

# Children (Protection and Parental Responsibility) Act 1997 No 78

[1997-78]



New South Wales

## Status Information

### Currency of version

Current version for 25 November 2022 to date (accessed 6 October 2024 at 19:23)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Editorial note**

The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-dashes. Text of the legislation is not affected.

This version has been updated.

### Responsible Minister

- Attorney General

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 25 November 2022

# Children (Protection and Parental Responsibility) Act 1997 No 78



New South Wales

## Contents

<b>Long title</b> .....	5
<b>Part 1 Preliminary</b> .....	5
1 Name of Act .....	5
2 Commencement .....	5
3 Definitions .....	5
4 Operation of Act .....	7
5 Notes .....	7
<b>Part 2 Parental responsibility</b> .....	7
6 Guiding principles for courts .....	7
7 Attendance of parents and other persons at proceedings .....	7
8 Undertakings by children .....	8
9 Undertakings by parents .....	9
10 Family counselling .....	9
11 Parents contributing to children's offences .....	9
12 Ancillary provisions .....	10
<b>Part 3 Welfare of children in public places</b> .....	10
<b>Division 1 Declaration of operational area</b> .....	10
13 Object of Division .....	10
14 Operational area .....	10

15 Duration of declaration.....	12
16 Amendment or revocation of declaration .....	12
17 Publication.....	12
<b>Division 2 Removal of children from public places.....</b>	<b>12</b>
18 Children to whom Division applies.....	12
19 When action may be taken under this Division .....	13
20 Relationship to Children and Young Persons (Care and Protection) Act 1998 .....	13
21 Guiding principles when taking action under this Division .....	13
22 Action that may be taken .....	14
23 Limitations on action that may be taken .....	15
24 Approved person .....	15
25 Notification requirements .....	15
26 Exercise of functions under Division by police officer.....	16
27 Police officer may request person to state name, age and address .....	16
28 Use of force .....	16
29 Removal of concealed weapons .....	16
<b>Part 4 Local crime prevention.....</b>	<b>17</b>
<b>Division 1 Preliminary .....</b>	<b>17</b>
30 Objects of Part.....	17
<b>Division 2 Preparation of plans.....</b>	<b>17</b>
31 Preparation of draft local crime prevention plans.....	17
32 Guidelines.....	18
33 Content of draft local crime prevention plan .....	18
34 Public notice of draft local crime prevention plans .....	18
35 Adoption of local crime prevention plan .....	18
36 Duration of local crime prevention plan .....	19
37 Amendment or revocation of local crime prevention plan.....	19
38 Public availability of local crime prevention plans .....	19
<b>Division 3 Safer community compacts.....</b>	<b>19</b>
39 Approval of local crime prevention plan .....	19
40 Effect of approval .....	20

41 Council to report periodically on implementation of compact .....	20
42 Duration and revocation of approval .....	21
<b>Part 5 Miscellaneous</b> .....	<b>21</b>
43 Delegation .....	21
44 Monitoring of complaints from community .....	21
45 Proceedings for offences .....	21
46 Regulations.....	21
47 Repeals.....	22
48 Amendment.....	22
49 Savings, transitional and other provisions.....	22
50 Review of Act.....	22
<b>Schedule 1 Amendment</b> .....	<b>22</b>
<b>Schedule 2 Savings, transitional and other provisions</b> .....	<b>23</b>

# Children (Protection and Parental Responsibility) Act 1997 No 78



New South Wales

An Act with respect to the responsibility of parents for the behaviour of their children; to enable police to escort certain children from public places to their parents' residences and other places; to make provision for local crime prevention plans and safer community compacts; to repeal the *Children (Parental Responsibility) Act 1994*; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Children (Protection and Parental Responsibility) Act 1997*.

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions

In this Act—

**Aboriginal** means a person who—

- (a) is a member of the Aboriginal race of Australia, and
- (b) identifies as an Aboriginal, and
- (c) is accepted by the Aboriginal community as an Aboriginal.

