

Authorised Version No. 020
Child Wellbeing and Safety Act 2005

No. 83 of 2005

Authorised Version incorporating amendments as at
1 January 2017

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Child Wellbeing and Safety Act 2005
No. 83 of 2005

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1 January 2017

The Parliament of Victoria enacts as follows:

Part 1—Preliminary

1 Purposes

The main purposes of this Act are—

- (a) to establish principles for the wellbeing of children; and
- (b) to establish the Victorian Children's Council; and
- (c) to establish the Children's Services Co-ordination Board; and
- (d) to provide for the Minister to make standards in relation to child safety with which certain entities must comply; and
- (e) to provide for the oversight and enforcement by the Commission for Children and Young People of compliance by certain entities with standards in relation to child safety; and
- (f) to provide for the notification of births to municipal councils; and
- (g) to repeal Part IX of the **Health Act 1958**.

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repealed by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

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repealed by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

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 1 October 2007, it comes into operation on that day.

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

3 Definitions

- (1) In this Act—

applicable entity means—

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

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

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

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repealed by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

category 1 entity means an applicable entity that is referred to in Schedule 1;

S. 3(1) def. of
*category 1
entity*
inserted by
No. 63/2015
s. 5(2).

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category 2 entity means an applicable entity that—

- (a) is referred to in Schedule 2; and
- (b) is not referred to in Schedule 1;

* * * * *

S. 3(1) def. of *category 2 entity* inserted by No. 63/2015 s. 5(2).

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

child means a person who is under the age of 18 years;

child abuse includes—

- (a) any act committed against a child involving—
 - (i) a sexual offence; or
 - (ii) an offence under section 49B(2) of the **Crimes Act 1958**; and
- (b) the infliction, on a child, of—
 - (i) physical violence; or
 - (ii) serious emotional or psychological harm; and
- (c) the serious neglect of a child;

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

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

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

* * * * *

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

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

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

council has the same meaning as it has in the
Local Government Act 1989;

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

court means the Magistrates' Court;

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

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

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

head of a relevant entity means—

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

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*	*	*	*	*	S. 3(1) def. of <i>health professional</i> substituted by Nos 97/2005 s. 182(Sch. 4 item 9), 13/2010 s. 51(Sch. item 11.1), repealed by No. 79/2012 s. 74(1).
*	*	*	*	*	S. 3(1) def. of <i>health service</i> repealed by No. 79/2012 s. 74(1).
*	*	*	*	*	S. 3(1) def. of <i>human service</i> amended by Nos 23/2006 s. 233, 80/2011 s. 79(Sch. item 1), repealed by No. 79/2012 s. 74(1).

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

*	*	*	*	*	S. 3(1) def. of <i>medical practitioner</i> inserted by No. 13/2010 s. 51(Sch. item 11.2), repealed by No. 79/2012 s. 74(1).
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midwife means a person registered under the Health Practitioner Regulation National Law—

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

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

municipal district has the same meaning as it has in the **Local Government Act 1989**;

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

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

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

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

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

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

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

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*	*	*	*	*	S. 3(1) def. of <i>performance standards</i> substituted by No. 96/2005 s. 604(1)(c), repealed by No. 79/2012 s. 74(1).
*	*	*	*	*	S. 3(1) def. of <i>post-secondary qualification</i> repealed by No. 79/2012 s. 74(1).
*	*	*	*	*	S. 3(1) def. of <i>psychologist</i> inserted by No. 13/2010 s. 51(Sch. item 11.2), repealed by No. 79/2012 s. 74(1).
<p><i>relevant authority</i>, in relation to a relevant entity, means any of the following—</p> <p>(a) a Department that is responsible for regulating the relevant entity;</p> <p>(b) a Department that provides funding to the relevant entity;</p> <p>(c) the Victorian Registration and Qualifications Authority;</p> <p>(d) any other authority—</p> <p>(i) that regulates or funds the relevant entity; and</p> <p>(ii) that is prescribed to be a relevant authority;</p>					S. 3(1) def. of <i>relevant authority</i> inserted by No. 63/2016 s. 5.

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

relevant entity means—

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

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

* * * * *

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

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

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

* * * * *

S. 3(2)
inserted by
No. 63/2015
s. 5(3).

- (2) A reference in this Act to the provision of a service or facility by an applicable entity applies, in relation to an applicable entity that is an individual carrying on a business, as a reference to the provision of the service or facility by the business.

Part 2—Principles for children

4 Principles are for guidance

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

5 Principles for children

- (1) The development and provision of services for children and families should be based upon the fundamental principles that—
 - (a) society as a whole shares responsibility for promoting the wellbeing and safety of children;
 - (b) all children should be given the opportunity to reach their full potential and participate in society irrespective of their family circumstances and background;
 - (c) those who develop and provide services, as well as parents, should give the highest priority to the promotion and protection of a child's safety, health, development, education and wellbeing;

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

(d) parents are the primary nurturers of a child and Government intervention into family life should be limited to that necessary to secure the child's safety and wellbeing, however, it is the responsibility of Government to meet the needs of the child when the child's family is unable to provide adequate care and protection;

S. 5(1)(e)
inserted by
No. 22/2008
s. 41(b).

(e) every child should be able to enrol in a kindergarten program at an early childhood education and care centre.

