Version No. 014

**Non-Emergency Patient Transport and First Aid Services Act 2003**

**No. 69 of 2003**

Version incorporating amendments as at
30 September 2021

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**Version No.** **014**

**Non-Emergency Patient Transport and First Aid Services Act 2003**

**No. 69 of 2003**

Version incorporating amendments as at
30 September 2021

**The Parliament of Victoria enacts as follows:**

Part 1—Preliminary

 1 Purposes

The purposes of this Act are—

S. 1(a) substituted by No. 29/2021 s. 5(1).

 (a) to promote—

 (i) the safe provision of non-emergency patient transport services and first aid services; and

 (ii) appropriate quality of care of patients in the provision of non-emergency patient transport services and first aid services; and

S. 1(b) substituted by No. 29/2021 s. 5(1).

 (b) to provide for a licensing system for non‑emergency patient transport services and first aid services and to otherwise regulate those services; and

S. 1(c)(d) repealed by No. 29/2021 s. 5(1).

 \* \* \* \* \*

 (e) to make other related provisions.

 2 Commencement

 (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.

 (2) If a provision of this Act does not come into operation before 1 February 2006, it comes into operation on that day.

 3 Definitions

In this Act—

S. 3 def. of *allied health service* inserted by No. 29/2021 s. 6(1).

***allied health service*** means a service that provides one or more of the following—

 (a) diagnostic services;

 (b) technical services;

 (c) therapeutic services;

***ambulance service*** has the same meaning as in the **Ambulance Services Act 1986**;

***approval in principle*** means an approval in principle granted under section 7(1);

S. 3 def. of *approved accreditation scheme* inserted by No. 29/2021 s. 6(1).

***approved accreditation scheme*** means an accreditation scheme approved under section 63C;

S. 3 def. of *approved standards* inserted by No. 29/2021 s. 6(1).

***approved standards*** means any standards approved under section 63B;

***authorised officer*** means a person appointed as an authorised officer under section 45;

S. 3 def. of *clinical governance arrangements* inserted by No. 29/2021 s. 6(1).

***clinical governance arrangements***, in relation to a non-emergency patient transport service or a first aid service provided or to be provided under a licence under this Act, means arrangements—

 (a) that set—

 (i) the scope of the clinical practice of the service; and

 (ii) the scope of the clinical practice of the clinical staff of the service and the levels of qualifications, competence and training required to undertake that clinical practice; and

 (b) for ensuring that the clinical staff of the service do not work beyond their level of qualification, competence and training;

S. 3 def. of *clinical staff* inserted by No. 29/2021 s. 6(1).

***clinical staff*** means the persons that provide specialist clinical care or monitoring, first aid, transport or other medical assistance to patients of the service operated by the holder of a Part 2 licence or a Part 2A licence, and includes the following—

 (a) a person employed or engaged by the licence holder to provide that care, monitoring, first aid, transport or assistance;

 (b) a person subcontracted by a person referred to in paragraph (a) to provide that care, monitoring, first aid, transport or assistance;

 (c) a person who has been supplied to the licence holder by a labour hire service to provide that care, monitoring, first aid, transport or assistance;

 (d) a person who works under the direction or control of the licence holder to provide that care, monitoring, first aid, transport or assistance on a voluntary basis, without remuneration or reward;

S. 3 def. of *Co‑ordinator in Chief* repealed by No. 56/2011 s. 29(1).

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S. 3 def. of *day procedure centre* inserted by No. 29/2021 s. 6(1).

***day procedure centre*** has the same meaning as in the **Health Services Act 1988**;

***denominational hospital*** has the same meaning as in the **Health Services Act 1988**;

S. 3 def. of *Department* amended by No. 29/2010 s. 66.

***Department*** means the Department of Health;

***emergency area*** has the same meaning as in the **Emergency Management Act 1986**;

S. 3 def. of *first aid* inserted by No. 29/2021 s. 6(1).

***first aid*** means aid of a medical nature provided to a person experiencing sudden illness or injury;

S. 3 def. of *first aid service* inserted by No. 29/2021 s. 6(1).

***first aid service*** means a service of offering or providing first aid in exchange for payment;

S. 3 def. of *first aid service licence* inserted by No. 29/2021 s. 6(1).

***first aid service licence*** means a licence under Part 2A;

S. 3 def. of *hospital* inserted by No. 29/2021 s. 6(1).

***hospital*** means a public hospital, a private hospital or a day procedure centre;

S. 3 def. of *life saving club* inserted by No. 29/2021 s. 6(1).

***life saving club*** means a club formed for purposes connected with the patrolling of any part of the coastline of Victoria by persons for the purpose of assisting other persons in difficulty in water;

S. 3 def. of *Life Saving Victoria* inserted by No. 29/2021 s. 6(1).

***Life Saving Victoria*** means Life Saving Victoria Limited ABN 21 102 927 364;

S. 3 def. of *management and staffing arrangements* inserted by No. 29/2021 s. 6(1).

***management and staffing arrangements***, in relation to a non-emergency patient transport service or a first aid service provided or to be provided under a licence under this Act, means arrangements—

 (a) for establishing and maintaining a quality of service, including, but not limited to, establishing and maintaining procedures and practices for ensuring that the services provided to patients are safe and of an appropriate quality at all times; and

 (b) providing for checks—

 (i) to ensure that any person who is required to be a fit and proper person for the purposes of the service under this Act is such a person; and

 (ii) as to the criminal history of persons who are providing or who will provide the service; and

 (iii) as to the qualifications and levels of competence and training of persons who are providing or who will provide the service; and

 (c) for establishing and maintaining procedures and practices for ensuring that the occupational health and safety requirements for persons providing the service are complied with;

S. 3 def. of *medical clinic* inserted by No. 29/2021 s. 6(1).

***medical clinic*** means premises at which clinical consultation is undertaken, other than a hospital or a day procedure centre that is registered as a health service establishment under the **Health Services Act 1988**;

S. 3 def. of *non-emergency patient transport service* amended by No. 29/2021 s. 6(3).

***non-emergency patient transport service*** means a service that offers or provides, in exchange for payment, for—

 (a) the transport of persons on public roads to or from medical services—

 (i) using a stretcher carrying vehicle; or

 (ii) where the persons being transported are provided with specialist clinical care or monitoring while being so transported; or

 (b) the transport of persons by air to or from medical services where the persons being transported—

 (i) are transported on stretchers; and

 (ii) are provided with specialist clinical care or monitoring by the person operating the transport service;

