

Authorised Version No. 044
Child Wellbeing and Safety Act 2005
No. 83 of 2005

Authorised Version incorporating amendments as at
1 July 2024

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
Part 1—Preliminary	1
1 Purposes	1
2 Commencement	2
3 Definitions	3
3A Meaning of <i>worker</i> and <i>volunteer worker</i>	22
Part 2—Principles for children	24
4 Principles are for guidance	24
5 Principles for children	24
5A Principles for compliance with Child Safe Standards	26
Part 3—Child wellbeing and safety	28
6 The role of the Minister	28
7 Role of the Secretary in relation to Aboriginal communities	28
Part 4—Victorian Children's Council	29
8 Establishment of Victorian Children's Council	29
9 Constitution of Council	29
10 Functions of the Council	30
11 Sub-committees	30
12 Procedure of the Council	30
Part 5—Children's Services Co-ordination Board	31
13 Establishment of Children's Services Co-ordination Board	31
14 Constitution of Board	31
15 Functions of the Board	32
16 Procedure of the Board	32
Part 5A—Reportable conduct scheme	33
16A Definition	33
16B Principles	33
16C Application of reportable conduct scheme	34

Section		Page
16D	Administration, oversight and monitoring of scheme	34
16E	Avoiding unnecessary duplication	34
16F	Objectives of Commission under this Part and Part 5B	35
16G	Functions of Commission under this Part and Part 5B	35
16H	Powers of the Commission	37
16I	Exemption by Commission	37
16J	Exemption from whole of scheme	38
16K	Head of entity to have systems in place	38
16L	Disclosure to Commission of reportable allegation	39
16M	Head of entity to notify Commission of reportable allegation	39
16N	Head of entity to respond to reportable allegation	41
16O	Commission may investigate reportable allegation	42
16P	Commission may visit entity	43
16Q	Commission may interview employee	43
16R	Commission may interview child	44
16S	Commission may interview employee subject of reportable allegation	44
16T	Commission may obtain information from Victoria Police	45
16U	Victoria Police investigation has priority	45
16UA	Commission must notify Social Services Regulator of certain information	46
16V	Commission may request regulator to investigate or provide information and documents	47
16W	Commission may monitor regulator's investigation	47
16X	Regulator may disclose information or documents to Commission	47
16Y	Disclosure of information or documents	48
16Z	Protection against self-incrimination	48
16ZA	Assistance to be provided	49
16ZB	Disclosure of information about investigations to children, parents and carers	49
16ZC	Disclosure of information to the Commission, the head of an entity, a regulator, Victoria Police and others	50
16ZD	Commission to notify Secretary after finding of reportable conduct	51
16ZE	Prohibition on publishing certain information	52
16ZF	False or misleading information	53
16ZG	Notice to produce	54
16ZH	Application for declaration and order that entity pay a civil penalty	55
16ZI	Internal review	56
16ZJ	Review by VCAT	56
16ZJA	Delegation	57
16ZK	Service of documents	57
16ZKA	Power to bring a proceeding	58

<i>Section</i>	<i>Page</i>
16ZKB Time for commencing proceeding for offence against section 16M(4)	59
16ZL Annual reports and other reports	59
16ZM Giving a report to Parliament	60
16ZN Review of reportable conduct scheme after 5 years of operation	62
Part 5B—Enforcement and monitoring of compliance with section 16M	63
Division 1—Reportable conduct authorised officers	63
16ZO Appointment of reportable conduct authorised officer	63
16ZP Identity card for reportable conduct authorised officer	63
16ZQ Production of identity card	64
Division 2—Powers of entry and inspection	65
16ZR Powers of reportable conduct authorised officers to enter premises	65
16ZS Notice required for entry with consent	68
16ZT Powers after entry and consent	70
16ZU Acknowledgement of document or thing seized during entry with consent	71
16ZV Application for warrant	72
16ZW Entry under warrant	74
16ZX Powers after entry under warrant	74
16ZY Failure to provide assistance	77
16ZZ Powers after entry without consent or warrant	77
16ZZA Acknowledgment of seizure during entry without consent	80
16ZZB Failure to provide assistance	81
16ZZC Protection against self-incrimination	81
16ZZD Reportable conduct authorised officer may interview child	82
16ZZE Affidavits	83
16ZZF Seizure of documents and things	83
16ZZG Destruction of seized document or thing	85
16ZZH Offence to obstruct or impersonate reportable conduct authorised officer	85
Division 3—Notices to produce and notices to comply	86
16ZZI Notice to produce	86
16ZZJ Reportable conduct notice to comply	87
16ZZK Failure to comply with notice to produce or reportable conduct notice to comply	88
16ZZL Application for a declaration and order to pay a civil penalty	88
16ZZM Infringement notices	89
16ZZN Pending criminal or civil proceedings	90
16ZZO Power to bring a proceeding	91

<i>Section</i>	<i>Page</i>
16ZZP Internal review of decisions to issue notices under this Part	91
16ZZQ Review by VCAT of decision to give notice to comply	91
16ZZR Complaints	92
Part 6—Child Safe Standards	94
Division 1—Child Safe Standards	94
17 Minister may make Child Safe Standards	94
19 Schedule 1 entities must comply with Child Safe Standards	95
20 Prescribed applicable entity must comply with Child Safe Standards	96
21 Applicable entity belonging to a prescribed class must comply with Child Safe Standards	96
22 Exemption from requirement to comply with Child Safe Standards	97
23 Application of Child Safe Standards to businesses not carried on by certain entities	97
23A Compliance with Child Safe Standards generally	98
Division 2—The Commission	98
24 Objectives of Commission	98
25 Functions and powers of the Commission	99
25A Guidance notes on Child Safe Standards	100
Division 2A—Sector regulators and integrated sector regulators	101
25B Sector regulators	101
25C Multiple sector regulators or integrated sector regulators	102
25D Functions and powers of sector regulators	103
25E Delegation by certain sector regulators	104
25F Integrated sector regulators	105
25G Functions and powers of integrated sector regulators	105
25H Delegation by certain integrated sector regulators	106
Division 3—Monitoring and enforcement of compliance with the Child Safe Standards	106
26 Sector regulator may authorise persons to assist	106
27 Appointment of authorised officers	107
28 Identity cards	107
29 Production of identity card	108
29A Powers of authorised officers to enter premises	109
29B Notice required for entry with consent	112
29C Powers after entry and consent	113
29D Acknowledgement of document or thing seized during entry with consent	115
29E Application for warrant	116
29F Entry under warrant	118
29G Powers after entry under warrant	118

<i>Section</i>	<i>Page</i>
29H	Failure to provide assistance 121
29I	Powers after entry without consent or warrant 122
29J	Acknowledgment of seizure during entry without consent 125
29K	Failure to provide assistance 126
29L	Authorised officer may interview child 126
29M	Affidavits 127
29N	Seizure of documents and things 127
29O	Destruction of seized document or thing 129
29P	Offence to obstruct authorised officer 129
29Q	Offence to impersonate authorised officer 130
29R	Complaints 130
29S	Power to bring proceedings 131
30	Notice to produce 131
31	Notice to comply 133
32	False or misleading information 134
32A	Criminal liability of officers of relevant entities—failure to exercise due diligence 135
32B	Immunity 136
32C	Nomination of proper defendant 137
33	Application to court 138
34	Civil penalty 140
34A	Injunctions 141
34B	Interim injunctions 142
34C	Adverse publicity orders 142
34D	Offence to fail to comply with notice to produce or notice to comply 143
34E	Pending criminal or civil proceedings 144
35	Reasonable excuse 145
36	Assistance to be provided 145
36A	Official warnings 146
36B	Infringement notices 147
36C	Enforceable undertakings 147
36D	Sector regulators must maintain register of undertakings 148
36E	No proceedings while enforceable undertaking in force 150
36F	Proceedings following withdrawal of enforceable undertaking 150
36G	No further proceedings if enforceable undertaking complied with 151
36H	Enforcement of undertakings 151
36I	Sector regulator may publish details of non-compliance 152
39	Service of documents under Part 6 153
Division 4—Information collection, use and disclosure powers of Commission, sector regulators and integrated sector regulators 154	
40	Definitions 154
40A	Request by relevant person for information or documents 157
40B	Notice of use of information or document 158

<i>Section</i>	<i>Page</i>
41 Matters relevant to disclosures of information or documents	159
41A Disclosures made in good faith	159
41B Disclosure for purposes of functions or powers permitted	160
41BA Disclosure to certain individuals permitted	161
41C Disclosure by relevant person of protected information to another relevant person	163
41D Disclosure to report concerns permitted	163
41E Disclosure to protect child permitted	164
41F Disclosure to court or tribunal permitted	164
41G Disclosure to obtain legal advice permitted	164
41H Disclosing information to other authorities	165
41HA Disclosure of protected information by relevant persons prohibited	169
Division 5—Review	169
41I Internal review	169
41J Application to the Victorian Civil and Administrative Tribunal	170
Division 6—Reporting	171
41K Report of compliance by relevant entities with Child Safe Standards	171
41KA Commission may request information for reports	174
41L Matters to be included in annual report must not include identifying information	174
41M Opportunity to respond to adverse comment or opinion in report	175
Division 7—Reporting to Parliament	175
41N Application of Division	175
41O Giving the report to Parliament	176
Part 6A—Information sharing	178
Division 1—Preliminary	178
41P Definitions	178
41Q Meaning of <i>excluded information</i>	179
41R Meaning of <i>information sharing entity</i>	180
41S Meaning of <i>restricted information sharing entity</i>	180
41T Application of this Part to courts and tribunals	182
41U Principles	182
Division 2—Information sharing	184
41V Voluntary disclosure for wellbeing or safety of children	184
41W Request for confidential information for wellbeing or safety of children	185

<i>Section</i>	<i>Page</i>
41X Further disclosure of confidential information	186
41Y Voluntary disclosure to child or person with parental responsibility or with whom child is living	186
41Z Collection and use of confidential information	187
Division 3—Guidelines, protected disclosures and recording requirements	187
41ZA Guidelines	187
41ZB Use and disclosure in good faith protected	189
41ZC Recording requirements	189
Division 4—Relationship of this Part with other Acts	189
41ZD Information sharing entities under the Family Violence Protection Act 2008	189
41ZE Part does not affect handling of confidential information permitted by other Acts	190
41ZF Restrictions on access to confidential information	190
41ZG Application of Privacy and Data Protection Act 2014 to certain information sharing entities and restricted information sharing entities	191
41ZH Information sharing entities and restricted information sharing entities authorised to disclose confidential information despite specified provisions	191
41ZI Disclosure of confidential information is not breach of Family Violence Protection Act 2008	191
41ZJ Disclosure of confidential information is not breach of Judicial Proceedings Reports Act 1958	192
Division 5—Offences	192
41ZK Unauthorised use and disclosure of confidential information collected under this Part	192
41ZL Intentional or reckless unauthorised use and disclosure of confidential information	194
41ZM False claim that person is or represents an information sharing entity or a restricted information sharing entity	196
Division 6—Review	197
41ZN Review of operation of Part within 2 years	197
41ZO Review of operation of Part within 5 years	197
Part 7—Birth notification	198
42 Application of Part	198
43 Early notification of births	198
44 How must the birth notice be given?	198
45 What must be done once notice is received?	199
46 Offence to fail to give notice	199

<i>Section</i>	<i>Page</i>
Part 7A—Child Link Register	201
Division 1—Definitions	201
46A Definitions	201
Division 2—The Child Link Register	204
46B The Child Link Register	204
46C Secretary must create Child Link entry and allocate Child Link identifier	205
46D Particulars to be included in the Register	207
46E Secretary may decide not to record information on the Register	210
46F Entry in the Register for child who turns 18, leaves school or dies	210
Division 3—Secretary authorised to collect, use and disclose information for Register purposes	211
46G Secretary authorised to collect, use and disclose information for purposes of establishing and maintaining the Register	211
46H Secretary authorised to collect and use information for purposes of data management	212
46I Disclosure of information to the Secretary	214
46J No consent required	215
Division 4—Access to Child Link Register and use and disclosure of information contained in the Register	215
46K Who is a Child Link user?	215
46L Delegation	219
46M Child Link users may access and use confidential information in the Register	220
46N Secretary may remove Child Link user access to the Register	220
46O Use and disclosure of de-identified information derived from the Register	222
46P Restrictions on access to confidential information	222
46Q Person authorised to disclose confidential information despite specified provisions	223
46R Application of Privacy and Data Protection Act 2014 to certain Child Link users	223
Division 5—Guidelines	224
46S Guidelines	224
Division 6—Offences	225
46T Unauthorised access to the Register	225
46U Access to the Register for unauthorised purpose	225

<i>Section</i>	<i>Page</i>
46V Unauthorised use and disclosure of confidential information contained in the Register	226
46W Intentional or reckless unauthorised use and disclosure of confidential information contained in the Register	227
Division 7—Review of operation of Part	228
46X Review of operation of Part within 2 years	228
Division 8—Transitional provisions	229
46Y Secretary may create entries in the Register	229
46Z Appointed days for application of section 46M and Schedule 6 to Child Link users	229
Part 7B—Qualifications required for maternal and child health nurses	231
46ZAA Maternal and Child Health Centres	231
46ZAB State-wide telephone services	231
46ZAC Part not to affect employment contracts or workplace instruments	232
Part 8—General	233
Division 1—Offences by bodies corporate	233
46ZA Imputing conduct to bodies corporate	233
46ZB Criminal liability of officers of bodies corporate—accessorial liability	233
Division 2—Regulations	235
46ZC Information sharing and Child Link regulation making power	235
46ZD Maternal and child health nurse regulation making power	239
46ZE Child Safe Standards regulation making power	241
47 General regulation making power	242
Part 9—Transitional provisions	244
Division 1—Children Legislation Amendment (Reportable Conduct) Act 2017	244
48 Children Legislation Amendment (Reportable Conduct) Act 2017	244
Division 2—Children Legislation Amendment (Information Sharing) Act 2018	244
49 Children Legislation Amendment (Information Sharing) Act 2018	244

<i>Section</i>	<i>Page</i>
Division 3—Child Wellbeing and Safety (Child Safe Standards Compliance and Enforcement) Amendment Act 2021	245
50 Definitions	245
51 Pending investigations	245
52 Investigation of conduct before commencement day	246
Division 4—Transitional provisions—Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Act 2023	248
53 Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Act 2023	248
54 Transitional regulations—Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Act 2023	249
Schedule 1—Entities subject to Child Safe Standards	250
Schedule 3—Entities to which the reportable conduct scheme applies on and after commencement of Part 5A	255
Schedule 4—Entities to which the reportable conduct scheme applies 6 months after commencement of Part 5A	257
Schedule 5—Entities to which the reportable conduct scheme applies 18 months after commencement of Part 5A	258
Schedule 6—Child Link users and purposes of access, use and disclosure	259
Schedule 7—Specified provisions	268
<hr/>	
Endnotes	269
1 General information	269
2 Table of Amendments	271
3 Explanatory details	276

Authorised Version No. 044
Child Wellbeing and Safety Act 2005
No. 83 of 2005

Authorised Version incorporating amendments as at
1 July 2024

The Parliament of Victoria enacts as follows:

Part 1—Preliminary

1 Purposes

The main purposes of this Act are—

- (a) to establish principles for the wellbeing of children; and
- (b) to establish the Victorian Children's Council; and
- (c) to establish the Children's Services Co-ordination Board; and
- (d) to provide for the Minister to make standards in relation to child safety with which certain entities must comply; and
- (da) to provide for sector regulators and integrated sector regulators; and

S. 1(d)
repealed by
No. 79/2012
s. 73,
new s. 1(d)
inserted by
No. 63/2015
s. 4.

S. 1(da)
inserted by
No. 23/2021
s. 4(1).

Child Wellbeing and Safety Act 2005
No. 83 of 2005
Part 1—Preliminary

S. 1(e)
repealed by
No. 79/2012
s. 73,
new s. 1(e)
inserted by
No. 63/2016
s. 4,
amended by
No. 23/2021
s. 4(2).

(e) to provide for the oversight and enforcement by the Commission for Children and Young People, sector regulators and integrated sector regulators of compliance by certain entities with standards in relation to child safety; and

S. 1(ea)
inserted by
No. 11/2018
s. 4(a).

(ea) to enable specified entities to share confidential information in a timely and effective manner in order to promote the wellbeing and safety of children; and

(f) to provide for the notification of births to municipal councils; and

S. 1(fa)
inserted by
No. 4/2017
s. 4.

(fa) to provide for a scheme for the reporting to the Commission for Children and Young People of allegations of reportable conduct or misconduct that may involve reportable conduct committed by employees within or connected to certain entities, the oversight by the Commission of investigations of those allegations and the administration of the scheme by the Commission; and

S. 1(fb)
inserted by
No. 11/2018
s. 4(b).

(fb) to establish the Child Link Register to improve child wellbeing and safety outcomes for, and to monitor and support the participation in government-funded programs and services by, children born or resident in Victoria; and

(g) to repeal Part IX of the **Health Act 1958**.

2 Commencement

(1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.

- (2) If a provision of this Act does not come into operation before 1 October 2007, it comes into operation on that day.

3 Definitions

- (1) In this Act—

S. 3
amended by
No. 63/2015
s. 5(3) (ILA
s. 39B(1)).

applicable entity means—

S. 3(1) def. of
*applicable
entity*
inserted by
No. 63/2015
s. 5(2),
amended by
No. 4/2018
s. 3(1)(a).

- (a) an incorporated body or association; or
- (b) an unincorporated body or association (however structured); or
- (c) an individual who—
 - (i) carries on a business; and
 - (ii) engages contractors, employees or volunteers to assist the business in providing services or facilities or in producing or providing goods;

authorised officer means a person appointed to be an authorised officer under section 27;

S. 3(1) def. of
*authorised
officer*
inserted by
No. 23/2021
s. 5(2).

authorised person means—

S. 3(1) def. of
*authorised
person*
repealed by
No. 79/2012
s. 74(1),
new def. of
*authorised
person*
inserted by
No. 63/2016
s. 5,
substituted by
No. 23/2021
s. 5(3).

- (a) an authorised person within the meaning of the **Commission for Children and Young People Act 2012**; or
- (b) a person authorised under section 26;

S. 3(1) def. of
*authorised
representative*
inserted by
No. 11/2018
s. 5(a).

authorised representative, in relation to an individual, means a person—

- (a) who is an authorised representative, within the meaning of section 28(6) of the **Privacy and Data Protection Act 2014**, of that individual; and
- (b) who is not a person of concern within the meaning of section 144B of the **Family Violence Protection Act 2008**; and
- (c) who is not alleged to pose a risk of family violence;

S. 3(1) def. of
*authorising
Act*
inserted by
No. 23/2021
s. 5(2).

authorising Act, in relation to an integrated sector regulator, means—

- (a) the Act under which the integrated sector regulator is established or continued; or
- (b) an Act prescribed for that integrated sector regulator;

S. 3(1) def. of
*category 1
entity*
inserted by
No. 63/2015
s. 5(2),
amended by
No. 4/2018
s. 3(2)(a),
repealed by
No. 23/2021
s. 5(1).

* * * * *

S. 3(1) def. of
*category 2
entity*
inserted by
No. 63/2015
s. 5(2),
amended by
No. 4/2018
s. 3(2)(b),
repealed by
No. 23/2021
s. 5(1).

* * * * *

Child Wellbeing and Safety Act 2005
No. 83 of 2005
Part 1—Preliminary

category of entity means—

- (a) an item in Schedule 1; or
- (b) any other category (however described) of relevant entity in relation to which a sector regulator—
 - (i) is prescribed; or
 - (ii) is allocated under Part 6;

S. 3(1) def. of *category of entity* inserted by No. 23/2021 s. 5(2).

* * * * *

S. 3(1) def. of *central register* substituted by No. 96/2005 s. 604(1)(a), repealed by No. 79/2012 s. 74(1).

Chief Commissioner of Police means the Chief Commissioner of Police appointed under section 17 of the **Victoria Police Act 2013**;

S. 3(1) def. of *Chief Commissioner of Police* inserted by No. 4/2017 s. 5(1).

child means (other than in Part 6A) a child or young person who is under the age of 18 years;

S. 3(1) def. of *child* amended by Nos 11/2018 s. 5(b), 23/2021 s. 5(4).

child abuse includes—

- (a) any act committed against a child involving—
 - (i) a sexual offence; or
 - (ii) an offence under section 49M(1) of the **Crimes Act 1958**; and
- (b) the infliction, on a child, of—
 - (i) physical violence; or

S. 3(1) def. of *child abuse* inserted by No. 63/2015 s. 5(2), amended by No. 47/2016 s. 33.

- (ii) serious emotional or psychological harm; and
- (c) the serious neglect of a child;

S. 3(1) def. of
*Child Safe
Standards*
inserted by
No. 63/2015
s. 5(2).

Child Safe Standards means the standards made under section 17(1);

S. 3(1) def. of
*Child Safety
Commis-
sioner*
repealed by
No. 79/2012
s. 74(1).

* * * *

S. 3(1) def. of
Commission
inserted by
No. 63/2016
s. 5.

Commission means the Commission for Children and Young People established by section 6 of the **Commission for Children and Young People Act 2012**;

S. 3(1) def. of
*confidential
information*
inserted by
No. 11/2018
s. 5(a).

confidential information means—

- (a) health information; or
- (b) personal information; or
- (c) sensitive information within the meaning set out in Schedule 1 to the **Privacy and Data Protection Act 2014**; or
- (d) unique identifiers; or
- (e) identifiers within the meaning of the **Health Records Act 2001**;

S. 3(1) def. of
council
amended by
No. 9/2020
s. 390(Sch. 1
item 15).

council has the same meaning as it has in the **Local Government Act 2020**;

court means (other than in Parts 6A and 7A) the Magistrates' Court;

S. 3(1) def. of *court* inserted by No. 63/2016 s. 5, amended by No. 11/2018 s. 5(c).

Department has the same meaning as it has in the **Public Administration Act 2004**;

S. 3(1) def. of *Department* inserted by No. 63/2016 s. 5.

employee, in relation to an entity to which the reportable conduct scheme applies, means a person of or over the age of 18 years who is—

S. 3(1) def. of *employee* inserted by No. 4/2017 s. 5(1), amended by Nos 4/2018 s. 3(1)(b), 17/2023 ss 19(2), 53.

- (a) employed by the entity, whether or not the person is employed in connection with any work or activities of the entity that relate to children; or
- (b) engaged by the entity to provide services, including as a volunteer, contractor, office holder or officer, whether or not the person provides services to children; or
- (ba) a person who—
 - (i) is supplied to the entity by a provider for whom the person is a worker or volunteer worker; and
 - (ii) performs work in and as part of the business or undertaking of the entity under the direction, supervision or control of the entity, whether or not the work relates to children; or

Examples

1. A relief teacher in a school.

2. An agency nurse working in a hospital.
- (bb) a secondee to the entity who performs work in and as part of the business or undertaking of the entity under the direction, supervision or control of the entity, whether or not the work relates to children; or
- (bc) if the entity is an applicable entity who is an individual, the individual; or
- (bd) engaged by the entity through another body of which the person is a director or other office holder, whether or not the person provides services to children; or

Example

A sole director of a company that has entered into a contract for services with the entity, provided that the director performs work for the entity.

- (c) if the entity is a religious body (within the meaning of section 81 of the **Equal Opportunity Act 2010**)—a minister of religion, a religious leader or an employee (within the meaning of paragraph (a) or (b)) or officer of the religious body; or
- (d) either—
- (i) a foster carer approved by the provider of an out of home care service with whom a child is or has been placed in accordance with the **Children, Youth and Families Act 2005** or an order made under that Act; or

- (ii) a family member or other person of significance to a child with whom the child is or has been placed in out of home care, or who is supervised in that care, by the entity, or the head of the entity, under the **Children, Youth and Families Act 2005** or in accordance with an order made under that Act—

and—

- (iii) a permanent care order has not been made in respect of the child; or
- (iv) a permanent care order has been made in respect of the child and a reportable allegation in relation to the child is made concerning the permanent carer in respect of the period before the making of the order; or

- (e) a person in a prescribed class of person—

but does not include a person in a class of person prescribed not to be an employee;

entity to which the reportable conduct scheme applies means—

- (a) on and after the commencement of Part 5A, an entity referred to in Schedule 3; and
- (b) on and after 6 months after the commencement of Part 5A, an entity referred to in Schedule 4; and

S. 3(1) def. of
*entity to which the
reportable
conduct
scheme
applies*
inserted by
No. 4/2017
s. 5(1).

- (c) on and after 18 months after the commencement of Part 5A, an entity referred to in Schedule 5; and
- (d) on and after a prescribed date in relation to that entity or class of entities, a prescribed entity or an entity belonging to a prescribed class of entities;

S. 3(1) def. of *family violence* inserted by No. 11/2018 s. 5(a).

family violence has the same meaning as in the **Family Violence Protection Act 2008**;

S. 3(1) def. of *guardian* inserted by No. 23/2021 s. 19.

guardian includes—

- (a) a guardian within the meaning of the **Guardianship and Administration Act 2019**; or
- (b) in the case of a child, a person with parental responsibility for the child;

S. 3(1) def. of *head* inserted by No. 4/2017 s. 5(1), substituted by No. 4/2018 s. 3(1)(c).

head, in relation to an entity to which the reportable conduct scheme applies, means—

- (a) if the entity is a Department, the Secretary to the Department or the delegate of the Secretary; or
- (b) if the regulations prescribe a person or a class of persons as the head of an entity, the prescribed person or a person belonging to the prescribed class of persons; or
- (c) in any other case—
 - (i) the chief executive officer of the entity (however described); or
 - (ii) if there is no chief executive officer, the principal officer of the entity (however described); or

- (iii) if there is no chief executive officer or principal officer, a person, or the holder of a position, in the entity nominated by the entity and approved by the Commission;

head of a relevant entity means—

- (a) an individual who is primarily responsible for—
- (i) engaging and terminating the engagement of the relevant entity's employees; and
- (ii) managing the relevant entity's employees; or
- (b) a person nominated by the relevant entity; or
- (c) a person or class of person prescribed to be a head of a relevant entity;

S. 3(1) def. of *head of a relevant entity* inserted by No. 63/2016 s. 5.

health information has the same meaning as in section 3(1) of the **Health Records Act 2001**;

S. 3(1) def. of *health information* inserted by No. 11/2018 s. 5(a).

* * * * *

S. 3(1) def. of *health professional* substituted by Nos 97/2005 s. 182(Sch. 4 item 9), 13/2010 s. 51(Sch. item 11.1), repealed by No. 79/2012 s. 74(1).

* * * * *

S. 3(1) def. of *health service* repealed by No. 79/2012 s. 74(1).

Child Wellbeing and Safety Act 2005
No. 83 of 2005
Part 1—Preliminary

S. 3(1) def. of
*human
service*
amended by
Nos 23/2006
s. 233, 80/2011
s. 79(Sch.
item 1),
repealed by
No. 79/2012
s. 74(1).

* * * *

S. 3(1) def. of
*independent
investigator*
inserted by
No. 4/2017
s. 5(1).

independent investigator means an independent
body or person with appropriate
qualifications, training or experience to
investigate reportable allegations;

S. 3(1) def. of
*information
sharing entity*
inserted by
No. 11/2018
s. 5(a).

information sharing entity has the meaning set
out in section 41R;

S. 3(1) def. of
*integrated
sector
regulator*
inserted by
No. 23/2021
s. 5(2).

integrated sector regulator has the meaning set
out in section 25F;

Maternal and Child Health Centre means a
centre where health advice is given to the
parents and other caregivers of children
under 6 years of age;

S. 3(1) def. of
*medical
practitioner*
inserted by
No. 13/2010
s. 51(Sch.
item 11.2),
repealed by
No. 79/2012
s. 74(1).

* * * *

midwife means a person registered under the Health Practitioner Regulation National Law—

S. 3(1) def. of *midwife* inserted by No. 13/2010 s. 51(Sch. item 11.2).

- (a) to practise in the nursing and midwifery profession as a midwife (other than as a student); and
- (b) in the register of midwives kept for that profession;

municipal district has the same meaning as it has in the **Local Government Act 2020**;

S. 3(1) def. of *municipal district* amended by No. 9/2020 s. 390(Sch. 1 item 15).

notice to comply, in Part 6, means a notice given to a relevant entity under section 31;

S. 3(1) def. of *notice to comply* inserted by No. 63/2016 s. 5.

notice to produce, in Part 5A, means a notice given to an entity under section 16ZG;

S. 3(1) def. of *notice to produce*, in Part 5A inserted by No. 4/2017 s. 5(1).

notice to produce, in Part 5B, means a notice given to a person under section 16ZZI;

S. 3(1) def. of *notice to produce*, in Part 5B inserted by No. 17/2023 s. 22.

notice to produce, in Part 6, means a notice given to a relevant entity under section 30;

S. 3(1) def. of *notice to produce*, in Part 6 inserted by No. 63/2016 s. 5.

Child Wellbeing and Safety Act 2005
No. 83 of 2005
Part 1—Preliminary

S. 3(1) def. of
nurse
inserted by
No. 13/2010
s. 51(Sch.
item 11.2),
amended by
Nos 79/2012
s. 74(2),
63/2015
s. 5(1).

nurse means a person registered under the Health Practitioner Regulation National Law to practise in the nursing and midwifery profession as a nurse (other than as a midwife or as a student);

S. 3(1) def. of
occupier
inserted by
No. 23/2021
s. 19.

occupier in relation to any premises or place, includes a person present at the premises or place who is in apparent control of the premises or place;

S. 3(1) def. of
*out of home
care service*
substituted by
No. 96/2005
s. 604(1)(b),
repealed by
No. 79/2012
s. 74(1).

* * * * *

S. 3(1) def. of
*performance
standards*
substituted by
No. 96/2005
s. 604(1)(c),
repealed by
No. 79/2012
s. 74(1).

* * * * *

S. 3(1) def. of
*permanent
care order*
inserted by
No. 4/2017
s. 5(1).

permanent care order has the same meaning as in the **Children, Youth and Families Act 2005**;

S. 3(1) def. of
*personal
information*
inserted by
No. 11/2018
s. 5(a).

personal information has the same meaning as in section 3 of the **Privacy and Data Protection Act 2014**;

Child Wellbeing and Safety Act 2005
No. 83 of 2005
Part 1—Preliminary

*	*	*	*	*	S. 3(1) def. of <i>post-secondary qualification</i> repealed by No. 79/2012 s. 74(1).
<i>provider</i> , in relation to a worker or volunteer worker, means a person who, in the course of conducting a business or undertaking, supplies one or more individuals to another person to perform work in and as part of the business or undertaking of the other person;					
*	*	*	*	*	S. 3(1) def. of <i>psychologist</i> inserted by No. 13/2010 s. 51(Sch. item 11.2), repealed by No. 79/2012 s. 74(1).
<i>public sector body</i> has the same meaning as in the Public Administration Act 2004 ;					
<i>public sector body Head</i> has the same meaning as it has in the Public Administration Act 2004 ;					
<i>registered health practitioner</i> has the same meaning as in the Health Practitioner Regulation National Law;					

S. 3(1) def. of
regulator
inserted by
No. 4/2017
s. 5(1),
amended by
No. 37/2021
s. 349(1).

regulator, for the purposes of the reportable conduct scheme—

- (a) in relation to an entity to which the reportable conduct scheme applies, means any of the following—
 - (i) a Department that is responsible for regulating the entity;
 - (ii) a Department that provides funding to the entity;
 - (iii) the Victorian Registration and Qualifications Authority established under section 4.2.1 of the **Education and Training Reform Act 2006** if the entity is referred to in item 1, 2, 3 or 4 of Schedule 3;
 - (iv) any other body—
 - (A) that regulates or funds the entity; and
 - (B) that is prescribed to be a regulator in respect of the entity;
- (b) in relation to an employee, means any of the following, as the case requires—
 - (i) the Suitability Panel established by section 98 of the **Children, Youth and Families Act 2005**;
 - (ii) the Australian Health Practitioner Regulation Agency established by section 23 of the Health Practitioner Regulation National Law;

- (iii) a National Health Practitioner Board established by section 31 of the Health Practitioner Regulation National Law;
- (iv) the Victorian Institute of Teaching continued in operation by section 2.6.2 of the **Education and Training Reform Act 2006**;
- (iva) the Social Services Regulator;
- (v) any other body that is prescribed to be a regulator in respect of the employee;

Regulatory Authority—

- (a) in relation to a relevant entity referred to in item 9 of Schedule 1, means the Regulatory Authority within the meaning of the Education and Care Services National Law (Victoria); and

Note

Section 8 of the **Education and Care Services National Law Act 2010** defines the Regulatory Authority for the purposes of the Education and Care Services National Law (Victoria).

- (b) in relation to a relevant entity referred to in item 10 of Schedule 1, has the same meaning as in section 3(1) of the **Children's Services Act 1996**;

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S. 3(1) def. of *Regulatory Authority* inserted by No. 23/2021 s. 5(2A) (as amended by No. 43/2022 s. 11).

S. 3(1) def. of *relevant authority* inserted by No. 63/2016 s. 5, repealed by No. 23/2021 s. 5(1).

S. 3(1) def. of
relevant entity
inserted by
No. 63/2016
s. 5,
amended by
No. 4/2018
s. 3(2)(c).

relevant entity means—

- (a) an entity that is required under section 19, 20 or 21 to comply with the Child Safe Standards; or
- (b) an individual who is required under section 23 to comply with the Child Safe Standards;

S. 3(1) def. of
reportable allegation
inserted by
No. 4/2017
s. 5(1).

reportable allegation means any information that leads a person to form a reasonable belief that an employee has committed—

- (a) reportable conduct; or
- (b) misconduct that may involve reportable conduct—

whether or not the conduct or misconduct is alleged to have occurred within the course of the person's employment;

S. 3(1) def. of
reportable conduct
inserted by
No. 4/2017
s. 5(1).

reportable conduct means—

- (a) a sexual offence committed against, with or in the presence of, a child, whether or not a criminal proceeding in relation to the offence has been commenced or concluded; or
- (b) sexual misconduct, committed against, with or in the presence of, a child; or
- (c) physical violence committed against, with or in the presence of, a child; or
- (d) any behaviour that causes significant emotional or psychological harm to a child; or
- (e) significant neglect of a child;

reportable conduct authorised officer means a reportable conduct authorised officer appointed under section 16ZO;

S. 3(1) def. of *reportable conduct authorised officer* inserted by No. 17/2023 s. 22.

reportable conduct notice to comply means a notice given under section 16ZZJ;

S. 3(1) def. of *reportable conduct notice to comply* inserted by No. 17/2023 s. 22.

reportable conduct scheme means the scheme set out in Part 5A;

S. 3(1) def. of *reportable conduct scheme* inserted by No. 4/2017 s. 5(1).

restricted information sharing entity has the meaning set out in section 41S;

S. 3(1) def. of *restricted information sharing entity* inserted by No. 11/2018 s. 5(a).

seconded, in relation to an entity to which the reportable conduct scheme applies, means an individual who—

S. 3(1) def. of *seconded* inserted by No. 17/2023 s. 19(1).

- (a) has been provided to the entity by a person to perform work in and as part of the business or undertaking of the entity on a temporary basis for a secondment period; and
- (b) is engaged as an employee of the person;

* * * * *

S. 3(1) def. of *Secretary* repealed by No. 79/2012 s. 74(1).

S. 3(1) def. of
*sector
regulator*
inserted by
No. 23/2021
s. 5(2).

sector regulator has the meaning set out in
section 25B;

S. 3(1) def. of
*sexual
misconduct*
inserted by
No. 4/2017
s. 5(1).

sexual misconduct includes behaviour, physical
contact or speech or other communication of
a sexual nature, inappropriate touching,
grooming behaviour and voyeurism;

S. 3(1) def. of
*sexual
offence*
inserted by
No. 4/2017
s. 5(1).

sexual offence means an offence referred to in
clause 1 of Schedule 1 to the **Sentencing
Act 1991**;

S. 3(1) def. of
significant
inserted by
No. 4/2017
s. 5(1).

significant, in relation to emotional or
psychological harm or neglect, means that
the harm or neglect is more than trivial or
insignificant, but need not be as high as
serious and need not have a lasting
permanent effect;

S. 3(1) def. of
*Social
Services
Regulator*
inserted by
No. 37/2021
s. 349(2).

Social Services Regulator means the Social
Services Regulator established under
section 4 of the **Social Services Regulation
Act 2021**;

S. 3(1) def. of
State contract
repealed by
No. 79/2012
s. 74(1), new
def. of *State
contract*
inserted by
No. 63/2015
s. 5(2),
amended by
No. 4/2017
s. 5(2).

State contract has the same meaning as it has in
the **Commission for Children and Young
People Act 2012**;

statutory office has the same meaning as in the
Public Administration Act 2004;

S. 3(1) def. of
*statutory
office*
inserted by
No. 23/2021
s. 5(2).

unique identifier has the same meaning as in
Schedule 1 to the **Privacy and Data
Protection Act 2014**;

S. 3(1) def. of
*unique
identifier*
inserted by
No. 11/2018
s. 5(a).

Victoria Police has the same meaning as in the
Victoria Police Act 2013;

S. 3(1) def. of
Victoria Police
inserted by
No. 4/2017
s. 5(1).

volunteer worker has the meaning given in
section 3A(3);

S. 3(1) def. of
*volunteer
worker*
inserted by
No. 17/2023
s. 19(1).

VRQA means the Victorian Registration and
Qualifications Authority established under
Chapter 4 of the **Education and Training
Reform Act 2006**;

S. 3(1) def. of
VRQA
inserted by
No. 23/2021
s. 5(2).

* * * * *

S. 3(1) def. of
*welfare
practitioner*
repealed by
No. 79/2012
s. 74(1).

worker has the meaning given in section 3A(1);

S. 3(1) def. of
worker
inserted by
No. 17/2023
s. 19(1).

* * * * *

S. 3(1) def. of
*working with
children
check*
inserted by
No. 4/2017
s. 5(1),
repealed by
No. 34/2020
s. 169(b).

S. 3(1) def. of
WWC check
inserted by
No. 34/2020
s. 169(a).

WWC check has the same meaning as in the
Worker Screening Act 2020.

S. 3(2)
inserted by
No. 63/2015
s. 5(3),
substituted by
No. 4/2018
s. 3(3),
amended by
No. 23/2021
s. 5(5).

- (2) A reference in this Act to the provision of a service or facility or the production or provision of goods by a relevant entity or applicable entity is, in relation to an individual who carries on a business, a reference to the provision of the service or facility or the production or provision of goods by the business.