- (2) Services for children and families should be designed and developed—
- (a) to readily identify harm and damage to the child and to provide for intervention by providers of services to remove or ameliorate the causes of that harm or damage and to strengthen the capacity and efforts of parents, their families and communities to support the child as early as possible in the child's life;
 - (b) to accord with the needs of each local community with the active involvement of that community's cultural groups, and to be accessible and responsive to the particular cultures, languages and circumstances of the community and to be properly planned and co-ordinated with services provided by other local and regional communities;
 - (c) to give the highest priority to making appropriate and sufficient levels of assistance available to children and families in communities or population groups that are known to have the greatest need;

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

5A Principles for compliance with Child Safe Standards

- (1) The oversight and enforcement by the Commission of compliance by relevant entities with the Child Safe Standards should be based on the fundamental principles that—

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

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

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Part 2—Principles for children

- (ii) child abuse is prevented; and
- (iii) allegations of child abuse are properly responded to.

Part 3—Child wellbeing and safety

6 The role of the Minister

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

7 Role of the Secretary in relation to Aboriginal communities

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

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

Part 4—Victorian Children's Council

8 Establishment of Victorian Children's Council

The Victorian Children's Council is established.

9 Constitution of Council

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

10 Functions of the Council

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

11 Sub-committees

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

12 Procedure of the Council

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

Part 5—Children's Services Co-ordination Board

13 Establishment of Children's Services Co-ordination Board

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

14 Constitution of Board

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

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

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

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

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

* * * * *

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

- (g) the Chief Commissioner of Police.

15 Functions of the Board

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

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

16 Procedure of the Board

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

Part 6—Child Safe Standards

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

Division 1—Child Safe Standards

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

17 Minister may make Child Safe Standards

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

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

S. 18
inserted by
No. 63/2015
s 6.

18 Governor in Council may specify day for compliance with Child Safe Standards

The Governor in Council may, by notice published in the Government Gazette, specify a day for the purposes of section 19.

S. 19
inserted by
No. 63/2015
s 6.

19 Category 1 and 2 entities must comply with Child Safe Standards

- (1) A category 1 entity must comply with the Child Safe Standards on and after the specified day unless—
 - (a) the entity is exempt under section 22; or
 - (b) the regulations provide that the entity is exempt from this requirement; or
 - (c) the entity is prescribed under section 20 or belongs to a class prescribed under section 21.
- (2) A category 2 entity must comply with the Child Safe Standards on and after the first anniversary of the specified day unless—
 - (a) the entity is exempt under section 22; or
 - (b) the regulations provide that the entity is exempt from this requirement; or
 - (c) the entity is prescribed under section 20 or belongs to a class prescribed under section 21.
- (3) Regulations made for the purposes of subsection (1)(b) or (2)(b) may prescribe—
 - (a) a class of applicable entity that is to be exempt from the requirement to comply with the Child Safe Standards; or
 - (b) an applicable entity (other than an individual) that is to be exempt from that requirement.

(4) In this section—

specified day means the day specified by the Governor in Council under section 18.

20 Prescribed applicable entity must comply with Child Safe Standards

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

- (1) A prescribed applicable entity must comply with the Child Safe Standards on and after the date prescribed in respect of that entity.
- (2) Regulations made for the purposes of subsection (1) may only prescribe an applicable entity that is not an individual.

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

S. 21
inserted by
No. 63/2015
s 6.

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

22 Exemption from requirement to comply with Child Safe Standards

S. 22
inserted by
No. 63/2015
s 6.

An applicable entity is exempt from a requirement to comply with the Child Safe Standards under section 19(1) or (2) or 21 if the entity does not do any of the following—

- (a) provide any services specifically for children;
- (b) provide any facilities specifically for use by children who are under the entity's supervision;
- (c) engage a child as a contractor, employee or volunteer to assist the entity in providing services or facilities.

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

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

- (1) This section applies to an individual—
 - (a) who is not an applicable entity; and
 - (b) who carries on a business that belongs to a prescribed class and that provides—
 - (i) services specifically for children; or
 - (ii) facilities specifically for use by children who are under the individual's supervision.
- (2) The individual must comply with the Child Safe Standards on and after the day prescribed in respect of the prescribed class of business.

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

Division 2—The Commission

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

24 Objectives of Commission

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

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

- (iii) allegations of child abuse are properly responded to; and
- (b) to serve the public interest by promoting—
 - (i) the safety of children; and
 - (ii) the prevention of child abuse; and
 - (iii) the proper response to allegations of child abuse.

25 Functions of Commission

- (1) The Commission has the following functions in relation to the oversight and enforcement of compliance with the Child Safe Standards—
 - (a) to educate and provide advice to relevant authorities to promote compliance by relevant entities with the Child Safe Standards;
 - (b) to educate and provide advice to relevant entities to ensure, in their operations—
 - (i) the safety of children is promoted; and
 - (ii) child abuse is prevented; and
 - (iii) allegations of child abuse are properly responded to;
 - (c) to oversee and enforce compliance by relevant entities with the Child Safe Standards;
 - (d) to perform any other functions conferred under this Part or exercise any powers specified under this Part.
- (2) In exercising its functions under this Part in respect of a relevant entity, the Commission must—

**New s. 25
inserted by
No. 63/2016
s. 8.**

- (a) consider the most effective means of promoting compliance by the relevant entity with the Child Safe Standards; and
- (b) liaise with each relevant authority (if any) of the relevant entity in relation to promoting compliance by the relevant entity with the Child Safe Standards.

