



New South Wales

Stronger Communities Legislation Amendment (Miscellaneous) Act 2020 No 31

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New South Wales

Stronger Communities Legislation Amendment (Miscellaneous) Act 2020 No 31

Act No 31, 2020

An Act to amend various Acts and a Regulation relating to the Communities and Justice portfolio;
and for other purposes. [Assented to 27 October 2020]

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Stronger Communities Legislation Amendment (Miscellaneous) Act 2020*.

2 Commencement

- (1) This Act commences on the date of assent to this Act except as provided for in subsections (2)–(4).
- (2) Schedule 1.8[8] commences on 1 March 2021.
- (3) Schedule 1.8[9]–[13] commence on a day or days to be appointed by proclamation.
- (4) Schedule 2.2[1] commences on the expiry of Schedule 4, clause 2 to the *Children’s Guardian Act 2019*.

3 Explanatory notes

The matter appearing under the heading “Explanatory note” in Schedules 1 and 2 does not form part of this Act.

Schedule 1 Amendments relating to criminal and sentencing procedures

1.1 Bail Act 2013 No 26

[1] Section 4 Definitions

Omit “or the Children’s Court” from paragraph (a) of the definition of *authorised justice* in section 4(1).

[2] Section 4(1), definition of “authorised justice”

Insert after paragraph (a)—

- (a1) a Children’s Registrar, or other Registrar of the Children’s Court, under the *Children’s Court Act 1987*, or

[3] Section 40 Stay of release decision if detention sought

Omit section 40(1). Insert instead—

- (1) A decision of a court or authorised justice to grant bail or dispense with bail for a serious offence is stayed if—
 - (a) a bail decision for the offence, other than a bail decision under section 54, has not previously been made by a court or authorised justice, and
 - (b) a police officer or Australian legal practitioner appearing on behalf of the Crown immediately—
 - (i) informs the court or authorised justice that a detention application is to be made to the Supreme Court, and
 - (ii) provides the court or authorised justice with a copy of the written approval of an authorised officer or the Director of Public Prosecutions to make a detention application to the Supreme Court if bail is granted or dispensed with.

Explanatory note

Item [2] of the proposed amendments provides that Children’s Registrars, and other Registrars of the Children’s Court, may exercise the functions of an authorised justice under the *Bail Act 2013*. Item [1] makes a consequential amendment.

Item [3] removes from the *Bail Act 2013* a limitation on the stay of a decision to grant bail or dispense with bail. At present, a stay of the decision can only occur on the first appearance by an accused person before a court or authorised justice. Instead, the stay will operate if a bail decision for the offence, other than a decision made by a court or authorised justice of its own motion to refuse bail or affirm a decision to refuse bail, has not previously been made.

1.2 Bail Regulation 2014

Clause 3 Definitions

Omit paragraph (f) from the definition of *registrar of a court* in clause 3(1).

Insert instead—

- (f) a Children’s Registrar, or other Registrar of the Children’s Court, under the *Children’s Court Act 1987*.

Explanatory note

The proposed amendment is consequential on a proposed amendment to the *Bail Act 2013* made by this Schedule.

1.3 Children (Criminal Proceedings) Act 1987 No 55

[1] Section 33C Application of Crimes (Sentencing Procedure) Act 1999 to children

Insert “and section 27(4A) of the *Crimes (Sentencing Procedure) Act 1999*” after “Subject to this Act” in section 33C(1).

[2] Section 33C(2)

Omit the subsection.

Explanatory note

The proposed amendments are consequential on an amendment to the *Crimes (Sentencing Procedure) Act 1999* made by this Schedule.

1.4 Crimes Act 1900 No 40

Section 91S Court may order rectification

Insert after section 91S(1)—

- (1A) A court that finds a person guilty of an offence against section 91R may order the person to take reasonable actions to remove, retract, recover, delete or destroy any intimate image threatened to be distributed by the person in contravention of the section within a period specified by the court.

