

TASMANIA

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CHILD SAFE ORGANISATIONS BILL 2020

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# CHILD SAFE ORGANISATIONS BILL 2020

*(Brought in by the Minister for Justice, the Honourable Elise  
Nicole Archer)*

## A BILL FOR

**An Act to establish principles and standards for the safety and wellbeing of children, and to provide for the responsibilities of certain organisations in relation to those principles and standards and for related matters**

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### PART 1 – PRELIMINARY

#### 1. Short title

This Act may be cited as the *Child Safe Organisations Act 2020*.

#### 2. Commencement

This Act commences on a day to be proclaimed.

#### 3. Interpretation

In this Act –

*child* means a person who has not attained the age of 18 years;

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***child-related service*** means an activity or service that is prescribed by the regulations to be a child-related service;

***Crown*** means the Crown in right of Tasmania;

***funding agreement*** means an agreement that provides for funding to an organisation, or a body prescribed under section 7(b), from a Government Agency to provide health, welfare, education, child care, or residential, services wholly or partly for children;

***Government Agency*** means –

- (a) a Government department within the meaning of the *State Service Act 2000*; and
- (b) an incorporated or unincorporated body that –
  - (i) is established, constituted or continued by or under an Act or under the royal prerogative; and
  - (ii) is, or has a governing authority that is, wholly or partly comprised of a person or persons appointed by the Governor, a Minister of the Crown or another such body;

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*organisation* includes a Government Agency;

*principles* – see section 5;

*regulations* means regulations made and in force under this Act;

*standards* – see section 6.

#### **4. Act binds Crown**

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

#### **5. Principles for the safety and wellbeing of children**

The following are the principles for the safety and wellbeing of children:

- (a) the community as a whole shares responsibility for promoting the wellbeing and safety of children;
- (b) all children should be given the opportunity to reach their full potential and participate in society irrespective of their family circumstances and background;
- (c) an organisation that provides a child-related service, or a body prescribed under section 7(b), should give the highest priority to the promotion and protection of a child's safety, health, development, education and wellbeing.

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**6. Child safe standards**

- (1) The standards are the child safe standards set out in clause 2 of Schedule 1.
- (2) An organisation that provides a child-related service, or a body prescribed under section 7(b), is to ensure that the standards are complied with in providing a service.

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**PART 2 – RESPONSIBILITIES RELATING TO  
PRINCIPLES AND STANDARDS**

**7. Principles and standards to be incorporated**

The following bodies are to incorporate the principles and standards in the policies, procedures and practices of the body:

- (a) an organisation that provides a child-related service;
- (b) a body prescribed for the purposes of this section.

**8. Funding agreements**

A Minister to whom a Government Agency is responsible, or a governing authority of a Government Agency, is to ensure that –

- (a) the Agency does not enter into a funding agreement with an organisation that provides a child-related service, or a body prescribed under section 7(b), unless the organisation or body can demonstrate, to the satisfaction of the Minister, or governing authority, that the organisation or body complies with the principles and standards; and
- (b) any funding agreement entered into with an organisation that provides a child-related service, or a body prescribed under section 7(b), includes, as a

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condition of the agreement, compliance with the principles and standards by the organisation or body to which the funding is to be provided.

**9. Annual report of organisation**

- (1) An organisation that provides a child-related service, or a body prescribed under section 7(b), that is not a Government Agency and receives funding in accordance with a funding agreement is to prepare an annual report for each financial year on the implementation of, and compliance with, the principles and standards by the organisation or body.
- (2) An annual report prepared under subsection (1) is to be submitted to the Government Agency with which the funding agreement has been entered into, by no later than 31 October after the end of the financial year.

**10. Annual report of Government Agency**

- (1) A Government Agency that provides a child-related service is to prepare an annual report for each financial year on the implementation of, and compliance with, this Act.
- (2) An annual report prepared under subsection (1) is to be combined with an annual report required under section 36 of the *State Service Act 2000*.



## **PART 3 – MISCELLANEOUS**

### **11. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may –
  - (a) authorise any matter to be from time to time determined, applied or regulated by any person or body specified in the regulations; and
  - (b) be made subject to conditions or so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.

### **12. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Justice; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.

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Section 6

**1. Meaning of ‘engaged by’**

- (1) For the purposes of this Schedule, a reference to a person being engaged by an organisation or body includes, but is not limited to including –
- (a) a person who is an office holder, officer, employee, owner, volunteer, or contractor, of the organisation or body; and
  - (b) in the case of a religious organisation, a person who carries out work as a minister of religion or in any other capacity for the purposes of the religious organisation; and
  - (c) a person who is prescribed or who is a member of a class of persons that is prescribed for the purposes of this clause.
- (2) For the purposes of this Schedule, a person is not engaged by an organisation or body solely because the organisation or body wholly or partly funds or regulates another organisation or body by which the person is engaged.
- (3) For the purposes of this Schedule, a person engaged by an organisation or body to which the provision of a child-related service has been delegated, in whole or in part, is also taken to be a person engaged by the organisation or body by

which the provision of the child-related service was delegated.

## **2. Child safe standards**

The standards set out below are the child safe standards:

- 1.** Measures to protect the safety and wellbeing, and uphold the equity and diverse needs, of children are to be embedded in organisational leadership, governance, policy, practice and culture.
- 2.** Children to whom a child-related service is being provided are to –
  - (a) be informed about their rights; and
  - (b) be empowered to participate in the making of decisions that affect them; and
  - (c) have their opinions and concerns taken into account when decisions are made that affect them.
- 3.** Families and communities are to be informed of, supported in, and involved in promoting, measures to protect the safety and wellbeing, and uphold the equity and diverse needs, of children.
- 4.** An organisation that provides a child-related service or a body prescribed under section 7(b),

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is responsible for continuously improving the ways in which, in providing a service –

- (a) the safety of children is promoted; and
  - (b) abuse of children is prevented; and
  - (c) allegations of the abuse of children are responded to.
- 5.** An organisation that provides a child-related service or a body prescribed under section 7(b), is to ensure that –
- (a) a person engaged by that organisation or body is a fit and proper person to perform the role for which they are engaged; and
  - (b) a person engaged by that organisation or body is supported to comply with measures to protect the safety and wellbeing, and uphold the equity and diverse needs, of children, including through ongoing education and training; and
  - (c) policies and procedures established or adopted by the organisation or body document how these policies and procedures protect the safety and wellbeing, and uphold the equity and diverse needs, of children; and
  - (d) complaint and dispute processes of the organisation or body empower children

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to raise complaints and be involved in the dispute resolution process; and

- (e) a code of conduct that is consistent with the principles and standards, in respect of interactions with children, is developed by the organisation or body and provided to each person engaged by the organisation or body; and
- (f) preventative strategies and risk management frameworks are developed and implemented, whilst taking into account risks posed by the organisational settings, the activities of the organisation or body and the physical environment within which a child-related service is provided; and
- (g) physical and online environments that are administered by the organisation or body protect the safety and wellbeing, and uphold the equity and diverse needs, of children while minimising the risk that children will suffer harm; and
- (h) policies, procedures, and the code of conduct, developed by the organisation or body in respect of interactions with children, are implemented and regularly reviewed, and that any possible improvements that are identified as a result of a review are effected.