

PARLIAMENT OF VICTORIA

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**Children Legislation Amendment (Information  
Sharing) Bill 2017**

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# PARLIAMENT OF VICTORIA

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Introduced in the Assembly

## **Children Legislation Amendment (Information Sharing) Bill 2017**

A Bill for an Act to amend the **Child Wellbeing and Safety Act 2005** to provide for specified entities to share information to promote the wellbeing and safety of children, to create a register of children born or resident in Victoria to improve child wellbeing and safety outcomes for those children and to monitor and support their participation in government-funded programs and services, to make consequential amendments to other Acts and for other purposes.

**The Parliament of Victoria enacts:**

### **Part 1—Preliminary**

#### **1 Purposes**

The main purposes of this Act are—

- (a) to amend the **Child Wellbeing and Safety Act 2005**—
  - (i) to establish an information sharing scheme to enable specified entities to share confidential information in a

5

Part 1—Preliminary

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timely and effective manner in order to promote the wellbeing and safety of children; and

- 5 (ii) to establish a register of children born or resident in Victoria to improve child wellbeing and safety outcomes for those children, and to monitor and support their participation in government-funded programs and services; and
- 10 (b) to amend the **Children, Youth and Families Act 2005**—
- 15 (i) so that the provisions for the sharing of information under that Act are simplified and complement the scheme referred to in paragraph (a); and
- 20 (ii) to expand the circumstances in which an authorised officer may direct an information holder to provide information or documents concerning the protection or development of a child; and
- (c) to make consequential amendments to other Acts.

25 **2 Commencement**

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- 30 (2) If a provision of this Act does not come into operation before 31 December 2019, it comes into operation on that day.

**3 Principal Act**

In this Act, the **Child Wellbeing and Safety Act 2005** is called the Principal Act.

## Part 2—Amendment of Principal Act

### 4 Purposes

In section 1 of the Principal Act—

(a) after paragraph (e) **insert**—

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

10          (b) after paragraph (fa) **insert**—

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

### 5 Definitions

In section 3(1) of the Principal Act—

20          (a) **insert** the following definitions—

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

25           (a) who is an authorised  
representative, within the meaning  
of section 28(6) of the **Privacy  
and Data Protection Act 2014**,  
of that individual; and

30           (b) who is not a person of  
concern within the meaning  
of section 144B of the **Family  
Violence Protection Act 2008**;  
and

- (c) who is not alleged to pose a risk of family violence;

*confidential information* means—

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

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

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

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

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

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

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

30 (b) in the definition of *child*, after "means" insert "(other than in Part 6A)";

(c) in the definition of *court*, after "means" insert "(other than in Parts 6A and 7A)".

## 6 Principles for children

For section 5(2)(a) of the Principal Act  
**substitute—**

- 5           "(a) to readily identify risks, harm and damage  
to the child and to provide for the earliest  
possible intervention by providers of services  
to remove or ameliorate the causes of the  
risks, harm or damage;
- 10           (ab) to strengthen the capacity and efforts of  
parents, their families and communities to  
support the child as early as possible in the  
child's life;".

## 7 Prohibition on publishing certain information

15           Before section 16ZE(4) of the Principal Act  
**insert—**

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

## 20           8 New Part 6A inserted

After Part 6 of the Principal Act **insert—**

### **"Part 6A—Information sharing**

#### **Division 1—Preliminary**

#### **41P Definitions**

25           In this Part—

***child*** means—

- (a) a person who is under the age of  
18 years; and
- 30           (b) an unborn child that is the subject  
of a report made under section 29  
of the **Children, Youth and**

**Families Act 2005** or a referral under section 32 of that Act;

*consent* means express or implied consent;

5

*excluded information* has the meaning set out in section 41Q;

10

*handling*, in relation to confidential information, has the meaning set out in section 3 of the **Privacy and Data Protection Act 2014** in relation to personal information;

*Health Privacy Principle* means any of the Health Privacy Principles set out in Schedule 1 to the **Health Records Act 2001**;

15

*Information Privacy Principle* means any of the Information Privacy Principles set out in Schedule 1 to the **Privacy and Data Protection Act 2014**;

20

*person* includes an unincorporated association, a firm and a partnership.

**41Q Meaning of *excluded information***

In this Part, confidential information is *excluded information* if—

25

(a) the collection, use or disclosure of that information could be reasonably expected to—

30

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



Part 2—Amendment of Principal Act

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- 5
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- (iii) prejudice a coronial inquest or inquiry; or
  - (iv) prejudice the fair trial of a person or the impartial adjudication of a particular case; or
  - (v) disclose the contents of a document, or a communication, that is of such a nature that the contents of the document, or the communication, would be privileged from production in legal proceedings on the ground of legal professional privilege or client legal privilege; or
  - (vi) disclose, or enable a person to ascertain, the identity of a confidential source of information in relation to the enforcement or administration of the law; or
  - (vii) contravene a court order or a provision made by or under this Act or any other Act that—
    - (A) prohibits or restricts, or authorises a court or tribunal to prohibit or restrict, the publication or other disclosure of information for or in connection with any proceeding; or
    - (B) requires or authorises a court or tribunal to close any proceeding to the public; or
  - (viii) be contrary to the public interest; or
-

- (b) the information is prescribed to be excluded information for the purposes of this Part.

**41R Meaning of *information sharing entity***

- 5 (1) In this Act, *information sharing entity* means a person or body, or a class of person or body, prescribed to be an information sharing entity.
- 10 (2) For the avoidance of doubt, if a provision of this Part or the regulations does not specify that it applies to a category of information sharing entity, then the provision applies to all information sharing entities.

**41S Meaning of *restricted information sharing entity***

- 15 (1) In this Act, *restricted information sharing entity* means a person or body, or a class of person or body, prescribed to belong to a category of restricted information sharing entity specified in the regulations.
- 20 (2) Without limiting subsection (1), the regulations may specify that a category of restricted information sharing entity may carry out one or more of the following activities as if it were an information sharing entity—
  - 25 (a) disclose confidential information under section 41V to—
    - 30 (i) an information sharing entity; or
    - (ii) a restricted information sharing entity that belongs to a category of restricted information sharing entity that may collect confidential information under this Part;

Part 2—Amendment of Principal Act

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- 5
- (b) collect confidential information disclosed under this Part;
- (c) request the disclosure of confidential information under section 41W(1), and collect that information, from—
- 10
- (i) an information sharing entity; or
- (ii) a restricted information sharing entity that belongs to a category of restricted information sharing entity that may disclose confidential information under section 41W(3);
- (d) disclose confidential information under section 41W(3) if requested to do so by—
- 15
- (i) an information sharing entity; or
- (ii) a restricted information sharing entity that belongs to a category of restricted information sharing entity that may request confidential information under section 41W(1);
- 20
- (e) disclose confidential information under section 41Y.
- 25
- (3) A restricted information sharing entity must only disclose confidential information to the extent permitted by this Part or the regulations for the category of restricted information sharing entity to which the restricted information sharing entity belongs.
- 30

**41T Application of this Part to courts and tribunals**

35

If any of the following persons or bodies are prescribed to be information sharing entities or restricted information sharing entities,

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- 5 nothing in this Part applies to the collection,  
use or disclosure of confidential information  
by those persons or bodies in relation to,  
or for the purposes of, their judicial or  
quasi-judicial functions—
- 10 (a) a court or tribunal;
- (b) the holder of a judicial or quasi-judicial  
office or other office pertaining to a  
court or tribunal in their capacity as the  
holder of that office;
- 15 (c) a registry or other office of a court or  
tribunal;
- (d) the staff of such a registry or other  
office in their capacity as members of  
that staff.

**41U Principles**

- 20 (1) The principles set out in this section should  
be used for guidance in relation to the  
collection, use or disclosure of confidential  
information that is authorised or required to  
be collected, used or disclosed under this  
Part.
- 25 (2) Information sharing entities and restricted  
information sharing entities should—
- (a) give precedence to the wellbeing and  
safety of a child or group of children  
over the right to privacy; and
- 30 (b) only share confidential information to  
the extent necessary to promote the  
wellbeing or safety of a child or group  
of children, consistent with the best  
interests of that child or those children;  
and

Part 2—Amendment of Principal Act

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- 5
- (c) work collaboratively in a manner that respects the functions and expertise of each information sharing entity and restricted information sharing entity; and
- 10
- (d) seek and take into account the views of a child and the child's relevant family members, if it is appropriate, safe and reasonable to do so; and
- 15
- (e) seek to preserve and promote positive relationships between a child and the child's family members and persons of significance to the child; and
- 20
- (f) be respectful of and have regard to a child's social, individual and cultural identity, the child's strengths and abilities and any vulnerability relevant to the child's safety or wellbeing; and
- 25
- (g) take all reasonable steps to plan for the safety of all family members who are believed to be at risk from family violence; and
- 30
- (h) promote the cultural safety and recognise the cultural rights and familial and community connections of children who are Aboriginal, Torres Strait Islander or both; and
- (i) seek to maintain constructive and respectful engagement with children and their families.
- (3) The Parliament does not intend these principles—
- 35
- (a) to create in any person any legal right or give rise to any civil cause of action; or

- (b) to affect in any way the interpretation of any Act or law in force in Victoria.

## **Division 2—Information sharing**

### **41V Voluntary disclosure for wellbeing or safety of children**

5

An information sharing entity (the *disclosing entity*) may, on its own initiative, disclose confidential information, other than excluded information, to another information sharing entity (the *receiving entity*) if—

10

- (a) the disclosure is made for the purpose of promoting the wellbeing or safety of a child or group of children; and

15

- (b) the disclosing entity reasonably believes that the disclosure may assist the receiving entity to carry out one or more of the following activities—

20

- (i) making a decision, an assessment or a plan relating to a child or group of children;

25

- (ii) initiating or conducting an investigation relating to a child or group of children;

- (iii) providing a service relating to a child or group of children;

- (iv) managing any risk to a child or group of children.

### **41W Request for confidential information for wellbeing or safety of children**

30

- (1) An information sharing entity (the *requesting entity*) may request another information sharing entity (the *responding entity*) to disclose to the requesting entity confidential information,
-

Part 2—Amendment of Principal Act

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other than excluded information, if the request is made for the purpose of promoting the wellbeing or safety of a child or a group of children.

5

(2) In making a request under this section, a requesting entity may disclose to the responding entity any confidential information that may assist the responding entity to—

10

(a) identify the confidential information held by the responding entity that is relevant to the request; and

15

(b) form an opinion on whether the confidential information may be disclosed in accordance with this Part.

(3) Subject to subsection (5), the responding entity must comply with a request made under subsection (1) for the disclosure of the confidential information if—

20

(a) the disclosure is made for the purpose of promoting the wellbeing or safety of a child or group of children; and

25

(b) the responding entity reasonably believes that the disclosure may assist the requesting entity to carry out one or more of the following activities—

30

(i) making a decision, an assessment or a plan relating to a child or group of children;

(ii) initiating or conducting an investigation relating to a child or group of children;

(iii) providing a service relating to a child or group of children;

(iv) managing any risk to a child or group of children.

