



New South Wales

# Children's Guardian Amendment (Child Safe Scheme) Bill 2021

## Explanatory note

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

## Overview of Bill

The object of this Bill is to embed the Child Safe Standards, as recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse, as the primary framework that guides child safe practice in organisations in New South Wales.

## 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 a day or days to be appointed by proclamation.

## Schedule 1      **Amendment of Children's Guardian Act 2019 No 25**

**Schedule 1[1]** amends the objects of the *Children's Guardian Act 2019 (the Act)* to include embedding the Child Safe Standards as the primary framework that guides child safe practice in organisations in New South Wales.

**Schedule 1[2]** amends the guiding principles that are applied in the administration of the Act to embed connection to family and community as a principle to be applied in relation to Aboriginal children and Torres Strait Islander children and to require that respect for cultural and social difference is considered when providing child-related services.

**Schedule 1[3]** inserts proposed Part 3A, which contains the child safe scheme that—

- (a) adopts the Child Safe Standards, and
- (b) requires significant public sector agencies that are responsible for the provision of services to children to develop and implement child safe action plans, and
- (c) requires the Children's Guardian to work with child safe organisations to raise awareness of child safety, build the capability of child safe organisations to implement the Child Safe Standards and to promote the implementation of the Child Safe Standards more broadly, and
- (d) provides the Children's Guardian with powers to monitor the implementation of the Child Safe Standards, and
- (e) provides the Children's Guardian with powers for the investigation of complaints and concerns about a child safe organisation's implementation of the Child Safe Standards.

**Schedule 1[4] and [6]–[9]** make amendments consequential on the adoption of the Child Safe Standards by proposed Part 3A.

**Schedule 1[5]** provides the Children's Guardian with an additional power to review systems, policies and processes when monitoring an entity's internal investigation or determination.

**Schedule 1[10]** amends the Act, section 128 to recognise the additional functions of the Children's Guardian that arise from the proposed adoption of the Child Safe Standards and the child safe scheme.

**Schedule 1[11]** updates the functions of Official Community Visitors to include a function relating to the Child Safe Standards.

**Schedule 1[12]** inserts proposed Part 9A, which provides for enforcement measures allowing the Children's Guardian to issue compliance notices to *child safe organisations*, as defined in the proposed amendments to the Dictionary, and to enter into enforceable undertakings with child safe organisations.

**Schedule 1[13]–[17], [19] and [20]** make consequential amendments.

**Schedule 1[18]** allows the Children's Guardian to share information, obtained for the purposes of the child safe scheme or its enforcement functions, with persons undertaking similar child safe functions in another State or Territory or for the Commonwealth.

**Schedule 1[21]–[23]** make consequential amendments to the Dictionary including to define *child safe organisation*.