

Home Education in Victoria – Summary of Legal Situation by HEN July 07

Home education is, and always has been, legal in Victoria. However, the legal requirements have changed as at 1 July 2007. In the past, parents were acting within the law if they chose to home educate without registering with the Education department as long as they were providing ‘regular and efficient instruction’.

The Education and Training Reform Act 2006, which came into effect on 1st July 2007, requires home educators to “register children for homeschooling in accordance with the regulations and to ensure that the child receives instruction in accordance with the regulations.”

There are two levels of legal requirements for home education – the legislation (*The Education and Training Reform Act 2006*) and the Regulations. Details of both appear below.

Registration forms can be obtained from the Victorian Registration and Qualifications Authority (VRQA) - Telephone: (03) 9637 2806, Fax: (03) 9637 2422, Email: vrqa@edumail.vic.gov.au

EXCERPTS FROM THE EDUCATION AND TRAINING REFORM ACT 2006

The full Act is available on line (<http://www.legislation.vic.gov.au/> click on Victorian Statute book , choose ‘list Acts by title’ and ‘2006’ and choose number 26 *Education and Training Reform Act* – this is a 400 pp pdf document) or at public libraries but we have extracted the most relevant information for you below. Explanatory HEN notes are contained in square brackets.

(Definitions)

“school” means a place at or from which education is provided to children of compulsory school age during normal school hours, but does not include –

(a) a place at which registered homeschooling takes place;...

1.2.1 PRINCIPLES

(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;....
- (d) 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 school 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 Offence for parent to fail to 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

Penalty: 1 penalty unit for each day on which the duty is not complied with. [currently \$110.12]

2.1.0 Powers of school attendance officers

(1) If a school attendance officer has reasonable grounds to believe that a child who is apparently of compulsory school age does not attend a registered school during school hours on a school day, the school attendance officer may stop the child in the street or a public place and ask the child for his or her name and address.

2.1.12 Power to bring proceedings

A school attendance officer may bring proceedings for any offence under Division 1

2.1.14 Onus of proof

In any proceedings in relation to an offence under section 2.1.2 the burden of proving the grounds of the excuse lies on the defendant.

PART 4.2—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;...
- (i) exercise the powers of the Authority to ensure that minimum standards are maintained -
- (i) by registered schools and by providers of accredited, higher education and specified courses; and
- (ii) in home schooling;

Division 2—Registration of students for home schooling

4.3.9 Authority to register students for home schooling

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.

PART 4.7 OFFENCES

4.7.1 Unregistered schools

A person must not carry on or conduct a school unless the school is registered under Part 4.3
Penalty: 10 penalty units [\$1101.20]

PART 4.8 – REVIEW BY VCAT

[Provision for appeal if home schooling registration is denied or cancelled if an application to review is made within 28 days]

Homeschooling Regulations

The full regulations pertaining to the Education and Training Reform Act are online at <http://www.education.vic.gov.au/about/directions/reviewleg.htm> but we have extracted the homeschooling section here for you:

PART 1—PRELIMINARY

1 Objective

- (e) to prescribe procedures for and requirements of registration of children for home schooling; ...

2 Authorising provisions

These Regulations are made under sections 5.10.1 and 5.10.2 of, and Schedules 5 and 8 to, the **Education and Training Reform Act 2006**.

3 Commencement

These Regulations come into operation on 1st July 2007

PART 6—HOME SCHOOLING

Division 1—Application for registration for home schooling

65 Application for registration

- (1) A parent of a child may apply to the Authority to register the child for home schooling if the child is

PART 4.9 – INFORMATION AND EVIDENCE

4.9.1 Publication of registers

(2) The Authority must ensure that no details of students registered for homeschooling under Part 4.3 are published on the website...[where registered schools will be listed]

4.9.4 Information may be made available

(1) The Authority may disclose to a Department of the Commonwealth Government or to another registering body information it has about or arising from -

- (a) an application by anyone for registration or approval under this chapter;
- (b) the registration or approval of a person or body under this Chapter; [In the case of home education this provides for Centrelink to be informed of whether you are a registered homeschoolers or not and therefore entitled to receive certain payments.]

PART 5.8—ENFORCEMENT

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.

or will be of compulsory school age during any part of the year in which he or she is registered.