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

Division 3—Compliance with the Child Safe Standards

New s. 26
inserted by
No. 63/2016
s. 8.

26 Requests for information or documents

The Commission by written notice may request a relevant entity to provide any information or document that the Commission reasonably requires to determine whether the relevant entity is complying with the Child Safe Standards.

New s. 27
inserted by
No. 63/2016
s. 8.

27 Requests for information or documents by relevant authorities

- (1) A relevant authority of a relevant entity may request the relevant entity to provide any information or document that the relevant authority reasonably requires to determine whether the relevant entity is complying with the Child Safe Standards.
- (2) Subsection (1) does not apply to the extent of any inconsistency with a provision of any other Act or subordinate instrument or a term of any contract or agreement between the relevant authority and the relevant entity.

28 Requests for information or documents from relevant authorities

New s. 28
inserted by
No. 63/2016
s. 8.

- (1) The Commission by written notice may request a relevant authority of a relevant entity to provide any information or document held by the relevant authority that the Commission reasonably requires to determine whether the relevant entity is complying with the Child Safe Standards.
- (2) A relevant authority may comply with a request under subsection (1) despite anything to the contrary in any other Act.

29 Inspection of premises

New s. 29
inserted by
No. 63/2016
s. 8.

- (1) The Commission may inspect premises at which a relevant entity—
 - (a) provides services or facilities for children; or
 - (b) engages a child to assist the relevant entity in providing the relevant entity's services or facilities.
- (2) The Commission must not inspect premises under subsection (1) unless—
 - (a) the Commission has given written notice of the inspection at least 7 days before the date of the inspection; and
 - (b) the relevant entity or the head of the relevant entity consents to the inspection.
- (3) Despite subsection (2)(a), in exceptional circumstances, the Commission may inspect premises without giving written notice of the inspection at least 7 days before the date of the inspection if the relevant entity or the head of the relevant entity consents to the inspection.

- (4) During an inspection of premises, the Commission may—
- (a) observe the activities carried out at the premises; and
 - (b) inspect any document that the Commission reasonably requires to inspect to determine whether the relevant entity is complying with the Child Safe Standards; and
 - (c) request any person to provide to the Commission any information that the Commission reasonably requires to determine whether the relevant entity is complying with the Child Safe Standards.

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

30 Notice to produce

- (1) The Commission by written notice may require a relevant entity to produce any document that the Commission reasonably requires to determine whether the relevant entity is complying with the Child Safe Standards if the Commission believes on reasonable grounds that the relevant entity is not complying, or is not reasonably likely to comply, with the Child Safe Standards.
- (2) A notice under subsection (1)—
- (a) must be in the prescribed form (if any); and
 - (b) must specify the following—
 - (i) the reason why the Commission believes that the relevant entity is not complying, or is not reasonably likely to comply, with the Child Safe Standards;
 - (ii) the document or category of document that must be produced;

- (iii) the date by which the documents must be provided, being not less than 14 days after the day on which the notice is given to the relevant entity;
 - (iv) the maximum pecuniary penalty for failing to comply with the notice;
 - (v) the process for seeking an internal review of the decision to issue the notice;
 - (vi) the prescribed matters (if any).
- (3) A relevant entity given a notice under subsection (1) must provide each document described in the notice to the Commission on or before the day specified in the notice.
- (4) The Commission, by further written notice given at any time, may vary or revoke a notice to produce.

31 Notice to comply

- (1) The Commission may give a relevant entity a notice to comply if the Commission believes on reasonable grounds that the relevant entity is not complying with the Child Safe Standards.
- (2) A notice to comply—
- (a) must be in the prescribed form (if any); and
 - (b) must specify the following—
 - (i) the reason for the issue of the notice to comply;
 - (ii) the Child Safe Standards that the Commission believes the relevant entity is not complying with and the grounds for that belief;

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

- (iii) the action that the relevant entity is required to take to address any issues that have been identified in the notice to comply;
 - (iv) the date by which the relevant entity must take the action specified in the notice to comply, being not less than 14 days after the day on which the notice is given;
 - (v) the maximum pecuniary penalty for failing to comply with the notice;
 - (vi) the process for seeking a review of the decision to issue the notice;
 - (vii) the prescribed matters (if any); and
- (c) must be accompanied by any recommendations or advice available to assist the entity to address the issues identified in the notice.

- (3) A relevant entity given a notice to comply must comply with the notice.
- (4) Despite subsection (2)(b)(iv), the Commission may specify a date that is less than 14 days after the day on which the notice is given in exceptional circumstances.
- (5) The Commission, by further written notice given to a relevant entity, and at any time, may vary or revoke a notice to comply.

New s. 32
inserted by
No. 63/2016
s. 8.

32 Non-compliance with notice to produce or notice to comply

- (1) If a relevant entity fails to comply with a notice to produce or a notice to comply by the date specified in the notice, the Commission may give each relevant authority (if any) of the relevant entity any information about the relevant entity's failure to comply with the notice.

- (2) The Commission may request a relevant authority to take any action that is available to the relevant authority under any applicable law, contract or agreement to promote and require compliance by the relevant entity with the Child Safe Standards.