**Aboriginal child** means a child of an Aboriginal.

**approved person** means a person chosen from a list of persons designated by the Director-General of the Department of Community Services under section 24.

**area** has the same meaning as it has in the *Local Government Act 1993* and includes part of an area.

**care residence** of a person means the place where the person resides under the care or in the custody of a carer.

**carer** of a person means any person who has residential care and control of a child under out-of-home care arrangements made under the [Children and Young Persons \(Care and Protection\) Act 1998](#).

**child** means a person who is under the age of 18 years.

**council** has the same meaning as it has in the [Local Government Act 1993](#).

**court** means a court exercising criminal jurisdiction.

**crime prevention** includes, but is not limited to, strategies, initiatives and services that are likely to develop or enhance a safer community.

**cultural heritage** includes beliefs, morals, laws, customs, religion, superstitions, art, language, diet, dress and race.

**Department** means the Attorney General's Department.

**exercise a function** includes perform a duty.

**function** includes a power, authority or duty.

**local crime prevention plan** means a local crime prevention plan adopted by a council under Part 4 and in force in relation to an area.

**operational area** means an area in respect of which a declaration under section 14 is in force.

**parent** of a child includes—

- (a) a guardian of the child, and
- (b) a person who has custody of the child,

but does not include the Minister administering the [Children and Young Persons \(Care and Protection\) Act 1998](#) or the Director-General of the Department of Community Services, or the father or mother of the child if the father or mother has neither guardianship nor custody of the child.

**public place** means—

- (a) a place (whether or not covered by water), or
- (b) a part of premises,

that is open to the public, or is used by the public, whether or not on payment of money or other consideration, whether or not it is ordinarily so open or used and whether or not the public to whom it is open consists of only a limited class of persons.

**safer community compact**—see section 39.

**Torres Strait Islander** means a descendant of an indigenous inhabitant of the Torres Strait Islands.

**Torres Strait Islander child** means a child of a Torres Strait Islander.

#### **4 Operation of Act**

- (1) This Act does not affect any functions (including functions of a court or police officer) that may be exercised apart from this Act.
- (2) This Act extends to acts, matters and things occurring, and proceedings instituted, before the commencement of this section.

#### **5 Notes**

Notes included in this Act do not form part of this Act.

### **Part 2 Parental responsibility**

#### **6 Guiding principles for courts**

- (1) In considering how a child should be dealt with under this Part, a court is to have regard to whether the taking of the action under consideration is in the best interests of the child.
- (2) Without limiting the matters that the court may take into account for the purposes of subsection (1), the court is to consider—
  - (a) the nature of the relationship of the child with the child's parent or parents, and
  - (b) the attitude to the child, and to the responsibilities of parenthood, demonstrated by the child's parent or parents, and
  - (c) the welfare, status and circumstances of the child and of the child's parent or parents.

#### **7 Attendance of parents and other persons at proceedings**

- (1) A court exercising criminal jurisdiction in relation to a child may require the attendance, at the place at which the proceedings are being or are to be conducted, of—
  - (a) one or more of the child's parents, or
  - (b) if the child is in statutory out-of-home care under which the Minister has parental responsibility for the child—
    - (i) the Minister, or
    - (ii) a representative of the Minister, including an officer or employee of a

designated agency, or

(c) if the child is in statutory out-of-home care under which the Secretary has parental responsibility for the child—

(i) the Secretary, or

(ii) a representative of the Secretary, including an officer or employee of a designated agency.

(2) For subsection (1)(a), the court may specify which parent or parents are to attend.

(3) In this section—

**designated agency** has the same meaning as in the [Children's Guardian Act 2019](#).

## 8 Undertakings by children

(1) A court that finds a child guilty of an offence may, instead of dealing with the child in any other way permitted by law, release the child on condition that the child give an undertaking—

(a) to submit to parental or other supervision as ordered by the court, or

(b) to participate in a specified program, or to attend a specified activity centre, or

(c) to reside with a parent or other person, as directed by the court, or

(d) to do such other thing as may be specified by the court.