5 (4) Subject to subsection (5), a responding entity that does not comply with a request made under subsection (1) must provide, in writing, the requesting entity with the reason for the failure to comply with the request.

10 (5) Subsections (3) and (4) do not apply to any person or body specified in section 41T that has been prescribed to be an information sharing entity or a restricted information sharing entity.

**41X Further disclosure of confidential information**

15 If confidential information is disclosed under this Part to an information sharing entity or a restricted information sharing entity, nothing in this Part prevents or limits the information sharing entity or restricted information  
20 sharing entity from using or disclosing that information if it is required or permitted to do so by or under any Act or law.

**41Y Voluntary disclosure to child or person with parental responsibility or with whom child is living**

25 (1) An information sharing entity may disclose confidential information, other than excluded information, to any of the following persons for the purposes of managing a risk to a  
30 child's safety—

- (a) the child;
- (b) a person who has parental responsibility for the child;
- (c) a person with whom the child is living.



5 (2) A person to whom confidential information has been disclosed under subsection (1) must not use or disclose that information except for the purposes of managing a risk to the child's safety.

(3) Nothing in this section limits any disclosure that is required or permitted under any Act or law.

10 **41Z Collection and use of confidential information**

15 An information sharing entity or a restricted information sharing entity may, for the purposes of this Part, collect and use any confidential information disclosed to the information sharing entity or restricted information sharing entity under this Part.

**Division 3—Guidelines, protected disclosures and recording requirements**

**41ZA Guidelines**

- 20 (1) The Minister must issue guidelines in relation to the operation of this Part.
- (2) Without limiting subsection (1), guidelines issued must address—
- 25 (a) how an information sharing entity or a restricted information sharing entity may demonstrate its capacity to handle confidential information responsibly and appropriately in accordance with this Part; and
- 30 (b) how the principles set out in section 41U are to be applied in practice by an information sharing entity or a restricted information sharing entity when collecting, using or disclosing

confidential information under this Part.

- 5
- (3) Before issuing guidelines under subsection (1), the Minister must publish, on an appropriate Internet site—
- (a) a draft of the proposed guidelines; and
- (b) a statement that submissions may be made to the Minister on or before a specified date, being at least 28 days after the day on which the draft guidelines are published.
- 10
- (4) As soon as practicable after finalising draft guidelines, the Minister must publish the guidelines on an appropriate Internet site.
- 15
- (5) Subject to subsection (6), an information sharing entity or a restricted information sharing entity must comply with any guidelines issued under this section when handling confidential information in accordance with this Part.
- 20
- (6) Subsection (5) does not apply to any person or body specified in section 41T that has been prescribed to be an information sharing entity or a restricted information sharing entity.
- 25
- (7) Guidelines issued under subsection (1) are not legislative instruments within the meaning of the **Subordinate Legislation Act 1994**.
- 30
- (8) The Minister may review guidelines issued under subsection (1) at any time and may issue amended guidelines as the Minister considers necessary.

- 5 (9) If the Minister considers that an amendment to the guidelines is significant or substantial, the requirements of subsection (3) must be met before the amended guidelines may be issued.

**41ZB Use and disclosure in good faith protected**

The use or disclosure of confidential information under this Part in good faith and with reasonable care—

- 10 (a) does not for any purpose constitute unprofessional conduct or a breach of professional ethics on the part of the individual by whom it was made; and
- 15 (b) does not make the individual by whom it was made subject to any liability in respect of it; and
- (c) without limiting paragraphs (a) and (b), does not constitute a contravention by the individual of any other Act.

20 **41ZC Recording requirements**

An information sharing entity or a restricted information sharing entity must record the prescribed information in respect of its collection, use and disclosure of confidential information in accordance with this Part and the regulations.

25

**Division 4—Relationship of this Part with other Acts**

30 **41ZD Information sharing entities under the Family Violence Protection Act 2008**

- (1) This section applies if an information sharing entity or a restricted information sharing entity is an information sharing entity within

the meaning of Part 5A of the **Family Violence Protection Act 2008**.

- 5
- (2) An information sharing entity or a restricted information sharing entity to which this section applies may collect, use or disclose confidential information either—
- (a) under and in accordance with Part 5A of the **Family Violence Protection Act 2008**; or
- 10 (b) under and in accordance with this Part.

**41ZE Part does not affect handling of confidential information permitted by other Acts**

15 This Part does not affect the collection, use or disclosure of confidential information by an information sharing entity or a restricted information sharing entity that would otherwise be permitted by or under the **Privacy and Data Protection Act 2014**, the **Health Records Act 2001**, this Act or any other Act.

20

**41ZF Restrictions on access to confidential information**

- 25 (1) An information sharing entity or a restricted information sharing entity may refuse to give an individual access to that individual's confidential information under a relevant privacy law if the information sharing entity or restricted information sharing entity
- 30 believes on reasonable grounds that giving the individual access to the information would increase a risk to the safety of a child or group of children.

(2) In this section—

*relevant privacy law* means—

- (a) Health Privacy Principle 6; or
- 5 (b) Information Privacy Principle 6;  
or
- (c) the Privacy Act 1988 of the  
Commonwealth; or
- 10 (d) the Privacy Act 1988 of the  
Commonwealth applied as a law  
of Victoria by another Act.

**41ZG Application of Privacy and Data  
Protection Act 2014 to certain information  
sharing entities and restricted information  
sharing entities**

- 15 (1) This section applies to an information  
sharing entity or a restricted information  
sharing entity that is not—
  - 20 (a) an organisation within the meaning  
of the **Privacy and Data Protection  
Act 2014**; or
  - (b) subject to the Privacy Act 1988 of the  
Commonwealth, or that Act as applied  
as a law of Victoria by any other law.
- 25 (2) The **Privacy and Data Protection  
Act 2014** applies to the handling of personal  
information or unique identifiers by the  
information sharing entity or restricted  
information sharing entity under this Part as  
30 if the entity were an organisation within the  
meaning of that Act.

**41ZH Information sharing entities and restricted information sharing entities authorised to disclose confidential information despite specified provisions**

5 An information sharing entity or a restricted information sharing entity is authorised to collect, use or disclose confidential information in accordance with this Part and the regulations despite anything to the contrary in a provision of an Act—

10

- (a) specified in Schedule 7; or
- (b) prescribed for the purposes of this section.

**41ZI Disclosure of confidential information is not breach of Family Violence Protection Act 2008**

15

Sections 166(2) and 207(3) of the **Family Violence Protection Act 2008** do not prevent a disclosure of confidential information that is made by an information sharing entity or a restricted information sharing entity for the purposes of this Part.

20

**41ZJ Disclosure of confidential information is not breach of Judicial Proceedings Reports Act 1958**

25

Sections 3 and 4 of the **Judicial Proceedings Reports Act 1958** do not prevent a disclosure of confidential information that is made by an information sharing entity or a restricted information sharing entity for the purposes of this Part.

30

### **Division 5—Offences**

#### **41ZK Unauthorised use and disclosure of confidential information collected under this Part**

5 (1) A person must not use or disclose confidential information disclosed to the person under this Part except in accordance with this Part.

10 Penalty: In the case of a person other than a body corporate, 60 penalty units;  
In the case of a body corporate, 300 penalty units.

15 (2) It is a defence to a charge under subsection (1) if the person used or disclosed the confidential information in good faith and with reasonable care.

**Note**

See also section 41ZB.

20 (3) Subsection (1) does not apply to the following uses and disclosures of confidential information—

(a) a use or disclosure made with the consent of the person to whom the information relates;

25 (b) if the person to whom the information relates is incapable of giving consent to the use or disclosure, a use or disclosure made with the consent of the person's authorised representative;

30 (c) a disclosure made to a court or tribunal in the course of legal proceedings;

(d) a use or disclosure made pursuant to an order of a court or tribunal;

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- 5 (e) a use or disclosure made to the extent reasonably required to enable the investigation or the enforcement of a law of this State or of any other State or of a Territory or of the Commonwealth;
- (f) a disclosure made to an Australian legal practitioner for the purposes of obtaining legal advice or representation;
- 10 (g) a use or disclosure made as required or authorised by or under this Act or any other Act.
- 15 (4) Subsection (1) does not apply to the use or disclosure of confidential information by a person who is given the confidential information under section 41Y.
- 20 (5) A person does not commit an offence against subsection (1) only for the reason that the person uses or discloses confidential information in a way that does not comply with guidelines issued under section 41ZA(1).
- Note**
- Despite non-compliance not being an offence—
- 25 (a) this does not preclude non-compliance being taken into account in dealing with a complaint made under the **Privacy and Data Protection Act 2014**, the **Health Records Act 2001** or the Privacy Act 1988 of the Commonwealth; and
- 30 (b) non-compliance may lead to a person or body ceasing to be prescribed as an information sharing entity or a restricted information sharing entity.



**41ZL Intentional or reckless unauthorised use and disclosure of confidential information**

- 5 (1) A person must not use or disclose confidential information disclosed to the person under this Part in a manner that is unauthorised under this Part and that the person—
- (a) knows is unauthorised under this Part; or
- 10 (b) is reckless as to whether the use or disclosure of the information is unauthorised under this Part.
- Penalty: In the case of a person other than a body corporate, 600 penalty units or imprisonment for 5 years or both;
- 15 In the case of a body corporate, 3000 penalty units.
- 20 (2) Subsection (1) does not apply to the following uses and disclosures of confidential information—
- (a) a use or disclosure made with the consent of the person to whom the information relates;
- 25 (b) if the person to whom the information relates is incapable of giving consent to the use or disclosure, a use or disclosure made with the consent of the person's authorised representative;
- 30 (c) a disclosure made to a court or tribunal in the course of legal proceedings;
- (d) a use or disclosure made pursuant to an order of a court or tribunal;

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- 5 (e) a use or disclosure made to the extent reasonably required to enable the investigation or the enforcement of a law of this State or of any other State or of a Territory or of the Commonwealth;
- (f) a disclosure made to an Australian legal practitioner for the purposes of obtaining legal advice or representation;
- 10 (g) a use or disclosure made as required or authorised by or under this Act or any other Act.
- 15 (3) Subsection (1) does not apply to the use or disclosure of confidential information by a person who is given the confidential information under section 41Y.
- 20 (4) A person does not commit an offence against subsection (1) only for the reason that the person uses or discloses confidential information in a way that does not comply with guidelines issued under section 41ZA(1).
- Note**
- Despite non-compliance not being an offence—
- 25 (a) this does not preclude non-compliance being taken into account in dealing with a complaint made under the **Privacy and Data Protection Act 2014**, the **Health Records Act 2001** or the Privacy Act 1988 of the Commonwealth; and
- 30 (b) non-compliance may lead to a person or body ceasing to be prescribed as an information sharing entity or a restricted information sharing entity.

