

[Act 1996 No 110]



New South Wales

# **Children (Care and Protection) Amendment (Disallowed Regulation) 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* to overcome certain unintended legal consequences flowing from the disallowance of the *Centre Based and Mobile Child Care Services Regulation 1996*.

The Bill also makes a consequential amendment to the *Centre Based and Mobile Child Care Services Regulation (No 2) 1996*.

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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 the date of assent.

**Clauses 3 and 4** are formal provisions giving effect to the amendments to the *Children (Care and Protection) Act 1987* and the *Centre Based and Mobile Child Care Services Regulation (No 2) 1996* set out in Schedules 1 and 2.

**Clause 5** makes it clear that the amendment to the *Centre Based and Mobile Child Care Services Regulation (No 2) 1996* does not prevent the subsequent amendment or repeal of that Regulation.

### **Schedule 1 Amendment of Children (Care and Protection) Act 1987**

The *Centre Based and Mobile Child Care Services Regulation 1996* replaced the *Centre-based Child Care Services Regulation 1989* and the *Mobile Child Care Services Regulation 1989*. The disallowance of the 1996 Regulation by resolution of the Legislative Council on 23 October 1996 together with the repeal (by the operation of section 10 of the *Subordinate Legislation Act 1989*) of the 1989 Regulations it replaced had the effect of removing from force any existing licences for the child care services prescribed as child care services under clause 3 of the Regulation. The subsequent rescission of the disallowance enabled a new Regulation (the *Centre Based and Mobile Child Care Services Regulation (No 2) 1996*) to be made but did not have the effect of restoring the licences. The new Regulation therefore included provisions (Part 6) to temporarily exempt former licensees (and authorised supervisors under the licences concerned) from the operation of certain offence provisions of the *Children (Care and Protection) Act 1987* so long as they continued to comply with the legislative provisions that would apply to them if the licences were still in force.

The proposed amendments to the Act replace those exemptions with a provision that treats the licences as having continued in force and validates any action taken during the period following the disallowance that might have been validly done if the licences had not been removed from force. It thus fully restores the status of such licensees and authorised supervisors to the status they had before the disallowance. Provision is also included to enable savings and transitional regulations to be made as a consequence of the amendments.

### **Schedule 2 Amendment of Centre Based and Mobile Child Care Services Regulation (No 2) 1996**

The proposed amendment is consequential on the amendments to the *Children (Care and Protection) Act 1987* described above. Part 6 of the Regulation will be superfluous once those amendments take effect. However, a new Part 6 is inserted in the Regulation to preserve the effect of clause 40 (2), which ensures that existing licensees of the child care services concerned are not required to comply (during the period the licences remain in force) with certain of the new licensing standards imposed by the Regulation so long as they continue to comply with the licensing standards under the *Centre-based Child Care Services Regulation 1989* or *Mobile Child Care Services Regulation 1989* that formerly applied to them.