Explanatory note

The proposed amendment enables a court to order the removal, retraction, recovery, deletion or destruction of an intimate image threatened to be distributed by a person in contravention of section 91R of the *Crimes Act 1900*. Contravention of the order will be punishable by 50 penalty units or imprisonment for 2 years, or both.

1.5 Crimes (Administration of Sentences) Act 1999 No 93

Section 40 Certain unlawful absences not to affect length of sentence

Insert at the end of section 40(1)(c)—

, and

- (d) otherwise than by reason of having failed to enter a correctional centre in accordance with a warrant or order committing the inmate to a correctional centre,

Explanatory note

The proposed amendment clarifies that, if an inmate is unlawfully absent from a correctional centre because the inmate has failed to enter the correctional centre as required under a warrant or order, the inmate’s term of imprisonment is extended by the period of the unlawful absence.

1.6 Crimes (Sentencing Procedure) Act 1999 No 92

[1] Section 25 Local Court not to impose certain penalties if offender is absent

Insert after section 25(2)—

- (2A) In deciding whether to issue, or authorise an authorised officer to issue, a warrant for the arrest of an absent offender who has lodged a written plea in accordance with section 182 of the *Criminal Procedure Act 1986* for the offence concerned, the Local Court must consider whether it is more appropriate to adjourn proceedings.

[2] Section 25(4), definition of “absent offender”

Insert “, including a person who does not attend court because the person has lodged a written plea in accordance with section 182 of the *Criminal Procedure Act 1986* in respect of the offence concerned” after “absence”.

[3] Section 25B Definitions

Omit paragraph (a)(ii) of the definition of *negotiations document*. Insert instead—

- (ii) any other document that records an offer made by the offender to plead guilty to an offence specified in the document, served on the prosecutor in proceedings for the offence—
 - (A) following committal for trial or sentence, or
 - (B) after an indictment containing a new count offence is filed, or

[4] Section 25D Sentencing discounts for guilty plea for offences dealt with on indictment

Insert after section 25D(3)(a)—

- (a1) a reduction of 25% in any sentence that would otherwise have been imposed, if—
 - (i) the offender was discharged under section 68(2)(a) of the *Criminal Procedure Act 1986*, and
 - (ii) an offer to plead guilty was made by the offender and recorded in a negotiations document as soon as practicable after the ex officio indictment was filed or the indictment was amended to include the new count,

[5] Section 25D(3)(b)

Insert “or (a1)” after “(a)”.

[6] Section 25D(3)(c)

Insert “, (a1)” after “(a)”.

[7] Section 27 Application of Division

Omit “or the Local Court” from section 27(1).

Insert instead “, the Local Court or the Children’s Court”.

[8] Section 27(4A)

Insert after section 27(4)—

- (4A) In relation to an offence that is being dealt with by the Children’s Court, this Division applies only if—
 - (a) the offence is an offence against section 91H, 91J, 91K, 91L, 91P, 91Q or 91R of the *Crimes Act 1900*, or
 - (b) the offence is not an offence referred to in Table 2 of Schedule 1 to the *Criminal Procedure Act 1986* and the offence is—
 - (i) an offence that results in the death of, or actual physical bodily harm to, any person, or
 - (ii) an offence that involves an act of actual or threatened violence, or
 - (iii) an offence for which a higher maximum penalty may be imposed if the offence results in the death of, or actual physical bodily

- harm to, any person than may be imposed if the offence does not have that result, or
- (iv) a prescribed sexual offence.

[9] Section 27(6)

Omit “(1)–(4)”. Insert instead “(1)–(4A)”.

Explanatory note

Item [1] of the proposed amendments provides that the Local Court, in deciding whether, for the purposes of conviction and sentencing, to issue, or authorise the issue of, a warrant for the arrest of an absent offender who has lodged a written plea of that kind, must consider whether it is more appropriate to adjourn proceedings.

Item [2] provides that the Local Court must not make certain orders with respect to an offender who has lodged a written plea under section 182 of the *Criminal Procedure Act 1986* if the offender is absent from the proceedings regarding the offence.

