

Act No. 259

**CHILDREN (CARE AND PROTECTION) (DISABILITY SERVICES AND GUARDIANSHIP) AMENDMENT BILL
1987**

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Disability Services and Guardianship Bill 1987.

The object of this Bill is to amend the Children (Care and Protection) Act 1987 so as—

- (a) to make provision with respect to the carrying out of medical and dental treatment on children;
- (b) to omit the provisions of that Act relating to the Community Welfare Appeals Tribunal, consequent upon the enactment of the proposed Community Welfare (Disability Services and Guardianship) Amendment Act 1987 which re-enacts those provisions in the Community Welfare Act 1987; and
- (c) to make other minor, consequential and ancillary amendments.

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 Principal Act.

Schedule 1 (1) amends and replaces certain definitions in section 3 of the Principal Act as a consequence of the other amendments effected by Schedule 1.

Schedule 1 (2) omits sections 5 and 6 of the Principal Act as a consequence of their re-enactment in the Community Welfare Act 1987 by the proposed Community Welfare (Disability Services and Guardianship) Amendment Act 1987.

Schedule 1 (3) omits the definitions of “dental treatment” and “medical treatment” from section 20 (4) of the Principal Act.

Schedule 1 (4) inserts new sections 20A and 20B into the Principal Act:

*Children (Care and Protection) (Disability Services and Guardianship)
Amendment 1987*

Proposed section 20A provides that a registered medical practitioner or registered dentist may carry out medical or dental treatment on a child without the consent of the child or the child's parents or guardians if the medical practitioner or dentist is of the opinion that it is necessary, as a matter of urgency, to carry out that treatment in order to save the child's life or to prevent serious damage to the child's health.

Proposed section 20B imposes a penalty of 7 years' imprisonment on a person who carries out "special medical treatment" (that is, treatment that is intended or likely to render a person infertile or other treatment of a kind declared by the regulations under the Principal Act to be special medical treatment) on a child otherwise than (in the case of treatment carried out by a registered medical practitioner) in order to save the child's life or to prevent serious damage to the child's health or otherwise than with the consent of the Supreme Court.

Schedule 1 (5) repeals Part 8 of the Principal Act (which deals with the constitution and functions of the Community Welfare Appeals Tribunal) as a consequence of the re-enactment of the provisions of that Part in the Community Welfare Act 1987 by the proposed Community Welfare (Disability Services and Guardianship) Amendment Act 1987.

Schedule 1 (6) renumbers Part 9 of the Principal Act as Part 8, thus preserving the sequential Part numbering of the Principal Act following the repeal of Part 8 by Schedule 1 (5).

Schedule 1 (7) inserts a new section 112 into the Principal Act. This new section is merely a re-enactment of section 104 of the Principal Act, being a section that, as one of the provisions of Part 8 of the Principal Act, is to be repealed by Schedule 1 (5).

Schedule 1 (8) amends section 121 of the Principal Act so as to ensure that proceedings for an offence arising under proposed section 20B (1) are dealt with on indictment rather than summarily before a Local Court.

Schedule 1 (9) omits Schedules 3 and 4 to the Principal Act as a consequence of the re-enactment of the provisions of those Schedules in the Community Welfare Act 1987 by the proposed Community Welfare (Disability Services and Guardianship) Amendment Act 1987.
