

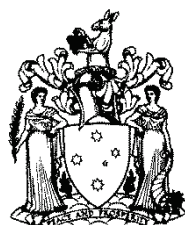
**Authorised Version**  
**Prevention of Family Violence Act 2018**  
**No. 41 of 2018**

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**Authorised Version**



**Victoria**

# **Prevention of Family Violence Act 2018<sup>†</sup>**

**No. 41 of 2018**

[Assented to 11 September 2018]

**The Parliament of Victoria enacts:**

## **Part 1—Preliminary**

### **1 Purposes**

The main purposes of this Act are—

- (a) to establish the Family Violence Prevention Agency and to provide for the functions, powers and duties of the Agency; and
- (b) to establish the Board of the Family Violence Prevention Agency and to provide for the functions of the Board; and

- (c) to provide for the appointment of the chief executive officer of the Family Violence Prevention Agency.

## 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 18 June 2019, it comes into operation on that day.

## 3 Definitions

In this Act—

***Agency*** means the Family Violence Prevention Agency established under section 5;

***Board*** means the Board of the Agency established under section 16;

***chairperson*** means the person appointed as chairperson under section 22;

***chief executive officer*** means the person appointed as chief executive officer under section 24;

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

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

***guidelines of the Secretary*** means guidelines issued, or varied, under section 12;

***guiding principles*** means the principles set out in section 4;

***Ministerial guidelines*** means guidelines issued, or varied, under section 11;

***organisation*** means a person or body that carries out or intends to carry out a program;

*program* means a program in relation to the prevention of family violence and violence against women;

*public sector employee* has the same meaning as in the **Public Administration Act 2004**;

*Secretary* means the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department of Health and Human Services;

*violence against women* means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

#### **4 Guiding principles**

- (1) It is the intention of Parliament that a function, duty or program under this Act be carried out in a way that is consistent with the following principles—
  - (a) that all persons should live in a safe and equal society free from violence;
  - (b) that gender inequality within society is connected to the existence of discrimination, family violence and violence against women and the prevention of these forms of violence contributes to a more equal society;
  - (c) that equality and respect should be promoted across the community, including wherever people live, work, study, learn, engage and play;
  - (d) that the contribution and participation of all persons in the social, cultural, economic and political life of society should be promoted;

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- (e) that gender equality and respectful relationships should be promoted.
- (2) The Parliament does not intend by this section to create in any person any legal right or give rise to any civil cause of action.

## **Part 2—Family Violence Prevention Agency**

### **Division 1—Establishment, functions and powers of the Agency**

#### **5 Family Violence Prevention Agency**

- (1) The Family Violence Prevention Agency is established.
- (2) The Agency—
  - (a) is a body corporate with perpetual succession; and
  - (b) has an official seal; and
  - (c) may sue and be sued in its corporate name given under subsection (1); and
  - (d) may acquire, hold and dispose of real and personal property; and
  - (e) may do and suffer all acts and things that a body corporate may, by law, do and suffer.

#### **6 Functions and powers of the Agency**

- (1) The functions of the Agency are—
  - (a) to provide advice to the Minister on the funding of programs and the programs carried out in accordance with this Act; and
  - (b) to develop a framework for the monitoring of trends in family violence and violence against women and the outcomes of programs; and
  - (c) to make grants, on the approval of the Minister, to organisations to fund the carrying out of programs that promote the guiding principles; and

- (d) to assess and endorse programs carried out by organisations to promote the guiding principles; and
- (e) to provide advice to organisations and government, to ensure the prevention of family violence and violence against women is implemented across the government and the community; and
- (f) to promote the development of programs by organisations by providing advice, information and support to organisations regarding the prevention of family violence and violence against women; and
- (g) to monitor programs carried out by organisations, to ensure programs are promoting and implementing the guiding principles; and
- (h) to undertake research and disseminate that research in relation to—
  - (i) the suitability of particular programs; and
  - (ii) the giving of advice to the government on the funding of programs; and
  - (iii) the providing of guidance to organisations; and
- (i) to provide advice to the Minister to assist in the development of policy and decision-making, in relation to the prevention of family violence and violence against women; and
- (j) to promote awareness in the community of programs, activities and campaigns that achieve the guiding principles; and



- (k) to report to the Minister on the progress of the prevention of family violence and violence against women; and
  - (l) any other prescribed function consistent with the guiding principles.
- (2) The Agency has all the powers that are necessary or convenient to perform the functions of the Agency under this Act or the regulations.