S. 3A
inserted by
No. 17/2023
s. 20.

3A Meaning of *worker* and *volunteer worker*

- (1) For the purposes of the reportable conduct scheme, an individual is a ***worker*** for a provider if—
- (a) under an arrangement between the individual and the provider, the provider supplies or may supply the individual to one or more persons to perform work; and
 - (b) the provider is obliged to pay the individual (in whole or in part) for the performance of that work by the individual, whether payment is provided directly or indirectly, or through one or more intermediaries.
- (2) Without limiting subsection (1), an individual may be a worker for a provider whether or not—
- (a) the individual is employed by the provider; or
 - (b) a contract has been entered into between the individual and the provider; or
 - (c) the individual is an apprentice or is under a training contract, both within the meaning of the **Education and Training Reform Act 2006**.

- (3) For the purposes of the reportable conduct scheme, an individual is a ***volunteer worker*** for a provider if under an arrangement between the individual and the provider, the provider supplies or may supply the individual to one or more persons to perform work on a voluntary basis.

Part 2—Principles for children

4 Principles are for guidance

- (1) It is the intention of Parliament that the principles set out in this Part should be used for guidance in the development and provision of Government, Government-funded and community services for children and their families.
- (2) The Parliament does not intend by this Part—
 - (a) to create in any person any legal right or give rise to any civil cause of action; or
 - (b) to affect in any way the interpretation of any Act or law in force in Victoria.

5 Principles for children

- (1) The development and provision of services for children and families should be based upon the fundamental principles that—
 - (a) society as a whole shares responsibility for promoting the wellbeing and safety of children;
 - (b) all children should be given the opportunity to reach their full potential and participate in society irrespective of their family circumstances and background;
 - (c) those who develop and provide services, as well as parents, should give the highest priority to the promotion and protection of a child's safety, health, development, education and wellbeing;
 - (d) parents are the primary nurturers of a child and Government intervention into family life should be limited to that necessary to secure the child's safety and wellbeing, however, it is the responsibility of Government to meet the needs of the child when the child's family

S. 5(1)(d)
amended by
No. 22/2008
s. 41(a).

- is unable to provide adequate care and protection;
- (e) every child should be able to enrol in a kindergarten program at an early childhood education and care centre. **S. 5(1)(e) inserted by No. 22/2008 s. 41(b).**
- (2) Services for children and families should be designed and developed—
- (a) to readily identify risks, harm and damage to the child and to provide for the earliest possible intervention by providers of services to remove or ameliorate the causes of the risks, harm or damage; **S. 5(2)(a) substituted by No. 11/2018 s. 6.**
- (ab) to strengthen the capacity and efforts of parents, their families and communities to support the child as early as possible in the child's life; **S. 5(2)(ab) inserted by No. 11/2018 s. 6.**
- (b) to accord with the needs of each local community with the active involvement of that community's cultural groups, and to be accessible and responsive to the particular cultures, languages and circumstances of the community and to be properly planned and co-ordinated with services provided by other local and regional communities;
- (c) to give the highest priority to making appropriate and sufficient levels of assistance available to children and families in communities or population groups that are known to have the greatest need;
- (d) to promote continuous improvement in the quality of those services, based on the best available knowledge of the needs of children and their stages of development.

- (3) The providers of services to children and families should—
- (a) protect the rights of children and families and, to the greatest extent possible, encourage their participation in any decision-making that affects their lives;
 - (b) acknowledge and be respectful of the child's individual identity, circumstances and cultural identity and be responsive to the particular needs of the child;
 - (c) make decisions about intervention by the providers of services into a child's or family's life and about access by a child or family to those services in a timely manner being mindful of any harmful effects that may be caused to the child by a delay in making decisions or providing services;
 - (d) ensure that families are made aware of the services available to them and of the benefits these services can provide, especially to those families in most need of assistance;
 - (e) co-operate with other services or professionals to work in the interests of the child and family.

S. 5A
inserted by
No. 63/2016
s. 6.

5A Principles for compliance with Child Safe Standards

S. 5A(1)
amended by
No. 23/2021
s. 6(1)(a).

- (1) The oversight and enforcement by the Commission, sector regulators and integrated sector regulators of compliance by relevant entities with the Child Safe Standards should be based on the fundamental principles that—
- (a) relevant entities are responsible, in respect of the children who use their services or facilities or who are engaged to assist in

providing their services or facilities, for continuously improving the ways in which, in their operations—

- (i) the safety of children is promoted; and
 - (ii) child abuse is prevented; and
 - (iii) allegations of child abuse are properly responded to; and
 - (b) sector regulators and integrated sector regulators of relevant entities have specific knowledge of the relevant entities that they regulate and have the primary role in promoting, monitoring and enforcing compliance by those relevant entities with the Child Safe Standards; and
 - (c) having regard to paragraph (b), the Commission, sector regulators and integrated sector regulators should collaborate with each other for the purpose of promoting compliance by relevant entities with the Child Safe Standards.
- (2) The Commission should educate and guide—
- (a) sector regulators and integrated sector regulators to promote compliance by relevant entities with the Child Safe Standards; and
 - (b) relevant entities, in respect of the children who use their services or facilities or who are engaged to assist in providing their services or facilities, to continuously improve the ways in which, in their operations—
 - (i) the safety of children is promoted; and
 - (ii) child abuse is prevented; and
 - (iii) allegations of child abuse are properly responded to.

S. 5A(1)(b)
substituted by
No. 23/2021
s. 6(1)(b).

S. 5A(1)(c)
substituted by
No. 23/2021
s. 6(1)(c).

S. 5A(2)(a)
amended by
No. 23/2021
s. 6(2).

Part 3—Child wellbeing and safety

6 The role of the Minister

- (1) The Minister must promote the co-ordination of Government programs that affect child wellbeing and safety.
- (2) The Minister may establish any advisory committee that the Minister considers appropriate to assist the Minister in the administration of this Act.

S. 7
amended by
Nos 79/2012
s. 75, 63/2015
s. 9.

7 Role of the Secretary in relation to Aboriginal communities

The Secretary to the Department of Health and Human Services must work with Aboriginal communities to establish a Victorian Aboriginal Child Wellbeing Charter.

Part 4—Victorian Children's Council

8 Establishment of Victorian Children's Council

The Victorian Children's Council is established.

9 Constitution of Council

- (1) The Victorian Children's Council consists of at least 8 members appointed by the Minister. **S. 9(1) substituted by No. 79/2012 s. 76(1).**
- (2) The Minister must appoint one of the members to be the Chairperson.
- (3) A person appointed under subsection (1) must be a person who, in the opinion of the Minister, has expert knowledge of policies and services that enhance the health, wellbeing, development or safety of children. **S. 9(3) amended by No. 63/2015 s. 10.**
- (4) A member— **S. 9(4) amended by No. 79/2012 s. 76(2).**
- (a) holds office for such period not exceeding three years, as is specified in the instrument of appointment and is eligible for re-appointment;
 - (b) is entitled to the remuneration and allowances determined by the Minister from time to time;
 - (c) may resign from the office of member by writing to the Minister;
 - (d) may be removed from office by the Minister;
 - (e) is in respect of the office of member subject to the **Public Administration Act 2004** (other than Part 3 of that Act). **S. 9(4)(e) substituted by No. 80/2006 s. 26(Sch. item 10).**

10 Functions of the Council

- (1) The functions of the Council are to provide the Premier and the Minister with independent and expert advice relating to policies and services that enhance the health, wellbeing, development and safety of children.
- (2) The Secretary must make available to the Council the services of any employees in the Department that are necessary to enable the Council to carry out its functions.

11 Sub-committees

- (1) The Council, subject to the approval of the Minister, may appoint for the purposes of carrying out any of its functions under this Part a sub-committee consisting of such members as it determines together with such other persons as it determines.
- (2) A sub-committee appointed under this section must report to the Council.

12 Procedure of the Council

- (1) A majority of members for the time being of the Victorian Children's Council constitutes a quorum of that Council.
- (2) The Victorian Children's Council may regulate its own proceedings.

Part 5—Children's Services Co-ordination Board

13 Establishment of Children's Services Co-ordination Board

The Children's Services Co-ordination Board is established.

14 Constitution of Board

The Children's Services Co-ordination Board consists of—

- (a) the Secretary to the Department of Premier and Cabinet; and
- (b) the Secretary to the Department of Treasury and Finance; and
- (c) the Secretary to the Department of Health and Human Services; and
- (d) the Secretary to the Department of Education and Training; and
- (e) the Secretary to the Department of Justice and Community Safety; and

S. 14(c)
amended by
No 63/2015
s. 11(a).

S. 14(d)
amended by
Nos 28/2007
s. 3(Sch.
item 6),
58/2007 s. 51,
63/2015
s. 11(b).

S. 14(e)
amended by
Nos 63/2015
s. 11(c),
34/2020 s. 170.

* * * * *

S. 14(f)
repealed by
No 63/2015
s. 11(d).

- (g) the Chief Commissioner of Police.

15 Functions of the Board

The functions of the Children's Services Co-ordination Board are—

- (a) to review annually and report to the Minister on the outcomes of Government actions in relation to children, particularly the most vulnerable children in the community; and
- (b) to monitor administrative arrangements to support co-ordination of Government actions relating to children at local and regional levels.

16 Procedure of the Board

- (1) A majority of the members for the time being of the Children's Services Co-ordination Board constitutes a quorum of that Board.
- (2) The Children's Services Co-ordination Board may regulate its own proceedings.

Part 5A—Reportable conduct scheme

Pt 5A
(Heading and
ss 16A–16ZN)
inserted by
No. 4/2017
s. 6.

16A Definition

In this Part and Part 5B—

entity means an entity to which the reportable conduct scheme applies.

S. 16A
inserted by
No. 4/2017
s. 6,
amended by
No. 17/2023
s. 23.

16B Principles

- (1) The reportable conduct scheme is based on the fundamental principles that—
 - (a) the protection of children is the paramount consideration in the context of child abuse or employee misconduct involving a child;
 - (b) criminal conduct or suspected criminal conduct should be reported to the police;
 - (c) a police investigation into the subject matter of a reportable allegation has priority and, unless the investigation may otherwise be conducted under any other Act, an investigation under the reportable conduct scheme must be suspended or must not be commenced until the police advise or agree that it may proceed;
 - (d) the Commission and others involved in the reportable conduct scheme should work in collaboration to ensure the fair, effective and timely investigation of reportable allegations;
 - (e) employees who are the subject of reportable allegations are entitled to receive natural justice in investigations into their conduct;

S. 16B
inserted by
No. 4/2017
s. 6.

S. 16B(1)(h)
amended by
No. 34/2020
s. 171.

- (f) regulators have specific knowledge of the roles of the entities or the professional responsibilities of the employees they regulate and, if their functions permit, play an important role in the investigation of reportable allegations;
 - (g) information should be shared during and after the conclusion of an investigation into a reportable allegation;
 - (h) after the conclusion of an investigation into a reportable allegation, the Commission may share information with the Department of Justice and Community Safety for the purpose of a WWC check.
- (2) The Commission should educate and guide—
- (a) entities in order to improve their ability to identify reportable conduct and to report and investigate reportable allegations; and
 - (b) regulators in order to promote compliance by entities with the reportable conduct scheme.

S. 16C
inserted by
No. 4/2017
s. 6.

16C Application of reportable conduct scheme

The reportable conduct scheme does not apply to an entity that does not exercise care, supervision or authority over children, whether as part of its primary functions or otherwise.

S. 16D
inserted by
No. 4/2017
s. 6.

16D Administration, oversight and monitoring of scheme

The Commission is responsible for administering, overseeing and monitoring the reportable conduct scheme.

S. 16E
inserted by
No. 4/2017
s. 6.

16E Avoiding unnecessary duplication

The Commission must liaise with regulators—

- (a) to avoid unnecessary duplication in the oversight of the investigation of reportable allegations; and

- (b) to share information and provide advice and guidance about the protection of children.

16F Objectives of Commission under this Part and Part 5B

Without limiting any other provision, the objectives of the Commission under this Part and Part 5B are—

- (a) to improve the ability of entities to identify reportable conduct and to report and investigate reportable allegations; and
- (b) to ensure that reportable allegations are properly investigated; and
- (c) to protect children by working with entities, regulators and other relevant bodies to prevent reportable conduct from occurring in entities; and
- (d) to share information with the Secretary to the Department of Justice and Community Safety for the purpose of WWC checks.

S. 16F
(Heading)
amended by
No. 17/2023
s. 24(1).

S. 16F
inserted by
No. 4/2017
s. 6,
amended by
No. 17/2023
s. 24(2).

S. 16F(d)
amended by
No. 34/2020
s. 172.

16G Functions of Commission under this Part and Part 5B

The Commission has the following functions in relation to the reportable conduct scheme—

- (a) to educate and provide advice to entities in order to assist them to identify reportable conduct and to report and investigate reportable allegations;
- (b) to educate and provide advice to regulators to promote compliance by entities with the reportable conduct scheme;
- (c) to oversee the investigation of reportable allegations;

S. 16G
(Heading)
amended by
No. 17/2023
s. 25(1).

S. 16G
inserted by
No. 4/2017
s. 6.

- (d) to investigate reportable allegations if—
 - (i) it considers it to be in the public interest to do so; or
 - (ii) an entity or regulator will not, or is unable to, investigate or engage an independent person or body to investigate;
- (e) if it considers it to be in the public interest to do so, to investigate whether reportable allegations have been inappropriately handled or responded to by an entity or a regulator;
- (f) to make recommendations to entities to address the findings of investigations referred to in paragraph (d) or (e);
- (g) to exchange information (including the findings of investigations into reportable allegations and the reasons for those findings) with Victoria Police, regulators, entities and the Secretary to the Department of Justice and Community Safety;
- (h) to monitor the compliance of entities with the reportable conduct scheme;
- (ha) in relation to section 16M—
 - (i) to monitor and enforce compliance with section 16M(1) by the head of an entity; and
 - (ii) to investigate contraventions of section 16M(4);
- (i) to report to the Minister and to Parliament on trends in the reporting and investigation of reportable allegations and the results of those investigations;

S. 16G(g)
amended by
No. 34/2020
s. 173.

S. 16G(ha)
inserted by
No. 17/2023
s. 25(2).

- (j) to perform any other function conferred on the Commission under this Part or Part 5B.

S. 16G(j)
amended by
No. 17/2023
s. 25(3).

16H Powers of the Commission

The Commission has all the powers that are necessary or convenient to perform its functions under this Part and Part 5B.

S. 16H
inserted by
No. 4/2017
s. 6,
amended by
No. 17/2023
s. 26.

16I Exemption by Commission

- (1) The Commission, in accordance with the regulations, if any, may exempt the head of an entity or a class of entities from—
- (a) the requirements of section 16M in respect of a class or kind of conduct; or
 - (b) the requirement under section 16M(1)(b) to provide information to the Commission in respect of a class or kind of conduct.
- (2) The Commission may give an exemption under subsection (1) if the Commission considers that—
- (a) the entity is competent to investigate, without the oversight of the Commission, a reportable allegation in respect of the class or kind of conduct to which the exemption relates; and
 - (b) the entity has demonstrated competence in responding to reportable allegations in respect of that class or kind of conduct.
- (3) The Commission must—
- (a) notify the entity concerned of an exemption under subsection (1); and
 - (b) publish the exemption on the Commission's website.

S. 16I
inserted by
No. 4/2017
s. 6.

- (4) The head of an entity exempted under subsection (1)(b), or a regulator of the entity, that conducts an investigation into conduct of a class or kind exempted under subsection (1)(b) must inform the Commission of the findings, the reasons for the findings and the action taken in response to those findings as soon as practicable after the conclusion of the investigation or within a period agreed with the Commission.

S. 16J
inserted by
No. 4/2017
s. 6,
amended by
No. 4/2018 s. 4
(ILA s. 39B(1)).

16J Exemption from whole of scheme

- (1) The regulations may prescribe an entity or a class of entities to be exempt from the reportable conduct scheme.
- (2) The regulations may prescribe a part of an entity, or a part of a class of entities, to be exempt from the reportable conduct scheme.

S. 16J(2)
inserted by
No. 4/2018
s. 4.

S. 16K
inserted by
No. 4/2017
s. 6.

16K Head of entity to have systems in place

- (1) The head of an entity must ensure that the entity has in place—
- (a) a system for preventing the commission of reportable conduct by an employee of the entity within the course of the person's employment; and
 - (b) a system for enabling any person, including an employee of the entity, to notify the head of the entity of a reportable allegation of which the person becomes aware; and
 - (c) a system for enabling any person, including an employee of the entity, to notify the Commission of a reportable allegation involving the head of the entity of which the person becomes aware; and

- (d) a system for investigating and responding to a reportable allegation against an employee of the entity.
- (2) If requested in writing by the Commission, an entity must provide to the Commission any information about a system referred to in subsection (1).
- (3) The Commission, after consulting with the relevant regulator, may make recommendations for action to be taken by an entity and may provide the entity with any necessary information relating to the recommendations if a reasonable concern with a system referred to in subsection (1) is identified.

16L Disclosure to Commission of reportable allegation

Any person may disclose a reportable allegation to the Commission.

S. 16L
inserted by
No. 4/2017
s. 6.

16M Head of entity to notify Commission of reportable allegation

S. 16M
inserted by
No. 4/2017
s. 6.

- (1) If the head of an entity becomes aware of a reportable allegation against an employee of the entity, the head must notify the Commission in writing of the following—
 - (a) within 3 business days after becoming aware of the reportable allegation—
 - (i) that a reportable allegation has been made against an employee of the entity; and
 - (ii) the name (including any former name and alias, if known) and date of birth, if known, of the employee concerned; and
 - (iii) whether Victoria Police has been contacted about the reportable allegation; and

- (iv) the name, address and telephone number of the entity; and
 - (v) the name of the head of the entity; and
- (b) as soon as practicable and within 30 days after becoming aware of the reportable allegation—
 - (i) detailed information about the reportable allegation; and
 - (ii) whether or not the entity proposes to take any disciplinary or other action in relation to the employee and the reasons why it intends to take, or not to take, that action; and
 - (iii) any written submissions made to the head of the entity concerning the reportable allegation that the employee wished to have considered in determining what, if any, disciplinary or other action should be taken in relation to the employee.
- (2) This section does not apply to the head of an entity, or an entity belonging to a class of entities, that the Commission has exempted under section 16I(1)(a) in respect of a class or kind or conduct that is the subject of the reportable allegation.
- (3) Subsection (1)(b) does not apply to the head of an entity, or an entity belonging to a class of entities, that the Commission has exempted under section 16I(1)(b) in respect of a class or kind of conduct that is the subject of the reportable allegation.

- (4) The head of an entity must not fail, without reasonable excuse, to comply with subsection (1).

Penalty: 10 penalty units.

- (5) It is a defence to a charge for an offence against subsection (4) for the person charged to prove that the person honestly and reasonably believed that another person had notified the Commission of the reportable allegation in accordance with subsection (1).

16N Head of entity to respond to reportable allegation

- (1) As soon as practicable after the head of an entity becomes aware of a reportable allegation against an employee of the entity, the head must—
- (a) investigate the reportable allegation or permit a regulator, or an independent investigator engaged by the entity or regulator, to investigate the reportable allegation; and
 - (b) inform the Commission of the identity of the body or person who will conduct the investigation.
- (2) If the Commission requests in writing that the head of the entity provide to the Commission information or documents relating to a reportable allegation or an investigation, the head of the entity must comply with the request.
- (3) As soon as practicable after an investigation has concluded, the head of the entity must give the Commission—
- (a) a copy of the findings of the investigation and the reasons for those findings; and
 - (b) details of any disciplinary or other action that the entity proposes to take in relation to the employee and the reasons for that action; and

S. 16N
inserted by
No. 4/2017
s. 6.

S. 16N(3)(b)
amended by
No. 4/2018
s. 5.

S. 16N(3)(c)
amended by
No. 4/2018
s. 5.

- (c) if the entity does not propose to take any disciplinary or other action in relation to the employee, the reasons why no action is to be taken.

S. 16O
inserted by
No. 4/2017
s. 6.

16O Commission may investigate reportable allegation

- (1) The Commission, of its own motion, may conduct an investigation concerning a reportable allegation against an employee of an entity if the Commission—
 - (a) receives information about the reportable allegation from any person; and
 - (b) believes on reasonable grounds that reportable conduct may have been committed by an employee of the entity; and
 - (c) considers that it is in the public interest that the Commission investigate the reportable allegation.
- (2) The Commission, of its own motion, may conduct an investigation concerning a reportable allegation against an employee of an entity if the Commission is advised by the entity or a regulator of the employee that the entity or regulator will not or is unable to—
 - (a) investigate the reportable allegation; or
 - (b) engage an independent investigator to investigate the reportable allegation.
- (3) The Commission, of its own motion or in response to a complaint, may conduct an investigation concerning any inappropriate handling of, or response to, a reportable allegation by an entity or a regulator if the

Commission considers that it is in the public interest to do so.

- (4) At the conclusion of an investigation by the Commission and after consultation with the relevant regulator, the Commission—
- (a) must make findings, give reasons for the findings and make recommendations, if any, for action to be taken with respect to the matter investigated; and
 - (b) must provide to the entity the findings, reasons and recommendations, if any, of the Commission, together with any necessary information relating to the recommendations; and
 - (c) may provide to the regulator the recommendations of the Commission for action to be taken by the regulator.

16P Commission may visit entity

In conducting an investigation under section 16O, the Commission may visit the entity in order to—

- (a) inspect any document in relation to the reportable allegation; or
- (b) conduct an interview under section 16Q, 16R or 16S.

16Q Commission may interview employee

Subject to section 16S(2), the Commission may interview any employee of an entity if the Commission considers that the employee may have information about a reportable allegation.

S. 16P
inserted by
No. 4/2017
s. 6.

S. 16Q
inserted by
No. 4/2017
s. 6.

S. 16R
inserted by
No. 4/2017
s. 6.

16R Commission may interview child

- (1) The Commission may interview—
 - (a) a child in relation to whom an employee of an entity is alleged to have committed reportable conduct or misconduct that may involve reportable conduct; or
 - (b) a child who is a witness to reportable conduct or misconduct that may involve reportable conduct.
- (2) The Commission may engage a person with appropriate qualifications, training or experience in interviewing child victims of abuse to conduct an interview on its behalf under subsection (1).
- (3) Before interviewing a child, the interviewer must consider, and take all reasonable steps to mitigate, any negative effect that the interview may have on the child.
- (4) Without limiting subsection (3), the Commission must consider whether the child's primary family carer (within the meaning of the **Commission for Children and Young People Act 2012**) should be present during the interview.

S. 16S
inserted by
No. 4/2017
s. 6.

16S Commission may interview employee subject of reportable allegation

- (1) The Commission may interview an employee of an entity who is the subject of a reportable allegation.
- (2) An employee of an entity who is the subject of a reportable allegation may, but is not required to, answer any question of, or provide any information to, the Commission.

16T Commission may obtain information from Victoria Police

S. 16T
inserted by
No. 4/2017
s. 6.

- (1) The Commission may request the Chief Commissioner of Police to provide the following information in relation to an employee of an entity who is the subject of a reportable allegation—
 - (a) whether Victoria Police is investigating the reportable allegation;
 - (b) the result of the investigation as soon as practicable after its completion.
- (2) The Chief Commissioner of Police must comply with a request under subsection (1) unless providing the information would be reasonably likely to prejudice—
 - (a) the investigation of a breach or possible breach of the law; or
 - (b) the enforcement or proper administration of the law in a particular instance.

16U Victoria Police investigation has priority

S. 16U
inserted by
No. 4/2017
s. 6.

- (1) On becoming aware that a reportable allegation may involve criminal conduct, the Commission, an entity, a regulator or an independent investigator must report the matter to Victoria Police.
- (2) On becoming aware that Victoria Police is investigating a reportable allegation, the Commission, an entity, a regulator or an independent investigator must not commence or continue to investigate the reportable allegation under this Part until the Chief Commissioner of Police—
 - (a) advises that the police investigation has been completed; or

- (b) agrees that the investigation under this Part may proceed in consultation with Victoria Police.
- (3) In this section, an investigation by Victoria Police includes any court proceeding (including an appeal) arising out of the investigation.
- (4) Nothing in this section affects an investigation that may otherwise be conducted under any other Act.

S. 16UA
inserted by
No. 37/2021
s. 350.

16UA Commission must notify Social Services Regulator of certain information

- (1) On becoming aware of the following, the Commission must report to the Social Services Regulator—
 - (a) a reportable allegation that relates to sexual misconduct committed by a WCES worker or carer against, with or in the presence of, a child; or
 - (b) information relating to the findings of an investigation by a WCES service provider into conduct by a WCES worker or carer that may lead to exclusion.

- (2) In this section—

conduct by a WCES worker or carer that may lead to exclusion has the same meaning that *conduct that may lead to exclusion* has in the **Social Services Regulation Act 2021**;

WCES service provider has the same meaning as in the **Social Services Regulation Act 2021**;

WCES worker or carer has the same meaning as in the **Social Services Regulation Act 2021**.

16V Commission may request regulator to investigate or provide information and documents

S. 16V
inserted by
No. 4/2017
s. 6.

- (1) The Commission may request a regulator of an employee of an entity to investigate a reportable allegation in respect of the employee.
- (2) The Commission, by written notice, may require a regulator of an employee of an entity to provide to the Commission information and documents in relation to—
 - (a) an investigation of a reportable allegation in respect of the employee that is being conducted by the regulator; or
 - (b) the employee for the purpose of an investigation of a reportable allegation in respect of the employee that is being conducted by the Commission.
- (3) A regulator that is given a notice under subsection (2) must comply with the notice.

16W Commission may monitor regulator's investigation

S. 16W
inserted by
No. 4/2017
s. 6.

The Commission may monitor the progress of an investigation by a regulator of a reportable allegation if the Commission considers it is in the public interest to do so.

16X Regulator may disclose information or documents to Commission

S. 16X
inserted by
No. 4/2017
s. 6.

- (1) Despite any law to the contrary, a regulator may disclose to the Commission any information or documents for the purpose of the reportable conduct scheme.
- (2) A regulator of an entity must provide to the Commission any information or documents requested in writing by the Commission in relation to—
 - (a) a reportable allegation; or

- (b) the regulator's investigation of a reportable allegation; or
- (c) the findings, reasons for the findings, and recommendations of the regulator made at the conclusion of an investigation by the regulator.

S. 16Y
inserted by
No. 4/2017
s. 6.

16Y Disclosure of information or documents

A disclosure of information or documents to the Commission by any person that is made in good faith under this Part—

- (a) does not for any purpose constitute unprofessional conduct or a breach of professional ethics on the part of the person by whom it is made; and
- (b) does not make the person by whom it is made subject to any liability in respect of it; and
- (c) without limiting paragraphs (a) and (b), does not constitute a contravention of—
 - (i) section 141 of the **Health Services Act 1988**; or
 - (ii) section 730 of the **Mental Health and Wellbeing Act 2022**.

S. 16Y(c)(ii)
amended by
No. 39/2022
s. 784.

S. 16Z
inserted by
No. 4/2017
s. 6.

16Z Protection against self-incrimination

It is a reasonable excuse for an individual to refuse or fail to give information or documents to the Commission in response to questioning or a request or requirement under this Part if the giving of the information or documents would tend to incriminate the individual.

16ZA Assistance to be provided

An entity or the head of an entity must ensure that the Commission or an authorised person is given any assistance in connection with the reasonable performance of the Commission's functions under this Part that the Commission or the authorised person reasonably requires.

S. 16ZA
inserted by
No. 4/2017
s. 6.

16ZB Disclosure of information about investigations to children, parents and carers

- (1) This section applies to the following information in relation to an investigation conducted under section 16N or 16O—
 - (a) information about the progress of the investigation;
 - (b) the findings, reasons for the findings and the recommendations made at the conclusion of the investigation;
 - (c) any action taken in response to those findings.
- (2) The Commission, the head of an entity or a regulator may disclose the information referred to in subsection (1) to—
 - (a) the child in relation to whom an employee of an entity is alleged to have committed reportable conduct or misconduct that may involve reportable conduct; or
 - (b) a parent (within the meaning of the **Children, Youth and Families Act 2005**) of the child; or
 - (c) the Secretary to the Department of Health and Human Services if the Secretary has parental responsibility for the child; or

S. 16ZB
inserted by
No. 4/2017
s. 6.

S. 16ZB(2)(e)
amended by
No. 17/2023
s. 54.

- (d) a person who has daily care and control of the child, whether or not that care involves custody of the child; or
 - (e) if the child is in out of home care (within the meaning of the **Children, Youth and Families Act 2005**), the out of home carer (within the meaning of section 161A of that Act) who provides that care.
- (3) Nothing in this section limits any disclosure that may otherwise be made under any Act or law.

S. 16ZC
inserted by
No. 4/2017
s. 6.

16ZC Disclosure of information to the Commission, the head of an entity, a regulator, Victoria Police and others

- (1) This section applies to information in relation to the following—
- (a) a reportable allegation;
 - (b) a concern that reportable conduct has been committed;
 - (c) the investigation of a matter referred to in paragraph (a) or (b);
 - (d) the findings, reasons for the findings and the recommendations made at the conclusion of the investigation;
 - (e) the action taken in response to those findings.
- (2) The Commission, the head of an entity and a regulator may disclose information referred to in subsection (1) to—
- (a) each other; and
 - (b) the Chief Commissioner of Police; and
 - (c) if necessary for the purposes of an investigation, an independent investigator; and

- (d) if necessary for the purposes of a WWC check, the Secretary to the Department of Justice and Community Safety; and
- (e) a relevant Minister; and
- (f) any other prescribed person or body in relation to a prescribed matter, or a prescribed class of matters; and
- (g) any other prescribed person or body in relation to a prescribed matter, or a prescribed class of matters, if the information relates to the performance of a function conferred on the person or body by or under the laws of the Commonwealth, a State or a Territory.

S. 16ZC(2)(d)
substituted by
No. 34/2020
s. 174.

S. 16ZC(2)(f)
amended by
No. 4/2018
s. 6(a).

S. 16ZC(2)(g)
inserted by
No. 4/2018
s. 6(b).

16ZD Commission to notify Secretary after finding of reportable conduct

S. 16ZD
inserted by
No. 4/2017
s. 6.

- (1) Subject to subsection (2), if a finding is made by the Commission, the head of an entity or a regulator that an employee of an entity has committed reportable conduct, the Commission must notify the Secretary to the Department of Justice and Community Safety of the following for the purposes of a WWC check—
 - (a) the fact that the finding has been made;
 - (b) the reasons for the finding;
 - (c) the name (including any former name and alias, if known) of the employee;
 - (d) the date of birth (if known) of the employee.

S. 16ZD(1)
amended by
No. 34/2020
s. 175(1).

S. 16ZD(2)
amended by
No. 34/2020
s. 175(2).

(2) The Commission may but need not notify the Secretary to the Department of Justice and Community Safety of a finding that an employee of an entity has committed reportable conduct if—

(a) the reportable conduct would be better addressed through training or supervision; or

S. 16ZD(2)(b)
amended by
No. 34/2020
s. 175(2).

(b) the finding has already been referred to the Department of Justice and Community Safety by another person or body; or

(c) for any other reason it is not appropriate for the Commission to give the notification.

S. 16ZE
inserted by
No. 4/2017
s. 6.

16ZE Prohibition on publishing certain information

(1) A person must not publish, or cause to be published, any information that would enable the identification of a person who has notified the Commission of—

(a) a reportable allegation; or

(b) a concern that reportable conduct has occurred.

Penalty: In the case of a body corporate,
300 penalty units;

In any other case, 60 penalty units.

(2) A person must not publish, or cause to be published, any information that would enable the identification of a child in relation to whom—

(a) a reportable allegation was made; or

(b) a finding of reportable conduct was made.

Penalty: In the case of a body corporate,
300 penalty units;

In any other case, 60 penalty units.

(3) Subsections (1) and (2) do not apply to the publication of information permitted by or under any other Act.

(3A) Subsections (1) and (2) do not prevent a disclosure that is made for the purposes of Part 5A of the **Family Violence Protection Act 2008** by an information sharing entity (within the meaning of that Act).

S. 16ZE(3A)
inserted by
No. 23/2017
s. 31.

(3B) Subsections (1) and (2) do not prevent a disclosure that is made for the purposes of Part 6A by an information sharing entity or a restricted information sharing entity.

S. 16ZE(3B)
inserted by
No. 11/2018
s. 7.

(4) In this section—

publish means disseminate or provide access to the public or a section of the public by any means, including by—

- (a) publication in a book, newspaper, magazine or other written publication; or
- (b) broadcast by radio or television; or
- (c) public exhibition; or
- (d) broadcast or electronic communication.

16ZF False or misleading information

A person must not in purported compliance with this Part or Part 5B—

- (a) give information or make a statement that the person knows to be false or misleading in a material particular; or

S. 16ZF
inserted by
No. 4/2017
s. 6,
amended by
No. 17/2023
s. 27.

- (b) produce a document that the person knows to be false or misleading in a material particular without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: In the case of a body corporate,
100 penalty units;

In any other case, 10 penalty units.

S. 16ZG
inserted by
No. 4/2017
s. 6.

16ZG Notice to produce

- (1) This section applies if an entity has not complied with a written request from the Commission for information or documents under this Part.
- (2) If the request is made under section 16K(2) in relation to a system referred to in section 16K(1), the Commission may give notice under subsection (3) if the Commission believes on reasonable grounds that the entity does not have such a system in place.
- (3) The Commission, by written notice, may require an entity to produce a specified document or category of documents to the Commission before a specified date (being not less than 14 days after the day on which the notice is given).
- (4) A notice under subsection (3) must be in the prescribed form, if any, and must specify—
 - (a) the document or category of documents that must be produced; and
 - (b) the date by which the document or category of documents must be provided; and
 - (c) if the notice relates to a system referred to in section 16K(1), the grounds referred to in subsection (2); and

- (d) the maximum civil penalty payable if the Magistrates' Court makes a declaration under section 16ZH; and
 - (e) the process for seeking an internal review of the decision to give the notice to produce; and
 - (f) the prescribed matters, if any.
- (5) An entity given a notice under subsection (3) must provide each document specified in the notice to the Commission on or before the date specified in the notice.
- (6) The Commission, by further written notice given at any time, may vary or revoke a notice under subsection (3).

16ZH Application for declaration and order that entity pay a civil penalty

S. 16ZH
inserted by
No. 4/2017
s. 6.

- (1) If an entity fails to comply with a notice to produce, the Commission may apply to the Magistrates' Court for—
- (a) a declaration that the entity has failed to comply with the notice; and
 - (b) an order requiring the entity to pay a civil penalty.
- (2) The Magistrates' Court may make the declaration sought if the court is satisfied that—
- (a) the entity has failed to comply with the notice to produce; and
 - (b) the failure was unreasonable.
- (3) If the Magistrates' Court makes a declaration under subsection (2), the court may order the entity to pay to the Commission for payment into the Consolidated Fund an amount not exceeding \$9000 as a civil penalty.

- (4) In determining the amount of a civil penalty, the Magistrates' Court must consider—
 - (a) the size of the entity; and
 - (b) the impact of the civil penalty on the entity; and
 - (c) whether the non-compliance with the notice to produce was wilful or serious.
- (5) An order made under this section is taken, for the purposes of enforcement, to be an order made by the Magistrates' Court in a civil proceeding.
- (6) A civil penalty paid to the Commission in accordance with an order made under this section must be paid into the Consolidated Fund.

S. 16ZI
inserted by
No. 4/2017
s. 6.

16ZI Internal review

- (1) An employee of an entity may seek a review by the Commission of a finding made at the conclusion of an investigation under section 16O.
- (2) An entity may seek a review by the Commission of a decision of the Commission to give a notice to produce.
- (3) The Commission must prepare and implement a process for the review of—
 - (a) a finding made at the conclusion of an investigation under section 16O; or
 - (b) a decision to give a notice to produce.

S. 16ZJ
inserted by
No. 4/2017
s. 6.

16ZJ Review by VCAT

- (1) An employee of an entity may apply to VCAT for review of a decision by the Commission that the employee has committed reportable conduct.

- (2) An application for review must be made within 28 days after the later of—
 - (a) the day on which the decision is made; or
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, an employee of an entity requests a statement of reasons for the decision, the day on which the statement of reasons is given to the employee or the employee is informed under section 46(5) of that Act that a statement of reasons will not be given.
- (3) Before an employee of an entity is entitled to apply to VCAT for the review of a decision referred to in subsection (1), the employee must have exhausted all available avenues for the internal review of the decision.

16ZJA Delegation

The Secretary to a Department, as the head of an entity, by instrument, may delegate to a person employed under Part 3 of the **Public Administration Act 2004** who is working in the Department any power, function or duty of the Secretary under this Part.

S. 16ZJA
inserted by
No. 4/2018
s. 7.

16ZK Service of documents

- (1) A document that is authorised or required by this Part or Part 5B to be served on or given to a person is served by—
 - (a) delivering personally a true copy of the document to the person; or
 - (b) leaving a true copy of the document for the person at the person's last known or usual place of residence or business with a person

S. 16ZK
inserted by
No. 4/2017
s. 6.

S. 16ZK(1)
amended by
No. 17/2023
s. 28.

who apparently resides or works there and
who apparently is over the age of 16 years;
or

- (c) sending a true copy of the document by post
addressed to the person at the person's last
known or usual place of residence or
business.

S. 16ZK(2)
amended by
No. 17/2023
s. 28.

- (2) A document that is authorised or required by
this Part or Part 5B to be served on or given to an
entity that is not a legal person is served by—
 - (a) delivering personally a true copy of the
document to the head of the entity; or
 - (b) leaving a true copy of the document for the
head of the entity at the last known or usual
place of business of the entity with a person
who apparently works there and who
apparently is over the age of 16 years; or
 - (c) sending a true copy of the document by post
addressed to the head of the entity at the last
known or usual place of business of the
entity.

Note

The **Electronic Transactions (Victoria) Act 2000** applies to
enable a document to be served electronically, including fax
transmission and email, in accordance with that Act.

S. 16ZKA
inserted by
No. 17/2023
s. 21.

16ZKA Power to bring a proceeding

- (1) A proceeding for an offence against this Part may
be commenced by the Commission or a police
officer.
- (2) A proceeding commenced under subsection (1)
may be taken over and continued at any time by
any other person authorised by subsection (1) to
commence proceedings.

