

MINISTERIAL ORDER NO. 1324

EDUCATION AND TRAINING REFORM ACT 2006

ORDER AMENDING MINISTERIAL ORDER 870: CHILD SAFE STANDARDS – MANAGING THE RISK OF ABUSE IN SCHOOLS

Part 1 – Preliminary

1. Purpose

This Order amends *Ministerial Order 870 Child Safe Standards – Managing the Risk of Child Abuse in Schools* to specify the matters regarding which:

- (a) a person wishing to apply to register a school boarding premises; or
- (b) a school boarding premises governing authority or provider of school boarding services at a registered school boarding premises

must take action for the purposes of:

- (c) embedding a culture in Victoria’s school boarding premises of ‘no tolerance’ of child abuse; and
- (d) complying with the prescribed minimum standards for registration of school boarding premises in section 4.3.8C(1)(d) of the *Education and Training Reform Act 2006*.

2. Commencement

This Order comes into effect on 18 June 2021.

3. Authorising provision

This Order is made under section 5.10.4 of the *Education and Training Reform Act 2006*, and section 13 of the *Interpretation of Legislation Act 1984*.

Part 2 – Amendments to Ministerial Order 870

1. At the beginning of clause 1, **insert** ‘1.1’.

2. After clause 1.1, **insert**

‘1.2 The objective of this Order is also to specify the matters which:

- (a) a person wishing to apply to register a school boarding premises; or
- (b) a school boarding premises governing authority or provider of school boarding services at a registered boarding premises

must take action for the purposes of:

- (c) embedding a culture in Victoria’s school boarding premises of ‘no tolerance’ of child abuse; and

(d) complying with prescribed minimum standards for registration of school boarding premises in section 4.3.8C(1)(d) of the *Education and Training Reform Act 2006*.’

3. In clause 4(1), at the beginning of the definition of **child insert** ‘(a)’.
4. In clause 4(1), at the end of paragraph (a) in the definition of **child insert**:
‘or;
(b) for the purposes of a school boarding premises, a child boarding at a school boarding premises.’
5. In clause 4(1), at the beginning of the definition of **child-connected work insert** ‘(a)’.
6. In clause 4(1), at the end of paragraph (a) in the definition of **child-connected work insert**
‘or;
(b) for the purposes of a school boarding premises, work authorised by the provider of school boarding services in a school boarding premises environment while children are present or reasonably expected to be present.’
7. In clause 4(1), in the definition of **minister of religion**, for ‘*Working with Children Act 2005*’ substitute ‘*Worker Screening Act 2020*’.
8. In clause 4(1), after the definition of **proprietor insert**:
‘school boarding environment means any physical or virtual space made available or authorised by the school boarding premises governing authority for use by a child boarding at a school boarding premises at any time, including:
(a) online school boarding environments (including email and intranet systems); and other locations provided by the provider of school boarding services for a child’s use (including, without limitation, locations used for school boarding premises camps, sporting events, excursions, competitions, and other events).’
9. In clause 4(1), after the definition of **proprietor insert**:
‘school boarding premises governing authority means:
(a) a responsible person in relation to a school boarding premises, including the provider of school boarding services;
(b) the governing body for a school boarding premises (however described) as authorised by the provider of school boarding services or the ETR Act.

Explanatory note: There are a wide range of governance arrangements among providers of school boarding services. Depending on the way a provider of school boarding services is constituted and operated, the governing body for a provider may be an individual, a group of individuals, a board, a body corporate or some other person or entity. The provider of school boarding services may share or assign responsibility for discharging the requirements imposed by this Order, in accordance with the provider's internal governance arrangements.'

10. In clause 4(1), after the definition of **school governing authority** insert:

'school boarding premises staff means:

- (a) in a Government school boarding premises, an individual working in a school boarding premises environment who is:
 - (i) employed by the school boarding premises governing authority; or
 - (ii) a volunteer or a contracted service provider (whether or not a body corporate or any other person is an intermediary).
- (b) in a non-government school boarding premises, an individual working in a school boarding environment who is:
 - (i) directly engaged or employed by a school boarding premises governing authority;
 - (ii) a volunteer or a contracted service provider (whether or not a body corporate or any other person is an intermediary); or
 - (iii) a minister of religion.

