



New South Wales

# Child Protection Legislation Amendment (Children's Guardian) Bill 2013

## Explanatory note

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

## Overview of Bill

The objects of this Bill are as follows:

- (a) to transfer the functions relating to working with children check clearances (a *clearance*) required under the *Child Protection (Working with Children) Act 2012* (the *Working with Children Act*) from the Commission for Children and Young People (the *Commission*) to the Children's Guardian (the *Guardian*),
- (b) to transfer the function of encouraging organisations to develop their capacity to be safe for children from the Commission to the Guardian under the Working with Children Act,
- (c) to provide that the Parliamentary Joint Committee on Children and Young People is to monitor and review the exercise by the Guardian of functions under the Working with Children Act,
- (d) to transfer the functions relating to the employment of children under Chapter 13 of the *Children and Young Persons (Care and Protection) Act 1998* (the *Care and Protection Act*), including the making and revocation of exemptions from the requirement to hold an employer's authority, from the Minister for Family and Community Services (the *Minister*) and the

Director-General of the Department of Family and Community Services to the Guardian,

- (e) to transfer the functions of the development and administration of voluntary accreditation schemes for programs for, and for persons working with, persons who have committed sexual offences against children from the Commission to the Guardian,
- (f) to transfer the function of appearing as a party to Administrative Decisions Tribunal proceedings relating to the exemption of a person from compliance with reporting obligations under the *Child Protection (Offenders Registration) Act 2000* from the Commission to the Guardian,
- (g) to transfer the functions relating to the audit of the accuracy of child-related conduct declarations that are required to accompany the nomination paper of a candidate for election to the Legislative Assembly or the Legislative Council under the *Parliamentary Electorates and Elections Act 1912* from the Commission to the Guardian,
- (h) to provide that the Guardian may audit, or may authorise a person to audit, the accuracy of a statutory declaration outlining information on whether a worker who is exempt from the requirement to hold a clearance has been convicted of certain offences,
- (i) to provide that the Guardian is to establish a register for the purpose of the authorisation of individuals as authorised carers, and to maintain that register, in accordance with the regulations,
- (j) to amend the *Child Protection (Offenders Registration) Act 2000* to adopt the definitions of **employer** and **worker**, as defined in the Working with Children Act, which will extend the reporting requirements under the *Child Protection (Offenders Registration) Act 2000* to volunteering arrangements,
- (k) to make consequential amendments.

## 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 or 15 June 2013, whichever is the later.

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

### **Transfer of functions**

The Working with Children Act requires a person engaged in child-related work to have a working with children check clearance (a **clearance**) and does not permit certain persons to be granted a clearance to engage in child-related work.

**Schedule 1 [4]** transfers the functions provided by that Act from the Commission to the Guardian.

**Schedule 1 [12]** makes it clear that the function of encouraging organisations to develop their capacity to be safe for children is transferred from the Commission to the Guardian and is to be exercised under the Working with Children Act.

**Schedules 1 [1], [3], [8]–[11] and [14], 3.5 [1] and 3.8 [1]** make amendments consequent on the transfer of those functions. **Schedules 1 [2] and 3.2 [6]** insert a definition of *Children's Guardian*.

### **Adults who reside at homes where care is provided**

**Schedule 1 [6] and [7]** correct incorrect references to education and care services in section 10 of the Act, which was intended by Parliament to require adults who reside in private homes where family day care services and other child care services regulated by State legislation are provided to obtain clearances. Currently, the provision incorrectly refers to bodies that manage the provision of such services rather than the individual providers of the services. **Schedule 3.4** makes a consequential amendment.

**Schedule 1 [5]** replaces the requirement for an adult who resides at the home of an approved provider under the *Children (Education and Care Services) National Law (NSW)* to hold a clearance with a requirement for an adult who resides at a home where a home based education and care service or a family day care service is provided to hold such a clearance. The requirement will not apply to an adult who resides at such a home and who is otherwise required to hold a clearance such as a person who is providing the care services at the home.