(2) If it appears to a court that a child has failed to comply with an undertaking given by the child under this section, the court may direct that the child, and one or more parents of the child, be served with a notice to appear before the court at a specified time and place. The court may specify which parents are to attend.

(3) If the court is satisfied that the child has failed to comply with the undertaking concerned, the court—

(a) may cancel the undertaking, or

(b) may continue or vary the undertaking, but must not extend the period of the undertaking.

(4) If the court cancels the undertaking, the court—

(a) may release the child, or

(b) may impose any penalty that it could have imposed, or exercise any other function that it could have exercised, on finding the child guilty of the offence concerned.



## **9 Undertakings by parents**

- (1) A court that finds a child guilty of an offence may, instead of dealing with the child in any other way permitted by law, release the child on condition—
  - (a) that one or more parents of the child give an undertaking with or without conditions to do or refrain from doing the act or acts specified in the undertaking for a period not exceeding 6 months, or in exceptional circumstances 12 months, but in no case extending beyond the child's eighteenth birthday, or
  - (b) that one or more parents of the child give a supplementary undertaking to the court—
    - (i) to guarantee the child's compliance with any undertaking given under section 8, and
    - (ii) to take specified action to assist the child's development and to guard against the commission by the child of any further offences, and
    - (iii) to report at intervals stated in the supplementary undertaking on the child's progress, or
  - (c) that one or more parents of the child give security (whether by deposit of money or otherwise) for the good behaviour of the child for a period not exceeding 6 months, or in exceptional circumstances 12 months, but in no case extending beyond the child's eighteenth birthday.
- (2) No security is to be required from a parent under this section unless the parent has been required to attend before the court and has had an opportunity to be heard.
- (3) A court must not take any action against a child for the failure of a parent of the child to comply with an undertaking under this section.
- (4) Such part of any security required under this section as the court may determine is to be forfeited to the Crown if the person giving it fails to fulfil the obligation to ensure the child is of good behaviour.
- (5) The court may specify which parent or parents are subject to any condition imposed under subsection (1).

## **10 Family counselling**

A court may require a child that it finds guilty of an offence and the child's parent or parents to undergo such specified counselling as the court considers would be beneficial in assisting the progress of the child.

## **11 Parents contributing to children's offences**

- (1) A parent who, by wilful default, has contributed directly or in a material respect to the

commission of an offence of which the child has been found guilty, is guilty of an offence.

Maximum penalty—10 penalty units.

- (2) The court may require a parent convicted of an offence under subsection (1) to undergo counselling or do such other things that would in the opinion of the court advance the welfare and best interests of the child instead of, or in addition to, imposing a penalty.

## **12 Ancillary provisions**

- (1) Rules of court may be made for or with respect to the attendance of parents and children required under this Act to attend a place and undertakings required to be given under this Part.
- (2) (Repealed)
- (3) Without affecting the generality of subsection (1), the provisions of Parts 3 and 4 of Chapter 4 of the *Criminal Procedure Act 1986* relating to warrants and subpoenas for the attendance of witnesses in proceedings before the Local Court for offences punishable on summary conviction apply to the attendance of any person required under this Act to attend (before the Local Court or the Children's Court) at a place in the same way as those provisions apply to the attendance of witnesses in proceedings for such offences.
- (4) A court may exercise all or any one or more of the functions under sections 7, 8, 9 and 10 in any particular matter.

## **Part 3 Welfare of children in public places**

### **Division 1 Declaration of operational area**

#### **13 Object of Division**

The object of this Division is to provide for the declaration of the areas (or portions of areas) in which the powers conferred by Division 2 of this Part on police officers to remove children from public places may be exercised.

