

**Authorised Version**

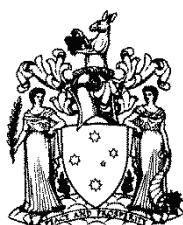
**Public Health and Wellbeing Amendment (Safe  
Access Zones) Act 2015**

**No. 66 of 2015**

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**Authorised Version**



**Victoria**

**Public Health and Wellbeing  
Amendment (Safe Access Zones) Act  
2015<sup>†</sup>**

**No. 66 of 2015**

[Assented to 1 December 2015]

**The Parliament of Victoria enacts:**

**1 Purpose**

The purpose of this Act is to amend the **Public Health and Wellbeing Act 2008**—

- (a) to provide for safe access zones around premises at which abortions are provided; and
- (b) to prohibit publication and distribution of certain recordings.

## **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 has not come into operation before 1 July 2016, it comes into operation on that day.

## **3 Objective**

In section 4(3) of the **Public Health and Wellbeing Act 2008**, for "11" substitute "11A".

## **4 New section 11A inserted**

After section 11 of the **Public Health and Wellbeing Act 2008** insert—

### **"11A Principles applying to Part 9A**

Section 185C specifies the principles that are to apply for the purposes of the application, operation and interpretation of Part 9A."

## **5 New Part 9A inserted**

After Part 9 of the **Public Health and Wellbeing Act 2008** insert—

### **"Part 9A—Safe access to premises at which abortions are provided**

#### **185A Purpose**

The purpose of this Part is—

- (a) to provide for safe access zones around premises at which abortions are provided so as to protect the safety and wellbeing and respect the privacy and dignity of—
  - (i) people accessing the services provided at those premises; and

(ii) employees and other persons who need to access those premises in the course of their duties and responsibilities; and

(b) to prohibit publication and distribution of certain recordings.

### **185B Definitions**

(1) In this Part—

*abortion* has the same meaning as in the **Abortion Law Reform Act 2008**;

*distribute* includes—

- (a) communicate, exhibit, send, supply or transmit, whether to a particular person or not; and
- (b) make available for access, whether by a particular person or not; and
- (c) enter into an agreement or arrangement to do anything mentioned in paragraph (a) or (b); and
- (d) attempt to distribute;

*premises at which abortions are provided* does not include a pharmacy;

*prohibited behaviour* means—

- (a) in relation to a person accessing, attempting to access, or leaving premises at which abortions are provided, besetting, harassing, intimidating, interfering with, threatening, hindering, obstructing or impeding that person by any means; or

- (b) subject to subsection (2), communicating by any means in relation to abortions in a manner that is able to be seen or heard by a person accessing, attempting to access, or leaving premises at which abortions are provided and is reasonably likely to cause distress or anxiety; or
- (c) interfering with or impeding a footpath, road or vehicle, without reasonable excuse, in relation to premises at which abortions are provided; or
- (d) intentionally recording by any means, without reasonable excuse, another person accessing, attempting to access, or leaving premises at which abortions are provided, without that other person's consent; or
- (e) any other prescribed behaviour;

***publish*** has the same meaning as in the **Open Courts Act 2013**;

***safe access zone*** means an area within a radius of 150 metres from premises at which abortions are provided.

- (2) Paragraph (b) of the definition of ***prohibited behaviour*** does not apply to an employee or other person who provides services at premises at which abortion services are provided.

### **185C Principles**

The following principles apply to this Part—

- (a) the public is entitled to access health services, including abortions;
- (b) the public, employees and other persons who need to access premises at which abortions are provided in the course of their duties and responsibilities should be able to enter and leave such premises without interference and in a manner which—
  - (i) protects the person's safety and wellbeing; and
  - (ii) respects the person's privacy and dignity.

### **185D Prohibited behaviour**

A person must not engage in prohibited behaviour within a safe access zone.

Penalty: 120 penalty units or imprisonment for a term not exceeding 12 months.

### **185E Offence to publish or distribute recording**

A person must not without consent of the other person or without reasonable excuse publish or distribute a recording of a person accessing, attempting to access, or leaving premises at which abortions are provided, if the recording contains particulars likely to lead to the identification of—

- (a) that other person; and

- (b) that other person as a person accessing premises at which abortions are provided.

Penalty: 120 penalty units or imprisonment for a term not exceeding 12 months.

### **185F Search warrant**

- (1) A police officer of or above the rank of sergeant may apply to a magistrate for the issue of a search warrant under this section in relation to a particular place if the police officer believes on reasonable grounds that there is, or may be within the next 72 hours, in that place evidence of the commission of an offence against—
  - (a) section 185D, constituted by intentionally recording by any means, without lawful excuse, another person accessing, attempting to access, or leaving premises at which abortions are provided, without that other person's consent; or
  - (b) section 185E.
- (2) If the magistrate is satisfied by the evidence on oath or by affidavit of the applicant that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, in that place evidence of the commission of an offence referred to in subsection (1), the magistrate may issue a search warrant authorising any police officer named in the warrant—
  - (a) to enter the place, or the part of the place, named or described in the warrant; and

- (b) to search for and seize any thing named or described in the warrant.
- (3) In addition to any other requirement, a search warrant issued under this section must state—
  - (a) the offence suspected; and
  - (b) the place to be searched; and
  - (c) a description of the thing for which the search is to be made; 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 must be in the form set out in the regulations under that Act.
- (5) The rules to be observed with respect to search warrants under the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

**185G Seizure of things not mentioned in the warrant**

A search warrant authorises a police officer executing the warrant, in addition to the seizure of any thing of a kind described in the warrant, to seize any thing which is not of a kind described in the warrant if the police officer believes on reasonable grounds—



- (a) that the thing is of a kind which could have been included in a warrant issued under section 185F, or will afford evidence about the commission of an offence referred to in section 185F(1); and
- (b) that it is necessary to seize that thing in order to prevent its concealment, loss or destruction or its use in the commission of an offence referred to in section 185F(1).

**185H Announcement before entry**

- (1) Before executing a search warrant, a police officer named in the warrant must—
  - (a) announce that the officer is authorised by the warrant to enter the place; and
  - (b) give any person at the place an opportunity to allow entry to the place.
- (2) The police officer need not comply with subsection (1) if the officer believes on reasonable grounds that immediate entry to the place is required to ensure—
  - (a) the safety of any person; or
  - (b) that the effective execution of the search warrant is not frustrated."

**6 Repeal of amending Act**

This Act is **repealed** on 1 July 2017.

**Note**

The repeal of this Act 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: 22 October 2015*

*Legislative Council: 12 November 2015*

The long title for the Bill for this Act was "A Bill for an Act to amend the **Public Health and Wellbeing Act 2008** to provide for safe access zones around premises at which abortions are provided, to prohibit publication and distribution of certain recordings and for other purposes."