

PARLIAMENT OF VICTORIA

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**Health Safeguards for People Born with Variations  
in Sex Characteristics Bill 2025**

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PARLIAMENT OF VICTORIA

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Introduced in the Assembly

**Health Safeguards for People Born with  
Variations in Sex Characteristics  
Bill 2025**

A Bill for an Act to provide support for the making of decisions about certain medical treatment for persons who have an innate variation in sex characteristics, including provisions about the giving of informed consent to the decisions, panels of persons who may give approvals about the decisions, prohibiting the medical treatment in certain circumstances and other related matters and to amend the **Victorian Civil and Administrative Tribunal Act 1998** to provide for review processes for those decisions and for other purposes.

**The Parliament of Victoria enacts:**

**Part 1—Preliminary**

**1 Purposes**

The purposes of this Act are—

- 5 (a) to provide support for the making of decisions about certain medical treatment for persons who have an innate variation in sex characteristics, including provisions about—
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Part 1—Preliminary

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- 5
- (i) the giving of informed consent to the decisions; and
  - (ii) panels of persons who may give approvals about the decisions; and
  - (iii) prohibiting the medical treatment in certain circumstances; and
  - (iv) other related matters; and
- (b) to amend the **Victorian Civil and Administrative Tribunal Act 1998**—
- 10
- (i) to provide for review processes for certain decisions about individual and general treatment plans; and
  - (ii) to make other related amendments to that Act.

15       **2 Commencement**

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
  - (2) If a provision of this Act does not come into operation before 1 December 2028, it comes into operation on that day.
- 20

**3 Definitions**

In this Act—

***applicable person*** means a person who has an innate variation in sex characteristics;

25       ***applicable provider*** means—

- (a) a person or body that employs or otherwise engages a registered medical practitioner to provide restricted medical treatment (whether or not the practitioner is also employed or otherwise engaged to provide any other medical treatment); or
- 30
-

Part 1—Preliminary

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(b) a registered medical practitioner who provides restricted medical treatment other than on behalf of a person or body referred to in paragraph (a);

5                    **approval decision** means a decision of an assessment committee under section 32 or 41;

**approved general treatment plan** means a general treatment plan approved under section 32;

10                  **approved individual treatment plan** means an individual treatment plan approved under section 32;

**approved treatment plan** means—

- (a) an approved general treatment plan; or  
15                  (b) an approved individual treatment plan;

**assessment committee** means a committee appointed under Division 1 of Part 6;

20                  **Australian Health Practitioner Regulation Agency** means the Australian Health Practitioner Regulation Agency established by section 23 of the Health Practitioner Regulation National Law;

**capacity to give informed consent**—see section 5;

25                  **Chair**, in relation to the Panel, means the person appointed under section 17 to be the Chair of the Panel;

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

**Department** means the Department of Health;

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Part 1—Preliminary

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*Deputy Chair*, in relation to the Panel, means the person appointed under section 18 to be the Deputy Chair of the Panel;

5                    *Director of Public Prosecutions* means the Director of Public Prosecutions appointed under section 87AB of the **Constitution Act 1975**;

10                   *general treatment plan* means a plan for the treatment of a class of protected person using restricted medical treatment;

*individual treatment plan* means a plan for the treatment of a protected person using restricted medical treatment;

15                   *innate variation in sex characteristics*, of a person, means a congenital condition that, irrespective of its aetiology, involves atypical sex characteristics of the person;

*internal review committee* means a committee appointed under Division 1 of Part 8;

20                   *medical treatment* includes—

- (a) a surgical procedure; and
- (b) the prescription or administration of a drug;

25                   *medical treatment decision maker* has the same meaning as in the **Medical Treatment Planning and Decisions Act 2016**;

*mental health and wellbeing professional* has the same meaning as in the **Mental Health and Wellbeing Act 2022**;

30                   *ordinary Panel member* means an ordinary Panel member appointed under section 19;

Part 1—Preliminary

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***Panel*** means the Restricted Medical Treatment Oversight Panel established under section 15;

***Panel member*** means—

- 5 (a) the Chair; or  
(b) the Deputy Chair; or  
(c) an ordinary Panel member;

***protected person***—see section 4;

10 ***Public Advocate*** has the same meaning as in the **Guardianship and Administration Act 2019**;

***registered health practitioner*** has the same meaning as in the Health Practitioner Regulation National Law;

15 ***registered medical practitioner***—see section 38EA of the **Interpretation of Legislation Act 1984**;

20 ***registered psychologist*** means a person registered under the Health Practitioner Regulation National Law to practise in the psychology profession (other than as a student);

***restricted medical treatment*** means—

- 25 (a) medical treatment (other than treatment that is prescribed not to be restricted medical treatment) that—  
(i) permanently changes an applicable person's sex characteristics; or  
(ii) makes changes to an applicable person's sex characteristics that are reversible only by further medical treatment; or  
30
-

Part 1—Preliminary

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(b) medical treatment that—

(i) changes an applicable person's sex characteristics; and

(ii) is prescribed to be restricted medical treatment;

5

*review decision* means a decision of an internal review committee under section 48;

*Secretary* means the Secretary to the Department;

*sex characteristics* has the same meaning as in the **Equal Opportunity Act 2010**;

10

*support person* means a person appointed under Division 3 of Part 3 of the **Medical Treatment Planning and Decisions Act 2016**;

15

*supportive guardian* has the same meaning as in the **Guardianship and Administration Act 2019**;

*treatment plan* means—

(a) a general treatment plan; or

(b) an individual treatment plan;

20

*urgent restricted medical treatment*—see section 8;

*Victorian Equal Opportunity and Human Rights Commission* means the Victorian Equal Opportunity and Human Rights Commission continued in existence by section 154 of the **Equal Opportunity Act 2010**.

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Part 1—Preliminary

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**4 Protected persons**

In this Act, a *protected person* is an applicable person—

- 5
- (a) to whom a registered medical practitioner proposes to provide restricted medical treatment; and
  - (b) whom the registered medical practitioner has determined does not have capacity to give informed consent to that treatment.

10 **5 Capacity to give informed consent**

(1) In this Act, *capacity to give informed consent*, in relation to particular restricted medical treatment, is capacity to do all of the following—

- 15
- (a) understand information for the purpose of deciding whether to consent to the treatment;
  - (b) remember information for the purpose of deciding whether to consent to the treatment;
  - (c) use or weigh information for the purpose of deciding whether to consent to the treatment;
  - 20 (d) communicate in some way a decision whether to consent to the treatment.

(2) The following matters must be considered in determining whether an applicable person has capacity to give informed consent to particular

25 restricted medical treatment—

- (a) whether the person has capacity to do so—
    - (i) is specific to that treatment; and
    - (ii) may change over time; and
    - 30 (iii) may depend on whether the person, or a parent, guardian or carer of the person, is given appropriate supports (including psychosocial and peer supports);
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Part 1—Preliminary

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(b) it should not be assumed that the person does not have capacity to do so only because of—

(i) the person's age, appearance, behaviour or condition (including any disability);  
or

(ii) a decision made by the person that another person may consider unwise.

**6 Principles for this Act**

(1) The principles set out in this section must be considered in interpreting the provisions of this Act.