S. 3 def. of *non-emergency patient transport service licence* substituted by No. 29/2021 s. 6(4).

***non-emergency patient transport service licence*** means a licence under Part 2;

S. 3 def. of *Part 2 licence* inserted by No. 29/2021 s. 6(1).

***Part 2 licence*** means a non-emergency patient transport service licence;

S. 3 def. of *Part 2A licence* inserted by No. 29/2021 s. 6(1).

***Part 2A licence*** means a first aid service licence;

S. 3 def. of *police officer* inserted by No. 37/2014 s. 10(Sch. item 116.1).

***police officer*** has the same meaning as in the **Victoria Police Act 2013**;

S. 3 def. of *private hospital* inserted by No. 29/2021 s. 6(1).

***private hospital*** has the same meaning as in the **Health Services Act 1988**;

***public hospital*** has the same meaning as in the **Health Services Act 1988**;

S. 3 def. of *Secretary* amended by No. 108/2004 s. 117(1) (Sch. 3 item 141).

***Secretary*** means the person who is for the time being the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department;

***specialist clinical care or monitoring*** means clinical care or monitoring that is performed by persons who are trained to assess, monitor and protect the health of sick or injured persons during transport;

S. 3 def. of *staff* inserted by No. 29/2021 s. 6(1).

***staff***, in relation to a service operated by the holder of a Part 2 licence or a Part 2A licence, includes the following—

 (a) a person employed or engaged by the licence holder to work for that service;

 (b) a person subcontracted by a person referred to in paragraph (a) to work for that service;

 (c) a person who has been supplied to the licence holder by a labour hire service to work for that service;

 (d) a person who works for that service on a voluntary basis under the direction or control of the licence holder, without remuneration or reward;

S. 3 def. of *stand-by service accreditation* repealed by No. 29/2021 s. 6(2).

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S. 3 def. of *vehicle* amended by No. 29/2021 s. 6(5).

***vehicle*** includes any helicopter, aeroplane or other aircraft by which persons may be transported by air to or from medical services;

S. 3 def. of *volunteer first aid association* inserted by No. 29/2021 s. 6(1).

***volunteer first aid association*** means a group of individuals working together for one or more community purposes that—

 (a) offers or provides first aid in the course of its work; and

 (b) does not charge or expect payment or financial reward for the offer or provision of first aid in any circumstances.

 4 Non-application of Act

 (1) This Act does not apply to—

 (a) any branch of the Australian Defence forces; and

 (b) any service in another State or a Territory of the Commonwealth, that operates an emergency service that corresponds in nature with the emergency service operated by an ambulance service in Victoria; and

 (c) any person in an emergency area who, in operating a non-emergency patient transport service, is acting under the authorisation or direction of—

 (i) the person who has declared the area to be an emergency area; or

S. 4(1)(c)(ii) amended by No. 56/2011 s. 29(2).

 (ii) the Minister under the **Emergency Management Act 1986**; and

 (d) any other person or class of person whom the Governor in Council declares to be a person or class of person to whom this Act does not apply.

 (2) For the purposes of subsection (1)(d), the Governor in Council may, by Order, declare a person or class of person to be a person or class of person to whom this Act does not apply.

S. 4Ainserted by No. 29/2021 s. 7.

 4A Objectives

The objectives of this Act are to ensure that—

 (a) the holders of non-emergency patient transport service licences—

 (i) provide non-emergency patient transport services that are safe and of an appropriate quality and that give priority to the needs of the persons to whom the services are provided; and

 (ii) foster continuous improvement in the quality and safety of the non‑emergency patient transport services they provide; and

 (iii) maintain suitable clinical governance arrangements and management and staffing arrangements in the non‑emergency patient transport services they provide; and

 (b) the holders of first aid service licences—

 (i) provide first aid services that are safe and of an appropriate quality and that give priority to the needs of the persons to whom the services are provided; and

 (ii) foster continuous improvement in the quality and safety of the first aid services they provide; and

 (iii) maintain suitable clinical governance arrangements and management and staffing arrangements in the first aid services they provide.

Part 2—Licensing non-emergency patient transport service operators

Division 1—Offences

 5 Offence to operate a non-emergency patient transport service without a licence

S. 5(1)amended by No. 29/2021 s. 8(1).

(1) A person must not operate a non-emergency patient transport service unless that person holds a non-emergency patient transport service licence.

Penalty: In the case of a natural person, 60 penalty units;

 In the case of a body corporate, 240 penalty units.

 (2) Subsection (1) does not apply to each of the following persons when the person is operating a non-emergency patient transport service—

 (a) an ambulance service; or

 (b) a public hospital or denominational hospital; or

 (c) any other person or class of person whom the Governor in Council has declared to be a person or class of person to whom subsection (1) does not apply.

S. 5(3)amended by No. 29/2021 s. 8(2).

 (3) For the purposes of subsection (2), the Governor in Council may, by Order published in the Government Gazette, declare a person or class of person to be a person or class of person to whom subsection (1) does not apply.

S. 6 (Heading)amended by No. 29/2021 s. 9(1).

 6 Offence to claim non-emergency patient transport service licence holder status

S. 6(1)amended by No. 29/2021 s. 9(2).

 (1) A person who is not the holder of a non‑emergency patient transport service licence must not—

 (a) take or use any title calculated to induce a belief that the person is such a licence holder; or

 (b) claim or hold out to be such a licence holder.

Penalty: 60 penalty units.

S. 6(2)repealed by No. 29/2021 s. 9(3).

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S. 6(3)repealed by No. 29/2021 s. 9(4).

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S. 6Ainserted by No. 29/2021 s. 10.

 6A Offence not to ensure provision of a safe service

The holder of a non-emergency patient transport service licence must ensure that the non‑emergency patient transport service provided under the licence—

 (a) is safe; and

 (b) is of an appropriate quality; and

 (c) gives priority to the needs of the persons provided with the service.

Penalty: In the case of a natural person, 60 penalty units;

 In the case of a body corporate, 240 penalty units.

Division 2—Approval in principle to be licensed

 7 Grant of approval in principle

 (1) The Secretary may grant an approval in principle to a person to operate a non-emergency patient transport service.

 (2) In granting an approval in principle, the Secretary may specify, that the approval is granted—

 (a) for the service to operate the particular class or particular classes of non-emergency patient transport specified in the approval; or

 (b) for the service to operate all classes of non‑emergency patient transport.

 8 Application for approval in principle

 (1) A person may apply to the Secretary for the grant of an approval in principle.

 (2) An application under subsection (1)—

 (a) must be in the prescribed form; and

 (b) must be accompanied by the prescribed fee.

 (3) A person making an application under subsection (1) must give the Secretary any further information relating to the application that the Secretary requests including, if the person who is to be the operator of the service is a body corporate, any information relating to any director or officer of the body corporate who does or may exercise control over the service to which the application relates.

