



New South Wales

# Children's Guardian and Other Legislation Amendment Bill 2026

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend—

- (a) the *Child Protection (Working with Children) Act 2012* to make amendments consequent on the commencement of the *Child Protection (Working with Children) and Other Legislation Amendment Act 2025*, and
- (b) the *Children's Guardian Act 2019* in relation to the functions of the Children's Guardian to implement the recommendations of a statutory review, and
- (c) the *Children's Guardian Amendment Act 2025* to make an amendment to the commencement of a particular provision relating to the recommendations of a statutory review.

## 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.

## **Schedule 1      Amendment of Child Protection (Working with Children) Act 2012 No 51**

**Schedule 1[2]** clarifies that a person who is subject to a mutual recognition negative notice is not entitled to make a further application for a working with children check clearance until the notice expires.

**Schedule 1[3]** sets out when a mutual recognition negative notice expires and provides that a reference to a mutual recognition negative notice does not include a reference to an action that arises solely as a result of—

- (a) a mutual recognition negative notice in another jurisdiction, or
- (b) an action taken in New South Wales in relation to the person's application or clearance, or
- (c) the conditional grant in another jurisdiction of that jurisdiction's equivalent to a working with children check clearance.

**Schedule 1[1]** makes a consequential amendment to insert a definition of *mutual recognition negative notice* for the Act.

**Schedule 1[4]** clarifies that the power of the Children's Guardian to require a person to give the Children's Guardian information relevant to an assessment of whether a person poses a risk to the safety of children may be exercised in relation to a person or government agency in another jurisdiction.

**Schedule 1[5]** inserts a cross-reference to section 14 under the heading to Schedule 1 to provide for the enabling provision for the schedule.

**Schedule 1[6]** inserts a cross-reference to section 18 under the heading to Schedule 2 to provide for the enabling provision for the schedule.

**Schedule 1[7]** inserts provisions of a savings and transitional nature in relation to Schedule 1[3]. A person whose application for a working with children check clearance was terminated or whose working with children check clearance was cancelled because of an action that will not be a mutual recognition negative notice on the commencement of Schedule 1[3] is taken as not having had an application terminated or clearance cancelled if the Children's Guardian did not notify the person of the termination or cancellation. A person whose application remains terminated or whose clearance remains cancelled is entitled to make a further application for a working with children check clearance unless the person is the subject of a mutual recognition negative notice within the meaning of section 25A as amended by Schedule 1[3].

## **Schedule 2      Amendment of Children's Guardian Act 2019 No 25**

**Schedule 2[2]** amends the definition of *report* to include a report given to the Children's Guardian under section 27(2)(b) or (3)(b). **Schedule 2[3]–[5]** insert references to a report to reinstate the circumstances in which the Children's Guardian acts in relation to a report given to the Children's Guardian under section 27(2)(b) or (3)(b).

**Schedule 2[6]** substitutes section 56(2) to ensure that the grounds on which the Children's Guardian may refer an employee, during an investigation of the employee, for consideration of imposing an interim bar on the employee under the *Child Protection (Working with Children) Act 2012* are consistent with the grounds on which the interim bar may be imposed, being that, in the opinion of the Children's Guardian, it is likely that there is a real and appreciable risk to the safety of children. **Schedule 2[7]** makes a consequential amendment.

**Schedule 2[8]** substitutes section 133 to make provision for the Children's Guardian to delegate the functions of the Children's Guardian, including the function of making a report under the Act.

**Schedule 2[9]** substitutes Schedule 5.10[5] to provide that an entity that provides overnight camps for children as a primary function or activity of the entity is a Schedule 1 entity. **Schedule 2[1]**

makes a consequential amendment to provide that proposed Schedule 5.10[5] commences on 1 October 2027 or an earlier day or days to be appointed by proclamation.

### **Schedule 3      Amendment of Children's Guardian Amendment Act 2025 No 46**

**Schedule 3** amends section 2 to provide that Schedule 1[52], which amends the *Children's Guardian Act 2019*, Schedule 6, definition of *substitute residential care*, paragraph (b), commences on 1 October 2027 or an earlier day or days to be appointed by proclamation instead of on 1 October 2026 or an earlier day or days to be appointed by proclamation.