(2) The principles are the following—

(a) **bodily integrity**—

(i) all people have the right to autonomy and bodily integrity; and

(ii) restricted medical treatment provided to people without their informed consent has the potential to seriously infringe on those rights;

(b) **children's agency**—

(i) children have the right to express their views in relation to decisions that affect them and their views must be given appropriate weight in accordance with their age and maturity; and

(ii) children's ability to consent to medical treatment generally increases as they become older; and

(iii) children who are able to understand fully the nature and consequences of proposed restricted medical treatment should be able to make decisions about whether to receive such treatment;

Part 1—Preliminary

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- 5
- (c) **precaution**—restricted medical treatment that is proposed for a child who is not able to understand fully its nature and consequences should be deferred, if safe to do so, until such time as the child is able to make decisions about what happens to their body;
- 10
- (d) **medical necessity**—it may be necessary in some circumstances to provide restricted medical treatment to protect a person's rights to life and health or, as a matter of urgency, to save a person's life, to prevent serious damage to a person's health or to relieve or prevent significant pain or distress;
- 15
- (e) **independent oversight**—given the risks associated with providing restricted medical treatment, decisions about whether restricted medical treatment is provided should be subject to effective independent oversight.

Part 2—Prohibition and exceptions

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## **Part 2—Prohibition and exceptions**

### **7 Prohibition on providing restricted medical treatment to certain applicable persons**

(1) A person commits an offence if—

- 5                   (a) the person provides restricted medical treatment to an applicable person who does not have capacity to give informed consent to the treatment; and
- 10                   (b) the person knows or is reckless as to whether the treatment is restricted medical treatment; and
- (c) the person—
- (i) knows the applicable person does not have capacity to give informed consent to the treatment; or
- 15                   (ii) is reckless as to whether the applicable person has capacity to give informed consent to the treatment.

20                   (2) A person who commits an offence against subsection (1) is liable to 2 years imprisonment or a penalty not exceeding 240 penalty units.

### **8 Exception for urgent restricted medical treatment**

(1) A person does not commit an offence against section 7 if—

- 25                   (a) the person is a registered medical practitioner; and
- (b) the person believes on reasonable grounds that the restricted medical treatment is urgently necessary—
- 30                   (i) to save the applicable person's life; or
- (ii) to prevent serious damage to the applicable person's health; or
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Part 2—Prohibition and exceptions

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- (iii) to relieve significant pain or distress that the person is suffering; or
- (iv) to prevent the applicable person from suffering significant pain or distress in the future.

5

(2) In this section—

*pain or distress* does not include—

- (a) discrimination, stigmatisation or a perceived risk of discrimination or stigmatisation; or
- (b) psychological or emotional pain or distress due to discrimination, stigmatisation or a perceived risk of discrimination or stigmatisation.

10

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**9 Exception for approved restricted medical treatment**

A person does not commit an offence against section 7 if—

- (a) the person is a registered medical practitioner; and
- (b) the person provides the restricted medical treatment in accordance with an approved treatment plan.

20

## **Part 3—Determining capacity and seeking informed consent**

### **10 Determining capacity to give informed consent**

5 A registered medical practitioner, before providing restricted medical treatment to an applicable person, must determine whether the applicable person has capacity to give informed consent to the treatment.

### **11 Seeking and obtaining informed consent**

10 (1) A registered medical practitioner, after making a determination under section 10 and before providing the restricted medical treatment to the applicable person, must seek and obtain informed consent to the treatment from—

15 (a) if the applicable person is a protected person—at least one medical treatment decision maker for the person; or

(b) if the applicable person is not a protected person—the applicable person.

20 (2) A registered medical practitioner, in seeking informed consent under subsection (1), must ensure that the practitioner has—

(a) if the applicable person is a protected person—

25 (i) given the person and each medical treatment decision maker for the person the information specified in subsection (3); and

30 (ii) in accordance with subsection (4), given each medical treatment decision maker for the person a reasonable opportunity to decide whether to consent to the treatment; and

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Part 3—Determining capacity and seeking informed consent

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- 5 (iii) in accordance with subsection (5),  
given the person a reasonable  
opportunity to communicate the  
person's wishes regarding the treatment,  
if the person is able to communicate in  
some way for that purpose; or
- (b) if the applicable person is not a protected  
person—
- 10 (i) given the person the information  
specified in subsection (3); and
- (ii) in accordance with subsection (6),  
given the person a reasonable  
opportunity to decide whether to  
consent to the treatment.
- 15 (3) For the purposes of subsection (2)(a)(i) and (b)(i),  
the following information is specified—
- (a) an explanation of innate variations in sex  
characteristics;
- 20 (b) specific information regarding the innate  
variation in sex characteristics that is  
relevant to the treatment;
- (c) an explanation of the treatment, including—
- 25 (i) the purpose of the treatment; and
- (ii) the type, method and likely duration of  
the treatment; and
- (iii) likely implications of the treatment;
- (d) an explanation of the advantages and  
disadvantages of the treatment, including an  
explanation of—
- 30 (i) any discomfort or risks associated with  
the treatment; and
- (ii) any common or expected side effects of  
the treatment;
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Part 3—Determining capacity and seeking informed consent

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- (e) an explanation of any further treatment that will likely be required after the treatment;
  - (f) an explanation of any treatment options that will be excluded as a result of the treatment;
  - 5 (g) an explanation of any beneficial treatment that the practitioner considers to be a reasonably available alternative;
- Example**
- 10 Support for the person's psychosocial needs may be a reasonably available alternative.
- (h) an explanation of the advantages and disadvantages of the following options—
    - (i) deferring the treatment;
    - (ii) not receiving the treatment at all;
  - 15 (i) an answer to any relevant question that the practitioner has been asked;
  - (j) the prescribed information (if any).
- (4) For the purposes of subsection (2)(a)(ii), the registered medical practitioner must ensure that
- 20 each medical treatment decision maker for the person has been given—
- (a) a reasonable period in which to consider the matters involved in the decision; and
  - 25 (b) a reasonable opportunity to discuss the matters involved in the decision—
    - (i) with the practitioner; and
    - (ii) with a peer support worker, a psychosocial support worker, a registered psychologist or a mental
    - 30 health and wellbeing professional; and
  - (c) appropriate supports to decide whether to consent to the treatment; and
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Part 3—Determining capacity and seeking informed consent

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- (d) a reasonable opportunity to obtain any other advice or assistance in relation to the decision.
- 5 (5) For the purposes of subsection (2)(a)(iii), the registered medical practitioner must ensure that the person has been given—
- (a) a reasonable period in which to consider the treatment; and
- 10 (b) a reasonable opportunity to discuss the treatment—
- (i) with the practitioner; and
- (ii) with a peer support worker, a psychosocial support worker, a registered psychologist or a mental health and wellbeing professional; and
- 15 (iii) without the presence of any parent, guardian or carer of the person; and
- (iv) if the person has a support person or a supportive guardian, without the presence of that support person or supportive guardian; and
- 20 (c) appropriate supports to communicate the person's wishes (if any) regarding the treatment (including supports for a parent, guardian or carer of the person); and
- 25 (d) a reasonable opportunity to obtain any other assistance to communicate the person's wishes (if any).
- 30 (6) For the purposes of subsection (2)(b)(ii), the registered medical practitioner must ensure that the person has been given—
- (a) a reasonable period in which to consider the matters involved in the decision; and
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Part 3—Determining capacity and seeking informed consent

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- (b) a reasonable opportunity to discuss the matters involved in the decision—
    - (i) with the practitioner; and
    - (ii) with a peer support worker, a psychosocial support worker, a registered psychologist or a mental health and wellbeing professional; and
    - (iii) without the presence of any parent, guardian or carer of the person; and
    - (iv) if the person has a support person or a supportive guardian, without the presence of that support person or supportive guardian; and
  - (c) appropriate supports to decide whether to consent to the treatment (including supports for a parent, guardian or carer of the person); and
  - (d) a reasonable opportunity to obtain any other advice or assistance in relation to the person's decision.