 9 Matters the Secretary must consider in deciding whether or not to grant an approval in principle

S. 9(1)substituted by No. 29/2021 s. 11(1).

 (1) The Secretary must not grant an approval in principle to operate a non-emergency patient transport service unless the Secretary is satisfied that—

 (a) if the applicant is an individual, the applicant is a fit and proper person; and

 (b) if the applicant is a body corporate, each director and officer of the body corporate who does or may exercise control over the service is a fit and proper person; and

 (c) the applicant has established suitable clinical governance arrangements and management and staffing arrangements for the service; and

 (d) the equipment and vehicles to be used by the service are suitable.

 (2) In determining whether or not to grant an approval in principle, the Secretary may consider whether or not the vehicles proposed to be used in the service are suitable for that use having regard to—

 (a) the safety, health and well being needs of the persons who are likely to be transported in the vehicles; and

 (b) any other requirements imposed by the regulations.

S. 9(3)inserted by No. 29/2021 s. 11(2).

 (3) In determining whether or not to grant an approval in principle under subsection (1), the Secretary may consider the following matters if the applicant is or has been associated with the operator of another non‑emergency patient transport service—

 (a) the extent and nature of the applicant's involvement in the other non‑emergency patient transport service;

 (b) the number of complaints, if any, made by or on behalf of patients against the other non‑emergency patient transport service within the previous 3 years, and how those complaints have been dealt with;

 (c) the financial management of the other non‑emergency patient transport service;

 (d) whether the other non-emergency patient transport service has been operated in accordance with—

 (i) this Act; and

 (ii) regulations made under this Act; and

 (iii) if the operator of the other non‑emergency patient transport service is or has been licensed under this Act, any conditions on that licence; and

 (iv) any other law relating to or affecting the operation of a non-emergency patient transport service;

 (e) whether the applicant has been found guilty of an offence against this Act or regulations made under this Act in relation to the other non-emergency patient transport service.

S. 9(4)inserted by No. 29/2021 s. 11(2).

 (4) For the purpose of subsection (3), an applicant is or has been associated with the operator of another non-emergency patient transport service if—

 (a) the applicant is an individual and is or has been—

 (i) the licence holder for or operator of the other non-emergency patient transport service; or

 (ii) a director or officer of a body corporate that is or has been—

 (A) the licence holder for the other non-emergency patient transport service; or

 (B) the operator of the other non‑emergency patient transport service, if the director or officer has exercised control over the body corporate; or

 (b) the applicant is a body corporate and a director or officer of the applicant is or has been—

 (i) the operator of the other non‑emergency patient transport service; or

 (ii) a director or officer of a body corporate that operates or has operated the other non-emergency patient transport service, if the director or officer has exercised control over the other body corporate.

S. 9(5)inserted by No. 29/2021 s. 11(2).

 (5) The Secretary, by written notice to the applicant, may require the applicant to give the Secretary any further information or document the Secretary reasonably requires to determine the application, within a reasonable time specified in the notice.

S. 10substituted by No. 29/2021 s. 12.

 10 Time limit for making decision on an application for approval in principle

The Secretary must make a decision under section 7 and give notice in writing of the decision to the applicant under section 8—

 (a) if paragraph (b) does not apply, within 60 days after receiving the application; or

 (b) if the Secretary has requested further information from the applicant, within 28 days after the information last requested is given to the Secretary.

 11 Certificate of approval in principle

If the Secretary grants an approval in principle, he or she must issue a certificate of approval in principle stating—

 (a) the name of the person to whom it is issued; and

 (b) any conditions to which it is subject; and

 (c) the types of vehicles for which the approval is granted; and

 (d) the classes of non-emergency patient transport services for which the approval is granted; and

 (e) the period during which the approval continues in force (being one year or, if the Secretary considers it appropriate that the period be longer or shorter, the period so specified by the Secretary).

 12 Transfer or variation of certificate of approval in principle

 (1) The Secretary, on the application of the person who is the holder for the time being of a certificate of approval in principle relating to a class of non-emergency patient transport service may—

 (a) vary the certificate or any condition to which it is subject; or

 (b) approve the transfer of the certificate to another person.

 (2) Sections 8 and 9 apply to an application for variation or transfer of a certificate as if the application were an application for the grant of an approval in principle.

S. 12(3)repealed by No. 29/2021 s. 13.

 \* \* \* \* \*

Division 3—Granting, renewal and variation of non‑emergency patient transport service licences

 13 Grant of a non-emergency patient transport service licence

 (1) The Secretary may licence a person to operate a non-emergency patient transport service.

 (2) In granting a non-emergency patient transport service licence, the Secretary may specify, that the licence is granted—

 (a) for the service to operate the particular class or particular classes of non-emergency patient transport specified in the licence; or

 (b) for the service to operate all classes of non‑emergency patient transport.

 14 Application for a non-emergency patient transport service licence

 (1) A person may apply to the Secretary for the grant of a non-emergency patient transport service licence.

 (2) An application under subsection (1)—

 (a) must be in the prescribed form; and

S. 14(2)(b)amended by No. 29/2021 s. 14(1).

 (b) must be accompanied by the prescribed fee.

S. 14(2)(c)repealed by No. 29/2021 s. 14(2).

 \* \* \* \* \*

 (3) An applicant must give the Secretary any further information relating to the application that the Secretary requests.

S. 15 (Heading)substituted by No. 29/2021 s. 15(1).

 15 Considerations for the Secretary in granting a licence under this Part

S. 15(1)substituted by No. 29/2021 s. 15(2).

 (1) The Secretary must not grant a non‑emergency patient transport service licence unless the Secretary is satisfied that—

 (a) if the applicant is an individual, the applicant is a fit and proper person; and

 (b) if the applicant is a body corporate, each director and officer of the body corporate who does or may exercise control over the service is a fit and proper person.

S. 15(2)substituted by No. 29/2021 s. 15(2).

 (2) In deciding whether or not to grant a licence, the Secretary must consider—

 (a) the suitability of the equipment and vehicles to be used in the service for which the licence is to be granted; and

 (b) the suitability of the clinical governance arrangements and management and staffing arrangements for the service and the compliance of those arrangements with regulations made under this Act and any approved standards; and

 (c) whether the arrangements for the care to be provided by the service to patients are such that the service will be safe and of an appropriate quality; and

 (d) the suitability of the arrangements for recording, monitoring and reviewing the clinical governance arrangements and management and staffing arrangements for the service; and

 (e) whether the service has complied with any conditions to which the approval in principle is subject; and

 (f) if the applicant is a body corporate, whether the body corporate is of sound financial reputation and stable financial background.

S. 15(2A)inserted by No. 29/2021 s. 15(2).

 (2A) The Secretary, by written notice to the applicant, may require the applicant to give the Secretary any further information or document the Secretary reasonably requires to determine the application, within a reasonable time specified in the notice.