**Schedule 1 [2]** inserts definitions of *family day care service* and *home based education and care service*.

### **Audit of statutory declarations of volunteers**

**Schedule 1 [15]** inserts proposed section 40A, which provides that the Guardian may audit the accuracy of a statutory declaration made by a worker who is exempted by the regulations from the requirement to hold a clearance. The Guardian may authorise another person to carry out such an audit, if the Guardian is advised, in writing, that the Privacy Commissioner is satisfied that the person is able to adequately provide for the security of any information obtained in the exercise of functions pursuant to the authorisation. The provision applies to a statutory declaration that contains information relating to the offences specified in Schedule 2 to the Act. For the purposes of carrying out such audits, the Commissioner of Police is authorised to disclose information relating to spent convictions and offences. If a person authorised under the proposed section reasonably believes that a statutory declaration is inaccurate, the person must inform the Guardian as soon as practicable and provide any information relevant to that belief to the Guardian. The provision also specifies the persons and bodies to whom the Guardian may disclose information obtained under the section. The Minister may give the Guardian a

written direction on the exercise of functions under the proposed section and the Guardian must comply with the direction.

### **Children at risk reports**

**Schedule 1 [16]** provides that the Guardian may use information obtained in the course of exercising functions under the Working with Children Act for the purposes of making a report to the Director-General of the Department of Family and Community Services under section 24 (Report concerning child or young person at risk of significant harm) or 27 (Mandatory reporting) of the Care and Protection Act. A report referred to in section 29 (Protection of persons who make reports or provide certain information) of that Act may be provided to the Guardian in accordance with a requirement under the Working with Children Act.

## **Schedule 2      Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157**

**Schedule 2 [2]** substitutes the requirement that, as a condition of an authorised carer's authorisation, the carer notify the designated agency if any person (other than the carer) who is of or above the age of 18 years is residing at the carer's home on a regular basis and has been doing so for a period of at least 3 months. Instead, an authorised carer must notify the designated agency, as soon as practicable, if such a person commences to reside at the carer's home and will continue to do so on a regular basis. The requirement to notify the designated agency also applies when a minor residing at the carer's home attains the age of 18 years.

Chapter 10 of the Care and Protection Act provides for the establishment and principal functions of the statutory office of the Guardian. **Schedule 2 [3]** amends section 181 to include the descriptions of the functions transferred from the Commission to the Guardian, being the exercise of functions relating to persons engaged in child-related work, including clearances, and the development and administration of voluntary accreditation schemes for programs for, and for persons working with, persons who have committed sexual offences against children. It also includes a description of the functions transferred from the Minister to the Guardian, which relate to the employment of children, including the making and revocation of exemptions from the requirement to hold an employer's authority. The proposed amendment also provides that the Guardian is to establish a register for the purpose of the authorisation of individuals as authorised carers, and to maintain that register, in accordance with the regulations.

**Schedule 2 [4]** inserts proposed section 183, which enables the Guardian to appoint such advisory committees as the Guardian considers appropriate in the exercise of the Guardian's functions.

**Schedule 2 [5]** inserts proposed sections 186A and 186B, which specify the organisations to which the Guardian may refer information and provide protection

from liability for the Guardian, a member of an advisory committee of the Guardian and any person acting under the direction of the Guardian or such an advisory committee. Under proposed section 186A, the Guardian may refer information relating to a possible criminal offence that is obtained in the course of exercising functions to the Commissioner of Police, the Ombudsman, the Director-General of the Department of Family and Community Services or any other investigative or government agency that the Guardian considers appropriate.

**Schedule 2 [6] and [7]** transfer functions relating to child-related employment from the Minister to the Guardian. Those functions include the granting, refusal and revocation of employers' authorities, which authorise employers to employ persons under the age of 15 years in prescribed employment and persons under the age of 16 years as models, subject to certain conditions. **Schedules 1 [13] and 2 [8], [9], [11] and [12]** make consequential amendments.

**Schedule 2 [10]** reduces the period within which the Guardian must determine an application for an employer's authority from 28 days to 14 days.

## **Schedule 3      Amendment of other Acts**

### **Consequential amendments**

**Schedule 3.1, 3.3, 3.6 and 3.7** make amendments consequent on the repeal of Part 7 of the *Commission for Children and Young People Act 1998*.

### **Child Protection (Offenders Registration) Act 2000**

**Schedule 3.2 [2]** inserts the definitions of *employer* and *worker*, as defined in the Working with Children Act, which will extend the reporting requirements under the *Child Protection (Offenders Registration) Act 2000* to volunteering arrangements. **Schedule 3.2 [1]** makes a consequential amendment.