- (3) In a proceeding for an offence against this Part, it must be presumed, in the absence of evidence to the contrary, that the person commencing the proceeding was authorised to commence the proceeding.

16ZKB Time for commencing proceeding for offence against section 16M(4)

S. 16ZKB
inserted by
No. 17/2023
s. 21.

Despite section 7(1) of the **Criminal Procedure Act 2009**, a proceeding for an offence against section 16M(4) may be commenced within 3 years of the commission of the alleged offence.

16ZL Annual reports and other reports

S. 16ZL
inserted by
No. 4/2017
s. 6.
S. 16ZL(1)
substituted by
No. 17/2023
s. 29.

- (1) The Commission in its annual report for a financial year under Part 7 of the **Financial Management Act 1994** must include, for the financial year to which the report of operations relates—
- (a) a review of the operation of the reportable conduct scheme; and
 - (b) details of activities engaged in by the Commission under this Part and Part 5B to monitor and enforce compliance with section 16M.
- (2) The Commission must give a further report of the operation of the reportable conduct scheme to the Minister and the Secretary to the Department of Health and Human Services at any time at the request of the Minister or the Secretary.
- (3) A review under subsection (1) or a report under subsection (2) may include a statement about trends observed by the Commission in relation to the reportable conduct scheme.

- (4) The Commission must not include in a review under subsection (1) or a report under subsection (2)—
 - (a) information that identifies a child; or
 - (b) information from which the identity of a child can be determined.
- (5) Before submitting a report under subsection (1) or (2) that includes any comment or opinion that is adverse to an entity, a regulator or any person, the Commission must give the entity, regulator or person an opportunity to comment on the adverse comment or opinion.
- (6) The Commission must give a copy of a report submitted under subsection (1) or (2) to any other Minister and the Secretary to any other Department if the report considers a matter that is the responsibility of that Minister or that Secretary.

S. 16ZM
inserted by
No. 4/2017
s. 6.

16ZM Giving a report to Parliament

- (1) This section applies if at least 14 days have elapsed since the persons referred to in section 16ZL(2) were given a report under that subsection.
- (2) The Commission may give a copy of a report under section 16ZL(2) to the clerk of each House of the Parliament.
- (3) The clerk of each House of the Parliament must cause the report to be laid before the House on—
 - (a) the day on which it is received; or
 - (b) the next sitting day of the House.

- (4) If the Commission proposes to give the report to Parliament when neither House of the Parliament is sitting, the Commission must—
 - (a) give one business day's notice of the Commission's intention to do so to the clerk of each House of the Parliament; and
 - (b) give the copy of the report to the clerk of each House of the Parliament on the day indicated in the notice; and
 - (c) cause the report to be published by the Government Printer.
- (5) The clerk of a House of the Parliament must notify each member of the House of the receipt of a notice under subsection (4)(a) as soon as practicable after the clerk receives the notice.
- (6) On receiving a copy of the report under subsection (4)(b), the clerk of the House of the Parliament must—
 - (a) as soon as practicable after the report is received, notify each member of the House of the receipt of the report and advise that the report is available on request; and
 - (b) give a copy of the report to any member of the House on request; and
 - (c) cause the copy of the report to be laid before the House on the next sitting day of the House.
- (7) A copy of a report that is given to the clerk of a House of the Parliament under subsection (2) or (4)(b) is taken to have been published by order, or under the authority, of that House.

S. 16ZN
inserted by
No. 4/2017
s. 6.

16ZN Review of reportable conduct scheme after 5 years of operation

- (1) The Minister must cause a review to be made of the first 5 years of operation of the reportable conduct scheme and must cause a copy of a report of the review to be laid before each House of Parliament on or before 1 July 2023.
- (2) A review under subsection (1) must include consideration as to whether the reportable conduct scheme should be expanded to apply to any other entities.

Part 5B—Enforcement and monitoring of compliance with section 16M

Division 1—Reportable conduct authorised officers

16ZO Appointment of reportable conduct authorised officer

- (1) The Commission may, by instrument, appoint any person or class of persons employed or engaged by the Commission to be a reportable conduct authorised officer for the purposes of this Part.
- (2) An appointment under this section—
 - (a) may be subject to any specified conditions; and
 - (b) may be varied, suspended or revoked by the Commission at any time.
- (3) The Commission must not appoint a person under this section unless it is satisfied that the person is appropriately qualified or has successfully completed appropriate training.

16ZP Identity card for reportable conduct authorised officer

- (1) If the Commission appoints a reportable conduct authorised officer under section 16ZO, the Commission must—
 - (a) issue the officer with an identity card that complies with subsection (2); or
 - (b) if the reportable conduct authorised officer is also an authorised officer appointed under section 27 and has a current identity card issued under section 28(1) (the *existing identity card*)—

Pt 5B
(Headings
and ss 16ZO–
16ZZR)
inserted by
No. 17/2023
s. 30.

S. 16ZO
inserted by
No. 17/2023
s. 30.

S. 16ZP
inserted by
No. 17/2023
s. 30.

- (i) amend the existing identity card so that it complies with the requirements of subsection (2); or
 - (ii) issue a supplementary identity card complying with any requirements of subsection (2) that are not met by the existing identity card; or
 - (iii) request the authorised officer to return the existing identity card and issue a new identity card that complies with the requirements of section 28(2) and subsection (2).
- (2) An identity card must—
 - (a) state the reportable conduct authorised officer's name; and
 - (b) contain a photograph of the officer; and
 - (c) state that the person to whom it is issued is a reportable conduct authorised officer appointed by the Commission for the purposes of this Part.
- (3) A reportable conduct authorised officer must return the identity card issued under this section to the Commission as soon as practicable after their appointment under section 16ZO expires or is revoked.

S. 16ZQ
inserted by
No. 17/2023
s. 30.

16ZQ Production of identity card

- (1) Subject to subsection (3), a reportable conduct authorised officer must produce the officer's identity card for inspection before exercising a power under this Part if asked to do so.
- (2) If it is not practicable to comply with subsection (1) before exercising the power, the reportable conduct authorised officer must produce the identity card for inspection at the first reasonable opportunity.

- (3) If a reportable conduct authorised officer enters (whether with or without a warrant) any premises or place for the purposes of exercising a power or performing a function under this Part, the officer must produce the officer's identity card for inspection immediately before or upon the first entry to the premises or place.

Division 2—Powers of entry and inspection

16ZR Powers of reportable conduct authorised officers to enter premises

S. 16ZR
inserted by
No. 17/2023
s. 30.

- (1) A reportable conduct authorised officer may enter and inspect any premises or place if the officer reasonably believes it is a premises or place from or in which an entity—
- (a) operates; or
 - (b) exercises care, supervision or authority over children; or
 - (c) provides support for an activity referred to in paragraph (a) or (b).
- (2) Subject to subsection (3), a reportable conduct authorised officer may only enter a premises or place under subsection (1)—
- (a) if the officer has provided notice to the occupier of the premises or place in accordance with section 16ZS and the occupier consents to the entry, for the purposes of monitoring compliance by the head of an entity with section 16M(1); or
 - (b) in accordance with a warrant issued under section 16ZV in relation to the premises or place; or

- (c) in the case of any premises or place other than residential premises, if the officer reasonably believes that the head of the entity is not complying, or has not complied with section 16M(1).
- (3) While exercising a power of entry under subsection (2)(a) or (c), a reportable conduct authorised officer must not enter any part of a premises or place in which the entity provides accommodation or residential services unless—
 - (a) the resident of that part of the premises or place consents to the entry; or
 - (b) if the resident is unable to consent, the resident's parent or guardian consents to the entry.
- (4) Before obtaining the consent of the resident, parent or guardian for the purposes of subsection (3), the reportable conduct authorised officer must—
 - (a) inform the resident, parent or guardian—
 - (i) of the purpose of the entry; and
 - (ii) that the resident, parent or guardian may refuse to consent to the entry; and
 - (iii) that the resident, parent or guardian may refuse to consent to the seizure of any thing by the authorised officer during the entry; and
 - (iv) that the officer may exercise any or all of the powers set out in section 16ZT during the entry without obtaining further consent from the resident, parent or guardian; and

- (v) that the resident, parent or guardian may refuse to consent to the officer exercising a power specified in section 16ZT during the entry; and
 - (vi) that any thing seized by the officer during the entry with the consent of the resident, parent or guardian may be used in evidence in proceedings in relation to offences under this Act; and
 - (b) ask the resident, parent or guardian to sign an acknowledgement setting out—
 - (i) that the resident, parent or guardian has been informed of the matters set out in paragraph (a); and
 - (ii) that the resident, parent or guardian consents to the entry; and
 - (iii) the time and date the resident, parent or guardian provided consent.
- (5) A resident, parent or guardian who signs an acknowledgement under subsection (4)(b) must be given a copy of the signed acknowledgement before the reportable conduct authorised officer leaves the premises.
- (6) A signed acknowledgement under subsection (4)(b) is evidence that the resident, parent or guardian consented to the entry of a premises or place.
- (7) If, in any proceeding, a signed acknowledgement under subsection (4)(b) is not produced to the court or tribunal, it must be presumed until the contrary is proved that the resident, parent or guardian did not consent to the entry of a premises or place.

- (8) A reportable conduct authorised officer may exercise a power of entry under subsection (2)(a) or (c)—
 - (a) during the normal business hours of the premises or place; and
 - (b) if the entity provides services outside normal business hours, during the entity's hours of operation; and
 - (c) at any time if the occupier consents to the entry.
- (9) If the reportable conduct authorised officer is on the premises or place with the consent of the occupier or a resident, parent or guardian, the officer must leave the premises or place if the occupier, resident, parent or guardian asks the officer to do so.

S. 16ZS
inserted by
No. 17/2023
s. 30.

16ZS Notice required for entry with consent

- (1) A reportable conduct authorised officer must not exercise a power of entry or inspection under section 16ZR(2)(a), unless the officer before obtaining the occupier's consent—
 - (a) produces the officer's identity card for inspection; and
 - (b) informs the occupier—
 - (i) of the purpose of the entry; and
 - (ii) that the occupier may refuse to consent to the entry; and
 - (iii) that the occupier may refuse to consent to the seizure of any thing by the authorised officer during the entry; and
 - (iv) that the officer may exercise any or all of the powers set out in section 16ZT during the entry without obtaining further consent from the occupier; and

- (v) that the occupier may refuse to consent to the officer exercising a power specified in section 16ZT during the entry; and
 - (vi) that any thing seized by the authorised officer during the entry with the consent of the occupier may be used in evidence in proceedings in relation to offences under this Act; and
- (c) asks the occupier to sign an acknowledgement setting out—
 - (i) that the occupier has been informed of the matters set out in paragraph (b); and
 - (ii) that the occupier consents to the entry; and
 - (iii) the time and date the occupier provided consent.
- (2) An occupier who signs an acknowledgement under subsection (1)(c) must be given a copy of the signed acknowledgement before the reportable conduct authorised officer leaves the premises or place.
- (3) A signed acknowledgement under subsection (1)(c) is evidence that the occupier consented to the entry of a premises or place.
- (4) If, in any proceeding, a signed acknowledgement under subsection (1)(c) is not produced to the court or tribunal, it must be presumed until the contrary is proved that the occupier did not consent to the entry of a premises or place.

S. 16ZT
inserted by
No. 17/2023
s. 30.

16ZT Powers after entry and consent

- (1) This section applies if a reportable conduct authorised officer enters any premises or place under section 16ZR(2)(a).
- (2) The reportable conduct authorised officer may do any of the following—
 - (a) search any part of the premises or place;
 - (b) inspect and examine any document or thing at the premises or place;
 - (c) make enquiries with any person at the premises or place;
 - (d) observe any activity being conducted at the premises or place;
 - (e) take photographs, or make any type of recording or sketches, of any document, thing or activity at the premises or place;
 - (f) copy or take an extract from any document at the premises or place;
 - (g) take into or onto the premises or place any person, equipment or materials;
 - (h) use and operate any equipment and materials, including but not limited to any disk, tape or storage device, at the premises or place;
 - (i) secure any electronic equipment that the officer reasonably believes stores or contains information that may be lost, destroyed or tampered with if the equipment is not secured;
 - (j) request any person at the premises to give information that the officer reasonably believes is necessary to determine whether or not the head of an entity is complying, or has complied, with section 16M(1);

- (k) seize any document or any other thing at the premises or place that the officer reasonably believes is evidence relevant to whether the head of an entity is not complying, or has not complied, with section 16M(1);
 - (l) request any person at the premises or place to provide the officer with any reasonable assistance;
 - (m) request any person at the premises or place to comply with any lawful direction, whether written or oral, of the officer.
- (3) A reportable conduct authorised officer may exercise a power under subsection (2) only if the officer reasonably believes it is necessary to do so to investigate whether the head of an entity is not complying, or has not complied, with section 16M(1).

16ZU Acknowledgement of document or thing seized during entry with consent

S. 16ZU
inserted by
No. 17/2023
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- (1) The reportable conduct authorised officer must not seize any document or thing under section 16ZT(2)(k) unless the officer asks the owner to sign an acknowledgement setting out—
 - (a) that the owner consents to the seizure of the document or thing; and
 - (b) the time and date the owner provided consent.
- (2) An owner who signs an acknowledgement under subsection (1) must be given a copy of the signed acknowledgement before the reportable conduct authorised officer leaves the premises.
- (3) A signed acknowledgement under subsection (1) is evidence that the owner consented to the seizure of a document or thing.

- (4) If, in any proceeding, a signed acknowledgement under subsection (1) is not produced to the court or tribunal, it must be presumed until the contrary is proved that the owner did not consent to the seizure of a document or thing.

S. 16ZV
inserted by
No. 17/2023
s. 30.

16ZV Application for warrant

- (1) A reportable conduct authorised officer may apply to a magistrate for a warrant in relation to any premises or place if the officer believes on reasonable grounds that—
- (a) entry to the premises or place is necessary to investigate whether the head of an entity is not complying, or has not complied, with section 16M(1); or
 - (b) documents or other things relevant to the possible contravention of section 16M(4) may be, or within 72 hours may be, present at the premises or place.
- (2) The magistrate may issue the warrant if the magistrate is satisfied, by information on oath or by affirmation, that there are reasonable grounds to believe that entry to the premises or place is necessary on the grounds on which issue of the warrant is sought.
- (3) A warrant issued under subsection (2) may authorise a reportable conduct authorised officer, with necessary and reasonable help and force—
- (a) to enter the premises or place, or any specified part of the premises or place, on one occasion; and
 - (b) to search for and seize a document or thing specified in the warrant; and

- (c) to seize any other document or thing, or to copy or take an extract from any document, that the officer reasonably believes is relevant to a possible contravention of section 16M(4).
- (4) A warrant issued under subsection (2) must state—
 - (a) the purpose for which the warrant is issued; and
 - (b) the premises or place to be entered under the warrant; and
 - (c) any document or thing that may be seized under the warrant; and
 - (d) whether the entry is authorised to be made at any time of the day or during specified hours of the day; and
 - (e) any conditions to which the warrant is subject; and
 - (f) the day, within 7 days of the issue of the warrant, on which the warrant ceases to have effect; and
 - (g) that the warrant is issued in accordance with the **Magistrates' Court Act 1989**.
- (5) Subject to this section, the rules that apply to search warrants under the **Magistrates' Court Act 1989** extend and apply to a warrant issued under this section.
- (6) Section 78(1)(b)(iii) of the **Magistrates' Court Act 1989** does not apply to a warrant issued under this section.

S. 16ZW
inserted by
No. 17/2023
s. 30.

16ZW Entry under warrant

- (1) Before entering any premises or place under a warrant issued under section 16ZV, a reportable conduct authorised officer must—
 - (a) announce that the officer is authorised by the warrant to enter the premises or place; and
 - (b) give any person at the premises or place an opportunity to allow entry to the premises or place; and
 - (c) if the occupier is present at the premises or place, give the occupier a copy of the warrant.

Note

Section 16ZQ(3) sets out requirements for reportable conduct authorised officers to produce identity cards.

- (2) Subsection (1) does not apply if the reportable conduct authorised officer believes on reasonable grounds that immediate entry to the premises or place is required to ensure that the effective execution of the warrant is not frustrated.

S. 16ZX
inserted by
No. 17/2023
s. 30.

16ZX Powers after entry under warrant

- (1) This section applies if a reportable conduct authorised officer enters any premises or place under a warrant issued under section 16ZV.
- (2) The reportable conduct authorised officer may, subject to any condition of the warrant, do any of the following if the officer considers it reasonably necessary for the purposes of executing the warrant—
 - (a) search any part of the premises or place;
 - (b) inspect and examine any document or thing at the premises or place;
 - (c) make enquiries with any person at the premises or place;

- (d) observe any activity being conducted at the premises or place;
 - (e) take photographs, or make any type of recording or sketches, of any document, thing or activity at the premises or place;
 - (f) copy or take an extract from any document at the premises or place;
 - (g) take into or onto the premises or place any person, equipment or materials;
 - (h) use and operate any equipment and materials, including but not limited to any disk, tape or storage device, at the premises or place;
 - (i) secure any electronic equipment that the officer reasonably believes stores or contains information that may be lost, destroyed or tampered with if the equipment is not secured;
 - (j) any other thing the officer considers reasonably necessary.
- (3) The reportable conduct authorised officer may, subject to any condition of the warrant, require a person to do any of the following if the officer considers it reasonably necessary for the purposes of executing the warrant—
- (a) produce a document or part of a document located at the premises or place that is under that person's possession or control;
 - (b) disclose any information that the officer reasonably believes the person has that relates to whether the head of an entity is not complying, or has not complied, with section 16M(1);
 - (c) provide the officer with any reasonable assistance;

- (d) operate any equipment at the premises or place to enable the officer to access information stored on the equipment;
 - (e) comply with any lawful direction, whether written or oral, of the officer.
- (4) If a reportable conduct authorised officer requires a person to do any thing under subsection (3), the officer must—
 - (a) inform the person that it is an offence to fail or refuse to comply with the requirement without reasonable excuse; and
 - (b) inform the person that it is a reasonable excuse for the person to refuse or fail to comply with the requirement if complying with the requirement would tend to incriminate the person; and
 - (c) state the maximum penalty for failing or refusing to comply with the requirement.
- (5) Subject to any condition of the warrant, if the reportable conduct authorised officer secures any electronic equipment under subsection (2)(i), that equipment may be secured—
 - (a) subject to subsection (6), until the earlier of the following—
 - (i) the end of the 24-hour period beginning with the seizure of the equipment;
 - (ii) the time at which the reportable conduct authorised officer, or a person providing technical assistance to the officer, operates the equipment for the purpose of obtaining information described in subsection (2)(i); or
 - (b) for any longer period with the consent of the occupier of the premises or place.

- (6) Subject to any condition of the warrant, the reportable conduct authorised officer may apply to a magistrate for an extension of the period during which electronic equipment may be secured if the officer reasonably believes that the extension is necessary to obtain information described in subsection (2)(i).

16ZY Failure to provide assistance

S. 16ZY
inserted by
No. 17/2023
s. 30.

- (1) A person must not, without reasonable excuse, fail to comply with a requirement made by a reportable conduct authorised officer under section 16ZX(3).

Penalty: In the case of a body corporate, 120 penalty units;

In any other case, 30 penalty units.

- (2) Subsection (1) does not apply to a person if the reportable conduct authorised officer did not inform the person, in accordance with section 16ZX(4)(b), that it is a reasonable excuse to refuse or fail to comply with the requirement if complying with the requirement would tend to incriminate the person.

16ZZ Powers after entry without consent or warrant

S. 16ZZ
inserted by
No. 17/2023
s. 30.

- (1) This section applies if a reportable conduct authorised officer enters any premises or place in accordance with section 16ZR(2)(c).
- (2) The reportable conduct authorised officer may do any of the following—
- (a) search any part of the premises or place;
 - (b) inspect and examine any document or thing at the premises or place;
 - (c) make enquiries with any person at the premises or place;

- (d) observe any activity being conducted at the premises or place;
 - (e) take photographs, or make any type of recording or sketches, of any document, thing or activity at the premises or place;
 - (f) copy or take an extract from any document at the premises or place;
 - (g) take into or onto the premises or place any person, equipment or materials;
 - (h) use and operate any equipment and materials, including but not limited to any disk, tape or storage device, at the premises or place;
 - (i) secure any electronic equipment that the officer reasonably believes stores or contains information that may be lost, destroyed or tampered with if the equipment is not secured;
 - (j) with the consent of the owner of the document or thing, seize any document or any other thing at the premises or place that the officer reasonably believes is evidence relevant to whether the head of an entity is not complying, or has not complied, with section 16M(1).
- (3) The reportable conduct authorised officer may require a person at the premises or place to do any of the following—
- (a) produce a document or part of a document located at the premises or place that the officer reasonably believes the person has that relates to whether the head of an entity is not complying, or has not complied, with section 16M(1);

- (b) disclose any information that the officer reasonably believes the person has that relates to whether the head of an entity is not complying, or has not complied, with section 16M(1);
 - (c) operate any equipment at the premises or place to enable the officer to access information stored on the equipment.
- (4) If a reportable conduct authorised officer requires a person to do any thing under subsection (3), the officer must—
 - (a) inform the person that it is an offence to fail or refuse to comply with the requirement without reasonable excuse; and
 - (b) inform the person that it is a reasonable excuse for the person to refuse or fail to comply with the requirement if complying with the requirement would tend to incriminate the person; and
 - (c) state the maximum penalty for failing or refusing to comply with the requirement.
- (5) The reportable conduct authorised officer may request a person at the premises or place to do any of the following—
 - (a) provide the officer with any reasonable assistance;
 - (b) comply with any lawful direction, whether written or oral, of the officer.
- (6) A reportable conduct authorised officer may exercise a power under subsection (2), (3) or (5) only if the officer reasonably believes it is reasonably necessary to do so to investigate whether the head of an entity is not complying, or has not complied, with section 16M(1).

- (7) If the reportable conduct authorised officer secures any electronic equipment under subsection (2)(i), that equipment may be secured—
 - (a) subject to subsection (8), until the earlier of the following—
 - (i) the end of the 24-hour period beginning with the seizure of the equipment;
 - (ii) the time at which the officer, or a person providing technical assistance to the officer, operates the equipment for the purpose of obtaining information described in subsection (2)(i); or
 - (b) for any longer period with the consent of the occupier of the premises or place.
- (8) The reportable conduct authorised officer may apply to a magistrate for an extension of the period during which electronic equipment may be secured if the officer reasonably believes that the extension is necessary to obtain information described in subsection (2)(i).

S. 16ZZA
inserted by
No. 17/2023
s. 30.

16ZZA Acknowledgment of seizure during entry without consent

- (1) The reportable conduct authorised officer must not seize any document or thing under section 16ZZ(2)(j) unless the officer—
 - (a) informs the owner that the owner may refuse to consent to the seizure; and
 - (b) asks the owner to sign an acknowledgement setting out—
 - (i) that the owner consents to the seizure of the document or thing; and
 - (ii) the time and date the owner provided consent.

- (2) An owner who signs an acknowledgement under subsection (1) must be given a copy of the signed acknowledgement before the reportable conduct authorised officer leaves the premises.
- (3) A signed acknowledgement under subsection (1) is evidence that the owner consented to the seizure of a document or thing.
- (4) If, in any proceeding, a signed acknowledgement under subsection (1) is not produced to the court or tribunal, it must be presumed until the contrary is proved that the owner did not consent to the seizure of a document or thing.

16ZZB Failure to provide assistance

S. 16ZZB
inserted by
No. 17/2023
s. 30.

- (1) A person must not, without reasonable excuse, fail to comply with a requirement made by a reportable conduct authorised officer under section 16ZZ(3).

Penalty: In the case of a body corporate, 120 penalty units;

In any other case, 30 penalty units.

- (2) Subsection (1) does not apply to a person if the reportable conduct authorised officer did not inform the person, in accordance with section 16ZZ(4)(b), that it is a reasonable excuse to refuse or fail to comply with the requirement if complying with the requirement would tend to incriminate the person.

16ZZC Protection against self-incrimination

S. 16ZZC
inserted by
No. 17/2023
s. 30.

- (1) It is a reasonable excuse for an individual to refuse or fail to comply with a requirement of a reportable conduct authorised officer or the Commission under this Part if complying with the requirement would tend to incriminate the individual.

- (2) It is a reasonable excuse for an individual to refuse or fail to comply with a notice to produce, if complying with the notice would tend to incriminate the person.
- (3) It is a reasonable excuse for a person to refuse or fail to comply with a reportable conduct notice to produce or a notice to comply if—
 - (a) in the case of a notice to produce, the person believes on reasonable grounds that the person does not have any document or information required to be produced under the notice; or
 - (b) in the case of a notice to comply, the head of the entity reasonably considers that the head of the entity is unable to comply with the notice.

S. 16ZZD
inserted by
No. 17/2023
s. 30.

16ZZD Reportable conduct authorised officer may interview child

- (1) While exercising a power under section 16ZT(2), 16ZX(2) or 16ZZ(2), a reportable conduct authorised officer may interview a child present at the premises or place.
- (2) Before interviewing a child, the reportable conduct authorised officer must consider, and take all reasonable steps to mitigate, any negative effect that the interview may have on the child.
- (3) Without limiting subsection (2), the reportable conduct authorised officer must consider whether the child's primary family carer (within the meaning of the **Commission for Children and Young People Act 2012**) should be present during the interview.

16ZZE Affidavits

A reportable conduct authorised officer who is an authorised affidavit taker within the meaning of the **Oaths and Affirmations Act 2018** may take an affidavit after entry to any premises or place in accordance with section 16ZR(2).

S. 16ZZE
inserted by
No. 17/2023
s. 30.

16ZZF Seizure of documents and things

- (1) If a reportable conduct authorised officer seizes a document or thing during entry to a premises or place under section 16ZT or 16ZZ or under a warrant issued under section 16ZV, the officer must—
 - (a) give the owner of the document or thing a written receipt of the seizure; and
 - (b) within 21 days of the seizure, give the owner a copy of that document certified by the officer.
- (2) A receipt under subsection (1)(a) must—
 - (a) identify the document or thing seized; and
 - (b) set out the name of the reportable conduct authorised officer and a method of contacting the officer; and
 - (c) set out the reason for the seizure; and
 - (d) contain any prescribed information.
- (3) The reportable conduct authorised officer must return any seized document or thing to the owner—
 - (a) if the reason for the seizure no longer applies; or
 - (b) if the document or thing was seized under section 16ZT(2) or 16ZZ(2), if the owner of the document or thing withdraws consent for the seizure.

S. 16ZZF
inserted by
No. 17/2023
s. 30.

- (4) If a seized document or thing is not returned to the owner within 3 months of the seizure, the reportable conduct authorised officer must take reasonable steps to return the document or thing to the owner unless—
 - (a) the proceeding or investigation for which the document or thing was seized has commenced but is not resolved or finally determined; or
 - (b) the Magistrates' Court by order extends the period during which the seized document or thing may be held; or
 - (c) the owner consents to the document or thing being held for a longer period; or
 - (d) the officer is authorised by any law to destroy, continue to hold or dispose of the document or thing.
- (5) The reportable conduct authorised officer may apply to a magistrate for an extension of not more than 3 months of the period during which a seized document or thing may be held.
- (6) The magistrate must not grant the extension sought unless the magistrate is satisfied that the extension is necessary for the purposes of an investigation into whether the head of an entity is not complying, or has not complied, with section 16M(1).
- (7) If the reportable conduct authorised officer makes an application for an extension under subsection (5), the officer must give the owner at least 7 days' notice of the hearing of the application.
- (8) The total period of all extensions granted under subsection (6) in relation to a particular document or thing must not exceed 12 months.

16ZZG Destruction of seized document or thing

S. 16ZZG
inserted by
No. 17/2023
s. 30.

- (1) If, after taking reasonable steps to do so, a reportable conduct authorised officer is not able to return a document or thing seized under section 16ZT or 16ZZ, or under a warrant issued under section 16ZV, to the owner, the Commission may apply to a magistrate for permission to destroy the document or thing.
- (2) If the Commission applies under subsection (1) for permission to destroy a document or thing, the Commission must serve a copy of the application on the owner.
- (3) The magistrate may—
 - (a) grant the permission sought if the magistrate considers it appropriate to do so; and
 - (b) make any other order the magistrate considers appropriate, including but not limited to an order for the payment of costs for the destruction of the document or thing.

16ZZH Offence to obstruct or impersonate reportable conduct authorised officer

S. 16ZZH
inserted by
No. 17/2023
s. 30.

- (1) A person must not hinder or obstruct—
 - (a) a reportable conduct authorised officer exercising a power under this Part; or
 - (b) a person who is assisting a reportable conduct authorised officer exercising a power under this Part.

Penalty: In the case of a body corporate, 120 penalty units;

In any other case, 30 penalty units.

- (2) A person who is not a reportable conduct authorised officer must not, in any way, hold themselves out to be a reportable conduct authorised officer.

Penalty: 30 penalty units.

Division 3—Notices to produce and notices to comply

S. 16ZZI
inserted by
No. 17/2023
s. 30.

16ZZI Notice to produce

- (1) If the Commission reasonably believes that the head of an entity is not complying with, or has not complied with, section 16M(1), the Commission may issue a written notice requiring the following to produce a specified document or information before a specified date (being not less than 14 days after the day on which the notice is given)—
- (a) the head of the entity;
 - (b) any other person that the Commission reasonably believes possesses the document or information.
- (2) A notice under subsection (1) must be in the prescribed form, if any, and must specify—
- (a) the document or category of documents that must be produced; and
 - (b) the date by which the document or category of documents must be provided; and
 - (c) the maximum civil penalty payable if the Magistrates' Court makes a declaration under section 16ZZL; and
 - (d) the process for seeking an internal review of the decision to give a notice to produce; and
 - (e) the prescribed matters, if any.

- (3) A person given a notice under subsection (1) must provide each document specified in the notice to the Commission on or before the date specified in the notice.
- (4) The Commission, by further written notice given at any time, may vary or revoke a notice under subsection (1).

16ZZJ Reportable conduct notice to comply

S. 16ZZJ
inserted by
No. 17/2023
s. 30.

- (1) The Commission may give the head of an entity a notice to comply if the Commission reasonably believes that the head of the entity is not complying with section 16M(1)(a) or (b).
- (2) A reportable conduct notice to comply—
 - (a) must be in the prescribed form (if any); and
 - (b) must specify the following—
 - (i) the reason for the issue of the notice to comply;
 - (ii) the grounds for the Commission's belief that the head of the entity is not complying with section 16M(1)(a) or (b);
 - (iii) the action that the head of the entity is required to take to address any issues that have been identified in the notice to comply;
 - (iv) the date by which the head of the entity must take the action specified in the notice to comply, being not less than 14 days after the day on which the notice is given;
 - (v) the maximum pecuniary penalty for failing to comply with the notice;
 - (vi) the process for seeking a review of the decision to issue the notice;

(vii) the prescribed matters (if any).

S. 16ZZK
inserted by
No. 17/2023
s. 30.

16ZZK Failure to comply with notice to produce or reportable conduct notice to comply

- (1) A person must not, without reasonable excuse, fail to comply with a notice to produce.

Penalty: In the case of a body corporate, 120 penalty units;

In any other case, 60 penalty units.

- (2) The head of an entity must not, without reasonable excuse, fail to comply with a reportable conduct notice to comply.

Penalty: In the case of a body corporate, 120 penalty units;

In any other case, 60 penalty units.

S. 16ZZL
inserted by
No. 17/2023
s. 30.

16ZZL Application for a declaration and order to pay a civil penalty

- (1) If a person, without reasonable excuse, fails to comply with a notice to produce, the Commission may apply to the Magistrates' Court for—

(a) a declaration that the person has failed to comply with the notice; and

(b) an order requiring the person to pay a civil penalty.

- (2) If a head of an entity, without reasonable excuse, fails to comply with a reportable conduct notice to comply, the Commission may apply to the Magistrates' Court for—

(a) a declaration that the head of the entity has failed to comply with the notice; and

(b) an order requiring the head of the entity to pay a civil penalty.

- (3) The Magistrates' Court may make the declaration sought if the court is satisfied that—
 - (a) the person or head of the entity has failed to comply with the notice to produce or the reportable conduct notice to comply (as the case requires); and
 - (b) the failure was unreasonable.
- (4) If the Magistrates' Court makes a declaration under subsection (2), the court may order the person to pay to the Commission for payment into the Consolidated Fund an amount not exceeding \$9000 as a civil penalty.
- (5) In determining the amount of a civil penalty, the Magistrates' Court must consider—
 - (a) the impact of the civil penalty on the person; and
 - (b) whether the non-compliance with the notice to produce or the notice to comply (as the case requires) was wilful or serious.
- (6) An order made under this section is taken, for the purposes of enforcement, to be an order made by the Magistrates' Court in a civil proceeding.
- (7) A civil penalty paid to the Commission in accordance with an order made under this section must be paid into the Consolidated Fund.

16ZZM Infringement notices

- (1) A reportable conduct authorised officer may issue to or serve an infringement notice on any person or entity that the Commission reasonably believes has committed a prescribed offence.
- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

**S. 16ZZM
inserted by
No. 17/2023
s. 30.**

- (3) The infringement penalty for an offence referred to in subsection (1) is the prescribed penalty.
- (4) For the purposes of subsection (1), an infringement notice—
 - (a) must be in the form required by the **Infringements Act 2006**; and
 - (b) may contain any additional information approved by the Commission.

S. 16ZZN
inserted by
No. 17/2023
s. 30.

16ZZN Pending criminal or civil proceedings

- (1) If the Commission applies under section 16ZZL(1) or (2) for a declaration or an order against a person for failing to comply with a notice to produce or a reportable conduct notice to comply, the Commission must not commence criminal proceedings for a charge against section 16ZZK(1) or (2) that is constituted by the failure or alleged failure of that person to comply with that notice.
- (2) Subsection (1) applies whether or not the court makes a declaration or order in response to an application under section 16ZZL(1) or (2).
- (3) If a person has been convicted or found guilty of an offence against section 16ZZK, or a charge against the person for an offence against section 16ZZK is pending, that is constituted by the failure or alleged failure of that person to comply with a notice to produce or reportable conduct notice to comply—
 - (a) the Commission may not apply under section 16ZZL(1) or (2) for an order for the person to pay a pecuniary penalty for failure to comply with that notice; and
 - (b) the court may not order the person to pay a pecuniary penalty for failure to comply with that notice.

16ZZO Power to bring a proceeding

- (1) A proceeding for an offence against this Part may be commenced by the Commission or a police officer.
- (2) A proceeding commenced under subsection (1) may be taken over and continued at any time by any other person authorised by subsection (1) to commence proceedings.
- (3) In a proceeding for an offence against this Part, it must be presumed, in the absence of evidence to the contrary, that the person commencing the proceeding was authorised to commence the proceeding.

S. 16ZZO
inserted by
No. 17/2023
s. 30.

16ZZP Internal review of decisions to issue notices under this Part

- (1) A person may seek a review by the Commission of a decision to give a notice to produce.
- (2) The head of an entity may seek a review by the Commission of a decision to give a reportable conduct notice to comply.
- (3) The Commission must prepare and implement a process for the review of—
 - (a) a decision to give a notice to produce; or
 - (b) a decision to give a reportable conduct notice to comply.

S. 16ZZP
inserted by
No. 17/2023
s. 30.

16ZZQ Review by VCAT of decision to give notice to comply

- (1) A head of an entity may apply to VCAT for review of a decision by the Commission to give the head of an entity a reportable conduct notice to comply.

S. 16ZZQ
inserted by
No. 17/2023
s. 30.

- (2) An application for review must be made within 28 days after the later of—
 - (a) the day on which the decision is made; or
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the head of an entity requests a statement of reasons for the decision, the day on which the statement of reasons is given to the head of the entity or the head of the entity is informed under section 46(5) of that Act that a statement of reasons will not be given.
- (3) Before a head of an entity is entitled to apply to VCAT for the review of a decision referred to in subsection (1), the head of the entity must have exhausted all available avenues for the internal review of the decision.

S. 16ZZR
inserted by
No. 17/2023
s. 30.

16ZZR Complaints

- (1) Any person may complain to the Commission about the exercise of a power by a reportable conduct authorised officer under this Part or a warrant issued under section 16ZV.
- (2) A complaint to the Commission under subsection (1) may be made in writing or in any other form approved by the Commission.
- (3) On receiving a complaint under subsection (1), the Commission must—
 - (a) investigate the complaint; and
 - (b) provide a written report to the complainant and the reportable conduct authorised officer on the results of the investigation.

- (4) Before finalising a report under subsection (3), the Commission must—
- (a) give the reportable conduct authorised officer an opportunity to comment on the proposed report within a period ending not less than 14 days after the officer receives the report; and
 - (b) consider any comments that the officer provides to the Commission within that period.

Pt 6 (Heading and ss 17–41) amended by Nos 96/2005 s. 604(2), 46/2009 ss 9–15, repealed by No. 79/2012 s. 77, new Pt. 6 (Heading and new ss 17–23) inserted by No. 63/2015 s. 6.

Part 6—Child Safe Standards

Pt 6 Div. 1 (Heading) inserted by No. 63/2016 s. 7.

Division 1—Child Safe Standards

New s. 17 inserted by No. 63/2015 s. 6.

17 Minister may make Child Safe Standards

S. 17(1) amended by No. 4/2018 s. 8.

- (1) The Minister may make standards to ensure that in the operations of relevant entities—
 - (a) the safety of children is promoted; and
 - (b) child abuse is prevented; and
 - (c) allegations of child abuse are properly responded to.
- (2) The Minister must publish the Child Safe Standards in the Government Gazette.
- (3) An amendment to the Child Safe Standards has effect—
 - (a) on the day that is 30 days after the day that the amendment is published in the Government Gazette; or
 - (b) on a later day that is specified in the amendment.