33 Application to court

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

- (1) If a relevant entity fails to comply with a notice to produce or a notice to comply, the Commission may apply to a court for—
- (a) a declaration that the relevant entity has failed to comply with the notice; and
 - (b) an order requiring the relevant entity to pay a pecuniary penalty.
- (2) The court may make the declaration sought if the court is satisfied that—
- (a) the relevant entity is an entity that is required to comply with the Child Safe Standards; and
 - (b) the relevant entity has failed to comply with the notice to produce or notice to comply (as the case requires); and
 - (c) the failure to comply was unreasonable.

34 Civil penalty

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

- (1) If a court makes a declaration under section 33(2) that a relevant entity has failed to comply with a notice to produce or a notice to comply, the court may order the relevant entity to pay to the Commission a pecuniary penalty not exceeding 60 penalty units.
- (2) In determining the amount of the pecuniary penalty under subsection (1), the court must take into account the following considerations—
- (a) in the case of a relevant entity that is not an individual, the size of the relevant entity;

- (b) the impact of the amount of the penalty on the relevant entity;
 - (c) whether the non-compliance by the relevant entity with the notice to produce or notice to comply was wilful or serious.
- (3) An order made under this section is taken, for the purposes of enforcement, to be an order made by the court in a civil proceeding.
 - (4) A pecuniary penalty paid to the Commission in accordance with an order made under this section must be paid by the Commission into the Consolidated Fund.

New s. 35
inserted by
No. 63/2016
s. 8.

35 Protection against self-incrimination

It is a reasonable excuse for a natural person to refuse or fail to give information or do any thing that the person is requested to do under section 26 or 29 or required to do by or under section 28, 30 or 31 if the giving of the information or the doing of that other thing would tend to incriminate the person.

New s. 36
inserted by
No. 63/2016
s. 8.

36 Assistance to be provided

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

New s. 37
inserted by
No. 63/2016
s. 8.

37 Avoiding unnecessary duplication with other authorities

The Commission, in overseeing and enforcing compliance by a relevant entity with the Child Safe Standards—

- (a) must liaise with the relevant authorities (if any) of the relevant entity to the extent necessary—

- (i) to avoid unnecessary duplication; and
 - (ii) to facilitate the coordination and expedition of monitoring and enforcement activities; and
- (b) may liaise with the persons referred to in section 41H to the extent necessary for the purposes referred to in paragraph (a)(i) and (ii).

38 Consultation with relevant authorities

- (1) The Commission must consult with each relevant authority (if any) of a relevant entity before exercising any of the following powers in relation to the relevant entity—
- (a) requesting any information or document under section 26;
 - (b) conducting an inspection of premises under section 29;
 - (c) giving the relevant entity a notice to produce under section 30;
 - (d) giving the relevant entity a notice to comply under section 31;
 - (e) making an application to the court under section 33.
- (2) For the purposes of this section, in consulting with a relevant authority of a relevant entity, the Commission must provide the relevant authority with any information that is relevant to determining whether the relevant entity is complying with the Child Safe Standards.

New s. 38
inserted by
No. 63/2016
s. 8.

- (3) The Commission must not exercise a power referred to in subsection (1) if a relevant authority of the relevant entity advises that the relevant authority will take action—
 - (a) to determine whether the relevant entity is complying with the Child Safe Standards; or
 - (b) to promote and require compliance by the relevant entity with the Child Safe Standards.
- (4) Despite subsection (3), the Commission may exercise a power referred to in subsection (1) if—
 - (a) the relevant authority fails, or is unable, to take the action referred to in subsection (3) within a reasonable time; and
 - (b) the Commission further consults with the relevant authority in relation to the exercise of the power.

New s. 39
inserted by
No. 63/2016
s. 8.

39 Service of documents

A notice, order or other document under this Part authorised or required by this Part to be given to a relevant entity is taken to be given to the relevant entity—

- (a) if a true copy of the document is delivered personally to the relevant entity or, if the relevant entity is not an individual, the head of the relevant entity; or
- (b) if a true copy of the document is left at the last known or usual place of business of the relevant entity or the head of the relevant entity with a person who apparently resides or works there and who apparently is over the age of 16 years; or

- (c) by sending by post a true copy of the document addressed to the relevant entity or the head of the relevant entity at that relevant entity's last known or usual place of business; or
- (d) by sending by electronic communication a true copy of the document addressed to the relevant entity or the head of the relevant entity.

Division 4—Confidentiality and disclosures of information

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

40 Definitions

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

In this Division—

protected information means information acquired by a relevant person under this Part by reason of being a relevant person;

relevant person means any of the following persons—

- (a) the Principal Commissioner within the meaning of the **Commission for Children and Young People Act 2012**;
- (b) a Commissioner within the meaning of the **Commission for Children and Young People Act 2012**;
- (c) a delegate of the Commission;
- (d) an authorised person;
- (e) a member of the staff of the Commission.

New s. 41
inserted by
No. 63/2016
s. 8.

41 Matters relevant to disclosures of information

A person must have regard to the following matters in deciding whether to disclose information under section 26, 27, 28 or 29(4)(c)—

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

S. 41A
inserted by
No. 63/2016
s. 8.

41A Disclosures made in good faith

A disclosure of information made under section 26, 28 or 29, or in compliance with a notice to produce or a notice to comply, in good faith—

- (a) does not for any purpose constitute unprofessional conduct or a breach of professional ethics on the part of the person who made the disclosure; and
- (b) does not make the person who made the disclosure subject to any liability in respect of the disclosure; and
- (c) without limiting paragraphs (a) and (b), does not constitute a contravention of—
 - (i) section 141 of the **Health Services Act 1988**; or
 - (ii) section 346 of the **Mental Health Act 2014**.