Item [4] addresses a concern that the sentence discount scheme currently applying under the Early Appropriate Guilty Plea scheme may not apply in circumstances where charges against an offender have been discharged at the committal hearing due to the prosecutor not filing a charge certificate as required by the *Criminal Procedure Act 1986*.

Item [8] provides that a victim impact statement may be tendered in, and considered by, the Children’s Court in relation to certain specified offences.

Items [3], [5], [6], [7] and [9] make consequential amendments.

1.7 Criminal Appeal Act 1912 No 16

[1] Section 3 Constitution of court

Omit “such three or more judges of the Supreme Court as the Chief Justice may direct” from section 3(1).

Insert instead “3 or more Judges of the Supreme Court or in any other way provided by this Act”.

[2] Section 3(1AA)

Insert after section 3(1)—

- (1AA) The Chief Justice is to make arrangements, subject to other provisions of this Act, for the transaction of the business of the court, including the constitution of the court for particular proceedings.

[3] Section 3(1A)

Omit “subsection (1)” and “also direct”.

Insert instead “subsection (1AA)” and “direct”, respectively.

[4] Section 22 Powers of a judge sitting alone

Omit “judge of the court” from section 22(1).

Insert instead “Judge of the Supreme Court designated by the Chief Justice”.

[5] Section 22(1)(l)

Insert after section 22(1)(k)—

- (l) any other powers of the court in respect of procedural or interlocutory matters as may be prescribed by the rules of court.

[6] Section 22(2)

Omit “judge”. Insert instead “Judge”.

[7] Section 28 Rules of court

Omit section 28(2)(c). Insert instead—

- (c) The powers and duties of the registrar and other officers of the court, including the powers of the court that may be exercised by them,
- (c1) The review by the court of decisions of the registrar or other officers of the court, including decisions in exercise of any powers of the court conferred on them,

Explanatory note

Item [2] of the proposed amendments allows the Chief Justice of the Supreme Court to make arrangements for the transaction of the business of the Court of Criminal Appeal. This includes constituting the Court without the need to give formal directions, as is currently the case. Comparable powers are given by section 39 of the *Supreme Court Act 1970* for the transaction of the business of the Court of Appeal. Items [1] and [3] make consequential amendments.

Item [4] allows the Chief Justice to designate a single Judge of the Supreme Court to exercise certain procedural or interlocutory powers of the Court of Criminal Appeal conferred on single Judges by section 22 of the *Criminal Appeal Act 1912* without having to constitute the Court for that purpose and then designate a single Judge. Item [5] allows a designated Judge to exercise any additional procedural or interlocutory powers prescribed by the rules of the Court. Item [6] makes a consequential amendment.

Item [7] confirms that the rules of the Court of Criminal Appeal may confer powers of the Court on the Registrar or other officers of the Court and provide for the review of their decisions by the Court. Section 124(10C) of the *Supreme Court Act 1970* gives a comparable power for the Supreme Court.

1.8 Criminal Procedure Act 1986 No 209

[1] Section 3 Definitions

Insert in alphabetical order in section 3(1)—

- coincidence evidence* has the same meaning as it has in the *Evidence Act 1995*.
- tendency evidence* has the same meaning as it has in the *Evidence Act 1995*.

[2] Section 3(1), definition of “prescribed sexual offence”

Insert “91P, 91Q, 91R,” after “91G,” in paragraph (a).

[3] Section 29A

Insert after section 29—

29A Tendency or coincidence—offences to be heard together

- (1) A court must hear and determine together proceedings for 2 or more offences if—
 - (a) the offences are alleged to have been committed by the same person, and
 - (b) the offences are—
 - (i) charged in the same indictment, or
 - (ii) listed for hearing on the same day and at the same place, and
 - (c) the prosecution has given notice that it intends to rely on tendency evidence or coincidence evidence that relates to more than 1 of the offences.
- (2) This section is subject to section 21(2).

