



New South Wales

Childcare and Economic Opportunity Fund Bill 2022

Explanatory note

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

Overview of Bill

The object of this Bill is to improve access to affordable childcare and facilitate the participation of parents and carers in work by the provision of financial assistance particularly in areas where—

- (a) there are childcare supply shortages, or
- (b) there are higher barriers to parents and carers participating in work because of the affordability or accessibility, or both, of childcare.

Outline of provisions

Part 1 Preliminary

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.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 sets out the objective of the proposed Act.

Part 2 Independent market monitoring reports

Clause 5 requires the Minister to commission a person—

- (a) to undertake a review into the childcare sector to monitor the childcare sector market, and
- (b) to prepare a report (a *market monitoring report*) setting out the findings of the review, and

(c) to give the report to the Minister.

The review and market monitoring report must be undertaken and prepared every 2 years or other period prescribed by the regulations.

Clause 6 requires the market monitoring report to include an estimate of the amount required to achieve the objective of the proposed Act and fund the Board for each financial year for at least 2 financial years after the report is given to the Minister.

Clause 7 enables the person commissioned to prepare a market monitoring report to require persons to give information for the purposes of the preparation of the report.

Clause 8 provides for what is to happen with the information given.

Part 3 The Board

Clause 9 establishes the NSW Childcare and Economic Opportunity Fund Board (the **Board**).

Clause 10 makes provision about the appointment of appointed members of the Board.

Clause 11 provides for the Board to arrange for the use of the services of the staff or facilities of a government sector agency. Staff used are *officers of the Board*.

Clause 12 sets out the functions of the Board, which are as follows—

- (a) to develop strategic investment plans for its activities, that include types of programs for which financial assistance will be provided to help achieve the objective of the proposed Act,
- (b) to develop programs of the type set out in the plan,
- (c) to administer the programs, including by approving—
 - (i) the provision of financial assistance, and
 - (ii) the payment of amounts from the NSW Childcare and Economic Opportunity Fund (the **Fund**) for that purpose,
- (d) to provide advice if requested to do so by the Minister or the Treasurer,
- (e) to engage in other activities in relation to the objective of the proposed Act if approved to do so by the Minister,
- (f) other functions prescribed by the regulations.

The Board is subject to the direction and control of the Minister in the exercise of its functions except in relation to approving—

- (a) the provision of financial assistance, and
- (b) the payment of amounts from the Fund for that purpose.

Clause 13 requires the Board to prepare strategic investment plans and to have them approved by the Minister and the Treasurer. The plans must set out the types of programs for which financial assistance will be provided.

Clause 14 requires the Board to develop programs of a type set out in the strategic investment plan and prepare guidelines for each program (the *program guidelines*). The program guidelines must be approved by the Minister. Approved program guidelines must be made publicly available. The Board is required to administer programs in accordance with the approved program guidelines and the strategic investment plan.

Clause 15 requires the Board to produce a report for each financial year reporting on the state of the NSW childcare sector and the performance of the Fund during the year.

Part 4 The Fund

Clause 16 provides for the establishment of the Fund in the Special Deposits Account.

Clause 17 specifies what must be paid into the Fund.

Clause 18 provides for payments out of the Fund, including the provision of financial assistance—

- (a) under a program for which program guidelines have been approved, and
- (b) in accordance with the program guidelines, and
- (c) in accordance with the objective of the proposed Act.

Clause 19 appropriates amounts to the Fund from the Consolidated Fund for the 2024–2026 financial years.

Clause 20 provides for a standing appropriation to the Fund from the Consolidated Fund for the 2027 financial year until the end of the 2032 financial year.

Clause 21 permits the Board to recover amounts provided as financial assistance if the recipient wrongly received the assistance or failed to comply with the conditions to which the provision of the assistance was subject.

Part 5 Miscellaneous

Clause 22 requires persons exercising functions under the proposed Act to take certain matters into consideration.

Clause 23 protects the following persons from civil liability when exercising functions under the proposed Act—

- (a) a member of the Board,
- (b) an officer of the Board,
- (c) a person acting under the direction of a member of the Board or an officer of the Board.

Clause 24 permits the Minister, Board and Chairperson to delegate the exercise of a function to—

- (a) a member of the Board, or
- (b) an officer of the Board, or
- (c) a person authorised by the regulations.

Clause 25 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 26 provides for a review of the proposed Act.

Clause 27 permits the Governor to repeal the proposed Act by proclamation, but not before 30 June 2032.

Schedule 1 Financial assistance

Schedule 1 provides for the maximum amount of financial assistance that may be provided from the Fund in a financial year.

Schedule 2 Savings, transitional and other provisions

Schedule 2 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.