#### **7 Staff of the Agency**

- (1) Any employees that are necessary to enable the Agency to perform its functions may be employed under Part 3 of the **Public Administration Act 2004**.
- (2) The Agency may enter into agreements or arrangements for the use by the Agency of any staff of a Department, statutory authority or other public sector body.

#### **8 Assistance to be provided**

The Secretary must ensure that the Agency is provided with any assistance in connection with the performance of the Agency's functions that the Agency reasonably requires.

#### **9 Agency to have regard to guidelines**

In the performance of a function under this Act the Agency must have regard to any Ministerial guidelines or guidelines of the Secretary that are in force.

#### **10 Grant to carry out a program**

- (1) The Agency, with the approval of the Minister, may make a grant to an organisation to carry out a program.
- (2) The Agency may require the organisation to provide any information necessary to determine whether or not to make the grant.

## **Division 2—Guidelines and business plan**

### **11 Ministerial guidelines**

- (1) The Minister may, from time to time, issue guidelines about the performance of the Agency's functions.
- (2) The Minister must ensure the guidelines are published in the Government Gazette.
- (3) The Minister may vary or revoke guidelines by notice published in the Government Gazette.

### **12 Guidelines of the Secretary**

- (1) Subject to subsection (2), the Secretary may, from time to time, issue guidelines about the performance of the Agency's functions.
- (2) The Secretary must not issue guidelines about a matter that is the same in substance as a Ministerial guideline.
- (3) The Secretary must ensure the guidelines are published in the Government Gazette.
- (4) The Secretary may vary or revoke guidelines by notice published in the Government Gazette.

### **13 Ministerial guidelines to prevail**

In the event of any inconsistency between Ministerial guidelines and guidelines of the Secretary, the Ministerial guidelines prevail to the extent of the inconsistency.

### **14 Business plan**

- (1) The Agency must prepare a business plan each year.
- (2) The Agency must give a copy of the proposed business plan to the Minister on or before the date in each year that is determined by the Minister.

- (3) The proposed business plan must include—
  - (a) a statement of intent, being information about the objectives, activities and performance measures of the Agency; and
  - (b) any other matters that the Minister directs.
- (4) The Minister may approve a proposed business plan or direct any changes that are to be made.
- (5) A business plan may be modified at any time with the agreement of the Minister.

### **Division 3—Reviews of the Agency**

#### **15 Reviews of the Agency**

- (1) The Agency must conduct a review every 3 years of the trends and outcomes in Victoria in relation to the prevention of family violence and violence against women.
- (2) The first review must be conducted in the fourth year of the operation of this Act and be a review of the first 3 years following this Act coming into operation.
- (3) The Agency must provide a report of a review conducted under this section to the Minister.
- (4) The Minister must cause the report provided to the Minister under subsection (3) to be tabled before each House of the Parliament.

## **Part 3—The Board and the chief executive officer**

### **Division 1—Establishment of the Board and appointment of the chief executive officer**

#### **16 The Board of the Agency**

- (1) The Agency is to have a governing body called the Board.
- (2) The Board is responsible for—
  - (a) the oversight and management of the Agency; and
  - (b) ensuring that the roles and functions performed by the Agency comply with the functions of the Agency under this Act.

#### **17 Membership of the Board**

The Board consists of not less than 5, and not more than 8, members appointed under section 18.

#### **18 Appointed members of the Board**

- (1) The Governor in Council may appoint a person to be a member of the Board on the recommendation of the Minister.
- (2) Subject to subsection (3), the Minister may recommend a person if satisfied that—
  - (a) the person has in relation to the performance of the duties and functions as a member of a board the skills, expertise or experience in one of the following areas—
    - (i) communications;
    - (ii) cultural diversity;
    - (iii) law;

- (iv) primary health;
  - (v) financial management;
  - (vi) risk management;
  - (vii) governance;
  - (viii) management of community bodies or bodies corporate; and
- (b) the person has skills, expertise or experience in the prevention of family violence and violence against women in a sector of the community that may include—
- (i) education; or
  - (ii) industry; or
  - (iii) employment; or
  - (iv) sport; or
  - (v) the arts; or
  - (vi) the media.
- (3) The Minister must not recommend a person who is a member of the Parliament of Victoria.

## **19 Remuneration**

A member of the Board, other than a public sector employee, is entitled to the remuneration and allowances determined from time to time by the Governor in Council.