**Note—**

An **area** is defined in section 3 to mean a local government area and to include a part of a local government area.

#### **14 Operational area**

- (1) The council for an area may request the Attorney General to declare the area to be an operational area for the purposes of Division 2 of this Part.
- (2) The Attorney General may, by order, declare an area described in the order to be an

operational area for the purposes of Division 2 of this Part in accordance with a request under subsection (1), or may declare a portion only of that area to be an operational area.

- (3) The Attorney General must not make an order declaring an area (or portion of an area) to be an operational area unless the Attorney General is satisfied that adequate crime prevention or youth support initiatives will be available in the area before the order takes effect.
- (4) In considering a request under subsection (1) to declare an area (or a portion of an area) to be an operational area, the Attorney General is to have regard to the following—
  - (a) whether the council has adequately informed and consulted with the local community concerned, including young people and the Aboriginal community, and the views expressed,
  - (b) the extent and nature of crime in the area,
  - (c) the nature of any crime prevention or youth support initiatives that have been undertaken in the area, including whether any local crime prevention plan or safer community compact is in force for the area, or is in the course of being prepared by the council for the area, and the contents or proposed contents of that plan or compact,
  - (d) the effect of making the declaration on young people in the area, including the availability of safe and appropriate recreational amenities for young people in the area,
  - (e) the practicality of applying Division 2 of this Part in the area, including (but not limited to) any advice given by the Commissioner of Police relating to the operational capacity of police to carry out functions under the Division in the area,
  - (f) without limiting paragraph (e), whether appropriate arrangements have been made, or are able to be made, to cater for the needs of young people who are removed from public places in the area under Division 2 of this Part and who are not able to be taken home, including culturally appropriate arrangements for Aboriginal and Torres Strait Islander young people,
  - (g) whether the council has undertaken steps to include young people's needs in its local planning processes.
- (5) The Attorney General is to consult with the Minister for Community Services and the Minister for Police before declaring an area (or a portion of an area) to be an operational area.

## **15 Duration of declaration**

- (1) An order declaring an area (or a portion of an area) to be an operational area takes effect on a day specified in the order, being a day that is later than the day it is published in accordance with section 17.
- (2) Unless it is sooner revoked, the declaration of an operational area remains in force for such period as is specified in the order.
- (3) The declaration of a portion of an area as an operational area does not prevent the declaration of further portions of the same area as operational areas.
- (4) The council of an area (or a portion of an area) declared to be an operational area must report to the Attorney General when requested to do so by the Attorney General on the implementation, and effectiveness, of the powers conferred by Division 2 of this Part.

## **16 Amendment or revocation of declaration**

- (1) The Attorney General may, by order, amend or revoke an order declaring an area (or a portion of an area) to be an operational area.
- (2) An order under subsection (1) may be made at the request of the council for the area to which the declaration relates or on the Attorney General's own initiative.
- (3) The Attorney General is to consult with the Minister for Community Services and the Minister for Police before revoking or, unless the Attorney General considers the amendments are not substantial, amending an order declaring an area to be an operational area.

## **17 Publication**

As soon as practicable after making, amending or revoking an order declaring an area (or a portion of an area) to be an operational area, the Attorney General is to cause a copy of the relevant order to be published in the Gazette and in a newspaper circulating generally in the area (or the portion of the area).

## **Division 2 Removal of children from public places**

### **18 Children to whom Division applies**

This Division applies to a person—

- (a) who is in a public place in an operational area, and
- (b) who a police officer believes on reasonable grounds is a child under the age of 16 years.

## **19 When action may be taken under this Division**

- (1) A police officer may remove a person to whom this Division applies from any public place in an operational area if the police officer believes on reasonable grounds that the person—
  - (a) is not subject to the supervision or control of a responsible adult, and
  - (b) is in the public place in circumstances that place the person at risk.
- (2) A police officer who removes a person from a public place under this section must escort (or arrange for another police officer to escort) the person to a place and place the person in the care of a person in accordance with section 22.
- (3) For the purposes of this section, a person is at risk if—
  - (a) the person is in danger of being physically harmed or injured, or
  - (b) the person is in danger of abuse (including assault and sexual assault, ill treatment and exposure to behaviour that may cause psychological harm to the person), or
  - (c) the person is about to commit an offence.