**Schedule 3.2 [3]–[5]** transfer the function of appearing as a party to Administrative Decisions Tribunal proceedings relating to the exemption of a person from compliance with reporting obligations under the *Child Protection (Offenders Registration) Act 2000* from the Commission to the Guardian.

### **Commission for Children and Young People Act 1998**

**Schedule 3.5 [2]** updates an obsolete reference.

**Schedule 3.5 [3]** provides that the Parliamentary Joint Committee on Children and Young People is to monitor and review the exercise by the Guardian of functions under the Working with Children Act.

**Schedule 3.5 [4]** provides that the Committee may report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the exercise of the Guardian's functions under the Working with Children Act to which, in the opinion of the Committee, the attention of Parliament should be directed.

### **Ombudsman Act 1974**

**Schedule 3.8 [2]** makes it clear that proposed section 25DA of the *Ombudsman Act 1974* (to be inserted by the Working with Children Act) does not limit the information that the Ombudsman may otherwise disclose to the Guardian under that Act, or any other Act or law. Proposed section 25DA provides that the Ombudsman may disclose certain information to the Guardian for the purpose of the exercise of functions under the Working with Children Act.

### **Parliamentary Electorates and Elections Act 1912**

**Schedule 3.9 [2]–[6]** amend the *Parliamentary Electorates and Elections Act 1912* to transfer the functions of the Commission relating to the audit of child-related conduct declarations that are required to accompany the nomination paper of a candidate for election to the Legislative Assembly or the Legislative Council under that Act to the Guardian.

**Schedule 3.9 [1]** omits the definition of *CYP Commission* and inserts a definition of *Children's Guardian*.



New South Wales

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New South Wales

# Child Protection Legislation Amendment (Children's Guardian) Bill 2013

No. , 2013

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## A Bill for

An Act to amend the *Child Protection (Working with Children) Act 2012* to transfer the functions relating to working with children check clearances to the Children's Guardian; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Child Protection Legislation Amendment (Children's Guardian) Act 2013</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act, or 15 June 2013, whichever is the later.	6 7

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<b>Schedule 1</b>	<b>Amendment of Child Protection (Working with Children) Act 2012 No 51</b>	1 2
<b>[1] Section 3 Object of Act</b>		3
	Omit the Note. Insert instead:	4
	<b>Note.</b> For other legislation relating to the safety, welfare and well-being of children, and the related functions of the Children’s Guardian, see the <i>Children and Young Persons (Care and Protection) Act 1998</i> . In particular, see section 181 and Chapter 13 of that Act.	5 6 7 8
<b>[2] Section 5 Definitions</b>		9
	Insert in alphabetical order in section 5 (1):	10
	<i>Children’s Guardian</i> means the Children’s Guardian appointed under section 178 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> .	11 12 13
	<i>family day care service</i> has the same meaning as it has in the <i>Children (Education and Care Services) National Law (NSW)</i> .	14 15
	<i>home based education and care service</i> has the same meaning as it has in the <i>Children (Education and Care Services) Supplementary Provisions Act 2011</i> .	16 17 18
<b>[3] Section 5 (1), definitions of “Commission” and “Commissioner”</b>		19
	Omit the definitions.	20
<b>[4] Sections 7 (4), 8 (1) (b), 9, 10 (1), 11, 13, 15–20, 21 (2) (d), 23–25, 27–31, 32 (1), 33 (1), 35–40, 44 and 52 (2) (a)</b>		21 22
	Omit “Commission” wherever occurring.	23
	Insert instead “Children’s Guardian”.	24
<b>[5] Section 10 Adult persons residing with authorised carers or persons providing home care services</b>		25 26
	Omit “(other than an authorised carer or an approved provider of an education and care service) who resides at the home of an authorised carer or an approved provider of an education and care service where such a service” from section 10 (1).	27 28 29 30
	Insert instead “(other than a person who is required under another provision of this Act to, or is exempt from the requirement to, hold a working with children check clearance) who resides at the home of an authorised carer or at a home where a home based education and care service or family day care service”.	31 32 33 34