## **Part 4—The Secretary**

### **12 Functions and powers of the Secretary**

(1) The Secretary has the following functions under this Act—

- 5
- (a) to monitor and enforce compliance with requirements under this Act;
  - (b) any other function conferred on the Secretary under this Act.

10 (2) The Secretary has all the powers necessary to perform the Secretary's functions under this Act.

**Note**

See section 19 of the **Public Health and Wellbeing Act 2008** regarding delegation by the Secretary.

15 (3) Without limiting subsection (2), the Secretary may do any of the following—

- (a) commence a proceeding for an offence against this Act;
- (b) consult with the Panel in relation to compliance with requirements under this Act;
- (c) request information from a person in accordance with this Act;
- (d) collect, use and disclose information in accordance with this Act.

25 **Note**

The Secretary may also make a voluntary notification about a registered health practitioner on specified grounds. See Division 3 of Part 8 of the Health Practitioner Regulation National Law.

30 **13 Secretary may request information**

(1) The Secretary, by written notice, may request a person (other than an applicable person or a parent, guardian or carer of an applicable person)

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Part 4—The Secretary

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to provide information or a document to the Secretary if the Secretary reasonably believes that the information or document is—

- 5 (a) in the person's possession or control; and
- (b) necessary to determine whether the person or any other person has—
- (i) complied with a requirement under this Act; or
- (ii) committed an offence against this Act.
- 10 (2) Despite any Act (other than the Charter of Human Rights and Responsibilities) or law to the contrary, a person who receives a notice under subsection (1) is authorised to comply with the notice.
- 15 (3) A registered health practitioner who complies with a notice under subsection (1) does not merely by complying with the notice—
- (a) breach professional etiquette or ethics or any other code of conduct; or
- 20 (b) engage in unprofessional conduct within the meaning and for the purposes of the Health Practitioner Regulation National Law.

**14 Secretary may disclose information**

25 The Secretary may disclose information received by the Secretary under this Act to any of the following persons or bodies for the purpose of assisting that person or body to perform functions or exercise powers under any Act—

- 30 (a) the Australian Health Practitioner Regulation Agency;
- (b) the Public Advocate;
- (c) the Commission for Children and Young People;
-

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Bill 2025

Part 4—The Secretary

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- (d) the Director of Public Prosecutions;
- (e) the Chief Commissioner of Police;
- (f) a prescribed person or body.

Part 5—Restricted Medical Treatment Oversight Panel

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## **Part 5—Restricted Medical Treatment Oversight Panel**

### **15 Establishment of the Panel**

- 5 (1) The Restricted Medical Treatment Oversight  
Panel is established.
- (2) The Panel consists of—
- (a) the Chair; and
  - (b) the Deputy Chair; and
  - (c) the ordinary Panel members.
- 10 (3) The Panel must include, for each relevant field  
specified in section 19(3), at least 2 ordinary Panel  
members who have appropriate qualifications or  
experience in that field.

### **16 Functions and powers of the Panel**

- 15 (1) The Panel has the following functions—
- (a) to determine, by means of appointed  
committees, applications and proposals for  
approval of a treatment plan;
  - 20 (b) to make recommendations to the Secretary  
regarding—
    - (i) the operation of this Act; and
    - (ii) care, support and outcomes for  
applicable persons;
  - 25 (c) to collect and analyse information regarding  
provision of restricted medical treatment;
  - (d) to develop guidance material for—
    - (i) applicable persons; and
    - 30 (ii) persons who provide restricted medical  
treatment or support to applicable  
persons; and
-

Part 5—Restricted Medical Treatment Oversight Panel

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(iii) parents, guardians and carers of applicable persons;

(e) any other function conferred on the Panel under this Act or any other Act.

5 (2) The Panel has all the powers necessary to perform its functions under this Act or any other Act.

**17 Appointment of the Chair**

10 (1) The Governor in Council, on the recommendation of the Minister, may appoint a person to be the Chair of the Panel.

(2) The Minister must not recommend a person for appointment under subsection (1) unless the Minister is satisfied that the person—

15 (a) has appropriate qualifications and experience to perform the duties of the Chair; and

(b) meets the prescribed criteria (if any).

(3) The Chair holds office—

20 (a) for the period (not exceeding 5 years) specified in the instrument of appointment; and

(b) on the terms and conditions specified in the instrument of appointment.

(4) The Chair is eligible for re-appointment.

25 (5) The **Public Administration Act 2004** does not apply to the Chair in respect of the office of the Chair.

**18 Appointment of the Deputy Chair**

30 (1) The Governor in Council, on the recommendation of the Minister, may appoint a person to be the Deputy Chair of the Panel.

Part 5—Restricted Medical Treatment Oversight Panel

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- 5
- (2) The Minister must not recommend a person for appointment under subsection (1) unless the Minister is satisfied that the person—
- (a) has appropriate qualifications and experience to perform the duties of the Deputy Chair; and
- (b) meets the prescribed criteria (if any).
- 10
- (3) The Deputy Chair holds office—
- (a) for the period (not exceeding 5 years) specified in the instrument of appointment; and
- (b) on the terms and conditions specified in the instrument of appointment.
- 15
- (4) The Deputy Chair is eligible for re-appointment.
- (5) The **Public Administration Act 2004** does not apply to the Deputy Chair in respect of the office of the Deputy Chair.

**19 Appointment of ordinary Panel members**

- 20
- (1) The Governor in Council, on the recommendation of the Minister, may appoint a person to be an ordinary Panel member.
- (2) The Minister must not recommend a person for appointment under subsection (1) unless the Minister is satisfied that the person—
- 25
- (a) has appropriate qualifications and experience to perform the duties of an ordinary Panel member; and
- (b) has appropriate qualifications or experience in one of the relevant fields; and
- 30
- (c) meets the prescribed criteria (if any).
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Part 5—Restricted Medical Treatment Oversight Panel

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- (3) The relevant fields for the purposes of subsection (2)(b) are the following—
- (a) lived experience of an innate variation in sex characteristics;
  - (b) provision of health care as a registered medical practitioner to persons who have an innate variation in sex characteristics;
  - (c) human rights and ethics;
  - (d) experience as a current mental health and wellbeing professional;
  - (e) health law.
- (4) An ordinary Panel member holds office—
- (a) for the period (not exceeding 5 years) specified in the instrument of appointment; and
  - (b) on the terms and conditions specified in the instrument of appointment.
- (5) An ordinary Panel member is eligible for re-appointment.
- (6) The **Public Administration Act 2004** does not apply to an ordinary Panel member in respect of the office of the ordinary Panel member.

**20 Vacancies on the Panel**

- 25
- The office of a Panel member becomes vacant if the person—
- (a) resigns from office by written notice to the Governor; or
  - (b) is removed from office under section 26.