41B Disclosure of information by relevant person prohibited

S. 41B
inserted by
No. 63/2016
s. 8.

A person who is or has been a relevant person must not disclose to any person, whether directly or indirectly, any protected information except to the extent necessary—

- (a) to perform functions or exercise powers under this Act or the **Commission for Children and Young People Act 2012**; or
- (b) to give information that the person is expressly authorised, permitted or required to give under this Act or any other Act.

Penalty: 60 penalty units.

41C Disclosure to other relevant persons permitted

S. 41C
inserted by
No. 63/2016
s. 8.

A relevant person may disclose protected information to another relevant person in connection with the performance of the Commission's functions or the exercise of the Commission's powers under this Act or the **Commission for Children and Young People Act 2012**.

41D Disclosure to report concerns permitted

S. 41D
inserted by
No. 63/2016
s. 8.

A relevant person may disclose protected information to any of the following persons or authorities to report concerns that the Commission may have about the failure of a relevant entity, in its operations, to promote the safety of children, to prevent child abuse or to properly respond to allegations of child abuse—

- (a) the Minister;
- (b) the Secretary to the Department of Health and Human Services;

- (c) if the relevant person considers that the concerns are relevant to a Minister of the Crown (other than the Minister), to that Minister;
- (d) if the relevant person considers that the concerns are relevant to a Secretary to another Department, to that Secretary;
- (e) a relevant authority of the relevant entity.

S. 41E
inserted by
No. 63/2016
s. 8.

41E Disclosure to protect child permitted

A person who is or has been a relevant person may disclose protected information to prevent a serious or imminent threat of harm to the health, safety or wellbeing of a child.

S. 41F
inserted by
No. 63/2016
s. 8.

41F Disclosure to court or tribunal permitted

A person who is or has been a relevant person may disclose protected information—

- (a) to a court or tribunal in the course of criminal legal proceedings; or
- (b) in accordance with an order of a court or tribunal made under another Act or law.

S. 41G
inserted by
No. 63/2016
s. 8.

41G Disclosure to obtain legal advice permitted

A person who is or has been a relevant person may disclose protected information to an Australian legal practitioner for the purpose of obtaining legal advice or representation.

S. 41H
inserted by
No. 63/2016
s. 8.

41H Disclosing information to other authorities

- (1) Subject to subsection (2), a relevant person may disclose protected information to the following persons—
 - (a) the Chief Commissioner of Police appointed under the **Victoria Police Act 2013**;

- (b) the Commissioner for Privacy and Data Protection appointed under the **Privacy and Data Protection Act 2014**;
 - (c) a coroner;
 - (d) the Disability Services Commissioner within the meaning of the **Disability Act 2006**;
 - (e) the Health Services Commissioner within the meaning of the **Health Services (Conciliation and Review) Act 1987**;
 - (f) the Commissioner of the IBAC appointed under the **Independent Broad-based Anti-corruption Commission Act 2011**;
 - (g) the Mental Health Complaints Commissioner within the meaning of the **Mental Health Act 2014**;
 - (h) the Minister;
 - (i) the Ombudsman within the meaning of the **Ombudsman Act 1973**;
 - (j) the Public Advocate within the meaning of the **Guardianship and Administration Act 1986**;
 - (k) the Secretary to the Department of Health and Human Services.
- (2) A relevant person must not disclose protected information to a person under subsection (1) unless the information is relevant to—
- (a) the performance of the Commission's functions; or
 - (b) the performance of a function conferred on the person by or under an Act.

Division 5—Review

Pt 6 Div. 5
(Heading and
ss 41I, 41J)
inserted by
No. 63/2016
s. 8.

S. 41I
inserted by
No. 63/2016
s. 8.

41I Internal review

- (1) A relevant entity may seek a review by the Commission of a decision of the Commission to issue a notice to produce or a notice to comply.
- (2) The Commission must prepare and implement a process for the review of a decision to issue the following—
 - (a) a notice to produce;
 - (b) a notice to comply.

S. 41J
inserted by
No. 63/2016
s. 8.

41J Application to the Victorian Civil and Administrative Tribunal

- (1) A relevant entity may apply to VCAT for a review of a decision of the Commission to issue a notice to comply.
- (2) An application for review must be made within 28 days after the later of—
 - (a) the day on which the decision is made; or
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the relevant entity requests a statement of reasons for the decision, the day on which—
 - (i) the statement of reasons is given to the relevant entity; or
 - (ii) the relevant entity is informed under section 46(5) of that Act that a statement of reasons will not be given.

- (3) Before a relevant entity is entitled to apply to VCAT for the review of a decision referred to in subsection (1), the relevant entity must have exhausted all available avenues for the review of the decision under section 41I.