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<b>[6] Section 10 (2)</b>	1
Omit "education and care service".	2
Insert instead "home based education and care service or family day care service".	3 4
<b>[7] Section 10 (3)</b>	5
Omit "the home of an authorised carer or an approved provider of an education or care service".	6 7
Insert instead "a home where care or a service referred to in that subsection was provided".	8 9
<b>[8] Section 17 Interim bars</b>	10
Omit "Commissioner" from section 17 (3).	11
Insert instead "Children's Guardian".	12
<b>[9] Sections 20 (1) and 23 (2)</b>	13
Omit "Commission's" wherever occurring.	14
Insert instead "Children's Guardian's".	15
<b>[10] Sections 31 and 37</b>	16
Omit "Commission" from the headings wherever occurring.	17
Insert instead "Children's Guardian".	18
<b>[11] Part 6</b>	19
Omit "Commission" from the heading.	20
Insert instead "Children's Guardian".	21
<b>[12] Section 38 Children's Guardian's public awareness and advice functions</b>	22
Insert ", including encouraging organisations to develop their capacity to be safe for children" after "child-related work".	23 24
<b>[13] Section 38, note</b>	25
Insert at the end of the section:	26
<b>Note.</b> For the Children's Guardian's other child-related employment functions, see Chapter 13 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> .	27 28 29

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<b>[14] Section 39</b>	1
Omit “ <b>Commission’s</b> ” from the heading.	2
Insert instead “ <b>Children’s Guardian’s</b> ”.	3
<b>[15] Section 40A</b>	4
Insert after section 40:	5
<b>40A Power to audit declarations made by exempt workers</b>	6
(1) This section applies to a statutory declaration provided to an employer by an exempt worker that contains information relating to the offences specified in Schedule 2.	7 8 9
(2) The Children’s Guardian may audit the accuracy of the statutory declaration, or may authorise a person to carry out such an audit.	10 11
(3) The Children’s Guardian may authorise a person under this section only if the Privacy Commissioner advises the Children’s Guardian, in writing, that the Privacy Commissioner is satisfied that the person is able to adequately provide for the security of any information obtained in the exercise of functions pursuant to the authorisation.	12 13 14 15 16 17
(4) The Commissioner of Police is authorised to disclose (or arrange for a member of the NSW Police Force to disclose) the following information for the purposes of this section:	18 19 20
(a) information relating to spent convictions, despite anything to the contrary in the <i>Criminal Records Act 1991</i> ,	21 22
(b) information relating to offences, despite anything to the contrary in section 579 of the <i>Crimes Act 1900</i> .	23 24
(5) If a person authorised under this section reasonably believes that a statutory declaration is inaccurate, the person must, as soon as practicable, inform the Children’s Guardian and provide any information relevant to that belief to the Children’s Guardian.	25 26 27 28
(6) The Children’s Guardian may disclose information obtained under this section to the following persons:	29 30
(a) the person who made the statutory declaration,	31
(b) the employer of that person,	32
(c) a police officer of the State or of the Commonwealth or another State or Territory,	33 34
(d) the Ombudsman,	35
(e) any other investigative agency that the Children’s Guardian considers appropriate,	36 37

	(f) the Department of Family and Community Services,	1
	(g) the Director of Public Prosecutions,	2
	(h) a court or tribunal,	3
	(i) an approved interstate screening agency,	4
	(j) the Minister,	5
	(k) the Privacy Commissioner,	6
	(l) any other person approved by the Privacy Commissioner and prescribed in the regulations.	7 8
(7)	The Minister may give the Children's Guardian a written direction on the exercise of functions under this section and the Children's Guardian is to comply with the direction.	9 10 11
(8)	In this section, <i>exempt worker</i> means a worker who is exempted by the regulations from the requirement to hold a clearance.	12 13
<b>[16]</b>	<b>Section 48A</b>	14
	Insert after section 48:	15
<b>48A</b>	<b>Reports under Children and Young Persons (Care and Protection) Act 1998</b>	16 17
(1)	Any information obtained by the Children's Guardian in the course of exercising functions under this Act may be used for the purposes of making a report to the Director-General of the Department of Family and Community Services under section 24 (Report concerning child or young person at risk of significant harm) or 27 (Mandatory reporting) of the <i>Children and Young Persons (Care and Protection) Act 1998</i> .	18 19 20 21 22 23 24
(2)	A report referred to in section 29 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> may be provided to the Children's Guardian for the purpose of the exercise of the Children's Guardian's functions under this Act. Any such report may not be subsequently dealt with by the Children's Guardian in a manner that contravenes that section, except to the extent that it is necessary for the Children's Guardian to do so in the exercise of functions under this Act.	25 26 27 28 29 30 31 32