## 21 Appointment of acting Chair

- 5
- (1) The Minister may appoint a person to act as the Chair if—
- (a) the office of the Chair is vacant; or
  - (b) the Chair is for any reason unable to perform the duties of that office.
- 10
- (2) The Minister must not appoint a person to act as the Chair unless the Minister is satisfied that the person—
- (a) has appropriate qualifications and experience to perform the duties of the Chair; and
  - (b) meets the prescribed criteria (if any).
- 15
- (3) An acting Chair has all the powers of the Chair and must perform all the duties of the Chair.
- 20
- (4) An acting Chair holds office—
- (a) for the period (not exceeding 12 months) specified in the instrument of appointment; and
  - (b) on the terms and conditions specified in the instrument of appointment.
- 25
- (5) Despite subsection (4)(a), an acting Chair's appointment ends if—
- (a) a new Chair is appointed or, in the case of an appointment under subsection (1)(b), the Chair is once again able to perform the duties of that office; or
  - (b) the acting Chair resigns by written notice to the Minister; or
  - (c) the acting Chair's appointment is revoked by
- 30
- the Minister.
-

## **22 Appointment of acting Deputy Chair**

- 5
- (1) The Minister may appoint a person to act as the Deputy Chair if—
- (a) the office of the Deputy Chair is vacant; or
  - (b) the Deputy Chair is for any reason unable to perform the duties of that office.
- 10
- (2) The Minister must not appoint a person to act as the Deputy Chair unless the Minister is satisfied that the person—
- (a) has appropriate qualifications and experience to perform the duties of the Deputy Chair; and
  - (b) meets the prescribed criteria (if any).
- 15
- (3) An acting Deputy Chair has all the powers of the Deputy Chair and must perform all the duties of the Deputy Chair.
- 20
- (4) An acting Deputy Chair holds office—
- (a) for the period (not exceeding 12 months) specified in the instrument of appointment; and
  - (b) on the terms and conditions specified in the instrument of appointment.
- 25
- (5) Despite subsection (4)(a), an acting Deputy Chair's appointment ends if—
- (a) a new Deputy Chair is appointed or, in the case of an appointment under subsection (1)(b), the Deputy Chair is once again able to perform the duties of that office; or
  - (b) the acting Deputy Chair resigns by written notice to the Minister; or
  - (c) the acting Deputy Chair's appointment is revoked by the Minister.
- 30
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**23 Appointment of acting ordinary Panel member**

- 5
- (1) The Minister may appoint a person to act as an ordinary Panel member if—
- (a) the office of an ordinary Panel member is vacant; or
  - (b) an ordinary Panel member is for any reason unable to perform the duties of that office.
- 10
- (2) The Minister must not appoint a person to act as an ordinary Panel member unless the Minister is satisfied that the person—
- (a) has appropriate qualifications and experience to perform the duties of an ordinary Panel member; and
  - 15 (b) has appropriate qualifications or experience in one of the relevant fields specified in section 19(3); and
  - (c) meets the prescribed criteria (if any).
- 20
- (3) An acting ordinary Panel member has all the powers of an ordinary Panel member and must perform all the duties of an ordinary Panel member.
- (4) An acting ordinary Panel member holds office—
- 25 (a) for the period (not exceeding 12 months) specified in the instrument of appointment; and
  - (b) on the terms and conditions specified in the instrument of appointment.
- 30
- (5) Despite subsection (4)(a), an acting ordinary Panel member's appointment ends if—
- (a) a new ordinary Panel member is appointed in their place or, in the case of an appointment under subsection (1)(b), the ordinary Panel
-

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member is once again able to perform the duties of that office; or

(b) the acting ordinary Panel member resigns by written notice to the Minister; or

5 (c) the acting ordinary Panel member's appointment is revoked by the Minister.

**24 Committee membership may continue in certain circumstances**

10 (1) If a person ceases to be a Panel member (other than by removal from office under section 26) while the person is, as a member of an assessment committee, determining an application or proposal under Part 6 or, as a member of an internal review committee, reviewing an approval  
15 decision under Part 8, the person may, as a member of that committee, continue to determine that application or proposal or review that decision.

20 (2) If a person ceases to be an acting Panel member (other than by revocation of their appointment under this Part) while the person is, as a member of an assessment committee, determining an application or proposal under Part 6 or, as a member of an internal review committee,  
25 reviewing an approval decision under Part 8, the person may, as a member of that committee, continue to determine that application or proposal or review that decision.

**25 Validity of acts and decisions of the Panel**

30 (1) An act or decision of the Panel is not invalid merely because of—  
(a) a vacancy in the office of a Panel member; or  
(b) a defect or irregularity in or in connection with the appointment of a Panel member.

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- 5 (2) An act or decision of the Panel in a case where there is an acting Chair, acting Deputy Chair or acting ordinary Panel member is not invalid merely because the occasion for the person to act as the Chair, the Deputy Chair or an ordinary Panel member had not arisen or had ceased.

**26 Removal of Panel members from office**

10 The Governor in Council, on the recommendation of the Minister, may remove a Panel member from office if the Panel member—

- (a) engages in misconduct; or  
(b) is convicted or found guilty of an indictable offence; or  
15 (c) is convicted or found guilty of an offence that, if committed in Victoria, would be an indictable offence; or  
(d) is unable to perform the Panel member's duties.

**27 Protection from liability**

- 20 (1) A Panel member is not personally liable for anything done or omitted to be done in good faith—  
(a) in the exercise of a power or the discharge of a duty under this Act as a Panel member; or  
25 (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Act as a Panel member.  
(2) Any liability resulting from an act or omission that, but for subsection (1), would attach to a  
30 Panel member attaches instead to the State.
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- (3) In this section, a reference to a Panel member includes—
- (a) a reference to an acting Panel member; and
  - (b) a reference to a member of an assessment committee or an internal review committee referred to in section 24(1) or (2).

5

Part 6—Approval of treatment plans

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## **Part 6—Approval of treatment plans**

### **Division 1—Assessment committees**

#### **28 Power of Chair to appoint assessment committees**

- 5 (1) The Chair of the Panel must appoint an assessment committee for each of the following—
- (a) an application for approval of a general treatment plan made under section 30(1);
  - 10 (b) a proposal for approval of a general treatment plan made by a Panel member under section 30(2);
  - (c) an application for approval of an individual treatment plan made under section 30(3);
  - 15 (d) a proposal to amend or revoke an approved general treatment plan made by a Panel member under section 41(2).
- (2) An assessment committee appointed under subsection (1) must consist of—
- (a) the Chair or the Deputy Chair; and
  - 20 (b) Panel members who collectively have appropriate qualifications or experience in all of the relevant fields specified in section 19(3).
- 25 (3) The Panel members appointed from the relevant fields specified in section 19(3)(a) and (b) must have experience that is relevant to the treatment plan being considered (if possible).
- 30 (4) The appointment of an assessment committee for an application for approval or proposal for approval must be made as soon as possible after the application for approval or proposal for approval is made under section 30.
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- 5 (5) If an assessment committee is appointed to assess a proposal for approval under subsection (1)(b), the Panel member who made the proposal must not be appointed to the assessment committee.
- 10 (6) If an application for approval made under section 30 is clinically urgent, the Chair must act expeditiously to appoint the assessment committee.
- (7) The regulations may prescribe circumstances in which an application for approval made under section 30 is clinically urgent.

**29 Function of assessment committees**

The function of an assessment committee is the following, as the case requires—

- 15 (a) to consider the application or proposal for approval of a treatment plan for which it has been appointed and to decide whether or not to approve the treatment plan;
- 20 (b) to consider the proposal to amend or revoke an approved treatment plan and to decide whether or not to amend or revoke the plan.

**Division 2—Application or proposal for approval of treatment plan**

25 **30 Application or proposal for approval of treatment plan**

- (1) Any of the following persons or bodies may apply to the Chair or the Deputy Chair for approval of a general treatment plan for the treatment of protected persons—
- 30 (a) a registered medical practitioner;

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- 5
- (b) a person who has an innate variation in sex characteristics, whether or not the person seeks to rely on the plan for the person's own treatment;
- 10
- (c) a person or body representing or providing support to persons who have an innate variation in sex characteristics;
- (d) a parent, guardian or other family member of a person who has an innate variation in sex characteristics;
- (e) a person prescribed by the regulations.
- 15
- (2) A Panel member may propose to the Chair or the Deputy Chair a general treatment plan for the treatment of protected persons for approval by the Panel—
- (a) if the member considers that an individual treatment plan approved by the Panel is suitable for a general treatment plan; or
- 20
- (b) if the member considers that the provision of particular restricted medical treatment to a class of protected person should be approved; or
- (c) in any other circumstances prescribed by the regulations.
- 25
- (3) Any of the following persons may apply to the Chair or the Deputy Chair for approval of an individual treatment plan for the treatment of a protected person—
- (a) a registered medical practitioner;
- 30
- (b) a person prescribed by the regulations.
- (4) An application for approval of an individual treatment plan for a protected person must not be made unless at least one medical treatment
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decision maker for the person consents to the application being made before it is made.

