

New South Wales

## **Correctional Centres Amendment (Alternate Chairperson) Bill 1997**

### **Explanatory note**

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

#### **Overview of Bill**

The objects of this Bill are:

- (a) to provide for the appointment of an Alternate Chairperson of the Serious Offenders Review Council under the *Correctional Centres Act 1952* and for the functions of the Alternate Chairperson, and
  - (b) to make it clearer that the Deputy Chairperson of that Council and the Deputy Chairperson of the Parole Board constituted by the *Sentencing Act 1989* are to exercise the functions of the Chairperson of that Council and the functions of the Chairperson of that Board, respectively, during any illness or absence of the Chairpersons and Alternate Chairpersons of those bodies.
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## 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 a day to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Correctional Centres Act 1952* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Sentencing Act 1989* set out in Schedule 2.

## **Appointment of Alternate Chairperson of the Serious Offenders Review Council**

**Schedule 1 [1], [2], [5] and [6]** amend section 61 of, and Schedule 5 to, the *Correctional Centres Act 1952* to provide for the appointment of an Alternate Chairperson as a member of the Serious Offenders Review Council. The person appointed to that office must be a judicially qualified person, namely a Judge or retired Judge of a New South Wales Court or the Federal Court, a Magistrate or retired Magistrate or a person qualified to be appointed as a Judge of a New South Wales Court.

**Schedule 1 [7]** amends Schedule 5 to that Act to provide that the Alternate Chairperson may continue to act as a Judge and to declare that service as the Alternate Chairperson is to be treated as if it were service as a Judge.

## **Functions of the Alternate Chairperson of the Review Council**

**Schedule 1 [8]** amends Schedule 5 to that Act to provide for the Alternate Chairperson to exercise the functions of the Chairperson of the Review Council during the illness or absence of the Chairperson and for the Deputy Chairperson of the Review Council to exercise the functions of the Alternate Chairperson during the illness or absence of that member.

**Schedule 1 [9] and [10]** amend Schedule 5 to that Act so that a vacancy in the office of Alternate Chairperson is taken to be an absence from the office of Alternate Chairperson and so that a vacancy in the office of Alternate Chairperson or Deputy Chairperson will occur when the Alternate Chairperson is acting as Chairperson of the Review Council or the Deputy Chairperson is acting as Alternate Chairperson of that Council.

**Schedule 1 [11]** amends Schedule 5 to provide that the Chairperson (or, in the case of an illness or absence of the Chairperson, the Alternate or Deputy Chairperson exercising the functions of the Chairperson) will preside at meetings of the Review Council and that a judicial member of a Division of that Council will preside at meetings of the Division.

**Schedule 1 [12]** provides that the Alternate and Deputy Chairpersons are able to attend a meeting of the Review Council at which the Chairperson is present only if the Chairperson authorises them to do so and that, even if either or both of them are so authorised, they may not vote on a decision of that Council.

**Schedule 1 [13]** inserts a new Part 9 into Schedule 8 of that Act which provides that the amendments made by the proposed Act do not require members of the Review Council to be re-appointed.

**Deputy Chairperson to act in office of Chairperson of Review Council or Parole Board when exercising functions of Alternate Chairperson of that body**

The *Sentencing Act 1989* already provides for an Alternate Chairperson and a Deputy Chairperson of the Parole Board. **Schedule 1 [8]** and **Schedule 2** respectively amend the *Correctional Centres Act 1952* and the *Sentencing Act 1989* to expressly provide that the Deputy Chairperson of that Council and the Deputy Chairperson of the Parole Board are to exercise the functions of the Chairperson of that Council and the functions of the Chairperson of that Board, respectively, during any illness or absence of the Chairpersons and Alternate Chairpersons of those bodies.

**Minor amendments**

**Schedule 1 [3]** and **[4]** amend section 66 of, and the heading to Schedule 5 to, the *Correctional Centres Act 1952* to make them parallel to equivalent provisions of the *Sentencing Act 1989*.







New South Wales

# Correctional Centres Amendment (Alternate Chairperson) Bill 1997

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New South Wales

## **Correctional Centres Amendment (Alternate Chairperson) Bill 1997**

No. , 1997

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### **A Bill for**

An Act to amend the *Correctional Centres Act 1952* to provide for an Alternate Chairperson of the Serious Offenders Review Council; to amend that Act and the *Sentencing Act 1989* with respect to the functions of the Deputy Chairpersons of that Council and of the Parole Board; and for related purposes.

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

**1 Name of Act**

This Act is the *Correctional Centres Amendment (Alternate Chairperson) Act 1997*.

