

Act No. 56

## CHILDREN (COMMUNITY SERVICE ORDERS) BILL 1987

NEW SOUTH WALES



### EXPLANATORY NOTE

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

This Bill is cognate with the Community Welfare Bill 1987.

The object of this Bill is to re-enact, with modifications, the provisions of Division 4 of Part VIII of the Community Welfare Act 1982, being the provisions of that Act that relate to children's community service orders.

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#### PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 defines certain expressions for the purposes of the proposed Act.

Clause 4 provides that the proposed Act will apply to a person—

- (a) who has pleaded guilty to an offence in, or has been found guilty or convicted of an offence by, a court;
- (b) who was a child when the offence was committed; and
- (c) who was under the age of 21 years when charged before the court with the offence.

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**PART 2—MAKING OF CHILDREN'S COMMUNITY SERVICE ORDERS**

Clause 5 enables a court to impose a children's community service order on a person to whom the proposed Act applies, being a person in respect of whom it would otherwise make an order imposing a sentence of imprisonment or an order committing the person to the control of the Minister administering the proposed Children (Detention Centres) Act 1987.

Clause 6 requires a court to explain the nature and effect of a proposed children's community service order to a person on whom it proposes to impose such an order.

Clause 7 prevents a court from imposing a children's community service order on a person except with the person's consent.

Clause 8 prevents a court from imposing a children's community service order on a child who is under the age of 14 years unless it is satisfied, having regard to the maturity of the child, that the child is capable of complying with such an order.

Clause 9 prevents a court from imposing a children's community service order on a person unless it is satisfied that the person is a suitable person to perform community service work under such an order and that community service work can be provided for the person, and that such an order can be properly administered, in the area in which the person resides.

Clause 10 allows for the concurrent operation of two or more children's community service orders in respect of the same person.

Clause 11 enables a court to attach conditions to a children's community service order made by it.

Clause 12 requires written copies of a children's community service order to be given to the person on whom the order has been imposed and to the Director-General of the Department of Youth and Community Services ("the Director-General").

Clause 13 requires a court to specify in a children's community service order the number of hours of community service work to be performed under the order, and further provides that the total number of hours of community service work to be performed by a person under one or more orders shall never exceed 100 hours.

Clause 14 requires a court to specify in a children's community service order the place at which, and the period within which, the person to whom the order relates shall present himself or herself for the administration of the order to be commenced.

**PART 3—ADMINISTRATION OF CHILDREN'S COMMUNITY SERVICE ORDERS**

Clause 15 provides that the Children's Court is to be the supervising court in respect of all children's community service orders, whether or not made by the Children's Court.

Clause 16 requires the Director-General to assign a person in respect of the administration of a children's community service order, and further enables the Director-General to replace any person so assigned.

Clause 17 imposes certain requirements on a person to whom a children's community service order relates including, in particular, the requirements that—

- (a) the person perform community service work for the number of hours specified in the order; and

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- (b) the person comply with any reasonable direction of the person by whom he or she is being supervised.

Clause 18 prevents a person from being directed to perform work of a kind usually performed for fee or reward on a regular basis, and further requires a person's personal circumstances to be taken into consideration when the person is given directions.

Clause 19 provides that a children's community service order remains in force until—

- (a) the person to whom the order relates has performed the number of hours of community service work specified in the order;
- (b) the expiration of 12 months from the date on which the order was made or, if that period is extended as referred to in clause 20, the expiration of that period as so extended; or
- (c) the order is revoked as referred to in clause 21, 22 or 26,

whichever first occurs.

**PART 4—AMENDMENT AND REVOCATION OF CHILDREN'S COMMUNITY SERVICE ORDERS**

Clause 20 enables the Children's Court to amend a children's community service order—

- (a) by extending the period for which it is to remain in force; or
- (b) by varying the area within which community service work is to be performed pursuant to the order.

Clause 21 enables a children's community service order to be revoked on the application of the person on whom it has been imposed or of the assigned person referred to in clause 16, and further enables the court by which the order is revoked to deal with the person in respect of the offence for which the order was originally made.

Clause 22 enables a court to revoke a children's community service order if the person to whom the order relates is subsequently brought before the court in respect of some other offence, and further enables the court to deal with the person in respect of the offence for which the order was originally made.

Clause 23 provides for the issue of a summons or warrant for the appearance in court of a person in respect of whom an application has been made for the amendment or revocation of a children's community service order, as referred to in clause 20 or 21.

**PART 5—ENFORCEMENT OF CHILDREN'S COMMUNITY SERVICE ORDERS**

Clause 24 provides that if a person to whom a children's community service order relates fails to comply with the order, the person shall be guilty of an offence, and further provides that proceedings for such an offence may not be commenced later than one month after the order has ceased to be in force.

Clause 25 provides for the issue of a summons or warrant for the appearance in court of a person who has allegedly failed to comply with a children's community service order relating to the person.

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Clause 26 provides that if a court finds a person to whom a children's community service order relates guilty of an offence referred to in clause 24, the court—

- (a) may impose a fine of \$250 on the person;
- (b) may revoke the children's community service order and deal with the person in respect of the offence for which the order was originally made; or
- (c) may take no action.

PART 6—MISCELLANEOUS

Clause 27 requires a court to notify the Director-General and certain other persons in any case where—

- (a) it extends the period during which a children's community service order is to remain in force; or
- (b) it amends or revokes a children's community service order.

Clause 28 requires a court, in dealing with a person for an offence in respect of which a children's community service order has previously been imposed on the person, to take into account—

- (a) the fact that the order was made;
- (b) any thing done under the order; and
- (c) the number of hours of community service work performed by the person under the order.

Clause 29 enables the Governor-in-Council to make regulations for the purposes of the proposed Act.

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