**31 Requirements for application or proposal**

- 5 An application or proposal under section 30 must be in writing and must set out the following—
- (a) the name and contact details of the applicant or proposer;
  - (b) the treatment plan that is proposed for approval;
  - 10 (c) the basis on which the treatment plan is proposed, including evidence of the matters of which the assessment committee must be satisfied under section 35(1);
  - (d) for an individual treatment plan—
    - 15 (i) the age of the protected person to whom the plan applies; and
    - (ii) a summary of any previous treatment, including restricted medical treatment, that the protected person has received in relation to the protected person's innate variation in sex characteristics; and
    - 20 (iii) details of the informed consent to the treatment proposed in the plan given under Part 3 by a medical treatment decision maker for the protected person; and
    - 25 (iv) details of any consent given under section 30(4); and
    - 30 (v) the nature of the innate variation in sex characteristics of the protected person;
  - (e) any other information prescribed by the regulations.
-

### **Division 3—Approval of and process for approving treatment plans**

#### **32 Decision of assessment committee as to approval of treatment plan**

5                   After considering an application or proposal made  
under Division 2 for approval of a treatment plan,  
the assessment committee appointed under section  
28(1) for the application or proposal may decide  
whether or not to approve the plan.

#### **33 Conditions on approvals**

10                   An assessment committee that approves a  
treatment plan under section 32 may impose  
conditions on the approval of the treatment plan.

#### **34 Assessment committee to give notice of approval decision**

- 15                   (1) The assessment committee for an approval  
decision about a general treatment plan must give  
a copy of the decision and the reasons for the  
decision to—
- 20                   (a) the applicant for approval or proposer of  
approval; and
- (b) the Secretary; and
- (c) the Minister; and
- 25                   (d) any other Minister with responsibilities  
relevant to the general treatment plan; and
- (e) the Commission for Children and Young  
People, if the plan applies to children; and
- (f) the Public Advocate, if the plan applies to  
protected persons who are adults; and
- 30                   (g) the Victorian Equal Opportunity and Human  
Rights Commission; and
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- (h) any other person or body prescribed by the regulations.
- 5 (2) A notice under subsection (1) must advise the person or body to whom it is directed of the processes for review of the decision under Parts 8 and 9.
- (3) The assessment committee for an approval decision about an individual treatment plan must give to the persons listed in subsection (4)—
- 10 (a) a copy of its decision; and
- (b) the reasons for the decision; and
- (c) explanations of the decision expressed in a way that assists each of the persons referred to in subsection (4)(a) and (c) to understand the decision.
- 15 (4) For the purposes of subsection (3), the following persons are listed—
- (a) the protected person to whom the decision applies;
- 20 (b) the applicant for the approval;
- (c) each medical treatment decision maker for the protected person.

**35 Requirements for assessing treatment plans for approval**

- 25 (1) An assessment committee must not approve a treatment plan under section 32 unless the committee is satisfied that there is sufficient evidence that—
- 30 (a) the protected person or persons to whom the plan applies would suffer significant physical or psychological harm if the treatment proposed in the plan were not provided; and

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- 5
- (b) there is no alternative treatment option available which is—
- (i) as effective as the treatment proposed in preventing significant physical or psychological harm; and
- (ii) less restrictive of their ability to make a decision about their sex characteristics in the future.
- 10
- (2) In considering whether or not to approve a treatment plan, the assessment committee must not have regard to any evidence that treatment proposed to be provided under the plan must be provided to reduce—
- 15
- (a) discrimination or stigmatisation or a perceived risk of discrimination or stigmatisation of the person or persons to whom the plan applies; or
- 20
- (b) future psychological harm due to discrimination or stigmatisation or a perceived risk of discrimination or stigmatisation of the person or persons to whom the plan applies.
- 36 Additional requirements for assessing approval of general treatment plans**
- 25
- (1) The assessment committee for a general treatment plan must not approve the plan under section 32 unless the committee—
- (a) has complied with the requirements of this section; and
- 30
- (b) has considered any submissions made on the plan within the time specified in the notice under subsection (3).
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- 5
- (2) Before approving a general treatment plan under section 32, the assessment committee must—
- (a) give notice of its appointment to assess the application or proposal for approval of the plan to the following persons or bodies—
- 10
- (i) the Secretary;
- (ii) the Minister;
- (iii) any other Minister with responsibilities relevant to the plan;
- (iv) the Commission for Children and Young People, if the plan applies to children;
- 15
- (v) the Public Advocate, if the plan applies to adults who do not have capacity to give informed consent to restricted medical treatment;
- (vi) the Victorian Equal Opportunity and Human Rights Commission;
- 20
- (vii) any other person or body prescribed by the regulations; and
- (b) publish notice of its appointment to assess the application or proposal for approval of the plan on the Department's Internet site.
- 25
- (3) Notice under subsection (2) must set out the process for making submissions and the time within which submissions may be made under subsection (5).
- 30
- (4) The assessment committee must allow a period of not less than 30 days after publication of the notice under subsection (2)(b) for submissions to be made to the committee about the plan.
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- (5) A person or body may make a written submission to the assessment committee for a general treatment plan within the time specified in the notice under subsection (3).

5           **37 Additional requirements for assessing approval of individual treatment plans**

The assessment committee for an individual treatment plan must not approve the plan under section 32 unless—

- 10           (a) sufficient evidence is given to the assessment committee that the registered medical practitioner who has been treating the protected person in relation to the person's innate variation in sex characteristics—
- 15                 (i) has taken reasonable steps to assess whether the person is a protected person in respect of the treatment proposed in the plan; and
- 20                 (ii) has complied with sections 10 and 11; and
- 25           (b) the assessment committee has appropriately considered any wishes the protected person has communicated in relation to the treatment or the person's innate variation in sex characteristics.

**38 Powers as to information, expertise or advice that may be relied on when assessing treatment plans**

- 30           (1) In assessing whether or not a treatment plan should be approved, the assessment committee may inform itself in any way that is appropriate, including but not limited to any way provided for in this section.