**2 Commencement**

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

**3 Amendment of Correctional Centres Act 1952 No 9**

The *Correctional Centres Act 1952* is amended as set out in Schedule 1.

**4 Amendment of Sentencing Act 1989 No 87**

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The *Sentencing Act 1989* is amended as set out in Schedule 2.



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**Schedule 1 Amendment of Correctional Centres Act 1952**

(Section 3)

**[1] Section 61 Membership of the Review Council**

Omit section 61 (1) (a). Insert instead:

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(a) 6 members appointed by the Governor, and

**[2] Section 61 (2) (a)**

Omit the paragraph. Insert instead:

(a) 3 are to be judicially qualified persons, and

**[3] Section 66 Provisions relating to members, Divisions and procedure of the Review Council**

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Omit "the members and procedure of".

**[4] Schedule 5, heading**

Omit the heading.

Insert instead "Schedule 5 Provisions relating to the members, Divisions and procedure of the Review Council".

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**[5] Schedule 5, clause 1**

Insert in alphabetical order:

*Alternate Chairperson* means the Alternate Chairperson of the Review Council.

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Correctional Centres Amendment (Alternate Chairperson) Bill 1997

Schedule 1 Amendment of Correctional Centres Act 1952

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**[6] Schedule 5, clause 2 (1)**

After paragraph (a), insert:

- (a1) Alternate Chairperson of the Review Council, and

**[7] Schedule 5, clause 2 (2)–(4)**

Insert “, Alternate Chairperson” after “the Chairperson” wherever occurring. 5

**[8] Schedule 5, clause 3 (1) and (1A)**

Omit clause 3 (1). Insert instead:

- (1) The Alternate Chairperson, during the illness or absence of the Chairperson, is to act in the office of the Chairperson and, while so acting, has all the functions of the Chairperson and is taken to be the Chairperson. 10

- (1A) The Deputy Chairperson, during the illness or absence of the Alternate Chairperson, is to act in the office of the Alternate Chairperson and, while so acting, has all the functions of the Alternate Chairperson (including the function of acting in the office of the Chairperson, during the illness or absence of the Chairperson as well) and is taken to be the Alternate Chairperson. 15

**[9] Schedule 5, clause 3 (5) (a)** 20

Insert “, Alternate Chairperson” after “the Chairperson”, wherever occurring.

**[10] Schedule 5, clause 3 (5) (b)**

Omit the paragraph. Insert instead:

- (b) the Alternate Chairperson or Deputy Chairperson is taken to be absent from the office of Alternate Chairperson or Deputy Chairperson during any period of acting in another office pursuant to subclause (1) or (1A). 25

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**[11] Schedule 5, clause 14**

Omit the clause. Insert instead:

**14 Presiding members**

- (1) The Chairperson is to preside at a meeting of the Review Council. 5
- (2) At a meeting of a Division, the judicial member is to preside.

**[12] Schedule 5, clause 15**

Omit the clause. Insert instead:

**15 Attendance and voting at meetings of the Review Council** 10

- (1) If the Chairperson attends a meeting of the Review Council, neither the Alternate Chairperson nor the Deputy Chairperson is entitled to attend the same meeting unless the Chairperson authorises either or both of them to do so. 15
- (2) If the Chairperson and the Alternate Chairperson or Deputy Chairperson, or both, are present at a meeting of the Review Council, only the Chairperson is entitled to vote with respect to any decision. 20

**[13] Schedule 8 Savings and transitional provisions**

After Part 8, insert:

**Part 9 Provision consequent on enactment of Correctional Centres Amendment (Alternate Chairperson) Act 1997** 25

**31 Saving of appointments of members of Review Council**

Amendments made to this Act by the *Correctional Centres Amendment (Alternate Chairperson) Act 1997* do not affect the appointment or term of office of a member of the Review Council who held office as such a member immediately before the commencement of that Act. 30

## Schedule 2 Amendment of Sentencing Act 1989

(Section 4)

### Schedule 1 Provisions relating to the members of the Board, Divisions of the Board and procedure

- Omit clause 3 (1) and (2). Insert instead: 5
- (1) The Alternate Chairperson, during the illness or absence of the Chairperson, is to act in the office of the Chairperson and, while so acting, has all the functions of the Chairperson and is taken to be the Chairperson.
  - (2) The Deputy Chairperson, during the illness or absence of the Alternate Chairperson, is to act in the office of the Alternate Chairperson and, while so acting, has all the functions of the Alternate Chairperson (including the function of acting in the office of the Chairperson, during the illness or absence of the Chairperson as well) and is taken to be the Alternate Chairperson. 10 15