Division 6—Reporting

41K Report of compliance by relevant entities with Child Safe Standards

- (1) An annual report of the operations of the Commission prepared for the purposes of section 45 of the **Financial Management Act 1994** must include details of compliance by relevant entities with the Child Safe Standards during the financial year to which the report of operations relates.
- (2) The Commission must give a further report of the details of compliance by relevant entities with the Child Safe Standards to the Minister and the Secretary to the Department of Health and Human Services at any time required by the Minister or the Secretary.
- (3) A section of an annual report or a further report prepared in accordance with subsection (1) or (2) must include the following details (as applicable) in relation to the reporting period—
- (a) the number of notices to produce that were given;
 - (b) the number of notices to comply that were given;
 - (c) the number of declarations made by the court under section 33 that a relevant entity did not comply with a notice to produce;

Pt 6 Div. 6
(Heading and
ss 41K–41M)
inserted by
No. 63/2016
s. 8.

S. 41K
inserted by
No. 63/2016
s. 8.

- (d) the number of declarations made by the court under section 33 that a relevant entity did not comply with a notice to comply;
 - (e) the number of civil penalties ordered by the court to be paid that related to a failure to comply with a notice to produce;
 - (f) the number of civil penalties ordered by the court to be paid that related to a failure to comply with a notice to comply;
 - (g) the educational activities undertaken by the Commission.
- (4) A section of an annual report or a further report prepared in accordance with subsection (1) or (2) may include the details of any persistent or recurrent systematic issues in compliance by relevant entities with the Child Safe Standards that were identified during the reporting period.
- (5) If the matters reported under this section include a matter that is the responsibility of a Minister of the Crown (other than the Minister), the Commission must give a copy of the report to that Minister of the Crown.
- (6) If the matters reported under this section include a matter that is the responsibility of a Secretary to a Department (other than the Department of Health and Human Services), the Commission must give a copy of the report to that Secretary.

S. 41L
inserted by
No. 63/2016
s. 8.

41L Matters to be included in annual report must not include identifying information

The matters reported under section 41K must not include—

- (a) information that identifies a child who uses the facilities or services of a relevant entity or who has been engaged by a relevant entity to provide facilities or services; or

- (b) information from which the identity of a child referred to in paragraph (a) can be determined.

41M Commission must first give opportunity to respond to adverse comment or opinion

S. 41M
inserted by
No. 63/2016
s. 8.

Despite any other provision in this Part, the Commission must not give a section of an annual report or a further report prepared in accordance with section 41K(1) or (2) to a Minister or a Secretary if—

- (a) the section or report includes any comment or opinion that is adverse to a relevant entity; and
- (b) the Commission has not given the relevant entity an opportunity to comment on the adverse comment or opinion.

Division 7—Reporting to Parliament

Pt 6 Div. 7
(Heading and
ss 41N, 41O)
inserted by
No. 63/2016
s. 8.

41N Application of Division

S. 41N
inserted by
No. 63/2016
s. 8.

This Division applies if—

- (a) the Minister or the Secretary to the Department of Health and Human Services has required the Commission to give a further report under section 41K(2); and
- (b) the Commission has given the further report, or a copy of the further report, to any of the following persons in accordance with Division 6—
 - (i) the Minister;
 - (ii) the Secretary to the Department of Health and Human Services;

- (iii) any other Minister of the Crown;
- (iv) a Secretary to another Department; and
- (c) at least 14 days have elapsed since the persons referred to in paragraph (a) were given the report or a copy of the report.

S. 41O
inserted by
No. 63/2016
s. 8.

41O Giving the report to Parliament

- (1) The Commission may give a copy of the report to the clerk of each House of the Parliament.
- (2) The clerk of each House of the Parliament must cause the report to be laid before the House on—
 - (a) the day on which it is received; or
 - (b) the next sitting day of the House.
- (3) If the Commission proposes to give the report to Parliament when neither House of the Parliament is sitting, the Commission must—
 - (a) give one business day's notice of the Commission's intention to do so to the clerk of each House of the Parliament; and
 - (b) give the copy of the report to the clerk of each House of the Parliament on the day indicated in the notice; and
 - (c) cause the report to be published by the Government Printer.
- (4) The clerk of a House of the Parliament must notify each member of the House of the receipt of a notice under subsection (3)(a) as soon as practicable after the clerk receives the notice.
- (5) On receiving a copy of the report under subsection (3)(b), the clerk of the House of the Parliament must—

- (a) as soon as practicable after the report is received, notify each member of the House of the receipt of the report and advise that the report is available on request; and
 - (b) give a copy of the report to any member of the House on request; and
 - (c) cause the copy of the report to be laid before the House on the next sitting day of the House.
- (6) A copy of a report that is given to the clerk of a House of the Parliament under subsection (1) or (3)(b) is taken to have been published by order, or under the authority, of that House.

Part 7—Birth notification

42 Application of Part

- (1) This Part applies in the case of every birth in Victoria, whether the child is born alive or dead, except for the delivery of a non-viable foetus.
- (2) This Part applies in addition to the requirements of the **Births, Deaths and Marriages Registration Act 1996**.

43 Early notification of births

- (1) If a child is born in Victoria notice of the birth of the child (the *birth notice*) must be given by the responsible person to—
 - (a) the Chief Executive Officer of the council of the municipal district in which the mother of the child usually resides; or
 - (b) if the municipal district is not known to the person giving notice, the Chief Executive Officer of the council of the municipal district in which the birth occurs; or
 - (c) if the mother of the child usually resides outside Victoria, the Secretary to the Department of Education and Training.

S. 43(1)(c)
amended by
Nos 79/2012
s. 78, 63/2015
s. 12.

- (2) The notice must be in the prescribed form.
- (3) In this section, *responsible person* has the same meaning as it has in section 12 of the **Births, Deaths and Marriages Registration Act 1996**.