**41ZM False claim that person is or represents an information sharing entity or a restricted information sharing entity**

- 5 (1) A person who is not an information sharing entity or a restricted information sharing entity must not, in any way, claim or hold themselves out to be an information sharing entity or a restricted information sharing entity.
- 10 Penalty: In the case of a person other than a body corporate, 60 penalty units;  
In the case of a body corporate, 300 penalty units.
- 15 (2) A person who is not authorised by an information sharing entity or a restricted information sharing entity to collect confidential information under this Part on behalf of the information sharing entity or restricted information sharing entity must not, in any way, claim or hold themselves out to be authorised to collect such information on the information sharing entity or restricted information sharing entity's behalf.
- 20 Penalty: In the case of a person other than a body corporate, 60 penalty units;  
In the case of a body corporate, 300 penalty units.
- 25 (3) It is a defence to a charge under subsection (1) if the person reasonably believes that the person is an information sharing entity or a restricted information sharing entity.
- 30

- 5 (4) It is a defence to a charge under subsection (2) if the person reasonably believes that the person is authorised by the information sharing entity or restricted information sharing entity to collect the confidential information on the information sharing entity or restricted information sharing entity's behalf.

### **Division 6—Review**

10 **41ZN Review of operation of Part within 2 years**

- (1) The Minister must cause an independent review of the operation of this Part to be conducted within 2 years of the commencement of this Part.
- 15 (2) The Minister must cause a copy of the review to be laid before each House of the Parliament within 6 months after the end of the period of the review.
- 20 (3) The review must include consideration of any adverse effects of this Part.
- (4) The review may include any recommendations on any matter addressed in the review.

**41ZO Review of operation of Part within 5 years**

- 25 (1) The Minister must cause an independent review of the operation of this Part to be conducted within 5 years of the commencement of this Part.
- 30 (2) The Minister must cause a copy of the review to be laid before each House of the Parliament within 6 months after the end of the period of the review.
- (3) The review must include consideration of any adverse effects of this Part.

- (4) The review may include any recommendations on any matter addressed in the review."

**9 What must be done once notice is received?**

5 In section 45 of the Principal Act—

- (a) in paragraph (a), for "relates; or" **substitute** "relates; and";  
(b) in paragraph (b) **omit** "other".

**10 New Part 7A inserted**

10 After Part 7 of the Principal Act **insert**—

**"Part 7A—Child Link Register**

**Division 1—Definitions**

**46A Definitions**

In this Part—

15 *approved education and care service* means  
an approved education and care service  
within the meaning of section 5(1) of  
the Education and Care Services  
National Law (Victoria) that provides  
20 funded kindergarten;

*approved provider*, in relation to an  
approved education and care service,  
has the same meaning as in section 5(1)  
of the Education and Care Services  
25 National Law (Victoria);

*Child Link identifier* means an identifier  
allocated to a child by the Secretary  
under section 46C;

30 *Child Link user* means a person who is  
authorised to access the Register,  
specified in section 46K;

*child protection order* means—

- 5
- (a) an order made under Part 4.8 of the **Children, Youth and Families Act 2005**; or
- (b) a protection order within the meaning of the **Children, Youth and Families Act 2005**; or
- 10
- (c) a permanent care order within the meaning of the **Children, Youth and Families Act 2005**;

15

*de-identified*, in relation to confidential information, means confidential information that no longer relates to an identifiable individual or an individual who can be reasonably identified;

20

*funded kindergarten* means a service provided in accordance with the guidelines in relation to kindergarten funding published on the website of the Department of Education and Training;

*Government school* has the same meaning as in section 1.1.3(1) of the **Education and Training Reform Act 2006**;

25

*licensed children's service* means a children's service (within the meaning of the **Children's Services Act 1996**) that is licensed under Part 3 of that Act that provides funded kindergarten;

30

*licensee*, in relation to a licensed children's service, has the same meaning as in the **Children's Services Act 1996**;

*Maternal and Child Health service* means a service under the control of a council that provides health advice to parents

and other caregivers of children under 6 years of age;

5

*non-Government school* has the same meaning as in section 1.1.3(1) of the **Education and Training Reform Act 2006**;

*principal* has the same meaning as in section 1.1.3(1) of the **Education and Training Reform Act 2006**;

10

*Register* means the Child Link Register established under section 46B;

15

*registered early childhood teacher* has the same meaning as in section 1.1.3(1) of the **Education and Training Reform Act 2006**;

*registered school* has the same meaning as in section 1.1.3(1) of the **Education and Training Reform Act 2006**;

20

*registered teacher* has the same meaning as in section 1.1.3(1) of the **Education and Training Reform Act 2006**;

*relevant service* means—

25

(a) a Maternal and Child Health service; or

(b) a supported playgroup; or

(c) an approved education and care service; or

30

(d) a student support service provided by the Department of Education and Training; or

(e) a licensed children's service; or

(f) a registered school that is a Government school; or

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(g) a registered school that is a non-Government school; or

(h) a school nurse program; or

(i) any other prescribed service;

5                    *school nurse* means a nurse employed under Part 3 of the **Public Administration Act 2004** by the Secretary, or otherwise engaged by the Secretary, for the purposes of providing a school nurse program in a registered school;

10                    *Secretary* means the Secretary to the Department of Education and Training;

15                    *sibling* of a child includes a half-brother, half-sister, adoptive brother, adoptive sister, step-brother or step-sister of the child;

20                    *State Register* means the State Register established under Part 4.6 of the **Education and Training Reform Act 2006**;

25                    *Student Register* means the Student Register established under Part 5.3A of the **Education and Training Reform Act 2006**;

30                    *supported playgroup* means a playgroup providing support for families experiencing disadvantage that is funded by the Department of Education and Training;

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

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*Victorian student number* has the same meaning as in section 1.1.3(1) of the **Education, Training and Reform Act 2006**.

5

## **Division 2—The Child Link Register**

### **46B The Child Link Register**

- (1) The Secretary must establish and maintain the Child Link Register in relation to each child—
- 10 (a) who is born in Victoria; or
- (b) who accesses, enrolls in, registers with or otherwise engages with a relevant service, as applicable; or
- 15 (c) who is registered for home schooling under section 4.3.9 of the **Education and Training Reform Act 2006**; or
- (d) in respect of whom a child protection order is made.
- (2) The Secretary may maintain an entry in the Register in relation to a person who is 18 years of age—
- 20 (a) who is currently enrolled in a registered school or registered for home schooling; and
- 25 (b) who enrolled or registered (as the case may be) prior to attaining 18 years of age.
- (3) The Secretary is to keep the Register in a form to be determined by the Secretary.

**46C Secretary must create Child Link entry and allocate Child Link identifier**

- 5 (1) The Secretary must create an entry in the Register for a child referred to in section 46B(1) and allocate a Child Link identifier to the child—
- (a) on receipt of a copy of a birth notice for the child under section 45(b); or

**Note**

10 A birth notice must be given for every birth in Victoria, whether the child is born alive or dead, except for the delivery of a non-viable foetus—see section 42(1).

- 15 (b) if the Secretary has not received a copy of a birth notice for the child, on receiving notice of the earliest of the following—
- (i) the child's first contact with a relevant service;
- 20 (ii) the allocation to the child of a Victorian student number by the Secretary under Part 5.3A of the **Education and Training Reform Act 2006**;
- 25 (iii) the registration of the child for home schooling by the Victorian Registration and Qualifications Authority;
- (iv) the making of a child protection order in respect of the child.

- 30 (2) In this section—

***first contact*** means—

- 35 (a) in relation to a Maternal and Child Health service—the first notification received by the
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- relevant service in relation to the child; or
- 5 (b) in relation to a supported playgroup—the first notification received by the relevant service in relation to the child; or
- 10 (c) in relation to an approved education and care service or a licensed children's service—the enrolment of the child in a funded kindergarten provided by the service; or
- 15 (d) in relation to a Government school—the enrolment of the child at the school; or
- (e) in relation to a non-Government school—the enrolment of the child at the school; or
- 20 (f) in relation to a student support service provided by the Department of Education and Training—the first access or engagement by the child of or with the relevant service; or
- 25 (g) in relation to a school nurse program—the first notification received by the relevant service in relation to the child; or
- 30 (h) in relation to a service prescribed as a relevant service—on the first occurrence of a prescribed event in relation to that service.

**46D Particulars to be included in the Register**

- 5 (1) The Secretary may include the following particulars in the Register in relation to a child to whom a Child Link identifier is allocated—
- 10 (a) the Child Link identifier;
  - (b) the child's full name and any other names by which the child is or has been known;
  - (c) the child's date of birth;
  - (d) the child's place of birth;
  - (e) the child's sex or, if it has not been disclosed, a record to that effect;
  - 15 (f) the full names of each person who at any time has or has had parental responsibility for, or day-to-day care of, the child, and any other names by which each of those persons is or has been known;
  - 20 (g) the relationship to the child of each person with parental responsibility for, or day-to-day care of, the child;
  - (h) in relation to each sibling of the child—
    - 25 (i) the full name and any other names by which the sibling is or has been known; and
    - (ii) the sibling's Child Link identifier;
  - (i) whether the child is Aboriginal, Torres Strait Islander, or both;

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- 5
- (j) if a child protection order has been made in respect of the child or any of the child's siblings (whether currently in force or otherwise)—
- (i) the date on which the order was made; and
- (ii) whether the order is currently in force; and
- 10
- (iii) whether the order has or had the effect of placing the child in out of home care within the meaning of the **Children, Youth and Families Act 2005**; and
- 15
- (iv) whether the order confers or conferred parental responsibility on a person other than the child's parent to the exclusion of all others;
- 20
- (k) whether the child is a participant in the National Disability Insurance Scheme, established by the National Disability Insurance Scheme Act 2013 of the Commonwealth;
- 25
- (l) if the child dies before the age of 18 years, the date and cause of death;
- 30
- (m) the specified information in relation to each of the following services that the child has accessed, enrolled in, registered for, been referred to or otherwise engaged with, as applicable—
- (i) Maternal and Child Health services;
- (ii) supported playgroups;
- 35
- (iii) funded kindergartens;
-

- 5
- (iv) registered schools or home schooling;
  - (v) school nurse programs;
  - (vi) student support services provided by the Department of Education and Training;
  - (vii) any other prescribed service or program.
- 10
- (2) The Secretary may, at any time, amend an entry relating to a child in the Register, or delete or create an entry about a child in the Register, to bring the Register into conformity with the most accurate information referred to in subsection (1) available to the Secretary under section 46G.
- 15
- (3) In this section—
- specified information* means the following information in relation to a service—
- 20 (a) the name of the service;
  - (b) the contact details for the service;
  - (c) the dates of the child's participation in the service, including—
    - 25 (i) the date on which the child accessed, enrolled in, was referred to or otherwise engaged with the service, as applicable; and
    - 30 (ii) the last date on which the child accessed, was enrolled in or otherwise engaged with the service;
-

- 5
- (d) a description of the child's participation in the service, including any programs provided by the service to the child;
- (e) the date of registration of the child for home schooling, if applicable;
- (f) the date of cancellation of registration of the child for home schooling;
- 10 (g) any other prescribed information.

