

Home Education in Victoria

Summary of Legal Requirements

Prepared by the [Home Education Network](#) Jan 2018

The Education and Training Reform Act 2006 requires home educators to register and ensure that children receive instruction in accordance with *The Education and Training Reform Regulations 2017*. A registration form can be obtained from the [Victorian Registration and Qualifications Authority \(VRQA\)](#). The full Act (726pp) and Regulations (115pp) are available at <http://www.legislation.vic.gov.au/> under 'Victorian Law Today'.

We have extracted the most relevant information for you below. [Explanatory HEN notes are contained in green.](#)

EXCERPTS FROM THE EDUCATION AND TRAINING REFORM ACT 2006

Definitions

compulsory school age means not less than 6 nor more than 17 years of age;

parent includes a guardian and every person who has parental responsibility for the child including parental responsibility under the Family Law Act of the Commonwealth and any person with whom a child normally or regularly resides;

Penalty units are fines are indexed annually. One penalty unit is \$158.57 for the 2017-18 financial year.

principal does not include a home ed parent

registered school does not include a 'home school'

registered teacher does not include home educators

school ... does not include –

(a) a place at which registered home schooling takes place;

school enrolment notice means a notice issued under section 2.1.15

State Register means the State Register maintained under Part 4.6;

Student Register means the Student Register established under Part 5.3A;

Victorian student number means the number allocated to a student by the Secretary under Part 5.3A;

PRINCIPLES

1.2.1 Principles underlying the enactment of this Act

Parliament has had regard to the following principles in enacting this Act—

- (a) all providers of education and training, both Government and non-Government, must ensure that their programs and teaching are delivered in a manner that supports and promotes the principles and practice of Australian democracy, including a commitment to—
 - (i) elected Government;
 - (ii) the rule of law;
 - (iii) equal rights for all before the law;
 - (iv) freedom of religion;
 - (v) freedom of speech and association;
 - (vi) the values of openness and tolerance;
- (b) all Victorians, irrespective of the education and training institution they attend, where they live or their social or economic status, should have access to a high quality education that—
 - (i) realises their learning potential and maximises their education and training achievement;
 - (ii) promotes enthusiasm for lifelong learning;
 - (iii) allows parents to take an active part in their child's education and training;

- (c) parents have the right to choose an appropriate education for their child;

CHAPTER 2—SCHOOL EDUCATION

PART 2.1—COMPULSORY EDUCATION

Division 1—Attendance at School

2.1.1 Attendance at school

It is the duty of the parent of a child of not less than 6 nor more than 17 years of age -

- (a) to enrol the child at a registered school and to ensure the child attends the school at all times when the school is open for the child's instruction; or
- (b) to register the child for home schooling in accordance with the regulations and to ensure that the child receives instruction in accordance with the registration.

2.1.2 Parent must comply with duty

A parent of a child of compulsory school age must not without reasonable excuse fail to comply with the duty set out in section 2.1.1

2.1.2A Offence for parent not to provide instruction to child registered for home schooling

A parent of a child registered for home schooling in accordance with the regulations must not without reasonable excuse fail to ensure that the child receives instruction in accordance with the registration.

Penalty: 1 penalty unit for each day on which the duty is not complied with.

2.1.3 What is a reasonable excuse?

Without limiting section 2.1.2, section 2.1.2A and Division 3 it is a reasonable excuse for the purposes of those sections, in relation to a child if—

- (a) the child has been prevented from attending school or receiving instruction because of—
 - (i) illness, accident, an unforeseen event or an unavoidable cause; or
 - (ii) a requirement to comply with another law;
- (b) there is no Government school within a prescribed distance of the child's residence and the child is receiving a distance education program through a registered school; [3km if the child under 9 years of age and 4.8km for a child of 9+]
- (c) the child is participating in education or training, or employment, or both, in accordance with an Order made by the Minister for the purposes of this paragraph;
- (d) the child has been suspended or expelled from a registered school and is undertaking other educational programs provided by the Department or another registered school;

- (e) the absence from school or instruction was because of the child's disobedience and was not due to any fault of the parent;
- (f) the child is attending or observing a religious event or obligation as a result of a genuinely held belief of the child or a parent of the child;
- (fa) the parent of the child has provided another excuse for the failure and the principal of the school accepts the excuse as a reasonable excuse;
- (g) the child is exempted from enrolment at school, attendance at school or both enrolment and attendance at school by the Minister under section 2.1.5.

CHAPTER 4 VICTORIAN REGISTRATION AND QUALIFICATIONS AUTHORITY

4.2.2 Functions of Authority

- (1) The functions of the Authority are to -...
 - (b) register students for home schooling;...
 - (g) exercise the powers of the Authority to ensure that minimum standards are maintained -
 - (ii) in home schooling;

Part 4.3—Registration of students and providers

Division 2 -Registration of students for home schooling

4.3.9 Authority to register students for home schooling

- (1) The Authority may -
 - (a) register a student for home schooling in accordance with the regulations; and
 - (b) cancel the registration of a student for home schooling if -
 - (i) the parents of the student or the student refuse permission to authorised officers of the Authority to review the educational program, material or other records used for or related to the home schooling of the student to determine whether the requirements of the registration or the regulations relating to home schooling are being complied with; or
 - (ii) the parents or the student fail to comply with the requirements of the registration or any regulations relating to home schooling.
- (2) In this section— student means a child—
 - (a) who is, or will be, at least 6 years old during the year that he or she is registered for home schooling; and
 - (b) who is under the age of 18 years.