[4] Section 140 Pre-trial conferences

Omit section 140(4). Insert instead—

- (4) The purposes of the pre-trial conference are as follows—
- (a) to determine whether the accused person and the prosecutor are able to reach agreement regarding the evidence to be admitted at the trial,
 - (b) to identify the key issues in dispute between the accused person and the prosecutor at the trial, if any,
 - (c) to identify any other issues relating to the proceedings against the accused person that require resolution prior to the commencement of the trial,
 - (d) to identify or determine any other matter as directed by the court.

[5] Section 149 Requirements as to notices

Omit “as soon as practicable after giving it, or as otherwise required by the court” from section 149(5).

Insert instead “in accordance with a timetable determined by the court”.

[6] Section 149(6) and (7)

Omit section 149(6). Insert instead—

- (6) The court may vary the timetable if the court considers it would be in the interests of the administration of justice to do so.
- (7) In this section—
notice includes an amended notice.

[7] Section 150 Notice of alibi

Omit “42 days” from the definition of *prescribed period* in section 150(8).

Insert instead “56 days”.

[8] Section 161A

Insert after section 161—

161A Direction not to be given regarding tendency or coincidence evidence

- (1) A jury must not be directed that evidence needs to be proved beyond reasonable doubt to the extent that it is adduced as tendency evidence or coincidence evidence.
- (2) If evidence is adduced as both tendency evidence or coincidence evidence and as proof of an element or essential fact of a charge before the jury, the jury may be directed that the evidence needs to be proved beyond reasonable doubt, but only to the extent that it is adduced as proof of the element or essential fact.
- (3) Subsection (1) does not apply if a court is satisfied—
 - (a) there is a significant possibility that a jury will rely on an act or omission as being essential to its reasoning in reaching a finding of guilt, and
 - (b) evidence of the act or omission has been adduced as tendency evidence or coincidence evidence.

[9] Section 247A

Omit the section. Insert instead—

247A Application

This Division applies to proceedings before—

- (a) the Supreme Court in its summary jurisdiction, or
- (b) the Land and Environment Court in its summary jurisdiction, or
- (c) the District Court in matters brought under section 229B(1)(b) of the *Work Health and Safety Act 2011*.

[10] Section 247B Purpose

Omit “before the court in its summary jurisdiction” from section 247B(1).

[11] Section 247C Definitions

Omit the definition of *court* from section 247C(1). Insert instead—

court means—

- (a) the Supreme Court, or
- (b) the Land and Environment Court, or
- (c) the District Court.

[12] Section 247E Notice of prosecution case to be given to defendant

Insert after section 247E(2)—

- (2A) If the proceedings are for an offence under the *Work Health and Safety Act 2011*, the prosecutor complies with subsection (1)(c) of this Act by giving the defendant—
 - (a) if the statement of a witness is in the form of information given under section 155(2)(a) of that Act—a copy of the notice issued under that section and the information, or
 - (b) if the statement of a witness is in the form of—
 - (i) a written record of evidence given under section 155(2)(c) or questions and answers under section 171(1)(c) of that Act—a copy of that written record, or
 - (ii) an electronic recording of evidence given under section 155(2)(c) or questions and answers under section 171(1)(c) of that Act—a copy of the transcript of the recording, or
 - (c) if the statement of a witness is in the form of questions and answers recorded under section 185A of that Act—a copy of the transcript of the recording.

Note. If the same witness statement exists as both a written record of evidence, as set out in paragraph (b)(i), and an electronic recording of evidence, as set out in paragraph (b)(ii), it is intended that the prosecutor will comply with this section by providing either a copy of the written record under paragraph (b)(i) or a copy of the electronic recording under paragraph (b)(ii).

[13] Section 247E(3)(c)

Insert after section 247E(3)(b)—

- (c) an inspector under the *Work Health and Safety Act 2011*.

[14] Schedule 2 Savings, transitional and other provisions

Insert after clause 89(5)—

- (5A) Subclause (5) does not prevent a person from being appointed as a children’s champion for a witness merely because the person carries out the functions of a children’s champion for the witness during a criminal investigation that takes place before or after the commencement of proceedings to which this Part applies.