<b>Schedule 2</b>	<b>Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157</b>	1
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		3
<b>[1] Section 3 Definitions</b>		4
	Omit "Minister" from the definition of <i>employer's authority</i> .	5
	Insert instead "Children's Guardian".	6
<b>[2] Section 137 Authorised carers</b>		7
	Omit section 137 (3) and (4). Insert instead:	8
	(3) In the case of an authorised carer who is authorised by a designated agency, it is a condition of the authorisation that the carer must, as soon as practicable, notify the designated agency if any person (other than the carer) who is of or above the age of 18 years commences to reside at the carer's home and will continue to do so on a regular basis.	9
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	<b>Note.</b> See section 10 of the <i>Child Protection (Working with Children) Act 2012</i> which requires that an adult person residing at the home of an authorised carer hold a working with children check clearance.	15
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	(4) Without limiting subsection (3), the requirement to notify the designated agency also applies when a minor residing at the carer's home attains the age of 18 years.	18
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		20
<b>[3] Section 181 Principal functions of Children's Guardian</b>		21
	Omit section 181 (1). Insert instead:	22
	(1) The principal functions of the Children's Guardian are as follows:	23
		24
	(a) to exercise functions relating to persons engaged in child-related work, including working with children check clearances, under the <i>Child Protection (Working with Children) Act 2012</i> ,	25
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		27
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	(b) to promote the best interests of all children and young persons in out-of-home care,	29
		30
	(c) to ensure that the rights of all children and young persons in out-of-home care are safeguarded and promoted,	31
		32
	(d) to establish a register for the purpose of the authorisation of individuals as authorised carers, and to maintain that register, in accordance with the regulations,	33
		34
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	(e) to accredit designated agencies and to monitor their responsibilities under this Act and the regulations,	36
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(f)	to register organisations that provide or arrange voluntary out-of-home care and to monitor their responsibilities under this Act and the regulations,	1 2 3
(g)	to exercise functions relating to the employment of children, including the making and revocation of exemptions from the requirement to hold an employer's authority,	4 5 6 7
(h)	to develop and administer a voluntary accreditation scheme for persons working with persons who have committed sexual offences against children,	8 9 10
(i)	to develop and administer a voluntary accreditation scheme for programs for persons who have committed sexual offences against children.	11 12 13
<b>[4]</b>	<b>Section 183</b>	14
	Insert after section 182:	15
	<b>183 Appointment of advisory committees</b>	16
(1)	The Children's Guardian may appoint such advisory committees as the Children's Guardian considers appropriate to assist the Children's Guardian in the exercise of the Children's Guardian's functions. The Children's Guardian may disband any such advisory committee at any time.	17 18 19 20 21
(2)	The procedure of such an advisory committee is to be determined by the Children's Guardian or (subject to any determination of the Children's Guardian) by the committee.	22 23 24
(3)	A member of such an advisory committee is entitled to such allowances in connection with the work of the committee as the Minister approves in respect of the member.	25 26 27
<b>[5]</b>	<b>Sections 186A and 186B</b>	28
	Insert after section 186:	29
	<b>186A Referral of matters to police and other investigative agencies</b>	30
(1)	This section applies to any information obtained by the Children's Guardian in the course of exercising any functions (other than information obtained in the course of exercising functions under section 40A of the <i>Child Protection (Working with Children) Act 2012</i> ), being information relating to a possible criminal offence under any law or to grounds for possible disciplinary action under any law.	31 32 33 34 35 36 37



