



New South Wales

Children's Guardian Amendment (Child Safe Scheme) 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 embed the Child Safe Standards, as recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse, as the primary framework that guides child safe practice in organisations in New South Wales.

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 a day or days to be appointed by proclamation.

Schedule 1 **Amendment of Children's Guardian Act 2019 No 25**

Schedule 1[1] amends the objects of the *Children's Guardian Act 2019 (the Act)* to include embedding the Child Safe Standards as the primary framework that guides child safe practice in organisations in New South Wales.

Schedule 1[2] amends the guiding principles that are applied in the administration of the Act to embed connection to family and community as a principle to be applied in relation to Aboriginal children and Torres Strait Islander children and to require that respect for cultural and social difference is considered when providing child-related services.

Schedule 1[3] inserts proposed Part 3A, which contains the child safe scheme that—

- (a) adopts the Child Safe Standards, and
- (b) requires significant public sector agencies that are responsible for the provision of services to children to develop and implement child safe action plans, and
- (c) requires the Children's Guardian to work with child safe organisations to raise awareness of child safety, build the capability of child safe organisations to implement the Child Safe Standards and to promote the implementation of the Child Safe Standards more broadly, and
- (d) provides the Children's Guardian with powers to monitor the implementation of the Child Safe Standards, and
- (e) provides the Children's Guardian with powers for the investigation of complaints and concerns about a child safe organisation's implementation of the Child Safe Standards.

Schedule 1[4] and [6]–[9] make amendments consequential on the adoption of the Child Safe Standards by proposed Part 3A.

Schedule 1[5] provides the Children's Guardian with an additional power to review systems, policies and processes when monitoring an entity's internal investigation or determination.

Schedule 1[10] amends the Act, section 128 to recognise the additional functions of the Children's Guardian that arise from the proposed adoption of the Child Safe Standards and the child safe scheme.

Schedule 1[11] updates the functions of Official Community Visitors to include a function relating to the Child Safe Standards.

Schedule 1[12] inserts proposed Part 9A, which provides for enforcement measures allowing the Children's Guardian to issue compliance notices to *child safe organisations*, as defined in the proposed amendments to the Dictionary, and to enter into enforceable undertakings with child safe organisations.

Schedule 1[13]–[17], [19] and [20] make consequential amendments.

Schedule 1[18] allows the Children's Guardian to share information, obtained for the purposes of the child safe scheme or its enforcement functions, with persons undertaking similar child safe functions in another State or Territory or for the Commonwealth.

Schedule 1[21]–[23] make consequential amendments to the Dictionary including to define *child safe organisation*.



New South Wales

Children's Guardian Amendment (Child Safe Scheme) Bill 2021

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New South Wales

Children's Guardian Amendment (Child Safe Scheme) Bill 2021

No , 2021

A Bill for

An Act to amend the *Children's Guardian Act 2019* to embed the Child Safe Standards as the primary framework that guides child safe practice in organisations in New South Wales; and for related purposes.

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Children's Guardian Amendment (Child Safe Scheme) Act 2021*.

3

2 Commencement

4

This Act commences on a day or days to be appointed by proclamation.

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Schedule 1	Amendment of Children's Guardian Act 2019	1
	No 25	2
[1] Section 6 Main object of Act		3
Insert at the end of section 6(b)—		4
	, and	5
	(c) embedding the Child Safe Standards as the primary framework that guides child safe practice in organisations in New South Wales.	6 7
[2] Section 8 Guiding principles		8
Omit section 8(e). Insert instead—		9
	(e) in decision-making under this Act and the regulations in relation to an Aboriginal child or a Torres Strait Islander child—	10 11
	(i) the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles set out in the <i>Children and Young Persons (Care and Protection) Act 1998</i> , section 13, and	12 13 14
	(ii) the embedding of connection to family and community with the ultimate goal of the child feeling safe and secure in their identity, culture and community, and	15 16 17
	(e1) in decision-making under this Act, respect for cultural and social difference must be considered in the provision of child-related services, and	18 19 20
[3] Part 3A		21
Insert after Part 3—		22
Part 3A Child safe scheme		23
Division 1 Preliminary		24
8A Objects of Part		25
The objects of this Part are for the Children's Guardian to protect children from harm by—		26 27
	(a) adopting the Child Safe Standards as the primary framework that guides child safe practice, and	28 29
	(b) implementing regulatory approaches that—	30
	(i) improve systems for the prevention, identification, response to and reporting of child abuse in child safe organisations through the implementation of the Child Safe Standards, and	31 32 33
	(ii) assist child safe organisations to implement the Child Safe Standards by raising awareness and providing guidance, training and education, and	34 35 36
	(iii) monitor and report on the compliance of child safe organisations with the Child Safe Standards, and	37 38
	(iv) enforce compliance with the Child Safe Standards, and	39
	(v) provide for the investigation of complaints about a child safe organisation's—	40 41
	(A) implementation of the Child Safe Standards, or	42
	(B) compliance with the Child Safe Standards, or	43