New South Wales

# Correctional Centres Amendment (Alternate Chairperson) Act 1997 No 57

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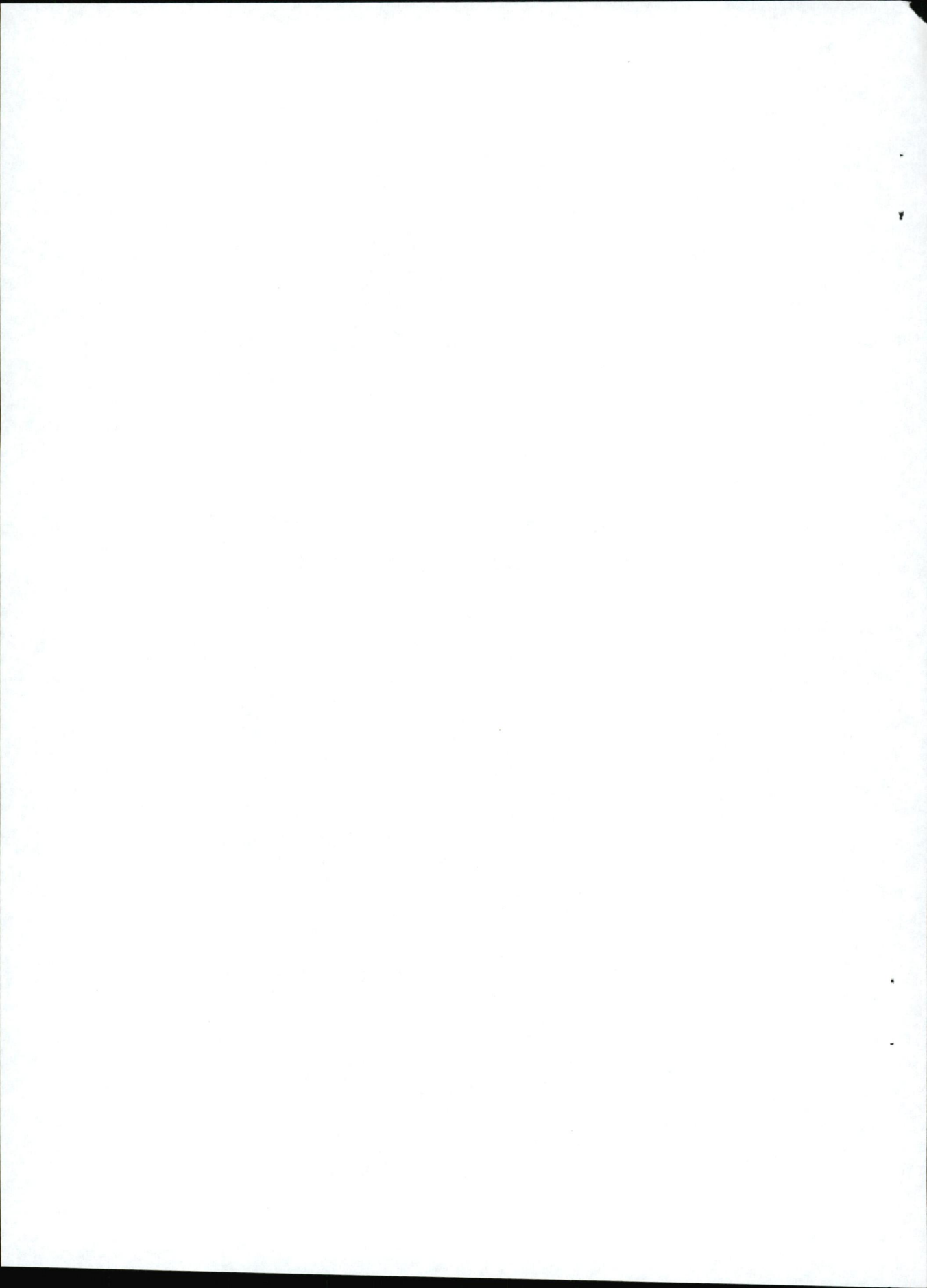
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New South Wales

# **Correctional Centres Amendment (Alternate Chairperson) Act 1997 No 57**

Act No 57, 1997

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An Act to amend the *Correctional Centres Act 1952* to provide for an Alternate Chairperson of the Serious Offenders Review Council; to amend that Act and the *Sentencing Act 1989* with respect to the functions of the Deputy Chairpersons of that Council and of the Parole Board; and for related purposes. [Assented to 2 July 1997]

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

**1 Name of Act**

This Act is the *Correctional Centres Amendment (Alternate Chairperson) Act 1997*.