11. In clause 4(2), after 'government school;' **insert** '(iia) government-school boarding premises;'

12. In clause 4(2), after 'non-Government school;' **insert** '(iva) non-government school boarding premises;'

13. In clause 4(2), after 'principal;', **insert** '(via) provider of school boarding services;'

14. In clause 4(2), after 'registered school;', **insert**:

'(viiia) registered school boarding premises;'

15. In clause 4(2), after 'school;' **omit** 'and' and **insert**:

'(viiiia) school boarding premises;

'(viiiib) school boarding services;'

'(viiiic) student in Division 1A of Part 4.3'.

16. After clause 4(2), **insert**:

'(3) The following terms have the same meaning as in the Education and Training Reform Regulations 2017 (as amended from time to time):

- (i) responsible person.’.

17. At the beginning of clause 5, insert ‘5.1’.

18. At the end of clause 5, **insert:**

‘5.2 Meeting minimum child safety standards in a school boarding premises

School boarding premises governing authorities must implement the following minimum child safety standards:

- (a) strategies to embed an organisational culture of child safety in accordance with clause 7;
- (b) a child safety policy or a statement of commitment to child safety in accordance with clause 8;
- (c) a child safety code of conduct in accordance with clause 9;
- (d) screening, supervision, training, and other human resources practices that reduce the risk of child abuse in accordance with clause 10;
- (e) procedures for responding to and reporting suspected child abuse in accordance with clause 11;
- (f) strategies to identify and reduce or remove risks of child abuse in accordance with clause 12; and
- (g) strategies to promote child participation and empowerment in accordance with clause 13.’.

19. At the beginning of clause 6, **insert** ‘6.1’.

20. In clause 6.1, for ‘clause 6(a)’ **substitute** ‘clause 6.1(a)’.

21. At the end of clause 6, **insert:**

‘6.2 Principles of inclusion in school boarding premises

In implementing the minimum child safety standards in accordance with this Order, school boarding premises governing authorities must:

- (a) take account of the diversity of all children, including (but not limited to) the needs of Aboriginal and Torres Strait Islander children, children from culturally and linguistically diverse backgrounds, children with disabilities, and children who are vulnerable; and
- (b) make reasonable efforts to accommodate the matters referred to in clause 6.2(a).’.

22. At the beginning of clause 7, **insert** ‘7.1’.

23. At the end of clause 7, **insert:**

‘7.2 Strategies to embed an organisational culture of child safety in a school boarding premises

- (1) The school boarding premises governing authority must:
- (a) develop strategies to embed a culture of child safety at the school boarding premises;
 - (b) allocate roles and responsibilities for achieving the strategy;
 - (c) inform the community of the school boarding premises about the strategies, and allocated roles and responsibilities;
 - (d) put the strategies into practice, and inform the community of the school boarding premises about these practices;
 - (e) periodically review the effectiveness of the strategies put into practice and, if considered appropriate, revise those strategies.’.

24. At the beginning of clause 8, **insert** ‘8.1’.

25. At the end of clause 8, **insert**:

‘8.2 A child safety policy or a statement of commitment to child safety at a school boarding premises

- (1) The school boarding premises governing authority must ensure that the school boarding premises has a child safety policy or statement of commitment to child safety that details:
- (a) the values and principles that will guide the school boarding premises governing authority in developing policies and procedures to create and maintain a child safe school boarding environment; and
 - (b) the actions the school boarding premises governing authority proposes to take to:
 - (i) demonstrate a commitment to child safety and monitor the adherence of the school boarding premises governing authority to its child safety policy or statement of commitment;
 - (ii) support, encourage and enable school boarding premises staff, parents, and children to understand, identify, discuss and report child safety matters; and
 - (iii) support or assist children who disclose child abuse, or are otherwise linked to suspected child abuse.
- (2) The school boarding premises governing authority must inform the community of the school boarding premises about the policy or statement, and make the policy or statement publicly available.’.