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- 5
- 10
- 15
- 20
- 25
- (2) An assessment committee may inform itself by doing any one or more of the following—
    - (a) relying on the expertise of a member of the committee;
    - (b) relying on the consideration of and on information provided in relation to any earlier assessment of a treatment plan, whether of the same plan or other plans;
    - (c) for an individual treatment plan for a protected person, talking to the person, with the consent of a medical treatment decision maker for the person;
    - (d) consulting with a relevant person or body;
    - (e) having a relevant person or body assess the person.
  - (3) An assessment committee, in making an assessment, must seek advice from an expert relevant person or body who—
    - (a) is not the person or body applying for or proposing the approval; and
    - (b) does not have an actual or perceived conflict of interest in relation to—
      - (i) the application; or
      - (ii) any person or body connected with the application.
  - (4) The assessment committee need not comply with subsection (3) if there is no expert relevant person or body to which subsection (3) applies who is available.
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- 5 (5) In consulting with or obtaining advice from an expert relevant person or body, the committee must ensure that information that might identify a protected person is not disclosed to the expert unless required.
- 10 (6) If disclosure of identifying information is required, or an expert relevant person or body is required to assess a protected person, the disclosure or assessment must not take place unless it has first been consented to by a medical treatment decision maker for the protected person.
- (7) In this section—
- expert relevant person or body* means a relevant person or body who—
- 15 (a) provides treatment, care or support to persons who have an innate variation in sex characteristics; and
- (b) has expertise or lived experience in relation to the particular innate
- 20 variation in sex characteristics that is the subject of the treatment plan;
- relevant person or body* includes but is not limited to the following—
- 25 (a) a registered medical practitioner or other registered health practitioner who provides treatment, care or support to persons who have an innate variation in sex characteristics;
- 30 (b) a quality assurance body approved under section 139 of the **Health Services Act 1988**;
- 35 (c) a person or body representing or providing support to persons who have an innate variation in sex characteristics;
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- (d) a person or body providing community or cultural support to a protected person or class of protected person to whom the treatment applies;
- 5 (e) the Commission for Children and Young People;
- (f) the Public Advocate;
- (g) any other person or body prescribed by the regulations.
- 10 **39 Disclosure of certain information, expertise and advice provided to assessment committee**
- (1) Subsection (2) applies to information provided to an assessment committee—
- 15 (a) in relation to an earlier assessment of a treatment plan; or
- (b) by an expert relevant person or body under section 38.
- (2) The assessment committee—
- 20 (a) must give the information to the person or body applying for or proposing the approval of the treatment plan as soon as possible after it is given to the committee; and
- (b) must give the person or body to whom the information has been given under
- 25 paragraph (a) a reasonable time—
- (i) to consider the information in relation to the application or proposal; and
- (ii) to address that information, including
- 30 by amending the application or proposal.
- (3) An applicant for approval of an individual treatment plan to whom information has been given under subsection (2)(a) must, as soon as
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possible after receiving the information, give the information to—

- (a) the protected person to whom the treatment plan applies; and
- 5 (b) each medical treatment decision maker for the protected person.

**40 Assessment committee may request information from applicant or proposer**

10 An assessment committee that is assessing an application for approval of a treatment plan or a proposal to approve a treatment plan—

- (a) may ask the applicant or proposer to give further information about or relating to the treatment plan; and
- 15 (b) may refuse to make a decision about the treatment plan until the information is given.

**Division 4—Amendment or revocation of approved plans**

20 **41 Amendment or revocation of approved general treatment plan**

- (1) An approved general treatment plan may be amended or revoked by the committee that has been appointed under section 28(1)(d) to consider whether or not to amend or revoke the plan on the proposal of a Panel member under subsection (2).
  - 25 (2) A Panel member may propose an amendment to an approved general treatment plan or the revocation of the plan if the member considers that—
    - 30 (a) the plan no longer satisfies the requirements set out in section 35; or
    - (b) there is new evidence available in relation to the treatment covered by the plan; or
-

Part 6—Approval of treatment plans

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- (c) another general treatment plan is approved for the same or similar treatment.
- 5 (3) This Part applies to a proposal made under this section as if the proposal had been made under section 30.
- 10 (4) An amendment or revocation of an approved general treatment plan takes effect on the date determined by the committee, being a date no later than 6 months after the decision to amend or revoke the plan is made under subsection (1).

Part 7—Operation of approved treatment plans

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**Part 7—Operation of approved treatment plans**

**42 Period of approved treatment plan and effect of expiry of plan**

- 5 (1) An approved general treatment plan remains in force for whichever is the earlier of—
- (a) the period specified in the plan; or
  - (b) the period of 5 years after the approval of the plan.
- 10 (2) An approved individual treatment plan remains in force for whichever is the earlier of—
- (a) the period specified in the plan; or
  - (b) the period of 3 years after the approval of the plan.
- 15 (3) If a registered medical practitioner is providing restricted medical treatment in accordance with an approved general treatment plan and the plan ceases to be in force before the treatment is
- 20 completed, the plan is taken to continue in force for the purpose of completing the treatment until the treatment is completed.

**43 Treatment not to be commenced until review processes completed**

- 25 A registered medical practitioner must not commence providing restricted medical treatment under an approved treatment plan until the earliest of the following occurs—
- (a) the period for making an application for internal review of the approval decision for the plan has expired and nobody has applied for internal review of the decision;
- 30

Part 7—Operation of approved treatment plans

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- 5
- 10
- 15
- (b) if a person or body has applied for internal review of the approval decision for the plan—
    - (i) the process for hearing and determining that review has been completed and the decision to approve the plan is upheld; and
    - (ii) the period for making an application under Part 9 for review of that decision by VCAT has expired and nobody has applied to VCAT for review of that decision;
  - (c) if a person or body has applied for review by VCAT of the decision on the internal review of the approval decision within the period for making that application under Part 9, the process for hearing and determining that review has been completed and there is a decision to approve the plan which is upheld.

## **Part 8—Internal review of approval decisions for treatment plans**

### **Division 1—Internal review committees**

#### **44 Power of Chair to appoint internal review committee**

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(1) The Chair of the Panel must appoint an internal review committee for any application for internal review of an approval decision.

(2) An internal review committee must consist of—

10

(a) the Chair or the Deputy Chair; and

(b) Panel members who collectively have appropriate qualifications or experience in all of the relevant fields specified in section 19(3).

15

(3) The appointment of an internal review committee under this section must be made within 14 days after the application for internal review of the approval decision is made under Division 2.

20

(4) The Chair must not appoint a person (including the Chair or the Deputy Chair) under this section if—

(a) the person was a member of the assessment committee which made the approval decision; or

25

(b) in the case of an assessment committee that was appointed to assess a proposal to approve a treatment plan, the person made the proposal.

#### **45 Function of internal review committee**

The function of an internal review committee is to review an approval decision in respect of which the application for internal review has been made.

### **5 Division 2—Application for internal review**

#### **46 Application for internal review**

- 10 (1) Any of the following persons or bodies may apply to the Chair or the Deputy Chair for internal review of an approval decision on a general treatment plan—
- 15 (a) the applicant for approval or proposer of approval of the plan under Part 6;
  - (b) the Commission for Children and Young People, if the plan is for a protected person or class of protected person who is a child;
  - (c) the Public Advocate, if the plan is for a protected person or class of protected person who is an adult;
  - 20 (d) a person or body representing, or providing support to, persons who have an innate variation in sex characteristics, if the plan is for a class of protected person that the person or body represents;
  - 25 (e) a parent or guardian or other family member of a person who has an innate variation in sex characteristics;
  - (f) any other person whose interests are affected by the approval decision;
  - 30 (g) any other person prescribed by the regulations.

Part 8—Internal review of approval decisions for treatment plans

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- 5
- (2) Any of the following persons or bodies may apply to the Chair or the Deputy Chair for internal review of an approval decision on an individual treatment plan—
- (a) the protected person to whom the plan applies or a medical treatment decision maker for the protected person;
- (b) the registered medical practitioner of the protected person;
- 10 (c) the Commission for Children and Young People, if the plan is for a protected person who is a child and the Commission is acting on behalf of the protected person or a medical treatment decision maker for the protected person;
- 15 (d) the Public Advocate, if the plan is for a protected person who is an adult and the Public Advocate is acting on behalf of the protected person or a medical treatment decision maker for the protected person.
- 20

**47 Requirements for applications for internal review**

- (1) An application under section 46 must be made no later than 14 days after notice of the approval decision is given to the applicant for approval or the proposer of approval of the treatment plan under Part 6.
- 25
- (2) An application under section 46 must be in writing and must set out the following—
- (a) the name and contact details of the person or body making the application;
- 30 (b) the decision for which review is sought;
- (c) the reasons that the person or body making the application has for seeking review of the decision.
-

**Division 3—Internal review of approval decision  
about a treatment plan**

**48 Decision of internal review committee**

- 5 (1) After considering an application under Division 2  
for internal review of an approval decision, an  
internal review committee may decide—
- (a) to confirm the approval decision; or
  - (b) to vary the approval decision; or
  - 10 (c) to set aside the approval decision and  
substitute another decision that the  
committee considers appropriate.
- (2) The internal review committee must make a  
decision under subsection (1) no later than  
15 28 days after the committee is appointed to make  
the decision.
- (3) If the internal review committee does not make a  
decision within 28 days after its appointment, the  
approval decision is taken to be confirmed.