 (3) The Secretary must not refuse to grant a licence on any ground that is inconsistent with an approval in principle that is in force and that has been granted in relation to the service in respect of which the application for the licence has been made.

S. 16substituted by No. 29/2021 s. 16.

 16 Time limit for making decision on an application for the grant of licence

The Secretary must make a decision under section 13 and give notice in writing of the decision to the applicant under section 14—

 (a) if paragraph (b) does not apply, within 60 days after receiving the application; or

 (b) if the Secretary has requested further information from the applicant, within 28 days after the information last requested is given to the Secretary.

 17 Conditions on licences

 (1) A non-emergency patient transport service licence is subject to any conditions—

 (a) that are prescribed; and

 (b) that the Secretary imposes on the licence or on the class of licence to which the licence belongs.

S. 17(2)amended by No. 29/2021 s. 17.

 (2) A licence holder must comply with the conditions to which the licence is subject.

Penalty: In the case of a natural person, 60 penalty units;

 In the case of a body corporate, 240 penalty units.

 18 Particulars of licences

 A non-emergency patient transport service licence must contain the following particulars—

 (a) the name and address of the holder of the licence; and

 (b) the class or classes of services that may be operated under the licence; and

 (c) the type or types of vehicles for which the licence is issued; and

 (d) the conditions to which the licence is subject; and

 (e) the date on which the licence expires; and

 (f) any other prescribed matter.

 19 Duration of licences

A non-emergency patient transport service licence continues in force for the period that is specified in the licence, being 2 years from the issue or renewal of the licence (or, if the Secretary considers it appropriate that the period be longer or shorter, the period so specified by the Secretary).

 20 Power of Secretary to renew licences

On the expiration of a non-emergency patient transport service licence, the Secretary may renew the licence.

 21 Application to renew a licence

 (1) Before a non-emergency patient transport service licence expires, the holder may apply to the Secretary for the renewal of the licence.

 (2) An application under subsection (1)—

 (a) must be in the prescribed form; and

 (b) must be accompanied—

 (i) if the application is made at least three months before the licence expires, by the prescribed fee; or

 (ii) if the application is made within the period of three months before the licence expires, by the prescribed fee and an additional fee of one half of the prescribed fee.

 (3) An applicant under this section must give to the Secretary any further information relating to the application that the Secretary requests.

 (4) A non-emergency patient transport service licence in respect of which an application is made under this section, is deemed to continue in force, after the expiry of the licence period, until the Secretary makes a decision in relation to the application.

 22 Matters the Secretary must consider in deciding whether or not to renew a licence

S. 22(1)substituted by No. 29/2021 s. 18(1).

 (1) The Secretary must not renew a non-emergency patient transport service licence unless the Secretary is satisfied that—

 (a) if the applicant is an individual, the applicant is a fit and proper person; and

 (b) if the applicant is a body corporate, each director and officer of the body corporate who does or may exercise control over the service is a fit and proper person; and

 (c) the care provided by the service to patients is safe and of an appropriate quality.

S. 22(2)substituted by No. 29/2021 s. 18(2).

 (2) In determining whether or not to renew a licence under subsection (1), the Secretary must consider—

 (a) the suitability of the clinical governance arrangements and management and staffing arrangements for the service and the compliance of those arrangements with the regulations and any approved standards; and

 (b) whether the service has been operated in accordance with—

 (i) this Act; and

 (ii) regulations made under this Act; and

 (iii) any approved standards; and

 (iv) any other law relating to or affecting the operation of the non‑emergency patient transport service; and

 (v) any conditions to which the licence is subject; and

 (c) if the applicant is a body corporate, whether the body corporate is of sound financial reputation and stable financial background.

 23 Time limit for making decision on application for renewal of licence

 The Secretary must make and give notice in writing to an applicant under section 21 of his or her decision on the application—

 (a) within 60 days after receiving the application; or

 (b) if the Secretary has requested the applicant to give further information, within 28 days after the information last requested is given to the Secretary—

whichever is the later.

S. 23Ainserted by No. 29/2021 s. 19.

 23A Application to transfer a licence

 (1) The holder of a non-emergency patient transport service licence may apply to the Secretary for the transfer of the non‑emergency patient transport service licence to another person named in the application (the ***proposed transferee***).

 (2) An application under subsection (1) must—

 (a) include any prescribed information; and

 (b) be accompanied by the prescribed fee; and

 (c) be signed by both the holder of the licence and the proposed transferee.

 (3) The Secretary, by written notice to the holder of the non-emergency patient transport service licence and the proposed transferee, may require either or both of them to give the Secretary any further information or document the Secretary reasonably requires to determine the application, within a reasonable time specified in the notice.

S. 23Binserted by No. 29/2021 s. 19.

 23B Approval of transfer of non-emergency patient transport service licence

 (1) The Secretary may approve the transfer of a non‑emergency patient transport service licence.

 (2) The Secretary must not approve a transfer under subsection (1) unless the Secretary is satisfied that—

 (a) if the proposed transferee is an individual, the proposed transferee is a fit and proper person; and

 (b) if the proposed transferee is a body corporate, each director and officer of the body corporate who does or may exercise control over the service is a fit and proper person; and

 (c) the arrangements for the care to be provided by the transferred service to patients are such that the care will be safe and of an appropriate quality.

 (3) In determining whether or not to approve a transfer under subsection (1), the Secretary must consider the following matters—

 (a) the suitability of the equipment and vehicles to be used in the service;

 (b) the suitability of the clinical governance arrangements and management and staffing arrangements for the service and the compliance of those arrangements with regulations made under this Act and any approved standards;

 (c) the suitability of the arrangements for recording, monitoring and reviewing the clinical governance arrangements and management and staffing arrangements for the service;

 (d) if the proposed transferee is a body corporate, whether the body corporate is of sound financial reputation and stable financial background.

S. 23Cinserted by No. 29/2021 s. 19.

 23C Time limit for making decision on application to transfer licence

The Secretary must make a decision under section 23B and give notice in writing of the decision to the applicant under section 23A—

 (a) if paragraph (b) does not apply, within 60 days after receiving the transfer application; or

 (b) if the Secretary has requested further information from the holder of the non‑emergency patient transport service licence or proposed transferee, within 28 days after the information last requested is given to the Secretary.

S. 23Dinserted by No. 29/2021 s. 19.

 23D Duration of transferred licence

If the Secretary approves an application under section 23A, the non-emergency patient transport service licence continues in force for the remainder of the period specified in the licence.

 24 Power of the Secretary to vary licences

 The Secretary may, either on the application of the holder of a non-emergency patient transport service licence, or on the Secretary's own motion—

 (a) vary a non-emergency patient transport service licence; or

 (b) vary a condition on a non-emergency patient transport service licence, other than a prescribed condition.