## **20 Relationship to [Children and Young Persons \(Care and Protection\) Act 1998](#)**

- (1) This Division has effect in addition to and does not derogate from the [Children and Young Persons \(Care and Protection\) Act 1998](#).
- (2) In particular, and without limiting subsection (1), nothing in this Division limits the powers conferred under section 39, 43 or 44 or Chapter 15 of the [Children and Young Persons \(Care and Protection\) Act 1998](#).
- (3) Before taking action under section 22 in relation to a person to whom this Division applies, a police officer is to consider whether it would be more appropriate to take action under the [Children and Young Persons \(Care and Protection\) Act 1998](#) to best meet the needs of the person.
- (4) Section 27 (Mandatory reporting) of the [Children and Young Persons \(Care and Protection\) Act 1998](#) applies to a police officer while exercising functions under this Division.

## **21 Guiding principles when taking action under this Division**

- (1) A police officer who removes a person to whom this Division applies from a public place under this Division is to use his or her best endeavours to escort the person to the home of a parent, relative or other person who is responsible for caring for the person and to leave the person in the care of the parent, relative or other responsible person.

- (2) Despite subsection (1), the police officer's paramount duty is to ensure that any action taken in respect of a person to whom this Division applies who is removed from a public place under this Division is in the best interests of the person and the police officer is to take such action as the police officer considers appropriate in the circumstances to promote the person's best interests.

## **22 Action that may be taken**

- (1) A police officer who removes a person to whom this Division applies from any public place may escort (or arrange for another police officer to escort) the person to the residence of a parent of the person or, if the person has a carer, his or her care residence and leave the person there.
- (2) A police officer who escorts a person to the residence of a parent of the person or his or her care residence must not leave the person at that residence unless—
- (a) the parent or carer of the person or some other responsible adult is present at the residence and is able and willing to care for the person, or
  - (b) the police officer is satisfied that the person may safely be left at the residence in the absence of a responsible adult.
- (3) If the police officer is unable to escort the person to, or leave the person, at a place referred to in subsection (2), the police officer may escort (or arrange for another police officer to escort) the person to the residence of a close relative nominated by the person and leave the person there.
- (4) A police officer who escorts a person to the residence of a close relative must not leave the person at that residence unless the relative or some other responsible adult is present at the residence and is able and willing to care for the person.
- (5) If for any reason a police officer is unable to escort a person to, or leave a person at, a place referred to in subsection (2) or (4), he or she may—
- (a) place the person in the care of the Director-General of the Department of Community Services, or
  - (b) if the police officer is unable to place the person in the care of the Director-General, place the person in the care of an approved person who is able and willing to have the care of the person.
- (6) A person in whose care a person is placed under subsection (5) may keep the person in his or her care for such period not exceeding 24 hours (or such shorter period as may be prescribed by the regulations) as may be necessary for arrangements to be made to return the person to the care of a parent or carer.
- (7) If, on the expiration of the period referred to in subsection (6), a person has not been returned to the care of a parent or carer, the person is to be released or dealt with

according to law.

- (8) The Director-General of the Department of Community Services may place a person who is placed in the care of the Director-General under this section in the care of any person in whose care a child might be placed under the *Children and Young Persons (Care and Protection) Act 1998*.