[15] Schedule 2

Insert at the end of the Schedule, with appropriate Part and clause numbering—

Part Provisions consequent on enactment of Stronger Communities Legislation Amendment (Miscellaneous) Act 2020

Tendency or coincidence—offences to be heard together

Section 29A does not apply to proceedings, the hearing of which began before the commencement of that section.

Prescribed period—notice of alibi

Section 150, as in force immediately before its amendment by the *Stronger Communities Legislation Amendment (Miscellaneous) Act 2020*, continues to apply to a trial on indictment if on the commencement of the amendment there are 42 days, but not more than 70 days, before the trial is listed for hearing.

Explanatory note

Item [2] of the proposed amendments provides that offences under the *Crimes Act 1900* relating to recording or distributing, or threatening to record or distribute, intimate images without consent are prescribed sexual offences.

Item [3] requires proceedings for offences alleged to have been committed by the same person to be heard together if they are charged in the same indictment or listed together and the prosecution intends to lead tendency evidence or coincidence evidence that relates to the offences. Item [8] prevents a jury being directed that evidence adduced as tendency evidence or coincidence evidence must be proved beyond reasonable doubt except in limited circumstances. Item [1] makes a consequential amendment.

Item [4] provides that a pre-trial conference has certain purposes in addition to determining whether an accused person and a prosecutor are able to reach agreement regarding the evidence to be admitted at trial.

Item [5] updates the time within which a mandatory pre-trial disclosure notice given by the prosecution and defence must be filed with the court, providing that the notice is to be filed in accordance with a timetable determined by the court. Item [6] makes consequential amendments.

Item [7] shortens the period in which an accused person must give notice of particulars of an alibi to the Director of Public Prosecutions and file a copy of the notice with the court before being able to adduce evidence in support of the alibi without leave of the court. The shortened period commences at the time of the accused person's committal for trial and ends 56 days before the trial is listed for hearing.

Items [9]–[11] provide for the District Court to case manage prosecutions brought under the *Work Health and Safety Act 2011*, while item [12] ensures that effective case management of those matters is not frustrated by the specific ways that evidence is gathered under that Act. Item [13] makes a consequential amendment.

Item [14] deals with an amendment relating to children's champions. Children's champions are appointed to assist child complainants and child prosecution witnesses in proceedings under the child sexual offence evidence pilot scheme. The proposed amendment provides that a person who carries out the functions of a children's champion for a witness during a criminal investigation into a child sexual offence that takes place before or after the commencement of proceedings for the offence is not prevented from being appointed as a children's champion for the witness.

Item [15] provides for certain transitional provisions consequent on enactment of the proposed Act relating to this subschedule.

1.9 Evidence (Audio and Audio Visual Links) Act 1998 No 5

Section 22C COVID-19 pandemic—special provisions

Insert after section 22C(7)—

- (7A) To avoid doubt, the appearance of an accused person in any proceedings under this section may take place by way of audio visual link from a place within or

outside New South Wales, including a place outside Australia, if the court directs or the parties to the proceedings consent.

Explanatory note

The proposed amendment clarifies the intent of the COVID-19 pandemic special provisions in relation to the appearance of accused persons in certain proceedings. It provides that the appearance may take place by way of audio visual link from a place within or outside of New South Wales if the court directs or the parties to the proceedings consent.

1.10 Supreme Court Act 1970 No 52

[1] Section 69A Releases on bail and custody of claimants seeking judicial review of conviction or sentence

Omit section 69A(5).

[2] Section 69D, heading

Omit “or order with effect from an earlier day”. Insert instead “, order or sentence”.

[3] Section 69D(1)

Omit “being the day the order is made or an earlier day”.

Insert instead “including a day specified by reference to a future event”.