**46E Secretary may decide not to record information on the Register**

15 Despite section 46D, the Register must not include any information about a child or a person with parental responsibility for, or day-to-day care of, the child if the Secretary determines that the information is not to be recorded on the Register for any reason.

**46F Entry in the Register for child who turns 18, leaves school or dies**

- 20 (1) Subject to subsections (2) and (3), an entry in the Register relating to a child must not be accessed or amended—
- (a) if the child has died; or
- 25 (b) otherwise—
- (i) if the child has attained the age of 18 years; or
- (ii) if the child is no longer attending a registered school or the home schooling of the child has ceased;
- 30 or

5 (iii) if the home schooling registration of the child is cancelled by the Victorian Registration and Qualifications Authority under section 4.3.9(1)(b) of the **Education and Training Reform Act 2006**, as applicable—

whichever is latest.

10 (2) The Secretary may continue to amend an entry relating to a child referred to in subsection (1) for a period of not more than 12 months after an event referred to in subsection (1)(a) or the latest event described in subsection (1)(b), as the case may be.

15 (3) An entry relating to a child referred to in subsection (1) may be accessed after an event referred to in subsection (1)(a) or (b) for the purpose of providing de-identified information in accordance with section 46O.

20 **Division 3—Secretary authorised to collect, use and disclose information for Register purposes**

25 **46G Secretary authorised to collect, use and disclose information for purposes of establishing and maintaining the Register**

30 For the purposes of establishing and maintaining the Register, the Secretary may collect, use and disclose confidential information that may be included in the Register under section 46D and that is derived from the following—



- 5
- (a) information given to the Department of Education and Training by a relevant service for the purposes of—
- (i) providing Maternal and Child Health services; or
  - (ii) providing supported playgroups or funded kindergartens; or
  - (iii) providing services and education to students in registered schools;
- 10
- (b) information contained in the Student Register in relation to students enrolled in registered schools or students registered for home schooling;
- 15
- (c) information contained in the State Register in relation to students registered for home schooling;
- 20
- (d) information given to the Department of Education and Training by a school nurse for the purposes of providing a service as part of a school nurse program;
- 25
- (e) information given to the Department of Education and Training by an allied health professional for the purpose of providing student support services in Government schools;
- 30
- (f) information given to the Department of Education and Training by the Secretary to the Department of Health and Human Services for inclusion in the Register;
- (g) information disclosed to the Secretary under section 46I;
-

- (h) information given to the Department of Education and Training by a prescribed service for a prescribed purpose.

**46H Secretary authorised to collect and use information for purposes of data management**

5

- (1) For the purposes of data management, the Secretary, or a person employed or engaged by the Secretary who is authorised in writing by the Secretary, may collect, use and disclose the following confidential information about a child or a person with parental responsibility for, or day-to-day care of, a child—

10

15

- (a) information given to the Department of Education and Training by a relevant service for the purposes of—

- (i) providing Maternal and Child Health services; or

20

- (ii) providing supported playgroups or funded kindergartens; or

- (iii) providing services and education in registered schools;

25

- (b) information contained in the Student Register in relation to students enrolled in registered schools or students registered for home schooling;

30

- (c) information contained in the State Register in relation to students registered for home schooling;

35

- (d) information given to the Department of Education and Training by a school nurse for the purposes of providing a service as part of a school nurse program;
-

- 5 (e) information given to the Department of Education and Training by an allied health professional for the purpose of providing student support services in Government schools;
- 10 (f) information given to the Department of Education and Training by the Secretary to the Department of Health and Human Services for inclusion in the Register;
- (g) information given to the Department of Education and Training under section 46I;
- 15 (h) information given to the Department of Education and Training by a prescribed service for a prescribed purpose.

(2) In this section—

20 *data management* means the examination and analysis of information to the extent reasonably required for the purpose of verifying the accuracy of information collected about a child under section 46D, but does not include the recording of that information on the

25 Register.

**46I Disclosure of information to the Secretary**

- (1) The following persons are authorised to collect confidential information and disclose it to the Secretary for a permitted purpose—
- 30 (a) a Maternal and Child Health service nurse;
- (b) a supported playgroup facilitator;
- (c) a school nurse;

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- 5
- (d) an allied health professional providing student support services to students in Government schools;
- (e) an approved provider of an approved education and care service;
- (f) a licensee of a licensed children's service;
- 10 (g) a principal of a registered school that is a Government school;
- (h) a principal of a registered school that is a non-Government school;
- (i) the Secretary to the Department of Health and Human Services;
- 15 (j) the Victorian Registration and Qualifications Authority;
- (k) any person prescribed to collect and disclose the information on behalf of a prescribed service or program.
- 20 (2) In this section, the following purposes are permitted purposes—
- (a) to enable the Secretary to establish and maintain the Register;
- (b) to enable the Secretary to facilitate data management in relation to the Register.
- 25 **46J No consent required**
- (1) The Secretary may collect, use or disclose confidential information about a child under section 46G, 46H or 46I without the consent of the child or a person with parental responsibility for, or day-to-day care of,
- 30 the child.

- (2) The Secretary may collect, use or disclose confidential information under section 46G, 46H or 46I about a person other than a child without the consent of that person.

5

**Division 4—Access to Child Link Register and use and disclosure of information contained in the Register**

**46K Who is a Child Link user?**

10

- (1) For the purposes of this Part, each of the following is a Child Link user—

15

20

25

30

- (a) the Secretary;
- (b) the Secretary to the Department of Health and Human Services;
- (c) the Principal Commissioner appointed under section 11 of the **Commission for Children and Young People Act 2012**;
- (d) the Disability Services Commissioner within the meaning of the **Disability Act 2006**;
- (e) a person or class of persons employed by the Secretary under Part 3 of the **Public Administration Act 2004** or otherwise engaged by the Secretary, who is authorised in writing by the Secretary for one or more of the following purposes—
  - (i) to identify children who are not participating in services for which they may be eligible;
  - (ii) to perform functions relating to systems administration of the Register;

- 5
- (iii) for the purpose of data management in accordance with section 46H;
- (iv) for the purpose of de-identifying confidential information and to provide that de-identified information under section 46O;
- 10
- (f) a person or class of persons employed by the Secretary to the Department of Health and Human Services under Part 3 of the **Public Administration Act 2004** or otherwise engaged by that Secretary, who is authorised in writing by that Secretary;
- 15
- (g) a person employed or engaged by a council in relation to childhood services implementation or policy who is authorised in writing by the Chief Executive Officer of the council;
- 20
- (h) a nurse employed or engaged by a council to provide maternal and child health programs for a Maternal and Child Health service who is authorised in writing by the Chief Executive Officer of the council;
- 25
- (i) a nurse employed or engaged by an entity that provides maternal and child health programs on behalf of a council for a Maternal and Child Health service, who is authorised in writing by the person who has overall management and control of the Maternal and Child Health service;
- 30
- (j) a nurse employed or engaged by the Secretary to provide maternal and child health advice through a state-wide
- 35

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- telephone service who is authorised in writing by the Secretary;
- 5 (k) a person employed or engaged by the Victorian Aboriginal Health Service Co-operative Limited in relation to childhood services implementation or policy who is authorised in writing by the Chief Executive Officer of the Service;
- 10 (l) a registered medical practitioner, nurse or midwife employed or engaged by the Victorian Aboriginal Health Service Co-operative Limited engaged in providing maternal and child health programs who is authorised in writing by the Chief Executive Officer of the Service;
- 15 (m) a registered early childhood teacher providing education and care to children at an approved education and care service who is authorised in writing by the approved provider;
- 20 (n) a registered early childhood teacher providing education and care to children at a licensed children's service who is authorised in writing by the licensee of the service;
- 25 (o) a school nurse who is authorised in writing by the Secretary;
- 30 (p) a school nurse manager who is authorised in writing by the Secretary;
- (q) a principal of a Government school who is authorised in writing by the Secretary;

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- (r) any of the following persons authorised in writing by the principal of a Government school—
    - (i) a registered teacher employed or engaged to provide instruction or other education services to students at the school;
    - (ii) any other person employed or engaged to provide health or welfare services for students at the school;
  - (s) the principal of a non-Government school who is authorised in writing by the person or body responsible for governance, conduct or management of that school;
  - (t) any of the following persons or classes of persons authorised in writing by the principal of a non-Government school—
    - (i) a registered teacher employed or engaged to provide instruction or other education services to students at the school;
    - (ii) any other person employed or engaged to provide health or welfare services for students at the school;
  - (u) a person or class of persons employed by the Commission for Children and Young People under section 21(1) of the **Commission for Children and Young People Act 2012** or otherwise engaged by the Commission, who is authorised in writing by the Principal



Commissioner within the meaning of that Act;

- 5 (v) a person employed to assist the Disability Services Commissioner under section 18(1) of the **Disability Act 2006** who is authorised in writing by the Commissioner;
- 10 (w) a prescribed person who is authorised in writing in accordance with the regulations.

15 (2) For the purposes of subsection (1)(m) and (n), not more than 3 registered early childhood teachers may be authorised at one time in relation to the approved education and care service or licensed children's service, as the case requires.

20 (3) For the purposes of subsection (1)(r) and (t), not more than 7 persons may be authorised at one time in relation to the Government school or non-Government school, as the case requires.

25 (4) If a person who has been authorised under subsection (1) no longer requires access to the Register, the person authorised to give the authorisation must revoke that authorisation.

#### **46L Delegation**

30 (1) The Secretary may by instrument delegate any power, function or duty of the Secretary under this Part, other than this power of delegation, to a person employed or engaged by the Secretary.

35 (2) The Chief Executive Officer of a council may by instrument delegate any power, function or duty of the Chief Executive Officer under this Part, other than this power

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of delegation, to a person employed in or engaged by the council.

- 5 (3) An approved provider of an approved education and care service may by instrument delegate any power, function or duty of the approved provider under this Part, other than this power of delegation, to a person employed in or engaged by the education and care service.
- 10 (4) A licensee of a licensed children's service may by instrument delegate any power, function or duty of the licensee under this Part, other than this power of delegation, to a person employed in or engaged by the licensed children's service.
- 15 (5) The Disability Services Commissioner may by instrument delegate any power, function or duty of the Commissioner under this Part, other than this power of delegation, to a person employed or engaged by the Disability Services Commissioner.
- 20 (6) The Principal Commissioner may by instrument delegate any power, function or duty of the Commissioner under this Part, other than this power of delegation, to a person employed or engaged by the Principal Commissioner.
- 25

**46M Child Link users may access and use confidential information in the Register**

30 A Child Link user may access the Register and—

- 35 (a) use confidential information contained in the Register for a purpose specified in Schedule 6 in relation to that Child Link user; and

(b) disclose confidential information contained in the Register—

(i) to persons employed or engaged by the organisation at which the Child Link user is employed or engaged for a purpose specified in Schedule 6 in relation to that Child Link user; and

(ii) in accordance with Part 6A, if applicable.