 25 Variation of licence on the motion of the Secretary

 (1) Before—

 (a) varying a non-emergency patient transport service licence; or

 (b) varying a condition on a non-emergency patient transport service licence—

of his or her own motion under section 24, the Secretary must—

 (c) notify the holder of the licence; and

 (d) allow the holder an opportunity to make written submissions.

 (2) Submissions under subsection (1) must be made within the time period specified in the notice.

 (3) In making a decision as to whether or not to vary a licence under section 24, the Secretary must—

 (a) have regard to submissions made within the period for making submissions; and

 (b) notify the holder of his or her decision.

 (4) A variation to which subsection (1) applies has effect from the time specified in the notice under subsection (3).

 26 Application to vary a licence

 (1) The holder of a non-emergency patient transport service licence may apply to the Secretary for—

 (a) variation of the licence; or

 (b) variation of a condition of the licence.

 (2) An application under subsection (1)—

 (a) must be in the prescribed form; and

 (b) must be accompanied by the prescribed fee.

 (3) An applicant under subsection (1) must give to the Secretary any further information relating to the application that the Secretary requests.

S. 26(4)inserted by No. 29/2021 s. 20.

 (4) In the case of an application under subsection (1) to vary the licence to include additional vehicles that will be used to operate a non-emergency patient transport service, the applicant must demonstrate that—

 (a) the additional vehicles have been purchased by the applicant; and

 (b) the additional vehicles comply with regulations made under this Act.

S. 27substituted by No. 29/2021 s. 21.

 27 Matters the Secretary must consider in deciding on certain applications for variation

 (1) The Secretary must not grant an application under section 26 to enable the licence holder to operate an additional class or additional classes of service under the licence unless the Secretary is satisfied that the applicant has demonstrated—

 (a) that the arrangements for the care provided by the additional class or classes of service to patients is such that the care will be safe and of an appropriate quality; and

 (b) that the clinical governance arrangements and management and staffing arrangements for the operation of the additional class or classes of service are suitable; and

 (c) that the arrangements for recording, monitoring and reviewing the clinical governance arrangements and the management and staffing arrangements for the additional class or classes of service are suitable.

 (2) The Secretary, by written notice to the applicant, may require the applicant to give the Secretary any further information or document the Secretary reasonably requires to determine the application, within a reasonable time specified in the notice.

 28 Time limit for making decision on application for variation of licence

The Secretary must make and give notice in writing to an applicant under section 26 of his or her decision on the application—

 (a) within 60 days after receiving the application; or

 (b) if the Secretary has requested the applicant to give further information, within 28 days after the information last requested is given to the Secretary—

whichever is the later.

 29 Surrender of licence

 (1) The holder of a non-emergency patient transport service licence may surrender that licence to the Secretary for cancellation.

 (2) If a licence is surrendered under subsection (1)—

 (a) the Secretary must cancel the licence; and

 (b) the holder must produce the licence certificate to the Secretary for cancellation.

Pt 2 Div. 4 (Heading and ss 30−34)substituted as Pt 2 Div. 4 (Headings and new ss 30−40)by No. 29/2021 s. 22.

Division 4—Surrender and suspension of non‑emergency patient transport service licences

Subdivision 1—Surrender of non‑emergency patient transport service licence

S. 30 substitutedby No. 29/2021 s. 22.

 30 Surrender of non-emergency patient transport service licence

 (1) The holder of a non-emergency patient transport service licence may surrender that licence to the Secretary for cancellation.

 (2) If a licence is surrendered under subsection (1)—

 (a) the Secretary must cancel the licence; and

 (b) the holder must produce the licence certificate to the Secretary for cancellation.

Subdivision 2—Immediate suspension of non‑emergency patient transport service licence

S. 31 substitutedby No. 29/2021 s. 22.

 31 Immediate suspension of non-emergency patient transport service licence where serious risk to health or safety

 (1) The Secretary may immediately suspend a non‑emergency patient transport service licence as to all or any classes of non‑emergency patient transport specified in the licence if the Secretary reasonably believes the licence holder is providing the service in a manner that poses a serious risk to patient health or safety.

 (2) As soon as the Secretary suspends the licence the Secretary must give notice of the suspension to the holder of the licence.

 (3) A notice under subsection (2) must set out—

 (a) the reason for the suspension; and

 (b) whether the licence has been fully or partly suspended and if the licence has been partly suspended, the class or classes of non‑emergency patient transport for which the licence has been suspended; and

 (c) the period of the suspension, which must be not more than 6 months; and

 (d) that the licence holder may, within 30 days after the notice is given, give the Secretary a written response to the proposed suspension.

 (4) If a non-emergency patient transport service licence is suspended in respect of a class or classes of non-emergency patient transport specified in the licence, but not all of the classes of transport so specified, the licence continues to authorise the provision of the class or classes of transport in respect of which the licence has not been suspended.

S. 32 substitutedby No. 29/2021 s. 22.

 32 Licence holder may give written response to notice of suspension of licence

A licence holder who is given a notice under section 31(2) may, within 30 days after the notice is given, give the Secretary a written response to the suspension.

S. 33 substitutedby No. 29/2021 s. 22.

 33 Review of suspension

 (1) The Secretary must review a suspension under section 31 after the expiry of the 30 day period referred to in section 32.

 (2) In reviewing a suspension under section 31, the Secretary must have regard to any written response by the licence holder given to the Secretary within the 30 day period.

S. 34 substitutedby No. 29/2021 s. 22.

 34 Powers of Secretary on review of suspension

After reviewing the suspension under section 33, the Secretary may decide to—

 (a) revoke the suspension; or

 (b) continue the suspension for the period specified; or

 (c) give notice under Division 4A that the Secretary proposes to cancel the licence.

Subdivision 3—Suspension of non‑emergency patient transport service licence with notice

New s. 35 insertedby No. 29/2021 s. 22.

 35 Notice before suspension

 (1) If the Secretary is considering the suspension under section 37 of a non-emergency patient transport service licence as to all or any of the class or classes of non-emergency patient transport provided under the licence, before imposing the suspension, the Secretary must first give the licence holder notice of the proposal.

 (2) A notice under subsection (1) must state—

 (a) that the Secretary proposes to suspend the licence; and

 (b) the proposed period of suspension; and

 (c) the reasons for the proposed suspension; and

 (d) that the licence holder may, within 30 days after the notice is given, give the Secretary a written response to the proposed suspension.

New s. 36 insertedby No. 29/2021 s. 22.

 36 Licence holder may give written response to proposal to suspend licence

A licence holder who is given a notice under section 35(1) may, within 30 days after the notice is given, give the Secretary a written response to the proposed suspension.

New s. 37 insertedby No. 29/2021 s. 22.

 37 Suspension of non-emergency patient transport service licence

 (1) The Secretary may suspend a non-emergency patient transport service licence as to all or any classes of non-emergency patient transport specified in the licence.

