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**INDEX**
The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purposes†

   The main purposes of this Act are—

   (a) to protect the public by providing for the registration of psychologists and investigations into the professional conduct and fitness to practise of registered psychologists; and

   (b) to regulate the advertising relating to the provision of psychological services; and
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(c) to establish the Psychologists Registration Board of Victoria and the Psychologists Registration Board Fund; and

(d) to repeal the Psychologists Registration Act 1987 and make consequential amendments to other Acts; and

(e) to provide for other related matters.

2. Commencement

(1) Subject to sub-section (2), this Act (including the items in the Schedule), comes into operation on a day or days to be proclaimed.

(2) If a provision referred to in sub-section (1) does not come into operation before 1 June 2001, it comes into operation on that day.

3. Definitions

In this Act—

"alcoholic" has the same meaning as in the Alcoholics and Drug-dependent Persons Act 1968;

"Board" means the Psychologists Registration Board of Victoria established under Part 6;

"drug-dependent person" has the same meaning as in the Alcoholics and Drug-dependent Persons Act 1968;

"Fund" means the Psychologists Registration Board Fund established under Part 7;

"Health Services Commissioner" means the Health Services Commissioner within the meaning of the Health Services (Conciliation and Review) Act 1987;

"lawyer" means a person admitted to practise as a barrister and solicitor of the Supreme Court;
"professional indemnity insurance" includes insurance against civil liability in connection with the practice of psychology and an agreement or arrangement for discretionary indemnity in respect of that liability;

"register" means the register of psychologists kept under Part 2;

"registered medical practitioner" means a registered medical practitioner within the meaning of the Medical Practice Act 1994;

"registered probationary psychologist" means a person registered under Part 2 as a probationary psychologist;

"registered psychologist" means a person registered under Part 2, whether the registration is general, specific or probationary;

"unprofessional conduct" means all or any of the following—

(a) professional conduct which is of a lesser standard than that which the public might reasonably expect of a registered psychologist; or

(b) professional conduct which is of a lesser standard than that which might reasonably be expected of a registered psychologist by his or her peers; or

(c) professional misconduct; or

(d) infamous conduct in a professional respect; or

(e) providing a person with health services of a kind that is excessive, unnecessary or not reasonably required for that person's well-being; or
(f) influencing or attempting to influence the conduct of a psychology practice in such a way that patient care may be compromised; or

(g) the failure to act as a psychologist when required under an Act or regulations to do so; or

(h) the contravention of or failure to comply with a condition, limitation or restriction on the registration of the psychologist imposed by or under this Act; or

(i) a finding of guilt of—

   (i) an indictable offence in Victoria, or an equivalent offence in another jurisdiction; or

   (ii) an offence where the psychologist's ability to continue to practise is likely to be affected because of the finding of guilt or where it is not in the public interest to allow the psychologist to continue to practise because of the finding of guilt; or

   (iii) an offence under this Act or the regulations; or

   (iv) an offence as a registered psychologist under any other Act or regulations.
PART 2—REGISTRATION

Division 1—Procedure for Obtaining Registration

4. Application for registration

(1) A natural person may apply to the Board for registration as a psychologist.

(2) An application must be in writing and—

(a) contain—

(i) details of any information required by section 21;

(ii) a postal address for the applicant that will appear on the register;

(iii) any other prescribed information; and

(b) specify the type of registration applied for; and

(c) be accompanied by—

(i) evidence of the qualifications which the applicant claims entitle him or her to the type of registration applied for; and

(ii) the fee fixed by the Board.

(3) The Board may require—

(a) the applicant to provide evidence that the applicant will, at the time of commencing to practise psychology, be covered by professional indemnity insurance that meets the minimum terms and conditions set out in the guidelines of the Board; and

(b) the applicant to provide further information or material in respect of the application; and
(c) that the information in the application be verified by a declaration under section 107 of the Evidence Act 1958; and

(d) proof of identity of the person making the application.

5. Qualifications for general registration

A person is qualified for general registration as a psychologist if the person has—

(a) successfully completed a course of study approved by the Board for the purposes of general registration which includes a period of supervised study or training as a registered probationary psychologist; or

(b) successfully completed a course of study approved by the Board and then completed a period of supervised study or training as a registered probationary psychologist required by the Board and approved by the Board prior to its commencement; or

(c) in the opinion of the Board, has a qualification and experience that is substantially equivalent or is based on similar competencies to the requirements of paragraph (a) or (b); or

(d) has passed an examination set by or on behalf of the Board; or

(e) has a qualification that is recognised in another State or Territory of the Commonwealth for the purposes of undertaking work of a similar nature to that which a person, who is qualified in accordance with paragraph (a), (b), (c) or (d), is qualified to undertake.
6. General registration

(1) The Board must grant general registration as a psychologist to an applicant, if—

(a) the applicant is qualified for registration under section 5; and

(b) there are no grounds under sub-section (2) under which the Board may refuse to grant registration to the applicant; and

(c) the circumstances are such that section 7 and 8 do not apply; and

(d) the applicant has provided the information required under section 4;

(e) the applicant has paid the fee required by section 4(2)(c).

(2) The Board may refuse to grant registration to an applicant on any one or more of the following grounds—

(a) that the character of the applicant is such that it would not be in the public interest to allow the applicant to practise as a registered psychologist;

(b) that the applicant is unfit to practise as a registered psychologist because he or she is an alcoholic or drug-dependent person;

(c) that the applicant has been found guilty of an indictable offence in Victoria or an equivalent offence in another jurisdiction;

(d) that the applicant has been found guilty of an offence where the ability of the applicant to practise is likely to be affected because of the finding of guilt or where it is not in the public interest to allow the applicant to practise because of the finding of guilt;
(e) that the applicant has previously been registered under this Act or the **Psychologists Registration Act 1987** and during the course of that registration has had proceedings under Part 3 or similar proceedings under the **Psychologists Registration Act 1987** brought against him or her and those proceedings have never been finalised;

(f) that, in the opinion of the Board, the applicant is unfit to be registered because he or she has a physical or mental incapacity which significantly impairs his or her ability to practise as a registered psychologist;

(g) that the applicant's competency in speaking or otherwise communicating in English is not sufficient for that person to practise as a registered psychologist;

(h) that the applicant has previously held a right to practise as a psychologist in another State or Territory or another country, being the equivalent of registration as a psychologist under this Act, and that right has been cancelled or suspended and not restored because of conduct which, if committed within Victoria, would entitle the Board to suspend or cancel the registration;

(i) that, in the opinion of the Board the psychologist does not have adequate arrangements for professional indemnity insurance that meet the minimum terms and conditions set out in the guidelines of the Board.

(3) The Board may impose any condition, limitation or restriction it thinks appropriate on the
registration of a psychologist including a condition—

(a) that—

(i) the psychologist must hold professional indemnity insurance; or

(ii) the psychological care or services provided by the psychologist must be covered by professional indemnity insurance; or

(iii) the psychologist must be specified or referred to in professional indemnity insurance, whether by name or otherwise, as a person to whom the professional indemnity insurance extends even though the psychologist is not a party to the professional indemnity insurance; and

(b) that the professional indemnity insurance must meet the minimum terms and conditions set out in the guidelines of the Board.

(4) If the psychologist’s arrangements satisfy the minimum terms and conditions set out in the guidelines of the Board, the Board must not—

(a) refuse to grant registration on the basis that the psychologist’s arrangements for professional indemnity insurance are in the form of insurance or a discretionary indemnity; or

(b) impose a condition on the registration of a psychologist to require that the psychologist’s arrangements for professional indemnity insurance must be in the form of insurance or a discretionary indemnity.
(5) The Board may, upon application by the registered psychologist, amend, vary or revoke any condition, limitation or restriction imposed under sub-section (3).

(6) If the Board refuses a person registration under sub-section (2)(a), the Board may notify the applicant of the course of study, training or supervised practice that the Board requires before the applicant may resubmit his or her application to the Board for reconsideration.

7. Specific registration

(1) The Board may grant or refuse to grant specific registration as a psychologist to an applicant who holds qualifications in psychology which do not qualify that applicant for general registration—

(a) to enable that applicant to fill a teaching or research position in psychology at a tertiary institution approved by the Board; or

(b) to enable an applicant from another country to practise in Victoria for a limited period with the prior permission of the Board.