44 How must the birth notice be given?

- (1) The birth notice must be given—
 - (a) personally; or
 - (b) by post; or

- (c) by facsimile transmission; or
 - (d) by electronic communication.
- (2) The birth notice must be given within—
- (a) 48 hours after the birth to which the notice relates; or
 - (b) if a longer period is prescribed in respect of a particular municipal district, that longer period.

45 What must be done once notice is received?

On receipt of the birth notice the Chief Executive Officer of a council must, as soon as practicable, send a copy of the notice—

- (a) if in the municipal district of the council there is a Maternal and Child Health Centre under the control of and subsidised by the council, to the nurse or midwife whose duty it is to visit or communicate with the house to which the notice relates; or
- (b) in any other case, to the Secretary to the Department of Education and Training.

S. 45(a)
amended by
No. 13/2010
s. 51(Sch.
item 11.3).

S. 45(b)
amended by
Nos 79/2012
s. 79, 63/2015
s. 13.

46 Offence to fail to give notice

- (1) Any person who fails to give notice of a birth in accordance with this Part is guilty of an offence and is liable to a penalty of not more than 1 penalty unit.
- (2) It is a defence to a prosecution for an offence under subsection (1) if the person—
 - (a) satisfies the court that he or she had reasonable grounds to believe that notice had been duly given by another person; or
 - (b) had other reasonable grounds for not giving the notice.

Part 8—General

47 Regulations

S. 47
substituted by
No. 63/2015
s. 7.

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations may—
 - (a) be of general or limited application; and
 - (b) differ according to differences in time, place or circumstances.

S. 48
repealed by
No. 79/2012
s. 80.

* * * * *

Schedule 1—Category 1 entities

Sch. 1
inserted by
No. 63/2015
s. 8.

- 1 An applicable entity that operates a registered school within the meaning of the **Education and Training Reform Act 2006**.
- 2 An applicable entity registered under Division 3 of Part 4.3 of the **Education and Training Reform Act 2006** in respect of an accredited senior secondary course or registered senior secondary qualification.
- 3 An applicable entity that is approved, under section 4.5.1 of the **Education and Training Reform Act 2006**, to provide a specified course to students from overseas.
- 4 An applicable entity that is approved, under section 4.5A.1 of the **Education and Training Reform Act 2006**, as suitable to operate a student exchange program.
- 5 An approved provider within the meaning of the Education and Care Services National Law (Victoria).
- 6 A children's service within the meaning of the **Children's Services Act 1996**.
- 7 An applicable entity that receives funding under a State contract to provide early therapeutic intervention specifically for children with a disability, additional needs or developmental delay.
- 8 An applicable entity that operates a Maternal and Child Health Centre.
- 9 A hospital listed in Schedule 1 to the **Health Services Act 1988** as a public hospital.
- 10 A public health service within the meaning of the **Health Services Act 1988**.

- 11 A hospital listed in Schedule 2 to the **Health Services Act 1988** as a denominational hospital.
- 12 An applicable entity that operates a private hospital within the meaning of the **Health Services Act 1988**.
- 13 An applicable entity that operates a day procedure centre within the meaning of the **Health Services Act 1988**.
- 14 A multi purpose service within the meaning of the **Health Services Act 1988**.
- 15 A registered community health centre within the meaning of the **Health Services Act 1988**.
- 16 A disability service provider within the meaning of the **Disability Act 2006**.
- 17 A mental health service provider within the meaning of the **Mental Health Act 2014**.
- 18 An applicable entity that receives funding under a State contract to provide drug or alcohol treatment services.
- 19 An applicable entity that receives funding under a State contract to provide services in relation to family violence or sexual assault.
- 20 An applicable entity that receives funding under a State contract to provide support services for parents and families.
- 21 An applicable entity that receives funding under a State contract to provide housing services or other assistance to homeless persons.
- 22 An applicable entity that receives funding under a State contract to provide youth services.
- 23 An applicable entity that receives funding under a State contract to provide child protection services.

Child Wellbeing and Safety Act 2005
No. 83 of 2005
Schedule 1—Category 1 entities

- 24 An out of home care service within the meaning of the **Children, Youth and Families Act 2005**.
- 25 A Department within the meaning of the **Public Administration Act 2004**.
- 26 An applicable entity that is constituted by or under any Act and that has functions of a public nature.
- 27 A council.

Sch. 2
inserted by
No. 63/2015
s. 8.

Schedule 2—Category 2 entities

- 1 A religious body within the meaning of section 81 of the **Equal Opportunity Act 2010**.
- 2 A charity.
- 3 A non-profit body within the meaning of the **Electronic Transactions (Victoria) Act 2000**.
- 4 A post-secondary education institution within the meaning of the **Education and Training Reform Act 2006**.
- 5 A post-secondary education provider within the meaning of the **Education and Training Reform Act 2006**.
- 6 An applicable entity that operates a school other than—
 - (a) a registered school within the meaning of the **Education and Training Reform Act 2006**;
or
 - (b) a place at which home schooling takes place in accordance with a registration under section 4.3.9 of that Act.
- 7 An applicable entity that operates a residential facility for a boarding school.
- 8 An applicable entity that provides coaching or tuition services specifically for children.
- 9 An applicable entity that provides counselling or other support services specifically for children.
- 10 An applicable entity, other than a disability service provider within the meaning of the **Disability Act 2006**, that provides disability services.