Explanatory note

Item [1] of the proposed amendments removes the overlap between sections 69A(5) and 69D(1) of the *Supreme Court Act 1970* in enabling the Supreme Court of NSW to order that the imprisonment under an original sentence of imprisonment is to commence or recommence on a day specified by the Court when determining judicial review applications.

Item [3] enables the Court to order that a conviction, order or sentence is to commence or recommence on a day specified by the Court, including a day specified by reference to a future event. Currently, the Court may only make these orders with effect from the day the order is made or from an earlier day. Item [2] makes a consequential amendment.

Schedule 2 Miscellaneous amendments

2.1 Children and Young Persons (Care and Protection) Act 1998 No 157

[1] Section 79E

Insert after section 79D—

79E Entry to premises of prospective guardians

- (1) For the purposes of assessing a prospective guardian's suitability to be a guardian, a supervising person may, with the consent of the prospective guardian—
 - (a) enter and inspect the residential premises of the prospective guardian where a child or young person is intended to reside, and
 - (b) inspect a document or thing on the premises, and
 - (c) interview the prospective guardian, and
 - (d) interview any other person on the premises.
- (2) An assessment of a prospective guardian's suitability extends to the assessment of persons residing on the same property as the prospective guardian for 3 weeks or more.
- (3) In this section—

reside on a property has the same meaning as in the *Child Protection (Working with Children) Act 2012*.

supervising person means—

 - (a) the Secretary, or
 - (b) if the prospective guardian is an authorised carer—an officer or employee of the designated agency that—
 - (i) authorised the prospective guardian as an authorised carer, or
 - (ii) has supervisory responsibility for a child or young person in the care of the authorised carer.

[2] Section 134A

Insert after section 134—

134A Definition

In this Part—

reside on a property has the same meaning as in the *Child Protection (Working with Children) Act 2012*.

[3] Section 137 Authorised carers

Omit section 137(4).

[4] Sections 137A and 137B

Insert after section 137—

137A Entry to premises of applicants for authorisation

- (1) This section applies to the residential premises of an applicant for authorisation as an authorised carer by a designated agency if the premises are the place where a child or young person who will be in the care of the applicant is intended to reside.

- (2) For the purposes of authorisation of the applicant, a supervising person may, with the consent of the applicant—
 - (a) enter and inspect the residential premises, and
 - (b) inspect a document or thing on the premises, and
 - (c) interview the applicant, and
 - (d) interview any other person on the premises.
- (3) An assessment of an applicant's suitability extends to the assessment of persons residing on the same property as the applicant for 3 weeks or more.
- (4) In this section—

supervising person means—

 - (a) the Secretary, or
 - (b) an officer or employee of the designated agency that is responsible for authorising the applicant as an authorised carer.

137B Entry to premises of authorised carers

- (1) This section applies to the residential premises of an authorised carer if the premises are the place where a child or young person in the care of the authorised carer resides or is intended to reside.
- (2) It is a condition of an authorised carer's authorisation that a supervising person may, at a reasonable hour and on reasonable notice, enter and inspect the premises under Chapter 15, Part 3 for the purposes of—
 - (a) assessing the suitability of the authorised carer, or
 - (b) supervising the placement of a child or young person in the care of the authorised carer.
- (3) The powers of entry and inspection extend to the assessment of persons residing on the same property as the authorised carer for 3 weeks or more.
- (4) In this section—

supervising person means—

 - (a) the Secretary, or
 - (b) an officer or employee of the designated agency that has supervisory responsibility for a child or young person in the care of an authorised carer.

Note. See the definition of ***authorised carer*** in section 137(1). An authorised carer includes an individual provisionally authorised as an authorised carer by a designated agency.

[5] Section 238 Application of Part

Insert at the end of the section—

- (2) Despite subsection (1), this Part does not apply to entry or inspection of residential premises under section 79E or 137A.

