

# State and Commonwealth Legislative Base

Legislation covering school operations includes those Acts and regulations listed below.

It is important that a School Council understands the legal basis for the operation of its School. Among the most important pieces of legislation are:

- Australian Education Act 2013 (Cth)
- Australian Education Regulations 2013 (Cth)
- Education and Training Reform Act 2006 (Vic.)
- Education and Training Reform Regulations 2017 (Vic.)

## Primary Legislation

### Australian Legislation

1. Australian Education Act 2013 (Cth)
  - Regulates how the Australian Government provides funding to non-government schools in each State.

### Victorian Legislation

1. Education and Training Reform Act 2006 (Vic)
  - Requires non-government schools to apply to the Victorian Registration and Qualifications Authority (VRQA) for registration
  - Requires teachers at all schools to be registered by the Victorian Institute of Teaching.
2. Education Institutions Guarantee Act 1976 (Vic)
  - Permits the Treasurer of Victoria to execute a guarantee in favour of any person or body guaranteeing the repayment of a loan made or to be made by that person or body to the school authority of an educational institution.
  - A guarantee by the Treasurer under this Act shall be executed only in respect of a loan for school purposes approved by the Treasurer and on terms and conditions which have been approved by the Treasurer.

### 3. Education and Training Reform Regulations 2013 (Vic)

The Education Training Reform Regulations 2017 took effect on 25 June 2017.

- The regulations pertain to:
  - changes made to regulations relating to home schooling commence on 1 January 2018
  - education
  - registration of schools
  - registration of education and training organisations.
- The regulations also provide for and relate to the establishment and functions of the VRQA.

## Ancillary Legislation

Schools are obliged to comply with myriad other legislation, including Equal Employment Opportunity, Occupational Health and Safety, Income Tax Assessment, and so on.

For planning purposes local government is also important. Most Local Government Authorities now require schools to produce and maintain a Site Master Plan. As the School Council is responsible for the school's strategic direction, this Master Plan is inextricably linked to the overall Strategic Plan.

An indicative list of ancillary legislation includes, but is not limited to:

1. Superannuation Guarantee (Administration) Act 1992 (Cth), Superannuation Guarantee Charge Act 1992 (Cth), Superannuation Industry (Supervision) Act 1993 (Cth)
  - These Acts regulate the payment of superannuation entitlements by employers to employees and the taxing of those entitlements.
2. Income Tax Assessment Act 1936 (Cth) and Income Tax Assessment Act 1997 (Cth)
  - Regulates how the Australian Government taxes income and the responsibilities of employers in this regard particularly relating to employee group tax.
3. Fringe Benefits Tax Assessment Act 1986 (Cth)
  - Regulates the taxing of fringe benefits provided by employers.
4. Competition and Consumer Act (Cth)
  - Regulates the law in relation to the promotion of competition and fair trading for the protection of consumers.

5. Corporations Act 2001 (Cth)
  - Especially as it relates to:
    - insolvent trading
    - the treatment of employee benefits
    - directors' duties.
6. Fair Trading Act 1999 (Vic)
  - Regulates fair trading practices including providing for safety of goods or services supplied and to protect consumers.
7. Environmental Protection Act 1970 (Vic)
  - Regulates the protection of the environment in Victoria generally.
8. Equal Opportunity Act 2010 (Vic)
  - Regulates the law in relation to equal opportunity and discrimination in the workplace, education and other areas.
9. Occupational Health and Safety Act 2004 (Vic)
  - Regulates the workplace environment in relation to the health, safety and welfare of persons at work.
10. Long Service Leave Act 1992 (Vic)
  - Regulates the payment of long service leave entitlements by employers to employees and the taxing of those entitlements.
11. Emergency Management Act 2013 (Vic)
12. Fair Work Act 2009 (Cth)

## **Other Legislation**

The Acts listed are Victorian unless otherwise stated.

- Accident Compensation Act 1985
- Age Discrimination Act 2004 (Cth)
- Audit Act 1994
- Building and Construction Industry Security of Payment Act 2002
- Bus Safety Act 2009 (Vic)
- Children and Young Persons Act 1989
- Children, Youth & Families Act 2005
- Child Wellbeing & Safety Act 2005
- Children's Services Act 1996

- Child Employment Act 2003
- Community Service Act 1970 (Attendance at School)
- Copyright Act 1968 (Cth)
- Crimes Act 1985
- Dangerous Goods Act 1985
- Disability Discrimination Act 1992 (Cth)
- Disability Act 2006
- Drugs, Poisons and Controlled Substances Act 1981
- Duties Act 2000
- Education Services for Overseas Students Act 2000 (Cth)
- Equal Opportunity Act 2010 (Cth)
- Family Assistance Act 1999 (Cth)
- Family Law Act 1975 (Cth)
- Financial Management Act 1994
- Food Act 1984
- Fringe Benefits Tax Assessment Act 1986 (Cth)
- Health Records Act 2001
- Human Rights and Equal Opportunity Act 1986 (Cth)
- Income Tax Assessment Act 1936 and 1997 (Cth)
- Land Tax Act 2005
- Liquor Control Reform Act 1998
- Paid Parental Leave Act 2010 (Cth)
- Pay-roll Tax Act 1971
- Planning and Environment Act 1987 (Cth)
- Prevention of Cruelty to Animals Act 1986
- Privacy Act 1988 (Cth)
- Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth)
- Project Development and Construction Management Act 1994
- Public Health and Wellbeing Act 2008
- Public Health and Wellbeing Regulations 2009
- Racial and Religious Tolerance Act 2001
- Racial Discrimination Act 1975 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Status of Children Act 1974
- Surveillance Devices Act 1999
- The Australian Consumer Law
- Whistleblowers Protection Act 2001
- Wildlife Act 1975
- Working With Children Act 2005
- Workplace Gender Equality Act 2012 (Cth)
- Workers Compensation Act 1958

## Regulations

The Regulations listed are Victorian unless otherwise stated.

- Accident Compensation Regulations 2001
- Australian Standards and Codes of Practice, e.g. Playground Equipment, Risk Management, Electrical Safety
- Children's Service Regulations 2009
- Dangerous Goods (Storage and Handling) Regulations 2000

- Disability Standards for Education 2005 (Cth)
- Fair Work Regulations 2009
- Family Law Regulations 1984
- Health (Infectious Diseases) Regulation 2001
- Occupational Health and Safety Regulations 2007
- Planning and Environment Regulations 1998
- Workplace Relations Regulations 2006 (Cth)