**49 Internal review committee to give notice of review  
decision**

- 20 (1) An internal review committee must give notice in  
writing of its review decision about a general  
treatment plan to the following—
- (a) the applicant for review;
  - 25 (b) the applicant for approval or the proposer of  
approval of the plan under Part 6;
  - (c) the persons or bodies listed in section  
36(2)(a).
- (2) An internal review committee must give notice in  
30 writing of its review decision about an individual  
treatment plan to the following—
- (a) the applicant for review;
-

Part 8—Internal review of approval decisions for treatment plans

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- 5
- (b) the protected person to whom the decision applies, if it is developmentally appropriate for the person to be given this information;
  - (c) each medical treatment decision maker for the protected person;
  - (d) the persons or bodies listed in section 46(2).
- (3) A notice under this section must—
- (a) set out the reasons for the committee's decision; and
  - 10 (b) advise the person or body to whom the notice is directed of any right for VCAT to review the review decision.
- (4) A notice given to a protected person under this section—
- 15 (a) must include information about the role the Public Advocate may take in—
    - (i) giving advice to the protected person about any review of the decision that may be applied for under Part 9; and
    - 20 (ii) representing the person in any review of the decision that may be applied for under Part 9; and
  - (b) must advise that the protected person may seek the advice and representation of the Public Advocate under section 50.
- 25

**50 Request for advice and representation by the Public Advocate**

- 30
- (1) After an internal review committee has given a notice to a protected person under section 49, the protected person may ask the internal review committee to give a written request to the Public Advocate on the protected person's behalf seeking either or both of the following—
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Part 8—Internal review of approval decisions for treatment plans

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- 5
- (a) advice about any review of the decision that may be applied for under Part 9;
  - (b) representation of the person in any review of the decision that may be applied for under Part 9.
- (2) The internal review committee must take any action asked for under subsection (1) as soon as possible after it has been asked for.

**51 Requirements for reviewing decision**

- 10
- (1) An internal review committee, in considering an application for internal review under Division 2, must not make a review decision unless the committee—
- 15
- (a) has complied with the requirements of this section; and
  - (b) has considered any information given within the time specified in the notice under subsection (4).
- 20
- (2) Before making a review decision about a general treatment plan, the internal review committee must give notice of its appointment to review the approval decision to the persons or bodies listed in section 36(2)(a).
- 25
- (3) Before making a review decision about an individual treatment plan, the internal review committee must give notice of its appointment to review the approval decision to the persons or bodies listed in section 46(2).
- 30
- (4) A notice under this section must set out—
- (a) the process for making submissions and the time within which submissions may be made under this section; and
  - (b) the reasons that the person or body making the application has for seeking review.
-

Part 8—Internal review of approval decisions for treatment plans

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- 5
- (5) After giving a notice under subsection (2), the internal review committee must allow a period for making written submissions to the committee of not less than 14 days.
- 10
- (6) After giving a notice under subsection (3), the internal review committee must allow a period for making written submissions to the committee of not more than 7 days.
- (7) A person or body to whom notice has been given under this section may make written submissions to the internal review committee about or relating to the decision that is being reviewed within the time specified in the notice under subsection (4).
- 15
- (8) In addition to the requirements set out in this section, further requirements as to the process for review and the procedure of the internal review committee may be prescribed by the regulations.

## **Part 9—External review by VCAT**

### **52 Application to VCAT for review of decision of internal review committee**

5 A person or body who has been given notice under section 49 of a review decision may apply to VCAT for review of that review decision.

### **53 Time period for making application to VCAT**

10 An application for review under section 52 must be made within 14 days after the later of—

- 10 (a) the day on which notice of the review decision is given under section 49; or
- 15 (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

Part 10—Reporting requirements

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## **Part 10—Reporting requirements**

### **54 Annual report by applicable provider**

- 5 (1) An applicable provider, after the end of each financial year and in accordance with this section, must prepare and submit to the Panel a report that includes the following—
- 10 (a) for any restricted medical treatment that was provided by or on behalf of the applicable provider to an applicable person during that year—
- 15 (i) if the treatment was urgent restricted medical treatment, the information prescribed for the purposes of this subparagraph; or
- 20 (ii) if the treatment was provided under an approved general treatment plan, the information prescribed for the purposes of this subparagraph; or
- (iii) if the treatment was provided under an approved individual treatment plan, the information prescribed for the purposes of this subparagraph;
- (b) any other prescribed information.
- 25 (2) A report under subsection (1) must be submitted—
- (a) within the prescribed period after the end of the financial year; or
- 30 (b) if no period is prescribed for the purposes of paragraph (a), as soon as practicable after the end of the financial year.

Part 10—Reporting requirements

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- 5
- (3) Despite subsection (1), an applicable provider who is a natural person is not required to include in their report any information the inclusion of which would tend to incriminate the person.
- (4) The following are not admissible as evidence in a proceeding for an offence against this Act—
- (a) a report under subsection (1);
- (b) a copy of, or an extract from, a report under subsection (1).
- 10
- (5) Within 30 days after receiving a report under subsection (1), the Panel must submit the report to the Secretary.

**55 Annual report by the Chair**

- 15
- (1) The Chair, after the end of each financial year and in accordance with this section, must prepare and submit to the Secretary a report of the Panel's operations during the financial year.
- (2) Subject to subsection (3), a report under subsection (1) must include the following information—
- 20
- (a) an overview of the Panel's operations during the financial year;
- (b) the number of applications and proposals for approval of a treatment plan that were received during the financial year;
- 25
- (c) for each application for approval of an individual treatment plan that was received during the financial year—
- (i) whether the plan was approved; and
- 30
- (ii) if the plan was approved, the date of the approval; and
- (iii) the restricted medical treatment that was proposed in the plan; and
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Part 10—Reporting requirements

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- 5
- (iv) the age and the innate variation in sex characteristics of the person to whom the plan applied;
- (d) for each application or proposal for approval of a general treatment plan that was received during the financial year—
- 10
- (i) whether the plan was approved; and
- (ii) if the plan was approved, the date of the approval; and
- (iii) the restricted medical treatment that was proposed in the plan; and
- (iv) the class of person to whom the plan applied;
- 15
- (e) for each report submitted under section 54 for the financial year, the information specified in section 54(1);
- (f) the prescribed information (if any).
- 20
- (3) A report under subsection (1) must not include any information that identifies or is likely to lead to the identification of—
- (a) an applicable person; or
- (b) a registered medical practitioner of an applicable person; or
- 25
- (c) a medical treatment decision maker for a protected person.
- (4) A report under subsection (1) must be submitted within the prescribed period after the end of the financial year.

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- (5) A report under subsection (1) must comply with the prescribed requirements (if any).
- (6) As soon as practicable after receiving a report under subsection (1), the Secretary must publish the report on the Department's Internet site.