### **23 Limitations on action that may be taken**

- (1) A police officer who removes a person to whom this Division applies from a public place must not in any circumstances escort (or arrange for another police officer to escort) the person to, or leave the person at, a police station.
- (2) A police officer must not leave a person to whom this Division applies at any place to which the person has been escorted under section 22 if the police officer considers it would be detrimental to the best interests of the person to do so.
- (3) Before escorting a person to a place under section 22, the police officer is to take into account any wishes or feelings of the person (considered in the light of the person's apparent age and understanding) that are volunteered by the person. However, nothing in this subsection permits a police officer to require a person to express his or her wishes or feelings in relation to this matter.

### **24 Approved person**

- (1) The Director-General of the Department of Community Services may designate persons who reside in or in the vicinity of an operational area to be approved persons with whom a person to whom this Division applies (or a person within a specified class of such persons) removed from a public place in a specified operational area may be placed under section 22 (5) (b).
- (2) In deciding which persons should be designated under this section in respect of an Aboriginal child, the Director-General is to take into account (so far as they are applicable) the principles for placement of Aboriginal children set out in section 13 of the *Children and Young Persons (Care and Protection) Act 1998*.
- (3) In deciding which persons should be designated under this section in respect of children other than Aboriginal children, the Director-General is to take into account the principle that children with a particular cultural heritage should preferably be placed with persons who are of a similar background or who understand their special needs.

### **25 Notification requirements**

- (1) A police officer who places a person to whom this Division applies in the care of a person other than a parent or carer of the person, or who leaves a person at a residence in the absence of a parent or carer, is required to notify a parent of the person or, if the person has a carer, the person's carer, if the parent or carer is known

and notification is practicable.

- (2) This section does not require a police officer to notify a person's parent of the person's whereabouts if—
  - (a) the person volunteers to the police officer that he or she does not wish his or her parent to be so notified, and
  - (b) the police officer is satisfied that it would not be in the person's best interests to so notify the parent.

## **26 Exercise of functions under Division by police officer**

- (1) A police officer may exercise functions under this Division without further authority than that conferred by this Division, and is to act in conformity with any relevant directions issued by the Commissioner of Police.
- (2) The regulations may limit the circumstances, and regulate the manner, in which functions conferred on police officers by this Division may be exercised.

## **27 Police officer may request person to state name, age and address**

For the purposes of enabling a police officer to escort a person removed from a public place under this Division to a place referred to in section 22, the police officer may request the person to state—

- (a) his or her name and age, and
- (b) his or her parent's residential address or, if he or she has a carer, the address of his or her care residence.

## **28 Use of force**

A police officer may use reasonable force for the purpose of removing a person from a public place under this Division or escorting the person under section 22.

## **29 Removal of concealed weapons**

- (1) A police officer who believes on reasonable grounds that a person to whom this Division applies may be carrying a concealed weapon may—
  - (a) frisk search the person, and
  - (b) take possession of any weapon found in the person's possession if the police officer considers it may endanger the person, the police officer or any other person if the person is permitted to keep it in his or her possession.
- (2) In this section—

***frisk search*** means—



- (a) a search of a person conducted by quickly running the hands over the person's outer garments, and
- (b) an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person.

**weapon** includes—

- (a) a firearm, or an imitation firearm, within the meaning of the *Firearms Act 1996*, or
- (b) a prohibited weapon within the meaning of the *Weapons Prohibition Act 1998*, or
- (c) a syringe, or
- (d) a glass bottle or other instrument adapted for use for causing injury to a person.

## **Part 4 Local crime prevention**

### **Division 1 Preliminary**

#### **30 Objects of Part**

The objects of this Part are—

- (a) to work towards a safer environment by fostering community involvement in the development of local crime prevention plans prepared on the initiative of local government councils (with the assistance, at the request of the councils, of the Attorney General) for measures to be taken within their areas to reduce crime, and
- (b) to assist in the funding of the development of safer community compacts and of certain initiatives under safer community compacts through grants made by the Attorney General.

### **Division 2 Preparation of plans**

#### **31 Preparation of draft local crime prevention plans**

- (1) A council for an area may prepare a draft local crime prevention plan for the area.