(2) A grant of specific registration under this section is subject to any condition, limitation or restriction imposed by the Board under sub-section (3).

(3) The Board may impose any condition, limitation or restriction it thinks appropriate on granting specific registration including a condition—

(a) that—

(i) the psychologist must hold professional indemnity insurance; or

(ii) the psychological care or services provided by the psychologist must be covered by professional indemnity insurance; or
(iii) the psychologist must be specified or referred to in professional indemnity insurance, whether by name or otherwise, as a person to whom the professional indemnity insurance extends even though the psychologist is not a party to the professional indemnity insurance; and

(b) that the professional indemnity insurance must meet the minimum terms and conditions set out in the guidelines of the Board.

(4) If the psychologist's arrangements satisfy the minimum terms and conditions set out in the guidelines of the Board, the Board must not—

(a) refuse to grant registration on the basis that the psychologist's arrangements for professional indemnity insurance are in the form of insurance or a discretionary indemnity; or

(b) impose a condition on the registration of the psychologist to require that the applicant's arrangements for professional indemnity insurance must be in the form of insurance or a discretionary indemnity.

(5) The Board may upon application by the psychologist granted specific registration, amend, vary or revoke any condition, limitation or restriction imposed under sub-section (3).

8. Probationary registration

(1) The Board may grant or refuse to grant registration as a probationary psychologist to a person who has successfully completed a course of study approved by the Board for the purpose of section 5, to enable that person to undertake—
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(a) a period of study (including supervised study or training) required by section 5(a);

(b) a period of supervised study or training required by section 5(b).

(2) The registration of a person as a probationary psychologist under this section—

(a) continues in force for the period specified by the Board; and

(b) is subject to any condition, limitation or restriction imposed by the Board.

(3) The Board may, upon application by the probationary psychologist, amend, vary or revoke any condition, limitation or restriction on the registration of that probationary psychologist.

9. Entitlement of applicant to make submissions

If the Board is proposing to refuse an application for registration or to impose conditions, limitations or restrictions on the registration of an applicant, the Board must not do so until—

(a) it has given the applicant notice of this proposal; and

(b) it has given the applicant an opportunity to make submissions to the Board about the proposal.

10. Notification of outcome of application

(1) Upon determining an application for registration under this Part, the Board must notify the applicant as to whether or not registration has been granted to the applicant.

(2) A notice under sub-section (1) must include the following information—

(a) if the registration has been granted—
(i) the type of registration granted and the conditions that are imposed on the registration;

(ii) if the registration is specific, the period of the registration;

(iii) whether or not any other conditions, limitations or restrictions have been imposed on the registration and, if so, the reasons for imposing those conditions, limitations or restrictions; or

(b) if the registration has not been granted—

(i) the reasons why it has not been granted; and

(ii) a statement that the applicant has a right to obtain a review of the decision not to grant registration.

11. Duration and renewal of registration

(1) The registration of a psychologist which is not specific or probationary continues in force until 31 December in the year next following the grant of registration.

(2) The renewal of registration of a psychologist which is not specific or probationary continues in force until 31 December next following the grant or renewal of registration.

(3) The specific registration of a psychologist or the renewal of such registration continues in force for the period specified by the Board not exceeding 12 months following the grant or renewal of that registration.

12. Application for renewal of and refusal to renew registration
(1) An application for renewal of registration which is not probationary—
   (a) must be made to the Board before the existing registration expires; and
   (b) must be accompanied by—
      (i) the fee fixed by the Board; and
      (ii) details of any information required by section 21.

(2) The Board may require an applicant to provide evidence that the applicant will be covered by professional indemnity insurance that meets the minimum terms and conditions set out in guidelines of the Board.

(3) If a person does not apply for renewal of registration before the end of the existing registration period, the Board may renew that person's registration if the application is made within 3 months after the end of the registration period and if the applicant pays an additional fee fixed by the Board which must not be more than 50% of the original fee.

(4) If a person's registration has expired without being renewed that person is deemed to be registered for a period of 3 months after that expiry, and if, at the end of that period of 3 months, that person has not renewed his or her registration, the Board must remove that person's name from the register.

(5) The Board may refuse to renew the registration of an applicant under this Part on any ground on which the Board might refuse to grant registration.

13. **Recognition of other qualifications**

   (1) The Board, from time to time, may recognise any qualifications that the Board considers to be
relevant to the practise of psychology in addition to those required for registration.

(2) An applicant for registration under section 6 or a person registered under section 6 may apply to the Board to have particulars of any qualifications that are recognised by the Board, in addition to those approved for registration, noted on the register against the name of that psychologist.

(3) An application must be in writing and be accompanied by the fee (if any) for the application fixed by the Board together with evidence of the qualifications that the applicant wants to have noted on the register in addition to the qualifications approved for registration purposes.

(4) The Board must publish a list of the qualifications recognised under this section at least once a year in a publication circulating among psychologists generally and make the list available for inspection during normal business hours at the office of the Board without charge.

14. Restraoration of name to the register

If a person whose name has been removed from the register under section 12(3)—

(a) applies to the Board within 2 years from the date of that removal to have his or her name restored to the register; and

(b) pays to the Board the fees fixed by the Board for the restoration—

the Board may restore that person’s name to the register.

15. Effect of suspension of registration

For the purposes of this Act, a psychologist whose registration is suspended is deemed to be not registered for the period of that suspension.
16. Registration obtained by fraud

(1) If the Board believes that the registration of a psychologist has been obtained by fraud or misrepresentation or that the qualifications upon which the psychologist relied for registration have been withdrawn the Board must conduct a hearing into the matter.

(2) The Board must give notice of the time and place of the hearing to the psychologist.

(3) The provisions applying to the conduct of a formal hearing under Part 3 apply to a hearing under this section as if the hearing under this section were a formal hearing.

(4) If, at the end of the hearing, the Board determines that the registration of the psychologist has been obtained by fraud or misrepresentation or that the qualifications upon which the psychologist has relied for registration have been withdrawn, the Board must cancel the registration of the psychologist.

Division 2—Other Requirements

17. The register

(1) The Board must cause to be kept a register of all psychologists to whom the Board has granted registration under this Act.

(2) The register is to be called the Register of Psychologists.

(3) The following particulars must be included on the register against the name of the psychologist to whom they apply—

(a) details of the type of registration;

(b) any current suspension of the registration of the psychologist;
(c) any current condition, limitation or restriction imposed on the registration of the psychologist;

(d) any qualifications recognised by the Board in addition to those approved for registration purposes;

(e) the postal address where the registered psychologist can be contacted by mail;

(f) the prescribed information.

(4) The register may be inspected at the office of the Board by any person during ordinary office hours without charge.

(5) A person may obtain a copy of or an extract from the register on payment of the fee fixed by the Board.

(6) A registered psychologist's private address must not appear on that part of the register which is open to the public for inspection, unless—

(a) the private address is also the postal address nominated by the psychologist; or

(b) the psychologist so authorises.

18. Certificates

(1) Upon—

(a) granting registration to a person under this Part; or

(b) renewing the registration of a person under this Part—

the Board must issue a certificate of registration to that person.

(2) The following particulars must be included on a certificate of registration—

(a) details of the type of registration;
(b) any condition, limitation or restriction imposed on the registration of the psychologist;

(c) any qualifications recognised by the Board in addition to those approved for registration purposes;

(d) the prescribed information.

(3) If the Board notifies a registered psychologist of any condition, limitation or restriction imposed on the psychologist's registration, the psychologist must return the certificate of registration to the Board for endorsement of the certificate with details of the conditions, limitations or restrictions within 28 days after the giving of the notice.

Penalty: 20 penalty units.

19. Use of certificate as evidence

A certificate purporting to be signed by the President or any two members of the Board to the effect that—

(a) a psychologist is or is not or was or was not, at any specified date, registered; or

(b) that any disciplinary or other action is or is not or was or was not, at any specified date, being taken against that psychologist—

is evidence, and, in the absence of evidence to the contrary, is proof of the matters stated in it.

20. Requirement to notify the Board of change of address

A registered psychologist must notify the Board in writing of any change of the address of the psychologist which appears on the register within 14 days after that change.

Penalty: 10 penalty units.

