



New South Wales

Stronger Communities Legislation Amendment (Children) 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 amend the following Acts and Regulations—

- (a) *Adoption Act 2000*,
- (b) *Child Protection (Working with Children) Act 2012*,
- (c) *Children and Young Persons (Care and Protection) Act 1998*,
- (d) *Children (Detention Centres) Act 1987*,
- (e) *Children's Guardian Act 2019*,
- (f) *Civil and Administrative Tribunal Act 2013*,
- (g) *Civil and Administrative Tribunal Regulation 2013*.

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.

Schedule 1 Amendment of Adoption Act 2000 No 75

Schedule 1[1] inserts proposed section 124AA into the *Adoption Act 2000* to make provision for the appointment of a member of the Guardian Ad Litem Panel, established under the *Children and Young Persons (Care and Protection) Act 1998* (the **GAL Panel**), as a guardian ad litem in adoption proceedings.

Schedule 1[3] makes an amendment of a savings nature to validate past appointments of guardians ad litem.

Schedule 1[2] and [4] make consequential amendments, including to the Dictionary.

Schedule 2 Amendment of Child Protection (Working with Children) Act 2012 No 51

Schedule 2[1] makes an amendment to the *Child Protection (Working with Children) Act 2012* (the *WWC Act*), section 26 to include persons convicted of serious animal cruelty offences in the list of persons who may not apply to the Civil and Administrative Tribunal for the following—

- (a) an administrative review of a decision to—
 - (i) refuse a working with children check clearance, or
 - (ii) cancel a working with children check clearance, or
 - (iii) impose an interim bar,
- (b) an enabling order.

Schedule 2[2] inserts proposed section 33A into the WWC Act to authorise animal welfare bodies to disclose to the Children’s Guardian if the body has commenced proceedings against a person for an animal cruelty offence and if a person is found guilty of an animal cruelty offence.

Schedule 2[3] makes an amendment to include animal cruelty offences in the list of offences that trigger a risk assessment under the WWC Act, Part 3, Division 3.

Schedule 2[4] makes an amendment to include serious animal cruelty offences under the *Crimes Act 1900*, section 530 in the list of offences that disqualify a person from being granted a working with children check clearance.

Schedule 3 Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157

Guardian ad litem amendments

Schedule 3[3] inserts proposed section 101AA into the *Children and Young Persons (Care and Protection) Act 1998* (the *Care Act*) to make provision for the appointment of a member of the GAL Panel as a guardian ad litem in Children’s Court proceedings under the Act.

Schedule 3[4] makes a consequential amendment.

Schedule 3[10] inserts a regulation-making power to provide for the administrator of the GAL Panel to be specified by regulation.

Schedule 3[11] makes an amendment of a savings nature to validate past appointments of guardians ad litem.

Authorised residential care worker amendments

Schedule 3[6] inserts proposed section 137AA into the Care Act to provide that an authorised residential care worker is a person who is—

- (a) authorised to provide care to a child or young person in statutory out-of-home care or supported out-of-home care only in the course of the person’s professional work or paid employment, or
- (b) a member of a class of persons prescribed by the regulations.

Schedule 3[2], [5] and [7]–[9] make amendments to provide that authorised residential care workers, as defined by proposed section 137AA, do not have the same responsibilities, entitlements or obligations for children and young people in their care as are held by other authorised carers under the Care Act.

Miscellaneous amendments

Schedule 3[1] makes a consequential amendment to the definitions section.

Schedule 4 Amendment of Children (Detention Centres) Act 1987 No 57

Schedule 4[1] makes an amendment to clarify that bail for a juvenile on parole may be granted by any magistrate.

Schedule 4[2], [3], [5] and [6] clarify the powers of the Children's Court on the reconsideration of a parole decision.

Schedule 4[4] make amendments to the *Children (Detention Centres) Act 1987* to ensure that a period of time a young person who is on parole spends in custody as a result of a separate charge or following a revocation of the young person's parole will be counted towards the original sentence.

Schedule 5 Amendment of Children's Guardian Act 2019 No 25

Notifiable conduct amendments

Schedule 5[1]–[4] and [6] make amendments to the *Children's Guardian Act 2019* (the *CG Act*) to clarify that a class or kind of reportable conduct may be exempted from the requirement that it be notified to the Children's Guardian, while remaining reportable conduct that must be investigated and, if substantiated, addressed.

Other amendments

Schedule 5[5] makes an amendment to the *CG Act*, section 33 to clarify that responsibility for ensuring the investigation of reportable conduct does not interfere with a concurrent police investigation rests with the relevant entity undertaking the investigation, whether that is the head of a designated agency or the Children's Guardian, rather than simply with the Children's Guardian.

Schedule 5[7] makes an amendment to the *CG Act*, Schedule 4, clause 1(4) to extend the operation of the savings and transitional provisions and regulations by 6 months from 1 March 2022 to 1 September 2022.

Schedule 6 Amendment of Civil and Administrative Tribunal Act 2013 No 2

Schedule 6[2] inserts proposed section 45(4C) and (4D) into the *Civil and Administrative Tribunal Act 2013* to make provision for the appointment of a member of the GAL Panel, as a guardian ad litem in proceedings before the Tribunal.

Schedule 6[3] makes an amendment of a savings nature to validate past appointments of guardians ad litem.

Schedule 6[1] makes a consequential amendment to the definitions section.

Schedule 7 Amendment of Civil and Administrative Tribunal Regulation 2013

Schedule 7 makes a consequential amendment to the *Civil and Administrative Tribunal Regulation 2013*.