PART 4.8 – REVIEW BY VCAT

- (1) A person whose interests are affected by any of the following decisions of the Authority may apply to VCAT for review of the decision—
 - (a) not to grant registration under Part 4.3; or
 - (b) to suspend or cancel registration under Part 4.3;
- (2) An application for review must be made within 28 days after the later of—
 - (a) the day on which the decision is made;
 - (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 4.9 – INFORMATION AND EVIDENCE

4.9.1 Publication of registers

- (2) The Authority must ensure that no details of students registered for home schooling under Part 4.3 are published on the website under subsection (1) or made available to the public.

4.9.4 Information may be made available

- (1) The Authority may disclose any information it has obtained in the course of performing its functions or exercising its powers under this Chapter to a prescribed person or body if the information relates to the performance of a function of that person or body.

CHAPTER 5: ADMINISTRATION

Division 2—Victorian student numbers and the Student Register

5.3A.3 Requirements for allocation or verification of Victorian student numbers

- (2) The Authority must, at the time of registering a student for home schooling, apply to the Secretary—
 - (a) to allocate a Victorian student number to the student; or
 - (b) if a Victorian student number has previously been allocated to the student, to verify that number.

5.3A.7 Secretary must establish Student Register

The Secretary must establish and maintain a Student Register containing the following information received by the Secretary under this Part relating to any student allocated with a Victorian student number—

- (a) the student's Victorian student number;
- (b) the student's full name;
- (c) the student's date of birth;
- (d) the gender of the student;
- (e) the date of enrolment of the student by an education or training provider or registration of the student for home schooling (as the case requires);
- (f) the date of cancellation of enrolment of the student by an education or training provider or cancellation of registration of the student for home schooling (as the case requires).

5.8—ENFORCEMENT

5.8.3F Searches of premises to monitor compliance with a relevant law

- (4) An authorised officer may not exercise any power under this section in relation to premises used or used mainly as residential premises, except with the consent of the occupier. [ie. VRQA staff cannot enter your home without permission.]

5.8.5 Authority to provide information to school attendance officers

The Authority must, on the request of a school attendance officer, provide the officer with any information relating to the registration of students for home schooling that the officer may reasonably require for carrying out the officer's functions and powers under Part 2.1

EXCERPTS FROM THE EDUCATION AND TRAINING REFORM REGULATIONS 2017

PART 6—HOME SCHOOLING

Division 1—Application for registration for home schooling

72 Application for registration

- (1) A parent of a student may apply to the Authority to register the student for home schooling.
- (2) Where a student is proposed to start home schooling at the beginning of a school year, an application under subregulation (1) must be submitted by 30 November in the year before the year the student is proposed to start home schooling.
- (3) Where a student is proposed to start home schooling other than at the beginning of a school year, an application under subregulation (1) may be submitted at any time.
- (4) Unless otherwise authorised under Part 2.1 of the Act, a student of compulsory school age who is the subject of an application under subregulation (1) must be enrolled at and attend a registered school until the Authority notifies the applicant of the Authority's decision to approve the application in accordance with regulation 74.
- (5) An application to register a student for home schooling must—
 - (a) be in the form approved by the Authority; and
 - (b) be signed by the parent who will be responsible for the home schooling of the student; and
 - (c) include or be accompanied by—
 - (i) evidence of the student's full name and date of birth; and
 - (ii) a proposed educational program comprising a learning plan that specifies when and where instruction will take place, and the subject matter that will be covered by the instruction during the first year of registration; and
 - (iii) details of the educational materials and resources proposed to be used in the instruction, including how the student's learning outcomes will be recorded.

Note: Acceptable evidence of a student's full name and date of birth may include an Australian or overseas birth certificate or birth extract, passport, citizenship documents, or Australian visa documents.

73 Requirement to provide further information to Authority

- (1) The parent who will be responsible for the home schooling of a student must, if requested by or on behalf of the Authority, provide further information, within the period and in the manner and form specified in the request, to allow the Authority to assess whether it is appropriate to register the student for home schooling.
- (2) The Authority may refuse to register a student for home schooling if, in the Authority's opinion, insufficient information has been provided by the parent in response to a request made under subregulation (1).

74 Notice of decision regarding registration for home schooling

- (1) The Authority must notify an applicant for registration of a student for home schooling of the Authority's decision in relation to the application.
- (2) The notice must—
 - (a) be in writing; and
 - (b) if applicable, set out—
 - (i) the date of registration of the student for home schooling; and
 - (ii) the terms and conditions of any exemption granted by the Authority under regulation 76(3); and
 - (c) be given within 28 days after the Authority receives an application in accordance with regulation 72.