21. Provision of information
(1) If a person has claimed damages or other compensation from a registered psychologist for alleged negligence in the course of practising psychology, the person must provide the Board with information about the amount of damages or other compensation that the psychologist is ordered by a court to pay within 30 days after the order is made.

Penalty: 50 penalty units.

(2) Sub-section (1) does not apply if—
(a) the amount is less than any amount fixed by the Board for the purposes of this section; or
(b) the court orders that the terms of the order should not be disclosed.

(3) If a registered psychologist has in respect of an indictable offence—
(a) been committed for trial; or
(b) been convicted or found guilty of the offence—
the person must notify the Board within 30 days after that commitment, conviction or finding of guilt.

Penalty: 50 penalty units.

(4) An applicant for registration or renewal of registration as a psychologist must ensure that details of any of the matters referred to in this section are set out in the application.

Penalty: 50 penalty units.

(5) The Board, by notice published in the Government Gazette, may fix an amount of damages or compensation referred to in this section.
PART 3—INVESTIGATIONS INTO REGISTERED PSYCHOLOGISTS

Division 1—Preliminary investigations into professional conduct

22. Complaints about the professional conduct of psychologists

(1) A person may make a complaint about a registered psychologist to the Board.

(2) A person may make a complaint to the Board about a person who was a registered psychologist but ceased to be registered psychologist if the complaint relates to conduct of the other person at a time when the other person was a registered psychologist.

23. When complaints about professional conduct are to be investigated by Health Services Commissioner

(1) If the Board receives a complaint about a registered psychologist, and the complaint is of a kind which may be made under the Health Services (Conciliation and Review) Act 1987, the Board must notify the Health Services Commissioner and give a copy of the complaint to the Health Services Commissioner as soon as possible after it has received the complaint.

(2) The Board, in consultation with the Health Services Commissioner, must determine whether or not the complaint is to be dealt with by the Commissioner or the Board.

(3) The Health Services (Conciliation and Review) Act 1987 applies to a complaint made under this Part which is to be dealt with by the Health Services Commissioner as if the complaint were made under Part 3 of that Act.
(4) The Board must not deal further with a complaint made under this Part that is to be dealt with by the Health Services Commissioner unless the Health Services Commissioner refers the matter back to the Board under section 19(6) of the Health Services (Conciliation and Review) Act 1987.

(5) If a complaint has been referred to and is being dealt with by the Health Services Commissioner, the Commissioner must advise the Board, when the matter is completed, of the outcome of the matter.

24. When complaints about professional conduct are to be investigated by the Board

(1) The Board must investigate a complaint concerning the professional conduct of a registered psychologist unless—

(a) the complaint is to be dealt with by the Health Services Commissioner under section 23; or

(b) the Board has determined the complaint to be frivolous or vexatious.

(2) In order to determine whether or not it is necessary to conduct a formal or informal hearing into a complaint, the Board must conduct a preliminary investigation into the complaint.

(3) The Board may, in writing, delegate to—

(a) an officer of the Board; or

(b) an investigator retained by the Board; or

(c) a member of the Board or a number of members not exceeding 3—

its power to conduct a preliminary investigation into a complaint, other than its power to make determinations upon a preliminary investigation.
25. **Outcome of preliminary investigation**

(1) Upon completing a preliminary investigation, the person or persons conducting the investigation may make one of the following recommendations—

(a) that the investigation into the matter should not proceed further; or

(b) that an informal or formal hearing should be held into the matter.

(2) The Board must determine whether or not to act on the recommendations of any person conducting the preliminary investigation.

26. **Board may institute a hearing into professional conduct**

The Board may, of its own motion, determine to conduct a formal or informal hearing into the professional conduct of a registered psychologist without conducting a preliminary investigation.

27. **Suspension of registration upon commencement of investigation**

(1) The Board, after making a determination—

(a) to conduct a preliminary investigation into a complaint made to the Board about the professional conduct of a registered psychologist; or

(b) to conduct a formal or informal hearing into the professional conduct of a registered psychologist without preliminary investigation—

may suspend the registration of the psychologist until any investigation and any hearing into the matter is completed if the Board is of the opinion that it is necessary to do so because there is a
serious risk that the health and safety of the public will be endangered.

(2) If the Board has suspended the registration of a psychologist under sub-section (1), it must—

(a) immediately notify the psychologist of that suspension; and

(b) ensure that the matter is investigated as soon as possible after that suspension.

Division 2—Preliminary investigation into the health of registered psychologists

28. Commencement of preliminary investigation

If the Board believes the ability of a registered psychologist to practise psychology may be affected because—

(a) of the physical or mental health of the psychologist; or

(b) the psychologist has an incapacity; or

(c) the psychologist is an alcoholic or drug-dependent person—

the Board may appoint one of its members to conduct a preliminary investigation into the matter.

29. Notification to psychologist

(1) The member of the Board appointed to investigate the matter must give notice of the preliminary investigation to the psychologist.

(2) A notice under sub-section (1) must—

(a) be in writing; and

(b) be sent by registered post as soon as possible after the Board's decision has been made; and
(c) advise the psychologist of the nature of the matter to be investigated; and

(d) ask the psychologist to advise the Board as to whether or not he or she will agree to undergo a medical examination within 28 days after receiving the notice; and

(e) advise the psychologist of the procedures that can be taken under this Part.

30. **Medical examination**

(1) If the psychologist agrees to undergo a medical examination within 28 days, the psychologist must be examined by a registered medical practitioner who is agreed upon by the Board and the psychologist.

(2) If the Board and the psychologist are unable to agree upon a registered medical practitioner to conduct the examination, the Minister must appoint a registered medical practitioner to perform the examination.

(3) The Board must pay for the examination.

31. **Report of examination**

(1) The examining medical practitioner must give a report of his or her examination to the member of the Board appointed to investigate the matter, and, not more than 7 days later, to the psychologist being investigated.

(2) The person appointed to investigate the matter must discuss the report with the psychologist, and, in the case of an adverse finding in the report, the possible ways of dealing with that finding.

(3) After discussing the report with the psychologist, the person appointed to investigate the matter must report to the Board.
(4) Despite sub-section (1), if the report contains information of a medical or psychiatric nature concerning the psychologist, and it appears to the person appointed to conduct the investigation that the disclosure of that information to the psychologist might be prejudicial to the physical or mental health or well being of the psychologist, the investigator may decide not to give that information to the psychologist but to give it instead to a registered medical practitioner and to a registered psychologist that are nominated by the psychologist who is the subject of the examination.

(5) Before acting under sub-section (4), the investigator must report to the Board and, if the investigator is not a psychologist and the Board is of the opinion that it is necessary for the investigation of the matter to be continued by a psychologist, the Board may appoint a psychologist to continue the investigation.

32. Outcome of preliminary investigation

(1) If, after considering the report given under section 31, the Board decides that further action should be taken, the Board must ask the psychologist whether or not he or she is prepared to agree to—

(a) alter the way in which he or she practises psychology; or

(b) the imposition of conditions, limitations or restrictions on his or her registration; or

(c) the suspension of his or her registration for the period of time specified by the Board.

(2) The Board may take any action that is necessary to implement an agreement under sub-section (1).
33. **Referral to formal hearing**

If a registered psychologist who is the subject of a preliminary investigation under this Division—

(a) does not agree to undergo a medical examination or does not abide by an agreement to undergo a medical examination; or

(b) does not reach an agreement with the Board under section 32 or does not abide by an agreement reached with the Board under section 32—

the Board may refer the matter to a formal hearing.

34. **Request for suspension of registration or conditions, limitations or restrictions**

(1) A registered psychologist who believes that his or her ability to practise psychology is affected because—

(a) of his or her physical or mental health; or

(b) he or she has an incapacity; or

(c) he or she is an alcoholic or drug-dependent person—

may ask the Board to suspend the psychologist's registration or impose a condition, limitation or restriction on his or her practice.

(2) If the Board and the psychologist agree upon the suspension of registration or the condition, limitation or restriction to be imposed, the Board may suspend the registration or impose the condition, limitation or restriction.

(3) If the psychologist and the Board do not agree upon the suspension of registration or the condition, limitation or restriction to be imposed,
the Board must refer the matter to a preliminary investigation.

