



New South Wales

# Child Protection (Offenders Registration) Amendment (Suspended Sentences) Bill 2007

## 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 *Child Protection (Offenders Registration) Act 2000* (*the principal Act*) so as to ensure that a person who is subject to a sentence of imprisonment for a single Class 2 offence (more serious offences are referred to in that Act as Class 1 offences and less serious offences as Class 2 offences) is not excluded from the reporting requirements of that Act merely because the person's sentence has been suspended under section 12 of the *Crimes (Sentencing Procedure) Act 1999*.

## 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 to the proposed Act.

**Clause 3** is a formal provision that gives effect to the amendments to the principal Act set out in Schedule 1.

**Clause 4** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent. Section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

## **Schedule 1 Amendments**

**Schedule 1 [3]** amends section 3 of the principal Act (the definitions section) so as to insert a definition of *sentence suspension order*.

**Schedule 1 [4]** amends section 3A of the principal Act (a section that defines the expression *registrable person* for the purposes of that Act) so as to ensure that a person who is subject to a sentence of imprisonment for a single Class 2 offence is not excluded from the reporting requirements of that Act merely because the person's sentence is subject to a sentence suspension order.

**Schedule 1 [1] and [2]** amend the definition of *existing controlled person* in section 3 (1) of the principal Act so as to ensure that a person who was subject to the same kind of sentence as at 15 October 2001 (when the substantive provisions of the Act, including section 3, commenced) is also not excluded from the reporting requirements of that Act merely because the person's sentence was, at that time, subject to a sentence suspension order.

**Schedule 1 [5]** amends section 4 of the principal Act so as to make it clear that a court that sentences a person to a term of imprisonment must notify the person of his or her reporting obligations under that Act, and of the consequence of not meeting those obligations, even if the term of imprisonment is subject to a sentence suspension order.

**Schedule 1 [6]** amends clause 1 of Schedule 2 to the principal Act so as to authorise the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

**Schedule 1 [7]** inserts proposed Part 4 into Schedule 2 to the principal Act. The new Part includes a single provision (proposed clause 10) that ensures that the amendments made by the proposed Act extend, and are taken always to have extended, to persons sentenced before the commencement of those amendments. Any such person who was not subject to the reporting requirements of the principal Act immediately before that commencement will, on that commencement, become subject to those requirements. The clause requires the Commissioner of Police to notify all relevant persons of their reporting obligations under the principal Act, and of the consequence of not meeting those obligations, as soon as practicable after that commencement.

First print



New South Wales

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New South Wales

# Child Protection (Offenders Registration) Amendment (Suspended Sentences) Bill 2007

No. , 2007

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## A Bill for

An Act to amend the *Child Protection (Offenders Registration) Act 2000* with respect to persons who are subject to suspended sentences of imprisonment.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Child Protection (Offenders Registration) Amendment (Suspended Sentences) Act 2007</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6
<b>3 Amendment of Child Protection (Offenders Registration) Act 2000 No 42</b>	7
The <i>Child Protection (Offenders Registration) Act 2000</i> is amended as set out in Schedule 1.	8 9
<b>4 Repeal of Act</b>	10
(1) This Act is repealed on the day following the day on which this Act commences.	11 12
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	13 14

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<b>Schedule 1</b>	<b>Amendments</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Section 3 Definitions</b>	3
	Omit “was serving a term” from paragraph (a) of the definition of <i>existing controlled person</i> in section 3 (1).	4
	Insert instead “was subject to a sentence”.	5
<b>[2]</b>	<b>Section 3 (1), definition of “existing controlled person”</b>	6
	Omit “or home detention order” from paragraph (a) (i) of the definition.	7
	Insert instead “, home detention order or sentence suspension order”.	8
<b>[3]</b>	<b>Section 3 (1)</b>	9
	Insert in alphabetical order:	10
	<i>sentence suspension order</i> means an order under section 12 of the <i>Crimes (Sentencing Procedure) Act 1999</i> .	11
<b>[4]</b>	<b>Section 3A Registrable persons</b>	12
	Omit “or home detention order” from section 3A (2) (b) (i).	13
	Insert instead “, home detention order or sentence suspension order”.	14
<b>[5]</b>	<b>Section 4 Notices to be given when persons sentenced for registrable offences</b>	15
	Insert after section 4 (2):	16
	(2A) For the avoidance of doubt, it is declared that this section extends to any registrable person whom the court has sentenced to a term of imprisonment even if the term of imprisonment is subject to a sentence suspension order.	17
<b>[6]</b>	<b>Schedule 2 Savings, transitional and other provisions</b>	18
	Insert at the end of clause 1 (1):	19
	<i>Child Protection (Offenders Registration) Amendment (Suspended Sentences) Act 2007</i>	20
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<b>[7] Schedule 2, Part 4</b>	1
Insert after Part 3 of Schedule 2:	2
<b>Part 4 Provisions consequent on enactment of Child Protection (Offenders Registration) Amendment (Suspended Sentences) Act 2007</b>	3 4 5 6
<b>10 Application of amendments to suspended sentences</b>	7
(1) This Act, as amended by the 2007 amending Act extends, and is taken always to have extended, to any person who has been sentenced in respect of a registrable offence at any time before the commencement of the 2007 amending Act.	8 9 10 11
(2) Despite subclause (1), a person who has become a registrable person as a consequence of the amendments made by the 2007 amending Act is not guilty of an offence under this Act by virtue of anything the person has done or omitted to do at any time before the commencement of the 2007 amending Act if, at that time, the person was not a registrable person.	12 13 14 15 16 17
(3) As soon as practicable after the commencement of the 2007 amending Act, the Commissioner of Police is to give any person who has become a registrable person as a consequence of the amendments made by that Act written notice of:	18 19 20 21
(a) the person's reporting obligations, and	22
(b) the consequences that may arise if the person fails to comply with those obligations.	23 24
(4) In this clause, <i>the 2007 amending Act</i> means the <i>Child Protection (Offenders Registration) Amendment (Suspended Sentences) Act 2007</i> .	25 26 27