**Note—**

**Area** is defined in section 3 to include part of an area.

- (2) The Attorney General may, at the request of a council, give the council assistance in preparing a draft local crime prevention plan.
- (3) The council for an area may take such steps as it considers appropriate or necessary to publicise its intention to prepare a draft local crime prevention plan and may seek and consider submissions from members of the community of the area and the public generally.

### **32 Guidelines**

The Attorney General may from time to time issue guidelines with respect to the preparation and content of local crime prevention plans.

### **33 Content of draft local crime prevention plan**

Without limiting the matters for which a local crime prevention plan may make provision, it may include provisions relating to the following—

- (a) Aboriginal community development,
- (b) non-English speaking background community development,
- (c) crime prevention,
- (d) drug and alcohol management,
- (e) open space planning and management,
- (f) parental education and family support programs,
- (g) youth development strategies,
- (h) consultation,
- (i) arrangements for reporting and co-ordination,
- (j) any matter specified in guidelines issued by the Attorney General.

### **34 Public notice of draft local crime prevention plans**

- (1) A council must give public notice of a draft local crime prevention plan and place it on public exhibition in accordance with this section.
- (2) The period of public exhibition of the draft plan must not be less than 28 days.
- (3) The public notice must specify a period of not less than 42 days after the date on which the draft plan is placed on public exhibition during which submissions may be made to the council.
- (4) The council must, in accordance with its notice, publicly exhibit the draft plan together with any other matter that it considers appropriate or necessary to better enable the draft plan and its implications to be understood.

### **35 Adoption of local crime prevention plan**

- (1) After considering all submissions received by it concerning the draft local crime prevention plan, the council may decide to amend the draft plan or to adopt it without amendment as a local crime prevention plan for the area or part of the area

concerned.

- (2) If the council decides to amend the draft plan, it may publicly exhibit the amended plan or it may adopt the amended draft plan without public exhibition as a local crime prevention plan for the area or part of the area concerned.

### **36 Duration of local crime prevention plan**

Unless it is sooner revoked, a local crime prevention plan has effect for such period as is specified by the council when it adopts the plan.

### **37 Amendment or revocation of local crime prevention plan**

- (1) The council may, at any time, amend or revoke a local crime prevention plan adopted by it.
- (2) The council may, but is not required to, publicly exhibit any proposed amendment to the plan before adopting the amendment.

### **38 Public availability of local crime prevention plans**

- (1) Within 14 days after adopting a local crime prevention plan for an area, the council is to publish the plan in—
  - (a) a newspaper circulating generally in the area, and
  - (b) the Gazette.
- (2) Within 14 days after amending or revoking a local crime prevention plan, the council is to give notice of the revocation, or cause a copy of the amendments to be published in—
  - (a) a newspaper circulating generally in the area, and
  - (b) the Gazette.

## **Division 3 Safer community compacts**

### **39 Approval of local crime prevention plan**

- (1) The Attorney General may, at the request of a council for an area, approve a draft local crime prevention plan prepared, or local crime prevention plan adopted, by the council as a safer community compact.
- (2) In deciding whether to approve a draft local crime prevention plan prepared, or local crime prevention plan adopted, by a council, as a safer community compact the Attorney General is to have regard to the following—
  - (a) whether the plan was prepared in accordance with, and has contents consistent with, any guidelines issued by the Attorney General under section 32,

- (b) whether the contents of the plan are appropriate having regard to the extent and nature of crime in the area (or part of the area) for which it is made or proposed to be made,
  - (c) whether the council has adequately consulted with the local community concerned, including young people and the Aboriginal community,
  - (d) the likely effect of the plan on crime and on the local community, including young people and the Aboriginal community,
  - (e) any other matter the Attorney General considers relevant.
- (3) The Attorney General is to consult, and have regard to the views of, the Minister for Community Services and the Minister for Police before giving an approval under this section.
- (4) The Attorney General may approve any amendments to a plan approved under this section.