35. Revocation of suspension of registration or condition, limitation or restriction imposed on registration

The Board may revoke a condition, limitation or restriction imposed on the registration of a registered psychologist or the suspension of a registered psychologist's registration, if the psychologist satisfies the Board that his or her ability to practise psychology is no longer affected.

36. Immediate suspension of registration

(1) If the Board has referred a matter to a formal hearing under this Division, the Board may suspend the registration of the psychologist until the hearing is completed, if the Board is of the opinion that the ability of the psychologist to practise psychology is affected to such an extent that to allow the psychologist to continue to practise would pose a serious risk that the health and safety of the public will be endangered.

(2) If the Board has suspended the registration of a psychologist under sub-section (1), it must—

(a) immediately notify the psychologist of that suspension; and

(b) ensure that the matter is investigated as soon as possible after that suspension.

Division 3—Formal and Informal Hearings

37. Establishment and notification of an informal hearing

If the Board has determined that an informal hearing be held into the professional conduct of a
registered psychologist under section 25 or 26, the Board must—

(a) appoint a panel to hold the hearing; and

(b) fix a time and place for the hearing to be held; and

(c) by registered post, serve a notice on the psychologist which complies with section 39; and

(d) serve notice on any complainant by registered post under section 56(4)(a) and (b).

38. Constitution of a panel for an informal hearing

(1) A panel appointed under section 37 is to consist of not more than 3 persons—

(a) who are to be members of the Board; and

(b) of whom, at least 1 is to be a psychologist registered under section 6.

(2) If—

(a) the Board is unable to appoint a panel because there are not enough members available to sit on it; or

(b) the Board is of the opinion that a person with special expertise is required for the hearing—

the President or, in the absence of the President, the Deputy President may fill the vacant positions on the panel by appointing persons who are not members of the Board from a list of persons approved by the Governor in Council under sub-section (4).

(3) A person who has undertaken a preliminary investigation of the matter is not entitled to be a member of the panel.
(4) The Governor in Council, on the recommendation of the Minister, may approve persons who are not members of the Board to be available to be appointed to a panel under sub-section (2).

39. **Notice of an informal hearing**

A notice of an informal hearing under section 37 must—

(a) state the nature of the hearing and the allegations made against the psychologist; and

(b) give the time and place of the hearing; and

(c) state that the psychologist may choose to have the matter determined by a formal hearing and state the differences between a formal and informal hearing; and

(d) state that there is no right to legal representation at the hearing, but that the psychologist is entitled to be present and to make submissions and to be accompanied by another person; and

(e) state that the hearing is not open to the public; and

(f) list the possible findings the panel can make or orders the panel can give.

40. **Conduct of an informal hearing**

At an informal hearing—

(a) the panel must hear and determine the matter before it; and

(b) the psychologist who is the subject of the hearing is entitled to be present, to make submissions and to be accompanied by another person but is not entitled to be represented; and
(c) the proceedings of the hearing must not be open to the public.

41. Findings and determinations of an informal hearing

(1) After considering all the submissions made to the hearing the panel may find either—
   (a) that the psychologist has, whether by act or omission, engaged in unprofessional conduct which is not of a serious nature; or
   (b) that the psychologist has not engaged in unprofessional conduct.

(2) If the panel finds that the psychologist has, whether by act or omission, engaged in unprofessional conduct which is not of a serious nature, the panel may make one or more of the following determinations—
   (a) that the psychologist undergo counselling;
   (b) that the psychologist be cautioned;
   (c) that the psychologist be reprimanded;
   (d) that the psychologist undertake further education of the kind stated in the determination and complete it within the period specified in the determination.

42. Change of informal hearing to formal hearing during course of hearing

If, before the end of the hearing—
   (a) the psychologist who is the subject of the hearing fails to attend the hearing without good cause; or
   (b) the psychologist requests that a formal hearing be held; or
(c) the panel is of the opinion that a formal hearing should be held—

the panel must abandon the informal hearing and refer the matter to a formal hearing.

43. **Request for formal hearing upon completion of informal hearing**

Upon the completion of an informal hearing, the psychologist who was the subject of the hearing may request that a formal hearing be held to review any findings and determinations of the informal hearing.

44. **Establishment and notification of formal hearing**

If—

(a) the Board has determined that a formal hearing be held under section 25 or 26 or has referred a matter to a formal hearing under section 33; or

(b) a psychologist has requested a formal hearing under section 43; or

(c) a panel has referred a matter to a formal hearing under section 41—

the Board must—

(d) appoint a panel to hold the hearing; and

(e) fix a time and place for the hearing to be conducted; and

(f) serve a notice on the psychologist by registered post which complies with section 46; and

(g) serve a notice on any complainant by registered post under section 56(4)(a) and (b).
45. Constitution of a hearing panel for a formal hearing

(1) A panel appointed under section 42 must consist of not less than 3 persons—

(a) who are to be members of the Board; and

(b) of whom 1 is to be a lawyer and at least 1 is to be a psychologist registered under section 6.

(2) If—

(a) the Board is unable to appoint a panel because there are not enough members available to sit on it; or

(b) the Board is of the opinion that a person with special expertise is required for the hearing—

the President or, in the absence of the President, the Deputy President may fill the vacant positions on the panel by appointing persons who are not members of the Board from a list of persons approved by the Governor in Council under sub-section (4).

(3) The following people are not entitled to be members of a panel for a formal hearing—

(a) a person who has undertaken a preliminary investigation of the matter which is the subject of the hearing;

(b) a person who has been a member of a panel which held an informal hearing into the matter.

(4) The Governor in Council, on the recommendation of the Minister, may approve persons who are not members of the Board to be available to be appointed to a panel under sub-section (2).
46. Notice of a formal hearing

A notice of a formal hearing under section 44 must—

(a) state the nature of the hearing and the allegations made against the psychologist; and

(b) give the time and place of the hearing; and

(c) state that there is a right to make submissions and to be represented, that the hearing is open to the public, list the possible findings the panel can make and state that there is a right to apply for a review of the panel's findings.

47. Conduct of a formal hearing

At a formal hearing—

(a) the hearing panel must hear and determine the matter before it; and

(b) the psychologist who is the subject of the hearing is entitled to be present, to make submissions and to be represented; and

(c) if the hearing arises out of a complaint, the identity of the complainant is not to be published or broadcast and the complainant—

   (i) in the case of a proceeding which has not been closed under paragraph (d), is entitled to be present; and

   (ii) if not called as a witness, may make submissions with the permission of the Board; and

(d) the proceedings are to be open to the public unless the panel determines that the proceedings should be closed because the
hearing is taking evidence of intimate, personal or financial matters; and

(e) if the panel has determined that the proceedings are closed, the panel may determine that the identity of any witness giving evidence in the proceedings is not to be published or broadcast; and

(f) the panel may determine that any information that might enable the psychologist who is the subject of the hearing to be identified prior to the making of a final determination must not be published if the panel considers it necessary to do so to avoid prejudicing the administration of justice or for any other reason in the interests of justice.

48. Findings and determinations of a formal hearing into conduct

(1) After considering all the submissions made to a formal hearing into the professional conduct of a registered psychologist the panel may find that—

(a) the psychologist has, whether by act or omission, engaged in unprofessional conduct of a serious nature; or

(b) the psychologist has, whether by act or omission, engaged in unprofessional conduct which is not of a serious nature; or

(c) the psychologist has not engaged in unprofessional conduct.

(2) If the panel finds that the psychologist has, whether by act or omission, engaged in unprofessional conduct of a serious nature, the panel may make one or more of the following determinations—
(a) require the psychologist to undergo counselling;
(b) caution the psychologist;
(c) reprimand the psychologist;
(d) require the psychologist to undertake further education of the kind stated in the determination and to complete it within the period specified in the determination;
(e) impose conditions, limitations or restrictions on the registration of the psychologist;
(f) impose a fine on the psychologist of not more than $2000;
(g) suspend the registration of the psychologist for the period specified in the determination;
(h) cancel the registration of the psychologist.

(3) If the panel finds under sub-section (1)(b) that the psychologist has, whether by act or omission, engaged in unprofessional conduct which is not of a serious nature, the panel may make any determination which a panel at an informal hearing is able to make upon making such a finding.

(4) The panel must not impose a fine where the conduct which is the subject of the finding has resulted in a fine being imposed by another tribunal or court of law.