(2)	The Children's Guardian may refer any such information to the Commissioner of Police, the Ombudsman, the Director-General of the Department of Family and Community Services or any other investigative or government agency that the Children's Guardian considers appropriate.	1 2 3 4 5
(3)	Nothing in this section limits or affects the operation of Chapter 16A.	6 7
<b>186B</b>	<b>Protection from liability</b>	8
	A matter or thing done or omitted to be done by the Children's Guardian, an advisory committee of the Children's Guardian, a member of any such advisory committee or any person acting under the direction of the Children's Guardian or the advisory committee does not, if the matter or thing was done or omitted in good faith for the purposes of executing this or any other Act, subject the Children's Guardian, member of the advisory committee or a person so acting personally to any action, liability, claim or demand.	9 10 11 12 13 14 15 16 17
<b>[6]</b>	<b>Sections 221 (2) (b), 224 (other than section 224 (5) (a)) and 245 (1) (d)–(f)</b>	18
	Omit "Minister" wherever occurring. Insert instead "Children's Guardian".	19
<b>[7]</b>	<b>Section 236 Entry without warrant into premises—places of employment</b>	20
	Omit "Director-General" from section 236 (1). Insert instead "Children's Guardian".	21 22
<b>[8]</b>	<b>Section 245 Decisions that are reviewable by Administrative Decisions Tribunal</b>	23 24
	Insert ", the Children's Guardian" after "the Minister" in section 245 (1) (g).	25
<b>[9]</b>	<b>Schedule 2 Provisions relating to employers' authorities</b>	26
	Omit "Minister" wherever occurring in clauses 1 (1), 2 (b), 5 (b), 6 (1) and 7. Insert instead "Children's Guardian".	27 28
<b>[10]</b>	<b>Schedule 2, clause 2 Grant or refusal of authority</b>	29
	Insert at the end of the clause:	30
(2)	When a person applies to the Children's Guardian for an employer's authority, the Children's Guardian must within 14 days:	31 32 33
(a)	grant the authority to the applicant, or	34

Child Protection Legislation Amendment (Children's Guardian) Bill 2013

Schedule 2      Amendment of Children and Young Persons (Care and Protection) Act 1998  
No 157

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	(b) refuse the authority and cause to be served on the applicant a notice stating the ground on which the authority has been refused.	1 2 3
	(3) The period of 14 days referred to in this clause may be varied or waived by agreement between the Children's Guardian and the applicant.	4 5 6
<b>[11]</b>	<b>Schedule 2, clause 3</b> Omit the clause.	7 8
<b>[12]</b>	<b>Schedule 2, clause 7 (3)</b> Omit "Minister's". Insert instead "Children's Guardian's".	9 10

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<b>Schedule 3</b>	<b>Amendment of other Acts</b>	1
<b>3.1</b>	<b>Administrative Decisions Tribunal Act 1997 No 76</b>	2
	<b>Schedule 2 Composition and functions of Divisions</b>	3
	Omit “ <i>Commission for Children and Young People Act 1998</i> ” from clause 2 of Part 1.	4 5
	Insert in alphabetical order “ <i>Child Protection (Working with Children) Act 2012</i> ”.	6 7
<b>3.2</b>	<b>Child Protection (Offenders Registration) Act 2000 No 42</b>	8
<b>[1]</b>	<b>Section 9 Relevant personal information to be reported</b>	9
	Omit section 9 (1) (f). Insert instead:	10
	(f) if the person is a worker:	11
	(i) the nature of the person’s work, and	12
	(ii) the name of the person’s employer (if any), and	13
	(iii) the address of each of the premises at which the person generally works or, if the person does not generally work at any particular premises, the name of each of the localities in which the person generally works,	14 15 16 17 18
<b>[2]</b>	<b>Section 9 (3)</b>	19
	Omit the subsection. Insert instead:	20
	(3) In this section, <i>employer</i> and <i>worker</i> have the same meanings as they have in the <i>Child Protection (Working with Children) Act 2012</i> .	21 22 23
<b>[3]</b>	<b>Section 16 ADT may exempt persons from compliance with reporting obligations</b>	24 25
	Omit “The Commission for Children and Young People” from section 16 (6). Insert instead “The Children’s Guardian”.	26 27
<b>[4]</b>	<b>Section 16 (6)</b>	28
	Omit “The Commission”. Insert instead “The Children’s Guardian”.	29