**46N Secretary may remove Child Link user access to the Register**

(1) The Secretary may remove access to an entry, or part of an entry, in the Register relating to a child if the Secretary is satisfied that allowing any Child Link user other than the Secretary access to the child's entry (or that part of the entry, as applicable) would—

(a) pose an unacceptable risk of harm to a person; or

(b) in all the circumstances be otherwise inappropriate.

(2) The Secretary may remove a Child Link user's access to the Register or an entry, or part of an entry, in the Register relating to a child if the Secretary is satisfied that the Child Link user's continued access to the Register or the child's entry (or that part of the entry, as applicable) would—

(a) pose an unacceptable risk of harm to a person; or

(b) in all the circumstances be otherwise inappropriate.

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- 5 (3) The Secretary may remove access to an entry under subsection (1) or a Child Link user's access under subsection (2) on the Secretary's own initiative or on the written request of any person, in accordance with the guidelines (if any).
- (4) A person may disclose confidential information to the Secretary for the purposes of making a request under subsection (3).
- 10 (5) The Secretary may remove access to an entry under subsection (1) or a Child Link user's access under subsection (2) for any period that the Secretary considers necessary under the circumstances.
- 15 (6) A person authorised to grant an authorisation (the *first person*) to another person under section 46K(1) must notify the Secretary if the first person reasonably believes that the other person has ceased—
- 20 (a) to be a registered teacher; or
- (b) to hold a current assessment notice under the **Working with Children Act 2005**.
- 25 **46O Use and disclosure of de-identified information derived from the Register**
- (1) An authorised person may provide de-identified information derived from the Register to an employee of, or person engaged by, the Secretary or the Secretary to the Department of Health and Human Services for the purposes of developing, planning and reviewing policies, programs and services.
- 30
- 35 (2) For the purposes of providing de-identified information under subsection (1), an authorised person may access confidential
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information that is identifying information contained in the Register.

(3) In this section—

*authorised person* means a person—

5

(a) employed or engaged by the Secretary who is authorised in writing by the Secretary for the purposes of this section; or

10

(b) employed or engaged by the Secretary to the Department of Health and Human Services who is authorised in writing by the Secretary for the purposes of this section.

15

**46P Restrictions on access to confidential information**

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(1) The Secretary may refuse to give an individual access to that individual's confidential information under a relevant privacy law if the Secretary believes on reasonable grounds that giving the individual access to the information would increase a risk to the safety of a child or group of children.

25

(2) In this section—

*relevant privacy law* means—

30

(a) Health Privacy Principle 6; or

(b) Information Privacy Principle 6; or

(c) the Privacy Act 1988 of the Commonwealth; or

(d) the Privacy Act 1988 of the Commonwealth applied as a law of Victoria by another Act.

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**46Q Person authorised to disclose confidential information despite specified provisions**

5 A person is authorised to collect, use or disclose confidential information in accordance with this Part and the regulations despite anything to the contrary in a provision of an Act prescribed for the purposes of this section.

**46R Application of Privacy and Data Protection Act 2014 to certain Child Link users**

- 10 (1) This section applies to a Child Link user that is not—
- 15 (a) an organisation within the meaning of the **Privacy and Data Protection Act 2014**; or
- (b) subject to the Privacy Act 1988 of the Commonwealth, or that Act as applied as a law of Victoria by any other law.
- 20 (2) The **Privacy and Data Protection Act 2014** applies to the handling of personal information or unique identifiers by the Child Link user under this Part as if the Child Link user were an organisation within
- 25 the meaning of that Act.

**Division 5—Guidelines**

**46S Guidelines**

- (1) The Secretary may issue guidelines addressing the following matters—
- 30 (a) the recording of information in the Register;
- (b) amending, deleting or creating entries in the Register under section 46D;

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- (c) the manner in which information is to be collected for the purposes of the Register under section 46G or 46H;
  - (d) the authorisation of Child Link users under Division 4, including circumstances and manner of authorisation;
  - (e) the removal of access to an entry or part of an entry in the Register and removal of a Child Link user's access to the Register;
  - (f) the provision of de-identified information under section 46O;
  - (g) systems security and integrity measures.
- (2) The Secretary must publish any guidelines issued under subsection (1) on an appropriate Internet site as soon as possible after the guidelines are issued.
- (3) The Secretary may review guidelines issued under subsection (1) at any time and may issue amended guidelines as the Secretary considers necessary.
- (4) Guidelines issued under subsection (1) are not legislative instruments within the meaning of the **Subordinate Legislation Act 1994**.

**Division 6—Offences**

**46T Unauthorised access to the Register**

- 30
- (1) A person must not access the Register unless the person is—
- (a) a Child Link user; or

(b) a person who is otherwise authorised to access the Register under this Part.

Penalty: In the case of a natural person,  
60 penalty units;  
5 In the case of a body corporate,  
300 penalty units.

(2) It is a defence to a charge under subsection (1) if the person accessed the Register in good faith and with reasonable care.

**46U Access to the Register for unauthorised purpose**

(1) An authorised person must not access the Register other than in accordance with this Part.

Penalty: In the case of a natural person,  
60 penalty units;  
In the case of a body corporate,  
300 penalty units.

(2) It is a defence to a charge under subsection (1) if the person accessed the Register in good faith and with reasonable care.

(3) In this section—

*authorised person* means—

(a) a Child Link user; or

(b) a person who is otherwise authorised to access the Register under this Part.



**46V Unauthorised use and disclosure of confidential information contained in the Register**

- 5 (1) An authorised person must not use or disclose confidential information contained in the Register other than in accordance with this Part.
- 10 Penalty: In the case of a natural person, 60 penalty units;  
In the case of a body corporate, 300 penalty units.
- 15 (2) It is a defence to a charge under subsection (1) if the person used or disclosed the confidential information in good faith and with reasonable care.
- 20 (3) Subsection (1) does not apply to the following uses and disclosures of confidential information—
- (a) a use or disclosure made with the consent of the person to whom the information relates;
- 25 (b) if the information relates to a person who is incapable of giving consent to the use or disclosure, a use or disclosure made with the consent of the person's authorised representative;
- (c) a disclosure made to a court or tribunal in the course of legal proceedings;
- 30 (d) a use or disclosure made pursuant to an order of a court or tribunal;
- 35 (e) a use or disclosure made to the extent reasonably required to enable the investigation or the enforcement of a law of this State or of any other State or of a Territory or of the Commonwealth;
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- 5 (f) a disclosure made to an Australian legal practitioner for the purposes of obtaining legal advice or representation;
- (g) a use or disclosure made as required or authorised by or under this Act or any other Act.

(4) In this section—

*authorised person* means—

- 10 (a) a Child Link user; or
- (b) a person who is otherwise authorised to access the Register under this Part.

15 **46W Intentional or reckless unauthorised use and disclosure of confidential information contained in the Register**

- 20 (1) An authorised person must not use or disclose confidential information contained in the Register in a manner that is unauthorised under this Part and that the person—
- (a) knows is unauthorised under this Part; or
- 25 (b) is reckless as to whether the use or disclosure of the information is authorised under this Part.

30 **Penalty:** In the case of a natural person, 600 penalty units or imprisonment for 5 years or both;

In the case of a body corporate, 3000 penalty units.

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- (2) Subsection (1) does not apply to the following uses and disclosures of confidential information—
- (a) a use or disclosure made with the consent of the person to whom the information relates;
  - (b) if the information relates to a person who is incapable of giving consent to the use or disclosure, a use or disclosure made with the consent of the person's authorised representative;
  - (c) a disclosure made to a court or tribunal in the course of legal proceedings;
  - (d) a use or disclosure made pursuant to an order of a court or tribunal;
  - (e) a use or disclosure made to the extent reasonably required to enable the investigation or the enforcement of a law of this State or of any other State or of a Territory or of the Commonwealth;
  - (f) a disclosure made to an Australian legal practitioner for the purposes of obtaining legal advice or representation;
  - (g) a use or disclosure made as required or authorised by or under this Act or any other Act.
- (3) In this section—
- authorised person*** means—
- (a) a Child Link user; or
  - (b) a person who is otherwise authorised to access the Register under this Part.
-

**Division 7—Review of operation of Part**

**46X Review of operation of Part within 2 years**

- 5
- (1) The Minister must cause an independent review of the operation of this Part to be conducted within 2 years of the commencement of this Part.
- 10
- (2) The Minister must cause a copy of the review to be laid before each House of the Parliament within 6 months after the end of the period of the review.
- (3) The review must include consideration of any adverse effects of this Part.
- 15
- (4) The review may include any recommendations on any matter addressed in the review.

**Division 8—Transitional provisions**

**46Y Secretary may create entries in the Register**

- 20
- (1) The Secretary may create an entry in the Register for, and allocate a Child Link identifier to, each child who is under 18 years of age on the commencement date and who—
- 25
- (a) was born in Victoria; or
- (b) accessed, enrolled in, registered with or otherwise engaged with a relevant service, as applicable, before the commencement date; or
- 30
- (c) was registered for home schooling before the commencement date under section 4.3.9 of the **Education and Training Reform Act 2006**; or

- (d) was the subject of a child protection order before the commencement date.
- 5 (2) The Secretary may collect and use information provided by the entities set out in section 46I for the purposes of creating the entries in the Register referred to in subsection (1) and verifying the accuracy of those entries.
- (3) In this section—
- 10 *commencement date* means the day on which this Part comes into operation.
- 46Z Appointed days for application of section 46M and Schedule 6 to Child Link users**
- 15 (1) Subject to subsection (3), section 46M and Schedule 6 do not apply to a specified class of Child Link users until a day appointed by the Governor in Council under this section in relation to that class.
- 20 (2) The Governor in Council, on the recommendation of the Minister, may by Order published in the Government Gazette appoint a day (being a day not later than 31 December 2021) for the application of
- 25 section 46M and Schedule 6 to a class of Child Link users specified in that Order.
- (3) If the Governor in Council has not appointed a day under subsection (2) before
- 30 31 December 2021 in relation to a class of Child Link users, section 46M and Schedule 6 are taken to apply to that class of Child Link user on and after that day."

**11 Division 1 of Part 8 and section 46ZC inserted**

After the heading to Part 8 of the Principal Act  
**insert—**

**"Division 1—Offences by bodies  
corporate**

**46ZA Imputing conduct to bodies corporate**

For the purposes of this Act and the regulations, any conduct engaged in by or on behalf of a body corporate by an employee, agent or officer (within the meaning given by section 9 of the Corporations Act) of the body corporate acting within the actual or apparent scope of employment or apparent authority of the employee, agent or officer, is conduct also engaged in by the body corporate.