(5) If the panel has made an order under sub-section (2)(a), (d) or (f) and the psychologist has not complied with the order within the time specified in the order, the Board may suspend the psychologist's registration until the order is complied with.
49. Findings and determinations of a formal hearing into ability to practise

(1) After considering all the submissions made to a formal hearing into the ability to practise of a registered psychologist, the panel may find that—

(a) the ability of the psychologist to practise is affected because—

(i) of the physical or mental health of the psychologist; or

(ii) the psychologist has an incapacity; or

(iii) the psychologist is an alcoholic or drug-dependent person; or

(b) the ability of the psychologist is not affected.

(2) If the panel makes a finding under sub-section (1)(a), the panel may make one or more of the following determinations—

(a) to impose conditions, limitations or restrictions on the registration of the psychologist;

(b) to suspend the registration of the psychologist for the period and subject to the conditions, limitations and restrictions, if any, specified in the determination.

Division 4—General Provisions relating to Investigations

50. Investigation may continue even if person no longer registered

(1) The Board may—

(a) conduct an investigation into a complaint referred to in section 22(2) and make a finding or determination under this Part;
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(b) conduct a hearing and make a finding or determination under this Part in relation to a complaint under section 22(2)—
as if the person referred to in that complaint were a registered psychologist.

(2) The Board may—

(a) conduct or continue to conduct an investigation into the professional conduct of a person who has ceased to be a registered psychologist but who was a registered psychologist at the time a complaint was made or the Board had determined to conduct an investigation into the conduct and make a finding or determination under this Part;

(b) conduct or continue to conduct a hearing and make a finding or determination under this Part in relation to a person who has ceased to be a registered psychologist but was a registered psychologist at the time the Board had determined to conduct a hearing into the conduct—
as if the person were a registered psychologist.

51. Procedure at formal and informal hearings

At a formal or informal hearing—

(a) subject to this Part, the procedure of a panel is in its discretion; and

(b) the proceedings must be conducted with as little formality and technicality as the requirements of this Act and the proper consideration of the matter permit; and
(c) a panel is not bound by rules of evidence but may inform itself in any way it thinks fit; and

(d) a panel is bound by the rules of natural justice.

52. Powers of panel conducting a formal hearing

Sections 14, 15, 16 and 21A of the Evidence Act 1958 apply to a panel in the conduct of a formal hearing as if it were a Board or the Chairman of a Board appointed by the Governor in Council.

53. Determinations

(1) A determination made by a panel on a hearing comes into operation on its making or at any later time stated in the determination.

(2) A determination of a panel is to have effect as if it were a determination of the Board.

(3) If a fine is imposed by a panel it may be recovered by the Board as a debt due to the Board.

54. Removal of suspension, condition, limitation or restriction

(1) If the Board has suspended the registration of a psychologist until the completion of a hearing, and at the completion of the hearing the panel determines that the suspension should be removed, the Board must remove the suspension.

(2) If a condition, limitation or restriction has been imposed on the registration of a psychologist, and, at the completion of a hearing, the panel determines that the condition, limitation or restriction should be removed, the Board must remove that condition, limitation or restriction.
55. Reasons for determinations of panel

The Board must give reasons for a determination made by a panel under this Part, to the psychologist who was the subject of the determination within 28 days after the making of the determination.

56. Notifications

(1) If a determination has been made by a panel—

(a) imposing conditions, limitations or restrictions on the registration of a psychologist; or

(b) suspending the registration of a psychologist; or

(c) cancelling the registration of a psychologist—

the Board must give notice of the determination—

(d) in the Government Gazette; and

(e) to the psychology registration authorities in all other States or Territories of the Commonwealth and in New Zealand; and

(f) to the Health Services Commissioner; and

(g) if the psychologist is an employee, to his or her employer; and

(h) if the Board has received a request for information about the person in respect of whom the determination has been made from a psychology registration authority outside Australia or New Zealand, that authority.

(2) Notice under sub-section (1) must be given as soon as possible after the determination has been made.
(3) No action for defamation lies against the Board or its members for giving a notice under this section.

(4) If a complaint has been made to the Board, the Board must notify the complainant—

(a) of whether or not a formal or informal hearing is to be conducted into the matter and, if so, of the time and place of the hearing and, in the case of a formal hearing, of the fact that the complainant's identity is not to be published or broadcast; and

(b) in the case of a formal or informal hearing, of whether or not the complainant has any right to make submissions at the hearing; and

(c) of the findings and determinations of any hearing arising from that complaint and the reasons for those findings and determinations, within 28 days after their having been made.

57. Offence to disclose information identifying complainant

A person must not publish or broadcast or cause to be published or broadcast any report of a formal hearing under this Part which contains information which would enable—

(a) the complainant to be identified; or

(b) if the panel has made a determination prohibiting the publication or broadcast of the identity of a witness, that witness to be identified; or

(c) if the panel has made a determination prohibiting the publication or broadcast of the identity of a registered psychologist prior to the making of a final determination, that psychologist to be identified prior to the making of the final determination—
unless the complainant, witness or psychologist has, before publication or broadcast, consented to this.

Penalty: 50 penalty units for a natural person or 100 penalty units for a body corporate.

58. **Terms and conditions of appointment of panel members**

(1) A member of a panel is appointed on the terms and conditions determined by the Board for that member.

(2) A member of a panel, other than a member who is an employee under Part 3 of the **Public Sector Management and Employment Act 1998**, is entitled to receive the fees that are fixed from time to time by the Governor in Council for members of panels.

(3) A member of a panel is entitled to receive the allowances that are fixed from time to time by the Governor in Council.

(4) In fixing fees under sub-section (2), the Governor in Council may fix different fees for different classes of cases.

(5) The Governor in Council may fix fees and allowances by reference to any directions given by the Commissioner of Public Employment under the **Public Sector Management and Employment Act 1998**.
PART 4—REVIEW BY VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

59. Review by VCAT

(1) A person whose interests are affected by the relevant decision, finding or determination may apply to the Victorian Civil and Administrative Tribunal for review of—

(a) a decision to refuse the person's application for registration or renewal of registration; or

(b) a decision to impose conditions, limitations or restrictions on the person's registration; or

(c) a decision of the Board to suspend the registration of the person, if the Board has not instituted an investigation into the professional conduct or ability to practise of that person within 28 days after having suspended that registration; or

(d) a finding or determination made at a formal hearing under Part 3.

(2) The application must be made within—

(a) 60 days after the date on which the Board gives notice of a decision referred to in subsection (1)(c); or

(b) 28 days after the date on which the Board gives notice of any other decision, finding or determination to the person concerned.

(3) If a finding has been made at a formal hearing under Part 3 but no final determination has been made at the hearing, an application for review can only be made with the leave of the Tribunal.
60. Notification

If a decision, finding or determination has been reviewed by the Victorian Civil and Administrative Tribunal, the Board must notify any person who was notified of the original decision, finding or determination of any change to that decision, finding or determination by the Victorian Civil and Administrative Tribunal.
PART 5—OFFENCES

61. Claims by persons as to registration

(1) A person who is not registered under section 6 or 7 as a psychologist must not—

(a) take or use the title of psychologist or registered psychologist or any other title calculated to induce a belief that the person is registered under section 6 or 7 of this Act; or

(b) claim to be registered under this Act or hold himself or herself out as being registered under this Act; or

(c) carry out any act which is required to be carried out by or under an Act by a person registered under section 6 or 7; or

(d) claim to be qualified to practise as a psychologist.

Penalty: 100 penalty units.

(2) A psychologist whose registration is specific must not—

(a) take or use any title calculated to induce a belief that the psychologist's registration is not specific; or

(b) claim to have or hold himself or herself out as having general registration.

Penalty: 50 penalty units.

(3) A registered probationary psychologist must not—

(a) take or use any title calculated to induce a belief that the psychologist's registration is specific or general; or
(b) claim to have or hold himself or herself out as having general or specific registration.

Penalty: 50 penalty units.

(4) A registered psychologist whose registration is subject to a condition, limitation or restriction must not—

(a) take or use any title calculated to induce a belief that the psychologist's registration is not subject to a condition, limitation or restriction; or

(b) claim to have or hold himself or herself out as having a registration which is not subject to any condition, limitation or restriction.

Penalty: 50 penalty units.

