where a person notifies the Director-General under subsection (1A), the Director-General may (but is not required to) cause an investigation to be made into the matter so notified and (if appropriate) take action of the kind referred to in subsection (7) (b). 15

(7B) For the purposes of any investigation under this section or of any action arising out of such an investigation, the Director-General may do either or both of the following:

- (a) the Director-General may, in accordance with the requirements (if any) prescribed by the regulations, furnish a prescribed body with information relating to the welfare of a particular child or class of children, 20

- (b) the Director-General may, in accordance with the requirements (if any) prescribed by the regulations, direct a prescribed body to furnish the Director-General with information relating to the welfare of a particular child or class of children. 25

(7C) It is the duty of a person to whom a direction is given under subsection (7B) (b) to comply promptly with the requirements of the direction. 30

- [3] Section 22 (8)**  
Omit "Where a person notifies the Director-General pursuant to subsection (1) or (4)".  
Insert instead "Where a notification is given under subsection (1), (1A) or (4) or information is furnished under subsection (7B) or (7C)". 5
- [4] Section 22 (8) (a) and (c)**  
Omit "the notification" wherever occurring.  
Insert instead "the making of the notification or the furnishing of the information". 10
- [5] Section 22 (8) (b)**  
Insert "or the furnishing of the information" after "notification".
- [6] Section 22 (8)**  
Insert at the end of the subsection:  
Paragraphs (d) and (e) do not apply in respect of information furnished under subsection (7B) or (7C). 15
- [7] Section 22 (8A)**  
Insert after section 22 (8):  
(8A) A reference in subsection (8) to information furnished under subsection (7B) or (7C) extends to any information so furnished in good faith and with reasonable care. 20
- [8] Section 22 (12) and (13)**  
Insert after section 22 (11):  
(12) A provision of any Act or law that prohibits or restricts the disclosure of information does not operate to prevent the furnishing of information (or affect a duty to furnish information) under this section. Nothing in this subsection affects any obligation or power to provide information apart from this subsection. 25  
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(13) In this section:

*prescribed body* means:

- (a) the Police Service, a Government Department or a public authority, or
- (b) a government school or a registered non-government school within the meaning of the *Education Reform Act 1990*, or 5
- (c) an area health service within the meaning of the *Area Health Services Act 1986*, or
- (d) a hospital or an authorised hospital within the meaning of the *Mental Health Act 1990*, or 10
- (e) an incorporated hospital or a separate institution within the meaning of the *Public Hospitals Act 1929*, or
- (f) any other body or class of bodies (including an unincorporated body or bodies) prescribed by the regulations for the purposes of this section. 15

**[9] Schedule 3 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Children (Care and Protection) Amendment (Disclosure of Information) Act 1996* 20





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# Children (Care and Protection) Amendment (Disclosure of Information) Act 1996 No 116

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New South Wales

# **Children (Care and Protection) Amendment (Disclosure of Information) Act 1996 No 116**

Act No 116, 1996

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An Act to amend the *Children (Care and Protection) Act 1987* in relation to the disclosure of information concerning the welfare of children who are believed to be in need of care; and for other purposes. [Assented to 3 December 1996]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Children (Care and Protection) Amendment (Disclosure of Information) Act 1996*.

**2 Commencement**

This Act commences on the date of assent.

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

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

## **Schedule 1 Amendments**

(Section 3)

### **[1] Section 22 Notification of child abuse**

Insert after section 22 (1):

- (1A) Any person who forms the belief on reasonable grounds that a child who is aged 16 or 17 years has been, or is in danger of being, abused may notify the Director-General of that belief, and of the grounds for that belief, either orally or in writing.

### **[2] Section 22 (7A), (7B) and (7C)**

Insert after section 22 (7):

- (7A) Where a person notifies the Director-General under subsection (1A), the Director-General may (but is not required to) cause an investigation to be made into the matter so notified and (if appropriate) take action of the kind referred to in subsection (7) (b).
- (7B) For the purposes of any investigation under this section or of any action arising out of such an investigation, the Director-General may do either or both of the following:
- (a) the Director-General may, in accordance with the requirements (if any) prescribed by the regulations, furnish a prescribed body with information relating to the welfare of a particular child or class of children,
  - (b) the Director-General may, in accordance with the requirements (if any) prescribed by the regulations, direct a prescribed body to furnish the Director-General with information relating to the welfare of a particular child or class of children.
- (7C) It is the duty of a person to whom a direction is given under subsection (7B) (b) to comply promptly with the requirements of the direction.

**[3] Section 22 (8)**

Omit "Where a person notifies the Director-General pursuant to subsection (1) or (4)".

Insert instead "Where a notification is given under subsection (1), (1A) or (4) or information is furnished under subsection (7B) or (7C)".

**[4] Section 22 (8) (a) and (c)**

Omit "the notification" wherever occurring.

Insert instead "the making of the notification or the furnishing of the information".

**[5] Section 22 (8) (b)**

Insert "or the furnishing of the information" after "notification".

**[6] Section 22 (8)**

Insert at the end of the subsection:

Paragraphs (d) and (e) do not apply in respect of information furnished under subsection (7B) or (7C).

**[7] Section 22 (8A)**

Insert after section 22 (8):

(8A) A reference in subsection (8) to information furnished under subsection (7B) or (7C) extends to any information so furnished in good faith and with reasonable care.

**[8] Section 22 (12) and (13)**

Insert after section 22 (11):

(12) A provision of any Act or law that prohibits or restricts the disclosure of information does not operate to prevent the furnishing of information (or affect a duty to furnish information) under this section. Nothing in this subsection affects any obligation or power to provide information apart from this subsection.



(13) In this section:

*prescribed body* means:

- (a) the Police Service, a Government Department or a public authority, or
- (b) a government school or a registered non-government school within the meaning of the *Education Reform Act 1990*, or
- (c) an area health service within the meaning of the *Area Health Services Act 1986*, or
- (d) a hospital or an authorised hospital within the meaning of the *Mental Health Act 1990*, or
- (e) an incorporated hospital or a separate institution within the meaning of the *Public Hospitals Act 1929*, or
- (f) any other body or class of bodies (including an unincorporated body or bodies) prescribed by the regulations for the purposes of this section.

**[9] Schedule 3 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Children (Care and Protection) Amendment (Disclosure of Information) Act 1996*

[Minister's second reading speech made in—  
Legislative Council on 20 November 1996  
Legislative Assembly on 27 November 1996]

BY AUTHORITY