**46ZB Criminal liability of officers of bodies corporate—accessorial liability**

- (1) If a body corporate commits an offence against a provision specified in subsection (2), an officer of the body corporate also commits an offence against the provision if the officer—
  - (a) authorised or permitted the commission of the offence by the body corporate; or
  - (b) was knowingly concerned in any way (whether by act or omission) in the commission of the offence by the body corporate.
- (2) For the purposes of subsection (1), the following provisions are specified—
  - (a) section 41ZK(1);
  - (b) section 41ZL(1);

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- 5 (c) section 41ZM(1);  
(d) section 46T;  
(e) section 46U(1);  
(f) section 46V(1);  
(g) section 46W(1).
- 10 (3) Without limiting any other defence available to the officer, an officer of a body corporate may rely on a defence that would be available to the body corporate if it were charged with the offence with which the officer is charged and, in doing so, the officer bears the same burden of proof that the body corporate would bear.
- 15 (4) An officer of a body corporate may commit an offence against a provision specified in subsection (2) whether or not the body corporate has been prosecuted for, or found guilty of, an offence against that provision.
- 20 (5) In this section—  
*body corporate* has the same meaning as corporation has in section 57A of the Corporations Act;  
*officer*, in relation to a body corporate, means—
- 25 (a) a person who is an officer (as defined by section 9 of the Corporations Act) of the body corporate; or
- 30 (b) a person (other than a person referred to in paragraph (a)), by whatever name called, who is concerned in, or takes part in, the management of the body corporate.
-

- (6) This section does not affect the operation of section 323 or 324 of the **Crimes Act 1958**.

## **Division 2—Regulations**

### **46ZC Information sharing and Child Link regulation making power**

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- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to Parts 6A and 7A.
- (2) Without limiting subsection (1), the Governor in Council may make regulations for or with respect to—
- (a) prescribing a person to be an information sharing entity; and
  - (b) prescribing a body to be an information sharing entity; and
  - (c) prescribing a person or body to belong to a category of restricted information sharing entity; and
  - (d) prohibiting or regulating the type of information that may be used, disclosed or handled by an information sharing entity or a category of restricted information sharing entity; and
  - (e) prohibiting or regulating the type of information that may be requested or collected by an information sharing entity or a category of restricted information sharing entity; and
  - (f) prescribing information to be excluded information; and



- 5 (g) prescribing the purposes for which an information sharing entity or a category of restricted information sharing entity may use or disclose confidential information; and
- 10 (h) subject to subsection (6), prescribing specified persons employed or engaged by an information sharing entity or a restricted information sharing entity to perform specified functions or exercise specified powers on behalf of an information sharing entity or a restricted information sharing entity, including by specifying any of the following, to perform specified functions under Part 6A—
- 15 (i) the business unit, branch or area (however described) of an information sharing entity or a restricted information sharing entity;
- 20 (ii) the business unit, branch or area (however described) of an information sharing entity or a restricted information sharing entity operating at a specified geographical location;
- 25 (iii) the person's qualifications or experience;
- 30 (iv) the person's position description, classification or functions; and
- 35 (i) enabling an information sharing entity that is a public sector body Head within the meaning of the **Public Administration Act 2004**—

- 5
- (i) to delegate its powers, duties and functions under Part 6A or the regulations; and
- (ii) to sub-delegate any powers, duties and functions under Part 6A or the regulations that have been delegated to the information sharing entity; and
- 10
- (j) prescribing the persons and bodies to which powers, duties and functions may be delegated or sub-delegated by an information sharing entity that is a public sector body Head within the meaning of the **Public Administration Act 2004**; and
- 15
- (k) prohibiting or regulating the disclosure of confidential information between information sharing entities; and
- 20
- (l) prohibiting or regulating the disclosure of confidential information between categories of restricted information sharing entity; and
- 25
- (m) prescribing the information to be recorded by an information sharing entity or a category of restricted information sharing entity for the purposes of section 41ZC; and
- (n) prescribing provisions of Acts for the purposes of section 41ZH; and
- 30
- (o) prescribing the process by which a person may be authorised to be a Child Link user for the purposes of section 46K(1)(w) and prescribing a person to provide a written authorisation in accordance with that process.
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- (3) The regulations—
    - (a) may be of general or limited application; and
    - (b) may differ according to differences in time, place or circumstances; and
    - (c) may confer a discretionary authority or impose a duty on a specified person or body or a specified class of persons or bodies; and
    - (d) leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by a specified person.
  - (4) Regulations made for the purposes of subsection (2)(a) or (c) may prescribe a person or class of person who is engaged in a role that requires the handling of confidential information, including but not limited to any of the following persons—
    - (a) a nurse;
    - (b) a midwife;
    - (c) a police officer;
    - (d) a registered medical practitioner;
    - (e) a disability service provider within the meaning of the **Disability Act 2006**;
    - (f) a psychologist within the meaning of the Health Practitioner Regulation National Law;
    - (g) a teacher;
    - (h) a principal of a registered school.

- 5
- (5) Regulations made for the purposes of subsection (2)(b) or (c) may prescribe a body or class of body that has a function that requires the handling of confidential information, including but not limited to any of the following bodies—
- 10
- (a) a community service organisation funded by the State government to provide services to individuals;
- (b) a public sector body within the meaning of the **Public Administration Act 2004**;
- 15
- (c) a health service provider within the meaning of section 3(1) of the **Health Records Act 2001**;
- (d) the office of the Disability Services Commissioner within the meaning of the **Disability Act 2006**;
- 20
- (e) an education and care service or a children's service;
- (f) a provider of education services to children;
- (g) a school (whether a Government school or a non-Government school).
- 25
- (6) Regulations made for the purposes of subsection (2)(a), (b), (c) or (h) may prescribe a person or body specified in section 41T if the prescription of that person or body is in respect of a function other than
- 30
- a judicial or quasi-judicial function involving the handling of confidential information performed by that person or body.

- 5 (7) Regulations made under this section may enable an information sharing entity or a restricted information sharing entity to disclose confidential information to a person or body that is not subject to the law of the State.
- 10 (8) Nothing in Part 6A or regulations made under this section is taken to impose a requirement on a person or body who is not subject to the law of the State."

**12 Heading to section 47 substituted**

For the heading to section 47 of the Principal Act **substitute—**

**"General regulation making power".**

15 **13 New section 49 inserted**

After section 48 of the Principal Act **insert—**

**"49 Children Legislation Amendment (Information Sharing) Act 2017**

- 20 (1) Nothing in section 46B or 46C requires the Secretary to take any action under or for the purposes of those sections before 31 December 2021.
- 25 (2) Subsection (1) does not prevent the Secretary from taking any action under or for the purposes of section 46B or 46C before 31 December 2021."

**14 New Schedule 6 inserted**

After Schedule 5 to the Principal Act insert—

**"Schedule 6—Child Link users  
and purposes of access, use  
and disclosure**

5

	<i>Column 1</i>	<i>Column 2</i>
<i>Item</i>	<i>Child Link user</i>	<i>Purpose of access, use and disclosure</i>
1	The Secretary	To identify children who are not participating in services for which they may be eligible and to assist in the provision of education, care and services to those children.
2	The Secretary to the Department of Health and Human Services	To identify children who are not participating in services for which they may be eligible.  For the purpose of the performance of the Secretary to the Department of Health and Human Services' functions, and the exercise of the Secretary's powers, under the <b>Children, Youth and Families Act 2005</b> .
3	The Principal Commissioner within the meaning of the <b>Commission for Children and Young People Act 2012</b>	To perform the Principal Commissioner's statutory functions.

Children Legislation Amendment (Information Sharing) Bill 2017

Part 2—Amendment of Principal Act

<i>Item</i>	<i>Column 1</i> <i>Child Link user</i>	<i>Column 2</i> <i>Purpose of access, use and disclosure</i>
4	The Disability Services Commissioner within the meaning of the <b>Disability Act 2006</b>	To perform the Disability Services Commissioner's statutory functions.
5	A person employed by the Secretary under Part 3 of the <b>Public Administration Act 2004</b> or otherwise engaged by the Secretary who is authorised in writing by the Secretary	To identify children who are not participating in services for which they may be eligible and to assist in the provision of education, care and services to those children.
6	A person employed by the Secretary under Part 3 of the <b>Public Administration Act 2004</b> or otherwise engaged by the Secretary who is authorised in writing by the Secretary	To perform functions relating to systems administration of the Register.
7	A person employed by the Secretary under Part 3 of the <b>Public Administration Act 2004</b> or otherwise engaged by the Secretary who is authorised in writing by the Secretary	For the purpose of data management in accordance with section 46H.

Children Legislation Amendment (Information Sharing) Bill 2017

Part 2—Amendment of Principal Act

<i>Item</i>	<i>Column 1</i> <i>Child Link user</i>	<i>Column 2</i> <i>Purpose of access, use and disclosure</i>
8	A person employed by the Secretary under Part 3 of the <b>Public Administration Act 2004</b> or otherwise engaged by the Secretary who is authorised in writing by the Secretary	For the purpose of de-identifying confidential information and to provide that de-identified information under section 46O.
9	A person employed by the Secretary to the Department of Health and Human Services under Part 3 of the <b>Public Administration Act 2004</b> or otherwise engaged by the Secretary who is authorised in writing by the Secretary	To identify children who are not participating in services for which they may be eligible. For the purpose of the performance of the Secretary to the Department of Health and Human Services' functions, and the exercise of the Secretary's powers, under the <b>Children, Youth and Families Act 2005</b> .
10	A person employed or engaged by a council in relation to childhood services implementation or policy who is authorised in writing by the Chief Executive Officer of the council	To identify children in the municipal district who are not participating in services for which they may be eligible and to assist in the provision of education, care and services to children in the municipal district who may be eligible to participate in services. To monitor and plan council services for children residing in the municipal district.



Children Legislation Amendment (Information Sharing) Bill 2017

Part 2—Amendment of Principal Act

<i>Item</i>	<i>Column 1</i> <i>Child Link user</i>	<i>Column 2</i> <i>Purpose of access, use and disclosure</i>
11	A nurse employed or engaged by a council to provide maternal and child health programs for a Maternal and Child Health service who is authorised in writing by the Chief Executive Officer of the council	To provide care and services to children attending the Maternal and Child Health service.
12	A nurse employed or engaged by an entity that provides maternal and child health programs on behalf of a council for a Maternal and Child Health service who is authorised in writing by the person who has overall management and control of the Maternal and Child Health service	To provide care and services to children attending the Maternal and Child Health service.
13	A nurse employed or engaged by the Secretary to provide maternal and child health advice through a state-wide telephone service who is authorised in writing by the Secretary	To provide care and services to children or families who access the state-wide telephone service.

