



New South Wales

Children's Guardian (Transitional) Regulation 2020

under the

Children's Guardian Act 2019

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Children's Guardian Act 2019*.

GARETH WARD, MP
Minister for Families, Communities and Disability Services

Explanatory note

The object of this Regulation is to make transitional arrangements to—

- (a) give effect to the continuation of exemptions made under repealed section 25CA of the *Ombudsman Act 1974*, and
- (b) provide for employer's authorities and exemptions made under the *Children and Young Persons (Care and Protection) Act 1998* to be taken to be employer's authorities and exemptions under the *Children's Guardian Act 2019*, and
- (c) provide for existing designated agencies that arrange the provision of supported out-of-home care or statutory out-of-home care under the *Children and Young Persons (Care and Protection) Act 1998* to be taken to be designated agencies arranging the provision of supported out-of-home care or statutory out-of-home care under the *Children's Guardian Act 2019*, and
- (d) extend the definitions of reportable allegation and reportable conviction to employees of religious bodies.

This Regulation is made under the *Children's Guardian Act 2019*, including section 184 (the general regulation-making power) and clause 1 of Schedule 4.

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a savings or transitional nature.

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1 Name of Regulation

This Regulation is the *Children's Guardian (Transitional) Regulation 2020*.

2 Commencement

This Regulation commences on 1 March 2020.

3 Declaration that regulation is a transitional regulation—Act, Sch 4, cl 1

This Regulation is a transitional regulation.

Note. This Regulation expires at the end of 2 March 2022.

4 Definitions

(1) In this Regulation—

commencement means the commencement of this Regulation.

the Act means the *Children's Guardian Act 2019*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

5 Existing exemptions under Ombudsman Act 1974

(1) An exemption of a class or kind of conduct of employees under repealed section 25CA of the *Ombudsman Act 1974* in force immediately before the commencement continues to have effect until a regulation is made under section 30 of the *Children's Guardian Act 2019*.

(2) A list of the exemptions may be obtained, free of charge, from the Office of the Children's Guardian.

6 Employer's authorities and exemptions

(1) An employer's authority granted by the Children's Guardian under repealed Schedule 2 to the *Children and Young Persons (Care and Protection) Act 1998* in force immediately before the commencement—

(a) is taken to be an employer's authority granted under section 95 of the *Children's Guardian Act 2019*, and

(b) is subject to the same conditions the authority was subject to under the *Children and Young Persons (Care and Protection) Act 1998*.

(2) An employer's exemption granted by the Children's Guardian under repealed section 224 of the *Children and Young Persons (Care and Protection) Act 1998*—

(a) is taken to be an employer's exemption granted under section 102 of the *Children's Guardian Act 2019*, and

- (b) is subject to the same conditions set out in the written notice under section 224(2) of the *Children and Young Persons (Care and Protection) Act 1998*.

7 Existing designated agencies arranging supported or statutory out-of-home care

- (1) This clause applies to a designated agency within the meaning of repealed section 139 of the *Children and Young Persons (Care and Protection) Act 1998* that, immediately before the commencement—
 - (a) arranged the provision of supported out-of-home care or statutory out-of-home care, and
 - (b) was accredited under that Act.
- (2) The designated agency is, on the commencement, taken to be a designated agency under the *Children's Guardian Act 2019*, for the period approved and subject to conditions and requirements imposed under the *Children and Young Persons (Care and Protection) Act 1998* and the regulations under that Act.
- (3) An application for accreditation as a designated agency made under the *Children and Young Persons (Care and Protection) Act 1998* and the regulations under that Act but not decided before the commencement, is, on the commencement—
 - (a) taken to be an application for accreditation as a designated agency under the *Children's Guardian Act 2019*, and
 - (b) to be determined in accordance with the *Children's Guardian Act 2019*.

8 Definitions relating to religious bodies

For the purposes of Part 4 of the *Children's Guardian Act 2019*, the following terms are defined in relation to an employee of a religious body—

reportable allegation means an allegation that the employee has engaged in conduct that may be reportable conduct, whether or not the conduct is alleged to have occurred in the course of the employee's employment with the religious body.

reportable conviction means a conviction, including a finding of guilt without the court proceeding to a conviction, in this State or elsewhere, of an offence involving reportable conduct, whether or not the conduct occurred in the course of the employee's employment with the religious body.