Explanatory note

Item [1] of the proposed amendments provides that the Secretary or, if a prospective guardian is an authorised carer, an officer or employee of certain designated agencies, may, with the consent of the prospective guardian, enter and inspect the prospective guardian's residential premises where a child or young person subject to a guardianship order is intended to reside. The Secretary, officer or employee may inspect a document or thing on the premises and interview the prospective guardian or any other person on the premises. The entry and inspection must be for the purposes of assessing the prospective guardian's suitability to be a guardian, including for the purposes of the assessment of individuals residing on the same property as the prospective guardian for 3 weeks or more.

Item [2] inserts a definition of **reside on a property** for the purposes of Chapter 8, Part 1 of the *Children and Young Persons (Care and Protection) Act 1998*. Item [3] makes a consequential amendment.

Item [4] provides that the Secretary or an officer or employee of certain designated agencies may, with the consent of an applicant for authorisation as an authorised carer, enter and inspect the applicant's residential premises if the premises are where a child or young person who will be in the care of the applicant is intended to reside. The Secretary, officer or employee may inspect a document or thing on the premises and interview the applicant and any other person on the premises. The entry and inspection must be for the purposes of authorising the applicant, including for the purposes of the assessment of individuals residing on the same property as the applicant for 3 weeks or more.

Item [4] also provides it is a condition of an authorised carer's authorisation that the Secretary, officer or employee, at a reasonable hour and on reasonable notice, enter and inspect the authorised carer's residential premises for the purposes of assessing the suitability of the authorised carer or supervising the placement of a child or young person in the care of the authorised carer. The powers of entry and inspection extend to the assessment of persons residing on the same property as the authorised carer for 3 weeks or more.

Item [5] provides that Chapter 15, Part 3 of the *Children and Young Persons (Care and Protection) Act 1998* does not apply to certain functions relating to the entry and inspection of residential premises.

2.2 Children's Guardian Act 2019 No 25

[1] Section 85 Registers to be kept

Omit section 85(1)(a). Insert instead—

- (a) a register (the **authorised carers register**) for the following—
 - (i) authorised carers,
 - (ii) applicants for authorisation as authorised carers,
 - (iii) persons who, under section 10 of the *Child Protection (Working with Children) Act 2012*, are required to hold a working with children check clearance because the person resides on the same property as an authorised carer for 3 weeks or more,
 - (iv) persons who reside on the same property as an applicant for authorisation as an authorised carer for 3 weeks or more,

[2] Section 85(1)(b)

Omit the paragraph. Insert instead—

- (b) a register (the **residential care workers register**) for the following—
 - (i) residential care workers,
 - (ii) applicants for employment as residential care workers,

[3] Section 85(1A)

Insert after section 85(1)—

- (1A) The Children's Guardian, and a person prescribed by the regulations for the purposes of this section, may deal with information for the purposes of keeping a register.

[4] Section 85(3)

Insert after section 85(2)—

- (3) In this section—
deal, with information, means collect, use or disclose information.

Explanatory note

Items [1] and [2] of the proposed amendments transfer amendments to the *Children's Guardian Act 2019* made by Schedule 1.1[12] to the *Stronger Communities Legislation Amendment (Courts and Civil) Act 2020* to the proposed Act to allow amendments relating to the residential care workers

register to commence on the date of assent to the proposed Act. Item [1] also provides for information about persons who reside on the same property as an applicant for authorisation as an authorised carer to be kept on the authorised carers register.

Items [3] and [4] enable the Children's Guardian, and a person prescribed by the regulations, to collect, use or disclose information for the purposes of keeping a register.

2.3 Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010 No 122

Section 118 Special provision for pro rata payment during COVID-19 pandemic

Omit paragraph (b) of the definition of *prescribed period* in section 118(3).

Insert instead—

(b) ending at the beginning of 26 March 2021.

Explanatory note

The proposed amendment extends to 26 March 2021 the prescribed period during which a provision, enacted in response to the COVID-19 pandemic, modifies requirements relating to the entitlement of a registered worker who leaves the contract cleaning industry to payment instead of long service leave. The temporary provision provides that, during the prescribed period, a registered worker for the contract cleaning industry who has 5 years of recognised service and who has permanently left the industry is entitled to payment instead of long service leave. Ordinarily, the registered worker would only be entitled to payment if 20 weeks had passed since the worker left the industry and the worker had not been credited with service in the Long Service Corporation's workers register for any days during that 20 weeks.