Children Legislation Amendment (Information Sharing) Bill 2017

Part 2—Amendment of Principal Act

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>
	<i>Child Link user</i>	<i>Purpose of access, use and disclosure</i>
14	A person employed or engaged by the Victorian Aboriginal Health Service Co-operative Limited in relation to childhood services implementation or policy who is authorised in writing by the Chief Executive Officer of the Service	To identify children enrolled with the Service or entitled to services provided by the Service who are not participating in services for which they may be eligible and to assist in the provision of education, care and services to those children. To monitor and plan services for all children enrolled with the Service.
15	A registered medical practitioner, nurse or midwife employed or engaged by the Victorian Aboriginal Health Service Co-operative Limited engaged in providing maternal and child health programs who is authorised in writing by the Chief Executive Officer of the Service	To provide care and services to children attending the maternal and child health program.

Children Legislation Amendment (Information Sharing) Bill 2017

Part 2—Amendment of Principal Act

<i>Item</i>	<i>Column 1</i> <i>Child Link user</i>	<i>Column 2</i> <i>Purpose of access, use and disclosure</i>
16	A registered early childhood teacher providing education and care to children at an approved education and care service who is authorised in writing by the approved provider	To provide education and care and related services to children enrolled at the education and care service.
17	A registered early childhood teacher providing education and care to children at a licensed children's service who is authorised in writing by the licensee of the service	To provide education and care and related services to children enrolled at the children's service.
18	A school nurse manager who is authorised in writing by the Secretary	To assist in the monitoring, planning and provision of care and services to children enrolled in schools within the geographic region for which the school nurse manager is responsible.
19	A school nurse who is authorised in writing by the Secretary	To provide care and services to children enrolled at the school to whom the nurse provides school nurse services.

Children Legislation Amendment (Information Sharing) Bill 2017

Part 2—Amendment of Principal Act

<i>Item</i>	<i>Column 1</i> <i>Child Link user</i>	<i>Column 2</i> <i>Purpose of access, use and disclosure</i>
20	A principal of a Government school who is authorised in writing by the Secretary	To provide education and care and related services to children enrolled at the school. To monitor and plan services for children enrolled at the school.
21	A registered teacher employed or engaged by a Government school to provide instruction or other education services to students at the school or any other person employed or engaged by a Government school to provide health or welfare services for students at the school who is authorised in writing by the principal of the Government school	To provide education and care and related services to children enrolled at the school. To monitor and plan services for children enrolled at the school.
22	A principal of a non-Government school who is authorised in writing by the person or body responsible for the governance, conduct or management of the school	To provide education and care and related services to children enrolled at the school. To monitor and plan services for children enrolled at the school.

Children Legislation Amendment (Information Sharing) Bill 2017

Part 2—Amendment of Principal Act

<i>Item</i>	<i>Column 1</i> <i>Child Link user</i>	<i>Column 2</i> <i>Purpose of access, use and disclosure</i>
23	A registered teacher employed or engaged by a non-Government school to provide instruction or other education services to students at the school or any other person employed or engaged by a non-Government school to provide health or welfare services for students at the school who is authorised in writing by the principal of the non-Government school	To provide education and care and related services to children enrolled at the school. To monitor and plan services for children enrolled at the school.
24	A person employed by the Commission for Children and Young People under section 21(1) of the <b>Commission for Children and Young People Act 2012</b> or otherwise engaged by the Commission who is authorised in writing by the Principal Commissioner within the meaning of that Act	To perform the functions of the Principal Commissioner for or on behalf of the Commissioner.

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	<i>Column 1</i>	<i>Column 2</i>
<i>Item</i>	<i>Child Link user</i>	<i>Purpose of access, use and disclosure</i>
25	A person employed to assist the Disability Services Commissioner under section 18(1) of the <b>Disability Act 2006</b> who is authorised in writing by the Commissioner	To perform the functions of the Disability Services Commissioner on behalf of the Disability Services Commissioner.
26	A prescribed person who is authorised in writing in accordance with the regulations	The purpose prescribed in relation to the person.

**15 New Schedule 7 inserted**

After Schedule 6 to the Principal Act **insert**—

**"Schedule 7—Specified provisions**

- 5 1 Section 207(2) of the **Children, Youth and Families Act 2005**.
- 2 Section 55 of the **Commission for Children and Young People Act 2012**.
- 3 Section 140 of the **Confiscation Act 1997**.
- 10 4 Sections 36 and 39 of the **Disability Act 2006**.
- 5 Sections 5.3A.10 and 5.3A.14 of the **Education and Training Reform Act 2006**.

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- 6 Section 181 of the **Firearms Act 1996**.
- 7 Section 23 of the **Human Services (Complex Needs) Act 2009**.
- 8 Section 164 of the **Infringements Act 2006**."

## **Part 3—Consequential amendments**

### **Division 1—Amendment of Children, Youth and Families Act 2005**

#### **16 Definitions**

5 In section 3(1) of the **Children, Youth and  
Families Act 2005**, after paragraph (c) of the  
definition of *information holder* insert—

10 "(ca) an information sharing entity within the  
meaning of the **Child Wellbeing and Safety  
Act 2005**;

(cb) a restricted information sharing entity within  
the meaning of the **Child Wellbeing and  
Safety Act 2005**;"

#### **17 Sections 35 to 37 repealed**

15 Sections 35, 36 and 37 of the **Children, Youth  
and Families Act 2005** are repealed.

#### **18 Section 192 substituted**

For section 192 of the **Children, Youth and  
Families Act 2005** substitute—

20 "**192 Disclosure and use of information under  
this Act**

(1) If the Secretary or a protective intervener  
believes on reasonable grounds that it  
is required for the performance of the  
Secretary's or protective intervener's duties  
or functions under this Act, or the exercise  
of the Secretary's or protective intervener's  
powers under this Act, the Secretary or  
protective intervener may request  
information from, disclose information to,  
or receive information from—

30 (a) the Secretary; or



Part 3—Consequential amendments

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- 5
- (b) a protective intervener; or
  - (c) an information holder; or
  - (d) a service agency; or
  - (e) a person in charge of, or employed in,  
a registered community service; or
  - (f) any other individual.
- 10
- (2) A person or entity who is requested under subsection (1) to provide information to the Secretary or a protective intervener may disclose that information to the Secretary or protective intervener.
- (3) A disclosure of information made under this section in good faith—
- 15
- (a) does not for any purpose constitute unprofessional conduct or a breach of professional ethics on the part of the person by whom it is made; and
  - (b) does not make the person by whom it is made subject to any liability in respect of it; and
  - (c) without limiting paragraphs (a) and (b), does not constitute a contravention of Part 6A of the **Child Wellbeing and Safety Act 2005**.

25

**Note**

See also Part 6A of the **Child Wellbeing and Safety Act 2005** in respect of the use and disclosure obligations of persons or bodies prescribed to be information sharing entities or restricted information sharing entities for the purposes of that Act."

30

**19 Section 193 substituted**

For section 193 of the **Children, Youth and Families Act 2005 substitute—**

**"193 Disclosure of information in course of consultation by a community-based child and family service**

5

(1) This section applies if a community-based child and family service receives a referral under Part 3.2.

10

(2) The community-based child and family service may, for the purpose of assessing a risk to a child, consult with any of the following—

15

- (a) the Secretary;
- (b) a community service;
- (c) a service agency;
- (d) an information holder.

20

(3) The community-based child and family service may, for the purpose of determining which community-based child and family service or service agency is an appropriate body to provide assistance for the child or the family of the child or the mother of the unborn child, consult with any of the following—

25

- (a) the Secretary;
- (b) a community service;
- (c) a service agency.

30

(4) For the purpose only of a consultation under this section, a community-based child and family service may disclose information about the child or family to, and receive

Part 3—Consequential amendments

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information about the child or family from, the person or body permitted to be consulted.

- 5
- (5) A person or entity consulted under subsection (2) or (3) by a community-based child and family service may disclose information about the child or family to the community-based child and family service.
- (6) A disclosure of information made under this section in good faith—
- 10
- (a) does not for any purpose constitute unprofessional conduct or a breach of professional ethics on the part of the person by whom it is made; and
- 15
- (b) does not make the person by whom it is made subject to any liability in respect of it; and
- (c) without limiting paragraphs (a) and (b), does not constitute a contravention of—
- 20
- (i) section 141 of the **Health Services Act 1988**; or
- (ii) section 346 of the **Mental Health Act 2014**; or
- (iii) Part 6A of the **Child Wellbeing and Safety Act 2005**."

25       **20 Secretary may authorise direction to disclose**

For section 195 of the **Children, Youth and Families Act 2005** substitute—

**"195 Secretary may authorise direction to disclose**

30       The Secretary may authorise a direction to be given to an information holder (other than a police officer) under this Division, if the Secretary believes on reasonable grounds that the information holder has information

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Part 3—Consequential amendments

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that is relevant to the protection or development of a child—

- (a) in respect of whom a protection order is in force; or
- 5 (b) who is the subject of—
  - (i) a protective intervention report; or
  - (ii) a report under section 185; or
  - (iii) a protection application; or
  - 10 (iv) an application for a therapeutic treatment order; or
  - (v) an application for a therapeutic treatment (placement) order; or
  - (vi) an irreconcilable difference application; or
- 15 (c) in respect of whom a therapeutic treatment order or a therapeutic treatment (placement) order is in force."

20 **21 Authorised officer may require disclosure of information**

In section 196(1) of the **Children, Youth and Families Act 2005** omit "in respect of whom a protection order is in force".

25 **22 Investigation by protective intervener**

- 25 (1) In section 205(2) of the **Children, Youth and Families Act 2005**—
  - (a) in paragraph (a), for "protection application; and" **substitute** "protection application.";
  - (b) paragraph (b) is **repealed**.
- 30 (2) Section 205(3) of the **Children, Youth and Families Act 2005** is **repealed**.

**23 Record of investigation**

Section 206(2) and (3) of the **Children, Youth and Families Act 2005** are repealed.

**24 Provision of protection report to police**

5 For the note at the foot of section 207(2) of the **Children, Youth and Families Act 2005** substitute—

"Notes

- 10 1 See also Part 5A of the **Family Violence Protection Act 2008** in respect of the use and disclosure obligations of persons or bodies prescribed to be information sharing entities under that Act.
- 15 2 See also Part 6A of the **Child Wellbeing and Safety Act 2005** in respect of the use and disclosure obligations of persons or bodies prescribed to be information sharing entities or restricted information sharing entities for the purposes of that Act."

**25 Investigation by Secretary**

20 In section 210(2) of the **Children, Youth and Families Act 2005**—

(a) in paragraph (a), for "treatment application; and" substitute "treatment application.";

(b) paragraph (b) is repealed.

**26 Record of investigation**

25 Section 211(2) of the **Children, Youth and Families Act 2005** is repealed.

**27 Record of investigation**

Section 211(3) of the **Children, Youth and Families Act 2005** is repealed.