Child Wellbeing and Safety Act 2005
No. 83 of 2005
Part 6—Child Safe Standards

*	*	*	*	*	New s. 18 inserted by No. 63/2015 s. 6, repealed by No. 23/2021 s. 7.
19 Schedule 1 entities must comply with Child Safe Standards					S. 19 (Heading) amended by No. 23/2021 s. 8(1). New s. 19 inserted by No. 63/2015 s. 6.
(1) An entity referred to in Schedule 1 must comply with the Child Safe Standards unless—					S. 19(1) amended by No. 23/2021 s. 8(2)(a)(b).
(a) the entity is exempt under section 22; or					
(b) the regulations provide that the entity is exempt from this requirement.					S. 19(1)(b) amended by No. 23/2021 s. 8(2)(c).
*	*	*	*	*	S. 19(1)(c) repealed by No. 23/2021 s. 8(2)(d).
*	*	*	*	*	S. 19(2) repealed by No. 23/2021 s. 8(3).
(3) Regulations made for the purposes of subsection (1)(b) may prescribe—					S. 19(3) amended by No. 23/2021 s. 8(4)(a).
(a) a class of entity referred to in Schedule 1 that is to be exempt from the requirement to comply with the Child Safe Standards; or					S. 19(3)(a) amended by Nos 4/2018 s. 9(a), 23/2021 s. 8(4)(b).

S. 19(3)(b)
amended by
Nos 4/2018
s. 9(b),
23/2021
s. 8(4)(c).

- (b) an entity referred to in Schedule 1
(other than an individual) that is to be
exempt from that requirement.

S. 19(4)
repealed by
No. 23/2021
s. 8(5).

* * * *

S. 20
(Heading)
amended by
Nos 4/2018
s. 10(1),
23/2021
s. 9(1).

20 Prescribed applicable entity must comply with Child Safe Standards

New s. 20
inserted by
No. 63/2015
s. 6.

- (1) A prescribed applicable entity must comply with
the Child Safe Standards on and after the date
prescribed in respect of that entity.

S. 20(1)
amended by
Nos 4/2018
s. 10(2),
23/2021
s. 9(2).

S. 20(2)
amended by
No. 4/2018
s. 10(3).

- (2) Regulations made for the purposes of
subsection (1) may only prescribe an entity that is
not an individual.

S. 21
(Heading)
amended by
Nos 4/2018
s. 11(1),
23/2021
s. 10(1).

21 Applicable entity belonging to a prescribed class must comply with Child Safe Standards

An applicable entity that belongs to a prescribed
class must comply with the Child Safe Standards
on and after the day prescribed in respect of that
class unless the entity is exempt under section 22.

New s. 21
inserted by
No. 63/2015
s. 6,
amended by
Nos 4/2018
s. 11(2),
23/2021
s. 10(2).

22 Exemption from requirement to comply with Child Safe Standards

- (1) Subject to subsection (2), an entity referred to in Schedule 1 or an applicable entity is exempt from a requirement to comply with the Child Safe Standards under section 19, 20 or 21 if the entity does not do any of the following—
- (a) provide any services specifically for children;
 - (b) provide any facilities specifically for use by children who are under the entity's supervision;
 - (c) engage a child as a contractor, employee or volunteer to assist the entity in providing services or facilities or in producing or providing goods.
- (2) Subsection (1) does not apply to an entity to which the reportable conduct scheme applies.

New s. 22 inserted by No. 63/2015 s. 6, amended by Nos 4/2018 s. 12(1), 23/2021 s. 11(1)(2) (ILA s. 39B(1)).

S. 22(1)(c) amended by No. 4/2018 s. 12(2).

S. 22(2) inserted by No. 23/2021 s. 11(2).

23 Application of Child Safe Standards to businesses not carried on by certain entities

- (1) This section applies to an individual—
- (a) who is not an entity referred to in Schedule 1 or an applicable entity; and
 - (b) who carries on a business that belongs to a prescribed class and that provides—
 - (i) services specifically for children; or

S. 23 (Heading) amended by No. 4/2018 s. 13(1).

New s. 23 inserted by No. 63/2015 s. 6.

S. 23(1)(a) amended by Nos 4/2018 s. 13(2), 23/2021 s. 12.

- (ii) facilities specifically for use by children who are under the individual's supervision.

- (2) The individual must comply with the Child Safe Standards on and after the day prescribed in respect of the prescribed class of business.

S. 23A
inserted by
No. 23/2021
s. 13.

23A Compliance with Child Safe Standards generally

Unless an exemption under this Act applies, an entity or individual referred to in section 19(1), 20(1), 21 or 23 must comply with the Child Safe Standards despite anything to the contrary in any other Act (other than the Charter of Human Rights and Responsibilities) or subordinate instrument.

Pt 6 Div. 2
(Heading and
new ss 24, 25)
inserted by
No. 63/2016
s. 8.

Division 2—The Commission

New s. 24
inserted by
No. 63/2016
s. 8.

24 Objectives of Commission

Without limiting section 7 of the **Commission for Children and Young People Act 2012**, the objectives of the Commission, in the exercise of the Commission's functions and powers under this Part, are—

- (a) to promote continuous improvement by relevant entities, in respect of the children who use their services or facilities or who are engaged to assist in providing their services or facilities, in the ways in which, in their operations—
 - (i) the safety of children is promoted; and
 - (ii) child abuse is prevented; and
 - (iii) allegations of child abuse are properly responded to; and

(b) to serve the public interest by promoting—

- (i) the safety of children; and
- (ii) the prevention of child abuse; and
- (iii) the proper response to allegations of child abuse; and

S. 24(b)(iii)
amended by
No. 23/2021
s. 14(a).

(c) to promote compliance with the Child Safe Standards and consistency in child safety outcomes by providing information and guidance to sector regulators and integrated sector regulators.

S. 24(c)
inserted by
No. 23/2021
s. 14(b).

25 Functions and powers of the Commission

(1) The Commission has the following functions in relation to the Child Safe Standards—

- (a) to provide education, information and advice on the Child Safe Standards to any person or entity;
- (b) to publish guidance notes that promote consistent child safety outcomes and compliance with, and the enforcement of, the Child Safe Standards, for use by sector regulators and integrated sector regulators;
- (c) in relation to a relevant entity for which it is a sector regulator, the functions set out in section 25D(1);
- (d) to collect, analyse and publish information and data relating to the Child Safe Standards;
- (e) to work collaboratively with other sector regulators and integrated sector regulators in relation to the safety of children and compliance with the Child Safe Standards;

New s. 25
inserted by
No. 63/2016
s. 8,
substituted by
No. 23/2021
s. 15.

- (f) to promote information exchange between the Commission, other sector regulators and integrated sector regulators in relation to the safety of children and compliance with the Child Safe Standards;
 - (g) any other functions conferred on the Commission under this Part or under regulations made for the purposes of this Part.
- (2) For the purposes of subsection (1)(c), in carrying out the functions set out in section 25D(1) the Commission must consider the most effective means of promoting compliance by the relevant entity with the Child Safe Standards.
- (3) The Commission has the following powers in relation to the Child Safe Standards—
- (a) any power conferred on the Commission under this Part or under regulations made for the purposes of this Part;
 - (b) in relation to a relevant entity for which it is a sector regulator, the powers set out in section 25D(4);
 - (c) any power necessary or convenient to perform its functions under this Part or under regulations made for the purposes of this Part.

S. 25A
inserted by
No. 23/2021
s. 15.

25A Guidance notes on Child Safe Standards

- (1) Before publishing guidance notes referred to in section 25(1)(b), the Commission must consult with sector regulators and integrated sector regulators regarding the contents of the guidance notes.

- (2) Sector regulators and integrated sector regulators must have regard to any guidance notes published by the Commission in carrying out functions and exercising powers relating to the Child Safe Standards.

Division 2A—Sector regulators and integrated sector regulators

Pt 6 Div. 2A
(Heading and
ss 25B–25H)
inserted by
No. 23/2021
s. 16 (as
amended by
No. 43/2022
s. 12).

25B Sector regulators

S. 25B
inserted by
No. 23/2021
s. 16 (as
amended by
No. 43/2022
s. 12).

- (1) Subject to section 25C, in this Act, *sector regulator* means—
- (a) in relation to a relevant entity referred to in an item in Schedule 1 (other than a relevant entity that has an integrated sector regulator)—
 - (i) the prescribed sector regulator for that relevant entity; or
 - (ii) if no person or body is prescribed to be the sector regulator, or the person or body prescribed to be the sector regulator for the relevant entity no longer exists, the Commission; or
 - (b) in relation to a relevant entity that has an integrated sector regulator and that integrated sector regulator no longer exists, the Commission; or
 - (c) in relation to any other relevant entity, the prescribed sector regulator for that relevant entity.

- (2) Regulations made for the purposes of this section may only prescribe the following to be sector regulators—
- (a) a statutory authority;
 - (b) a Department or Department Head within the meaning of the **Public Administration Act 2004**;
 - (c) an Administrative Office or Administrative Office Head within the meaning of the **Public Administration Act 2004**;
 - (d) a public entity within the meaning of the **Public Administration Act 2004**;
 - (e) a special body within the meaning of the **Public Administration Act 2004**.

S. 25C
inserted by
No. 23/2021
s. 16 (as
amended by
No. 43/2022
s. 12).

25C Multiple sector regulators or integrated sector regulators

- (1) This section applies if—
- (a) a relevant entity belongs to more than one category of entity; and
 - (b) those categories of entity have different sector regulators or integrated sector regulators.
- (2) A sector regulator is the sector regulator for the relevant entity only in relation to the relevant entity's provision of the services or facilities, or the engagement of a child to assist in providing or producing the services, facilities or goods, of the category for which it is the sector regulator.
- (3) An integrated sector regulator is the integrated sector regulator for the relevant entity only in relation to the relevant entity's provision of the services or facilities, or the engagement of a child to assist in providing or producing the services,

facilities or goods, of the category for which it is the integrated sector regulator.

25D Functions and powers of sector regulators

- (1) A sector regulator has the following functions in relation to the Child Safe Standards—
- (a) to provide education, information and advice on the Child Safe Standards to promote consistency in child safety outcomes;
 - (b) to investigate, monitor and enforce compliance with the Child Safe Standards by relevant entities for which it is a sector regulator;
 - (c) to collect, analyse and publish information and data regarding compliance with the Child Safe Standards by relevant entities for which it is a sector regulator and, in the case of a sector regulator that is not the Commission, to provide that information and data to the Commission as required;
 - (d) to promote continuous improvement by relevant entities for which it is a sector regulator in relation to the safety of children, the prevention of child abuse and the proper response to allegations of child abuse;
 - (e) to work collaboratively with the Commission, other sector regulators and integrated sector regulators in relation to the safety of children and compliance with the Child Safe Standards;
 - (f) to exchange information and collaborate with persons and bodies in relation to the safety of children and compliance with the Child Safe Standards;

S. 25D
inserted by
No. 23/2021
s. 16 (as
amended by
No. 43/2022
s. 12).

- (g) any other function conferred on the sector regulator under this Part or under regulations made for the purposes of this Part.
- (2) In carrying out the functions set out in subsection (1) in respect of a relevant entity for which it is a sector regulator, a sector regulator must consider the most effective means of promoting compliance by the relevant entity with the Child Safe Standards.
- (3) Without limiting subsection (1)(f), a sector regulator may exchange information and collaborate with persons and bodies with functions or powers under a law of another State, a Territory or the Commonwealth relating to the monitoring or enforcement of compliance with standards (however described) that correspond to the Child Safe Standards.
- (4) A sector regulator has the following powers in relation to the Child Safe Standards—
 - (a) any power conferred on the sector regulator under this Part or under regulations made for the purposes of this Part;
 - (b) any power necessary or convenient to perform its functions under this Part or under regulations made for the purposes of this Part.

S. 25E
inserted by
No. 23/2021
s. 16 (as
amended by
No. 43/2022
s. 12).

25E Delegation by certain sector regulators

A sector regulator who is the Secretary to a Department or who holds a statutory office in a public sector body may delegate by instrument any functions or powers relating to the Child Safe Standards under this Act or the regulations (except this power of delegation) to a person or class of persons employed under Part 3 of the **Public Administration Act 2004** in that Department or body.

25F Integrated sector regulators

- (1) In this Act, *integrated sector regulator* means—
- (a) in relation to the following relevant entities, the VRQA—
 - (i) a relevant entity referred to in item 1, 4, 5 or 6 of Schedule 1;
 - (ii) a relevant entity referred to in item 3 of Schedule 1 that is a provider of school boarding services at a registered school boarding premises within the meaning of the **Education and Training Reform Act 2006**;
 - (iii) a relevant entity referred to in item 7 or 8 of Schedule 1 that is an RTO within the meaning of the **Education and Training Reform Act 2006**; or
 - (ab) in relation to a relevant entity referred to in item 9 or 10 of Schedule 1, the Regulatory Authority; or
 - (b) in relation to any other relevant entity, the prescribed integrated sector regulator for that relevant entity.
- (2) Regulations made for the purpose of subsection (1)(b) must not prescribe the VRQA or the Regulatory Authority to be the integrated sector regulator for a relevant entity.

S. 25F
inserted by
No. 23/2021
s. 16 (as
amended by
No. 43/2022
s. 12).

25G Functions and powers of integrated sector regulators

For the purposes of this Part, an integrated sector regulator has the prescribed functions and powers.

Note

An integrated sector regulator may also perform functions or exercise powers that relate to the Child Safe Standards if it has such functions or powers under an authorising Act.

S. 25G
inserted by
No. 23/2021
s. 16 (as
amended by
No. 43/2022
s. 12).

S. 25H
inserted by
No. 23/2021
s. 16 (as
amended by
No. 43/2022
s. 12).

25H Delegation by certain integrated sector regulators

An integrated sector regulator who is the Secretary to a Department or who holds a statutory office in a public sector body may delegate by instrument any prescribed function or power (except this power of delegation) to a person or class of persons employed under Part 3 of the **Public Administration Act 2004** in that Department or body.

Pt 6 Div. 3
(Heading)
substituted by
No. 23/2021
s. 20.

Division 3—Monitoring and enforcement of compliance with the Child Safe Standards

Pt 6 Div. 3
(Heading and
new ss 26–39)
inserted by
No. 63/2016
s. 8.

26 Sector regulator may authorise persons to assist

New s. 26
inserted by
No. 63/2016
s. 8,
substituted by
No. 23/2021
s. 21.

- (1) A sector regulator, by instrument, may authorise any person to assist the sector regulator in performing its functions under this Division.
- (2) An authorisation under this section may be general or limited to specified functions.
- (3) A sector regulator may not authorise a person to assist the sector regulator in performing the following functions—
 - (a) issuing a notice to comply under section 31;
 - (b) making an application to the Magistrates' Court under section 33.
- (4) A sector regulator must not authorise a person under this section unless it is satisfied that the person is appropriately qualified or has successfully completed appropriate training.

27 Appointment of authorised officers

- (1) A sector regulator may, by instrument, appoint any person or class of persons employed or engaged by the sector regulator to be an authorised officer for the purposes of this Part.
- (2) An appointment under this section—
 - (a) may be general or limited to specified functions under this Part; and
 - (b) may be subject to any specified conditions; and
 - (c) may be varied, suspended or revoked by the sector regulator at any time.
- (3) A sector regulator must not appoint a person under this section unless it is satisfied that the person is appropriately qualified or has successfully completed appropriate training.

New s. 27
inserted by
No. 63/2016
s. 8,
substituted by
No. 23/2021
s. 22.

28 Identity cards

- (1) If a sector regulator appoints an authorised officer under section 27, the sector regulator must—
 - (a) issue the authorised officer with an identity card that complies with subsection (2); or
 - (b) if the authorised officer is also appointed by the sector regulator as an authorised officer for the purposes of another Act and has a current identity card issued under that Act (the *existing identity card*)—
 - (i) amend the existing identity card so that it complies with the requirements of subsection (2); or
 - (ii) issue a supplementary identity card complying with any requirements of subsection (2) that are not met by the existing identity card; or

New s. 28
inserted by
No. 63/2016
s. 8,
substituted by
No. 23/2021
s. 23.

- (iii) request the authorised officer to return the existing identity card and issue a new identity card that complies with the requirements of the other Act and subsection (2).

(2) An identity card must—

- (a) state the authorised officer's name; and
- (b) contain a photograph of the authorised officer; and
- (c) state that the person to whom it is issued is an authorised officer appointed by the sector regulator for the purposes of this Part.

- (3) An authorised officer must return the identity card issued or amended under this section to the sector regulator as soon as practicable after their appointment as an authorised officer under section 27 expires or is revoked.

New s. 29
inserted by
No. 63/2016
s. 8,
substituted by
No. 23/2021
s. 24.

29 Production of identity card

- (1) Subject to subsection (3), an authorised officer must produce the authorised officer's identity card for inspection before exercising a power under this Part if asked to do so.
- (2) If it is not practicable to comply with subsection (1) before exercising the power, the authorised officer must produce the identity card for inspection at the first reasonable opportunity.
- (3) If an authorised officer enters (whether with or without a warrant) any premises or place for the purposes of exercising a power or performing a function under this Part, the authorised officer must produce the authorised officer's identity card for inspection immediately before or upon the first entry to the premises or place.

29A Powers of authorised officers to enter premises

S. 29A
inserted by
No. 23/2021
s. 24.

- (1) An authorised officer may enter and inspect any premises or place if the authorised officer reasonably believes it is a premises or place from or in which a relevant entity—
 - (a) provides services or facilities for children; or
 - (b) employs or engages a child to assist the relevant entity with the provision of any services or facilities; or
 - (c) provides support for an activity described in paragraph (a) or (b); or
 - (d) keeps equipment, materials or documents relating to an activity described in paragraph (a) or (b).
- (2) Subject to subsection (3), an authorised officer may only enter a premises or place under subsection (1)—
 - (a) if the authorised officer has provided notice to the occupier of the premises or place in accordance with section 29B and the occupier consents to the entry; or
 - (b) in accordance with a warrant issued under section 29E in relation to the premises or place; or
 - (c) in the case of any premises or place other than residential premises, if the authorised officer reasonably believes that the relevant entity is not complying, or has not complied, with the Child Safe Standards or this Part.
- (3) While exercising a power of entry under subsection (2)(a) or (c), an authorised officer must not enter any part of a premises or place in which the relevant entity provides accommodation or residential services unless—

- (a) the resident of that part of the premises or place consents to the entry; or
 - (b) if the resident is unable to consent, the resident's parent or guardian consents to the entry.
- (4) Before obtaining the consent of the resident, parent or guardian for the purposes of subsection (3), the authorised officer must—
- (a) inform the resident, parent or guardian—
 - (i) of the purpose of the entry; and
 - (ii) that the resident, parent or guardian may refuse to consent to the entry; and
 - (iii) that the resident, parent or guardian may refuse to consent to the seizure of any thing by the authorised officer during the entry; and
 - (iv) that the authorised officer may exercise any or all of the powers set out in section 29C during the entry without obtaining further consent from the resident, parent or guardian; and
 - (v) that the resident, parent or guardian may refuse to consent to the authorised officer exercising a power specified in section 29C during the entry; and
 - (vi) that any thing seized by the authorised officer during the entry with the consent of the resident, parent or guardian may be used in evidence in proceedings in relation to offences under this or another Act; and

- (b) ask the resident, parent or guardian to sign an acknowledgement setting out—
 - (i) that the resident, parent or guardian has been informed of the matters set out in paragraph (a); and
 - (ii) that the resident, parent or guardian consents to the entry; and
 - (iii) the time and date the resident, parent or guardian provided consent.
- (5) A resident, parent or guardian who signs an acknowledgement under subsection (4)(b) must be given a copy of the signed acknowledgement before the authorised officer leaves the premises.
- (6) A signed acknowledgement under subsection (4)(b) is evidence that the resident, parent or guardian consented to the entry of a premises or place.
- (7) If, in any proceeding, a signed acknowledgement under subsection (4)(b) is not produced to the court or tribunal, it must be presumed until the contrary is proved that the resident, parent or guardian did not consent to the entry of a premises or place.
- (8) An authorised officer may exercise a power of entry under subsection (2)(a) or (c)—
 - (a) during the normal business hours of the premises or place; and
 - (b) if the relevant entity provides services outside normal business hours, during the relevant entity's hours of operation; and
 - (c) at any time if the occupier consents to the entry.

- (9) If the authorised officer is on the premises or place with the consent of the occupier or a resident, parent or guardian, the authorised officer must leave the premises or place if the occupier, resident, parent or guardian asks the authorised officer to do so.

S. 29B
inserted by
No. 23/2021
s. 24.

29B Notice required for entry with consent

- (1) An authorised officer must not exercise a power of entry or inspection under section 29A(2)(a), unless the authorised officer before obtaining the occupier's consent—
- (a) produces the authorised officer's identity card for inspection; and
 - (b) informs the occupier—
 - (i) of the purpose of the entry; and
 - (ii) that the occupier may refuse to consent to the entry; and
 - (iii) that the occupier may refuse to consent to the seizure of any thing by the authorised officer during the entry; and
 - (iv) that the authorised officer may exercise any or all of the powers set out in section 29C during the entry without obtaining further consent from the occupier; and
 - (v) that the occupier may refuse to consent to the authorised officer exercising a power specified in section 29C during the entry; and
 - (vi) that any thing seized by the authorised officer during the entry with the consent of the occupier may be used in evidence in proceedings in relation to offences under this or another Act; and

- (c) asks the occupier to sign an acknowledgement setting out—
 - (i) that the occupier has been informed of the matters set out in paragraph (b); and
 - (ii) that the occupier consents to the entry; and
 - (iii) the time and date the occupier provided consent.
- (2) An occupier who signs an acknowledgement under subsection (1)(c) must be given a copy of the signed acknowledgement before the authorised officer leaves the premises or place.
- (3) A signed acknowledgement under subsection (1)(c) is evidence that the occupier consented to the entry of a premises or place.
- (4) If, in any proceeding, a signed acknowledgement under subsection (1)(c) is not produced to the court or tribunal, it must be presumed until the contrary is proved that the occupier did not consent to the entry of a premises or place.

29C Powers after entry and consent

- (1) This section applies if an authorised officer enters any premises or place under section 29A(2)(a).
- (2) The authorised officer may do any of the following—
 - (a) search any part of the premises or place;
 - (b) inspect and examine any document or thing at the premises or place;
 - (c) make enquiries with any person at the premises or place;
 - (d) observe any activity being conducted at the premises or place;

S. 29C
inserted by
No. 23/2021
s. 24.

- (e) take photographs, or make any type of recording or sketches, of any document, thing or activity at the premises or place;
- (f) copy or take an extract from any document at the premises or place;
- (g) take into or onto the premises or place any person, equipment or materials;
- (h) use and operate any equipment and materials, including but not limited to any disk, tape or storage device, at the premises or place;
- (i) secure any electronic equipment that the authorised officer reasonably believes stores or contains information that may be lost, destroyed or tampered with if the equipment is not secured;
- (j) request any person at the premises to give information that the authorised officer reasonably believes is necessary to determine whether or not—
 - (i) a relevant entity is complying, or has complied, with the Child Safe Standards or this Part; or
 - (ii) a person or body is an entity that is required to comply with the Child Safe Standards;
- (k) seize any document or any other thing at the premises or place that the authorised officer reasonably believes is evidence—
 - (i) relevant to whether a relevant entity is not complying, or has not complied, with the Child Safe Standards or this Part; or

- (ii) that a person or body is an entity that is required to comply with the Child Safe Standards;
- (l) request any person at the premises or place to provide the authorised officer with any reasonable assistance;
 - (m) request any person at the premises or place to comply with any lawful direction, whether written or oral, of the authorised officer.
- (3) An authorised officer may exercise a power under subsection (2) only if the authorised officer reasonably believes it is necessary to do so to investigate whether—
 - (a) a relevant entity is not complying, or has not complied, with the Child Safe Standards or this Part; or
 - (b) a person or body is an entity that is required to comply with the Child Safe Standards.

29D Acknowledgement of document or thing seized during entry with consent

S. 29D
inserted by
No. 23/2021
s. 24.

- (1) The authorised officer must not seize any document or thing under section 29C(2)(k) unless the authorised officer asks the owner to sign an acknowledgement setting out—
 - (a) that the owner consents to the seizure of the document or thing; and
 - (b) the time and date the owner provided consent.
- (2) An owner who signs an acknowledgement under subsection (1) must be given a copy of the signed acknowledgement before the authorised officer leaves the premises.

- (3) A signed acknowledgement under subsection (1) is evidence that the owner consented to the seizure of a document or thing.
- (4) If, in any proceeding, a signed acknowledgement under subsection (1) is not produced to the court or tribunal, it must be presumed until the contrary is proved that the owner did not consent to the seizure of a document or thing.

S. 29E
inserted by
No. 23/2021
s. 24.

29E Application for warrant

- (1) An authorised officer may apply to a magistrate for a warrant in relation to any premises or place if the authorised officer believes on reasonable grounds that—
 - (a) entry to the premises or place is necessary to investigate whether a relevant entity is not complying, or has not complied, with the Child Safe Standards or this Part; or
 - (b) entry to the premises or place is necessary to investigate whether a person or body is an entity that is required to comply with the Child Safe Standards; or
 - (c) activities are being engaged in, or have been engaged in, at the premises or place that contravene the Child Safe Standards or this Part; or
 - (d) documents or other things relevant to the possible contravention of the Child Safe Standards or this Part may be, or within 72 hours may be, present at the premises or place.
- (2) The magistrate may issue the warrant if the magistrate is satisfied, by information on oath or by affirmation, that there are reasonable grounds to believe that entry to the premises or place is necessary on the grounds on which issue of the warrant is sought.

- (3) A warrant issued under subsection (2) may authorise an authorised officer, with necessary and reasonable help and force—
- (a) to enter the premises or place, or any specified part of the premises or place, on one occasion; and
 - (b) to search for and seize a document or thing specified in the warrant; and
 - (c) to seize any other document or thing, or to copy or take an extract from any document, that the authorised officer reasonably believes is relevant to a possible contravention of the Child Safe Standards or this Part.
- (4) A warrant issued under subsection (2) must state—
- (a) the purpose for which the warrant is issued; and
 - (b) the premises or place to be entered under the warrant; and
 - (c) any document or thing that may be seized under the warrant; and
 - (d) whether the entry is authorised to be made at any time of the day or during specified hours of the day; and
 - (e) any conditions to which the warrant is subject; and
 - (f) the day, within 7 days of the issue of the warrant, on which the warrant ceases to have effect; and
 - (g) that the warrant is issued in accordance with the **Magistrates' Court Act 1989**.

- (5) Subject to this section, the rules that apply to search warrants under the **Magistrates' Court Act 1989** extend and apply to a warrant issued under this section.
- (6) Section 78(1)(b)(iii) of the **Magistrates' Court Act 1989** does not apply to a warrant issued under this section.

S. 29F
inserted by
No. 23/2021
s. 24.

29F Entry under warrant

- (1) Before entering any premises or place under a warrant issued under section 29E, an authorised officer must—
 - (a) announce that the authorised officer is authorised by the warrant to enter the premises or place; and
 - (b) give any person at the premises or place an opportunity to allow entry to the premises or place; and
 - (c) if the occupier is present at the premises or place, give the occupier a copy of the warrant.

Note

Section 29(3) sets out requirements for authorised officers to produce identity cards.

- (2) Subsection (1) does not apply if the authorised officer believes on reasonable grounds that immediate entry to the premises or place is required to ensure that the effective execution of the warrant is not frustrated.

S. 29G
inserted by
No. 23/2021
s. 24.

29G Powers after entry under warrant

- (1) This section applies if an authorised officer enters any premises or place under a warrant issued under section 29E.

- (2) The authorised officer may, subject to any condition of the warrant, do any of the following if the authorised officer considers it reasonably necessary for the purposes of executing the warrant—
- (a) search any part of the premises or place;
 - (b) inspect and examine any document or thing at the premises or place;
 - (c) make enquiries with any person at the premises or place;
 - (d) observe any activity being conducted at the premises or place;
 - (e) take photographs, or make any type of recording or sketches, of any document, thing or activity at the premises or place;
 - (f) copy or take an extract from any document at the premises or place;
 - (g) take into or onto the premises or place any person, equipment and materials;
 - (h) use and operate any equipment and materials, including but not limited to any disk, tape or storage device, at the premises or place;
 - (i) secure any electronic equipment that the authorised officer reasonably believes stores or contains information that may be lost, destroyed or tampered with if the equipment is not secured;
 - (j) any other thing the authorised officer considers reasonably necessary.

- (3) The authorised officer may, subject to any condition of the warrant, require a person to do any of the following if the authorised officer considers it reasonably necessary for the purposes of executing the warrant—
- (a) produce a document or part of a document located at the premises or place that is under that person's possession or control;
 - (b) disclose any information that the authorised officer reasonably believes the person has that relates to whether—
 - (i) a relevant entity is not complying, or has not complied, with the Child Safe Standards or this Part; or
 - (ii) a person or body is an entity that is required to comply with the Child Safe Standards;
 - (c) provide the authorised officer with any reasonable assistance;
 - (d) operate any equipment at the premises or place to enable the authorised officer to access information stored on the equipment;
 - (e) comply with any lawful direction, whether written or oral, of the authorised officer.
- (4) If an authorised officer requires a person to do any thing under subsection (3), the authorised officer must—
- (a) inform the person that it is an offence to fail or refuse to comply with the requirement without reasonable excuse; and
 - (b) inform the person that it is a reasonable excuse for the person to refuse or fail to comply with the requirement if complying with the requirement would tend to incriminate the person; and

- (c) state the maximum penalty for failing or refusing to comply with the requirement.
- (5) Subject to any condition of the warrant, if the authorised officer secures any electronic equipment under subsection (2)(i), that equipment may be secured—
 - (a) subject to subsection (6), until the earlier of the following—
 - (i) the end of the 24-hour period beginning with the seizure of the equipment;
 - (ii) the time at which the authorised officer, or a person providing technical assistance to the authorised officer, operates the equipment for the purpose of obtaining information described in subsection (2)(i); or
 - (b) for any longer period with the consent of the occupier of the premises or place.
- (6) Subject to any condition of the warrant, the authorised officer may apply to a magistrate for an extension of the period during which electronic equipment may be secured if the authorised officer reasonably believes that the extension is necessary to obtain information described in subsection (2)(i).

29H Failure to provide assistance

- (1) A person must not, without reasonable excuse, fail to comply with a requirement made by an authorised officer under section 29G(3).

Penalty: In the case of a body corporate,
120 penalty units;

In any other case, 30 penalty units.

S. 29H
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No. 23/2021
s. 24.

- (2) Subsection (1) does not apply to a person if the authorised officer did not inform the person, in accordance with section 29G(4)(b), that it is a reasonable excuse to refuse or fail to comply with the requirement if complying with the requirement would tend to incriminate the person.

S. 29I
inserted by
No. 23/2021
s. 24.

29I Powers after entry without consent or warrant

- (1) This section applies if an authorised officer enters any premises or place in accordance with section 29A(2)(c).
- (2) The authorised officer may do any of the following—
- (a) search any part of the premises or place;
 - (b) inspect and examine any document or thing at the premises or place;
 - (c) make enquiries with any person at the premises or place;
 - (d) observe any activity being conducted at the premises or place;
 - (e) take photographs, or make any type of recording or sketches, of any document, thing or activity at the premises or place;
 - (f) copy or take an extract from any document at the premises or place;
 - (g) take into or onto the premises or place any person, equipment and materials;
 - (h) use and operate any equipment and materials, including but not limited to any disk, tape or storage device, at the premises or place;

- (i) secure any electronic equipment that the authorised officer reasonably believes stores or contains information that may be lost, destroyed or tampered with if the equipment is not secured;
 - (j) with the consent of the owner of the document or thing, seize any document or any other thing at the premises or place that the authorised officer reasonably believes is evidence—
 - (i) relevant to whether a relevant entity is not complying, or has not complied, with the Child Safe Standards or this Part; or
 - (ii) that a person or body is an entity that is required to comply with the Child Safe Standards.
- (3) The authorised officer may require a person at the premises or place to do any of the following—
- (a) produce a document or part of a document located at the premises or place that the authorised officer reasonably believes the person has that relates to whether a relevant entity is not complying, or has not complied, with the Child Safe Standards or this Part;
 - (b) disclose any information that the authorised officer reasonably believes the person has that relates to whether a relevant entity is not complying, or has not complied, with the Child Safe Standards or this Part;
 - (c) operate any equipment at the premises or place to enable the authorised officer to access information stored on the equipment.

- (4) If an authorised officer requires a person to do any thing under subsection (3), the authorised officer must—
 - (a) inform the person that it is an offence to fail or refuse to comply with the requirement without reasonable excuse; and
 - (b) inform the person that it is a reasonable excuse for the person to refuse or fail to comply with the requirement if complying with the requirement would tend to incriminate the person; and
 - (c) state the maximum penalty for failing or refusing to comply with the requirement.
- (5) The authorised officer may request a person at the premises or place to do any of the following—
 - (a) provide the authorised officer with any reasonable assistance;
 - (b) comply with any lawful direction, whether written or oral, of the authorised officer.
- (6) An authorised officer may exercise a power under subsection (2), (3) or (5) only if the authorised officer reasonably believes it is reasonably necessary to do so to investigate whether—
 - (a) a relevant entity is not complying, or has not complied, with the Child Safe Standards or this Part; or
 - (b) a person or body is an entity that is required to comply with the Child Safe Standards.
- (7) If the authorised officer secures any electronic equipment under subsection (2)(i), that equipment may be secured—

- (a) subject to subsection (8), until the earlier of the following—
 - (i) the end of the 24-hour period beginning with the seizure of the equipment;
 - (ii) the time at which the authorised officer, or a person providing technical assistance to the authorised officer, operates the equipment for the purpose of obtaining information described in subsection (2)(i); or
 - (b) for any longer period with the consent of the occupier of the premises or place.
- (8) The authorised officer may apply to a magistrate for an extension of the period during which electronic equipment may be secured if the authorised officer reasonably believes that the extension is necessary to obtain information described in subsection (2)(i).

29J Acknowledgment of seizure during entry without consent

S. 29J
inserted by
No. 23/2021
s. 24.

- (1) The authorised officer must not seize any document or thing under section 29I(2)(j) unless the authorised officer—
 - (a) informs the owner that the owner may refuse to consent to the seizure; and
 - (b) asks the owner to sign an acknowledgement setting out—
 - (i) that the owner consents to the seizure of the document or thing; and
 - (ii) the time and date the owner provided consent.

- (2) An owner who signs an acknowledgement under subsection (1) must be given a copy of the signed acknowledgement before the authorised officer leaves the premises.
- (3) A signed acknowledgement under subsection (1) is evidence that the owner consented to the seizure of a document or thing.
- (4) If, in any proceeding, a signed acknowledgement under subsection (1) is not produced to the court or tribunal, it must be presumed until the contrary is proved that the owner did not consent to the seizure of a document or thing.

S. 29K
inserted by
No. 23/2021
s. 24.

29K Failure to provide assistance

- (1) A person must not, without reasonable excuse, fail to comply with a requirement made by an authorised officer under section 29I(3).

Penalty: In the case of a body corporate,
120 penalty units;

In any other case, 30 penalty units.

- (2) Subsection (1) does not apply to a person if the authorised officer did not inform the person, in accordance with section 29I(4)(b), that it is a reasonable excuse to refuse or fail to comply with the requirement if complying with the requirement would tend to incriminate the person.

S. 29L
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No. 23/2021
s. 24.

29L Authorised officer may interview child

- (1) While exercising a power under section 29C(2), 29G(2) or 29I(2), an authorised officer may interview a child present at the premises or place.
- (2) Before interviewing a child, the authorised officer must consider, and take all reasonable steps to mitigate, any negative effect that the interview may have on the child.

- (3) Without limiting subsection (2), the authorised officer must consider whether the child's primary family carer (within the meaning of the **Commission for Children and Young People Act 2012**) should be present during the interview.

29M Affidavits

An authorised officer who is an authorised affidavit taker within the meaning of the **Oaths and Affirmations Act 2018** may take an affidavit after entry to any premises or place in accordance with section 29A(2).

S. 29M
inserted by
No. 23/2021
s. 24.

29N Seizure of documents and things

- (1) If an authorised officer seizes a document or thing during entry to a premises or place under section 29C or 29I or under a warrant issued under section 29E, the authorised officer must—
- (a) give the owner of the document or thing a written receipt of the seizure; and
 - (b) within 21 days of the seizure, give the owner a copy of that document certified by the authorised officer.
- (2) A receipt under subsection (1)(a) must—
- (a) identify the document or thing seized; and
 - (b) set out the name of the authorised officer and a method of contacting the authorised officer; and
 - (c) set out the reason for the seizure; and
 - (d) contain any prescribed information.
- (3) The authorised officer must return any seized document or thing to the owner—
- (a) if the reason for the seizure no longer applies; or

S. 29N
inserted by
No. 23/2021
s. 24.

- (b) if the document or thing was seized under section 29C(2) or 29I(2), the owner of the document or thing withdraws consent for the seizure.
- (4) If a seized document or thing is not returned to the owner within 3 months of the seizure, the authorised officer must take reasonable steps to return the document or thing to the owner unless—
 - (a) the proceedings or investigation for which the document or thing was seized has commenced but is not resolved or finally determined; or
 - (b) the Magistrates' Court by order extends the period during which the seized document or thing may be held; or
 - (c) the owner consents to the document or thing being held for a longer period; or
 - (d) the authorised officer is authorised by any law to destroy, continue to hold or dispose of the document or thing.
- (5) The authorised officer may apply to a magistrate for an extension of not more than 3 months of the period during which a seized document or thing may be held.
- (6) The magistrate must not grant the extension sought unless the magistrate is satisfied that the extension is necessary for the purposes of an investigation into whether a relevant entity is complying, or has complied, with the Child Safe Standards or this Part.
- (7) If the authorised officer makes an application for an extension under subsection (5), the authorised officer must give the owner at least 7 days' notice of the hearing of the application.

- (8) The total period of all extensions granted under subsection (6) in relation to a particular document or thing must not exceed 12 months.

29O Destruction of seized document or thing

S. 29O
inserted by
No. 23/2021
s. 24.

- (1) If, after taking reasonable steps to do so, an authorised officer is not able to return a document or thing seized under section 29C or 29I, or under a warrant issued under section 29E, to the owner, a sector regulator may apply to a magistrate for permission to destroy the document or thing.
- (2) If a sector regulator applies under subsection (1) for permission to destroy a document or thing, the sector regulator must serve a copy of the application on the owner.
- (3) The magistrate may—
- (a) grant the permission sought if the magistrate considers it appropriate to do so; and
 - (b) make any other order the magistrate considers appropriate, including but not limited to an order for the payment of costs for the destruction of the document or thing.

29P Offence to obstruct authorised officer

S. 29P
inserted by
No. 23/2021
s. 24.

A person must not hinder or obstruct—

- (a) an authorised officer exercising a power under this Part; or
- (b) a person who is assisting an authorised officer exercising a power under this Part.