(5) A person must not hold out another person as being registered under this Act if the person knows or ought reasonably to know that the other person is not so registered.

Penalty: 50 penalty units.

(6) If a body corporate contravenes sub-section (1), any person who is concerned in or takes part in the management of that body corporate who was, in any way, by act or omission, directly or indirectly, knowingly concerned in or party to the commission of the offence also commits an offence under sub-section (1) and is liable for the penalty applicable to a natural person for that offence.

62. Fraud, forgery etc.

A person must not—
(a) fraudulently or by false representation or declaration (either orally or in writing) obtain registration under this Act; or

(b) fraudulently or by false representation (either orally or in writing) procure any person to be registered under this Act; or

(c) forge, counterfeit or alter any certificate of registration under this Act or any degree, diploma or other evidence of qualifications for registration under this Act.

Penalty: 240 penalty units or imprisonment for a period of 2 years or both.

63. Advertising

(1) A person must not advertise a psychology practice or psychology services in a manner which—

(a) is or is intended to be false, misleading or deceptive; or

(b) offers a discount, gift or other inducement to attract patients to a psychologist or psychology practice unless the advertisement also sets out the terms and conditions of that offer; or

(c) refers to, uses or quotes from testimonials or purported testimonials; or

(d) creates an unreasonable expectation of beneficial treatment.

Penalty: 50 penalty units for a natural person or 100 penalty units for a body corporate.

(2) If a body corporate contravenes sub-section (1), any person who is concerned in or takes part in the management of that body corporate who was, in any way, by act or omission, directly or indirectly, knowingly concerned in or party to the commission of the offence also commits an
offence under sub-section (1) and is liable for the penalty applicable to a natural person for that offence.

(3) A person who, in good faith, publishes or prints an advertisement which contravenes sub-section (1) on behalf of another person, is not guilty of an offence under that sub-section.

(4) Despite section 26 of the Magistrates' Court Act 1989, proceedings for an offence against this section may be commenced within 3 years after the commission of the alleged offence.

(5) A person who advertises a psychologist's practice or a psychologist's services in a manner otherwise than in compliance with this section is guilty of a continuing offence and may be convicted in respect of each day on which the offence continues.

64. Advertising guidelines

(1) The Governor in Council may, on the recommendation of the Board, by notice published in the Government Gazette, issue guidelines about the minimum standards acceptable to the Board for or with respect to the advertising of a psychologist's practice or a psychologist's services.

(2) The Board must consult with any person nominated by the Minister in formulating guidelines for the purposes of this section.

(3) The Board must ensure that any guidelines that it has formulated for recommendation to the Governor in Council have been notified with a request for public comment in the Government Gazette, a newspaper circulating generally throughout Victoria and in any professional magazine, newsletter or journal circulating...
amongst psychologists in Victoria at least 60 days before the recommendation is given to the Governor in Council.

(4) The Board must have regard to any comments received pursuant to a notice under this section in making a recommendation to the Governor in Council.

(5) The Board must have regard to any guidelines issued by the Governor in Council under this section.

(6) A court may have regard to any guidelines issued by the Governor in Council under this section.

65. Power of the courts to require corrective advertising

If, on the application of the Minister, a court is satisfied that there has been a contravention of section 63(1)(a), (b), (c) or (d) the court may make either or both of the following orders—

(a) an order requiring any person involved in the contravention to disclose any information which is in the person's possession or to which the person has access, which is information or of a class of information specified in the order—

(i) to the public or any person or class of persons specified in the order; and

(ii) in the manner specified in the order;

(b) an order requiring any person involved in the contravention to publish an advertisement in the terms specified or determined in accordance with the order—

(i) at the expense of the person; and
(ii) in the manner and at the times specified in the order.

66. **Exemptions**

Nothing in section 61 applies to the giving or performance of any psychological advice, service, counselling or attendance by a person registered as a psychologist under the law in force in another State or Territory or New Zealand and acting in accordance with that registration in an emergency if no registered psychologist is available.
PART 6—ADMINISTRATION

67. Establishment of Board

(1) There is established a Board to be called the Psychologists Registration Board of Victoria.

(2) The Board—

(a) is a body corporate with perpetual succession; and

(b) has a common seal; and

(c) may sue and be sued in its corporate name; 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.

(3) The common seal must be kept as directed by the Board and must not be used except as authorised by the Board.

(4) All courts must take judicial notice of the seal of the Board on a document and, until the contrary is proved, must presume that the document was properly sealed.

68. Powers, functions and consultation requirements

(1) The Board has the following functions—

(a) to register persons who comply with the requirements of this Act as to registration so that psychologists having appropriate qualifications and practical training may hold themselves out as registered psychologists;
(b) to approve courses of study and practical training which provide qualifications for registration as psychologists;

(c) to regulate the standards of practice of psychology in the public interest;

(d) to investigate the professional conduct or fitness to practise of registered psychologists and impose sanctions where necessary;

(e) to issue and publish guidelines about the minimum terms and conditions of professional indemnity insurance;

(f) to issue and publish codes for the guidance of registered psychologists about standards recommended by the Board relating to the practise of psychology;

(g) to recognise qualifications in psychology in addition to those required for registration;

(h) to advise the Minister on any matters relating to its functions;

(i) when so requested by the Minister, give to the Minister any information reasonably required by the Minister;

(j) any other functions conferred on the Board by this Act.

(2) The Board has all the powers necessary to enable it to perform its functions.

(3) The Board must consult with the Minister and have regard to the Minister's advice in carrying out its functions and exercising its powers.

(4) The Board must consult with registered psychologists before formulating any codes referred to in sub-section (1)(f).

69. Membership of the Board
(1) The Board consists of 9 members nominated by the Minister and appointed by the Governor in Council.

(2) Of the persons appointed to the Board—

(a) 6 must be psychologists registered under section 6; and

(b) one must be a lawyer; and

(c) 2 must be persons who are not psychologists.

70. Terms of office

(1) A member of the Board holds office for not more than 3 years from the date of his or her appointment.

(2) A member of the Board is eligible for reappointment.

(3) The Public Sector Management and Employment Act 1998 (except in accordance with Part 7 of that Act) does not apply to a member in respect of the office of member.

71. Resignation and removal

(1) A member of the Board ceases to be a member if he or she is absent, without leave first being granted by the Board, from 3 consecutive meetings of which reasonable notice has been given to that member, either personally or by post.

(2) A member of the Board may resign the office of member by writing signed by the member and addressed to the Governor in Council.

(3) The Governor in Council may at any time remove a member of the Board from office.

(4) If a member of the Board dies, resigns or is removed from office, the Governor in Council may, in accordance with this Act, on the
recommendation of the Minister, fill the vacant office.

(5) A member appointed under sub-section (4) holds office for the rest of the term of appointment of the member whose place he or she fills.

72. President and Deputy President

(1) The Governor in Council may appoint members of the Board who are psychologists registered under section 6 to be President of the Board and Deputy President of the Board.

(2) A person appointed to an office under sub-section (1) holds office for the term specified in his or her instrument of appointment and is eligible for reappointment.

(3) A person appointed to an office under sub-section (1) may resign that office by writing signed by the person and addressed to the Governor in Council.

(4) The Governor in Council may at any time remove a person appointed under sub-section (1) from office.

(5) A person appointed to an office under sub-section (1) ceases to hold that office on ceasing to be a member of the Board.

73. Acting member

(1) If a member of the Board is unable to perform the duties or functions of the office, the Governor in Council may appoint a person qualified to be appointed as that member to act as the member during the period of inability.

(2) The Governor in Council—

(a) subject to this Act, may determine the terms and conditions of appointment of an acting member; and
(b) may at any time terminate the appointment.

(3) While the appointment of an acting member remains in force, the acting member has and may exercise all the powers and perform all the duties and functions of the member.

**74. Payment of members**

(1) A member or acting member of the Board, other than a member who is an employee under Part 3 of the *Public Sector Management and Employment Act 1998*, is entitled to receive the fees that are fixed from time to time by the Governor in Council for that member.

(2) Each member or acting member of the Board is entitled to receive the allowances that are fixed from time to time by the Governor in Council.

(3) The Governor in Council may fix these fees or allowances by reference to any directions given by the Commissioner of Public Employment under the *Public Sector Management and Employment Act 1998*.