(C)	compliance with recommendations contained in a monitoring assessment report, and	1
(vi)	establish child safe action plans with prescribed agencies, and	2
(vii)	provide for the ongoing exchange of information about risks to child safety in organisations between government agencies, both in New South Wales and in other States and Territories, with child safety responsibilities.	3
		4
		5
		6
		7
8B	Definitions	8
	In this Part—	9
	<i>child safe action plan</i> —see section 8F.	10
	<i>monitoring assessment report</i> means a report issued by the Children's Guardian under section 8W.	11
	<i>prescribed agency</i> —see section 8G.	12
	<i>related body</i> , for a prescribed agency—see section 8H.	13
	<i>religious body</i> has the same meaning as in section 15A.	14
		15
Division 2	Child Safe Standards	16
8C	Meaning of "Child Safe Standards"	17
	The <i>Child Safe Standards</i> are—	18
	1. Child safety is embedded in organisational leadership, governance and culture.	19
	2. Children participate in decisions affecting them and are taken seriously.	20
	3. Families and communities are informed and involved.	21
	4. Equity is upheld, and diverse needs are taken into account.	22
	5. People working with children are suitable and supported.	23
	6. Processes to respond to complaints of child abuse are child focused.	24
	7. Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training.	25
	8. Physical and online environments minimise the opportunity for abuse to occur.	26
	9. Implementation of the Child Safe Standards is continuously reviewed and improved.	27
	10. Policies and procedures document how the organisation is child safe.	28
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		30
		31
		32
8D	Systems, policies and processes	33
	(1) The head of a child safe organisation must ensure the organisation implements the Child Safe Standards through systems, policies and processes which may include, but are not limited to, the following—	34
	(a) a statement of the organisation's commitment to child safety,	35
	(b) a child safe policy,	36
	(c) a code of conduct applying to the following—	37
	(i) employees,	38
	(ii) management, however described,	39
	(iii) contractors,	40
	(iv) volunteers,	41
		42
		43

(d)	a complaint management policy and procedure,	1
(e)	a human resources policy,	2
(f)	a risk management plan.	3
(2)	The head of a child safe organisation must ensure the organisation implements a reportable conduct policy that addresses the matters in section 54(2).	4 5
(3)	The head of a child safe organisation must ensure the systems, policies and processes implemented by the organisation are continuously reviewed and updated to reflect—	6 7 8
(a)	changes to the Child Safe Standards, and	9
(b)	recommendations made to the organisation by the Children's Guardian in—	10 11
(i)	a monitoring assessment report under section 8W, or	12
(ii)	an investigation report under section 8Z, and	13
(c)	enforcement measures taken under Part 9A against the organisation by the Children's Guardian.	14 15
8E	Children's Guardian may require information about systems, policies and processes	16 17
(1)	The Children's Guardian may, at any time by written notice, require the head of a child safe organisation to give the Children's Guardian, within the reasonable time stated in the notice but not less than 7 days, information about the organisation's systems, policies and processes under section 8D.	18 19 20 21
(2)	If the organisation does not, without reasonable excuse, give the Children's Guardian the information required under subsection (1), the Children's Guardian may—	22 23 24
(a)	commence an investigation under Division 6, and	25
(b)	publish the following on the Office of the Children's Guardian's website—	26 27
(i)	the name of the organisation,	28
(ii)	that the organisation has failed to provide the information required by the Children's Guardian under this section.	29 30
Division 3	Child safe action plans	31
8F	Meaning of "child safe action plan"	32
	A <i>child safe action plan</i> is a plan that contains the strategies a prescribed agency will take, both in the services it provides and with related bodies, to—	33 34
(a)	build awareness in the community about the importance of child safety in child safe organisations, and	35 36
(b)	build the capability of child safe organisations to implement the Child Safe Standards, and	37 38
(c)	improve the safety of children by implementing the Child Safe Standards.	39 40
8G	Meaning of "prescribed agency"	41
	<i>Prescribed agency</i> means each of the following—	42
(a)	the Department of Communities and Justice,	43
(b)	the Office of Sport within the Department of Communities and Justice,	44