#### **40 Effect of approval**

- (1) A local crime prevention plan, or a draft local crime prevention plan that is subsequently adopted by the council, that is approved by the Attorney General as a safer community compact comprises a safer community compact for so long as the approval of it remains in force.
- (2) The Attorney General may, on application by the council for an area for which there is or is proposed to be a safer community compact, grant such financial assistance as the Attorney General considers appropriate to the council.
- (3) The financial assistance is to be provided out of money to be appropriated by Parliament or that is otherwise legally available for the purposes of this Part.
- (4) In this section—

***financial assistance*** means assistance to cover—

- (a) expenses incurred in undertaking any initiative proposed by a safer community compact, and
- (b) any expenses incurred, or to be incurred, in developing a proposed safer community compact, or monitoring a safer community compact.

#### **41 Council to report periodically on implementation of compact**

The council of an area for which there is a safer community compact is to assess and report to the Minister, as and when required by the Minister, on the implementation, and effectiveness in reducing crime, of the compact.

## **42 Duration and revocation of approval**

- (1) An approval of a draft local crime prevention plan, or local crime prevention plan adopted by a council, as a safer community compact remains in force (unless sooner revoked) for 3 years after it is given.
- (2) The Attorney General may revoke an approval by written notice given to the council concerned.
- (3) The Attorney General may revoke an approval—
  - (a) if the Attorney General considers any provisions of the safer community compact are no longer suitable for the needs of the area to which it applies, or
  - (b) if the Attorney General considers the safer community compact is not being implemented in a satisfactory manner, or
  - (c) on any other ground the Attorney General considers appropriate.

## **Part 5 Miscellaneous**

### **43 Delegation**

The Attorney General may delegate any of his or her functions under this Act (other than this power of delegation) or the regulations to any officer of the Department.

### **44 Monitoring of complaints from community**

The council of an area or portion of an area that is declared to be an operational area or for which a safer community compact is in force is, if requested to do so by the Attorney General, to monitor, identify and advise the Attorney General on trends in complaints relating to action taken in the operational area under this Act or under the compact.

### **45 Proceedings for offences**

Proceedings for an offence under this Act or the regulations may be dealt with summarily before the Local Court.

### **46 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, the regulations may make provision for or with respect to the following—
  - (a) compelling the attendance of parents and children required under this Act to attend a place,
  - (b) the care of persons removed from a public place and escorted to another place

under Part 3,

(c) reports to be provided and records to be kept under this Act.

(3) A regulation may create an offence punishable by a penalty not exceeding 10 penalty units.

#### **47 Repeals**

The *Children (Parental Responsibility) Act 1994* and the *Children (Parental Responsibility) Regulation 1995* are repealed.

#### **48 Amendment**

Schedule 1 has effect.

#### **49 Savings, transitional and other provisions**

Schedule 2 has effect.

#### **50 Review of Act**

- (1) The Attorney General is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 3 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 3 years.

### **Schedule 1 Amendment**

(Section 48)

## **Community Welfare Act 1987 No 52**

### **Section 5 Delegation**

Omit section 5 (3). Insert instead—

- (3) In this section, a reference to the community welfare legislation includes a reference to each of the following Acts (and to any instrument under the Act) even though the Act may not be administered by the Minister within the Department—

*Children (Criminal Proceedings) Act 1987*

*Children (Protection and Parental Responsibility) Act 1997*

## Schedule 2 Savings, transitional and other provisions

(Section 49)

### 1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts—

    this Act

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### 2 (Repealed)

### 3 Saving of pilot scheme in Orange

Any part of the area of Orange in which Part 3 of the *Children (Parental Responsibility) Act 1994* applied immediately before the repeal of that Act is taken to be an area declared by order to be an operational area for the purposes of Part 3 of this Act until 31 December 1998, or until an order is made under section 16 revoking the order, whichever first occurs.