**75. Procedure of Board**

(1) The President or, in the absence of the President, the Deputy President must preside at a meeting of the Board at which he or she is present.

(2) If neither the President nor Deputy President are present at a meeting the members present may elect a member to preside at the meeting.

(3) The person presiding at a meeting has a deliberative vote and a second or casting vote.

(4) A majority of the members of the Board currently holding office constitutes a quorum.

(5) Subject to this Act the Board may regulate its own proceedings.
76. Member's interests

(1) A member who has a pecuniary or other interest in any matter in which the Board is concerned must—

(a) if the member is present at a meeting of the Board at which the matter is to be considered, disclose the nature of the interest immediately before the consideration of that matter; or

(b) if the member is aware that the matter is to be considered at a meeting of the Board at which the member does not intend to be present, disclose the nature of the interest to the President or Deputy President of the Board before the meeting is held.

(2) The member—

(a) may take part in the discussion in the meeting; and

(b) must leave the meeting while any vote is taken on a question relating to the matter.

77. Resolutions without meetings

(1) If—

(a) the Board has taken reasonable steps to give notice to each member setting out the terms of a proposed resolution; and

(b) a majority of the members for the time being sign a document containing a statement that they are in favour of the resolution in the terms set out in the document—

a resolution in those terms is deemed to have been passed at a meeting of the Board held on the day on which the document is signed or, if the
members referred to in paragraph (b) do not sign it on the same day, on the day on which the last of those members signs the document.

(2) If a resolution is, under sub-section (1), deemed to have been passed at a meeting of the Board, each member must as soon as practicable be advised of the matter and given a copy of the resolution.

(3) For the purposes of sub-section (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members, are deemed to constitute one document.

(4) The majority of members referred to in sub-section (1)(b) must not include a member who, because of section 76, is not entitled to vote on the resolution.

(5) This section does not apply to any resolution of the Board relating to a matter being considered under Part 3.

78. Approved methods of communication for Board

(1) If not less than two-thirds of the members of the Board for the time being holding office so agree, a meeting of the Board may be held by means of a method of communication, or by means of a combination of methods of communication, approved by the President of the Board for the purposes of that meeting.

(2) For the purposes of this Part, a member of the Board who participates in a meeting held as permitted by sub-section (1) is present at the meeting even if he or she is not physically present at the same place as another member participating in the meeting.

(3) This section—

(a) applies to a meeting or a part of a meeting;
(b) does not apply to a meeting conducted for the purposes of Part 3.

79. **Effect of vacancy or defect**

An act or decision of the Board is not invalid only because—

(a) of a vacancy in its membership; or

(b) of a defect or irregularity in the appointment of any of its members; or

(c) in the case of an acting member, the occasion for that member so acting had not arisen or had ceased.

80. **Immunity**

(1) A member of the Board or person responsible for keeping the register is not personally liable for anything done or omitted to be done in good faith—

(a) in the exercise of a power or the discharge of a duty under this Act; 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 Act.

(2) Any liability resulting from an act or omission that would but for sub-section (1), attach to a member of the Board or the person responsible for keeping the register, attaches instead to the Board.

81. **Staff**

The Board may employ a person to be responsible for maintaining the register and any other persons that are necessary for the purposes of administering this Act.
82. Delegation

The Board may, in writing, delegate to—

(a) a member of the Board; or

(b) the person responsible for maintaining the register or any other member of the staff of the Board—

its powers and functions under this Act, other than—

(c) the power to refuse to grant or refuse to renew registration; or

(d) the power to impose or to amend, vary or revoke conditions, limitations or restrictions on registration; or

(e) the power to conduct any hearing or to make any determination under Part 2 or Part 3; or

(f) this power to delegate.
PART 7—REPORTING AND FINANCIAL PROVISIONS

83. *Psychologists Registration Board Fund*

(1) The Board must establish and keep a Psychologists Registration Board Fund.

(2) All fees, fines and penalties paid or recovered by the Board under this Act must be paid into the Fund.

(3) The Board must pay any other money received by it into the Fund, including income from the investments of the Fund.

(4) Out of the Fund, the Board must pay—

   (a) the expenses incurred by it in carrying out its functions, powers and duties; and
   
   (b) any other expenses incurred in the administration of this Act; and
   
   (c) any payments to be made to members of the Board under this Act and any payments to be made to other persons under this Act; and
   
   (d) any other payments recommended by the Board and approved by the Minister.

84. *Investment powers*

The Board may invest money credited to the Fund that it does not immediately require—

   (a) in any manner in which money may be invested under the *Trustee Act 1958*; or
   
   (b) in any other manner that the Minister approves.

85. *Repayment of advances*

(1) The Board must pay into the public account any amounts that the Minister administering section 14 of the *Financial Management Act 1994*, in
consultation with the Treasurer, determines are required to repay advances from the Public Account for the establishment and operation of the Board, including costs incurred before the establishment of the Board to ensure that, when established, it can operate in a fully effective way.

(2) Payments under sub-section (1) must be made in accordance with any other terms and conditions from time to time determined by the Minister administering section 14 of the Financial Management Act 1994 in consultation with the Treasurer.

(3) The Board must, as and when directed to do so by the Minister administering section 14 of the Financial Management Act 1994, provide a plan for the repayment of advances referred to in sub-section (1).

(4) The Board must, at least once in each period of 6 months after the commencement of this section, and at any other time that the Minister administering section 14 of the Financial Management Act 1994 directs it to do so, report to that Minister in writing on its progress in making payments under sub-section (1).
PART 8—ENFORCEMENT AND SUPPLEMENTARY POWERS

86. Proceedings for offences

(1) The person responsible for maintaining the register or any other officer authorised by the Board may take proceedings under this Act in the name of the Board.

(2) Any prosecution instituted in the name of the Board must, in the absence of evidence to the contrary, be taken to have been instituted by the Board.

87. Identification

(1) The Board must issue an identification card to each person appointed by the Board to apply for or execute search warrants for the purposes of this Act.

(2) A person appointed by the Board must, in the course of performing his or her functions under this Act, produce his or her identification card to any person who requests its production.

88. Powers of entry with warrant

(1) A person appointed for that purpose by the Board may apply to a magistrate for the issue of a search warrant in relation to particular premises if that person believes, on reasonable grounds—

(a) that there is or has been a contravention of this Act or the regulations on the premises; or

(b) that entry into or onto the premises is necessary for the purpose of investigating a complaint made under this Act which, if substantiated, may provide grounds for the
suspension or cancellation of registration of a psychologist.

(2) If a magistrate is satisfied by evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that there is on the premises a particular thing that may be evidence of the commission of an offence against this Act or the regulations or of grounds for the suspension or cancellation of the registration of a psychologist, the magistrate may issue a search warrant authorising any person named in the warrant—

(a) to enter the premises or the part of the premises named or described in the warrant; and

(b) to search for and seize a thing named or described in the warrant; and

(c) to bring the thing before the Court so that the matter may be dealt with according to law.

(3) In addition to any other requirement, a search warrant issued for the purposes of this section must state—

(a) the offence or grounds of suspension or cancellation suspected; and

(b) the premises to be searched; and

(c) the name or a description of the thing to be searched for; and

(d) any conditions to which the warrant is subject; and

(e) whether entry is authorised to be made at any time or during stated hours; and

(f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.
(4) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in a form prescribed under that Act.

(5) The rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

89. **Announcement before entry**

(1) Immediately before executing a search warrant, a person named in the warrant must announce that he or she is authorised by the warrant to enter the premises.

(2) The person need not comply with sub-section (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure the safety of any person or that the effective execution of the search warrant is not frustrated.

90. **Copy of warrant to be given to occupier**

If the occupier or another person who apparently represents the occupier is present at premises when a search warrant is being executed, the person or persons named in the warrant must—

(a) identify themselves to that person by producing their identification card for inspection by that person; and

(b) give to that person a copy of the execution copy of the warrant.

91. **Copies or receipts to be given**

(1) If a person seizes—

(a) a document, disk or tape or other thing that can be readily copied; or
(b) a storage device the information in which can be readily copied—

under a warrant the person, on request by the occupier, must give a copy of the thing or information to the occupier as soon as practicable after the seizure.

(2) If a person seizes a thing under a warrant and has not provided a copy of the thing or information under sub-section (1) the person must provide a receipt for that thing as soon as practicable after the seizure.

