

**CHILDREN (CARE AND PROTECTION) AMENDMENT
ACT 1988 No. 7**

NEW SOUTH WALES



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CHILDREN (CARE AND PROTECTION) AMENDMENT ACT 1988
No. 7

NEW SOUTH WALES



Act No. 7, 1988

An Act to amend the Children (Care and Protection) Act 1987 to make further provision with respect to the care and protection of children.
[Assented to 16 June 1988]

*Children (Care and Protection) Amendment 1988***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Children (Care and Protection) Amendment Act 1988.

Commencement

2. This Act commences on a day or days 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.

Savings and transitional provisions

4. (1) Any facilities or services provided under section 13 of the Children (Care and Protection) Act 1987 immediately before the repeal of that section by this Act may continue to be so provided until the expiration of 3 months after that repeal.

(2) A temporary care arrangement made under section 14 of the Children (Care and Protection) Act 1987 and in force immediately before the amendment of that section by this Act shall be taken to be a temporary care arrangement made under that section as amended by this Act.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

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

After section 10 (2), insert:

(3) Without limiting the generality of subsection (1), a child is in need of care if—

- (a) the child is under the age of 6 months; and
- (b) the child is in the care of a person who is fostering the child in contravention of section 42; and
- (c) it appears that the person may continue to foster the child in contravention of that section.

(2) Section 13 (Provision of services for children in need of care)—

Omit the section.

(3) Section 14 (Temporary care arrangements)—**(a) Section 14 (1)–(4)—**

Omit the subsections, insert instead:

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SCHEDULE 1—AMENDMENTS—*continued*

(1) The Director-General may make a temporary care arrangement in respect of a child if the child is, in the opinion of the Director-General, in need of care.

(2) The Director-General shall not make a temporary care arrangement in respect of a child under the age of 16 years unless—

- (a) a parent of the child consents to the arrangement; or
- (b) the parents of the child cannot reasonably be located before the time that the Director-General considers that the arrangement should be made.

(3) If the Director-General makes a temporary care arrangement without the consent of a parent of the child, the Director-General shall take all reasonable steps to locate a parent of the child and to inform the parent of the arrangement.

(b) Section 14 (6A)—

After section 14 (6), insert:

(6A) Subsections (2) and (3) apply to the renewal of a temporary care arrangement in the same way as they apply to the making of such an arrangement.

(c) Section 14 (7)—

Omit “or a temporary custody order”.

(d) Section 14 (12)—

After section 14 (11), insert:

(12) The regulations may make provision for or with respect to temporary care arrangements under this section.

(4) Section 15 (**Temporary custody orders**)—

Omit the section.

(5) Section 16 (**Effect of temporary care arrangements**)—

(a) Section 16 (1), (2)—

Omit “or temporary custody order” wherever occurring.

(b) Section 16 (2) (b), (c)—

At the end of section 16 (2) (b), insert:

; and

- (c) in the case of a child who is under the age of 16 years—shall ensure that the child’s parents are kept informed of the whereabouts of the child, unless the Director-General has reason to believe that the disclosure of the child’s whereabouts would be prejudicial to the welfare and interests of the child.

Children (Care and Protection) Amendment 1988

SCHEDULE 1--AMENDMENTS--*continued*

- (c) Section 16 (3)—
 After section 16 (2), insert:
 (3) The Children's Court may, on an application for the review of a temporary care arrangement under section 14 relating to a child who is under the age of 16 years, direct the Director-General to disclose the whereabouts of the child to the parents of the child.
- (6) Section 17 (**Temporary refuge**)—
 Omit the section.
- (7) Section 42 (**Unauthorised fostering prohibited**), section 44 (**Unauthorised foster placements prohibited**)—
 Sections 42 (1), 44 (1) (b)—
 Omit "50 days" wherever occurring, insert instead "28 days".
- (8) Section 60 (**Removal of children without warrant**)—
 (a) Section 60 (1A)—
 After section 60 (1), insert:
 (1A) An authorised officer, or a member of the police force, may without any authority other than that conferred by this subsection remove a child from any public place if the officer or member of the police force suspects on reasonable grounds that—
 (a) the child is in need of care; and
 (b) the child is apparently under the age of 16 years; and
 (c) the child is not subject to the supervision or control of a responsible adult; and
 (d) the child is living in or habitually frequenting a public place.
- (b) Section 60 (2)—
 After "subsection (1)", insert "or for the purpose of removing a child pursuant to subsection (1A)".
- (c) Section 60 (3)—
 After section 60 (2), insert:
 (3) Until a child removed under this section is placed in the care of the Director-General, the child must be kept separately from any persons who are detained for committing offences or are on remand.
- (9) Section 76 (**Adjournments by the Children's Court**)—
 (a) Section 76 (1)—
 Omit the subsection.

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) Section 76 (2)—
Omit “Without limiting the generality of subsection (1), the”,
insert instead “The”.
- (c) Section 76 (3)—
After “child”, insert “(if the child is of or above the age of 10
years)”.
- (10) Section 97 (**Definitions**)—
Definition of “child in care”—
Omit “or a temporary custody order” from paragraph (a).
- (11) Section 100 (**Functions of Board of Review**)—
Section 100 (2) (a) (i)—
Omit “or temporary custody order”.
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