## **20 Terms of office**

A member of the Board—

- (a) holds office for the period (not exceeding 3 years) that is specified in the instrument of appointment; and

- (b) is eligible for reappointment but may not hold office for more than 9 consecutive years, unless the Minister is satisfied that exceptional circumstances exist which justify the member holding office for a longer period.

## **21 Resignation**

A member of the Board may resign from office by written notice given to the Governor in Council.

## **22 Chairperson**

- (1) The Governor in Council may appoint a member of the Board to be chairperson on the recommendation of the Minister.
- (2) The chairperson—
  - (a) holds office for the period (not exceeding 3 years) that is specified in the instrument of appointment; and
  - (b) is eligible for reappointment but may not hold office for more than 6 consecutive years, unless the Minister is satisfied that exceptional circumstances exist which justify the chairperson holding office for a longer period.
- (3) The chairperson may resign from the office of chairperson by written notice given to the Governor in Council.

## **23 Procedure of the Board**

- (1) The chairperson—
  - (a) may at any time convene a meeting of the Board; and
  - (b) must convene a meeting of the Board when requested by a member to do so; and

- (c) must preside at any meeting of the Board at which the chairperson is present; and
  - (d) has a deliberative vote and a casting vote.
- (2) The quorum for a meeting of the Board is a majority of the members of the Board for the time being.
  - (3) Subject to this Act, the Board may regulate its own proceedings.

#### **24 Chief executive officer**

- (1) Subject to subsection (2) the Board may appoint a chief executive officer of the Agency.
- (2) The Board must not appoint a chief executive officer that the Minister has not approved.
- (3) The Board must not appoint a member of the Board to be the chief executive officer.
- (4) The chief executive officer is to be employed under Part 3 of the **Public Administration Act 2004**.

#### **25 Functions and powers of the chief executive officer**

- (1) The functions of the chief executive officer are—
  - (a) to establish and maintain the organisational structure of the Agency; and
  - (b) to manage the day to day operations of the Agency in accordance with its business plan and budget and any directions of the Board; and
  - (c) to prepare reports for consideration by the Board as required; and
  - (d) to assist the Board in the performance of its functions, including by assisting any sub-committees established by the Board; and

- (e) to ensure that decisions of the Board are implemented throughout the Agency; and
  - (f) to inform the Board of any issues of public concern or risk that affect or may affect the Agency; and
  - (g) to inform the Secretary and the Minister of any significant issues of public concern or risk that affect or may affect the Agency.
- (2) Subject to this Act, the chief executive officer has the power to do all things necessary or convenient to be done for, or in connection with, the performance of the chief executive officer's functions.

## **Division 2—Reporting of the Board**

### **26 Reports of the Board to the Minister and the Secretary**

- (1) The Board must report to the Minister and the Secretary any significant decisions of the Board and any issues of public concern or risk that affect the Agency.
- (2) The Board must include in a report referred to in subsection (1) any advice that the Minister or the Secretary may require on the matters contained in it.

### **27 Report of the Board on the financial performance of the Agency**

- (1) The Board must prepare a report on the financial performance of the Agency during the financial year ending on the preceding 30 June.
- (2) The Board must cause a report under subsection (1) to be laid before each House of the Parliament as soon as practicable after the end of the financial year to which it relates.



## **Part 4—General**

### **28 Regulations**

- (1) The Governor in Council may make regulations for or with respect to—
  - (a) prescribing functions of the Agency that are consistent with the guiding principles; and
  - (b) generally prescribing any other 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 a specified class of persons or bodies.

## **Part 5—Amendment of the Public Administration Act 2004 and repeal of this Part**

### **Division 1—Amendment of the Public Administration Act 2004**

#### **29 Persons with functions of public service body Head**

After section 16(1)(b) of the **Public  
Administration Act 2004** insert—

"(baa) the chairperson of the Board of the Family  
Violence Prevention Agency within the  
meaning of the **Prevention of Family  
Violence Act 2018** in relation to the Family  
Violence Prevention Agency;"

### **Division 2—Repeal of Part 5**

#### **30 Repeal of amending Part**

This Part is **repealed** on 18 June 2020.

#### **Note**

The repeal of this Part does not affect the continuing  
operation of the amendments made by it (see section 15(1)  
of the **Interpretation of Legislation Act 1984**).

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

<sup>†</sup> *Minister's second reading speech—*

*Legislative Assembly: 20 June 2018*

*Legislative Council: 9 August 2018*

The long title for the Bill for this Act was "A Bill for an Act to establish the Family Violence Prevention Agency and the Board of the Family Violence Prevention Agency and to appoint the chief executive officer and for other purposes."