92. Powers of Board in relation to fees

(1) The Board may fix any fee that is required or permitted to be fixed by the Board by this Act.

(2) In the case of any fee which the Board is empowered to fix under this Act—

(a) the Board must fix the fee for a period of 12 months and may amend or vary the fee at the end of that period; and

(b) the Board may fix a different fee for a different case and may allow for the reduction, waiver or refund, in whole or in part, of any fee; and

(c) the Board must publish any fee it has fixed in a newspaper circulating generally throughout Victoria and in the Government Gazette.

(3) In fixing fees under this Act the Board is entitled to ensure that the amount of money collected in fees under this Act is sufficient to cover the cost to the Board of administering this Act.
PART 9—REGULATIONS

93. Regulations

(1) The Governor in Council may make regulations for or with respect to—

(a) registration, including periods of registration, and renewal of registration, and applications for registration, and renewal of registration;

(b) the register, including particulars to be noted on the register and the manner of keeping the register;

(c) forms for the purposes of this Act;

(d) time limits for the purposes of this Act;

(e) penalties, not exceeding 10 penalty units, for breaches of the regulations;

(f) any matter or thing required or permitted to be prescribed or necessary to be prescribed to give effect to this Act.

(2) The regulations—

(a) may be of general or limited application; and

(b) may differ according to differences in time, place or circumstance; and

(c) 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—

(i) wholly or partially or as amended by the regulations; or
(ii) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or

(iii) as formulated, issued, prescribed or published from time to time; and

(d) may confer a discretionary authority on a specified person.
PART 10—SAVINGS, TRANSITIONAL AND REPEAL

94. Definitions

In this Part—

"new Board" means the Psychologists Registration Board of Victoria established under this Act;

"old Board" means the Psychologists Registration Board of Victoria established under the old Act;

"repealed Act" means the Psychologists Registration Act 1987 as in force immediately before its repeal.

95. Repeal

The Psychologists Registration Act 1987 is repealed.

96. New Board succeeds old Board

(1) On the commencement of this section—

(a) the old Board is abolished and its members go out of office; and

(b) any rights, assets, liabilities and obligations of the old Board, immediately before its abolition, become assets, liabilities and obligations of the new Board; and

(c) the new Board is substituted for the old Board as a party in any proceeding, contract, agreement or arrangement commenced or made by, against or in relation to the old Board; and

(d) the new Board may continue and complete any other continuing matter or thing commenced by, against or in relation to the old Board.
(2) The assets that become assets of the new Board under sub-section (1)—

(a) if they are moneys or amounts standing to the credit of any fund or account of the old Board, must be taken to form part of the Psychologists Registration Board Fund; and

(b) if they are assets in which the funds of the old Board have been invested, must be taken to be investments of the Psychologists Registration Board Fund.

97. Proceedings before the old Board

(1) If an investigation or inquiry into the activities of a registered psychologist under the repealed Act has commenced but not been completed before the commencement of Part 3 of this Act—

(a) that investigation or inquiry may be completed on and after that date; and

(b) any appeal or other further proceedings which might have been taken in relation to that investigation or inquiry under the repealed Act may be taken on and after that date—

by the old Board as if this Act had not been enacted.

(2) Despite sub-section (1), the old Board may, with the consent of the person the subject of the inquiry and the person (if any) who made the complaint or charge being investigated, appoint a panel in accordance with Part 3 of this Act to conduct any inquiry referred to in this section and a decision of the panel appointed under this section is to be treated as a decision of the old Board for the purposes of that inquiry or any appeal or further proceedings referred to in sub-section (1).
(3) The new Board must give effect to a decision made on an inquiry, investigation or appeal completed by the old Board or a panel appointed under sub-section (2) as if it were a decision under this Act.

98. Application of this Act to conduct occurring before commencement of this Act

(1) In the case of activities of a person who is deemed by section 99 to be a registered psychologist under this Act which occurred before the commencement of Part 3 and in respect of which no proceedings have been commenced under the old Act, this Act applies to the extent that there was power to conduct an inquiry under Part 4 of the repealed Act into those activities.

(2) Any determination or outcome of a hearing into those activities must be one which would have been available as a finding or decision in an inquiry by the Board under the repealed Act.

(3) This section does not apply to activities which are the subject of proceedings to which section 97 applies.

99. Existing registrations

(1) A person who was registered as a psychologist under the repealed Act immediately before the commencement of section 95 of this Act is deemed to have general registration under this Act.

(2) A person who was registered as a probationary psychologist under the repealed Act immediately before the commencement of section 95 of this Act is deemed to have probationary registration under this Act.

(3) If a person is deemed to be registered under this section, and the registration of that person under
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the repealed Act, immediately before the commencement of this section, was suspended, the registration of that person under this Act is deemed to be suspended for the remainder of the period for which that person's registration would have been suspended under the repealed Act.

(4) If a person is deemed to be registered under this section, and the registration of that person under the repealed Act, immediately before the commencement of this section, was subject to conditions, limitations or restrictions, the registration of that person under this Act is deemed to be subject to the same conditions, limitations or restrictions as those to which the registration under the repealed Act was subject.

(5) The registration of a person who is deemed to be registered under this section expires (unless sooner cancelled) at the end of the period for which the person was registered under the repealed Act.

100. References

Unless inconsistent with the context or subject matter, a reference in any Act (other than this Act) or in any subordinate instrument within the meaning of the Interpretation of Legislation Act 1984 to—

(a) a psychologist registered under the repealed Act who is deemed by section 99 to have general registration under this Act is to be taken to be a reference to a psychologist registered under section 6 of this Act; and

(b) a probationary psychologist registered under the repealed Act who is deemed by section 99 to have probationary registration under this Act is to be taken to be a reference to a
registered probationary psychologist under this Act; and

(c) the old Board in relation to a psychologist is to be taken to be a reference to the new Board.

101. Preparation of annual report

The new Board shall prepare the annual reports that the old Board would have been required to prepare under the Financial Management Act 1994 in respect of any part of a year during which the old Board operated.

102. Consequential amendments

On the coming into operation of an item in the Schedule, the Act specified in the heading to that item is amended as set out in that item.
Psychologists Registration Act 2000
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SCHEDULE

CONSEQUENTIAL AMENDMENTS

1. Accident Compensation Act 1985
   In section 5(1) insert the following definition—
   "'registered psychologist' means a psychologist registered under section 6 of the Psychologists Registration Act 2000.'.

2. Crimes (Mental Impairment and Unfitness To Be Tried) Act 1997
   In section 3, for the definition of "registered psychologist", substitute—
   "'registered psychologist' means a psychologist registered under section 6 of the Psychologists Registration Act 2000.'.

3. Children and Young Persons Act 1989
   In section 64(1C), for paragraph (b) substitute—
   "(b) a registered psychologist within the meaning of the Psychologists Registration Act 2000.'.

4. Firearms Act 1996
   In section 3(1), for the definition of "registered psychologist" substitute—
   "'registered psychologist' means a psychologist registered under section 6 of the Psychologists Registration Act 2000.'.

5. Medical Practice Act 1994
   In section 37(2), after paragraph (g) insert—
   "(h) psychologists registered under section 6, 7 or 8 of the Psychologists Registration Act 2000.'.

   In section 95BA(2), in the definition of "psychologist", for paragraphs (a) and (b) substitute—
   "(a) a psychologist registered under section 6 of the Psychologists Registration Act 2000; or
(b) a person who is qualified in accordance with section 5 of the Psychologists Registration Act 2000 to be registered under section 6 of that Act; or”.

7. Transport Accident Act 1986

In section 3(1) insert the following definition—

“‘registered psychologist’ means a psychologist registered under section 6 of the Psychologists Registration Act 2000;”.
NOTES

† Minister’s second reading speech—
Legislative Assembly: 4 May 2000
Legislative Council: 24 May 2000

The long title for the Bill for this Act was "to make further provision for the registration of psychologists and investigations into the professional conduct and fitness to practise of registered psychologists, to regulate advertising relating to the provision of psychological services, to establish a new Psychologists Registration Board of Victoria and a Psychologists Registration Board Fund, to repeal the Psychologists Registration Act 1987 and for other purposes."

† The index attached to this Act does not form part of this Act and is provided for convenience of reference only.

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