2.4 Interpretation Act 1987 No 15

[1] Section 84 Power of person to modify statutory time periods

Omit "31 December 2020" wherever occurring in section 84(3) and (4).

Insert instead "26 March 2021".

[2] Section 85 Regulation-making power to modify or suspend limitation and other statutory time periods

Omit "31 December 2020" wherever occurring in section 85(6)(b) and (c)(ii).

Insert instead "26 March 2021".

[3] Section 89 Expiry of regulations

Omit "earliest". Insert instead "earlier".

[4] Section 89(b)

Omit the paragraph.

[5] Section 90

Omit the section. Insert instead—

90 Repeal of Part

This Part is repealed at the end of 26 March 2021.

Explanatory note

Part 12 of the *Interpretation Act 1987*, including section 90, contains special provisions relating to statutory time periods, and altered arrangements for physical attendance and meetings, arising from the COVID-19 pandemic. Part 12 was to be repealed on 31 December 2020 under a regulation made under existing section 90(b). Item [5] of the proposed amendments extends Part 12, and the special arrangements contained in the Part, until 26 March 2021 because of the ongoing nature of the pandemic. Items [1]–[4] make consequential amendments.

2.5 Mental Health and Cognitive Impairment Forensic Provisions Act 2020 No 12

Schedule 3 Amendment of Acts

Omit “subsection (2)” from section 23A(8)(c) of the *Crimes Act 1900* as inserted by Schedule 3.7[9].

Insert instead “subsection (9)”.

Explanatory note

The proposed amendment corrects a cross-reference.

2.6 Stronger Communities Legislation Amendment (Courts and Civil) Act 2020 No 24

Schedule 1 Amendments

Omit Schedule 1.1[12].

Explanatory note

The proposed amendment omits an amendment to the *Children’s Guardian Act 2019*. The amendment is reinserted into the proposed Act by Schedule 2.2[1] and [2] to allow the commencement of the amendments to the *Children’s Guardian Act 2019* to be split.

2.7 Victims Rights and Support Act 2013 No 37

[1] Section 46 Persons to whom financial support or recognition payment may be made

Omit section 46(3).

[2] Schedule 2 Savings, transitional and other provisions

Insert at the end of the Schedule, with appropriate Part and clause numbering—

Part Provision consequent on enactment of Stronger Communities Legislation Amendment (Miscellaneous) Act 2020

Payment of financial support or recognition payment

- (1) This clause applies to a financial support or recognition payment made by the Commissioner before the commencement of this clause for the purposes of section 46 of this Act—
 - (a) to a person under legal incapacity, or
 - (b) to another person who received the payment for the benefit of the person under legal incapacity.
- (2) A payment to which this clause applies that would have been validly made if section 46 of this Act, as amended by the amending Act, had been in force when the payment was made is validated.
- (3) In this clause—

amending Act means the *Stronger Communities Legislation Amendment (Miscellaneous) Act 2020*.

person under legal incapacity has the same meaning as in the *Civil Procedure Act 2005*.

Explanatory note

Item [1] of the proposed amendments enables the Commissioner of Victims Rights (the **Commissioner**) to make payable a financial support or recognition payment approved by the

Commissioner (the **relevant payment**) to certain victims or other persons in connection with the victim who are under legal incapacity (a **person under legal incapacity**). Currently, the money is required to be paid into a court with jurisdiction or to another person, as directed by the court.

Item [2] is a transitional provision and provides that a relevant payment made by the Commissioner before the commencement of the proposed amendment to a person under legal incapacity, or another person for the benefit of the person under legal incapacity, is validated as if the amendments were in force when the payment was made.

[Second reading speech made in—
Legislative Assembly on 14 October 2020
Legislative Council on 20 October 2020]