

CHILDREN (DETENTION CENTRES) 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 Community Welfare (Amendment) Bill 1987.

The object of this Bill is to amend the Children (Detention Centres) Act 1987 so as—

- (a) to distinguish between the offence of escaping and the offence of absconding;
- (b) to clarify certain matters relating to the granting of remission;
- (c) to enable loss of remission to be a punishment that can be imposed in respect of misbehaviour committed by a detainee; and
- (d) to make other provisions of a minor, consequential or ancillary nature.

Clause 1 specifies the short title of the proposed Act.

Clause 2 gives effect to the Schedule of amendments.

Schedule 1 (1) amends the definition of “misbehaviour” in section 3 (1) of the Principal Act so as to provide that that definition encompasses the offence of absconding from lawful custody.

Schedule 1 (2) amends section 9 of the Principal Act so as to ensure that that section is not construed as limiting the operation of sections 9A, 33A and 33B of the Children (Criminal Proceedings) Act 1987 as to be inserted by the proposed Children (Criminal Proceedings) Amendment Act 1987.

Schedule 1 (3) amends section 21 of the Principal Act so as to enable a detainee to be punished for misbehaviour by loss of no more than 7 days’ remission.

Schedule 1 (4) amends section 22 of the Principal Act so as to ensure that the treatment prohibited by that section is limited to treatment carried out for the purpose of punishing a detainee.

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Schedule 1 (5) and (6) amend sections 23 and 24 of the Principal Act so as to provide that a person who fails to return to custody at the expiration of a leave of absence shall be deemed to have absconded from lawful custody unless the failure to return extends to more than 7 days, in which case the person is deemed to have escaped from lawful custody.

Schedule 1 (7) amends section 25 of the Principal Act so as to provide that a person who fails to return to custody from a hospital shall be deemed to have escaped from lawful custody.

Schedule 1 (8) amends section 29 of the Principal Act by way of statute law revision.

Schedule 1 (9) amends section 30 of the Principal Act so as to ensure that that section does not limit the operation of the Probation and Parole Act 1983 with respect to a person subject to control.

Schedule 1 (10)–(14) amend Part 4 of the Principal Act (in particular, sections 33, 34, 36 and 37) so as to provide that that Part applies to escapes rather than mere abscondings.

Schedule 1 (15) amends section 38 of the Principal Act so as to ensure that the power of arrest conferred by that section applies to both escapees and absconders.