- (2) An application for registration for home schooling must—

- (a) be in the form of Schedule 6; and
- (b) be signed by the parent who will be responsible for the home schooling of the child; and
- (c) be accompanied by evidence of the child's date of birth.

66 Notice of decision regarding registration for home schooling

- (1) The Authority must notify an applicant for registration of a child 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 the date of registration of the child for home schooling; and
- (c) be given within 14 days after the Authority receives the application in accordance with regulation 65.

Note

No fee is payable for the registration of a child for home schooling.

67 State Register

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

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

Note

Section 4.9.1(2) of the Act prohibits the details of students registered for home schooling from being made public.

Division 2—Requirements of registration for home schooling

68 Requirements of instruction in home schooling

It is a requirement of registration of a child for home schooling that the child must receive regular and efficient instruction that—

- (a) taken as a whole, substantially addresses the following learning areas—
 - (i) The Arts;
 - (ii) English;
 - (iii) Health and Physical Education (including Sport);
 - (iv) Languages other than English;
 - (v) Mathematics;
 - (vi) Science;
 - (vii) Studies of Society and Environment;
 - (viii) Technology; and

Note

These are the learning areas set out in Schedule 1 to the Act.

- (b) is consistent with the principles underlying the Act, being 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.

69 Requirement to notify Authority of changes to details in application

It is a requirement of registration of a child for home schooling that the parent responsible for the home schooling of the child must notify the Authority in writing without delay of any changes to the information provided to the Authority in the application for registration for home schooling under regulation 65.

70 Requirement to notify Authority annually of continuation of home schooling

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

71 Requirement to notify Authority if child ceases to be home schooled

It is a requirement of registration of a child for home schooling that, if the child ceases to be home schooled, the parent responsible for the home schooling of the child must notify the Authority in writing of this within 14 days after the child ceases to be home schooled.

Division 3—Cancellation of registration for home schooling

72 Cancellation of registration

If the Authority is notified in writing by the parent responsible for the home schooling of a child that the child is no longer being, or to be, home schooled, the Authority must cancel the registration of the child for home schooling—

- (a) if the child has ceased to be home schooled, on the date of receipt of the notice; and
- (b) in any other case, on the date that the notice states that the home schooling of the child is to cease.

73 Notification of cancellation of registration

The Authority must notify the parent responsible for the home schooling of a child in writing of the cancellation of the registration of the child for home schooling.

SCHEDULE 6

Regulation 65

Education and Training Reform Act 2006

Education and Training Reform Regulations 2007

APPLICATION FOR REGISTRATION OF CHILD FOR HOME SCHOOLING

*I/We [*insert full names of each parent responsible for home schooling of child*]

of [*insert address*]

apply to register [*insert name and date of birth of any child to be home schooled*]

for home schooling.

No order of a court or tribunal or enforceable agreement [*see note 1*] prevents or restricts *me/either of us from access to [*insert name of any child to be home schooled*] that would prevent *me/either of us from providing the home schooling.

**An order of a court or tribunal or an enforceable agreement exists that affects the home schooling of the child to be home schooled. [*Attach details of that order or enforceable agreement*]

*I/We undertake that [*insert name of any child to be home schooled*]

will receive regular and efficient instruction that—

(a) taken as a whole, will substantially address the following learning areas—

- (i) The Arts;
- (ii) English;
- (iii) Health and Physical Education (including Sport);
- (iv) Languages other than English;
- (v) Mathematics;
- (vi) Science;
- (vii) Studies of Society and Environment;
- (viii) Technology; and

(b) will be consistent with the principles underlying the Act, being 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.

Signed:

Date:

* *Delete whichever is inapplicable*

** *Delete if inapplicable*

Notes

1 An enforceable agreement may include a child agreement or parenting plan under the Family Law Act 1975 of the Commonwealth.

2 Under regulation 65(2)(c), an application for registration of a child for home schooling must be accompanied by evidence of the date of birth of the child.

3 Under section 4.9.3 of the **Education and Training Reform Act 2006**, it is an offence to wilfully make, or cause to be made, or provide, any false or misleading information in any matter relating to registration on the State Register under Chapter 4 of that Act. The maximum penalty is 10 penalty units.