Penalty: In the case of a body corporate,
120 penalty units;
In any other case, 30 penalty units.

S. 29Q
inserted by
No. 23/2021
s. 24.

29Q Offence to impersonate authorised officer

A person who is not an authorised officer must not, in any way, hold themselves out to be an authorised officer.

Penalty: 30 penalty units.

S. 29R
inserted by
No. 23/2021
s. 24.

29R Complaints

- (1) Any person may complain about the exercise of a power by an authorised officer under this Part or a warrant issued under section 29E to the sector regulator that appointed the authorised officer.
- (2) A complaint to a sector regulator under subsection (1) may be made in writing or in any other form approved by the sector regulator.
- (3) On receiving a complaint under subsection (1), the sector regulator must—
 - (a) investigate the complaint; and
 - (b) provide a written report to the complainant and the authorised officer on the results of the investigation.
- (4) Before finalising a report under subsection (3), the sector regulator must—
 - (a) give the authorised officer an opportunity to comment on the proposed report within a period ending not less than 14 days after the authorised officer receives the report; and
 - (b) consider any comments that the authorised officer provides to the sector regulator within that period.

29S Power to bring proceedings

- (1) A sector regulator or a police officer may bring proceedings for an offence against this Part or the regulations.
- (2) A proceeding commenced under subsection (1) may be taken over and continued at any time by any other person authorised by subsection (1) to commence proceedings.
- (3) In a proceeding for an offence against this Part or the regulations, it must be presumed, in the absence of evidence to the contrary, that the person commencing the proceeding was authorised to commence the proceeding.

S. 29S
inserted by
No. 23/2021
s. 24,
amended by
No. 17/2023
s. 31(1)(2) (ILA
s. 39B(1)).

S. 29S(2)
inserted by
No. 17/2023
s. 31(2).

S. 29S(3)
inserted by
No. 17/2023
s. 31(2).

30 Notice to produce

- (1) This section applies if a sector regulator reasonably believes that any document or information is necessary to determine whether—
 - (a) a relevant entity for which it is a sector regulator is complying with the Child Safe Standards; or
 - (b) a person or body is an entity that is required to comply with the Child Safe Standards.
- (1A) The sector regulator may issue a written notice requiring the following to produce the document or information—
 - (a) any relevant entity for which it is a sector regulator; or
 - (b) any person or body that the sector regulator reasonably believes possesses the document or information.

New s. 30
inserted by
No. 63/2016
s. 8.

S. 30(1)
substituted by
No. 23/2021
s. 25(1).

S. 30(1A)
inserted by
No. 23/2021
s. 25(1).

S. 30(2)
amended by
No. 23/2021
s. 25(2)(a).

- (2) A notice under subsection (1A)—
- (a) must be in the prescribed form (if any); and

S. 30(2)(b)
substituted by
No. 23/2021
s. 25(2)(b).

- (b) must specify the following—
 - (i) the relevant entity, person or body to which the notice is issued;
 - (ii) the document or information, or category of document or information, that must be produced;
 - (iii) in the case of a notice for the purposes of subsection (1)(a), the Child Safe Standards to which the document or information relates;
 - (iv) the date by which the document or information must be produced, being not less than 14 days after the day on which the notice is given to the relevant entity or person;
 - (v) any enforcement action that may be taken against the relevant entity or person for failing to comply with the notice;
 - (vi) the maximum criminal and civil penalty for failing to comply with the notice;
 - (vii) the process for seeking an internal review of the decision to issue the notice;
 - (viii) any prescribed matters.

S. 30(3)
amended by
No. 23/2021
s. 25(3).

- (3) A relevant entity, person or body given a notice under subsection (1A) must provide each document described in the notice to the sector regulator on or before the day specified in the notice.

- (4) The sector regulator, by further written notice given at any time, may vary or revoke a notice to produce.

S. 30(4)
amended by
No. 23/2021
s. 25(4).

31 Notice to comply

New s. 31
inserted by
No. 63/2016
s. 8.

- (1) A sector regulator may give a relevant entity for which it is a sector regulator a notice to comply if the sector regulator believes on reasonable grounds that the relevant entity is not complying with the Child Safe Standards.

S. 31(1)
amended by
No. 23/2021
s. 26(1).

- (2) A notice to comply—

(a) must be in the prescribed form (if any); and

(b) must specify the following—

(i) the reason for the issue of the notice to comply;

(ii) the Child Safe Standards that the sector regulator believes the relevant entity is not complying with and the grounds for that belief;

S. 31(2)(b)(ii)
amended by
No. 23/2021
s. 26(2)(a).

(iii) the action that the relevant entity is required to take to address any issues that have been identified in the notice to comply;

(iv) the date by which the relevant entity must take the action specified in the notice to comply, being not less than 14 days after the day on which the notice is given;

(v) any enforcement action that may be taken against the relevant entity for failing to comply with the notice;

S. 31(2)(b)(v)
substituted by
No. 23/2021
s. 26(2)(b).

S. 31(2)(b)(va)
inserted by
No. 23/2021
s. 26(2)(b).

(va) the maximum criminal and civil penalty
for failing to comply with the notice;

(vi) the process for seeking a review of the
decision to issue the notice;

(vii) the prescribed matters (if any); and

(c) must be accompanied by any
recommendations or advice available
to assist the entity to address the issues
identified in the notice.

(3) A relevant entity given a notice to comply must
comply with the notice.

S. 31(4)
amended by
No. 23/2021
s. 26(3).

(4) Despite subsection (2)(b)(iv), the sector regulator
may specify a date that is less than 14 days after
the day on which the notice is given in exceptional
circumstances.

S. 31(5)
amended by
No. 23/2021
s. 26(4).

(5) The sector regulator, by further written notice
given to a relevant entity, and at any time, may
vary or revoke a notice to comply.

New s. 32
inserted by
No. 63/2016
s. 8,
substituted by
No. 23/2021
s. 27.

32 False or misleading information

(1) A person must not in purported compliance with
this Part—

(a) give information or make a statement that the
person knows to be false or misleading in a
material particular; or

(b) produce a document that the person knows to
be false or misleading in a material particular
without indicating the respect in which it is
false or misleading and, if practicable,
providing correct information.

Penalty: In the case of a body corporate,
120 penalty units;

In any other case, 30 penalty units.

- (2) It is a defence to a charge under subsection (1) if the person reasonably does not know that the information, statement or document is false or misleading.

**32A Criminal liability of officers of relevant entities—
failure to exercise due diligence**

S. 32A
inserted by
No. 23/2021
s. 27.

- (1) If a relevant entity that is a body corporate commits an offence against section 34D, an officer of that relevant entity also commits an offence against the provision if the officer failed to exercise due diligence to prevent the commission of the offence by the relevant entity.
- (2) In determining whether an officer of a relevant entity exercised due diligence, a court may have regard to—
- (a) what the officer knew, or ought reasonably to have known, about the commission of the offence by the relevant entity; and
 - (b) whether or not the officer was in a position to influence the relevant entity in relation to the commission of the offence by the relevant entity; and
 - (c) what steps the officer took, or could reasonably have taken, to prevent the commission of the offence by the relevant entity; and
 - (d) any other relevant matter.
- (3) Without limiting any other defence available to the officer, an officer of a relevant entity may rely on a defence that would be available to the relevant entity if it were charged with the offence with which the officer is charged and, in doing so, the officer bears the same burden of proof that the relevant entity would bear.

(4) An officer of a body corporate may commit an offence against section 34D whether or not the relevant entity has been prosecuted for, or found guilty of, an offence against that section.

(5) In this section—

body corporate has the same meaning as corporation has in section 57A of the Corporations Act;

officer, in relation to a relevant entity, means—

- (a) a person who is an officer (as defined by section 9 of the Corporations Act) of the relevant entity; or
- (b) a person (other than a person referred to in paragraph (a)), by whatever name called, who is concerned in, or takes part in, the management of the relevant entity.

S. 32B
inserted by
No. 23/2021
s. 27.

32B Immunity

- (1) The Commission, a sector regulator or an integrated sector regulator, or a person employed or engaged by the Commission, a sector regulator or an integrated sector regulator, is not personally liable for any thing done or omitted to be done in good faith—
 - (a) in the exercise of a power or the discharge of a duty under this Part or the regulations other than a power or duty under this Division; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Part or the regulations other than this Division.
- (2) Any liability resulting from an act or omission that would but for subsection (1) attach to the Commission, a sector regulator or an integrated sector regulator, or a person employed or engaged

by the Commission, a sector regulator or an integrated sector regulator, attaches to the Crown.

32C Nomination of proper defendant

S. 32C
inserted by
No. 23/2021
s. 27.

- (1) This section applies if a relevant entity is not capable of being sued in relation to any claim founded on or arising from a contravention of this Part.
- (2) The relevant entity, with the consent of the nominee, may nominate an entity that is capable of being sued—
 - (a) to act as a proper defendant to the claim on behalf of the relevant entity; and
 - (b) to incur any liability arising from the claim on behalf of the relevant entity.
- (3) If a relevant entity nominates a proper defendant under subsection (2), the nominee—
 - (a) is taken to be the defendant (however described) in the claim on behalf of the relevant entity for all purposes; and
 - (b) incurs any liability arising from that claim on behalf of the relevant entity as if the relevant entity had been incorporated and capable of being sued and found liable for the contravention; and
 - (c) must comply with any order or direction of the court arising from the claim on behalf of the relevant entity as if the relevant entity had been incorporated and capable of being sued and found liable for the contravention.
- (4) The relevant entity must nominate a proper defendant within 120 days after the commencement of the proceeding for the claim against the relevant entity, unless the court orders otherwise.

- (5) If the relevant entity does not nominate a proper defendant within 120 days after the commencement of the proceeding for the claim (or any other period ordered by the court), the sector regulator bringing the proceeding for the claim may apply to the court for an order that the claim is to proceed against another entity that is capable of being sued on behalf of the relevant entity.
- (6) A court may substantively determine a claim in a proceeding founded on or arising from a contravention of this Part for which there is a proper defendant under this section as if the relevant entity itself were incorporated and capable of being sued and found liable for the contravention of this Part in respect of the claim.
- (7) The nomination of, or failure to nominate, a proper defendant under this section does not relieve a relevant entity from any obligations it may have in relation to the conduct of the proceeding, including any interlocutory matters, and for that purpose, the relevant entity is taken to be incorporated and capable of being sued and found liable for the contravention of this Part in respect of the claim.

33 Application to court

New s. 33
inserted by
No. 63/2016
s. 8.

- (1) If a person, body or relevant entity, without reasonable excuse, fails to comply with a notice to produce, the sector regulator that gave the notice may apply to a court for any or all of the following—
 - (a) a declaration that the person, body or relevant entity has failed to comply with the notice to produce;

S. 33(1)
substituted by
No. 23/2021
s. 28(1).

- (b) an order requiring the person, body or relevant entity to pay a pecuniary penalty;
 - (c) an injunction under section 34A.
- (1A) If a relevant entity, without reasonable excuse, fails to comply with a notice to comply, the sector regulator that gave the notice may apply to a court for any or all of the following—
- (a) a declaration that the relevant entity has failed to comply with the notice to comply;
 - (b) an order requiring the relevant entity to pay a pecuniary penalty;
 - (c) an injunction under section 34A.
- (2) The court may make the declaration sought under subsection (1) or (1A) if the court is satisfied that—
- * * * *
- (b) the person, body or relevant entity has failed to comply with the notice to produce or notice to comply (as the case requires); and
 - (c) the failure to comply was unreasonable.
- (3) The court may grant an injunction in response to an application under subsection (1)(c) or (1A)(c) requiring a person, body or relevant entity to do a thing—
- (a) if the court makes a declaration under subsection (2) that the person, body or relevant entity has failed to comply with a notice to produce or a notice to comply; and
 - (b) whether or not the court orders the person, body or relevant entity to pay a pecuniary penalty.

S. 33(1A)
inserted by
No. 23/2021
s. 28(1).

S. 33(2)
amended by
No. 23/2021
s. 28(2)(a).

S. 33(2)(a)
repealed by
No. 23/2021
s. 28(2)(b).

S. 33(2)(b)
amended by
No. 23/2021
s. 28(2)(c).

S. 33(3)
inserted by
No. 23/2021
s. 28(3).

34 Civil penalty

New s. 34
inserted by
No. 63/2016
s. 8.

S. 34(1)
amended by
No. 23/2021
s. 29(1).

- (1) If a court makes a declaration under section 33(2) that a person, body or relevant entity has failed to comply with a notice to produce or a notice to comply, the court may order the person, body or relevant entity to pay to the sector regulator that gave the notice a pecuniary penalty not exceeding 120 penalty units in the case of a body corporate or 60 penalty units in any other case.

- (2) In determining the amount of the pecuniary penalty under subsection (1), the court must take into account the following considerations—

S. 34(2)(a)
amended by
No. 23/2021
s. 29(2).

- (a) in the case of a person, body or relevant entity that is not an individual, the size of the person, body or relevant entity;

S. 34(2)(b)
amended by
No. 23/2021
s. 29(2).

- (b) the impact of the amount of the penalty on the person, body or relevant entity;

S. 34(2)(c)
amended by
No. 23/2021
s. 29(2).

- (c) whether the non-compliance by the person, body or relevant entity with the notice to produce or notice to comply was wilful or serious.

- (3) An order made under this section is taken, for the purposes of enforcement, to be an order made by the court in a civil proceeding.

S. 34(4)
amended by
No. 23/2021
s. 29(3).

- (4) A pecuniary penalty paid to a sector regulator in accordance with an order made under this section must be paid by the sector regulator into the Consolidated Fund.

34A Injunctions

S. 34A
inserted by
No. 23/2021
s. 30.

- (1) On an application by a sector regulator, a court may grant an injunction, in the terms the court considers appropriate, if the court is satisfied that a person, body or relevant entity—
 - (a) has failed to comply with a notice to produce or a notice to comply; or
 - (b) is required to comply with the Child Safe Standards and has failed, or is likely to fail, to do so.
- (2) Without limiting subsection (1), the court may grant an injunction under that subsection—
 - (a) to restrain a person, body or relevant entity from engaging in specified conduct that the Court reasonably considers is likely to harm a child; or
 - (b) to restrain a person, body or relevant entity from providing specified services or facilities to children before the failure to comply is rectified; or
 - (c) to restrain a person, body or relevant entity from employing or engaging children before the failure to comply is rectified; or
 - (d) to require a person, body or relevant entity to do a specified act or thing that the court considers reasonably necessary to prevent, minimise or remedy the failure to comply; or
 - (e) to require a person, body or relevant entity to institute training programmes for persons employed or engaged by the person, body or relevant entity.

- (3) The power of the court to grant an injunction under subsection (1) may be exercised whether or not the person, body or relevant entity—
 - (a) is likely to fail to comply with the Child Safe Standards or notice (as appropriate) in the future; or
 - (b) has previously failed to comply with the Child Safe Standards, a notice to produce or a notice to comply.
- (4) The court may, if it considers that it is appropriate to do so, grant an injunction under subsection (1) by consent of all the parties to the proceeding, whether or not the court is satisfied as required by subsection (1).

S. 34B
inserted by
No. 23/2021
s. 30.

34B Interim injunctions

- (1) On the application of a sector regulator, a court may grant an interim injunction, in the terms the court considers appropriate, pending the determination of an application by the sector regulator for an injunction under section 34A.
- (2) An application for an interim injunction under subsection (1) may be made ex parte.

S. 34C
inserted by
No. 23/2021
s. 30.

34C Adverse publicity orders

- (1) On the application of a sector regulator, a court may order a relevant entity to do one or more of the actions set out in subsection (2) if—
 - (a) the relevant entity is convicted or found guilty in criminal proceedings for an offence under this Part that is constituted by the failure of the relevant entity to comply with a notice to produce or a notice to comply; or
 - (b) a declaration is made under section 33(1)(a) or (1A)(a) that the relevant entity has failed to comply with a notice to produce or a notice to comply.

- (2) The court may order that the relevant entity take any specified action that the court considers reasonably necessary to publicise or notify any specified person or class of person of—
- (a) the relevant entity's offence or failure to comply with the notice to produce or notice to comply; or
 - (b) the relevant entity's failure to comply with the Child Safe Standards that caused the giving of the notice or the making of the declaration (as appropriate); or
 - (c) any harm, or risk of harm, caused by the relevant entity's failure to comply with the notice; or
 - (d) any penalties imposed, or other orders made, as a result of the commission of the offence or failure to comply; or
 - (e) any other information the court considers appropriate.
- (3) An application for an order under this section must be made within 6 months after the conviction, finding of guilt or declaration referred to in subsection (1) (as appropriate).

34D Offence to fail to comply with notice to produce or notice to comply

A person must not, without reasonable excuse, fail to comply with a notice to produce or a notice to comply.

Penalty: In the case of a body corporate,
120 penalty units;
In any other case, 60 penalty units.

S. 34D
inserted by
No. 23/2021
s. 30.

S. 34E
inserted by
No. 23/2021
s. 30.

34E Pending criminal or civil proceedings

- (1) If a sector regulator applies under section 33(1) or (1A) for a declaration, an order or an injunction against a person, body or relevant entity for failing to comply with a notice to produce or notice to comply, the sector regulator must not commence criminal proceedings for a charge against section 34D that is constituted by the failure or alleged failure of that person, body or relevant entity to comply with that notice.
- (2) Subsection (1) applies whether or not the court makes a declaration or order or grants an injunction in response to an application under section 33(1) or (1A).
- (3) If a person, body or relevant entity has been convicted or found guilty of an offence against section 34D, or a charge against the person, body or relevant entity for an offence against section 34D is pending, that is constituted by the failure or alleged failure of that person, body or relevant entity to comply with a notice to produce or notice comply—
 - (a) a sector regulator may not apply under section 33(1)(b) or (1A)(b) for an order for the person, body or relevant entity to pay a pecuniary penalty for failure to comply with that notice; and
 - (b) the court may not order the person, body or relevant entity to pay a pecuniary penalty for failure to comply with that notice.

35 Reasonable excuse

- (1) It is a reasonable excuse for a natural person to refuse or fail to give information or do any thing that the person is required to do by or under section 29C, 29G and 29I if the giving of the information or the doing of that other thing would tend to incriminate the person.

S. 35
(Heading)
substituted by
No. 23/2021
s. 31(1).

New s. 35
inserted by
No. 63/2016
s. 8,
amended by
No. 23/2021
s. 31(2)(3) (ILA
s. 39B(1)).

- (2) It is a reasonable excuse for an individual to refuse or fail to comply with a notice to produce, if complying with the notice would tend to incriminate the person.

S. 35(2)
inserted by
No. 23/2021
s. 31(3).

- (3) It is a reasonable excuse for a person, body or relevant entity to refuse or fail to comply with a notice to produce or a notice to comply if—

S. 35(3)
inserted by
No. 23/2021
s. 31(3).

- (a) in the case of a notice to produce, the person, body or relevant entity believes on reasonable grounds that the person, body or relevant entity does not have any document or information required to be produced under the notice; or
- (b) in the case of a notice to comply, the relevant entity reasonably considers that it is unable to comply with the notice.

36 Assistance to be provided

A relevant entity or the head of a relevant entity must ensure that the Commission, a sector regulator, an authorised officer or an authorised person is given any assistance in connection with the reasonable performance of the Commission's, sector regulator's or authorised officer's functions under this Part that the Commission, sector regulator, authorised officer or authorised person reasonably requires.

New s. 36
inserted by
No. 63/2016
s. 8,
amended by
No. 23/2021
s. 32.

S. 36A
inserted by
No. 23/2021
s. 33.

36A Official warnings

- (1) A sector regulator may issue an official warning to—
 - (a) a relevant entity for which it is a sector regulator; or
 - (b) any relevant entity, person or body to which it has issued a notice to produce; or
 - (c) any relevant entity to which it has issued a notice to comply.
- (2) An official warning must state—
 - (a) that the sector regulator suspects one or more of the following—
 - (i) the person, body or relevant entity is failing, or has failed, to comply with a notice to produce or notice to comply;
 - (ii) the person, body or relevant entity is failing, or has failed, to comply with the Child Safe Standards;
 - (iii) the person, body or relevant entity is committing, or has committed, an offence against this Part other than Division 4; and
 - (b) the details of the suspected failure or offence specified under paragraph (a); and
 - (c) the grounds for the sector regulator's suspicion; and
 - (d) that non-compliance or offending may be the subject of enforcement action by the sector regulator under this Act; and
 - (e) any other matter the sector regulator considers appropriate.

36B Infringement notices

S. 36B
inserted by
No. 23/2021
s. 33.

- (1) A sector regulator may issue to or serve an infringement notice on any person, body or relevant entity that the sector regulator reasonably believes has committed a prescribed offence.
- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.
- (3) The infringement penalty for an offence referred to in subsection (1) is the prescribed penalty.
- (4) For the purposes of subsection (1), an infringement notice—
 - (a) must be in the form required by the **Infringements Act 2006**; and
 - (b) may contain any additional information approved by the sector regulator.

36C Enforceable undertakings

S. 36C
inserted by
No. 23/2021
s. 33.

- (1) A sector regulator may accept an enforceable undertaking from a relevant entity for which it is a sector regulator in connection with—
 - (a) a failure to comply with the Child Safe Standards or a notice to comply; or
 - (b) a reasonable suspicion of the sector regulator that there is, or has been, a failure to comply with the Child Safe Standards or a notice to comply.
- (2) An enforceable undertaking accepted by a sector regulator under subsection (1) must—
 - (a) be in writing; and
 - (b) state the name of the relevant entity offering the undertaking; and

- (c) specify the day on which the undertaking commences; and
 - (d) state the grounds for the sector regulator's belief that the relevant entity is failing or has failed to comply with the Child Safe Standards or a notice to comply; and
 - (e) specify the Child Safe Standard or notice to comply with which the sector regulator believes the relevant entity is failing, or has failed, to comply; and
 - (f) state the action that the relevant entity proposes to take; and
 - (g) specify the day by which the relevant entity must take that action; and
 - (h) set out any other matter agreed between the sector regulator and the relevant entity; and
 - (i) contain any prescribed matter.
- (3) The relevant entity may, by written notice, withdraw or vary an enforceable undertaking accepted by the sector regulator under subsection (1) with the consent of the sector regulator.

S. 36D
inserted by
No. 23/2021
s. 33.

36D Sector regulators must maintain register of undertakings

- (1) Each sector regulator must establish and maintain a register of enforceable undertakings it accepts under section 36C.
- (2) A register maintained under subsection (1) must contain the following information in relation to each undertaking accepted by the sector regulator—
 - (a) the name of the relevant entity giving the undertaking;

- (b) the day on which the undertaking commences.
- (3) A sector regulator may record the following in a register maintained under subsection (1) in relation to each undertaking accepted by the sector regulator—
 - (a) the grounds stated in the undertaking under section 36C(2)(d);
 - (b) the Child Safe Standard or notice to comply specified in the undertaking under section 36C(2)(e);
 - (c) the action stated in the undertaking under section 36C(2)(f);
 - (d) the day specified in the undertaking under section 36C(2)(g);
 - (e) any other matter set out in the undertaking under section 36C(2)(h);
 - (f) any prescribed matter contained in the undertaking under section 36C(2)(i).
- (4) The sector regulator may, if it is in the public interest—
 - (a) keep a copy of an enforceable undertaking accepted by the sector regulator in the register it maintains under subsection (1); or
 - (b) publish any enforceable undertaking accepted by the sector regulator.
- (5) The sector regulator must ensure that the register it maintains under subsection (1) is available for public inspection at any reasonable time without charge.

S. 36E
inserted by
No. 23/2021
s. 33.

36E No proceedings while enforceable undertaking in force

If a sector regulator accepts an enforceable undertaking in relation to a failure or alleged failure to comply with the Child Safe Standards or a notice to comply, while the enforceable undertaking is in force, the sector regulator must not commence—

- (a) criminal proceedings for an offence under this Part that is constituted by the failure or alleged failure to which the undertaking relates; or
- (b) civil proceedings under this Part in relation to the failure or alleged failure to which the undertaking relates.

S. 36F
inserted by
No. 23/2021
s. 33.

36F Proceedings following withdrawal of enforceable undertaking

If a sector regulator accepts an enforceable undertaking in relation to a failure or alleged failure to comply with the Child Safe Standards or a notice to comply, and the relevant entity withdraws the enforceable undertaking before the sector regulator is satisfied the enforceable undertaking has been complied with, the sector regulator may commence proceedings for any offence under this Part that is constituted by the failure or alleged failure to which the undertaking relates.

36G No further proceedings if enforceable undertaking complied with

S. 36G
inserted by
No. 23/2021
s. 33.

If a sector regulator accepts an enforceable undertaking in relation to a failure or alleged failure of the Child Safe Standards or a notice to comply and the sector regulator is satisfied the enforceable undertaking has been complied with, the sector regulator must not commence—

- (a) criminal proceedings for an offence under this Part that is constituted by the failure or alleged failure to which the undertaking relates; or
- (b) civil proceedings under this Part in relation to the failure or alleged failure to which the undertaking relates.

36H Enforcement of undertakings

S. 36H
inserted by
No. 23/2021
s. 33.

- (1) A sector regulator may apply to a magistrate for an enforcement order under subsection (2) if the sector regulator considers that a relevant entity has failed to comply with an enforceable undertaking.
- (2) If the magistrate is satisfied a relevant entity has failed to comply with an enforceable undertaking, the magistrate may make any of the following orders—
 - (a) an order directing the relevant entity to comply with the enforceable undertaking;
 - (b) an order that the relevant entity take any specified action for the purpose of complying with the enforceable undertaking;
 - (c) an order that the enforceable undertaking is no longer in force;
 - (d) any other order that the magistrate considers appropriate in the circumstances.

S. 36I
inserted by
No. 23/2021
s. 33.

36I Sector regulator may publish details of non-compliance

- (1) Subject to any order of the court, a sector regulator may, if the sector regulator considers it in the public interest, publish information specified in subsection (2) on a website maintained by the sector regulator if—
 - (a) a relevant entity for which it is a sector regulator is convicted or found guilty of an offence against this Part; or
 - (b) a court has made a declaration under section 33(1)(a) or (1A)(a) that the relevant entity has failed to comply with a notice to produce or a notice to comply.
- (2) If a sector regulator publishes any information under this section relating to a conviction, finding of guilt or declaration, the following information must be included in the publication—
 - (a) the name of the relevant entity, including any business or trading name of the relevant entity;
 - (b) the date of the conviction, finding of guilt or declaration;
 - (c) in the case of a conviction or finding of guilt, the offence to which the conviction or finding of guilt relates;
 - (d) in the case of a declaration, details of the notice to produce or notice to comply that is the subject of the declaration;
 - (e) whether the court imposed any other penalty in respect of the conduct that was the subject of the conviction, finding of guilt or declaration;

- (f) the date on which the sector regulator most recently updated the information on the website published under this section;
- (g) any other prescribed matter.

* * * * *

New ss 37, 38
inserted by
No. 63/2016
s. 8,
repealed by
No. 23/2021
s. 34.

39 Service of documents under Part 6

- (1) A document that is authorised or required by this Part to be served on or given to a person is served or given by—
 - (a) delivering personally a true copy of the document to the person; or
 - (b) leaving a true copy of the document for the person at the person's last known or usual place of residence or business with a person who apparently resides or works there and who apparently is over the age of 16 years; or
 - (c) sending a true copy of the document by post addressed to the person at the person's last known or usual place of residence or business.
- (2) A document that is authorised or required by this Part to be served on or given to an entity that is not a legal person is served by—
 - (a) delivering personally a true copy of the document to the head of the entity; or
 - (b) leaving a true copy of the document for the head of the entity at the last known or usual place of business of the entity with a person

New s. 39
inserted by
No. 63/2016
s. 8,
substituted by
No. 23/2021
s. 35.

- who apparently works there and who apparently is over the age of 16 years; or
- (c) sending a true copy of the document by post addressed to the head of the entity at the last known or usual place of business of the entity.

Note

The **Electronic Transactions (Victoria) Act 2000** applies to enable a document to be served electronically, including fax transmission and email, in accordance with that Act.

Pt 6 Div. 4
(Heading)
substituted by
No. 23/2021
s. 38.

Division 4—Information collection, use and disclosure powers of Commission, sector regulators and integrated sector regulators

Pt 6 Div. 4
(Heading and
ss 40–41H)
inserted by
No. 63/2016
s. 8.

40 Definitions

New s. 40
inserted by
No. 63/2016
s. 8.

In this Division—

S. 40 def. of
*exempt
information*
inserted by
No. 23/2021
s. 39(2).

exempt information means information, including but not limited to protected information, the use or disclosure of which could be reasonably expected to—

- (a) endanger a person's life or result in physical injury; or
- (b) prejudice the investigation of a breach or possible breach of the law, or prejudice the enforcement or proper administration of the law, in a particular instance; or
- (c) prejudice a coronial inquest or inquiry; or

- (d) prejudice the fair trial of a person or the impartial adjudication of a particular case; or
- (e) disclose, or enable a person to ascertain, the identity of a confidential source of information in relation to the enforcement or administration of the law; or
- (f) contravene a court order or a provision made by or under this Act or any other Act that—
 - (i) prohibits or restricts, or authorises a court or tribunal to prohibit or restrict, the publication or other disclosure of information for or in connection with any proceeding; or
 - (ii) requires or authorises a court or tribunal to close any proceeding to the public;

exempt integrated sector regulator means an integrated sector regulator that is prescribed not to be a relevant person;

S. 40 def. of *exempt integrated sector regulator* inserted by No. 23/2021 s. 39(2).

privilege information means information, including but not limited to protected information, the use or disclosure of which could be reasonably expected to disclose the contents of a document, or a communication, that is of such a nature that the contents of the document, or the communication, would be privileged from production in legal proceedings on the ground of legal professional privilege or client legal privilege;

S. 40 def. of *privilege information* inserted by No. 23/2021 s. 39(2).

S. 40 def. of
*protected
information*
substituted by
No. 23/2021
s. 39(1).

protected information means information
acquired by a relevant person—

- (a) in the case of a relevant person that is
an integrated sector regulator, in the
course of—
 - (i) performing functions or exercising
powers under this Part; or
 - (ii) performing functions or exercising
powers under an authorising Act
that relate to the Child Safe
Standards; or
- (b) in any other case, in the course of
performing functions or exercising
powers under this Part;

S. 40 def. of
*relevant
person*
amended by
No. 23/2021
s. 39(3)(4).

relevant person means any of the following
persons—

- (aa) the Commission;
- (aab) a sector regulator;
- (aac) an integrated sector regulator
(other than an exempt integrated
sector regulator);
- (a) the Principal Commissioner within
the meaning of the **Commission for
Children and Young People
Act 2012**;
- (b) a Commissioner within the meaning
of the **Commission for Children and
Young People Act 2012**;
- (c) a delegate of the Commission;
- (d) an authorised person;
- (e) a member of the staff of the
Commission;

- (f) an officer (however described) of a sector regulator or an integrated sector regulator (other than an exempt integrated sector regulator);
- (g) a delegate of a sector regulator or an integrated sector regulator (other than an exempt integrated sector regulator);
- (h) a person employed or engaged by a sector regulator or an integrated sector regulator (other than an exempt integrated sector regulator).

40A Request by relevant person for information or documents

S. 40A
inserted by
No. 23/2021
s. 40.

- (1) A relevant person may request a person or body to disclose to the relevant person information or a document that the relevant person reasonably considers is required for the relevant person—
 - (a) to determine whether a relevant entity has complied with the Child Safe Standards; or
 - (b) to determine whether an individual or entity is required to comply with the Child Safe Standards; or
 - (c) to perform other functions or exercise other powers under this Act; or
 - (d) if the relevant person is an integrated sector regulator, to perform functions or exercise powers under the relevant person's authorising Act that relate to the Child Safe Standards.
- (2) On receiving a request under subsection (1), a person or body may disclose the information or document to the relevant person.

- (3) A person or body (other than a relevant person) may comply with a request under subsection (1) despite anything to the contrary in any other Act (other than the Charter of Human Rights and Responsibilities) if the request is made in writing.
- (4) A relevant person may comply with a request under subsection (1) despite anything to the contrary in any other Act (other than the Charter of Human Rights and Responsibilities) whether or not the request is made in writing.
- (5) Nothing in this section requires a person or body to disclose exempt information or privilege information, or a document that contains exempt information or privilege information, to a relevant person.

S. 40B
inserted by
No. 23/2021
s. 40.

40B Notice of use of information or document

- (1) When making a request under section 40A(1), a relevant person must inform the person or body to whom the request is made that the information or document requested is to be used by the relevant person—
 - (a) in the case of a relevant person that is a sector regulator, to perform functions or exercise powers under this Act; or
 - (b) in the case of a relevant person that is an integrated sector regulator—
 - (i) to perform functions or exercise powers under the relevant person's authorising Act that relate to the Child Safe Standards; or
 - (ii) if the relevant person has any functions or powers under this Act, to perform those functions or exercise those powers.

- (2) A disclosure of any information or document by a person or body is not unlawful merely because the relevant person fails to comply with subsection (1) when making the request for that disclosure.

41 Matters relevant to disclosures of information or documents

A person must have regard to the following matters in deciding whether to disclose information or documents under this Part—

- (a) the objectives of the Commission under this Part;
- (b) the public interest in promoting—
 - (i) the safety of children; and
 - (ii) the prevention of child abuse; and
 - (iii) the proper response to allegations of child abuse.

S. 41
(Heading)
amended by
No. 23/2021
s. 41(1).

New s. 41
inserted by
No. 63/2016
s. 8,
amended by
No. 23/2021
s. 41(2).

41A Disclosures made in good faith

- (1) A disclosure of information or documents made under this Part, or in compliance with a notice to produce or a notice to comply, in good faith—
- (a) does not for any purpose constitute unprofessional conduct or a breach of professional ethics on the part of the person who made the disclosure; and
 - (b) does not make the person who made the disclosure subject to any liability in respect of the disclosure; and
 - (c) without limiting paragraphs (a) and (b), does not constitute a contravention of—
 - (i) section 141 of the **Health Services Act 1988**; or

S. 41A
inserted by
No. 63/2016
s. 8,
amended by
No. 23/2021
s. 42(1)(2) (ILA
s. 39B(1)).

S. 41A(1)(c)(ii)
amended by
No. 39/2022
s. 785.

(ii) section 730 of the **Mental Health and Wellbeing Act 2022**.

S. 41A(2)
inserted by
No. 23/2021
s. 42(2).

- (2) Despite anything to the contrary in this or another Act (other than the Charter of Human Rights and Responsibilities), a disclosure of information or documents that relate to the Child Safe Standards to a sector regulator or an integrated sector regulator made in good faith by any person—
- (a) does not for any purpose constitute unprofessional conduct or a breach of professional ethics on the part of the person who made the disclosure; and
 - (b) does not make the person who made the disclosure subject to any liability in respect of the disclosure.

S. 41B
inserted by
No. 63/2016
s. 8,
substituted by
No. 23/2021
s. 43 (as
amended by
No. 32/2022
s. 61).

41B Disclosure for purposes of functions or powers permitted

- (1) Subject to subsection (2), a relevant person may disclose protected information (other than exempt information or privilege information) to any person to the extent reasonably necessary—
- (a) for the relevant person to perform a function, or exercise a power, under this Act that relates to the Child Safe Standards; or
 - (b) for the relevant person to make a disclosure for the purposes of the reportable conduct scheme; or
 - (c) if the relevant person is the Commission, for the relevant person to perform a function or exercise a power under the **Commission for Children and Young People Act 2012**; or

- (d) if the relevant person is an integrated sector regulator, for the relevant person to perform a function or exercise a power under any other Act if that function or power relates to the Child Safe Standards; or
 - (e) for the relevant person to disclose information that the relevant person is permitted or required to disclose under this or any other Act.
- (2) A relevant person may disclose protected information that is privilege information under subsection (1) with the written consent of the person or body to which the legal professional privilege or client legal privilege relates.
- (3) A person to whom protected information is disclosed under this section must not use or disclose that information except—
- (a) for the purpose under subsection (1) for which the information was disclosed; or
 - (b) as permitted or required under this or any other Act.

41BA Disclosure to certain individuals permitted

- (1) If an individual provides a relevant person with information for the purposes of enabling the relevant person to determine whether or not a relevant entity is complying, or has complied, with the Child Safe Standards, this Act or an authorising Act, the relevant person may disclose the following information (other than exempt information) to the individual, whether or not it is protected information—
- (a) whether an investigation into whether the relevant entity is complying, or has complied, with the Child Safe Standards, this Act or an authorising Act is being, or will be, conducted by any relevant person;

S. 41BA
inserted by
No. 23/2021
s. 43 (as
amended by
No. 32/2022
s. 61).

- (b) any other relevant person to which the matter has been referred;
 - (c) whether any enforcement action is being, or will be, taken against the relevant entity by any relevant person in relation to the relevant entity's compliance with Child Safe Standards.
- (2) Subject to subsection (3), protected information must not be disclosed under subsection (1) if the information—
 - (a) identifies any person who—
 - (i) uses the facilities or services of any relevant entity; or
 - (ii) has been employed or engaged by any relevant entity to provide facilities or services; or
 - (iii) provides facilities or services for the relevant entity under an arrangement with a provider within the meaning of the **Labour Hire Licensing Act 2018**; or
 - (b) includes information from which the identity of a person referred to in paragraph (a) can be determined.
- (3) Subsection (2) does not apply to a disclosure of protected information made to the following persons—
 - (a) the person to whom the information relates;
 - (b) if the information relates to a child—
 - (i) a parent (within the meaning of the **Children, Youth and Families Act 2005**) of the child; or

- (ii) the Secretary to the Department of Families, Fairness and Housing if the Secretary has parental responsibility for the child; or
- (iii) a person who has daily care and control of the child, whether or not that care involves custody of the child; or
- (iv) if the child is in out of home care (within the meaning of the **Children, Youth and Families Act 2005**), the out of home carer (within the meaning of section 74 of that Act) who provides that care.

(4) This section does not apply to the VRQA.

41C Disclosure by relevant person of protected information to another relevant person

A relevant person may disclose protected information, or a document that contains protected information, to any other relevant person for the purpose of either relevant person performing a function or exercising a power under any Act.