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## Part 11—General

### 56 Review of this Act

- 5 (1) The Minister must cause a review of the operation of this Act to be conducted in accordance with this section.
- (2) The review must be conducted during the review period.
- (3) The matters for consideration in the review are the following matters only—
- 10 (a) the operations of the Panel;
- (b) the extent to which requirements under this Act have been complied with;
- (c) the extent to which the purposes of this Act have been advanced;
- 15 (d) the operation of any regulations made under this Act;
- (e) whether any regulations made under this Act require amendment.
- (4) The Minister, by written notice, may request the Secretary or a Panel member to provide the Minister with de-identified information that is relevant to the conduct of the review.
- 20 (5) The Minister, as soon as practicable after the review is completed, must cause a copy of a report of the review to be transmitted to each House of the Parliament.
- 25 (6) In this section—
- review period* means the period—
- 30 (a) beginning on the fifth anniversary of the commencement of this section; and
- (b) ending on the sixth anniversary of the commencement of this section.
-

## 57 Regulations

- (1) The Governor in Council may make regulations for or with respect to—
- 5 (a) the following matters regarding assessment committees—
- (i) terms and conditions of appointment of Panel members to a committee;
- 10 (ii) procedures for meetings and other matters relating to meetings of committees;
- (iii) matters to be taken into consideration by the Chair in appointing committees;
- (b) any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- 15 (2) The regulations may—
- (a) be of general or limited application;
- 20 (b) differ according to differences in time, place or circumstance;
- (c) confer a discretionary authority or impose a duty on a specified person or body or a specified class of person or body;
- 25 (d) apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any person or body whether—
- 30 (i) wholly or partially or as amended by the regulations; or
- (ii) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or
-

- (iii) as formulated, issued, prescribed or published from time to time.

**58 Transitional provision**

- 5 (1) A person does not commit an offence against section 7 if—
- (a) the person is a registered medical practitioner; and
  - (b) the person provides the restricted medical treatment during the transition period; and
  - 10 (c) the restricted medical treatment—
    - (i) was being provided to the applicable person before the commencement day; or
    - 15 (ii) is prescribed or is part of a course of treatments prescribed for the purposes of this subparagraph.
- (2) In this section—
- commencement day* means the day on which section 7 comes into operation;
- 20 *transition period* means the period—
- (a) beginning on and including the commencement day; and
  - 25 (b) ending on the first anniversary of the commencement day or, if before that anniversary a day is prescribed for the purposes of this paragraph, that prescribed day.

## **Part 12—Amendment of the Victorian Civil and Administrative Tribunal Act 1998**

### **59 New Part 9A inserted in Schedule 1 to the Victorian Civil and Administrative Tribunal Act 1998**

5                                   After Part 9 of Schedule 1 to the **Victorian Civil  
and Administrative Tribunal Act 1998** insert—

### **"Part 9A—Health Safeguards for People Born with Variations in Sex Characteristics Act 2025**

10                                   **38A Definitions**

In this Part—

*Chair* has the same meaning as in the Health  
Safeguards Act;

15                                   *Deputy Chair* has the same meaning as in  
the Health Safeguards Act;

*Health Safeguards Act* means the **Health  
Safeguards for People Born with  
Variations in Sex Characteristics  
Act 2025**;

20                                   *health safeguards review proceeding* means  
a proceeding for review of a decision  
applied for under section 52 of the  
Health Safeguards Act;

25                                   *individual treatment plan* has the same  
meaning as in the Health Safeguards  
Act;

*medical treatment decision maker* has the  
same meaning as in the Health  
Safeguards Act;

30                                   *Panel* has the same meaning as in the Health  
Safeguards Act;

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*protected person* has the same meaning as in  
the Health Safeguards Act.

**38B Chair and Deputy Chair entitled to notice  
of commencement of proceeding**

5 For the purposes of section 72(1)(b), the  
Chair and the Deputy Chair of the Panel are  
persons who are entitled to be served with  
notice of an application for review of a  
10 decision under section 48 of the Health  
Safeguards Act.

**38C Consideration of urgency of application  
when listing**

15 When listing an application for review of a  
decision under section 48 of the Health  
Safeguards Act that relates to an individual  
treatment plan, the Tribunal must have  
regard to the need to determine the  
20 application as quickly as possible so that any  
treatment may be provided in a timely  
manner.

**38D Parties to proceedings**

- 25 (1) For the purposes of section 59(1)(b)(iv), the  
following persons are specified in relation to  
an application for review of a decision under  
section 48 of the Health Safeguards Act in  
relation to an individual treatment plan—
- 30 (a) a protected person who is the subject of  
the decision, even if the protected  
person is not the person applying for  
the review;
  - (b) each medical treatment decision maker  
for a protected person who is the  
subject of the decision.
-

- 5
- (2) In a health safeguards review proceeding, either of the following is entitled to be joined as a party—
- (a) the Commission for Children and Young People, if the decision relates, either wholly or partly, to any person under 18 years of age;
- 10 (b) the Public Advocate, if the decision relates, either wholly or partly, to any person of or over 18 years of age.

**38E Representation**

15 Despite section 62(1)(b), in a health safeguards review proceeding, any party to the proceeding may be represented by a professional advocate.

**38F Confidentiality of proceedings**

- 20 (1) Unless the Tribunal orders otherwise, a person must not publish or broadcast or cause to be published or broadcast any report about a health safeguards review proceeding that identifies, or could reasonably lead to the identification of—
- (a) a party to the proceeding; or
- 25 (b) a registered medical practitioner who is not a party to the proceeding.

Penalty: 20 penalty units.

- (2) The Tribunal may make an order under subclause (1) only if it considers that it would be in the public interest to do so.
- 30 (3) An order of the Tribunal under subclause (1) must specify that pictures are not to be taken of any party to the proceeding.

**38G Access to documents**

- 5
- (1) A person may make an application to the Tribunal that any documents lodged in relation to a health safeguards review proceeding not be disclosed to a specified person or specified class of person.
- (2) An application under subclause (1) may be made on an ex parte basis.

**38H Effect of original decision pending review**

- 10
- (1) This clause applies to a health safeguards review proceeding, despite anything to the contrary in section 50.
- 15
- (2) The operation of the decision that is the subject of the proceeding is stayed pending the determination by the Tribunal of the proceeding and the expiration of both—
- 20
- (a) the appeal period as determined under subclause (3); and
- (b) the applicable period for judicial review of the decision as determined under subclause (4).
- (3) For the purposes of subclause (2), the appeal period expires—
- 25
- (a) at the end of the period during which an application for leave to appeal from the order of the Tribunal determining the proceeding may be made under Part 5, if an application is not made within that period; or
- 30
- (b) if an application for leave to appeal is made, when that application is determined, if leave is not granted; or

Part 12—Amendment of the Victorian Civil and Administrative Tribunal Act  
1998

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- 5
- (c) if leave is granted, at the end of the period during which the appeal may be instituted under Part 5, if an appeal is not instituted within that period; or
- (d) if an appeal is instituted, when the appeal is determined.
- (4) For the purposes of subclause (2), the applicable period for judicial review of the decision expires—
- 10
- (a) at the end of the period during which under the **Supreme Court Act 1986** and any rules made under that Act or under the **Administrative Law Act 1978** an application for judicial review of the order of the Tribunal determining the proceeding may be made, if an application is not made within that period; or
- 15
- (b) if an application is made, when the application is determined.".
- 20

**60 Repeal of this Part**

This Part is **repealed** on the first anniversary of its commencement.

**Note**

- 25
- The repeal of this Part 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.