(c)	the Department of Education,	1
(d)	the NSW Education Standards Authority,	2
(f)	the Ministry of Health,	3
(g)	the Department of Planning, Industry and Environment, limited to functions undertaken by the Office of Local Government,	4 5
(h)	the Inspector of Custodial Services,	6
(i)	a NSW government agency prescribed by the regulations for the purposes of this section.	7 8
8H	Meaning of “related body”	9
	<i>Related body</i> , for a prescribed agency, means a child safe organisation the prescribed agency funds or regulates.	10 11
8I	Prescribed agencies to develop and implement plans	12
(1)	A prescribed agency must develop and implement a child safe action plan within—	13 14
(a)	12 months of becoming a prescribed agency, or	15
(b)	a longer period approved in writing by the Children’s Guardian.	16
(2)	A child safe action plan must cover the full scope of the agency’s child related operations unless—	17 18
(a)	the Children’s Guardian gives written approval for the agency to develop and implement an additional plan for a specified area of operations, and	19 20 21
(b)	the additional plan addresses only the parts of the agency’s operations specified in the approval.	22 23
8J	Consultation	24
	In developing its child safe action plan, a prescribed agency must—	25
(a)	consult with the Children’s Guardian, and	26
(b)	consult with related bodies and any other entity or individual who, in the agency’s opinion, is likely to be directly affected by the plan.	27 28
8K	Plans to be submitted	29
(1)	A prescribed agency must submit its child safe action plan to the Children’s Guardian for review and approval.	30 31
(2)	Following its review of an agency’s plan, the Children’s Guardian must—	32
(a)	approve the plan, or	33
(b)	provide comments to the agency recommending amendments to the plan that the Children’s Guardian considers necessary before it can be approved.	34 35 36
(3)	Following its review of an agency’s plan, the Children’s Guardian may report publicly, whether by its annual report or another report, on the plan and its implementation.	37 38 39
8L	Plans to be publicly available	40
(1)	Following approval of a prescribed agency’s child safe action plan, the agency must make the plan publicly available—	41 42
(a)	on the agency’s website, and	43

(b)	in another way prescribed by the regulations.	1
(2)	The Children's Guardian may, on the Office of the Children's Guardian's website, provide a link to an agency's child safe action plan.	2 3
8M	Progress reports	4
(1)	If required to do so by written notice from the Children's Guardian, a prescribed agency must provide a progress report on the agency's implementation of its child safe action plan.	5 6 7
(2)	An agency's report is to include information that demonstrates how the agency is working with related bodies to—	8 9
(a)	build awareness in the community about the importance of child safety in child safe organisations, and	10 11
(b)	build the capability of related bodies to implement the Child Safe Standards, and	12 13
(c)	improve the safety of children by implementing the Child Safe Standards by related bodies.	14 15
(3)	A prescribed agency must provide its report to the Children's Guardian within—	16 17
(a)	90 days of receiving the written notice, or	18
(b)	a longer period approved in writing by the Children's Guardian.	19
8N	Annual reporting	20
	A prescribed agency must include in its annual report made under the <i>Annual Reports (Departments) Act 1985</i> or the <i>Annual Reports (Statutory Bodies) Act 1984</i> —	21 22 23
(a)	a link to the agency's child safe action plan, and	24
(b)	the agency's assessment of the effectiveness of the plan in promoting and supporting the adoption and implementation of the Child Safe Standards by related bodies.	25 26 27
8O	Child safe action plans to be remade	28
(1)	A prescribed agency must review and remake its child safe action plan at least every 4 years.	29 30
(2)	This Division applies to a remade plan in the same way as it applies to an original plan.	31 32
Division 4	Capability building	33
8P	Purpose	34
	This Division deals with the Children's Guardian's responsibility to work collaboratively with child safe organisations, government agencies and the broader community to—	35 36 37
(a)	raise awareness about child safety, and	38
(b)	build within child safe organisations both knowledge of the Child Safe Standards and the skills to implement them, and	39 40
(c)	promote the implementation of the Child Safe Standards by child safe organisations.	41 42