26. At the beginning of clause 9, **insert** ‘9.1’.

27. At the end of clause 9, **insert**

‘9.2 A child safety code of conduct at a school boarding premises

- (1) The school boarding premises governing authority must develop, endorse, and make publicly available a code of conduct that:
 - (a) has the objective of promoting child safety in the school boarding environment;
 - (b) sets standards about the ways in which school boarding premises staff are expected to behave with children;
 - (c) takes into account the interests of school boarding premises staff (including other professional or occupational codes of conduct that regulate particular school boarding premises staff), and the needs of all children; and
 - (d) is consistent with the child safety strategies, policies and procedures of the school boarding premises governing authority as revised from time to time.’.

28. At the beginning of clause 10, **insert** ‘10.1’.

29. For the footnote to clause 10(4) **substitute**:

² Please refer to the *Worker Screening Act 2020* which establishes a process to screen persons engaging or intending to engage in child-related work through a screening check, and also sets out exemptions from that requirement for volunteers, parents and others.’.

30. In clause 10(4)(a), for ‘Working with Children Check’ **substitute** ‘Screening Check’.

31. In clause 10(5) for ‘10(4)’, wherever occurring, **substitute** ‘10.1(4)’.

32. In the footnote to Clause 10(4) for ‘*Working with Children Act 2005*’ **substitute** ‘*Worker Screening Act 2020*’.

33. At the end of clause 10, **insert**:

‘10.2 Selection, supervision and management practices for school boarding premises staff for a child-safe environment

- (1) Subject to the requirements of the ETR Act, the school boarding premises governing authority must ensure that the provider of school boarding services implements practices for a child-safe environment in accordance with this clause.
- (2) Each job or category of jobs for school boarding premises staff that involves child-connected work must have a clear statement that sets out:
 - (a) the job’s requirements, duties and responsibilities regarding child safety; and
 - (b) the job occupant’s essential or relevant qualifications, experience and attributes in relation to child safety.
- (3) All applicants for jobs that involve child-connected work for the provider of school boarding services must be informed about the provider’s child safety practices (including the code of conduct).
- (4) In accordance with any applicable legal requirement³ or school boarding premises policy, the provider of school boarding services must make reasonable efforts to

gather, verify and record the following information about a person whom it proposes to engage to perform child-connected work:

- (a) Screening Check status, or similar check;
 - (b) proof of personal identity and any professional or other qualifications;
 - (c) the person's history of work involving children; and
 - (d) references that address the person's suitability for the job and working with children.
- (5) The provider of school boarding services need not comply with requirements in clause 10.2(4) if it has already made reasonable efforts to gather, verify and record the information set out in clauses 10.2(4)(a) to 10.2(4)(d) about a particular individual within the previous 12 months.
- (6) The provider of school boarding services must ensure that appropriate supervision or support arrangements are in place in relation to:
- (a) the induction of new school boarding premises staff into the policies, codes, practices, and procedures of the school boarding premises governing child safety and child-connected work; and
 - (b) monitoring and assessing a job occupant's continuing suitability for child-connected work.
- (7) The provider of school boarding services must implement practices that enable the school boarding premises governing authority to be satisfied that people engaged in child-connected work perform appropriately in relation to child safety.

³ Please refer to the *Worker Screening Act 2020* which establishes a process to screen persons engaging or intending to engage in child-related work through a screening check, and also sets out exemptions from that requirement for volunteers, parents and others.'