**Division 2—Amendment of Education and Training Reform Act 2006**

**28 Publication of registers**

5 After section 4.9.1(2) of the **Education and Training Reform Act 2006** insert—

10 "(3) For the avoidance of doubt, the Authority may permit details of students registered for home schooling under Part 4.3 to be disclosed in accordance with Parts 6A and 7A of the **Child Wellbeing and Safety Act 2005**."

**29 Prohibition on Secretary's use or disclosure**

15 In section 5.3A.14 of the **Education, Training and Reform Act 2006**—

(a) in paragraph (c), for "Part." substitute "Part; or";

(b) after paragraph (c) insert—

20 "(d) as authorised under Part 7A of the **Child Wellbeing and Safety Act 2005**."

**Division 3—Amendment of Health Records Act 2001**

**30 New section 14C inserted**

25 Before section 15 of the **Health Records Act 2001** insert—

**"14C Information sharing under the Child Wellbeing and Safety Act 2005**

30 (1) Nothing in HPP 1.3, or any applicable code of practice modifying the application of HPP 1.3 or prescribing how HPP 1.3 is to be applied or complied with, applies to the

Part 3—Consequential amendments

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- 5 collection of health information by an  
information sharing entity or a restricted  
information sharing entity for the purposes  
of Part 6A of the **Child Wellbeing and  
Safety Act 2005** or by a Child Link user or  
the Secretary to the Department of Education  
and Training for the purposes of Part 7A of  
that Act.
- 10 (2) Nothing in HPP 1.5, or any applicable code  
of practice modifying the application of  
HPP 1.5 or prescribing how HPP 1.5 is to  
be applied or complied with, applies to the  
collection of health information by an  
15 information sharing entity or a restricted  
information sharing entity for the purposes  
of Part 6A of the **Child Wellbeing and  
Safety Act 2005**, to the extent that the  
application of, or compliance with, HPP 1.5  
would be contrary to the promotion of the  
20 wellbeing or safety of a child to whom the  
information relates.
- 25 (3) Nothing in HPP 1.5, or any applicable code  
of practice modifying the application of  
HPP 1.5 or prescribing how HPP 1.5 is to  
be applied or complied with, applies to the  
collection of health information by a Child  
Link user or the Secretary to the Department  
of Education and Training for the purposes  
of Part 7A of the **Child Wellbeing and  
30 Safety Act 2005**.
- 35 (4) Nothing in HPP 4.3, or any applicable code  
of practice modifying the application of  
HPP 4.3 or prescribing how HPP 4.3 is to  
be applied or complied with, applies to the  
deletion of health information by the

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Secretary to the Department of Education and Training for the purposes of Part 7A of the **Child Wellbeing and Safety Act 2005**.

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- (5) Nothing in an HPP, or any applicable code of practice modifying the application of an HPP or prescribing how an HPP is to be applied or complied with, applies to the collection, use or disclosure of health information by an information sharing entity or a restricted information sharing entity for the purposes of Part 6A of the **Child Wellbeing and Safety Act 2005**, or by a Child Link user or the Secretary to the Department of Education and Training for the purposes of Part 7A of that Act, to the extent that the HPP requires the consent of the person to whom the health information relates for the collection, use or disclosure of that information.
- 20
- (6) In this section—
- Child Link user* has the same meaning as in the **Child Wellbeing and Safety Act 2005**;
- 25
- information sharing entity* has the same meaning as in the **Child Wellbeing and Safety Act 2005**;
- restricted information sharing entity* has the same meaning as in the **Child Wellbeing and Safety Act 2005**."
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**Division 4—Amendment of Privacy and  
Data Protection Act 2014**

**31 New section 15B inserted**

5 Before section 16 of the **Privacy and Data  
Protection Act 2014** insert—

**"15B Exemption—information sharing under  
the Child Wellbeing and Safety Act 2005**

- 10 (1) Nothing in IPP 1.4, or any applicable code of  
practice modifying the application of IPP 1.4  
or prescribing how IPP 1.4 is to be applied or  
complied with, applies to the collection of  
personal information by an information  
sharing entity or a restricted information  
15 sharing entity for the purposes of Part 6A of  
the **Child Wellbeing and Safety Act 2005**,  
or by a Child Link user or the Secretary to  
the Department of Education and Training  
for the purposes of Part 7A of that Act.
- 20 (2) Nothing in IPP 1.5, or any applicable code of  
practice modifying the application of IPP 1.5  
or prescribing how IPP 1.5 is to be applied or  
complied with, applies to the collection of  
personal information by an information  
sharing entity or a restricted information  
25 sharing entity for the purposes of Part 6A of  
the **Child Wellbeing and Safety Act 2005**,  
to the extent that the application of, or  
compliance with, IPP 1.5 would be contrary  
to the promotion of the wellbeing or safety  
30 of a child to whom the information relates.
- 35 (3) Nothing in IPP 1.5, or any applicable code of  
practice modifying the application of IPP 1.5  
or prescribing how IPP 1.5 is to be applied or  
complied with, applies to the collection of  
personal information by a Child Link user or  
the Secretary to the Department of Education
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Part 3—Consequential amendments

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and Training for the purposes of Part 7A of the **Child Wellbeing and Safety Act 2005**.

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- (4) Nothing in IPP 10.1, or any applicable code of practice modifying the application of IPP 10.1 or prescribing how IPP 10.1 is to be applied or complied with, applies to the collection, use or disclosure of sensitive information by an information sharing entity or a restricted information sharing entity for the purposes of Part 6A of the **Child Wellbeing and Safety Act 2005**, or by a Child Link user or the Secretary to the Department of Education and Training for the purposes of Part 7A of that Act.
- (5) Nothing in an IPP, or any applicable code of practice modifying the application of an IPP or prescribing how an IPP is to be applied or complied with, applies to the collection of personal or sensitive information by an information sharing entity or a restricted information sharing entity for the purposes of Part 6A of the **Child Wellbeing and Safety Act 2005**, or by a Child Link user or the Secretary to the Department of Education and Training for the purposes of Part 7A of that Act, to the extent that the IPP requires the consent of the person to whom the information relates for the collection, use or disclosure of that information.
- (6) In this section—
- Child Link user* has the same meaning as in the **Child Wellbeing and Safety Act 2005**;
- information sharing entity* has the same meaning as in the **Child Wellbeing and Safety Act 2005**;
-

*restricted information sharing entity* has the same meaning as in the **Child Wellbeing and Safety Act 2005**."

**Division 5—Amendment of Health Services Act 1988**

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**32 Confidentiality**

Before section 141(3)(h) of the **Health Services Act 1988** insert—

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"(gd) to the giving of information to or by an information sharing entity or a restricted information sharing entity in accordance with Part 6A of the **Child Wellbeing and Safety Act 2005**; or

15

(ge) to the giving of information to or by a Child Link user or the Secretary to the Department of Education and Training in accordance with Part 7A of the **Child Wellbeing and Safety Act 2005**; or".

**Division 6—Amendment of Freedom of Information Act 1982**

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**33 Definitions**

In section 5(1) of the **Freedom of Information Act 1982**, the definition of *information sharing entity* is repealed.

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**34 Reasons etc. to be given**

Before section 27(2)(b) of the **Freedom of Information Act 1982** insert—

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"(ac) is not required to confirm or deny the existence of any document, if confirming or denying the existence of that document would involve the unreasonable disclosure of information relating to the personal affairs of any person for the reason that it would

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increase the risk to the safety of a child or group of children;"

**35 Document affecting personal privacy**

- 5 (1) In section 33(2) of the **Freedom of Information Act 1982**, after "(2AB)" insert ", (2AC)".
- (2) Before section 33(2B) of the **Freedom of Information Act 1982** insert—
- "(2AC) Without limiting subsection (2A), if—
- 10 (a) the request is made to an agency that is an information sharing entity or a restricted information sharing entity or to a Minister for access to an official document of an agency that is an information sharing entity or a
- 15 restricted information sharing entity; and
- (b) the document contains information relating to the personal affairs of the person making the request—
- 20 in deciding whether the disclosure would involve the unreasonable disclosure of information relating to the personal affairs of any person, the agency or Minister must also take into account whether the disclosure
- 25 would increase the risk to the safety of a child or group of children."
- (3) In section 33(9) of the **Freedom of Information Act 1982**, in the definition of *primary person*, for "2008." substitute "2008;".

(4) **Insert** the following definitions in section 33(9) of the **Freedom of Information Act 1982**—

*"information sharing entity*—

- 5 (a) in subsection (2AB), has the same meaning as in the **Family Violence Protection Act 2008**; and
- (b) in subsection (2AC), has the same meaning as in the **Child Wellbeing and Safety Act 2005**;

10 *restricted information sharing entity* has the same meaning as in the **Child Wellbeing and Safety Act 2005**."

### **36 Decision on review**

15 Before section 49P(4) of the **Freedom of Information Act 1982** insert—

"(3B) If the review relates to a decision by an agency or a Minister to refuse to grant access to a document or part of a document on the grounds that it would involve an unreasonable disclosure of personal affairs for the reason that it would increase the risk to the safety of a child or group of children, the Information Commissioner may make the decision in terms that neither confirm nor deny the existence of that document."

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### **37 Inspection of exempt documents by Tribunal**

At the end of section 56 of the **Freedom of Information Act 1982** insert—

30 "(6) If an application under section 50(1) or (3D) relates to a document or part of a document in relation to which disclosure has been refused on the grounds that it would involve an unreasonable disclosure of personal affairs for the reason that it would increase the risk to the safety of a child or group of

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children, the Tribunal may, if it regards it as appropriate to do so, announce its findings in terms which neither confirm nor deny the existence of the document in question."

5

### **Division 7—Amendment of other Acts**

#### **38 Personal Safety Intervention Orders Act 2010**

At the end of section 124 of the **Personal Safety Intervention Orders Act 2010** insert—

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"(3) Section 123(2) does not prevent a disclosure that is made for the purposes of Part 6A of the **Child Wellbeing and Safety Act 2005** by an information sharing entity or a restricted information sharing entity (within the meaning of that Act)."

15

#### **39 Sentencing Act 1991**

Before section 48LB(2)(h) of the **Sentencing Act 1991** insert—

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"(gb) if the use or disclosure is by an information sharing entity or a restricted information sharing entity within the meaning of the **Child Wellbeing and Safety Act 2005** and is authorised under Part 6A of that Act;"

#### **40 Victims of Crime Assistance Act 1996**

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At the end of section 43 of the **Victims of Crime Assistance Act 1996** insert—

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"(5) Subsection (3) does not prevent a disclosure that is made for the purposes of Part 6A of the **Child Wellbeing and Safety Act 2005** by an information sharing entity or a restricted information sharing entity (within the meaning of that Act)."

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## **Part 4—Repeal of amending Act**

### **41 Repeal of amending Act**

This Act is **repealed** on 31 December 2020.

#### **Note**

5

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.