8Q Guidelines for child safe organisations	1
(1) The Children's Guardian may develop guidelines to—	2
(a) assist child safe organisations to implement the Child Safe Standards, and	3 4
(b) assist children, their families and other members of the community to raise concerns and make complaints about a child safe organisation, and	5 6
(c) provide guidance on another matter that the Children's Guardian identifies as appropriate.	7 8
(2) A guideline developed under this section may include templates that can be used by child safe organisations in developing systems, policies and processes that implement the Child Safe Standards.	9 10 11
(3) A guideline developed under this section must be published on the Office of the Children's Guardian's website.	12 13
8R Capability building for prescribed agencies	14
(1) The Children's Guardian may develop and make publicly available—	15
(a) guidelines, including templates, to assist prescribed agencies to develop child safe action plans, and	16 17
(b) assessment criteria for child safe action plans.	18
(2) A guideline developed under this section must be published on the Office of the Children's Guardian's website.	19 20
8S Training	21
(1) The Children's Guardian may provide training on—	22
(a) matters related to the implementation of the Child Safe Standards, and	23
(b) other matters reasonably related to child safety and the functions of the Children's Guardian.	24 25
(2) The Children's Guardian may charge fees for training activities to recover the reasonable costs incurred in providing the training.	26 27
8T Resources	28
The Children's Guardian may develop and distribute other resources to promote the Child Safe Standards that the Children's Guardian considers appropriate.	29 30 31
Division 5 Monitoring	32
8U Purpose of monitoring	33
The Children's Guardian may monitor the operation of a child safe organisation to ensure the organisation is implementing the Child Safe Standards.	34 35 36
8V Children's Guardian may monitor implementation of Child Safe Standards	37
(1) In monitoring a child safe organisation's implementation of the Child Safe Standards, the Children's Guardian may do the following—	38 39
(a) review the organisation's systems, processes and policies,	40
(b) request the head of the organisation to answer questions and provide specified information,	41 42

(c)	review information held by the Children's Guardian about the organisation and its employees,	1 2
(d)	with the consent of the head of the organisation, have an authorised person inspect the organisation's premises,	3 4
(e)	direct the head of the organisation to complete a self-assessment of the organisation's compliance with the Child Safe Standards,	5 6
(f)	a thing prescribed by the regulations for the purposes of this section.	7
(2)	If the Children's Guardian directs the head of a child safe organisation to complete a self-assessment under subsection (1)(e), the head of the organisation must comply with the direction.	8 9 10
	Maximum penalty—5 penalty units.	11
(3)	A direction under subsection (1)(e) must—	12
(a)	be in writing, and	13
(b)	specify the form of the self-assessment, and	14
(c)	specify the date, not less than 14 days after the date of the direction, by which the self-assessment must be completed and returned to the Children's Guardian.	15 16 17
8W	Monitoring assessment reports	18
(1)	The Children's Guardian may, as part of its monitoring activities under section 8V, issue a monitoring assessment report to provide guidance and make recommendations to a child safe organisation.	19 20 21
(2)	If the Children's Guardian makes recommendations to an organisation in a monitoring assessment report, the organisation must respond to the recommendations within the period specified by the Children's Guardian, being a period of not less than 28 days after the issue of the report.	22 23 24 25
Division 6	Investigation	26
8X	When investigation may be conducted	27
(1)	The Children's Guardian may conduct an investigation into a child safe organisation's implementation of the Child Safe Standards.	28 29
(2)	Without limiting subsection (1), the Children's Guardian may conduct an investigation—	30 31
(a)	after receiving a complaint, however made or described, about the organisation, or	32 33
(b)	if the organisation fails to respond to a recommendation made by the Children's Guardian in a monitoring assessment report or the Children's Guardian is otherwise not satisfied with the way the organisation responds to a recommendation, or	34 35 36 37
(c)	if for any other reason the Children's Guardian is concerned the organisation is not implementing the Child Safe Standards.	38 39
8Y	Conduct of investigation	40
(1)	Schedule 2 provides for powers that may be exercised by an authorised person for the purpose of conducting an investigation under this Division.	41 42
(2)	Without limiting the powers of an authorised person, the Children's Guardian may, when conducting an investigation, do the following—	43 44