34. At the beginning of clause 11, **insert** '11.1'.

35. In clause 11(3)(c)(iv) for "11(3)(c)(i)" **substitute** '11.1(3)(c)(i)'.

36. After the end of clause 11, **insert**:

'11.2 Procedures for responding to and reporting allegations of suspected child abuse in a school boarding environment

- (1) The school boarding premises governing authority must have a clear procedure or set of procedures for responding to allegations of suspected child abuse in accordance with this clause and other legal obligations.
- (2) The school boarding premises governing authority must ensure that the procedure is:
 - (a) sensitive to the diversity and characteristics of the community of the school boarding premises;
 - (b) made publicly available; and
 - (c) accessible to children, school boarding services staff, and the wider community.
- (3) The procedure must:
 - (a) cover all forms of 'child abuse' as defined in the ETR Act;

- (b) apply to allegations or disclosures of child abuse made by or in relation to a child, school boarding premises staff, visitors, or other persons while connected to a school boarding environment;
- (c) identify the positions of the person or people who are responsible for:
 - (i) promptly managing the response of the school boarding premises governing authority to an allegation or disclosure of child abuse, and ensuring that the allegation or disclosure is taken seriously;
 - (ii) responding appropriately to a child who makes or is affected by an allegation of child abuse;
 - (iii) monitoring overall compliance of the school boarding premises governing authority with this procedure; and
 - (iv) managing an alternative procedure for responding to an allegation or disclosure if the person allocated responsibility under clause 11.2(3)(c)(i) cannot perform his or her role;
- (d) include a statement that fulfilling the roles and responsibilities contained in the procedure does not displace or discharge any other obligations that arise if a person reasonably believes that a child is at risk of child abuse;
- (e) clearly describe the actions the school boarding premises governing authority will take to respond to an allegation of child abuse, including actions to:
 - (i) inform appropriate authorities about the allegation (including but not limited to mandatory reporting);
 - (ii) protect any child connected to the alleged child abuse until the allegation is resolved; and
 - (iii) make, secure, and retain records of the allegation of child abuse and the response of the school boarding premises governing authority to it.
- (4) The procedure must not:
 - (a) prohibit or discourage school boarding premises staff from reporting an allegation of child abuse to a person external to the school boarding premises;
 - (b) state or imply that it is the victim's responsibility to inform the police or other authorities of the allegation;
 - (c) require school boarding premises staff to make a judgment about the truth of the allegation of child abuse; or
 - (d) prohibit school boarding premises staff from making records in relation to an allegation or disclosure of child abuse.'.

37. At the beginning of clause 12, **insert** '12.1'.

38. After clause 12, **insert**:

'12.2 Strategies to identify and reduce or remove risks of child abuse in a school boarding environment

- (1) The school boarding premises governing authority must develop and implement risk-management strategies regarding child safety in school boarding environments.

- (2) The risk management strategies of a school boarding premises governing authority regarding child safety must identify and mitigate the risk(s) of child abuse in a school boarding environment by taking into account the nature of each school boarding environment, the activities expected to be conducted in that environment (including the provision of services by contractors or outside organisations) and the characteristics and needs of all children expected to be present in that environment.
- (3) If the school boarding premises governing authority identifies risks of child abuse occurring in one or more school boarding environments, the authority must make a record of those risks and specify the action(s) the authority will take to reduce or remove the risks (**risk controls**).

Explanatory note: Different risk controls may be necessary for particular groups of children depending on the nature of the risk and the diversity characteristics of children affected by the risk.

- (4) As part of its risk management strategy and practices, the school boarding premises governing authority must monitor and evaluate the effectiveness of the implementation of its risk controls.
- (5) At least annually, the school boarding premises governing authority must ensure that the appropriate guidance and training is provided to the individual members of the school boarding premise governing authority and school boarding premises staff about:
 - (a) individual and collective obligations and responsibilities for managing the risk of child abuse;
 - (b) child abuse risks in the school boarding environment; and
 - (c) the current child safety standards of the school boarding premises governing authority.’.

