

Act No. 261

**PROTECTED ESTATES (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 Protected Estates Act 1983 so as—

- (a) to enable the Guardianship Board constituted under the proposed Disability Services and Guardianship Act 1987 to make orders committing the estates of persons under guardianship to the management of the Protective Commissioner; and
- (b) to make other minor, consequential and ancillary amendments.

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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) inserts definitions of “Board” and “person under guardianship” into section 4 (1) of the Principal Act.

Schedule 1 (2) amends section 6 of the Principal Act (which deals with inquiries referred to the Protective Commissioner) so as to enable the Guardianship Board to refer to the Protective Commissioner inquiries concerning persons under guardianship and persons to whom proceedings before it relate.

Schedule 1 (3) inserts a new section 17A into the Principal Act. The proposed new section will enable the Guardianship Board to order that the estate of a person under guardianship be subject to management under the Principal Act.

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Schedule 1 (4) amends section 19 of the Principal Act (which deals with the making of subsequent applications for orders placing a person's estate under management) so as to enable the Guardianship Board to make an order of the kind referred to in proposed section 17A on the application of any person having an interest in the matter and at any time after it has made a guardianship order in respect of a person.

Schedule 1 (5) amends section 20 of the Principal Act (which deals with the making of interim orders) so as to enable the Guardianship Board to make interim orders in respect of a person under guardianship or a person to whom proceedings before it relate pending further consideration of the person's capability to manage his or her affairs.

Schedule 1 (6) amends section 21 of the Principal Act (which deals with appeals against orders placing the estate of a person under guardianship under the management of the Protective Commissioner) so as to extend the operation of that section to orders made by the Guardianship Board.

Schedule 1 (7) inserts a new section 22A into the Principal Act. The proposed new section enables the Guardianship Board to make, in respect of a person the subject of an order under proposed section 17A or 19 (3), an order appointing a suitable person as the manager of that person's estate or an order committing the management of that person's estate to the Protective Commissioner.

Schedule 1 (8) amends section 30 of the Principal Act (which deals with the powers of the Protective Commissioner in respect of estates managed by other persons) so as to ensure that the Protective Commissioner has the same powers in relation to an estate for which a manager is appointed under proposed section 22A as he or she has in relation to an estate for which a manager is appointed under section 22 of the Principal Act.

Schedule 1 (9) amends section 31 of the Principal Act (which deals with the giving of security) so as to extend the operation of that section to orders made by the Guardianship Board and so as to make it clear that securities are to be given to the Protective Commissioner.

Schedule 1 (10) amends section 34 of the Principal Act (which provides for the termination of orders under that Act) so as to extend the operation of that section to orders made by the Guardianship Board.

Schedule 1 (11) amends section 35 of the Principal Act (which enables the Supreme Court to revoke orders under that Act) so as to extend the operation of that section to orders made by the Guardianship Board.

Schedule 1 (12) inserts a new section 35A into the Principal Act. The proposed new section will enable the Guardianship Board to revoke an order made by it that the estate of a person be subject to management under the Principal Act.

Schedule 1 (13) amends section 38 of the Principal Act (which enables the Protective Commissioner to terminate certain orders under that Act) so as to extend the operation of that section to certain orders made by the Guardianship Board.

Schedule 1 (14) amends section 41 of the Principal Act (which provides for situations where the Protective Commissioner elects not to terminate certain orders under that Act) so as to extend the operation of that section to certain orders made by the Guardianship Board.

Schedule 1 (15) amends section 57 of the Principal Act (which provides for the application of surplus income generated from the common fund kept under that Act) so as to enable such income to be applied towards the administrative costs incurred by the Protective Commissioner in his or her capacity as the Public Guardian under the proposed Disability Services and Guardianship Act 1987.

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Schedule 1 (16) amends section 81 of the Principal Act (which deals with the making of regulations) so as to enable regulations to be made under the Principal Act with respect to the exercise by the Guardianship Board of the functions conferred or imposed on it by the Principal Act.

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