S. 41C
inserted by
No. 63/2016
s. 8,
substituted by
No. 23/2021
s. 44.

41D Disclosure to report concerns permitted

A relevant person may disclose protected information to any of the following persons or authorities to report concerns that the Commission, a sector regulator or an integrated sector regulator may have about the failure of a relevant entity, in its operations, to promote the safety of children, to prevent child abuse or to properly respond to allegations of child abuse—

S. 41D
inserted by
No. 63/2016
s. 8,
amended by
No. 23/2021
s. 45(a).

- (a) the Minister;
- (b) the Secretary to the Department of Families, Fairness and Housing;

S. 41D(b)
amended by
No. 23/2021
s. 45(b).

(c) if the relevant person considers that the concerns are relevant to a Minister of the Crown (other than the Minister), to that Minister;

S. 41D(d)
amended by
No. 23/2021
s. 45(c).

(d) if the relevant person considers that the concerns are relevant to a Secretary to another Department, to that Secretary.

S. 41D(e)
repealed by
No. 23/2021
s. 45(d).

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S. 41E
inserted by
No. 63/2016
s. 8,
amended by
No. 23/2021
s. 46.

41E Disclosure to protect child permitted

A person who is or has been a relevant person may disclose protected information to prevent a serious threat of harm to the health, safety or wellbeing of a child.

S. 41F
inserted by
No. 63/2016
s. 8.

41F Disclosure to court or tribunal permitted

A person who is or has been a relevant person may disclose protected information—

- (a) to a court or tribunal in the course of criminal legal proceedings; or
- (b) in accordance with an order of a court or tribunal made under another Act or law.

S. 41G
inserted by
No. 63/2016
s. 8.

41G Disclosure to obtain legal advice permitted

A person who is or has been a relevant person may disclose protected information to an Australian legal practitioner for the purpose of obtaining legal advice or representation.

41H Disclosing information to other authorities

S. 41H
inserted by
No. 63/2016
s. 8.

(1) Subject to subsection (2), a relevant person may disclose protected information to the following—

S. 41H(1)
amended by
No. 23/2021
s. 47(1).

(a) the Chief Commissioner of Police appointed under the **Victoria Police Act 2013**;

(ab) a member of Victoria Police personnel within the meaning of the **Victoria Police Act 2013**;

S. 41H(1)(ab)
inserted by
No. 23/2021
s. 47(2).

(ac) the Australian Federal Police;

S. 41H(1)(ac)
inserted by
No. 23/2021
s. 47(2).

(ad) the police force of another State or a Territory;

S. 41H(1)(ad)
inserted by
No. 23/2021
s. 47(2).

(b) the Information Commissioner appointed under section 6C of the **Freedom of Information Act 1982**;

S. 41H(1)(b)
substituted by
No. 23/2021
s. 47(3).

(c) a coroner;

(d) the Disability Services Commissioner within the meaning of the **Disability Act 2006**;

(da) the Commissioner of the NDIS Quality and Safeguards Commission within the meaning of Chapter 6A of the National Disability Insurance Scheme Act 2013 of the Commonwealth;

S. 41H(1)(da)
inserted by
No. 19/2019
s. 252.

(e) the Health Services Commissioner within the meaning of the **Health Services (Conciliation and Review) Act 1987**;

S. 41H(1)(g)
amended by
No. 39/2022
s. 786 (as
amended by
No. 20/2023
s. 49(1)).

- (f) the Commissioner of the IBAC appointed under **the Independent Broad-based Anti-corruption Commission Act 2011**;
- (g) the Mental Health and Wellbeing Commission within the meaning of the **Mental Health and Wellbeing Act 2022**;

S. 41H(1)(j)
amended by
No. 13/2019
s. 221(Sch. 1
item 7).

- (h) the Minister;
- (i) the Ombudsman within the meaning of the **Ombudsman Act 1973**;
- (j) the Public Advocate within the meaning of the **Guardianship and Administration Act 2019**;

S. 41H(1)(k)
substituted by
No. 23/2021
s. 47(4).

- (k) a Department or Department Head within the meaning of the **Public Administration Act 2004**;

S. 41H(1)(l)
inserted by
No. 23/2021
s. 47(4).

- (l) an Administrative Office or Administrative Office Head within the meaning of the **Public Administration Act 2004**;

S. 41H(1)(m)
inserted by
No. 23/2021
s. 47(4).

- (m) the Victorian Disability Worker Commission established under the **Disability Service Safeguards Act 2018**;

S. 41H(1)(n)
inserted by
No. 23/2021
s. 47(4).

- (n) the Victorian Disability Worker Commissioner appointed under section 26 of the **Disability Service Safeguards Act 2018**;

S. 41H(1)(o)
inserted by
No. 23/2021
s. 47(4).

- (o) the Disability Worker Registration Board of Victoria established under the **Disability Service Safeguards Act 2018**;

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| (p) the Australian Health Practitioner Regulation Agency established by section 23 of the Health Practitioner Regulation National Law; | S. 41H(1)(p)
inserted by
No. 23/2021
s. 47(4). |
| (q) a National Health Practitioner Board established by section 31 of the Health Practitioner Regulation National Law; | S. 41H(1)(q)
inserted by
No. 23/2021
s. 47(4). |
| (r) the Victorian Institute of Teaching continued in operation by section 2.6.2 of the Education and Training Reform Act 2006 ; | S. 41H(1)(r)
inserted by
No. 23/2021
s. 47(4). |
| (s) subject to subsection (3), a person or body that, for the purposes of a law of the Commonwealth, another State or a Territory, may require any person or body to comply with standards (however described) of the Commonwealth or that State or Territory that correspond to the Child Safe Standards; | S. 41H(1)(s)
inserted by
No. 23/2021
s. 47(4). |
| (t) an exempt integrated sector regulator; | S. 41H(1)(t)
inserted by
No. 23/2021
s. 47(4). |
| (u) the National VET Regulator known as the Australian Skills Quality Authority established under the National Vocational Education and Training Regulator Act 2011 of the Commonwealth; | S. 41H(1)(u)
inserted by
No. 23/2021
s. 47(4). |
| (v) the Tertiary Education Quality and Standards Agency established under the Tertiary Education Quality and Standards Agency Act 2011 of the Commonwealth; | S. 41H(1)(v)
inserted by
No. 23/2021
s. 47(4). |
| (w) the Australian Charities and Not-for-profits Commission established by the Australian Charities and Not-for-profits Commission Act 2012 of the Commonwealth; | S. 41H(1)(w)
inserted by
No. 23/2021
s. 47(4). |

S. 41H(1)(x)
inserted by
No. 23/2021
s. 47(4).

- (x) a person or body that conducts, or is approved to conduct, a review and evaluation of a school or group of schools under section 4.3.2 of the **Education and Training Reform Act 2006**;

S. 41H(1)(y)
inserted by
No. 23/2021
s. 47(4).

- (y) a person or body that is preparing a report for the VRQA under section 4.3.8F of the **Education and Training Reform Act 2006**;

S. 41H(1)(z)
inserted by
No. 23/2021
s. 47(4).

- (z) a prescribed person or body.

- (2) A relevant person must not disclose protected information to a person under subsection (1) unless the information is relevant to—

S. 41H(2)(a)
substituted by
No. 23/2021
s. 47(5).

- (a) the performance of functions by the Commission, a sector regulator or an integrated sector regulator under this Act; or

S. 41H(2)(ab)
inserted by
No. 23/2021
s. 47(5).

- (ab) the performance of functions by an integrated sector regulator under an authorising Act that relate to the Child Safe Standards; or

S. 41H(2)(ac)
inserted by
No. 23/2021
s. 47(5).

- (ac) the performance of functions by the Commission under the **Commission for Children and Young People Act 2012**; or

S. 41H(2)(b)
amended by
No. 23/2021
s. 47(6).

- (b) the performance of a function conferred on the person or body by or under an Act.

S. 41H(3)
inserted by
No. 23/2021
s. 47(7).

- (3) A relevant person must not disclose protected information under subsection (1) to a person or body described in subsection (1)(s) unless the relevant person is satisfied that the person or body has in place sufficient arrangements to protect the privacy and confidentiality of the protected information.

41HA Disclosure of protected information by relevant persons prohibited

S. 41HA
inserted by
No. 23/2021
s. 48.

A relevant person, or a person who has been a relevant person, must not disclose to any other person, whether directly or indirectly, any protected information except to the extent that the person is authorised, permitted or required to do so under this Act or another Act.

Penalty: 60 penalty units.

Division 5—Review

Pt 6 Div. 5
(Heading and
ss 41I, 41J)
inserted by
No. 63/2016
s. 8.

41I Internal review

S. 41I
inserted by
No. 63/2016
s. 8,
substituted by
No. 23/2021
s. 36.

- (1) A relevant entity, person or body may seek a review by a sector regulator of a decision of the sector regulator—
 - (a) to issue a notice to produce or a notice to comply; or
 - (b) to issue an official warning under section 36A; or
 - (c) to publish information under section 36I.
- (2) The sector regulator must prepare and implement a process for the review of each of the following decisions—
 - (a) to issue a notice to produce;
 - (b) to issue a notice to comply;
 - (c) to issue an official warning under section 36A;
 - (d) to publish information under section 36I.

S. 41J
inserted by
No. 63/2016
s. 8.

41J Application to the Victorian Civil and Administrative Tribunal

S. 41J(1)
amended by
No. 23/2021
s. 37.

- (1) A relevant entity may apply to VCAT for a review of a decision of a sector regulator to issue a notice to comply or to publish information under section 36L.
- (2) An application for review must be made within 28 days after the later of—
 - (a) the day on which the decision is made; or
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the relevant entity requests a statement of reasons for the decision, the day on which—
 - (i) the statement of reasons is given to the relevant entity; or
 - (ii) the relevant entity is informed under section 46(5) of that Act that a statement of reasons will not be given.
- (3) Before a relevant entity is entitled to apply to VCAT for the review of a decision referred to in subsection (1), the relevant entity must have exhausted all available avenues for the review of the decision under section 41I.

Division 6—Reporting

Pt 6 Div. 6
(Heading and
ss 41K–41M)
inserted by
No. 63/2016
s. 8.

41K Report of compliance by relevant entities with Child Safe Standards

S. 41K
inserted by
No. 63/2016
s. 8.

- (1) An annual report of the operations of the Commission prepared for the purposes of section 45 of the **Financial Management Act 1994** must include, for the financial year to which the report of operations relates—
- (a) details of the activities engaged in by the Commission to provide education, information and advice on the Child Safe Standards throughout Victoria; and
 - (b) details of compliance by relevant entities throughout Victoria with the Child Safe Standards and this Part; and
 - (c) details of the activities engaged in by the Commission to monitor or enforce compliance with the Child Safe Standards or this Part by the relevant entities for which the Commission is a sector regulator; and
 - (d) details of the activities engaged in under this Part by other sector regulators and by integrated sector regulators to monitor or enforce compliance with the Child Safe Standards or this Part by relevant entities; and

S. 41K(1)
substituted by
No. 23/2021
s. 49(1).

- (e) any activities engaged in by the Commission to promote consistency in child safety outcomes and consistency between monitoring and enforcement activities engaged in by the Commission, other sector regulators and integrated sector regulators.
- S. 41K(2) amended by No. 23/2021 s. 49(2).**
- (2) The Commission must give a further report, and other sector regulators and integrated sector regulators must give a report, of the details of compliance by relevant entities with the Child Safe Standards and this Part to the Minister and the Secretary to the Department of Families, Fairness and Housing at any time required by the Minister or the Secretary.
- S. 41K(3) amended by No. 23/2021 s. 49(3).**
- (3) A section of an annual report or any other report prepared in accordance with subsection (1) or (2) must include the following details (as applicable) in relation to the reporting period—
- (a) the number of notices to produce that were given;
- (b) the number of notices to comply that were given;
- S. 41K(3)(ba) inserted by No. 23/2021 s. 49(4).**
- (ba) the number of enforceable undertakings accepted;
- S. 41K(3)(bb) inserted by No. 23/2021 s. 49(4).**
- (bb) the number of updates made to the register of non-compliance;
- S. 41K(3)(bc) inserted by No. 23/2021 s. 49(4).**
- (bc) the number of official warnings issued;
- (c) the number of declarations made by the court under section 33 that a relevant entity did not comply with a notice to produce;

- (d) the number of declarations made by the court under section 33 that a relevant entity did not comply with a notice to comply;
- (e) the number of civil penalties ordered by the court to be paid that related to a failure to comply with a notice to produce;
- (f) the number of civil penalties ordered by the court to be paid that related to a failure to comply with a notice to comply;
- (fa) the number of criminal penalties ordered by the court to be paid that related to a failure to comply with a notice to comply; S. 41K(3)(fa) inserted by No. 23/2021 s. 49(5).
- (fb) the number of criminal penalties ordered by the court to be paid that related to a failure to comply with a notice to produce; S. 41K(3)(fb) inserted by No. 23/2021 s. 49(5).
- (fc) the number of adverse publicity orders granted by the court; S. 41K(3)(fc) inserted by No. 23/2021 s. 49(5).
- (g) the educational activities undertaken by the Commission.
- (4) A section of an annual report or a further report prepared in accordance with subsection (1) or (2) may include the details of any systemic or recurrent issues in compliance by relevant entities with the Child Safe Standards that were identified during the reporting period or at any other time. S. 41K(4) amended by No. 23/2021 s. 49(6).
- (4A) A section of an annual report or any other report prepared in accordance with subsection (1) or (2) may include the details of activities of an integrated sector regulator relating to the enforcement of compliance by relevant entities with the Child Safe Standards that were engaged in during the reporting period. S. 41K(4A) inserted by No. 23/2021 s. 49(7).

S. 41K(6)
amended by
No. 23/2021
s. 49(8).

- (5) If the matters reported under this section include a matter that is the responsibility of a Minister of the Crown (other than the Minister), the Commission must give a copy of the report to that Minister of the Crown.
- (6) If the matters reported under this section include a matter that is the responsibility of a Secretary to a Department (other than the Department of Families, Fairness and Housing), the Commission must give a copy of the report to that Secretary.

S. 41KA
inserted by
No. 23/2021
s. 50.

41KA Commission may request information for reports

- (1) The Commission may request a sector regulator or an integrated sector regulator to provide to the Commission any information or document the Commission reasonably requires—
 - (a) to prepare a report in accordance with section 41K(1) or (2); or
 - (b) to collect any details described in section 41K(3) for any specified period; or
 - (c) for a prescribed purpose.
- (2) A sector regulator or an integrated sector regulator must comply with a request under subsection (1) despite anything to the contrary in any other Act (other than the Charter of Human Rights and Responsibilities).

S. 41L
inserted by
No. 63/2016
s. 8.

41L Matters to be included in annual report must not include identifying information

The matters reported under section 41K must not include—

- (a) information that identifies a child who uses the facilities or services of a relevant entity or who has been engaged by a relevant entity to provide facilities or services; or

- (b) information from which the identity of a child referred to in paragraph (a) can be determined.

41M Opportunity to respond to adverse comment or opinion in report

Despite any other provision in this Part, the Commission, a sector regulator or an integrated sector regulator must not give a section of an annual report or any other report prepared in accordance with section 41K(1) or (2) to a Minister or a Secretary if—

- (a) the section or report includes any comment or opinion that is adverse to a relevant entity; and
- (b) the Commission, the sector regulator or integrated sector regulator has not given the relevant entity an opportunity to comment on the adverse comment or opinion.

S. 41M
(Heading)
substituted by
No. 23/2021
s. 51(1).

S. 41M
inserted by
No. 63/2016
s. 8,
amended by
No. 23/2021
s. 51(2)(a)(b).

S. 41M(b)
amended by
No. 23/2021
s. 51(2)(c).

Division 7—Reporting to Parliament

Pt 6 Div. 7
(Heading and
ss 41N, 41O)
inserted by
No. 63/2016
s. 8.

41N Application of Division

This Division applies if—

- (a) the Minister or the Secretary to the Department of Families, Fairness and Housing has required the Commission, a sector regulator or an integrated sector regulator to give a report under section 41K(2); and

S. 41N
inserted by
No. 63/2016
s. 8.

S. 41N(a)
amended by
No. 23/2021
s. 52(a)(b)(c).

S. 41N(b)
amended by
No. 23/2021
s. 52(d)(e).

(b) the Commission, sector regulator or integrated sector regulator has given that report, or a copy of that report, to any of the following persons in accordance with Division 6—

S. 41N(b)(ii)
amended by
No. 23/2021
s. 52(f).

- (i) the Minister;
- (ii) the Secretary to the Department of Families, Fairness and Housing;

(iii) any other Minister of the Crown;

(iv) a Secretary to another Department; and

(c) at least 14 days have elapsed since the persons referred to in paragraph (a) were given the report or a copy of the report.

S. 41O
inserted by
No. 63/2016
s. 8.

41O Giving the report to Parliament

S. 41O(1)
amended by
No. 23/2021
s. 53(1).

- (1) The Commission, sector regulator or integrated sector regulator may give a copy of the report to the clerk of each House of the Parliament.
- (2) The clerk of each House of the Parliament must cause the report to be laid before the House on—
 - (a) the day on which it is received; or
 - (b) the next sitting day of the House.

S. 41O(3)
amended by
No. 23/2021
s. 53(2)(a).

- (3) If the Commission, sector regulator or integrated sector regulator proposes to give the report to Parliament when neither House of the Parliament is sitting, the Commission, sector regulator or integrated sector regulator must—

S. 41O(3)(a)
amended by
No. 23/2021
s. 53(2)(b).

- (a) give one business day's notice of its intention to do so to the clerk of each House of the Parliament; and

- (b) give the copy of the report to the clerk of each House of the Parliament on the day indicated in the notice; and
 - (c) cause the report to be published by the Government Printer.
- (4) The clerk of a House of the Parliament must notify each member of the House of the receipt of a notice under subsection (3)(a) as soon as practicable after the clerk receives the notice.
- (5) On receiving a copy of the report under subsection (3)(b), the clerk of the House of the Parliament must—
 - (a) as soon as practicable after the report is received, notify each member of the House of the receipt of the report and advise that the report is available on request; and
 - (b) give a copy of the report to any member of the House on request; and
 - (c) cause the copy of the report to be laid before the House on the next sitting day of the House.
- (6) A copy of a report that is given to the clerk of a House of the Parliament under subsection (1) or (3)(b) is taken to have been published by order, or under the authority, of that House.

Pt 6A
(Headings
and ss 41P–
41ZO)
inserted by
No. 11/2018
s. 8.

Part 6A—Information sharing

Division 1—Preliminary

S. 41P
inserted by
No. 11/2018
s. 8.

41P Definitions

In this Part—

child means—

- (a) a person who is under the age of 18 years; and
- (b) an unborn child that is the subject of a report made under section 29 of the **Children, Youth and Families Act 2005** or a referral under section 32 of that Act;

consent means express or implied consent;

excluded information has the meaning set out in section 41Q;

handling, in relation to confidential information, has the meaning set out in section 3 of the **Privacy and Data Protection Act 2014** in relation to personal information;

Health Privacy Principle means any of the Health Privacy Principles set out in Schedule 1 to the **Health Records Act 2001**;

Information Privacy Principle means any of the Information Privacy Principles set out in Schedule 1 to the **Privacy and Data Protection Act 2014**;

person includes an unincorporated association, a firm and a partnership.

41Q Meaning of *excluded information*

In this Part, confidential information is *excluded information* if—

S. 41Q
inserted by
No. 11/2018
s. 8.

- (a) the collection, use or disclosure of that information could be reasonably expected to—
 - (i) endanger a person's life or result in physical injury; or
 - (ii) prejudice the investigation of a breach or possible breach of the law, or prejudice the enforcement or proper administration of the law, in a particular instance; or
 - (iii) prejudice a coronial inquest or inquiry; or
 - (iv) prejudice the fair trial of a person or the impartial adjudication of a particular case; or
 - (v) disclose the contents of a document, or a communication, that is of such a nature that the contents of the document, or the communication, would be privileged from production in legal proceedings on the ground of legal professional privilege or client legal privilege; or
 - (vi) disclose, or enable a person to ascertain, the identity of a confidential source of information in relation to the enforcement or administration of the law; or

- (vii) contravene a court order or a provision made by or under this Act or any other Act that—
 - (A) prohibits or restricts, or authorises a court or tribunal to prohibit or restrict, the publication or other disclosure of information for or in connection with any proceeding; or
 - (B) requires or authorises a court or tribunal to close any proceeding to the public; or
- (viii) be contrary to the public interest; or
- (b) the information is prescribed to be excluded information for the purposes of this Part.

S. 41R
inserted by
No. 11/2018
s. 8.

41R Meaning of *information sharing entity*

- (1) In this Act, *information sharing entity* means a person or body, or a class of person or body, prescribed to be an information sharing entity.
- (2) For the avoidance of doubt, if a provision of this Part or the regulations does not specify that it applies to a category of information sharing entity, then the provision applies to all information sharing entities.

S. 41S
inserted by
No. 11/2018
s. 8.

41S Meaning of *restricted information sharing entity*

- (1) In this Act, *restricted information sharing entity* means a person or body, or a class of person or body, prescribed to belong to a category of restricted information sharing entity specified in the regulations.
- (2) Without limiting subsection (1), the regulations may specify that a category of restricted information sharing entity may carry out one or more of the following activities as if it were an information sharing entity—

- (a) disclose confidential information under section 41V to—
 - (i) an information sharing entity; or
 - (ii) a restricted information sharing entity that belongs to a category of restricted information sharing entity that may collect confidential information under this Part;
- (b) collect confidential information disclosed under this Part;
- (c) request the disclosure of confidential information under section 41W(1), and collect that information, from—
 - (i) an information sharing entity; or
 - (ii) a restricted information sharing entity that belongs to a category of restricted information sharing entity that may disclose confidential information under section 41W(3);
- (d) disclose confidential information under section 41W(3) if requested to do so by—
 - (i) an information sharing entity; or
 - (ii) a restricted information sharing entity that belongs to a category of restricted information sharing entity that may request confidential information under section 41W(1);
- (e) disclose confidential information under section 41Y.

- (3) A restricted information sharing entity must only disclose confidential information to the extent permitted by this Part or the regulations for the category of restricted information sharing entity to which the restricted information sharing entity belongs.

S. 41T
inserted by
No. 11/2018
s. 8.

41T Application of this Part to courts and tribunals

If any of the following persons or bodies are prescribed to be information sharing entities or restricted information sharing entities, nothing in this Part applies to the collection, use or disclosure of confidential information by those persons or bodies in relation to, or for the purposes of, their judicial or quasi-judicial functions—

- (a) a court or tribunal;
- (b) the holder of a judicial or quasi-judicial office or other office pertaining to a court or tribunal in their capacity as the holder of that office;
- (c) a registry or other office of a court or tribunal;
- (d) the staff of such a registry or other office in their capacity as members of that staff.

S. 41U
inserted by
No. 11/2018
s. 8.

41U Principles

- (1) The principles set out in this section should be used for guidance in relation to the collection, use or disclosure of confidential information that is authorised or required to be collected, used or disclosed under this Part.
- (2) Information sharing entities and restricted information sharing entities should—
 - (a) give precedence to the wellbeing and safety of a child or group of children over the right to privacy; and

- (b) only share confidential information to the extent necessary to promote the wellbeing or safety of a child or group of children, consistent with the best interests of that child or those children; and
- (c) work collaboratively in a manner that respects the functions and expertise of each information sharing entity and restricted information sharing entity; and
- (d) seek and take into account the views of a child and the child's relevant family members, if it is appropriate, safe and reasonable to do so; and
- (e) seek to preserve and promote positive relationships between a child and the child's family members and persons of significance to the child; and
- (f) be respectful of and have regard to a child's social, individual and cultural identity, the child's strengths and abilities and any vulnerability relevant to the child's safety or wellbeing; and
- (g) take all reasonable steps to plan for the safety of all family members who are believed to be at risk from family violence; and
- (h) promote the cultural safety and recognise the cultural rights and familial and community connections of children who are Aboriginal, Torres Strait Islander or both; and
- (i) seek to maintain constructive and respectful engagement with children and their families.

- (3) The Parliament does not intend these principles—
- (a) to create in any person any legal right or give rise to any civil cause of action; or
 - (b) to affect in any way the interpretation of any Act or law in force in Victoria.

Division 2—Information sharing

S. 41V
inserted by
No. 11/2018
s. 8.

41V Voluntary disclosure for wellbeing or safety of children

An information sharing entity (the *disclosing entity*) may, on its own initiative, disclose confidential information, other than excluded information, to another information sharing entity (the *receiving entity*) if—

- (a) the disclosure is made for the purpose of promoting the wellbeing or safety of a child or group of children; and
- (b) the disclosing entity reasonably believes that the disclosure may assist the receiving entity to carry out one or more of the following activities—
 - (i) making a decision, an assessment or a plan relating to a child or group of children;
 - (ii) initiating or conducting an investigation relating to a child or group of children;
 - (iii) providing a service relating to a child or group of children;
 - (iv) managing any risk to a child or group of children.

41W Request for confidential information for wellbeing or safety of children

S. 41W
inserted by
No. 11/2018
s. 8.

- (1) An information sharing entity (the *requesting entity*) may request another information sharing entity (the *responding entity*) to disclose to the requesting entity confidential information, other than excluded information, if the request is made for the purpose of promoting the wellbeing or safety of a child or a group of children.
- (2) In making a request under this section, a requesting entity may disclose to the responding entity any confidential information that may assist the responding entity to—
 - (a) identify the confidential information held by the responding entity that is relevant to the request; and
 - (b) form an opinion on whether the confidential information may be disclosed in accordance with this Part.
- (3) Subject to subsection (5), the responding entity must comply with a request made under subsection (1) for the disclosure of the confidential information if—
 - (a) the disclosure is made for the purpose of promoting the wellbeing or safety of a child or group of children; and
 - (b) the responding entity reasonably believes that the disclosure may assist the requesting entity to carry out one or more of the following activities—
 - (i) making a decision, an assessment or a plan relating to a child or group of children;
 - (ii) initiating or conducting an investigation relating to a child or group of children;

- (iii) providing a service relating to a child or group of children;
 - (iv) managing any risk to a child or group of children.
- (4) Subject to subsection (5), a responding entity that does not comply with a request made under subsection (1) must provide, in writing, the requesting entity with the reason for the failure to comply with the request.
- (5) Subsections (3) and (4) do not apply to any person or body specified in section 41T that has been prescribed to be an information sharing entity or a restricted information sharing entity.

S. 41X
inserted by
No. 11/2018
s. 8.

41X Further disclosure of confidential information

If confidential information is disclosed under this Part to an information sharing entity or a restricted information sharing entity, nothing in this Part prevents or limits the information sharing entity or restricted information sharing entity from using or disclosing that information if it is required or permitted to do so by or under any Act or law.

S. 41Y
inserted by
No. 11/2018
s. 8.

41Y Voluntary disclosure to child or person with parental responsibility or with whom child is living

- (1) An information sharing entity may disclose confidential information, other than excluded information, to any of the following persons for the purposes of managing a risk to a child's safety—
- (a) the child;
 - (b) a person who has parental responsibility for the child;
 - (c) a person with whom the child is living.

- (2) A person to whom confidential information has been disclosed under subsection (1) must not use or disclose that information except for the purposes of managing a risk to the child's safety.
- (3) Nothing in this section limits any disclosure that is required or permitted under any Act or law.

41Z Collection and use of confidential information

An information sharing entity or a restricted information sharing entity may, for the purposes of this Part, collect and use any confidential information disclosed to the information sharing entity or restricted information sharing entity under this Part.

S. 41Z
inserted by
No. 11/2018
s. 8.

Division 3—Guidelines, protected disclosures and recording requirements

41ZA Guidelines

- (1) The Minister must issue guidelines in relation to the operation of this Part.
- (2) Without limiting subsection (1), guidelines issued must address—
 - (a) how an information sharing entity or a restricted information sharing entity may demonstrate its capacity to handle confidential information responsibly and appropriately in accordance with this Part; and
 - (b) how the principles set out in section 41U are to be applied in practice by an information sharing entity or a restricted information sharing entity when collecting, using or disclosing confidential information under this Part.

S. 41ZA
inserted by
No. 11/2018
s. 8.

- (3) Before issuing guidelines under subsection (1), the Minister must publish, on an appropriate Internet site—
 - (a) a draft of the proposed guidelines; and
 - (b) a statement that submissions may be made to the Minister on or before a specified date, being at least 28 days after the day on which the draft guidelines are published.
- (4) As soon as practicable after finalising draft guidelines, the Minister must publish the guidelines on an appropriate Internet site.
- (5) Subject to subsection (6), an information sharing entity or a restricted information sharing entity must comply with any guidelines issued under this section when handling confidential information in accordance with this Part.
- (6) Subsection (5) does not apply to any person or body specified in section 41T that has been prescribed to be an information sharing entity or a restricted information sharing entity.
- (7) Guidelines issued under subsection (1) are not legislative instruments within the meaning of the **Subordinate Legislation Act 1994**.
- (8) The Minister may review guidelines issued under subsection (1) at any time and may issue amended guidelines as the Minister considers necessary.
- (9) If the Minister considers that an amendment to the guidelines is significant or substantial, the requirements of subsection (3) must be met before the amended guidelines may be issued.

41ZB Use and disclosure in good faith protected

The use or disclosure of confidential information under this Part in good faith and with reasonable care—

- (a) does not for any purpose constitute unprofessional conduct or a breach of professional ethics on the part of the individual by whom it was made; and
- (b) does not make the individual by whom it was made subject to any liability in respect of it; and
- (c) without limiting paragraphs (a) and (b), does not constitute a contravention by the individual of any other Act.

S. 41ZB
inserted by
No. 11/2018
s. 8.

41ZC Recording requirements

An information sharing entity or a restricted information sharing entity must record the prescribed information in respect of its collection, use and disclosure of confidential information in accordance with this Part and the regulations.

S. 41ZC
inserted by
No. 11/2018
s. 8.

Division 4—Relationship of this Part with other Acts

41ZD Information sharing entities under the Family Violence Protection Act 2008

- (1) This section applies if an information sharing entity or a restricted information sharing entity is an information sharing entity within the meaning of Part 5A of the **Family Violence Protection Act 2008**.
- (2) An information sharing entity or a restricted information sharing entity to which this section applies may collect, use or disclose confidential information either—

S. 41ZD
inserted by
No. 11/2018
s. 8.

- (a) under and in accordance with Part 5A of the **Family Violence Protection Act 2008**; or
- (b) under and in accordance with this Part.

S. 41ZE
inserted by
No. 11/2018
s. 8.

41ZE Part does not affect handling of confidential information permitted by other Acts

This Part does not affect the collection, use or disclosure of confidential information by an information sharing entity or a restricted information sharing entity that would otherwise be permitted by or under the **Privacy and Data Protection Act 2014**, the **Health Records Act 2001**, this Act or any other Act.

S. 41ZF
inserted by
No. 11/2018
s. 8.

41ZF Restrictions on access to confidential information

- (1) An information sharing entity or a restricted information sharing entity may refuse to give an individual access to that individual's confidential information under a relevant privacy law if the information sharing entity or restricted information sharing entity believes on reasonable grounds that giving the individual access to the information would increase a risk to the safety of a child or group of children.
- (2) In this section—
relevant privacy law means—
 - (a) Health Privacy Principle 6; or
 - (b) Information Privacy Principle 6; or
 - (c) the Privacy Act 1988 of the Commonwealth; or
 - (d) the Privacy Act 1988 of the Commonwealth applied as a law of Victoria by another Act.

41ZG Application of Privacy and Data Protection Act 2014 to certain information sharing entities and restricted information sharing entities

S. 41ZG
inserted by
No. 11/2018
s. 8.

- (1) This section applies to an information sharing entity or a restricted information sharing entity that is not—
 - (a) an organisation within the meaning of the **Privacy and Data Protection Act 2014**; or
 - (b) subject to the Privacy Act 1988 of the Commonwealth, or that Act as applied as a law of Victoria by any other law.
- (2) The **Privacy and Data Protection Act 2014** applies to the handling of personal information or unique identifiers by the information sharing entity or restricted information sharing entity under this Part as if the entity were an organisation within the meaning of that Act.

41ZH Information sharing entities and restricted information sharing entities authorised to disclose confidential information despite specified provisions

S. 41ZH
inserted by
No. 11/2018
s. 8.

An information sharing entity or a restricted information sharing entity is authorised to collect, use or disclose confidential information in accordance with this Part and the regulations despite anything to the contrary in a provision of an Act—

- (a) specified in Schedule 7; or
- (b) prescribed for the purposes of this section.

41ZI Disclosure of confidential information is not breach of Family Violence Protection Act 2008

S. 41ZI
inserted by
No. 11/2018
s. 8.

Sections 166(2) and 207(3) of the **Family Violence Protection Act 2008** do not prevent a disclosure of confidential information that is made by an information sharing entity or a restricted

information sharing entity for the purposes of this Part.

S. 41ZJ
inserted by
No. 11/2018
s. 8.

41ZJ Disclosure of confidential information is not breach of Judicial Proceedings Reports Act 1958

Sections 3 and 4 of the **Judicial Proceedings Reports Act 1958** do not prevent a disclosure of confidential information that is made by an information sharing entity or a restricted information sharing entity for the purposes of this Part.

Division 5—Offences

S. 41ZK
inserted by
No. 11/2018
s. 8.

41ZK Unauthorised use and disclosure of confidential information collected under this Part

- (1) A person must not use or disclose confidential information disclosed to the person under this Part except in accordance with this Part.

Penalty: In the case of a person other than a body corporate, 60 penalty units;

In the case of a body corporate,
300 penalty units.

- (2) It is a defence to a charge under subsection (1) if the person used or disclosed the confidential information in good faith and with reasonable care.

Note

See also section 41ZB.

- (3) Subsection (1) does not apply to the following uses and disclosures of confidential information—
- (a) a use or disclosure made with the consent of the person to whom the information relates;
 - (b) if the person to whom the information relates is incapable of giving consent to the use or disclosure, a use or disclosure made with the

- consent of the person's authorised representative;
- (c) a disclosure made to a court or tribunal in the course of legal proceedings;
 - (d) a use or disclosure made pursuant to an order of a court or tribunal;
 - (e) a use or disclosure made to the extent reasonably required to enable the investigation or the enforcement of a law of this State or of any other State or of a Territory or of the Commonwealth;
 - (f) a disclosure made to an Australian legal practitioner for the purposes of obtaining legal advice or representation;
 - (g) a use or disclosure made as required or authorised by or under this Act or any other Act.
- (4) Subsection (1) does not apply to the use or disclosure of confidential information by a person who is given the confidential information under section 41Y.
- (5) A person does not commit an offence against subsection (1) only for the reason that the person uses or discloses confidential information in a way that does not comply with guidelines issued under section 41ZA(1).

Note

Despite non-compliance not being an offence—

- (a) this does not preclude non-compliance being taken into account in dealing with a complaint made under the **Privacy and Data Protection Act 2014**, the **Health Records Act 2001** or the Privacy Act 1988 of the Commonwealth; and
- (b) non-compliance may lead to a person or body ceasing to be prescribed as an information sharing entity or a restricted information sharing entity.

S. 41ZL
inserted by
No. 11/2018
s. 8.

41ZL Intentional or reckless unauthorised use and disclosure of confidential information

- (1) A person must not use or disclose confidential information disclosed to the person under this Part in a manner that is unauthorised under this Part and that the person—

- (a) knows is unauthorised under this Part; or
- (b) is reckless as to whether the use or disclosure of the information is unauthorised under this Part.

Penalty: In the case of a person other than a body corporate, 600 penalty units or imprisonment for 5 years or both;

In the case of a body corporate,
3000 penalty units.

- (2) Subsection (1) does not apply to the following uses and disclosures of confidential information—
- (a) a use or disclosure made with the consent of the person to whom the information relates;
 - (b) if the person to whom the information relates is incapable of giving consent to the use or disclosure, a use or disclosure made with the consent of the person's authorised representative;
 - (c) a disclosure made to a court or tribunal in the course of legal proceedings;
 - (d) a use or disclosure made pursuant to an order of a court or tribunal;

- (e) a use or disclosure made to the extent reasonably required to enable the investigation or the enforcement of a law of this State or of any other State or of a Territory or of the Commonwealth;
 - (f) a disclosure made to an Australian legal practitioner for the purposes of obtaining legal advice or representation;
 - (g) a use or disclosure made as required or authorised by or under this Act or any other Act.
- (3) Subsection (1) does not apply to the use or disclosure of confidential information by a person who is given the confidential information under section 41Y.
- (4) A person does not commit an offence against subsection (1) only for the reason that the person uses or discloses confidential information in a way that does not comply with guidelines issued under section 41ZA(1).

Note

Despite non-compliance not being an offence—

- (a) this does not preclude non-compliance being taken into account in dealing with a complaint made under the **Privacy and Data Protection Act 2014**, the **Health Records Act 2001** or the Privacy Act 1988 of the Commonwealth; and
- (b) non-compliance may lead to a person or body ceasing to be prescribed as an information sharing entity or a restricted information sharing entity.

S. 41ZM
inserted by
No. 11/2018
s. 8.

**41ZM False claim that person is or represents an
information sharing entity or a restricted
information sharing entity**

- (1) A person who is not an information sharing entity or a restricted information sharing entity must not, in any way, claim or hold themselves out to be an information sharing entity or a restricted information sharing entity.

Penalty: In the case of a person other than a body corporate, 60 penalty units;

In the case of a body corporate,
300 penalty units.

- (2) A person who is not authorised by an information sharing entity or a restricted information sharing entity to collect confidential information under this Part on behalf of the information sharing entity or restricted information sharing entity must not, in any way, claim or hold themselves out to be authorised to collect such information on the information sharing entity or restricted information sharing entity's behalf.

Penalty: In the case of a person other than a body corporate, 60 penalty units;

In the case of a body corporate,
300 penalty units.

- (3) It is a defence to a charge under subsection (1) if the person reasonably believes that the person is an information sharing entity or a restricted information sharing entity.
- (4) It is a defence to a charge under subsection (2) if the person reasonably believes that the person is authorised by the information sharing entity or restricted information sharing entity to collect the confidential information on the information sharing entity or restricted information sharing entity's behalf.

Division 6—Review

41ZN Review of operation of Part within 2 years

- (1) The Minister must cause an independent review of the operation of this Part to be conducted within 2 years of the commencement of this Part.
- (2) The Minister must cause a copy of the review to be laid before each House of the Parliament within 6 months after the end of the period of the review.
- (3) The review must include consideration of any adverse effects of this Part.
- (4) The review may include any recommendations on any matter addressed in the review.