(a)	review the organisation's records, systems, processes and policies,	1
(b)	require the head of the organisation to answer questions and provide specified information,	2 3
(c)	review information held by the Children's Guardian about the organisation and its employees,	4 5
(d)	have an authorised person inspect the organisation's premises,	6
(e)	direct the head of the organisation to complete a self-assessment of the organisation's compliance with the Child Safe Standards,	7 8
(f)	a thing prescribed by the regulations for the purposes of this section.	9
(3)	For the purposes of an investigation under this Division, the Children's Guardian may conduct an inquiry.	10 11
(4)	Schedule 3 provides for the Children's Guardian's powers to make or hold an inquiry.	12 13
(5)	An inquiry under this Division must be carried out in the absence of the public.	14
8Z	Investigation report	15
(1)	At the end of an investigation under this Division, the Children's Guardian must prepare a report that includes—	16 17
(a)	findings relating to the way the relevant child safe organisation implements the Child Safe Standards, and	18 19
(b)	the Children's Guardian's recommendations, if any, for improvement to the way the organisation implements the Child Safe Standards.	20 21
(2)	If, as a result of an investigation, the Children's Guardian decides to take enforcement measures under Part 9A, the report must include—	22 23
(a)	the decision, and	24
(b)	the reasons for the decision, and	25
(c)	the enforcement measures to be taken.	26
(3)	If the Children's Guardian makes recommendations to an organisation, the organisation must respond to the recommendations within the period, not less than 28 days after the investigation report is given to the organisation, specified by the Children's Guardian.	27 28 29 30
[4]	Section 37 Contents of entity report	31
	Omit section 37(1)(d)(iii). Insert instead—	32
(iii)	changes to systems or policies including, if the entity is a child safe organisation, to improve implementation of the Child Safe Standards,	33 34 35
[5]	Section 43 Children's Guardian may monitor relevant entity's investigation or determination	36 37
	Insert after section 43(2)(d)—	38
(d1)	review the relevant entity's systems, policies and processes and their effectiveness in preventing, and responding to, reportable allegations and reportable convictions,	39 40 41
[6]	Section 49 Children's Guardian reports	42
	Omit section 49(2)(d)(iii). Insert instead—	43

(iii)	changes to systems or policies including, if the entity is a child safe organisation, to improve implementation of the Child Safe Standards,	1 2 3
[7]	Section 54 Relevant entities to have systems about reportable conduct	4
	Insert “(2)” before “The head”.	5
[8]	Section 54(1)	6
	Insert before section 54(2) (as amended by item [7])—	7
	(1) This section applies to a relevant entity that is not a child safe organisation.	8
[9]	Section 55 Children's Guardian may require information about systems	9
	Insert before subsection (1)—	10
	(1A) This section applies to a relevant entity that is not a child safe organisation.	11
[10]	Section 128 Functions of Children's Guardian	12
	Omit section 128(1)(a). Insert instead—	13
	(a) to take action to build the capability of child safe organisations to implement the Child Safe Standards and to prevent harm to children,	14 15
	(a1) to monitor, investigate and enforce the implementation by child safe organisations of the Child Safe Standards,	16 17
	(a2) to undertake functions under Part 3A, Division 3 relating to child safe action plans,	18 19
	(a3) 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> ,	20 21 22
[11]	Section 145 Functions of Official Community Visitors	23
	Insert after section 145(1)(f)—	24
	(f1) provide information about the Child Safe Standards to assist both the visitable services and the children using the services, and	25 26
[12]	Part 9A	27
	Insert after Part 9—	28
	Part 9A Enforcement measures	29
	Division 1 Compliance notices	30
152A	Issue of compliance notices	31
	If the Children's Guardian reasonably believes a child safe organisation's systems, policies or processes do not reflect or implement the Child Safe Standards, the Children's Guardian may issue a compliance notice requiring the organisation to—	32 33 34 35
	(a) take the action specified in the notice, and	36
	(b) provide the Children's Guardian with evidence it has done so.	37
152B	Content of compliance notices	38
	(1) A compliance notice must be in writing and must include—	39

