Victorian Legislation – Recent Amendments

Below is a summary of Victorian legislation that has been enacted or amended recently.

The University’s Legal Office has prepared a brief summary of the key changes. Staff members are encouraged to contact the Legal Office at legaloffice@federation.edu.au with any queries or concerns relating to these changes.

Child Wellbeing and Safety Amendment (Child Safety Standards) Act 2015 (Vic)

The purpose of this Act is to amend the Child Wellbeing and Safety Act 2005 to provide for the Minister to make standards in relation to child safety with which certain entities must comply and to otherwise improve the operation of that Act.

The Act also amends the Commission for Children and Young People Act 2012 to improve the operation of that Act, and the Education and Training Reform Act 2006 in relation to the definition of child abuse.

Education and Training Reform Amendment (Miscellaneous) Act 2015 (Vic)

The main purposes of this Act are:

a) to amend the Education and Training Reform Act 2006
   I. to enhance the functions and powers of the Victorian Registration and Qualifications Authority and school councils in relation to schools; and
   II. to make minor amendments relating to Regional Councils of Adult, Community and Further Education and the registration of teachers and early childhood teachers; and
b) to make minor amendment to other Acts

Education and Training Reform Amendment (Child Safe Schools) Act 2015 (Vic)

The purposes of this Act are:

a) to amend the Education and Training Reform Act 2006
   I. to establish a framework to require registered schools to take appropriate actions to manage the risk of child abuse; and
   II. to further strengthen the regulation of schools by enhancing the functions and powers of the Victorian Registration and Qualifications Authority; and
   III. to make minor amendments to that Act; and
b) to make minor amendments to other Acts

The Education and Training Reform Amendment (Child Safe Schools) Act 2015 gives the VRQA new responsibilities and powers for the regulation of school education.

The VRQA will gain new responsibilities in relation to child safety. This includes regulating school providers against new Child Safe Standards.

The changes form part of the Victorian Government response to the Inquiry into the Handling of Child Abuse by Religious and other Non-Government Organisations and the Royal Commission into Institutional Responses into Child Sexual Abuse.
Education Legislation Amendment (TAFE and University Governance Reform) Act 2015

This Act amends the Federation University Australia Act 2010 to restore elected staff and student members on the University Council. In order to accommodate the addition of at least one elected staff and one elected student member, the Act also increases the minimum size of the University Council from 11 members to 13 members.

Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015 (Vic)

The purposes of this Act are to provide for:

a) requirements that the operators of certain publicly funded health facilities staff certain wards with a minimum number of nurses or midwives; and

b) the reporting of compliance with and enforcement of those requirements

This Act preserves the number of nurses and midwives per patient; Victoria is the first state in Australia to legislate nurse and midwife patient ratios.

Victorian Legislation – Applicable to the University

Staff members are responsible for ensuring compliance with Victorian legislation in the course of their employment with the University. A hyperlink to each Act is available by clicking on the Act title should you require further information.

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Commonwealth Legislation – Recent Amendments

Below is a summary of Commonwealth legislation that has been enacted or amended recently.

The University’s Legal Office has prepared a brief summary of the key changes. Staff members are encouraged to contact the Legal Office at legaloffice@federation.edu.au with any queries or concerns relating to these changes.

Copyright Amendment (Online Infringement) Act 2015

Amends the Copyright Act 1968 to enable copyright owners to apply to the Federal Court of Australia for an order requirement a carriage service provider to block access to an online location operated outside Australia that has the primary purpose of infringing copyright or facilitating the infringement of copyright.

Education Legislation Amendment (Overseas Debt Recovery) Act 2015

Introduced with the Student Loans (Overseas Debtors Repayment Levy) Act 2015 to create an overseas payment obligation for Australians living overseas with a Higher Education Loan Program (HELP) or Trade Support Loan (TSL) debt, the bill amends the Higher Education Support Act 2003 to:

- Enable the recovery of HELP debts from debtors residing overseas;
- Provide that certain HELP debtors are required to register with the Australian Taxation Office (ATO);
- Prescribe administrative arrangements relating to the debt recovery; and
- Require students to notify their tax file number when applying for a HELP loan

The Trade Support Loans Act 2014 to enable the recovery of TSL debts from debtors who are residing overseas and provide that certain TSL debtors are required to register with the ATO.