S. 41ZN
inserted by
No. 11/2018
s. 8.

41ZO Review of operation of Part within 5 years

- (1) The Minister must cause an independent review of the operation of this Part to be conducted within 5 years of the commencement of this Part.
- (2) The Minister must cause a copy of the review to be laid before each House of the Parliament within 6 months after the end of the period of the review.
- (3) The review must include consideration of any adverse effects of this Part.
- (4) The review may include any recommendations on any matter addressed in the review.

S. 41ZO
inserted by
No. 11/2018
s. 8.

Part 7—Birth notification

42 Application of Part

- (1) This Part applies in the case of every birth in Victoria, whether the child is born alive or dead, except for the delivery of a non-viable foetus.
- (2) This Part applies in addition to the requirements of the **Births, Deaths and Marriages Registration Act 1996**.

43 Early notification of births

- (1) If a child is born in Victoria notice of the birth of the child (the *birth notice*) must be given by the responsible person to—
 - (a) the Chief Executive Officer of the council of the municipal district in which the mother of the child usually resides; or
 - (b) if the municipal district is not known to the person giving notice, the Chief Executive Officer of the council of the municipal district in which the birth occurs; or
 - (c) if the mother of the child usually resides outside Victoria, the Secretary to the Department of Education and Training.

S. 43(1)(c)
amended by
Nos 79/2012
s. 78, 63/2015
s. 12.

- (2) The notice must be in the prescribed form.
- (3) In this section, *responsible person* has the same meaning as it has in section 12 of the **Births, Deaths and Marriages Registration Act 1996**.

44 How must the birth notice be given?

- (1) The birth notice must be given—
 - (a) personally; or
 - (b) by post; or

- (c) by facsimile transmission; or
 - (d) by electronic communication.
- (2) The birth notice must be given within—
- (a) 48 hours after the birth to which the notice relates; or
 - (b) if a longer period is prescribed in respect of a particular municipal district, that longer period.

45 What must be done once notice is received?

On receipt of the birth notice the Chief Executive Officer of a council must, as soon as practicable, send a copy of the notice—

- (a) if in the municipal district of the council there is a Maternal and Child Health Centre under the control of and subsidised by the council, to the nurse or midwife whose duty it is to visit or communicate with the house to which the notice relates; and
- (b) in any case, to the Secretary to the Department of Education and Training.

S. 45(a)
amended by
Nos 13/2010
s. 51(Sch.
item 11.3),
11/2018
s. 9(a).

S. 45(b)
amended by
Nos 79/2012
s. 79, 63/2015
s. 13, 11/2018
s. 9(b).

46 Offence to fail to give notice

- (1) Any person who fails to give notice of a birth in accordance with this Part is guilty of an offence and is liable to a penalty of not more than 1 penalty unit.
- (2) It is a defence to a prosecution for an offence under subsection (1) if the person—
 - (a) satisfies the court that he or she had reasonable grounds to believe that notice had been duly given by another person; or

Child Wellbeing and Safety Act 2005
No. 83 of 2005
Part 7—Birth notification

- (b) had other reasonable grounds for not giving the notice.

Part 7A—Child Link Register

Division 1—Definitions

Pt 7A
(Headings
and ss 46A–
46Z)
inserted by
No. 11/2018
s. 10.

46A Definitions

S. 46A
inserted by
No. 11/2018
s. 10.

In this Part—

approved children's service has the same meaning
as in the **Children's Services Act 1996**;

S. 46A def. of
*approved
children's
service*
inserted by
No. 37/2019
s. 20(1)(a).

approved education and care service means an
approved education and care service within
the meaning of section 5(1) of the Education
and Care Services National Law (Victoria)
that provides funded kindergarten;

approved provider—

S. 46A def. of
*approved
provider*
substituted by
No. 37/2019
s. 20(1)(b).

- (a) in relation to an approved education
and care service, has the same meaning
as in section 5(1) of the Education and
Care Services National Law (Victoria);
and

- (b) in relation to an approved children's
service, has the same meaning as in the
Children's Services Act 1996;

Child Link identifier means an identifier allocated
to a child by the Secretary under
section 46C;

Child Link user means a person who is authorised
to access the Register, specified in
section 46K;

child protection order means—

- (a) an order made under Part 4.8 of the **Children, Youth and Families Act 2005**; or
- (b) a protection order within the meaning of the **Children, Youth and Families Act 2005**; or
- (c) a permanent care order within the meaning of the **Children, Youth and Families Act 2005**;

de-identified, in relation to confidential information, means confidential information that no longer relates to an identifiable individual or an individual who can be reasonably identified;

funded kindergarten means a service provided in accordance with the guidelines in relation to kindergarten funding published on the website of the Department of Education and Training;

Government school has the same meaning as in section 1.1.3(1) of the **Education and Training Reform Act 2006**;

licensed children's service means a children's service (within the meaning of the **Children's Services Act 1996**) that is licensed under Part 3 of that Act that provides funded kindergarten;

licensee, in relation to a licensed children's service, has the same meaning as in the **Children's Services Act 1996**;

Maternal and Child Health service means a service under the control of a council that provides health advice to parents and other caregivers of children under 6 years of age;

non-Government school has the same meaning as in section 1.1.3(1) of the **Education and Training Reform Act 2006**;

principal has the same meaning as in section 1.1.3(1) of the **Education and Training Reform Act 2006**;

Register means the Child Link Register established under section 46B;

registered early childhood teacher has the same meaning as in section 1.1.3(1) of the **Education and Training Reform Act 2006**;

registered school has the same meaning as in section 1.1.3(1) of the **Education and Training Reform Act 2006**;

registered teacher has the same meaning as in section 1.1.3(1) of the **Education and Training Reform Act 2006**;

relevant service means—

- (a) a Maternal and Child Health service; or
- (b) a supported playgroup; or
- (c) an approved education and care service; or
- (d) a student support service provided by the Department of Education and Training; or
- (e) an approved children's service; or
- (f) a registered school that is a Government school; or
- (g) a registered school that is a non-Government school; or
- (h) a school nurse program; or
- (i) any other prescribed service;

S. 46A def. of
*relevant
service*
amended by
No. 37/2019
s. 20(1)(c).

school nurse means a nurse employed under Part 3 of the **Public Administration Act 2004** by the Secretary, or otherwise engaged by the Secretary, for the purposes of providing a school nurse program in a registered school;

Secretary means the Secretary to the Department of Education and Training;

sibling of a child includes a half-brother, half-sister, adoptive brother, adoptive sister, step-brother or step-sister of the child;

State Register means the State Register established under Part 4.6 of the **Education and Training Reform Act 2006**;

Student Register means the Student Register established under Part 5.3A of the **Education and Training Reform Act 2006**;

supported playgroup means a playgroup providing support for families experiencing disadvantage that is funded by the Department of Education and Training;

Victorian Registration and Qualifications Authority means the Victorian Registration and Qualifications Authority established under Chapter 4 of the **Education and Training Reform Act 2006**;

Victorian student number has the same meaning as in section 1.1.3(1) of the **Education, Training and Reform Act 2006**.

Division 2—The Child Link Register

46B The Child Link Register

- (1) The Secretary must establish and maintain the Child Link Register in relation to each child—
 - (a) who is born in Victoria; or

S. 46B
inserted by
No. 11/2018
s. 10.

- (b) who accesses, enrolls in, registers with or otherwise engages with a relevant service, as applicable; or
 - (c) who is registered for home schooling under section 4.3.9 of the **Education and Training Reform Act 2006**; or
 - (d) in respect of whom a child protection order is made.
- (2) The Secretary may maintain an entry in the Register in relation to a person who is 18 years of age—
- (a) who is currently enrolled in a registered school or registered for home schooling; and
 - (b) who enrolled or registered (as the case may be) prior to attaining 18 years of age.
- (3) The Secretary is to keep the Register in a form to be determined by the Secretary.

46C Secretary must create Child Link entry and allocate Child Link identifier

S. 46C
inserted by
No. 11/2018
s. 10.

- (1) The Secretary must create an entry in the Register for a child referred to in section 46B(1) and allocate a Child Link identifier to the child—
- (a) on receipt of a copy of a birth notice for the child under section 45(b); or

Note

A birth notice must be given for every birth in Victoria, whether the child is born alive or dead, except for the delivery of a non-viable foetus—see section 42(1).

- (b) if the Secretary has not received a copy of a birth notice for the child, on receiving notice of the earliest of the following—
 - (i) the child's first contact with a relevant service;

- (ii) the allocation to the child of a Victorian student number by the Secretary under Part 5.3A of the **Education and Training Reform Act 2006**;
- (iii) the registration of the child for home schooling by the Victorian Registration and Qualifications Authority;
- (iv) the making of a child protection order in respect of the child.

(2) In this section—

S. 46C(2) def.
of *first contact*
amended by
No. 37/2019
s. 20(2).

first contact means—

- (a) in relation to a Maternal and Child Health service—the first notification received by the relevant service in relation to the child; or
- (b) in relation to a supported playgroup—the first notification received by the relevant service in relation to the child; or
- (c) in relation to an approved education and care service or an approved children's service—the enrolment of the child in a funded kindergarten provided by the service; or
- (d) in relation to a Government school—the enrolment of the child at the school; or
- (e) in relation to a non-Government school—the enrolment of the child at the school; or
- (f) in relation to a student support service provided by the Department of Education and Training—the first access or engagement by the child of or with the relevant service; or

- (g) in relation to a school nurse program—
the first notification received by the
relevant service in relation to the child;
or
- (h) in relation to a service prescribed
as a relevant service—on the first
occurrence of a prescribed event in
relation to that service.

46D Particulars to be included in the Register

S. 46D
inserted by
No. 11/2018
s. 10.

- (1) The Secretary may include the following
particulars in the Register in relation to a child
to whom a Child Link identifier is allocated—
 - (a) the Child Link identifier;
 - (b) the child's full name and any other names by
which the child is or has been known;
 - (c) the child's date of birth;
 - (d) the child's place of birth;
 - (e) the child's sex or, if it has not been disclosed,
a record to that effect;
 - (f) the full names of each person who at any
time has or has had parental responsibility
for, or day-to-day care of, the child, and any
other names by which each of those persons
is or has been known;
 - (g) the relationship to the child of each
person with parental responsibility for,
or day-to-day care of, the child;
 - (h) in relation to each sibling of the child—
 - (i) the full name and any other names by
which the sibling is or has been known;
and
 - (ii) the sibling's Child Link identifier;

- (i) whether the child is Aboriginal, Torres Strait Islander, or both;
- (j) if a child protection order has been made in respect of the child or any of the child's siblings (whether currently in force or otherwise)—
 - (i) the date on which the order was made; and
 - (ii) whether the order is currently in force; and
 - (iii) whether the order has or had the effect of placing the child in out of home care within the meaning of the **Children, Youth and Families Act 2005**; and
 - (iv) whether the order confers or conferred parental responsibility on a person other than the child's parent to the exclusion of all others;
- (k) whether the child is a participant in the National Disability Insurance Scheme, established by the National Disability Insurance Scheme Act 2013 of the Commonwealth;
- (l) if the child dies before the age of 18 years, the date and cause of death;
- (m) the specified information in relation to each of the following services that the child has accessed, enrolled in, registered for, been referred to or otherwise engaged with, as applicable—
 - (i) Maternal and Child Health services;
 - (ii) supported playgroups;
 - (iii) funded kindergartens;
 - (iv) registered schools or home schooling;

- (v) school nurse programs;
 - (vi) student support services provided by the Department of Education and Training;
 - (vii) any other prescribed service or program.
- (2) The Secretary may, at any time, amend an entry relating to a child in the Register, or delete or create an entry about a child in the Register, to bring the Register into conformity with the most accurate information referred to in subsection (1) available to the Secretary under section 46G.
- (3) In this section—
- specified information*** means the following information in relation to a service—
- (a) the name of the service;
 - (b) the contact details for the service;
 - (c) the dates of the child's participation in the service, including—
 - (i) the date on which the child accessed, enrolled in, was referred to or otherwise engaged with the service, as applicable; and
 - (ii) the last date on which the child accessed, was enrolled in or otherwise engaged with the service;
 - (d) a description of the child's participation in the service, including any programs provided by the service to the child;
 - (e) the date of registration of the child for home schooling, if applicable;

- (f) the date of cancellation of registration of the child for home schooling;
- (g) any other prescribed information.

S. 46E
inserted by
No. 11/2018
s. 10.

46E Secretary may decide not to record information on the Register

Despite section 46D, the Register must not include any information about a child or a person with parental responsibility for, or day-to-day care of, the child if the Secretary determines that the information is not to be recorded on the Register for any reason.

S. 46F
inserted by
No. 11/2018
s. 10.

46F Entry in the Register for child who turns 18, leaves school or dies

- (1) Subject to subsections (2) and (3), an entry in the Register relating to a child must not be accessed or amended—
 - (a) if the child has died; or
 - (b) otherwise—
 - (i) if the child has attained the age of 18 years; or
 - (ii) if the child is no longer attending a registered school or the home schooling of the child has ceased; or
 - (iii) if the home schooling registration of the child is cancelled by the Victorian Registration and Qualifications Authority under section 4.3.9(1)(b) of the **Education and Training Reform Act 2006**, as applicable—
whichever is latest.

- (2) The Secretary may continue to amend an entry relating to a child referred to in subsection (1) for a period of not more than 12 months after an event referred to in subsection (1)(a) or the latest event described in subsection (1)(b), as the case may be.
- (3) An entry relating to a child referred to in subsection (1) may be accessed after an event referred to in subsection (1)(a) or (b) for the purpose of providing de-identified information in accordance with section 46O.

Division 3—Secretary authorised to collect, use and disclose information for Register purposes

46G Secretary authorised to collect, use and disclose information for purposes of establishing and maintaining the Register

S. 46G
inserted by
No. 11/2018
s. 10.

For the purposes of establishing and maintaining the Register, the Secretary may collect, use and disclose confidential information that may be included in the Register under section 46D and that is derived from the following—

- (a) information given to the Department of Education and Training by a relevant service for the purposes of—
 - (i) providing Maternal and Child Health services; or
 - (ii) providing supported playgroups or funded kindergartens; or
 - (iii) providing services and education to students in registered schools;
- (b) information contained in the Student Register in relation to students enrolled in registered schools or students registered for home schooling;

- (c) information contained in the State Register in relation to students registered for home schooling;
- (d) information given to the Department of Education and Training by a school nurse for the purposes of providing a service as part of a school nurse program;
- (e) information given to the Department of Education and Training by an allied health professional for the purpose of providing student support services in Government schools;
- (f) information given to the Department of Education and Training by the Secretary to the Department of Health and Human Services for inclusion in the Register;
- (g) information disclosed to the Secretary under section 46I;
- (h) information given to the Department of Education and Training by a prescribed service for a prescribed purpose.

S. 46H
inserted by
No. 11/2018
s. 10.

46H Secretary authorised to collect and use information for purposes of data management

- (1) For the purposes of data management, the Secretary, or a person employed or engaged by the Secretary who is authorised in writing by the Secretary, may collect, use and disclose the following confidential information about a child or a person with parental responsibility for, or day-to-day care of, a child—
 - (a) information given to the Department of Education and Training by a relevant service for the purposes of—
 - (i) providing Maternal and Child Health services; or

- (ii) providing supported playgroups or funded kindergartens; or
 - (iii) providing services and education in registered schools;
 - (b) information contained in the Student Register in relation to students enrolled in registered schools or students registered for home schooling;
 - (c) information contained in the State Register in relation to students registered for home schooling;
 - (d) information given to the Department of Education and Training by a school nurse for the purposes of providing a service as part of a school nurse program;
 - (e) information given to the Department of Education and Training by an allied health professional for the purpose of providing student support services in Government schools;
 - (f) information given to the Department of Education and Training by the Secretary to the Department of Health and Human Services for inclusion in the Register;
 - (g) information given to the Department of Education and Training under section 46I;
 - (h) information given to the Department of Education and Training by a prescribed service for a prescribed purpose.
- (2) In this section—

data management means the examination and analysis of information to the extent reasonably required for the purpose of verifying the accuracy of information collected about a child under section 46D,

but does not include the recording of that information on the Register.

S. 46I
inserted by
No. 11/2018
s. 10.

46I Disclosure of information to the Secretary

- (1) The following persons are authorised to collect confidential information and disclose it to the Secretary for a permitted purpose—
 - (a) a Maternal and Child Health service nurse;
 - (b) a supported playgroup facilitator;
 - (c) a school nurse;
 - (d) an allied health professional providing student support services to students in Government schools;
 - (e) an approved provider of an approved education and care service;
 - (f) an approved provider of an approved children's service;
 - (g) a principal of a registered school that is a Government school;
 - (h) a principal of a registered school that is a non-Government school;
 - (i) the Secretary to the Department of Health and Human Services;
 - (j) the Victorian Registration and Qualifications Authority;
 - (k) any person prescribed to collect and disclose the information on behalf of a prescribed service or program.
- (2) In this section, the following purposes are permitted purposes—
 - (a) to enable the Secretary to establish and maintain the Register;

S. 46I(1)(f)
substituted by
No. 37/2019
s. 20(3).

- (b) to enable the Secretary to facilitate data management in relation to the Register.

46J No consent required

- (1) The Secretary may collect, use or disclose confidential information about a child under section 46G, 46H or 46I without the consent of the child or a person with parental responsibility for, or day-to-day care of, the child.
- (2) The Secretary may collect, use or disclose confidential information under section 46G, 46H or 46I about a person other than a child without the consent of that person.

S. 46J
inserted by
No. 11/2018
s. 10.

Division 4—Access to Child Link Register and use and disclosure of information contained in the Register

46K Who is a Child Link user?

- (1) For the purposes of this Part, each of the following is a Child Link user—
- (a) the Secretary;
 - (b) the Secretary to the Department of Health and Human Services;
 - (c) the Principal Commissioner appointed under section 11 of the **Commission for Children and Young People Act 2012**;
 - (d) the Disability Services Commissioner within the meaning of the **Disability Act 2006**;
 - (e) a person or class of persons employed by the Secretary under Part 3 of the **Public Administration Act 2004** or otherwise engaged by the Secretary, who is authorised in writing by the Secretary for one or more of the following purposes—

S. 46K
inserted by
No. 11/2018
s. 10.

- (i) to identify children who are not participating in services for which they may be eligible;
- (ii) to perform functions relating to systems administration of the Register;
- (iii) for the purpose of data management in accordance with section 46H;
- (iv) for the purpose of de-identifying confidential information and to provide that de-identified information under section 46O;
- (f) a person or class of persons employed by the Secretary to the Department of Health and Human Services under Part 3 of the **Public Administration Act 2004** or otherwise engaged by that Secretary, who is authorised in writing by that Secretary;
- (g) a person employed or engaged by a council in relation to childhood services implementation or policy who is authorised in writing by the Chief Executive Officer of the council;
- (h) a nurse employed or engaged by a council to provide maternal and child health programs for a Maternal and Child Health service who is authorised in writing by the Chief Executive Officer of the council;
- (i) a nurse employed or engaged by an entity that provides maternal and child health programs on behalf of a council for a Maternal and Child Health service, who is authorised in writing by the person who has overall management and control of the Maternal and Child Health service;

- (j) a nurse employed or engaged by the Secretary to provide maternal and child health advice through a state-wide telephone service who is authorised in writing by the Secretary;
- (k) a person employed or engaged by the Victorian Aboriginal Health Service Co-operative Limited in relation to childhood services implementation or policy who is authorised in writing by the Chief Executive Officer of the Service;
- (l) a registered medical practitioner, nurse or midwife employed or engaged by the Victorian Aboriginal Health Service Co-operative Limited engaged in providing maternal and child health programs who is authorised in writing by the Chief Executive Officer of the Service;
- (m) a registered early childhood teacher providing education and care to children at an approved education and care service who is authorised in writing by the approved provider;
- (n) a registered early childhood teacher providing education and care to children at an approved children's service who is authorised in writing by the approved provider of the service;
- (o) a school nurse who is authorised in writing by the Secretary;
- (p) a school nurse manager who is authorised in writing by the Secretary;
- (q) a principal of a Government school who is authorised in writing by the Secretary;

S. 46K(1)(n)
amended by
No. 37/2019
s. 20(4)(a).

- (r) any of the following persons authorised in writing by the principal of a Government school—
 - (i) a registered teacher employed or engaged to provide instruction or other education services to students at the school;
 - (ii) any other person employed or engaged to provide health or welfare services for students at the school;
- (s) the principal of a non-Government school who is authorised in writing by the person or body responsible for governance, conduct or management of that school;
- (t) any of the following persons or classes of persons authorised in writing by the principal of a non-Government school—
 - (i) a registered teacher employed or engaged to provide instruction or other education services to students at the school;
 - (ii) any other person employed or engaged to provide health or welfare services for students at the school;
- (u) a person or class of persons employed by the Commission for Children and Young People under section 21(1) of the **Commission for Children and Young People Act 2012** or otherwise engaged by the Commission, who is authorised in writing by the Principal Commissioner within the meaning of that Act;
- (v) a person employed to assist the Disability Services Commissioner under section 18(1) of the **Disability Act 2006** who is authorised in writing by the Commissioner;

- (w) a prescribed person who is authorised in writing in accordance with the regulations.
- (2) For the purposes of subsection (1)(m) and (n), not more than 3 registered early childhood teachers may be authorised at one time in relation to the approved education and care service or approved children's service, as the case requires.
- (3) For the purposes of subsection (1)(r) and (t), not more than 7 persons may be authorised at one time in relation to the Government school or non-Government school, as the case requires.
- (4) If a person who has been authorised under subsection (1) no longer requires access to the Register, the person authorised to give the authorisation must revoke that authorisation.

S. 46K(2)
amended by
No. 37/2019
s. 20(4)(b).

46L Delegation

- (1) The Secretary may by instrument delegate any power, function or duty of the Secretary under this Part, other than this power of delegation, to a person employed or engaged by the Secretary.
- (2) The Chief Executive Officer of a council may by instrument delegate any power, function or duty of the Chief Executive Officer under this Part, other than this power of delegation, to a person employed in or engaged by the council.
- (3) An approved provider of an approved education and care service may by instrument delegate any power, function or duty of the approved provider under this Part, other than this power of delegation, to a person employed in or engaged by the education and care service.
- (4) An approved provider of an approved children's service may by instrument delegate any power, function or duty of the approved provider under this Part, other than this power of delegation, to a

S. 46L
inserted by
No. 11/2018
s. 10.

S. 46L(4)
amended by
No. 37/2019
s. 20(5).

person employed in or engaged by the approved children's service.

- (5) The Disability Services Commissioner may by instrument delegate any power, function or duty of the Commissioner under this Part, other than this power of delegation, to a person employed or engaged by the Disability Services Commissioner.
- (6) The Principal Commissioner may by instrument delegate any power, function or duty of the Commissioner under this Part, other than this power of delegation, to a person employed or engaged by the Principal Commissioner.

S. 46M
inserted by
No. 11/2018
s. 10.

46M Child Link users may access and use confidential information in the Register

A Child Link user may access the Register and—

- (a) use confidential information contained in the Register for a purpose specified in Schedule 6 in relation to that Child Link user; and
- (b) disclose confidential information contained in the Register—
 - (i) to persons employed or engaged by the organisation at which the Child Link user is employed or engaged for a purpose specified in Schedule 6 in relation to that Child Link user; and
 - (ii) in accordance with Part 6A, if applicable.

S. 46N
inserted by
No. 11/2018
s. 10.

46N Secretary may remove Child Link user access to the Register

- (1) The Secretary may remove access to an entry, or part of an entry, in the Register relating to a child if the Secretary is satisfied that allowing any Child Link user other than the Secretary access to the

child's entry (or that part of the entry, as applicable) would—

- (a) pose an unacceptable risk of harm to a person; or
 - (b) in all the circumstances be otherwise inappropriate.
- (2) The Secretary may remove a Child Link user's access to the Register or an entry, or part of an entry, in the Register relating to a child if the Secretary is satisfied that the Child Link user's continued access to the Register or the child's entry (or that part of the entry, as applicable) would—
- (a) pose an unacceptable risk of harm to a person; or
 - (b) in all the circumstances be otherwise inappropriate.
- (3) The Secretary may remove access to an entry under subsection (1) or a Child Link user's access under subsection (2) on the Secretary's own initiative or on the written request of any person, in accordance with the guidelines (if any).
- (4) A person may disclose confidential information to the Secretary for the purposes of making a request under subsection (3).
- (5) The Secretary may remove access to an entry under subsection (1) or a Child Link user's access under subsection (2) for any period that the Secretary considers necessary under the circumstances.
- (6) A person authorised to grant an authorisation (the *first person*) to another person under section 46K(1) must notify the Secretary if the first person reasonably believes that the other person has ceased—

S. 46N(6)(b)
amended by
No. 34/2020
s. 176.

- (a) to be a registered teacher; or
- (b) to hold a current WWC clearance under the
Worker Screening Act 2020.

S. 46O
inserted by
No. 11/2018
s. 10.

46O Use and disclosure of de-identified information derived from the Register

- (1) An authorised person may provide de-identified information derived from the Register to an employee of, or person engaged by, the Secretary or the Secretary to the Department of Health and Human Services for the purposes of developing, planning and reviewing policies, programs and services.
- (2) For the purposes of providing de-identified information under subsection (1), an authorised person may access confidential information that is identifying information contained in the Register.
- (3) In this section—

authorised person means a person—

- (a) employed or engaged by the Secretary who is authorised in writing by the Secretary for the purposes of this section; or
- (b) employed or engaged by the Secretary to the Department of Health and Human Services who is authorised in writing by the Secretary for the purposes of this section.

S. 46P
inserted by
No. 11/2018
s. 10.

46P Restrictions on access to confidential information

- (1) The Secretary may refuse to give an individual access to that individual's confidential information under a relevant privacy law if the Secretary believes on reasonable grounds that giving the individual access to the information would

increase a risk to the safety of a child or group of children.

(2) In this section—

relevant privacy law means—

- (a) Health Privacy Principle 6; or
- (b) Information Privacy Principle 6; or
- (c) the Privacy Act 1988 of the Commonwealth; or
- (d) the Privacy Act 1988 of the Commonwealth applied as a law of Victoria by another Act.

46Q Person authorised to disclose confidential information despite specified provisions

S. 46Q
inserted by
No. 11/2018
s. 10.

A person is authorised to collect, use or disclose confidential information in accordance with this Part and the regulations despite anything to the contrary in a provision of an Act prescribed for the purposes of this section.

46R Application of Privacy and Data Protection Act 2014 to certain Child Link users

S. 46R
inserted by
No. 11/2018
s. 10.

(1) This section applies to a Child Link user that is not—

- (a) an organisation within the meaning of the **Privacy and Data Protection Act 2014**; or
- (b) subject to the Privacy Act 1988 of the Commonwealth, or that Act as applied as a law of Victoria by any other law.

(2) The **Privacy and Data Protection Act 2014** applies to the handling of personal information or unique identifiers by the Child Link user under this Part as if the Child Link user were an organisation within the meaning of that Act.

Division 5—Guidelines

S. 46S
inserted by
No. 11/2018
s. 10.

46S Guidelines

- (1) The Secretary may issue guidelines addressing the following matters—
 - (a) the recording of information in the Register;
 - (b) amending, deleting or creating entries in the Register under section 46D;
 - (c) the manner in which information is to be collected for the purposes of the Register under section 46G or 46H;
 - (d) the authorisation of Child Link users under Division 4, including circumstances and manner of authorisation;
 - (e) the removal of access to an entry or part of an entry in the Register and removal of a Child Link user's access to the Register;
 - (f) the provision of de-identified information under section 46O;
 - (g) systems security and integrity measures.
- (2) The Secretary must publish any guidelines issued under subsection (1) on an appropriate Internet site as soon as possible after the guidelines are issued.
- (3) The Secretary may review guidelines issued under subsection (1) at any time and may issue amended guidelines as the Secretary considers necessary.
- (4) Guidelines issued under subsection (1) are not legislative instruments within the meaning of the **Subordinate Legislation Act 1994**.

Division 6—Offences

46T Unauthorised access to the Register

S. 46T
inserted by
No. 11/2018
s. 10.

- (1) A person must not access the Register unless the person is—

- (a) a Child Link user; or
- (b) a person who is otherwise authorised to access the Register under this Part.

Penalty: In the case of a natural person,
60 penalty units;

In the case of a body corporate,
300 penalty units.

- (2) It is a defence to a charge under subsection (1) if the person accessed the Register in good faith and with reasonable care.

46U Access to the Register for unauthorised purpose

S. 46U
inserted by
No. 11/2018
s. 10.

- (1) An authorised person must not access the Register other than in accordance with this Part.

Penalty: In the case of a natural person,
60 penalty units;

In the case of a body corporate,
300 penalty units.

- (2) It is a defence to a charge under subsection (1) if the person accessed the Register in good faith and with reasonable care.

- (3) In this section—

authorised person means—

- (a) a Child Link user; or
- (b) a person who is otherwise authorised to access the Register under this Part.

S. 46V
inserted by
No. 11/2018
s. 10.

46V Unauthorised use and disclosure of confidential information contained in the Register

- (1) An authorised person must not use or disclose confidential information contained in the Register other than in accordance with this Part.

Penalty: In the case of a natural person,
60 penalty units;

In the case of a body corporate,
300 penalty units.

- (2) It is a defence to a charge under subsection (1) if the person used or disclosed the confidential information in good faith and with reasonable care.
- (3) Subsection (1) does not apply to the following uses and disclosures of confidential information—
- (a) a use or disclosure made with the consent of the person to whom the information relates;
 - (b) if the information relates to a person who is incapable of giving consent to the use or disclosure, a use or disclosure made with the consent of the person's authorised representative;
 - (c) a disclosure made to a court or tribunal in the course of legal proceedings;
 - (d) a use or disclosure made pursuant to an order of a court or tribunal;
 - (e) a use or disclosure made to the extent reasonably required to enable the investigation or the enforcement of a law of this State or of any other State or of a Territory or of the Commonwealth;
 - (f) a disclosure made to an Australian legal practitioner for the purposes of obtaining legal advice or representation;

- (g) a use or disclosure made as required or authorised by or under this Act or any other Act.

- (4) In this section—

authorised person means—

- (a) a Child Link user; or
- (b) a person who is otherwise authorised to access the Register under this Part.

46W Intentional or reckless unauthorised use and disclosure of confidential information contained in the Register

S. 46W
inserted by
No. 11/2018
s. 10.

- (1) An authorised person must not use or disclose confidential information contained in the Register in a manner that is unauthorised under this Part and that the person—
 - (a) knows is unauthorised under this Part; or
 - (b) is reckless as to whether the use or disclosure of the information is authorised under this Part.

Penalty: In the case of a natural person,
600 penalty units or imprisonment
for 5 years or both;

In the case of a body corporate,
3000 penalty units.

- (2) Subsection (1) does not apply to the following uses and disclosures of confidential information—
 - (a) a use or disclosure made with the consent of the person to whom the information relates;
 - (b) if the information relates to a person who is incapable of giving consent to the use or disclosure, a use or disclosure made with the consent of the person's authorised representative;

- (c) a disclosure made to a court or tribunal in the course of legal proceedings;
 - (d) a use or disclosure made pursuant to an order of a court or tribunal;
 - (e) a use or disclosure made to the extent reasonably required to enable the investigation or the enforcement of a law of this State or of any other State or of a Territory or of the Commonwealth;
 - (f) a disclosure made to an Australian legal practitioner for the purposes of obtaining legal advice or representation;
 - (g) a use or disclosure made as required or authorised by or under this Act or any other Act.
- (3) In this section—
- authorised person* means—
- (a) a Child Link user; or
 - (b) a person who is otherwise authorised to access the Register under this Part.

Division 7—Review of operation of Part

46X Review of operation of Part within 2 years

- (1) The Minister must cause an independent review of the operation of this Part to be conducted within 2 years of the commencement of this Part.
- (2) The Minister must cause a copy of the review to be laid before each House of the Parliament within 6 months after the end of the period of the review.
- (3) The review must include consideration of any adverse effects of this Part.

S. 46X
inserted by
No. 11/2018
s. 10.

- (4) The review may include any recommendations on any matter addressed in the review.

Division 8—Transitional provisions

46Y Secretary may create entries in the Register

S. 46Y
inserted by
No. 11/2018
s. 10.

- (1) The Secretary may create an entry in the Register for, and allocate a Child Link identifier to, each child who is under 18 years of age on the commencement date and who—
- (a) was born in Victoria; or
 - (b) accessed, enrolled in, registered with or otherwise engaged with a relevant service, as applicable, before the commencement date; or
 - (c) was registered for home schooling before the commencement date under section 4.3.9 of the **Education and Training Reform Act 2006**; or
 - (d) was the subject of a child protection order before the commencement date.
- (2) The Secretary may collect and use information provided by the entities set out in section 46I for the purposes of creating the entries in the Register referred to in subsection (1) and verifying the accuracy of those entries.
- (3) In this section—

commencement date means the day on which this Part comes into operation.

46Z Appointed days for application of section 46M and Schedule 6 to Child Link users

S. 46Z
inserted by
No. 11/2018
s. 10.

- (1) Subject to subsection (3), section 46M and Schedule 6 do not apply to a specified class of Child Link users until a day appointed by the

Governor in Council under this section in relation to that class.

- (2) The Governor in Council, on the recommendation of the Minister, may by Order published in the Government Gazette appoint a day (being a day not later than 31 December 2021) for the application of section 46M and Schedule 6 to a class of Child Link users specified in that Order.
- (3) If the Governor in Council has not appointed a day under subsection (2) before 31 December 2021 in relation to a class of Child Link users, section 46M and Schedule 6 are taken to apply to that class of Child Link user on and after that day.

Part 7B—Qualifications required for maternal and child health nurses

Pt 7B
(Heading and
ss 46ZAA-
46ZAC)
inserted by
No. 36/2020
s. 16.

46ZAA Maternal and Child Health Centres

The operator of a Maternal and Child Health Centre must not employ or engage a nurse to provide a prescribed maternal and child health nursing service, unless the nurse has—

S. 46ZAA
inserted by
No. 36/2020
s. 16,
substituted by
No. 43/2022
s. 100.

- (a) a prescribed specialist maternal and child health nursing qualification, or a qualification that is determined in accordance with the regulations as being substantially equivalent to that qualification; and
- (b) any prescribed prerequisite.

46ZAB State-wide telephone services

A person who operates a state-wide telephone advice service that provides maternal and child health advice must not employ or engage a nurse to provide a prescribed maternal and child health nursing service, unless the nurse has—

S. 46ZAB
inserted by
No. 36/2020
s. 16,
substituted by
No. 43/2022
s. 100.

- (a) a prescribed specialist maternal and child health nursing qualification, or a qualification that is determined in accordance with the regulations as being substantially equivalent to that qualification; and
- (b) any prescribed prerequisite.

S. 46ZAC
inserted by
No. 36/2020
s. 16.

**46ZAC Part not to affect employment contracts or
workplace instruments**

Nothing in this Part is intended to constitute a term of or to alter or vary, or authorise or require the alteration or variation of—

- (a) any employment contract; or
- (b) any workplace instrument within the meaning of the Fair Work Act 2009 of the Commonwealth.

Part 8—General

Division 1—Offences by bodies corporate

Pt 8 Div. 1
(Heading and
ss 46ZA,
46ZB)
inserted by
No. 11/2018
s. 11.

46ZA Imputing conduct to bodies corporate

For the purposes of this Act and the regulations, any conduct engaged in by or on behalf of a body corporate by an employee, agent or officer (within the meaning given by section 9 of the Corporations Act) of the body corporate acting within the actual or apparent scope of employment or apparent authority of the employee, agent or officer, is conduct also engaged in by the body corporate.

S. 46ZA
inserted by
No. 11/2018
s. 11.

46ZB Criminal liability of officers of bodies corporate—accessorial liability

S. 46ZB
inserted by
No. 11/2018
s. 11.

- (1) If a body corporate commits an offence against a provision specified in subsection (2), an officer of the body corporate also commits an offence against the provision if the officer—
 - (a) authorised or permitted the commission of the offence by the body corporate; or
 - (b) was knowingly concerned in any way (whether by act or omission) in the commission of the offence by the body corporate.
- (2) For the purposes of subsection (1), the following provisions are specified—
 - (a) section 41ZK(1);
 - (b) section 41ZL(1);
 - (c) section 41ZM(1);

- (d) section 46T;
 - (e) section 46U(1);
 - (f) section 46V(1);
 - (g) section 46W(1).
- (3) Without limiting any other defence available to the officer, an officer of a body corporate may rely on a defence that would be available to the body corporate if it were charged with the offence with which the officer is charged and, in doing so, the officer bears the same burden of proof that the body corporate would bear.
- (4) An officer of a body corporate may commit an offence against a provision specified in subsection (2) whether or not the body corporate has been prosecuted for, or found guilty of, an offence against that provision.
- (5) In this section—
- body corporate* has the same meaning as corporation has in section 57A of the Corporations Act;
- officer*, in relation to a body corporate, means—
- (a) a person who is an officer (as defined by section 9 of the Corporations Act) of the body corporate; or
 - (b) a person (other than a person referred to in paragraph (a)), by whatever name called, who is concerned in, or takes part in, the management of the body corporate.
- (6) This section does not affect the operation of section 323 or 324 of the **Crimes Act 1958**.

Division 2—Regulations

Pt 8 Div. 2
(Heading)
inserted by
No. 11/2018
s. 11.