 (2) Before imposing a suspension under this section, the Secretary must consider any written response given by the licence holder under section 36 within the period specified in that section.

 (3) The Secretary must not suspend a licence under subsection (1) unless the Secretary is satisfied that—

 (a) if the licence holder is an individual, the individual is not a fit and proper person; or

 (b) if the licence holder is a body corporate, a director or officer of the body corporate who does or may exercise control over the service is not a fit and proper person; or

 (c) as to the class or classes of transport to which the proposed suspension relates, the licence holder has failed to comply with—

 (i) this Act; or

 (ii) regulations made under this Act; or

 (iii) a direction under section 59; or

 (iv) any approved standards; or

 (v) the conditions of the licence; or

 (d) the licence holder is not financially viable; or

 (e) if the licence holder is an individual, the individual has died.

 (4) If a non-emergency patient transport service licence is suspended in respect of a class or classes of non-emergency patient transport specified in the licence, but not all of the classes of transport so specified, the licence continues to authorise the provision of the class or classes of transport in respect of which the licence has not been suspended.

 (5) A suspension under this section must not be for a period of more than 6 months.

New s. 38 insertedby No. 29/2021 s. 22.

 38 Secretary to give notice of suspension

 (1) The Secretary must serve written notice of the suspension of a licence under section 37 on the holder of the licence.

 (2) A notice under subsection (1) must set out—

 (a) the fact that the licence has been suspended; and

 (b) whether the licence has been fully or partly suspended and if the licence has been partly suspended, the class or classes of non‑emergency patient transport for which the licence has been suspended; and

 (c) the period of the suspension and date on which the suspension takes effect; and

 (d) the reasons for the suspension; and

 (e) the effect of section 39(2).

New s. 39 insertedby No. 29/2021 s. 22.

 39 Taking of effect of suspension and period of suspension

 (1) A suspension under section 37 takes effect on the day specified in the notice under section 38, which must not be earlier than the day on which the notice is served on the licence holder.

 (2) A suspension under section 37 remains in force until the earlier of the following—

 (a) the end of the period specified in section 37(5);

 (b) if the Secretary determines that it should end on an earlier date, that date.

 (3) The Secretary must not make a determination under subsection (2) unless the Secretary is satisfied that the reason for the suspension no longer exists.

Subdivision 4—Effect of suspension with or without notice

New s. 40 insertedby No. 29/2021 s. 22.

 40 Effect of suspension

A person—

 (a) whose licence is suspended under section 31 or 37 is taken not to be the holder of a non‑emergency patient transport service licence for the period of the suspension; or

 (b) whose licence is suspended as to a class or classes of transport, is taken not to be the holder of a non-emergency patient transport service licence in respect of that class or those classes.

Pt 2 Div. 4A (Heading and ss 41−42D)inserted by No. 29/2021 s. 22.

Division 4A—Cancellation of non‑emergency patient transport service licence

New s. 41 insertedby No. 29/2021 s. 22.

 41 Notice before cancellation

 (1) If the Secretary is considering the cancellation under section 42A of a non‑emergency patient transport service licence, before cancelling the licence, the Secretary must give the licence holder notice of the proposal to cancel the licence.

 (2) A notice under subsection (1) must state—

 (a) that the Secretary proposes to cancel the licence; and

 (b) the reasons for the proposed cancellation; and

 (c) that the licence holder may, within 30 days after the notice is given, give the Secretary a written response to the proposed cancellation.

New s. 42 insertedby No. 29/2021 s. 22.

 42 Licence holder may give written response to proposal to cancel licence

A licence holder who is given a notice under section 41 may, within 30 days after the notice is given, give the Secretary a written response to the proposed cancellation.

S. 42A insertedby No. 29/2021 s. 22.

 42A Cancellation of licence

 (1) The Secretary may cancel a non-emergency patient transport service licence if the Secretary is satisfied that—

 (a) if the licence holder is an individual, the person is not a fit and proper person; or

 (b) if the licence holder is a body corporate, a director or officer of the body corporate who does or may exercise control over the service is not a fit and proper person; or

 (c) the licence holder is providing the service in a manner that poses a serious risk to patient health or safety; or

 (d) the licence holder has failed to comply with—

 (i) this Act; or

 (ii) regulations made under this Act; or

 (iii) a direction under section 59; or

 (iv) any approved standards; or

 (v) the conditions of the licence; or

 (e) the licence holder has been found guilty of an offence against—

 (i) this Act; or

 (ii) regulations made under this Act; or

 (f) the licence holder does not have an approved accreditation; or

 (g) one or more of the clinical governance arrangements and management and staffing arrangements of the licence holder are not suitable for the provision of the service; or

 (h) the licence holder has not operated under the licence during the previous 12 months; or

 (i) the licence holder is not financially viable.

 (2) If the Secretary is proposing to cancel a licence under subsection (1)(d), before doing so the Secretary may give notice to the licence holder that the Secretary intends to cancel the licence if satisfactory arrangements are not made to remedy the failure to comply with the relevant provision within the period specified in the notice.

 (3) A notice under subsection (2)—

 (a) must set out the relevant provision of—

 (i) this Act; or

 (ii) regulations made under this Act; or

 (iii) a direction under section 59; or

 (iv) any approved standards; or

 (v) the conditions of the licence—

with which the licence holder has failed to comply; and

 (b) must set out the time within which arrangements must be made to remedy the failure to comply (which must be not less than 28 days).

 (4) After giving a notice under subsection (2), the Secretary may cancel the licence under subsection (1) if, after the expiry of the period specified in the notice, satisfactory arrangements to remedy the failure have not been made.

 (5) Before cancelling a licence under this section, or giving a notice under subsection (2), the Secretary must consider any written response that is given by the licence holder under section 42 within the period specified in that section.

S. 42B insertedby No. 29/2021 s. 22.

 42B Matters for Secretary to consider in cancelling a licence

In making a decision to cancel a licence under section 42A(1), the Secretary must consider—

 (a) the conduct of the licence holder; and

 (b) the seriousness of any breach of—

 (i) this Act; or

 (ii) regulations made under this Act; or

 (iii) a direction under section 59; or

 (iv) any approved standards; or

 (v) the conditions of the licence; and

 (c) whether or not any such breach could have been avoided by the reasonable exercise of care; and

 (d) any circumstances that may prevent the licence holder from being able to continue to carry on the service in accordance with this Act, the regulations or the conditions of the licence.

S. 42C insertedby No. 29/2021 s. 22.

 42C Secretary to serve notice of cancellation

 (1) The Secretary must serve written notice of the cancellation of a licence under section 42A(1) on the holder of the licence.