39. At the beginning of clause 13, **insert** ‘13.1’.

40. At the end of clause 13, **insert**:

‘13.2 Strategies to promote child empowerment and participation in a school boarding environment

- (1) The school boarding premises governing authority must develop strategies to deliver appropriate education about:
 - (a) standards of behaviour for students boarding at the school boarding premises;
 - (b) healthy and respectful relationships (including sexuality);
 - (c) resilience; and
 - (d) child abuse awareness and prevention.
- (2) The school boarding premises governing authority must promote the child safety standards required by this Order in ways that are readily accessible, easy to understand, and user-friendly to children.’.

This Order is made on the 29th day of April 2021.

A handwritten signature in blue ink, appearing to read "James Merlino". The signature is fluid and cursive, with a large initial "J" and a distinct "M".

The Hon James Merlino, MP
Minister for Education



The Hon James Merlino MP

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Minister for Education
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Subordinate Legislation Act 1994

CONSULTATION CERTIFICATE (Section 12C)

MINISTERIAL ORDER NO. 1324 – ORDER AMENDING MINISTERIAL ORDER 870: CHILD SAFE STANDARDS – MANAGING THE RISK OF CHILD ABUSE IN SCHOOLS

I, James Merlino, Minister for Education, and Minister responsible for administering the **Education and Training Reform Act 2006**, certify that there has been consultation in accordance with the guidelines made under the **Subordinate Legislation Act 1994**

In particular, the Victorian Registration and Qualifications Authority has been consulted.

No other Minister's area of responsibility is affected by proposed Ministerial Order No. 1324 – Order Amending Ministerial Order 870 – Child Safe Standards – Managing the Risk of Child Abuse in Schools and there is no overlap nor conflict with any other existing or proposed legislative instrument, other legislation or stated government policy.

Dated: 29 / 04 / 2021

The Hon James Merlino MP
Minister for Education



The Hon James Merlino MP

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Subordinate Legislation Act 1994

HUMAN RIGHTS CERTIFICATE

(Section 12D)

MINISTERIAL ORDER NO. 1324: ORDER AMENDING MINISTERIAL ORDER NO. 870 – CHILD SAFE STANDARDS – MANAGING THE RISK OF CHILD ABUSE IN SCHOOLS

I, James Merlino, Minister for Education, and Minister responsible for administering the **Education and Training Reform Act 2006**, certify that, in my opinion, the proposed Ministerial Order No. 1324: Order Amending Ministerial Order No. 870 – Child Safe Standards – Managing the Risk of Child Abuse in Schools does not limit any human right set out in the **Charter of Human Rights and Responsibilities Act 2006**.

Dated: 29 / 04 / 2021

The Hon James Merlino MP
Minister for Education



The Hon James Merlino MP

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Subordinate Legislation Act 1994

EXEMPTION CERTIFICATE

(Section 12F)

MINISTERIAL ORDER NO. 1324: ORDER AMENDING MINISTERIAL ORDER NO. 870 – CHILD SAFE STANDARDS – MANAGING THE RISK OF CHILD ABUSE IN SCHOOLS

I, James Merlino, Minister for Education, and Minister responsible for administering the **Education and Training Reform Act 2006**, certify under section 12F(1)(a) of the **Subordinate Legislation Act 1994** that in my opinion, proposed Ministerial Order No. 1324: Order Amending Ministerial Order No. 870 – Child Safe Standards – Managing the Risk of Child Abuse in Schools would not impose a significant economic or social burden on a sector of the public.

The reason for forming this opinion about the proposed Legislative Instrument is that as prescribed entities for the purposes of the **Child Wellbeing and Safety Act 2005**, school boarding premises are already required to comply with the Child Safe Standards. The incremental regulatory burden associated with the proposed Legislative Instrument for school boarding premises is not significant given the **Child Wellbeing and Safety Act 2005** already requires compliance with the Child Safe Standards. Accordingly, a Regulatory Impact Statement is not required for this Legislative Instrument.

Dated: 29 / 04 / 2021

The Hon James Merlino MP
Minister for Education