(a)	the reasons for the belief the relevant child safe organisation's systems, policies or processes do not reflect or implement the Child Safe Standards, and	1 2 3
(b)	the risks to children that arise because the organisation's systems, policies or processes do not reflect or implement the Child Safe Standards, and	4 5 6
(c)	the action the organisation is required to take, and	7
(d)	the period of time within which the organisation is required to take the action, and	8 9
(e)	a statement that failure to comply with a compliance notice is an offence.	10 11
(2)	The period of time for the organisation to take the action required by the compliance notice must be reasonable in all the circumstances.	12 13
152C	Internal review	14
(1)	A child safe organisation that is issued a compliance notice may, within 28 days of receiving the notice, request the Children's Guardian to review the decision to issue the notice.	15 16 17
(2)	The Children's Guardian must comply with a request made under subsection (1) unless, in the opinion of the Children's Guardian, the request is frivolous or vexatious.	18 19 20
(3)	An organisation that requests a review may provide the Children's Guardian with the information the organisation considers relevant to the review.	21 22
(4)	An organisation that requests a review is not required to comply with the notice while the review is underway.	23 24
(5)	Following a review, the Children's Guardian may—	25
(a)	confirm the decision to issue the compliance notice, or	26
(b)	withdraw the compliance notice.	27
(6)	If the review confirms the decision to issue the compliance notice, the Children's Guardian must give the organisation a reasonable time to comply with the notice, being a period of not less than 28 days after the compliance notice is given to the organisation.	28 29 30 31
(7)	If, following the review, the Children's Guardian withdraws the notice, the notice may be reissued—	32 33
(a)	in substantially the same form, or	34
(b)	in a different form.	35
152D	Extension of time for compliance with compliance notices	36
(1)	A child safe organisation that has been issued with a compliance notice may apply to the Children's Guardian for an extension of time for compliance.	37 38
(2)	The organisation may only apply for an extension of time if the application is made before the end of the period of time it is applying to extend.	39 40
(3)	The Children's Guardian may grant an application made under this section if the Children's Guardian considers—	41 42
(a)	the organisation has taken suitable steps to address the risks to children identified in the notice, and	43 44
(b)	there are special circumstances justifying the extension of time.	45

152E	Compliance notices to be publicly available	1
(1)	The Children's Guardian is to maintain a list of compliance notices that are in effect and make the list publicly available on the Office of the Children's Guardian's website.	2 3 4
(2)	A child safe organisation that produces an annual report must include in the report the details of a compliance notice that applied to the organisation during the period covered by the report.	5 6 7
(3)	This section does not apply to a compliance notice until—	8
(a)	the expiry of the 28 day period in which the organisation may apply for a review of the decision to issue the notice, or	9 10
(b)	the conclusion of a review under section 152C.	11
152F	Offence	12
(1)	A child safe organisation that receives a compliance notice must comply with the notice.	13 14
	Maximum penalty—	15
(a)	for a corporation—250 penalty units, or	16
(b)	otherwise—50 penalty units.	17
(2)	If a child safe organisation is not a person the reference in subsection (1) to a child safe organisation is to be read as a reference to the head of a child safe organisation.	18 19 20
Division 2	Enforceable undertakings	21
152G	Enforceable undertaking	22
(1)	Instead of issuing a compliance notice under Division 1, the Children's Guardian may accept an enforceable undertaking from a child safe organisation.	23 24 25
(2)	An enforceable undertaking is an undertaking from the organisation under which the organisation agrees to take specific action by a specific date.	26 27
(3)	An enforceable undertaking must be in writing and be signed by the head of the organisation.	28 29
152H	Amendment of enforceable undertaking	30
(1)	This section applies if a child safe organisation has entered into an enforceable undertaking.	31 32
(2)	The organisation may apply to the Children's Guardian to amend the undertaking.	33 34
(3)	The organisation may only apply to amend an undertaking if the application is made before the date by which the organisation had agreed to undertake the action specified in the undertaking.	35 36 37
(4)	The Children's Guardian may only agree to amendment of an undertaking if the Children's Guardian considers—	38 39
(a)	the organisation has taken suitable steps to address the risks to children that led to the undertaking, and	40 41
(b)	amendment of the undertaking is appropriate in all the circumstances.	42

