

**CRIMES (CHILD PROSTITUTION) AMENDMENT BILL
1988**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The following Bills are cognate with this Bill:

Children (Care and Protection) (Prostitution) Amendment Bill 1988;
Summary Offences (Prostitution) Amendment Bill 1988.

The object of this Bill is to amend the Crimes Act 1900 so as—

- (a) to create offences of promoting or participating as a client in acts of child prostitution, of obtaining a benefit from child prostitution and of having control of premises and not preventing them from being used for child prostitution; and
- (b) to restate, and to increase penalties for, offences concerning the employment of children for pornographic purposes; and
- (c) to empower the issue of search warrants that authorise police to enter and search premises for evidence of any of the above offences; and
- (d) to allow offences relating to procuring persons for the purposes of prostitution and the offences described above to be dealt with summarily with the consent of the accused.

The Bill also amends the Search Warrants Act 1985 consequentially.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Principal Act.

Clause 4 amends section 10 (Definitions) of the Search Warrants Act 1985 so as to apply the provisions of Part 3 of that Act to search warrants to be issued under proposed section 357^{EA} of the Principal Act as referred to below.

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SCHEDULE 1—AMENDMENT OF CRIMES ACT 1900

Offences relating to child prostitution

Schedule 1 (3) inserts proposed sections 91C–91G into the Principal Act. Of the proposed sections:

Section 91C defines “act of child prostitution” and “child”. An act of child prostitution is not limited to an act of prostitution (within the meaning of section 20 of the Summary Offences Act 1988) that is engaged in by a child but would include such things as sexual favours granted by male or female children in return for the supply of drugs. A child is defined as a person under 18 years.

Section 91D makes it an offence to cause or induce a child to participate in an act of child prostitution or to participate in any such act as a client of the child. The maximum penalty for any such offence will be penal servitude for 10 years, or if the age of the child is under 14, for 14 years.

Section 91E makes it an offence for a person to receive money or any other material benefit if the person knows it is derived from an act of child prostitution. The maximum penalty for any such offence will be penal servitude for 10 years.

Section 91F makes it an offence if any person who is capable of exercising lawful control over premises does not use all due diligence to prevent acts of child prostitution (which the person knows about) from being committed on the premises. The maximum penalty for any such offence will be penal servitude for 7 years.

Prohibition of employment of children for pornographic purposes

Schedule 1 (3) also inserts proposed section 91G into the Principal Act. The section restates the substance of section 51 of the Children (Care and Protection) Act 1987 which makes it an offence if a person—

- employs a child for pornographic purposes; or
- causes or procures a child to be so employed; or
- being a person having the care of a child, consents to or allows such employment of the child.

It is made clear that a person may have the care of the child without having custody of the child and that the child may not necessarily be the person remunerated for the employment.

The maximum penalty for any such offence will be penal servitude for 5 years or, if the age of the child is under 14, for 7 years.

Search warrants

Schedule 1 (4) inserts proposed section 357^{EA} into the Principal Act which empowers a member of the Police Force to apply for a search warrant authorising the entry and search of premises on which there are reasonable grounds to believe that an offence under proposed section 91D, 91E, 91F or 91G has been committed.

Summary proceedings for procuring persons for the purposes of prostitution or for proposed offences concerning children

Schedule 1 (5) amends section 476 of the Principal Act so as to allow an offence against section 91A or 91B (relating to procuring persons for the purposes of prostitution) or proposed section 91D, 91E, 91F or 91G to be dealt with by a Magistrate in a Local Court if the accused consents. If an offence is so dealt with, the maximum penalty is imprisonment for not more than 2 years or a fine of not more than \$2,000, or both.

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Consequential amendments

Schedule 1 (2) amends section 77A of the Principal Act so as to allow proceedings for any of the proposed offences referred to above to be heard in the absence of the public.

Schedule 1 (6) amends section 578 of the Principal Act so as to allow prohibition of the publication of evidence given in such proceedings.

Schedule 1 (1) amends section 1 (Short title and contents of Act) of the Principal Act so as to appropriately amend the summary of its contents.