New South Wales

# Children's Guardian and Other Legislation Amendment Bill 2026

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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly*

*Clerk of the Legislative Assembly*



New South Wales

## **Children's Guardian and Other Legislation Amendment Bill 2026**

No. \_\_\_\_\_, 2026

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### **A Bill for**

An Act to amend the *Children's Guardian Act 2019* in relation to the recommendations of a statutory review; to amend the *Child Protection (Working with Children) Act 2012* consequent on the commencement of the *Child Protection (Working with Children) and Other Legislation Amendment Act 2025*; and for related purposes.

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*The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.*

*Legislative Council*

*Clerk of the Parliaments*

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**Tabling copy**

**The Legislature of New South Wales enacts—**

1

**1 Name of Act**

2

This Act is the *Children's Guardian and Other Legislation Amendment Act 2026*.

3

**2 Commencement**

4

This Act commences on the date of assent to this Act.

5

<b>Schedule 1</b>	<b>Amendment of Child Protection (Working with Children) Act 2012 No 51</b>	1
		2
<b>[1] Section 5 Definitions</b>		3
	Omit section 5(1), definition of <i>enabling order</i> .	4
	Insert in alphabetical order—	5
	<i>mutual recognition negative notice</i> —see section 25A.	6
<b>[2] Section 25A Mutual recognition of refusal and cancellation of other jurisdictions' working with children check clearances</b>		7
	Omit section 25A(5)(a).	8
	Insert instead—	9
	(a) until the mutual recognition negative notice has expired, or	10
		11
<b>[3] Section 25A(7) and (8)</b>		12
	Insert after section 25A(6)—	13
	(7) A reference to a mutual recognition negative notice does not include a reference to an action that arises solely as a result of—	14
		15
	(a) a mutual recognition negative notice in another jurisdiction, or	16
	(b) an action taken in New South Wales in relation to the person's application or clearance, or	17
		18
	(c) the conditional grant in another jurisdiction of that jurisdiction's equivalent to a clearance.	19
		20
	(8) In this section—	21
	<i>expiry</i> , of a mutual recognition negative notice, means—	22
	(a) for an action equivalent to an interim bar—the action has expired, or	23
	(b) for any action—the action has been overturned or revoked, or	24
	(c) the person the subject of the mutual recognition negative notice is later granted an equivalent to a clearance in the jurisdiction in which the mutual recognition negative notice occurred.	25
		26
		27
<b>[4] Section 31 Powers of Children's Guardian to require production of information</b>		28
	Omit section 31(11), definition of <i>person</i> .	29
	Insert instead—	30
	<i>person</i> includes—	31
	(a) a person in another State or Territory, and	32
	(b) a government agency of the State or the Commonwealth or another State or Territory.	33
		34
<b>[5] Schedule 1 Assessment requirement triggers</b>		35
	Insert after the heading to the schedule—	36
		37
	section 14	37

<b>[6] Schedule 2 Disqualifying offences</b>	1
Insert after the heading to the schedule—	2
	section 18
<b>[7] Schedule 3 Savings, transitional and other provisions</b>	4
Insert at the end of the schedule, with appropriate part numbering—	5
<b>Part Provisions consequent on enactment of Children's Guardian and Other Legislation Amendment Act 2026</b>	6
	7
	8
<b>1 Definitions</b>	9
In this part—	10
<i>amendment Act</i> means the <i>Children's Guardian and Other Legislation Amendment Act 2026</i> .	11
<i>commencement date</i> means the day on which this part commences.	12
	13
<b>2 Persons entitled to make further application in relation to mutual recognition negative notices</b>	14
	15
(1) This clause applies to a person whose application for a clearance is taken to be terminated, or whose clearance is taken to be cancelled, under section 25A—	16
	17
(a) before the commencement date, and	18
(b) because of a mutual recognition negative notice, within the meaning of section 25A(1) before the commencement of the amendment Act, that has arisen solely as a result of—	19
	20
(i) a mutual recognition negative notice in another jurisdiction, or	21
	22
(ii) an action taken in New South Wales in relation to the person's application or clearance, or	23
	24
(iii) the conditional grant in another jurisdiction of that jurisdiction's equivalent to a clearance.	25
	26
(2) The terminated application or cancelled clearance must be taken as not having been terminated or cancelled if the person was not notified, before the commencement date, by the Children's Guardian of the termination or cancellation.	27
	28
	29
	30
(3) A person whose application remains terminated or whose clearance remains cancelled is entitled, despite section 25A(5), to make a further application for a working with children check clearance unless the person is the subject of a mutual recognition negative notice within the meaning of section 25A as amended by the amendment Act.	31
	32
	33
	34
	35