11 A youth organisation—

- (a) in which children participate; or
- (b) that provides activities in which children participate.

Example

- 1 The Girl Guides Association of Victoria incorporated by section 3 of the **Girl Guides Association Act 1952**.
 - 2 The Boy Scouts Association, Victorian Branch incorporated by section 3 of the **Scout Association Act 1932**.
- 12 An applicable entity that provides cultural, sporting or recreational services specifically for children.
- 13 An applicable entity that provides gym or play facilities specifically for children.
- 14 An applicable entity that runs talent or beauty competitions in which children participate.
- 15 An applicable entity that provides overnight camps for children.
- 16 An applicable entity that provides photography services specifically for children.
- 17 An applicable entity that provides professional babysitting services.
- 18 An applicable entity that provides, on a publicly funded or commercial basis, a transport service specifically for children.
- 19 An applicable entity that provides entertainment and party services specifically for children.
- 20 An applicable entity that employs a child and that is required to hold a permit issued under the **Child Employment Act 2003** for that employment.
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Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 6 October 2005

Legislative Council: 15 November 2005

The long title for the Bill for this Act was "to establish principles for the wellbeing of children, to establish the Victorian Children's Council and the Children's Services Co-ordination Board, to provide for the Child Safety Commissioner and to confer functions and powers on the Child Safety Commissioner in relation to the safety of children, to provide for the notification of births to municipal councils, to repeal Part IX of the **Health Act 1958** and for other purposes."

The **Child Wellbeing and Safety Act 2005** was assented to on 29 November 2005 and came into operation as follows:

Sections 1–41 and 47 on 1 June 2006: Government Gazette 1 June 2006 page 1028; Part 7 (sections 42–46) and section 48 on 1 October 2007: section 2(2).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms

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part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

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2 Table of Amendments

This publication incorporates amendments made to the **Child Wellbeing and Safety Act 2005** by Acts and subordinate instruments.

Children, Youth and Families Act 2005, No. 96/2005

Assent Date: 7.12.05
Commencement Date: S. 604 on 23.4.07: Government Gazette 19.4.07 p. 672
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Health Professions Registration Act 2005, No. 97/2005

Assent Date: 7.12.05
Commencement Date: S. 182(Sch. 4 item 9) on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Disability Act 2006, No. 23/2006

Assent Date: 16.5.06
Commencement Date: S. 233 on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 10) 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Statute Law Revision Act 2007, No. 28/2007

Assent Date: 26.6.07
Commencement Date: S. 3(Sch. item 6) on 27.6.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Education and Training Reform Miscellaneous Amendments Act 2007, No. 58/2007

Assent Date: 27.11.07
Commencement Date: S. 51 on 28.11.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Children's Legislation Amendment Act 2008, No. 22/2008

Assent Date: 3.6.08
Commencement Date: S. 41 on 25.5.09: s. 2(3)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

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Children Legislation Amendment Act 2009, No. 46/2009

Assent Date: 18.8.09
Commencement Date: Ss 9–15 on 19.8.09: s. 2
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Statute Law Amendment (National Health Practitioner Regulation) Act 2010, No. 13/2010

Assent Date: 30.3.10
Commencement Date: S. 51(Sch. item 11) on 1.7.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Children's Services Amendment Act 2011, No. 80/2011

Assent Date: 21.12.11
Commencement Date: S. 79(Sch. item 1) on 1.1.12: Special Gazette (No. 423) 21.12.11 p. 2
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Commission for Children and Young People Act 2012, No. 79/2012

Assent Date: 18.12.12
Commencement Date: Ss 73–80 on 1.3.13: Special Gazette (No. 27) 29.1.13 p. 1
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Child Wellbeing and Safety Amendment (Child Safe Standards) Act 2015, No. 63/2015

Assent Date: 1.12.15
Commencement Date: Ss 4–13 on 1.1.16: Special Gazette (No. 426) 22.12.15 p.1
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

Child Wellbeing and Safety Amendment (Oversight and Enforcement of Child Safe Standards) Act 2016, No. 63/2016

Assent Date: 15.11.16
Commencement Date: Ss 4–8 on 1.1.17: Special Gazette (No. 381) 13.12.16 p. 1
Current State: This information relates only to the provision/s amending the **Child Wellbeing and Safety Act 2005**

3 Amendments Not in Operation

This publication does not include amendments made to the **Child Wellbeing and Safety Act 2005** by the following Act/s.

Crimes Amendment (Sexual Offences) Act 2016, No. 47/2016

<i>Assent Date:</i>	6.9.16
<i>Commencement Date:</i>	S. 33 not yet proclaimed
<i>Current State:</i>	This information relates only to the provision/s amending the Child Wellbeing and Safety Act 2005

At the date of this publication, the following provisions amending the **Child Wellbeing and Safety Act 2005** were Not in Operation:

Amending Act/s:

Crimes Amendment (Sexual Offences) Act 2016, No. 47/2016

33 Child Wellbeing and Safety Act 2005

In section 3 of the **Child Wellbeing and Safety Act 2005**, in paragraph (a)(ii) of the definition of *child abuse*, for "section 49B(2)" substitute "section 49M(1)".

4 Explanatory details

No entries at date of publication.