Enhancing Online Safety for Children Act 2015 (Cth)

Introduced with the Enhancing Online Safety for Children (Consequential Amendments) Act 2015 (Cth) which establishes the Children e-Safety Commissioner and provides for the commissioner’s functions and powers; provides for complaints system of cyber-bullying material targeted at an Australian child and a two-tiered system for rapid removal of that material from large social media services; provides for civil penalties, enforceable undertakings and injunctions; and establishes the Children’s Online Safety Special Account to fund the commissioner’s functions.

Fair Work Amendment Act 2015 (Cth)

This Act amends the Fair Work Act 2009 in relation to:

- Requests for extended periods of unpaid parental leave;
- The payment of annual leave upon termination of employment;
- Taking or accruing leave while receiving workers’ compensation;
- The requirements for flexibility terms in modern awards and enterprise agreements and individual flexibility arrangements made under those terms;

- The negotiation of single – enterprise Greenfields agreements;
• The transfer of business rules;
• Application for a protected action ballot order;
• Right of entry framework;
• The Fair Work Commission not having to hold a conference or hearing to dismiss an unfair dismissal application; and
• Interest payments on unclaimed monies

Higher Education Legislation Amendment (Miscellaneous Measures) Act 2015
Amends the Higher Education Support Act 2003 to:
• enable certain New Zealand citizens who are Special Category Visa holders to be eligible for HELP assistance from 1 January 2016;
• enable Torrens University Australia to be eligible for equivalent funding support as all other private Australian Universities;
• update the name of the University to Federation University Australia; and
• Confirm the relevant heads of constitutional power for other grants.

Amends the Tertiary Education Quality and Standards Agency Act 2011 to:
• Remove the requirement for the commissioners to prepare annual operational plans
Amends the Australian Research Council Act 2001 to:
• Apply indexation adjustments for existing schemes for the financial years starting 1 July 2015 and 2016;
• Set additional caps for the financial years starting 1 July 2017 and 2018; and
• Remove the requirement for the Australian Research Council to prepare corporate plans

Intellectual Property Laws Amendment Act 2015
• Implement the Protocol amending the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Protocol), enabling Australian medicine procedures to manufacture and export patented pharmaceuticals to countries experiencing health crises, under a compulsory licence from the Federal Court;
• Allow for a single trans-Tasman patent attorney regime and single application and examination processes for Australia and New Zealand, as part of the broader Single Economic Market (SEM) agenda
• Make minor administrative changes to the Patents, Trade Marks and Designs Acts to repeal unnecessary document retention provisions that are already adequately governed by the Archives Act 1983

National Vocational Education and Training Regulator Amendment Act 2015 Amends the National Vocational Education and Training Regulator Act 2011 to:
• Insert or clarify definitions for ministerial council, registered organization, registration code, quality standards and vocational education and training (VET) information;

• Extend the operation of penalty provisions to trading corporations;

• Prohibit a person from advertising or offering VET courses without including the name and registration code of the responsible registered training organization;

• Extend to 7 years the period of registration able to be granted by the National VET Regulator (NVR);

• Provide that the minister may make quality standards;

• Specify to whom, and for what purposes, the regulator may disclose VET information;

• Streamline the processes required for the issuing of a written direction by the regulator; and

• Clarify that a person employed in a court of a state or territory may issue a search warrant if authorized to do so.

**Student Loans (Overseas Debtors Repayment Levy) Act 2015**

An Act introduced with the Education Legislation Amendment (Overseas Debt Recovery) Act 2015 to create an overseas payment obligation for Australians living overseas with a Higher Education Loan Program (HELP) or Trade Support Loan (TSL) debt, the bill imposes the requirement to pay HELP and TSL debts while overseas as a levy.

**Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015**

This Act implements recommendations of the Parliamentary Joint Committee on Intelligence and Security’s (PJCIS) Report of the Inquiry into Potential Reforms of Australia’s National Security Legislation by amending the Telecommunications (Interception and Access) Act 1979 to:

• Require telecommunications service providers to retain and to secure for two-years telecommunications data (not content);

• Require service providers to protect retained data through encryption and preventing unauthorised interference and access

• Require the PCJIS to review the mandatory data retention scheme no more than three years after the end of the implementation phase;

• Limit the range of agencies that are able to access telecommunications data and stored communications;

• Establish a journalist information warrants regimes;

• Restrict agencies who can access this data;

• Require the minister to refer to the PJCIS any legislative proposal to amend which agencies can access the data

• Enable the Commonwealth Ombudsman to assess agency compliance

**Commonwealth Legislation – Applicable to the University**

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<td>36.</td>
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