

Children and Young Persons (Further Amendment) Act 1993

No. 10 of 1993

TABLE OF PROVISIONS

Section

1. Purposes
2. Commencement
3. Principal Act
4. Mandatory reporting
5. Representation in Family Division proceedings
6. Consequential amendments



Victoria

No. 10 of 1993

**Children and Young Persons
(Further Amendment) Act 1993**

[Assented to 11 May 1993]

The Parliament of Victoria enacts as follows:

1. *Purposes*

The purposes of this Act are—

- (a) to require the members of certain professional groups to report cases where they believe on reasonable grounds that a child is in need of protection because of physical injury or sexual abuse;

Children and Young Persons (Further Amendment) Act 1993
Act No. 10/1993

s. 2

- (b) to enable the Secretary or his or her delegate to be represented in proceedings in the Family Division of the Children's Court by a Departmental officer or employee.

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

3. Principal Act

In this Act, the **Children and Young Persons Act 1989** is called the Principal Act.

4. Mandatory reporting

In section 64 of the Principal Act, after sub-section (1) insert—

- (1A) A person referred to in any of the paragraphs of sub-section (1C) to whom this sub-section applies who, in the course of practising his or her profession or carrying out the duties of his or her office, position or employment as described in that paragraph, forms the belief on reasonable grounds that a child is in need of protection on a ground referred to in paragraph (c) or (d) of section 63 must notify the Secretary of that belief and of the reasonable grounds for it as soon as practicable—

- (a) after forming the belief; and
(b) after each occasion on which he or she becomes aware of any further reasonable grounds for the belief.

Penalty applying to this sub-section: 10 penalty units.

- (1B) Grounds for a belief referred to in sub-section (1A) are—
- (a) matters of which a person has become aware; and
(b) any opinions based on those matters.

No. 56/1989.
Reprinted to
No. 63/1990.
Subsequently
amended by
No. 69/1992.

Children and Young Persons (Further Amendment) Act 1993
Act No. 10/1993

s. 4

- (1c) Sub-section (1A) applies to a person referred to in any of the following paragraphs on and from the relevant date—
- (a) a legally qualified medical practitioner registered (whether fully, temporarily, provisionally or conditionally) under the **Medical Practitioners Act 1970**;
 - (b) a registered psychologist within the meaning of the **Psychological Practices Act 1965** or the **Psychologists Registration Act 1987** or a person registered as a probationary psychologist under the **Psychologists Registration Act 1987**;
 - (c) a person registered or temporarily registered under Part II of the **Nurses Act 1958**;
 - (d) a person registered or provisionally registered as a teacher under the **Education Act 1958** or permitted to teach under Part III or Part IIIA of that Act;
 - (e) the head teacher or principal of a State school within the meaning of the **Education Act 1958** or of a school registered under Part III of that Act;
 - (f) the proprietor of, or a person with a post-secondary qualification in the care, education or minding of children who is employed in, a children's services centre to which Part XIA of the **Health Act 1958** applies or a person nominated under section 208c (4) (c) of that Act;
 - (g) a person with a post-secondary qualification in youth, social or welfare work who works in the health, education or community or welfare services field and who is not referred to in paragraph (h);
 - (h) a person holding, or for the time being acting in or performing the duties of, a position as a youth and child care worker under the **Public Sector Management Act 1992**;

Children and Young Persons (Further Amendment) Act 1993
Act No. 10/1993

s. 5

- (i) a member of the police force;
 - (j) a probation officer;
 - (k) a youth parole officer;
 - (l) a member of a prescribed class of persons.
- (1D) In sub-section (1C) **“the relevant date”**, in relation to a person or class of persons referred to in a paragraph of that sub-section, means the date fixed for the purposes of that paragraph by an Order made by the Governor in Council and published in the Government Gazette.
- (1E) Different dates may be fixed by Order in Council for the purposes of different paragraphs of sub-section (1C) and, in the case of paragraph (l), different prescribed classes of persons.
- (1F) In paragraphs (f) and (g) of sub-section (1C), **“post-secondary qualification”** means a qualification from a post-secondary education institution or a technical and further education college or institution as defined in the **Post-Secondary Education Act 1978** or a qualification from an institution or college outside Victoria that is approved by the Secretary for the purpose of this section by notice published in the Government Gazette.
- (1G) It is a defence to a charge under sub-section (1A) for the person charged to prove that he or she honestly and reasonably believed that all of the reasonable grounds for his or her belief had been the subject of a notification to the Secretary made by another person.
- (1H) The requirement imposed by sub-section (1A) (b) applies to a person even if his or her belief was first formed before the relevant date within the meaning of sub-section (1C).’.

5. Representation in Family Division proceedings

In section 82 of the Principal Act, after sub-section (2) insert—

- “(3) Despite anything to the contrary in this or any other Act, the Secretary or his or her delegate, in the capacity of being a party to any proceeding before the Family Division whether as a protective intervener or otherwise, may appear—
- (a) personally; or
 - (b) by counsel or a solicitor; or
 - (c) by an officer or employee (whether or not admitted as a barrister and solicitor of the Supreme Court) who is authorised by the Secretary to appear in proceedings before the Family Division.
- (4) An authorisation under sub-section (3) (c)—
- (a) must be made by instrument;
 - (b) may be of a particular officer or employee or of a class of officers or employees;
 - (c) may be subject to any conditions or limitations that the Secretary may specify in it.
- (5) For the purposes of sections 28 (4) and 82B (5) (b) and (c), an officer or employee representing a party in accordance with sub-section (3) (c) must be taken to be that party’s legal practitioner or legal representative.
- (6) Nothing in sub-section (3) affects any right of the Secretary or his or her delegate to appear in any other matter in the Court personally or by counsel or a solicitor.”.

6. Consequential amendments

In the Principal Act—

- (a) in section 3 (1), in the definition of “case planning process”, after “64 (1)” (where twice occurring) insert “or 64 (1A)”;
- (b) in section 3 (1)—
 - (i) in the definition of “employee” for “employed in the Department under Division 6 of Part III of the **Public Service Act 1974**” substitute

Children and Young Persons (Further Amendment) Act 1993
Act No. 10/1993

s. 6

“temporarily employed in the Department under Division 5 of Part 2 of the **Public Sector Management Act 1992**”;

- (ii) in the definition of “officer” for “**Public Service Act 1974**” substitute “**Public Sector Management Act 1992**”;
- (c) in section 7 (1), after “except” insert “the power to make authorisations under section 82 (3) (c),”;
- (d) in section 64 (3), after “sub-section (1)” insert “or (1A)”;
- (e) in section 64 (4), after “sub-section (1)” insert “or (1A)”;
- (f) in section 66 (1), after “64 (1)” insert “or (1A)”;
- (g) in section 67 (1), after “64 (1)” insert “or (1A)”;
- (h) in section 67 (2) (a), after “64 (1)” insert “or (1A)”.

NOTES

1. *Minister's second reading speech—*
Legislative Council: 7 April 1993
Legislative Assembly: 21 April 1993
2. The long title for the Bill for this Act was “A Bill to amend the **Children and Young Persons Act 1989** with respect to the reporting of cases of physical injury or sexual abuse of children and with respect to the legal representation of parties to proceedings in the Family Division of the Children’s Court and for other purposes.”.
3. Section headings appear in bold italics and are not part of the Act. (See **Interpretation of Legislation Act 1984**.)