 (2) A notice under subsection (1) must set out—

 (a) the fact that the licence has been cancelled; and

 (b) the fact that, under section 42D, the cancellation takes effect on the day of service of the notice; and

 (c) the reasons for the cancellation.

S. 42D insertedby No. 29/2021 s. 22.

 42D Taking of effect of cancellation

The cancellation of a licence under section 42A(1) takes effect on the day the notice under section 42C is served on the licence holder.

Pt 2 Div. 5 (Heading and ss 35−38)substituted as Pt 2 Div. 5 (Heading and ss 42E−42G)by No. 29/2021 s. 23.

Division 5—Special notification requirements

S. 42E insertedby No. 29/2021 s. 23.

 42E Change of trading name—non-emergency patient transport service licence holder

If there is a change in the trading name of the holder of a non-emergency patient transport service licence, the licence holder must make an application under section 26 for variation of the non-emergency patient transport service licence to reflect the change in trading name within 14 days of that change.

Penalty: 60 penalty units.

S. 42F insertedby No. 29/2021 s. 23.

 42F Licence holder must notify Secretary as to certain matters

 (1) If the holder of a non-emergency patient transport service licence has not transported any patients during a 12 month period, the licence holder must so notify the Secretary as soon as practicable after the end of the 12 month period.

Penalty: In the case of a natural person, 60 penalty units;

 In the case of a body corporate, 240 penalty units.

 (2) If the holder of a non-emergency patient transport service licence has transported fewer than 250 patients during a 12 month period, the licence holder must so notify the Secretary as soon as practicable after the end of the 12 month period.

Penalty: In the case of a natural person, 60 penalty units;

 In the case of a body corporate, 240 penalty units.

S. 42G insertedby No. 29/2021 s. 23.

 42G Secretary may require evidence to demonstrate maintenance of competencies

 (1) If the holder of a non-emergency patient transport service licence gives a notice to the Secretary under section 42F(2), the Secretary may by notice require the licence holder to provide evidence—

 (a) that the clinical staff of the non-emergency patient transport service have maintained the level of competence and training required by regulations made under this Actto provide the non-emergency patient transport service; and

 (b) that the safety of patients has not been detrimentally affected during medical assessment, treatment or transportation by the licence holder during the previous 12 months.

 (2) A notice given by the Secretary under subsection (1) must—

 (a) specify the further information required by the Secretary; and

 (b) specify the period within which the licence holder must provide the required information, being—

 (i) 14 days; or

 (ii) a period of more than 14 days determined by the Secretary.

 (3) A licence holder must comply with a notice under subsection (2).

Penalty: In the case of a natural person, 60 penalty units;

 In the case of a body corporate, 240 penalty units.

Pt 2 Div. 6 (Heading and ss 39−42)repealedby No. 29/2021 s. 23.

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Pt 2A (Headings and ss 42H− 42ZZD) inserted by No. 29/2021 s. 24.

Part 2A—Licensing first aid service operators

Division 1—Interpretation

S. 42H inserted by No. 29/2021 s. 24.

 42H Persons who do not operate first aid services

For the purposes of this Act, the following persons do not operate a first aid service—

 (a) a volunteer first aid association, including any individual who provides first aid as part of that volunteer first aid association;

 (b) a life saving club, including any individual who provides first aid as part of that life saving club;

 (c) Life Saving Victoria;

 (d) an individual who is employed by an organisation to provide first aid to persons employed or engaged by that organisation in the course of the business carried on by the organisation;

**Example**

A person who is employed by a mine operator to provide first aid to staff of that mine operator.

 (e) anindividual who provides first aid in the course of their work at a hospital, medical clinic or allied health service;

 (f) a medical clinic or allied health service;

 (g) an individual who encounters by chance a circumstance that appears to require the provision of first aid and who provides that first aid.

Division 2—Offences

S. 42I inserted by No. 29/2021 s. 24.

 42I Offence to operate a first aid service without a licence

 (1) A person must not operate a first aid service unless that person holds a first aid service licence.

Penalty: In the case of a natural person, 60 penalty units;

 In the case of a body corporate, 240 penalty units.

 (2) Subsection (1) does not apply to each of the following persons when the person is operating a first aid service—

 (a) an ambulance service; or

 (b) a hospital; or

 (c) any other person or class of person whom the Governor in Council has declared to be a person or class of person to whom subsection (1) does not apply.

 (3) For the purposes of subsection (2), the Governor in Council may, by Order published in the Government Gazette, declare a person or a class of person to be a person or class of person to whom subsection (1) does not apply.

S. 42J inserted by No. 29/2021 s. 24.

 42J Offence to claim first aid service licence holder status

A person who is not the holder of a first aid service licence must not—

 (a) take or use any title calculated to induce a belief that the person is such a licence holder; or

 (b) claim or hold out to be such a licence holder.

Penalty: 60 penalty units.

S. 42K inserted by No. 29/2021 s. 24.

 42K Offence not to ensure provision of a safe service

The holder of a first aid service licence must ensure that the first aid service provided under the licence—

 (a) is safe; and

 (b) is of an appropriate quality; and

 (c) gives priority to the needs of the persons provided with the service.

Penalty: In the case of a natural person, 60 penalty units;

 In the case of a body corporate, 240 penalty units.

Division 3—Approval in principle to be licensed to operate first aid service

S. 42L inserted by No. 29/2021 s. 24.

 42L Grant of approval in principle—first aid service licence

 (1) The Secretary may grant an approval in principle to a person to operate a first aid service.

 (2) In granting an approval in principle, the Secretary may specify that the approval is granted for the service to operate—

 (a) the particular class or particular classes of first aid service specified in the approval; or

 (b) all classes of first aid services.

S. 42M inserted by No. 29/2021 s. 24.

 42M Application for approval in principle for first aid service licence

 (1) A person may apply to the Secretary for the grant of an approval in principle to operate a first aid service.

 (2) An application under subsection (1)—

 (a) must be in the prescribed form; and

 (b) must be accompanied by the prescribed fee.

 (3) A person making an application under subsection (1) must give the Secretary any further information relating to the application that the Secretary requests including, if the person who is to be the operator of the first aid service is a body corporate, any information relating to any director or officer of the body corporate who does or may exercise control over the service to which the application relates.

S. 42N inserted by No. 29/2021 s. 24.

 42N Matters the Secretary must consider in deciding whether or not to grant an approval in principle for a first aid service

 (1) The Secretary must not grant an approval in principle to operate a first aid service unless the Secretary is satisfied that—

 (a) if the applicant is an individual, the applicant is a fit and proper person; and

 (b) if the applicant is a body corporate, each director and officer of the body corporate who does or may exercise control over the service is a fit and proper person; and

 (c) the applicant has established suitable clinical governance arrangements and management and staffing arrangements for the service; and

 (d) the equipment to be used by the service is suitable.