**2 Commencement**

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

**3 Amendment of Correctional Centres Act 1952 No 9**

The *Correctional Centres Act 1952* is amended as set out in Schedule 1.

**4 Amendment of Sentencing Act 1989 No 87**

The *Sentencing Act 1989* is amended as set out in Schedule 2.

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**Schedule 1    Amendment of Correctional Centres  
Act 1952**

(Section 3)

**[1]    Section 61 Membership of the Review Council**

Omit section 61 (1) (a). Insert instead:

(a) 6 members appointed by the Governor, and

**[2]    Section 61 (2) (a)**

Omit the paragraph. Insert instead:

(a) 3 are to be judicially qualified persons, and

**[3]    Section 66 Provisions relating to members, Divisions and  
procedure of the Review Council**

Omit "the members and procedure of".

**[4]    Schedule 5, heading**

Omit the heading.

Insert instead "Schedule 5 Provisions relating to the members,  
Divisions and procedure of the Review Council".

**[5]    Schedule 5, clause 1**

Insert in alphabetical order:

*Alternate Chairperson* means the Alternate Chairperson  
of the Review Council.

**[6] Schedule 5, clause 2 (1)**

After paragraph (a), insert:

(a1) Alternate Chairperson of the Review Council, and

**[7] Schedule 5, clause 2 (2)–(4)**

Insert “, Alternate Chairperson” after “the Chairperson” wherever occurring.

**[8] Schedule 5, clause 3 (1) and (1A)**

Omit clause 3 (1). Insert instead:

(1) The Alternate Chairperson, during the illness or absence of the Chairperson, is to act in the office of the Chairperson and, while so acting, has all the functions of the Chairperson and is taken to be the Chairperson.

(1A) The Deputy Chairperson, during the illness or absence of the Alternate Chairperson, is to act in the office of the Alternate Chairperson and, while so acting, has all the functions of the Alternate Chairperson (including the function of acting in the office of the Chairperson, during the illness or absence of the Chairperson as well) and is taken to be the Alternate Chairperson.

**[9] Schedule 5, clause 3 (5) (a)**

Insert “, Alternate Chairperson” after “the Chairperson”, wherever occurring.

**[10] Schedule 5, clause 3 (5) (b)**

Omit the paragraph. Insert instead:

(b) the Alternate Chairperson or Deputy Chairperson is taken to be absent from the office of Alternate Chairperson or Deputy Chairperson during any period of acting in another office pursuant to subclause (1) or (1A).



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**[11] Schedule 5, clause 14**

Omit the clause. Insert instead:

**14 Presiding members**

- (1) The Chairperson is to preside at a meeting of the Review Council.
- (2) At a meeting of a Division, the judicial member is to preside.

**[12] Schedule 5, clause 15**

Omit the clause. Insert instead:

**15 Attendance and voting at meetings of the Review Council**

- (1) If the Chairperson attends a meeting of the Review Council, neither the Alternate Chairperson nor the Deputy Chairperson is entitled to attend the same meeting unless the Chairperson authorises either or both of them to do so.
- (2) If the Chairperson and the Alternate Chairperson or Deputy Chairperson, or both, are present at a meeting of the Review Council, only the Chairperson is entitled to vote with respect to any decision.

**[13] Schedule 8 Savings and transitional provisions**

After Part 8, insert:

**Part 9 Provision consequent on enactment of Correctional Centres Amendment (Alternate Chairperson) Act 1997**

**31 Saving of appointments of members of Review Council**

Amendments made to this Act by the *Correctional Centres Amendment (Alternate Chairperson) Act 1997* do not affect the appointment or term of office of a member of the Review Council who held office as such a member immediately before the commencement of that Act.

## **Schedule 2 Amendment of Sentencing Act 1989**

(Section 4)

### **Schedule 1 Provisions relating to the members of the Board, Divisions of the Board and procedure**

Omit clause 3 (1) and (2). Insert instead:

- (1) The Alternate Chairperson, during the illness or absence of the Chairperson, is to act in the office of the Chairperson and, while so acting, has all the functions of the Chairperson and is taken to be the Chairperson.
- (2) The Deputy Chairperson, during the illness or absence of the Alternate Chairperson, is to act in the office of the Alternate Chairperson and, while so acting, has all the functions of the Alternate Chairperson (including the function of acting in the office of the Chairperson, during the illness or absence of the Chairperson as well) and is taken to be the Alternate Chairperson.

[Minister's second reading speech made in—

Legislative Assembly on 17 June 1997

Legislative Council on 26 June 1997]

BY AUTHORITY