152I	Enforceable undertakings to be publicly available	1
(1)	The Children's Guardian is to maintain a list of enforceable undertakings that are in effect and make the list publicly available on the Office of the Children's Guardian's website.	2 3 4
(2)	A child safe organisation that produces an annual report must include in the report the details of an enforceable undertaking that applied to the organisation during the period covered by the report.	5 6 7
152J	Offence	8
(1)	A child safe organisation that enters into an enforceable undertaking must comply with the undertaking. Maximum penalty—	9 10 11
(a)	for a corporation—500 penalty units, or	12
(b)	otherwise—100 penalty units.	13
(2)	If a child safe organisation is not a person the reference in subsection (1) to a child safe organisation is to be read as a reference to the head of a child safe organisation.	14 15 16
	Division 3	
	Miscellaneous	17
152K	Ministerial notice	18
	The Children's Guardian must inform the Minister when taking enforcement action under this Part against a child safe organisation that is a public authority under section 14, definition of <i>public authority</i> , paragraphs (a), (b), (d) or (e).	19 20 21
[13]	Section 163, heading	22
	Omit the heading. Insert instead—	23
	163	
	Definitions	24
[14]	Section 163	25
	Omit " <i>director</i> has". Insert instead " <i>corporation</i> and <i>director</i> have".	26
[15]	Section 164 Executive liability offences	27
	Insert after paragraph (g)—	28
	(g1) section 152F,	29
	(g2) section 152J,	30
[16]	Section 174 Children's Guardian may make guidelines	31
	Insert after section 174(2)(d)—	32
	(e) guidance for the purposes of Part 3A.	33
[17]	Section 180 Provision and exchange of information	34
	Insert after section 180(8), definition of <i>relevant body</i> , paragraph (a)—	35
	(a1) a prescribed agency, and	36
[18]	Section 180A	37
	Insert after section 180—	38

180A	Information sharing	1
(1)	The Children's Guardian may give information obtained under Part 3A or 9A to a relevant person in relation to—	2
		3
(a)	a matter relevant to the exercise of a law of another State, the Commonwealth or a Territory, or	4
		5
(b)	an undertaking that is or was being carried out jointly by New South Wales and another State, the Commonwealth or a Territory.	6
		7
(2)	In this section—	8
	<i>relevant person</i> means a person exercising functions under a law of another State, the Commonwealth or a Territory, that are substantially the same as the functions of the Children's Guardian under this Act.	9
		10
		11
[19]	Schedule 2 Powers of authorised persons	12
	Omit "Part 4". Insert instead "Part 3A or 4" in clause 7(1)(d).	13
[20]	Schedule 2, clause 20(1)	14
	Omit "Part 4". Insert instead "Part 3A or 4".	15
[21]	Schedule 6 Dictionary	16
	Insert in alphabetical order—	17
	<i>child safe action plan</i> —see section 8F.	18
	<i>child safe organisation</i> means 1 of the following—	19
(a)	an entity mentioned in Schedule 1, other than an organisation that is—	20
	(i) a designated agency, or	21
	(ii) an accredited adoption service provider,	22
(b)	a religious body—	23
	(i) that provides services to children, or	24
	(ii) in which adults have contact with children,	25
(c)	a local government authority,	26
(d)	a club or other body providing programs or services of a recreational or sporting nature for children and in which workers are required to hold a working with children check clearance under the <i>Child Protection (Working with Children) Act 2012</i> ,	27
		28
		29
		30
(e)	an entity, or part of an entity, prescribed by the regulations for this definition.	31
		32
	<i>Child Safe Standards</i> —see section 8C.	33
	<i>head of a child safe organisation</i> means—	34
(a)	for an organisation that is a Department—the Secretary of the Department or the Secretary's delegate, or	35
		36
(b)	if the regulations prescribe a person or a class of persons as the head of the organisation—the prescribed person or a person belonging to the class of persons prescribed, or	37
		38
		39
(c)	otherwise—	40
	(i) the chief executive officer of the organisation, however described, or	41
		42

	(ii) if there is no chief executive officer—the principal officer of the organisation, however described, or	1 2
	(iii) if there is no chief executive officer or principal officer—a person approved by the Children's Guardian under section 66.	3 4
	<i>monitoring assessment report</i> —see section 8B.	5
	<i>prescribed agency</i> —see section 8G.	6
	<i>related body</i> , for a prescribed agency—see section 8H.	7
[22]	Schedule 6, definition of “employee”	8
	Omit “Part 4”. Insert instead “Parts 3A and 4”.	9
[23]	Schedule 6, definition of “head”	10
	Omit “Part 4”. Insert instead “Parts 3A and 4”.	11