



New South Wales

# Service NSW (One-stop Access to Government Services) Amendment (COVID-19 Information Privacy) 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 ensure that personal information and health information collected by the Chief Executive Officer of Service NSW as part of the response to the COVID-19 pandemic is not used or disclosed except in very limited circumstances.

## 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.

## Schedule 1      **Amendment of Service NSW (One-stop Access to Government Services) Act 2013 No 39**

**Schedule 1[2]** inserts proposed Part 3A into the *Service NSW (One-stop Access to Government Services) Act 2013*. The proposed Part contains proposed sections 17A–17C.

**Proposed clause 17A** sets out the objective of the proposed Part.

**Proposed clause 17B** sets out protections for personal information and health information held by the Chief Executive Officer of Service NSW if the information was collected in response to the COVID-19 pandemic for contact tracing and the issue of permits. The information held by the Chief Executive Officer must not be used or disclosed except—

- (a) for the purposes for which it was collected, or
- (b) for the purposes of investigating or prosecuting a breach related to the permit, or

- (c) for information contained in a declaration made when entering or leaving New South Wales—for the purposes of investigating or prosecuting a breach related to the declaration,
- (d) to provide access to the information for the individual to which it relates.

The protections override other Acts or laws that may permit access to information, including search warrants or court orders. A failure to comply with the proposed section may be reviewed under the *Privacy and Personal Information Protection Act 1998*, Part 5.

**Proposed section 17C** requires the Minister to conduct a review of the proposed Part after 1 year and to table a report on the outcome of the review in each House of Parliament.

**Schedule 1[1]** makes a consequential amendment.



New South Wales

# **Service NSW (One-stop Access to Government Services) Amendment (COVID-19 Information Privacy) Bill 2021**

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New South Wales

# **Service NSW (One-stop Access to Government Services) Amendment (COVID-19 Information Privacy) Bill 2021**

No. \_\_\_\_\_, 2021

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## **A Bill for**

An Act to amend the *Service NSW (One-stop Access to Government Services) Act 2013* to provide additional safeguards on certain information collected during the COVID-19 pandemic.

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**The Legislature of New South Wales enacts—**

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**1 Name of Act**

2

This Act is the *Service NSW (One-stop Access to Government Services) Amendment (COVID-19 Information Privacy) Act 2021*.

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**2 Commencement**

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This Act commences on the date of assent to this Act.

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<b>Schedule 1</b>	<b>Amendment of Service NSW (One-stop Access to Government Services) Act 2013 No 39</b>	1
		2
<b>[1] Clause 3 Definitions</b>		3
	Omit section 3(1), definition of <i>information</i> . Insert instead—	4
	<i>health information</i> has the same meaning as in the <i>Health Records and Information Privacy Act 2002</i> .	5
	<i>information</i> includes personal information and health information.	6
		7
<b>[2] Part 3A</b>		8
	Insert after Part 3—	9
	<b>Part 3A Information collected during COVID-19 pandemic— additional protections</b>	10
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<b>17A Objective of Part</b>		12
	The objective of this Part is to recognise that—	13
	(a) the collection of information about the location or movement of people during the COVID-19 pandemic plays a vital role in protecting people from serious illness and death, and	14
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	(b) people are generally compelled to provide the information under extraordinary powers that have been invoked because of the pandemic, and	17
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	(c) people expect the information provided will be used only for the purposes of protecting them from the pandemic, and	20
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	(d) inappropriate use or disclosure of the information may increase the circumstances in which information is not provided and consequently increase the risk of serious illness or death.	22
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<b>17B Information collected by CEO in relation to COVID-19</b>		25
	(1) This section applies to personal information or health information held by the CEO if the information was collected—	26
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	(a) in the exercise of a function under an order made under the <i>Public Health Act 2010</i> , section 7 in response to COVID-19 (a <i>public health order</i> ), or	28
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	(b) under authority of a public health order, or	31
	(c) for the purpose of COVID-19 contact tracing and because of a direction given by the Minister under section 4(c).	32
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	(2) The information held must not be used or disclosed except—	34
	(a) for the purposes for which it was collected, or	35
	(b) for the purposes of contact tracing, including in another Australian jurisdiction, or	36
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	(c) for information collected in relation to the issue of a permit—for the purposes of investigating or prosecuting a breach of a public health order related to the permit, or	38
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	(d) for information collected in relation to a declaration provided when entering or leaving New South Wales—for the purposes of	41
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investigating or prosecuting a breach of a public health order related to the declaration, or	1
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(e) for information about an individual—to provide access to the information for—	3
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(i) the individual, or	5
(ii) if the individual is under 16 years of age—a person having parental responsibility for the individual, or	6
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(iii) if the individual lacks capacity to access the information—a person having the care of the individual.	8
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(3) Nothing in this section prevents the proper disposal of the information.	10
(4) This section extends to information collected by the CEO—	11
(a) before the commencement of this section, or	12
(b) that was not required to be provided to the CEO.	13
(5) This section has effect despite—	14
(a) another provision of this Act, or	15
(b) another Act or law, including a warrant or an order of a court.	16
(6) A failure to comply with this section is taken to be conduct to which the <i>Privacy and Personal Information Protection Act 1998</i> , Part 5 applies.	17
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<b>17C Review of Part</b>	19
(1) The Minister must review this Part to determine whether the policy objectives of the Part remain valid and whether the terms of the Part remain appropriate for securing the objectives.	20
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(2) The review must be undertaken as soon as possible after the period of 1 year from the commencement of this Part.	23
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(3) A report on the outcome of the review must be tabled in each House of Parliament within 6 months after the end of the period of 1 year.	25
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