46ZC Information sharing and Child Link regulation making power

S. 46ZC
inserted by
No. 11/2018
s. 11.

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to Parts 6A and 7A.
- (2) Without limiting subsection (1), the Governor in Council may make regulations for or with respect to—
 - (a) prescribing a person to be an information sharing entity; and
 - (b) prescribing a body to be an information sharing entity; and
 - (c) prescribing a person or body to belong to a category of restricted information sharing entity; and
 - (d) prohibiting or regulating the type of information that may be used, disclosed or handled by an information sharing entity or a category of restricted information sharing entity; and
 - (e) prohibiting or regulating the type of information that may be requested or collected by an information sharing entity or a category of restricted information sharing entity; and
 - (f) prescribing information to be excluded information; and

- (g) prescribing the purposes for which an information sharing entity or a category of restricted information sharing entity may use or disclose confidential information; and
- (h) subject to subsection (6), prescribing specified persons employed or engaged by an information sharing entity or a restricted information sharing entity to perform specified functions or exercise specified powers on behalf of an information sharing entity or a restricted information sharing entity, including by specifying any of the following, to perform specified functions under Part 6A—
 - (i) the business unit, branch or area (however described) of an information sharing entity or a restricted information sharing entity;
 - (ii) the business unit, branch or area (however described) of an information sharing entity or a restricted information sharing entity operating at a specified geographical location;
 - (iii) the person's qualifications or experience;
 - (iv) the person's position description, classification or functions; and
- (i) enabling an information sharing entity that is a public sector body Head or a restricted information sharing entity that is a public sector body Head—
 - (i) to delegate its powers, duties and functions under Part 6A or the regulations; and

S. 46ZC(2)(i)
amended by
No. 6/2024
s. 10.

- (ii) to sub-delegate any powers, duties and functions under Part 6A or the regulations that have been delegated to the information sharing entity; and
 - (j) prescribing the persons and bodies to which powers, duties and functions may be delegated or sub-delegated by an information sharing entity that is a public sector body Head or a restricted information sharing entity that is a public sector body Head; and
 - (k) prohibiting or regulating the disclosure of confidential information between information sharing entities; and
 - (l) prohibiting or regulating the disclosure of confidential information between categories of restricted information sharing entity; and
 - (m) prescribing the information to be recorded by an information sharing entity or a category of restricted information sharing entity for the purposes of section 41ZC; and
 - (n) prescribing provisions of Acts for the purposes of section 41ZH; and
 - (o) prescribing the process by which a person may be authorised to be a Child Link user for the purposes of section 46K(1)(w) and prescribing a person to provide a written authorisation in accordance with that process.
- (3) The regulations—
- (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place or circumstances; and
 - (c) may confer a discretionary authority or impose a duty on a specified person or body or a specified class of persons or bodies; and

S. 46ZC(2)(j)
amended by
No. 6/2024
s. 10.

- (d) leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by a specified person.
- (4) Regulations made for the purposes of subsection (2)(a) or (c) may prescribe a person or class of person who is engaged in a role that requires the handling of confidential information, including but not limited to any of the following persons—
 - (a) a nurse;
 - (b) a midwife;
 - (c) a police officer;
 - (d) a registered medical practitioner;
 - (e) a disability service provider within the meaning of the **Disability Act 2006**;
 - (f) a psychologist within the meaning of the Health Practitioner Regulation National Law;
 - (g) a teacher;
 - (h) a principal of a registered school.
- (5) Regulations made for the purposes of subsection (2)(b) or (c) may prescribe a body or class of body that has a function that requires the handling of confidential information, including but not limited to any of the following bodies—
 - (a) a community service organisation funded by the State government to provide services to individuals;
 - (b) a public sector body within the meaning of the **Public Administration Act 2004**;
 - (c) a health service provider within the meaning of section 3(1) of the **Health Records Act 2001**;

- (d) the office of the Disability Services Commissioner within the meaning of the **Disability Act 2006**;
 - (e) an education and care service or a children's service;
 - (f) a provider of education services to children;
 - (g) a school (whether a Government school or a non-Government school).
- (6) Regulations made for the purposes of subsection (2)(a), (b), (c) or (h) may prescribe a person or body specified in section 41T if the prescription of that person or body is in respect of a function other than a judicial or quasi-judicial function involving the handling of confidential information performed by that person or body.
- (7) Regulations made under this section may enable an information sharing entity or a restricted information sharing entity to disclose confidential information to a person or body that is not subject to the law of the State.
- (8) Nothing in Part 6A or regulations made under this section is taken to impose a requirement on a person or body who is not subject to the law of the State.

46ZD Maternal and child health nurse regulation making power

S. 46ZD
inserted by
No. 36/2020
s. 17.

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to Part 7B.
- (2) Without limiting subsection (1), the Governor in Council may make regulations for or with respect to—

S. 46ZD(2)(c)
amended by
No. 43/2022
s. 101(1)(a).

S. 46ZD(2)(d)
inserted by
No. 43/2022
s. 101(1)(b).

S. 46ZD(4)
inserted by
No. 43/2022
s. 101(2).

- (a) prescribing a service to be a maternal and child health nursing service; and
 - (b) prescribing a qualification to be a specialist maternal and child health nursing qualification; and
 - (c) providing for processes or requirements to determine whether a qualification is substantially equivalent to a prescribed specialist maternal and child health nursing qualification; and
 - (d) prescribing a prerequisite for a nurse who is employed or engaged to provide maternal and child health nursing services.
- (3) The regulations—
- (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place or circumstances; and
 - (c) may confer a discretionary authority or impose a duty on a specified person or body or a specified class of persons or bodies; and
 - (d) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by a specified person.
- (4) The regulations may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any person, whether—
- (a) wholly or partially or as amended by the regulations; or
 - (b) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or

- (c) as formulated, issued, prescribed or published from time to time.

46ZE Child Safe Standards regulation making power

S. 46ZE
inserted by
No. 23/2021
s. 77 (as
amended by
No. 43/2022
s. 14).

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to Part 6.
- (2) Without limiting subsection (1), the Governor in Council may make regulations for or with respect to the following—
- (a) prescribing a person or body to be a sector regulator in relation to a relevant entity or a class of relevant entities for the purposes of section 25B;
 - (b) prescribing a person or body to be an integrated sector regulator in relation to a relevant entity or a class of relevant entities;
 - (c) prescribing functions of the Commission for the purposes of Part 6;
 - (d) prescribing a person or body to whom a relevant person may disclose protected information;
 - (e) prescribing matters on which the Commission may report;
 - (f) any savings or transitional provisions required as a consequence of the amendments made by the **Child Wellbeing and Safety (Child Safe Standards Compliance and Enforcement) Amendment Act 2021**.
- (3) The regulations—
- (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place or circumstances; and

- (c) may confer a discretionary authority or impose a duty on a specified person or body or a specified class of persons or bodies; and
- (d) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by a specified person.

47 General regulation making power

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

- (2) The regulations may—

- (a) be of general or limited application; and

- (b) differ according to differences in time, place or circumstances; and

- (c) confer a discretionary authority or impose a duty on a specified person or body or class of persons or bodies; and

- (d) leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by a specified person; and

S. 47
(Heading)
substituted by
No. 11/2018
s. 12.

S. 47
substituted by
No. 63/2015
s. 7.

S. 47(2)(a)
amended by
Nos 4/2017
s. 7(a),
13/2022
s. 4(a).

S. 47(2)(b)
amended by
Nos 4/2017
s. 7(b),
13/2022
s. 4(b).

S. 47(2)(c)
inserted by
No. 4/2017
s. 7(c),
amended by
No. 13/2022
s. 4(c).

S. 47(2)(d)
inserted by
No. 4/2017
s. 7(d),
amended by
No. 13/2022
s. 4(d).

(e) provide in a specified case or class of cases for the exemption of persons or things or a class of persons or things from any of the provisions of the regulations whether unconditionally or on specified conditions and either wholly or to any extent that is specified.

* * * * *

S. 47(2)(e)
inserted by
No. 4/2017
s. 7(e).

S. 48
repealed by
No. 79/2012
s. 80.

Pt 9 (Heading
and new s. 48)
inserted by
No. 4/2017
s. 8.

Part 9—Transitional provisions

Pt 9 Div. 1
(Heading)
inserted by
No. 23/2021
s. 78.

Division 1—Children Legislation Amendment (Reportable Conduct) Act 2017

New s. 48
inserted by
No. 4/2017
s. 8.

48 Children Legislation Amendment (Reportable Conduct) Act 2017

This Act as amended by Part 2 of the **Children Legislation Amendment (Reportable Conduct) Act 2017** applies to a reportable allegation made on or after the commencement of Part 2 of that Act, irrespective of when the conduct that is the subject of the reportable allegation occurred.

Pt 9 Div. 2
(Heading)
inserted by
No. 23/2021
s. 79.

Division 2—Children Legislation Amendment (Information Sharing) Act 2018

S. 49
inserted by
No. 11/2018
s. 13.

49 Children Legislation Amendment (Information Sharing) Act 2018

- (1) Nothing in section 46B or 46C requires the Secretary to take any action under or for the purposes of those sections before 31 December 2021.
- (2) Subsection (1) does not prevent the Secretary from taking any action under or for the purposes of section 46B or 46C before 31 December 2021.

**Division 3—Child Wellbeing and Safety (Child Safe
Standards Compliance and Enforcement)
Amendment Act 2021**

Pt 9 Div. 3
(Heading and
ss 50–52)
inserted by
No. 23/2021
s. 80.

50 Definitions

In this Division—

amending Act means the **Child Wellbeing and
Safety (Child Safe Standards Compliance
and Enforcement) Amendment Act 2021**;

commencement day means the day on which Part
3 of the amending Act comes into operation;

relevant authority has the same meaning as in
section 3(1) immediately before the
commencement of Part 2 of the amending
Act.

S. 50
inserted by
No. 23/2021
s. 80.

51 Pending investigations

(1) This section applies if—

- (a) before the commencement day the
Commission or a relevant authority, for the
purposes of determining whether a relevant
entity was complying with the Child Safe
Standards—
 - (i) made a request under section 26, 27
or 28; or
 - (ii) inspected premises under section 29; or
 - (iii) issued a notice to comply or a notice to
produce; and
- (b) immediately before the commencement day
the Commission or relevant authority had not
finally determined whether the relevant
entity was complying with the Child Safe
Standards.

S. 51
inserted by
No. 23/2021
s. 80.

- (2) The Commission or relevant authority may complete and enforce the determination in accordance with this Act as in force immediately before the commencement day.
- (3) Without limiting subsection (2), the Commission or relevant authority, for the purposes of completing or enforcing the determination, may do any or all of the following—
 - (a) request information or documents, inspect premises or issue a notice to produce or notice to comply under Division 3 of Part 6 as in force before the commencement day;
 - (b) provide information under section 32 as in force before the commencement day;
 - (c) apply to a court under section 33 as in force before the commencement day.

S. 52
inserted by
No. 23/2021
s. 80.

52 Investigation of conduct before commencement day

- (1) This section applies if—
 - (a) after the commencement day the Commission, a sector regulator or an integrated sector regulator proposes to determine whether a relevant entity has not complied with the Child Safe Standards; and
 - (b) the conduct alleged to constitute the failure to comply with the Child Safe Standards allegedly occurred before the commencement day; and
 - (c) immediately before the commencement day the Commission, sector regulator or integrated sector regulator had not done any of the following for the purposes of determining whether the alleged conduct constitutes a failure to comply with the Child Safe Standards—

- (i) made a request under section 26, 27 or 28; or
 - (ii) inspected premises under section 29; or
 - (iii) issued a notice to comply or a notice to produce.
- (2) Subject to subsection (3), the Commission, sector regulator or integrated sector regulator may exercise any power under Part 6 (as in force at the time the power is exercised) for the purposes of determining whether the alleged conduct constitutes a failure to comply with the Child Safe Standards.
- (3) The Commission or sector regulator may not do any of the following in relation to the alleged failure to comply (whether or not the relevant entity is finally determined to have failed to comply with the Child Safe Standards)—
 - (a) issue an official warning to the relevant entity under section 36A;
 - (b) apply for an interim injunction under section 34B;
 - (c) accept an enforceable undertaking from the relevant entity under section 36C.

Pt 9 Div. 4
(Heading and
ss 53, 54)
inserted by
No. 17/2023
s. 32.

S. 53
inserted by
No. 17/2023
s. 32.

Division 4—Transitional provisions—Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Act 2023

53 Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Act 2023

This Act as amended by sections 19 and 20 of the **Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Act 2023** applies to—

- (a) a reportable allegation made in relation to a person referred to in paragraph (ba), (bb), (bc) or (bd) of the definition of *employee* on and after the commencement of sections 19 and 20 of that Act, irrespective of when the conduct that is the subject of the reportable allegation occurred; and
- (b) a reportable allegation made in relation to a person referred to in paragraph (e) of the definition of *employee* on and after the day that the class of person to which that person belongs is prescribed for the purposes of paragraph (e) of that definition, irrespective of when the conduct that is the subject of the reportable allegation occurred.

**54 Transitional regulations—Children and Health
Legislation Amendment (Statement of Recognition,
Aboriginal Self-determination and Other Matters)
Act 2023**

S. 54
inserted by
No. 17/2023
s. 32.

- (1) The Governor in Council may make regulations containing provisions of a transitional nature, including matters of an application or savings nature, arising as a result of the enactment of the **Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Act 2023** (the *amending Act*).
- (2) Regulations made under subsection (1) may—
 - (a) have a retrospective effect to a day not earlier than the day on which the amending Act receives the Royal Assent; and
 - (b) be of limited or general application; and
 - (c) differ according to time, place and circumstances; and
 - (d) confer a discretionary authority on a specified person or body.
- (3) Regulations referred to in subsection (1) have effect despite anything to the contrary in any Act (other than the amending Act or the **Charter of Human Rights and Responsibilities Act 2006**) or in any subordinate instrument.
- (4) This section is **repealed** on the second anniversary of the day on which it commences.

Sch. 1
inserted by
No. 63/2015
s. 8,
amended by
Nos 4/2018
s. 14, 37/2019
s. 20(6),
substituted by
No. 23/2021
s. 17 (as
amended by
Nos 32/2022
s. 63, 43/2022
s. 13),
amended by
Nos 27/2022
s. 77, 39/2022
s. 787.

Schedule 1—Entities subject to Child Safe Standards

- 1 An applicable entity that operates a registered school within the meaning of the **Education and Training Reform Act 2006**.
- 2 An applicable entity that operates a school other than—
 - (a) a registered school within the meaning of the **Education and Training Reform Act 2006**;
or
 - (b) a place at which home schooling takes place in accordance with a registration under section 4.3.9 of that Act.
- 3 An applicable entity that provides school boarding services within the meaning of the **Education and Training Reform Act 2006**.
- 4 An applicable entity registered under Division 3 of Part 4.3 of the **Education and Training Reform Act 2006** in respect of an accredited senior secondary course, a registered senior secondary qualification, an accredited foundation secondary course or a registered foundation secondary qualification.
- 5 An applicable entity that is approved, under section 4.5.1 of the **Education and Training Reform Act 2006**, to provide a specified course to students from overseas.
- 6 An applicable entity that is approved, under section 4.5A.1 of the **Education and Training Reform Act 2006**, as suitable to operate a student exchange program.
- 7 A post-secondary education institution within the meaning of the **Education and Training Reform Act 2006**.

- 8 A post-secondary education provider within the meaning of the **Education and Training Reform Act 2006**.
- 9 An approved provider of an approved education and care service within the meaning of the Education and Care Services National Law (Victoria) located in Victoria.
- 10 An approved provider of an approved children's service within the meaning of the **Children's Services Act 1996**.
- 11 An applicable entity that provides coaching or tuition services specifically for children.
- 12 An applicable entity that provides counselling or other support services specifically for children.
- 13 A youth organisation—
 - (a) in which children participate; or
 - (b) that provides activities in which children participate.

Examples

- 1 The Girl Guides Association of Victoria incorporated by section 3 of the **Girl Guides Association Act 1952**.
- 2 The Boy Scouts Association, Victorian Branch incorporated by section 3 of the **Scout Association Act 1932**.
- 14 An applicable entity that provides cultural, sporting or recreational services specifically for children.
- 15 An applicable entity that provides gym or play facilities specifically for children.
- 16 An applicable entity that runs talent or beauty competitions in which children participate.
- 17 An applicable entity that provides overnight camps for children.

- 18 An applicable entity that provides photography services specifically for children.
- 19 An applicable entity that provides professional babysitting services.
- 20 An applicable entity that provides, on a publicly funded or commercial basis, a transport service specifically for children.
- 21 An applicable entity that provides entertainment and party services specifically for children.
- 22 An applicable entity that receives funding under a State contract to provide early therapeutic intervention specifically for children with a disability, additional needs or developmental delay.
- 23 An applicable entity that operates a Maternal and Child Health Centre.
- 24 A hospital listed in Schedule 1 to the **Health Services Act 1988** as a public hospital.
- 25 A public health service within the meaning of the **Health Services Act 1988**.
- 26 A hospital listed in Schedule 2 to the **Health Services Act 1988** as a denominational hospital.
- 27 An applicable entity that operates a private hospital within the meaning of the **Health Services Act 1988**.
- 28 An applicable entity that operates a day procedure centre within the meaning of the **Health Services Act 1988**.
- 29 A multi purpose service within the meaning of the **Health Services Act 1988**.
- 30 A registered community health centre within the meaning of the **Health Services Act 1988**.

- 31 A mental health and wellbeing service provider within the meaning of the **Mental Health and Wellbeing Act 2022**.
- 32 A disability service provider within the meaning of the **Disability Act 2006**.
- 33 An applicable entity, other than a disability service provider within the meaning of the **Disability Act 2006**, that provides disability services.
- 34 An applicable entity that receives funding under a State contract to provide drug or alcohol treatment services.
- 35 An applicable entity that receives funding under a State contract to provide services in relation to family violence or sexual assault.
- 36 An applicable entity that receives funding under a State contract to provide support services for parents and families.
- 37 An applicable entity that receives funding under a State contract to provide housing services or other assistance to homeless persons.
- 38 An applicable entity that receives funding under a State contract to provide youth services.
- 39 An applicable entity that receives funding under a State contract to provide child protection services.
- 40 An out of home care service within the meaning of the **Children, Youth and Families Act 2005**.
- 41 An applicable entity that employs a child and that is required to hold a licence issued under the **Child Employment Act 2003** for that employment.
- 42 A religious body within the meaning of section 81 of the **Equal Opportunity Act 2010**.
- 43 A charity.

Child Wellbeing and Safety Act 2005
No. 83 of 2005
Schedule 1—Entities subject to Child Safe Standards

- 44 A non-profit body within the meaning of the **Electronic Transactions (Victoria) Act 2000**.
- 45 A Department within the meaning of the **Public Administration Act 2004**.
- 46 An applicable entity that is constituted by or under any Act and that has functions of a public nature.
- 47 A council.

Sch. 2
inserted by
No. 63/2015
s. 8,
amended by
Nos 4/2018
s. 15, 33/2020
s. 19,
repealed by
No. 23/2021
s. 18.

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Schedule 3—Entities to which the reportable conduct scheme applies on and after commencement of Part 5A

Sch. 3
inserted by
No. 4/2017
s. 9,
amended by
Nos 32/2022
s. 60, 39/2022
s. 788.

- 1 An applicable entity that operates a registered school within the meaning of the **Education and Training Reform Act 2006**.
- 2 An applicable entity registered under Division 3 of Part 4.3 of the **Education and Training Reform Act 2006** in respect of an accredited senior secondary course, a registered senior secondary qualification, an accredited foundation secondary course or a registered foundation secondary qualification.
- 3 An applicable entity that is approved, under section 4.5.1 of the **Education and Training Reform Act 2006**, to provide a specified course to students from overseas.
- 4 An applicable entity that is approved, under section 4.5A.1 of the **Education and Training Reform Act 2006**, as suitable to operate a student exchange program.
- 5 A disability service provider within the meaning of the **Disability Act 2006** that provides residential services for children with a disability within the meaning of that Act.
- 6 A mental health and wellbeing service provider within the meaning of the **Mental Health and Wellbeing Act 2022** that provides in-patient beds.
- 7 An applicable entity that receives funding under a State contract to provide drug or alcohol treatment services that provides in-patient beds.

Child Wellbeing and Safety Act 2005

No. 83 of 2005

Schedule 3—Entities to which the reportable conduct scheme applies on and after commencement of Part 5A

- 8 An applicable entity that receives funding under a State contract to provide housing services or other assistance to homeless persons that provides overnight beds for persons under the age of 18 years.
- 9 An applicable entity that receives funding under a State contract to provide child protection services.
- 10 An out of home care service within the meaning of the **Children, Youth and Families Act 2005**.
- 11 A Department within the meaning of the **Public Administration Act 2004**.

Schedule 4—Entities to which the reportable conduct scheme applies 6 months after commencement of Part 5A

Sch. 4
inserted by
No. 4/2017
s. 9,
amended by
No. 33/2020
s. 20.

- 1 An entity referred to in Schedule 3.
- 2 A religious body within the meaning of section 81 of the **Equal Opportunity Act 2010**.
- 3 An applicable entity that is a provider of school boarding services within the meaning of the **Education and Training Reform Act 2006**.
- 4 An applicable entity that provides overnight camps for children as part of its primary activity and that is not a youth organisation—
 - (a) in which children participate; or
 - (b) that provides activities in which children participate.
- 5 A hospital listed in Schedule 1 to the **Health Services Act 1988** as a public hospital.
- 6 A hospital listed in Schedule 2 to the **Health Services Act 1988** as a denominational hospital.
- 7 An applicable entity that operates a private hospital within the meaning of the **Health Services Act 1988**.
- 8 A disability service provider within the meaning of the **Disability Act 2006** not referred to in Schedule 3.
- 9 An applicable entity, other than a disability service provider within the meaning of the **Disability Act 2006**, that provides disability services.

Sch. 5
inserted by
No. 4/2017
s. 9,
amended by
No. 13/2022
s. 3.

Schedule 5—Entities to which the reportable conduct scheme applies 18 months after commencement of Part 5A

- 1 An entity referred to in Schedule 3.
- 2 An entity referred to in Schedule 4.
- 3 An approved provider of an approved education and care service within the meaning of the Education and Care Services National Law (Victoria).
- 4 An approved provider of an approved children's service within the meaning of the **Children's Services Act 1996**.
- 5 A prescribed applicable entity that is constituted by or under any Act and that has functions of a public nature.

Schedule 6—Child Link users and purposes of access, use and disclosure

Sch. 6
inserted by
No. 11/2018
s. 14,
amended by
No. 37/2019
s. 20(7).

<i>Column 1</i>		<i>Column 2</i>
<i>Item</i>	<i>Child Link user</i>	<i>Purpose of access, use and disclosure</i>
1	The Secretary	To identify children who are not participating in services for which they may be eligible and to assist in the provision of education, care and services to those children.
2	The Secretary to the Department of Health and Human Services	To identify children who are not participating in services for which they may be eligible. For the purpose of the performance of the Secretary to the Department of Health and Human Services' functions, and the exercise of the Secretary's powers, under the Children, Youth and Families Act 2005 .
3	The Principal Commissioner within the meaning of the Commission for Children and Young People Act 2012	To perform the Principal Commissioner's statutory functions.
4	The Disability Services Commissioner within the meaning of the Disability Act 2006	To perform the Disability Services Commissioner's statutory functions.

Child Wellbeing and Safety Act 2005

No. 83 of 2005

Schedule 6—Child Link users and purposes of access, use and disclosure

<i>Item</i>	<i>Column 1</i> <i>Child Link user</i>	<i>Column 2</i> <i>Purpose of access, use and disclosure</i>
5	A person employed by the Secretary under Part 3 of the Public Administration Act 2004 or otherwise engaged by the Secretary who is authorised in writing by the Secretary	To identify children who are not participating in services for which they may be eligible and to assist in the provision of education, care and services to those children.
6	A person employed by the Secretary under Part 3 of the Public Administration Act 2004 or otherwise engaged by the Secretary who is authorised in writing by the Secretary	To perform functions relating to systems administration of the Register.
7	A person employed by the Secretary under Part 3 of the Public Administration Act 2004 or otherwise engaged by the Secretary who is authorised in writing by the Secretary	For the purpose of data management in accordance with section 46H.

Child Wellbeing and Safety Act 2005

No. 83 of 2005

Schedule 6—Child Link users and purposes of access, use and disclosure

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i> <i>Purpose of access, use and disclosure</i>
	<i>Child Link user</i>	
8	A person employed by the Secretary under Part 3 of the Public Administration Act 2004 or otherwise engaged by the Secretary who is authorised in writing by the Secretary	For the purpose of de-identifying confidential information and to provide that de-identified information under section 46O.
9	A person employed by the Secretary to the Department of Health and Human Services under Part 3 of the Public Administration Act 2004 or otherwise engaged by the Secretary who is authorised in writing by the Secretary	To identify children who are not participating in services for which they may be eligible. For the purpose of the performance of the Secretary to the Department of Health and Human Services' functions, and the exercise of the Secretary's powers, under the Children, Youth and Families Act 2005 .
10	A person employed or engaged by a council in relation to childhood services implementation or policy who is authorised in writing by the Chief Executive Officer of the council	To identify children in the municipal district who are not participating in services for which they may be eligible and to assist in the provision of education, care and services to children in the municipal district who may be eligible to participate in services. To monitor and plan council services for children residing in the municipal district.

Child Wellbeing and Safety Act 2005

No. 83 of 2005

Schedule 6—Child Link users and purposes of access, use and disclosure

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i> <i>Purpose of access, use</i> <i>and disclosure</i>
	<i>Child Link user</i>	
11	A nurse employed or engaged by a council to provide maternal and child health programs for a Maternal and Child Health service who is authorised in writing by the Chief Executive Officer of the council	To provide care and services to children attending the Maternal and Child Health service.
12	A nurse employed or engaged by an entity that provides maternal and child health programs on behalf of a council for a Maternal and Child Health service who is authorised in writing by the person who has overall management and control of the Maternal and Child Health service	To provide care and services to children attending the Maternal and Child Health service.
13	A nurse employed or engaged by the Secretary to provide maternal and child health advice through a state-wide telephone service who is authorised in writing by the Secretary	To provide care and services to children or families who access the state-wide telephone service.

Child Wellbeing and Safety Act 2005

No. 83 of 2005

Schedule 6—Child Link users and purposes of access, use and disclosure

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>
	<i>Child Link user</i>	<i>Purpose of access, use and disclosure</i>
14	A person employed or engaged by the Victorian Aboriginal Health Service Co-operative Limited in relation to childhood services implementation or policy who is authorised in writing by the Chief Executive Officer of the Service	To identify children enrolled with the Service or entitled to services provided by the Service who are not participating in services for which they may be eligible and to assist in the provision of education, care and services to those children. To monitor and plan services for all children enrolled with the Service.
15	A registered medical practitioner, nurse or midwife employed or engaged by the Victorian Aboriginal Health Service Co-operative Limited engaged in providing maternal and child health programs who is authorised in writing by the Chief Executive Officer of the Service	To provide care and services to children attending the maternal and child health program.

Child Wellbeing and Safety Act 2005

No. 83 of 2005

Schedule 6—Child Link users and purposes of access, use and disclosure

	<i>Column 1</i>	<i>Column 2</i>
<i>Item</i>	<i>Child Link user</i>	<i>Purpose of access, use and disclosure</i>
16	A registered early childhood teacher providing education and care to children at an approved education and care service who is authorised in writing by the approved provider	To provide education and care and related services to children enrolled at the education and care service.
17	A registered early childhood teacher providing education and care to children at an approved children's service who is authorised in writing by the approved provider of the service	To provide education and care and related services to children enrolled at the children's service.
18	A school nurse manager who is authorised in writing by the Secretary	To assist in the monitoring, planning and provision of care and services to children enrolled in schools within the geographic region for which the school nurse manager is responsible.
19	A school nurse who is authorised in writing by the Secretary	To provide care and services to children enrolled at the school to whom the nurse provides school nurse services.

Child Wellbeing and Safety Act 2005

No. 83 of 2005

Schedule 6—Child Link users and purposes of access, use and disclosure

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>
	<i>Child Link user</i>	<i>Purpose of access, use and disclosure</i>
20	A principal of a Government school who is authorised in writing by the Secretary	<p>To provide education and care and related services to children enrolled at the school.</p> <p>To monitor and plan services for children enrolled at the school.</p>
21	A registered teacher employed or engaged by a Government school to provide instruction or other education services to students at the school or any other person employed or engaged by a Government school to provide health or welfare services for students at the school who is authorised in writing by the principal of the Government school	<p>To provide education and care and related services to children enrolled at the school.</p> <p>To monitor and plan services for children enrolled at the school.</p>
22	A principal of a non-Government school who is authorised in writing by the person or body responsible for the governance, conduct or management of the school	<p>To provide education and care and related services to children enrolled at the school.</p> <p>To monitor and plan services for children enrolled at the school.</p>

Child Wellbeing and Safety Act 2005

No. 83 of 2005

Schedule 6—Child Link users and purposes of access, use and disclosure

<i>Item</i>	<i>Column 1</i> <i>Child Link user</i>	<i>Column 2</i> <i>Purpose of access, use and disclosure</i>
23	A registered teacher employed or engaged by a non-Government school to provide instruction or other education services to students at the school or any other person employed or engaged by a non-Government school to provide health or welfare services for students at the school who is authorised in writing by the principal of the non-Government school	To provide education and care and related services to children enrolled at the school. To monitor and plan services for children enrolled at the school.
24	A person employed by the Commission for Children and Young People under section 21(1) of the Commission for Children and Young People Act 2012 or otherwise engaged by the Commission who is authorised in writing by the Principal Commissioner within the meaning of that Act	To perform the functions of the Principal Commissioner for or on behalf of the Commissioner.

Child Wellbeing and Safety Act 2005

No. 83 of 2005

Schedule 6—Child Link users and purposes of access, use and disclosure

		<i>Column 1</i>	<i>Column 2</i>
<i>Item</i>	<i>Child Link user</i>		<i>Purpose of access, use and disclosure</i>
25	A person employed to assist the Disability Services Commissioner under section 18(1) of the Disability Act 2006 who is authorised in writing by the Commissioner		To perform the functions of the Disability Services Commissioner on behalf of the Disability Services Commissioner.
26	A prescribed person who is authorised in writing in accordance with the regulations		The purpose prescribed in relation to the person.

Sch. 7
inserted by
No. 11/2018
s. 15,
amended by
No. 9/2023
s. 265.

Schedule 7—Specified provisions

- 1 Section 207(2) of the **Children, Youth and Families Act 2005**.
 - 2 Section 55 of the **Commission for Children and Young People Act 2012**.
 - 3 Section 140 of the **Confiscation Act 1997**.
 - 4 Sections 36, 202AB and 202AC of the **Disability Act 2006**.
 - 5 Sections 5.3A.10 and 5.3A.14 of the **Education and Training Reform Act 2006**.
 - 6 Section 181 of the **Firearms Act 1996**.
 - 7 Section 23 of the **Human Services (Complex Needs) Act 2009**.
 - 8 Section 164 of the **Infringements Act 2006**.
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Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 6 October 2005

Legislative Council: 15 November 2005

The long title for the Bill for this Act was "to establish principles for the wellbeing of children, to establish the Victorian Children's Council and the Children's Services Co-ordination Board, to provide for the Child Safety Commissioner and to confer functions and powers on the Child Safety Commissioner in relation to the safety of children, to provide for the notification of births to municipal councils, to repeal Part IX of the **Health Act 1958** and for other purposes."

The **Child Wellbeing and Safety Act 2005** was assented to on 29 November 2005 and came into operation as follows:

Sections 1–41 and 47 on 1 June 2006: Government Gazette 1 June 2006 page 1028; Part 7 (sections 42–46) and section 48 on 1 October 2007: section 2(2).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms

Child Wellbeing and Safety Act 2005
No. 83 of 2005
Endnotes

part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

2 Table of Amendments

This publication incorporates amendments made to the **Child Wellbeing and Safety Act 2005** by Acts and subordinate instruments.

Children, Youth and Families Act 2005, No. 96/2005

Assent Date: 7.12.05
Commencement Date: S. 604 on 23.4.07: Government Gazette 19.4.07 p. 672
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Health Professions Registration Act 2005, No. 97/2005

Assent Date: 7.12.05
Commencement Date: S. 182(Sch. 4 item 9) on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Disability Act 2006, No. 23/2006

Assent Date: 16.5.06
Commencement Date: S. 233 on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 10) 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Statute Law Revision Act 2007, No. 28/2007

Assent Date: 26.6.07
Commencement Date: S. 3(Sch. item 6) on 27.6.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Education and Training Reform Miscellaneous Amendments Act 2007, No. 58/2007

Assent Date: 27.11.07
Commencement Date: S. 51 on 28.11.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Children's Legislation Amendment Act 2008, No. 22/2008

Assent Date: 3.6.08
Commencement Date: S. 41 on 25.5.09: s. 2(3)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Child Wellbeing and Safety Act 2005
No. 83 of 2005
Endnotes

Children Legislation Amendment Act 2009, No. 46/2009

Assent Date: 18.8.09
Commencement Date: Ss 9–15 on 19.8.09: s. 2
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

**Statute Law Amendment (National Health Practitioner Regulation) Act 2010,
No. 13/2010**

Assent Date: 30.3.10
Commencement Date: S. 51(Sch. item 11) on 1.7.10: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

Children's Services Amendment Act 2011, No. 80/2011

Assent Date: 21.12.11
Commencement Date: S. 79(Sch. item 1) on 1.1.12: Special Gazette
(No. 423) 21.12.11 p. 2
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

Commission for Children and Young People Act 2012, No. 79/2012

Assent Date: 18.12.12
Commencement Date: Ss 73–80 on 1.3.13: Special Gazette (No. 27) 29.1.13
p. 1
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

**Child Wellbeing and Safety Amendment (Child Safe Standards) Act 2015,
No. 63/2015**

Assent Date: 1.12.15
Commencement Date: Ss 4–13 on 1.1.16: Special Gazette (No. 426) 22.12.15
p.1
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

Crimes Amendment (Sexual Offences) Act 2016, No. 47/2016

Assent Date: 6.9.16
Commencement Date: S. 33 on 1.7.17: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

**Child Wellbeing and Safety Amendment (Oversight and Enforcement of Child
Safe Standards) Act 2016, No. 63/2016**

Assent Date: 15.11.16
Commencement Date: Ss 4–8 on 1.1.17: Special Gazette (No. 381) 13.12.16
p. 1
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

Child Wellbeing and Safety Act 2005
No. 83 of 2005
Endnotes

Children Legislation Amendment (Reportable Conduct) Act 2017, No. 4/2017

Assent Date: 28.2.17
Commencement Date: Ss 4–9 on 1.7.17: Special Gazette (No. 216) 27.6.17
p. 1
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

**Family Violence Protection Amendment (Information Sharing) Act 2017,
No. 23/2017**

Assent Date: 14.6.17
Commencement Date: S. 31 on 26.2.18: s. 2(6)
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

Health and Child Wellbeing Legislation Amendment Act 2018, No. 4/2018

Assent Date: 27.2.18
Commencement Date: Ss 3(1)(3), 4–7, 12(2) on 28.2.18: s. 2(1); ss 3(2),
8–12(1), 13–15 on 1.11.18: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

Children Legislation Amendment (Information Sharing) Act 2018, No. 11/2018

Assent Date: 10.4.18
Commencement Date: Ss 4–9, 11, 12, 15 on 27.9.18: Special Gazette
(No. 405) 4.9.18 p. 1; ss 10, 13, 14 on 12.2.19: Special
Gazette (No. 37) 12.2.19 p. 1
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

Guardianship and Administration Act 2019, No. 13/2019

Assent Date: 4.6.19
Commencement Date: S. 221(Sch. 1 item 7) on 1.3.20: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

**Disability (National Disability Insurance Scheme Transition) Amendment
Act 2019, No. 19/2019**

Assent Date: 25.6.19
Commencement Date: S. 252 on 1.7.19: Special Gazette (No. 254) 25.6.19
p. 1
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

Children's Services Amendment Act 2019, No. 37/2019

Assent Date: 6.11.19
Commencement Date: S. 20 on 17.5.20: Special Gazette (No. 232) 12.5.20
p. 1
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

Child Wellbeing and Safety Act 2005
No. 83 of 2005
Endnotes

Local Government Act 2020, No. 9/2020

Assent Date: 24.3.20
Commencement Date: S. 390(Sch. 1 item 15) on 6.4.20: Special Gazette (No. 150) 24.3.20 p. 1
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Education and Training Reform Amendment (Regulation of Student Accommodation) Act 2020, No. 33/2020

Assent Date: 4.11.20
Commencement Date: Ss 19, 20 on 18.6.21: Special Gazette (No. 152) 30.3.21 p. 1
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Worker Screening Act 2020, No. 34/2020

Assent Date: 4.11.20
Commencement Date: Ss 169–176 on 1.2.21: Special Gazette (No. 647) 8.12.20 p. 1
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2020, No. 36/2020

Assent Date: 17.11.20
Commencement Date: Ss 16, 17 on 17.11.21: s. 2(5)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Child Wellbeing and Safety (Child Safe Standards Compliance and Enforcement) Amendment Act 2021, No. 23/2021 (as amended by Nos 32/2022, 43/2022)

Assent Date: 28.6.21
Commencement Date: S. 5(4) on 29.6.21: s. 2(2); ss 4–5(3), 5(5)–53, 77–80 on 1.1.23: s. 2(3)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Social Services Regulation Act 2021, No. 37/2021 (as amended by No. 40/2022)

Assent Date: 21.9.21
Commencement Date: Ss 349, 350 on 1.7.24: s. 2(2)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Regulatory Legislation Amendment (Reform) Act 2022, No. 13/2022

Assent Date: 29.3.22
Commencement Date: Ss 3, 4 on 30.3.22: s. 2(3)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Child Wellbeing and Safety Act 2005
No. 83 of 2005
Endnotes

Child Employment Amendment Act 2022, No. 27/2022

Assent Date: 28.6.22
Commencement Date: S. 77 on 1.7.23: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

Education Legislation Amendment (Adult and Community Education and Other Matters) Act 2022, No. 32/2022

Assent Date: 23.8.22
Commencement Date: S. 60 on 24.8.22: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

Mental Health and Wellbeing Act 2022, No. 39/2022 (as amended by No. 20/2023)

Assent Date: 6.9.22
Commencement Date: Ss 784–788 on 1.9.23: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

Early Childhood Legislation Amendment Act 2022, No. 43/2022

Assent Date: 27.9.22
Commencement Date: Ss 100, 101 on 28.9.22: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

Disability and Social Services Regulation Amendment Act 2023, No. 9/2023

Assent Date: 23.5.23
Commencement Date: S. 265 on 27.3.24: Special Gazette (No. 118) 13.3.24
p. 1
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

**Children and Health Legislation Amendment (Statement of Recognition,
Aboriginal Self-determination and Other Matters) Act 2023, No. 17/2023**

Assent Date: 27.6.23
Commencement Date: S. 21 on 28.6.23: s. 2(1); ss 19, 20, 22–32, 53, 54 on
1.7.24: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

Regulatory Legislation Amendment (Reform) Act 2024, No. 6/2024

Assent Date: 5.3.24
Commencement Date: Ss 9, 10 on 6.3.24: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Child Wellbeing and Safety Act 2005**

3 Explanatory details

No entries at date of publication.