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<b>[5] Section 16 (7)</b>	1
Omit “the Commissioner for the Commission for Children and Young People”.	2
	3
Insert instead “the Children’s Guardian”.	4
<b>[6] Section 16 (12)</b>	5
Insert after section 16 (11):	6
(12) In this section, <i>Children’s Guardian</i> means the Children’s Guardian appointed under section 178 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> .	7
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	9
<b>3.3 Children (Education and Care Services National Law Application) Act 2010 No 104</b>	10
	11
<b>Section 15 Working with children law</b>	12
Omit “the <i>Commission for Children and Young People Act 1998</i> ”.	13
Insert instead “the <i>Child Protection (Working with Children) Act 2012</i> ”.	14
<b>3.4 Children (Education and Care Services) Supplementary Provisions Act 2011 No 70</b>	15
	16
<b>Section 34 Home based education and care services—adult residents</b>	17
Omit the Note to section 34 (1). Insert instead:	18
<b>Note.</b> See section 10 of the <i>Child Protection (Working with Children) Act 2012</i> which requires that an adult person residing at a home where a home based education and care service is provided hold a working with children check clearance.	19
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<b>3.5 Commission for Children and Young People Act 1998 No 146</b>	23
<b>[1] Section 11 Principal functions of Commission</b>	24
Omit section 11 (i), (j), (l) and (m).	25
<b>[2] Section 15 Referral of matters to police and other investigative agencies</b>	26
Omit “Department of Human Services” from section 15 (2).	27
Insert instead “Department of Family and Community Services”.	28

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<b>[3] Section 28 Functions of Committee</b>	1
Insert after section 28 (1) (a):	2
(a1) to monitor and review the exercise by the Children's Guardian of functions under the <i>Child Protection (Working with Children) Act 2012</i> ,	3
	4
	5
<b>[4] Section 28 (1) (b)</b>	6
Insert “, or on any matter appertaining to the exercise of the Children's Guardian's functions under the <i>Child Protection (Working with Children) Act 2012</i> ,” after “functions”.	7
	8
	9
<b>3.6 Crimes (Sentencing Procedure) Act 1999 No 92</b>	10
<b>Section 24A Mandatory requirements for supervision and other prohibitions to be disregarded in sentencing</b>	11
	12
Omit section 24A (1) (c). Insert instead:	13
(c) as a consequence of being convicted of the offence, has become a disqualified person within the meaning of the <i>Child Protection (Working with Children) Act 2012</i> , or	14
	15
	16
<b>3.7 Criminal Records Act 1991 No 8</b>	17
<b>Section 13 Unlawful disclosure of information concerning spent convictions</b>	18
	19
Omit “section 38 or 38A of the <i>Commission for Children and Young People Act 1998</i> ” from section 13 (4A).	20
	21
Insert instead “section 33, 34 or 40A of the <i>Child Protection (Working with Children) Act 2012</i> ”.	22
	23
<b>3.8 Ombudsman Act 1974 No 68</b>	24
<b>[1] Section 25DA Disclosures to Children's Guardian</b>	25
Omit “Commission for Children and Young People”.	26
Insert instead “Children's Guardian for the purpose of the exercise of functions under the <i>Child Protection (Working with Children) Act 2012</i> ”.	27
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<b>[2] Section 25DA (2)</b>	1
Insert at the end of the section:	2
(2) Nothing in this section limits the information that the Ombudsman may otherwise disclose to the Children's Guardian under this or any other Act or law.	3 4 5
<b>3.9 Parliamentary Electorates and Elections Act 1912 No 41</b>	6
<b>[1] Section 81K Definitions</b>	7
Omit the definition of <i>CYP Commission</i> from section 81K (1).	8
Insert in alphabetical order:	9
<i>Children's Guardian</i> means the Children's Guardian appointed under section 178 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> .	10 11 12
<b>[2] Section 81M Duties of Electoral Commissioner with respect to child-related conduct declarations</b>	13 14
Omit "Commission for Children and Young People (the <i>CYP Commission</i> )" from section 81M (2).	15 16
Insert instead "Children's Guardian".	17
<b>[3] Section 81N Duties of Children's Guardian with respect to child-related conduct declarations</b>	18 19
Omit "CYP Commission" wherever occurring.	20
Insert instead "Children's Guardian".	21
<b>[4] Section 81N (2) (b), (3) and (5)</b>	22
Omit "the Commission" wherever occurring.	23
Insert instead "the Children's Guardian".	24
<b>[5] Section 81NA Duty of persons to assist the Children's Guardian</b>	25
Omit "CYP Commission" wherever occurring in section 81NA (1) and (3).	26
Insert instead "Children's Guardian".	27

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<b>[6] Section 81P Reports presented to Presiding Officer of House of Parliament</b>	1
	2
Omit "CYP Commission" from section 81P (1).	3
Insert instead "Children's Guardian".	4