## **Schedule 2      Amendment of Children's Guardian Act 2019 No 25**

### **[1] Section 2 Commencement**

Omit section 2(2).

Insert instead—

(2) The following provisions commence as follows—

(a) for Schedule 5.10[5]—on 1 October 2027 or an earlier day or days to be appointed by proclamation,

(b) for Schedule 5.10[6]—on a day or days to be appointed by proclamation.

### **[2] Section 10 Definitions**

Insert after the definition of *report*, paragraph (a)—

(a1) a report made to the Children's Guardian under section 27(2)(b) or (3)(b), or

### **[3] Section 44 Preliminary inquiries**

Omit "complaint or notification" wherever occurring in section 44(2) and (3).

Insert instead "complaint, notification or report".

### **[4] Section 46 Children's Guardian may investigate or determine**

Omit "report, complaint or notification" from section 46(1)(c).

Insert instead "complaint, notification or report".

### **[5] Section 46(2)(b)**

Omit "complaint or notification".

Insert instead "complaint, notification or report".

### **[6] Section 56 Reporting within the Office of the Children's Guardian**

Omit section 56(2).

Insert instead—

(2) Also, if, during the course of an investigation, the Children's Guardian is of the opinion there are likely to be grounds for imposing an interim bar, the Children's Guardian must refer information about the employee the subject of the investigation to the Working with Children Check Unit to consider an interim bar.

### **[7] Section 56(3)**

Insert in alphabetical order—

*interim bar* has the same meaning as in the *Child Protection (Working with Children) Act 2012*.

### **[8] Section 133**

Omit the section.

Insert instead—

<b>133</b>	<b>Delegation</b>	1
(1)	The Children's Guardian may delegate a function of the Children's Guardian to an officer of the Children's Guardian.	2 3
(2)	However, the Children's Guardian must not delegate functions under Schedule 3, clause 1(2).	4 5
(3)	The power of delegation under this section cannot be delegated.	6
(4)	A delegation must be done by a written instrument of delegation.	7
(5)	An officer may delegate to an approved person a function delegated to the officer by the Children's Guardian if the instrument of delegation specifically authorises the officer to delegate the function.	8 9 10
(6)	In this section—	11
	<i>approved person</i> means the following—	12
(a)	an officer of the Children's Guardian,	13
(b)	a person or class of persons prescribed by the regulations,	14
(c)	a person or class of persons approved by the Children's Guardian.	15
<b>[9]</b>	<b>Schedule 5 Amendment of Acts and instruments</b>	16
	Omit Schedule 5.10[5].	17
	Insert instead—	18
<b>[5]</b>	<b>Schedule 1 Entities</b>	19
	Insert at the end of the schedule, with appropriate item numbering—	20
	an entity that provides overnight camps for children as a primary function or activity of the entity	21 22

**Schedule 3      Amendment of Children's Guardian Amendment Act 2025 No 46**

1

2

**Section 2 Commencement**

3

Omit section 2(b).

4

Insert instead—

5

(b) for Schedule 1[37]—on 1 October 2026 or an earlier day or days to be appointed by proclamation,

6

7

(b1) for Schedule 1[52]—on 1 October 2027 or an earlier day or days to be appointed by proclamation,

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