Note: No fee is payable for the registration of a student for home schooling.

75 State Register

The Authority must ensure that the following details regarding a student registered for home schooling are contained in the State Register—

- (a) the full name, address and date of birth of the student; and
- (b) the name and address of the parent responsible for the home schooling of the student; and
- (c) the date of registration of the student for home schooling.

Note: Section 4.9.1(2) of the Act prohibits the details of students registered for home schooling from being made available to the public or published on the Authority's website.

Division 2—Requirements of registration for home schooling

76 Requirements of instruction in home schooling

- (1) It is a requirement of registration of a student for home schooling that the student must receive regular and efficient instruction that—
 - (a) taken as a whole, substantially addresses the learning areas set out in Schedule 1 to the Act, unless the Authority grants an exemption under subregulation (3); and
 - (b) is consistent with the principles underlying the Act, being the principles and practice of Australian democracy, including the principles under section 1.2.1(a) of the Act.
- (2) The parent responsible for the home schooling of a student may make an application to the Authority for an exemption under subregulation (3).
- (3) After receiving an application for exemption under subregulation (2), the Authority may, subject to subregulation (4), exempt a student from receiving instruction in one or more of the learning areas set out in Schedule 1 to the Act.
- (4) The Authority must not grant an exemption under subregulation (3) unless the Authority is satisfied that it would be unreasonable to require the student

to receive instruction in a learning area or areas set out in Schedule 1 to the Act.

77 Requirement to notify Authority of changes to circumstances

It is a requirement of registration of a student for home schooling that the parent responsible for the home schooling of the student must notify the Authority in writing as soon as practicable of any changes to—

- (a) the full name of the student; or
- (b) the parent responsible for home schooling of the student; or
- (c) the full name and contact details of the parent responsible for home schooling of the student; or
- (d) the address at which the home schooling of the student is being provided.

78 Requirement to notify Authority annually of continuation of home schooling

It is a requirement of registration of a student for home schooling that the parent responsible for the home schooling of the student must notify the Authority in writing before 30 November each year in relation to whether the student will be home schooled in the following year.

79 Requirement to provide information to Authority

It is a requirement of registration of a student for home schooling that the parent responsible for the home schooling of the student must, if requested by the Authority, provide information to the Authority, within the period and in the manner and form specified in the request, to allow the Authority to assess whether it is appropriate for a student to continue to be registered for home schooling.

80 Requirement to notify Authority if student ceases to be home schooled

- (1) It is a requirement of registration of a student for home schooling that the parent responsible for the home schooling of the student must notify the Authority in writing of the cessation of home schooling in accordance with this regulation.
- (2) A notice under subregulation (1) must—
 - (a) specify the date on which the home schooling of the student ceased; and
 - (b) be given to the Authority within 14 days after the student ceases to be home schooled.
- (3) Despite subregulation (2)(b), a parent may notify the Authority in writing at any time before the student ceases to be home schooled to specify the date on which the home schooling of the student will cease.

Division 3—Review of registration for home schooling

81 Authority may review registration for home schooling

The Authority may review the registration of a student for home schooling in accordance with this Division.

82 Requirement to give notice to responsible parent and specify information to be provided

- (1) If the Authority decides to review the registration of a student for home schooling the Authority must

give notice of the review to the parent responsible for the home schooling of the student.

- (2) The notice must—
 - (a) be in writing; and
 - (b) outline the scope of the review, the timelines for the review and the process the Authority will use to conduct the review.
- (3) At any time during the conduct of the review, the Authority or an authorised officer of the Authority may by written notice require the parent responsible for the home schooling of the student to provide specified information to the Authority or an authorised officer of the Authority within the period and in the manner and form specified in the notice.

83 Notice of outcome of review of registration for home schooling

- (1) As soon as practicable after the completion of a review, the Authority must notify the parent responsible for the home schooling of the student of the outcome of the review.
- (2) The notice must—
 - (a) be in writing; and
 - (b) state whether the Authority is satisfied that the requirements of registration for home schooling have been met; and
 - (c) state what action (if any) the Authority proposes to take as an outcome of the review.

Note: The Authority may cancel a registration for home schooling under section 4.3.9(1)(b)(ii) of the Act if a parent fails to comply with a requirement of these Regulations relating to home schooling.

Division 4—Cancellation of registration for home schooling

84 Cancellation of registration initiated by the parent

If the parent responsible for the home schooling of a student notifies the Authority under regulation 80, the Authority must cancel the registration of the student for home schooling—

- (a) if the home schooling of the student has ceased, on the date the Authority receives the notice; or
- (b) in any other case, on the date specified in the notice given in accordance with regulation 80(3).

85 Notification of cancellation of registration by the Authority

The Authority must notify the parent responsible for the home schooling of a student in writing that the registration of the student for home schooling has been cancelled.