 (2) In determining whether or not to grant an approval in principle under subsection (1), the Secretary may consider the following matters if the applicant is or has been associated with the operator of another first aid service—

 (a) the extent and nature of the applicant's involvement in the other first aid service;

 (b) the number of complaints, if any, made by or on behalf of patients against the other first aid service within the previous 3 years, and how those complaints have been dealt with;

 (c) the financial management of the other first aid service;

 (d) whether the other first aid service has been operated in accordance with—

 (i) this Act; and

 (ii) regulations made under this Act; and

 (iii) if the operator of the other first aid service is or has been licensed under this Act, any conditions on that licence; and

 (iv) any other law relating to or affecting the operation of a first aid service;

 (e) whether the applicant has been found guilty of an offence against this Act or regulations made under this Act in relation to the other first aid service.

 (3) For the purpose of subsection (2), an applicant is or has been associated with the operator of another first aid service if—

 (a) the applicant is an individual and is or has been—

 (i) the licence holder for or operator of the other first aid service; or

 (ii) a director or officer of a body corporate that is or has been—

 (A) the licence holder for the other first aid service; or

 (B) the operator of the other first aid service, if the director or officer has exercised control over the body corporate; or

 (b) the applicant is a body corporate and a director or officer of the applicant is or has been—

 (i) the operator of the other first aid service; or

 (ii) a director or officer of a body corporate that operates or has operated the other first aid service, if the director or officer has exercised control over the other body corporate.

 (4) The Secretary, by written notice to the applicant, may require the applicant to give the Secretary any further information or document the Secretary reasonably requires to determine the application, within a reasonable time specified in the notice.

S. 42O inserted by No. 29/2021 s. 24.

 42O Time limit for making decision on an application for approval in principle—first aid service

The Secretary must make a decision under section 42L and give notice in writing of the decision to the applicant under section 42M—

 (a) if paragraph (b) does not apply, within 60 days after receiving the application; or

 (b) if the Secretary has requested further information from the applicant, within 28 days after the information last requested is given to the Secretary.

S. 42P inserted by No. 29/2021 s. 24.

 42P Certificate of approval in principle—first aid service licence

If the Secretary grants an approval in principle, the Secretary must issue a certificate of approval in principle stating—

 (a) the name of the person to whom it is issued; and

 (b) any conditions to which it is subject; and

 (c) the class or classes of first aid services for which the approval is granted; and

 (d) the period during which the approval continues in force (being one year or, if the Secretary considers it appropriate that the period be longer or shorter, the period so specified by the Secretary).

S. 42Q inserted by No. 29/2021 s. 24.

 42Q Variation or transfer of certificate of approval in principle—first aid service

 (1) The Secretary, on the application of the person who is the holder for the time being of a certificate of approval in principle relating to a class of first aid service, may—

 (a) vary the certificate or any condition to which it is subject; or

 (b) approve the transfer of the certificate to another person.

 (2) Sections 42M and 42N apply to an application for variation or transfer of a certificate as if the application were an application for the grant of an approval in principle.

Division 4—Granting, renewal, variation and transfer of first aid service licences

S. 42R inserted by No. 29/2021 s. 24.

 42R Grant of a first aid service licence

 (1) The Secretary may license a person to operate a first aid service.

 (2) In granting a first aid service licence, the Secretary may specify that the licence is granted for the service to operate—

 (a) the particular class or classes of first aid service specified in the approval in principle; or

 (b) all classes of first aid services.

S. 42S inserted by No. 29/2021 s. 24.

 42S Application for a first aid service licence

 (1) A person may apply to the Secretary for the grant of a first aid service licence.

 (2) An application under subsection (1)—

 (a) must be in the prescribed form; and

 (b) must be accompanied by the prescribed fee.

 (3) An applicant must give the Secretary any further information relating to the application that the Secretary requests.

S. 42T inserted by No. 29/2021 s. 24.

 42T Considerations for Secretary in granting a first aid service licence

 (1) The Secretary must not grant a first aid service licence unless the Secretary is satisfied that—

 (a) if the applicant is an individual, the applicant is a fit and proper person; and

 (b) if the applicant is a body corporate, each director and officer of the body corporate who does or may exercise control over the service is a fit and proper person.

 (2) In deciding whether or not to grant a first aid service licence, the Secretary must consider—

 (a) the suitability of the equipment to be used in the service for which the licence is to be granted; and

 (b) the suitability of the clinical governance arrangements and management and staffing arrangements for the service and the compliance of those arrangements with regulations made under this Act and any approved standards; and

 (c) whether the arrangements for the care to be provided by the service to patients are such that the care will be safe and of an appropriate quality; and

 (d) the suitability of the arrangements for recording, monitoring and reviewing the clinical governance arrangements and management and staffing arrangements for the service; and

 (e) whether the service has complied with any conditions to which the approval in principle is subject; and

 (f) if the applicant is a body corporate, whether the body corporate is of sound financial reputation and stable financial background.

 (3) The Secretary, by written notice to the applicant, may require the applicant to give the Secretary any further information or document the Secretary reasonably requires to determine the application, within a reasonable time specified in the notice.

 (4) The Secretary must not refuse to grant a licence on any ground that is inconsistent with an approval in principle that is in force and that has been granted in relation to the service in respect of which the application for the licence has been made.

S. 42U inserted by No. 29/2021 s. 24.

 42U Time limit for making decision on application for the grant of first aid service licence

The Secretary must make a decision under section 42R and give notice in writing of the decision to the applicant under section 42S—

 (a) if paragraph (b) does not apply, within 60 days after receiving the application; or

 (b) if the Secretary has requested further information from the applicant, within 28 days after the information last requested is given to the Secretary.

S. 42V inserted by No. 29/2021 s. 24.

 42V Conditions on first aid service licences

 (1) A first aid service licence is subject to any conditions—

 (a) that are prescribed; and

 (b) that the Secretary imposes on the licence or on the class or classes of service authorised under the licence.

 (2) A licence holder must comply with the conditions to which the licence is subject.

Penalty: In the case of a natural person, 60 penalty units;

 In the case of a body corporate, 240 penalty units.

S. 42W inserted by No. 29/2021 s. 24.

 42W Particulars of first aid service licences

A first aid service licence must contain the following particulars—

 (a) the name and address of the holder of the licence;

 (b) the class or classes of first aid service that may be operated under the licence;

 (c) any conditions to which the licence is subject;

 (d) the date on which the licence expires;

 (e) any other prescribed matter.

S. 42X inserted by No. 29/2021 s. 24.

 42X Duration of first aid service licences

A first aid service licence continues in force for the period that is specified in the licence, being 2 years from the issue or renewal of the licence (or, if the Secretary considers it appropriate that the period be longer or shorter, the period so specified by the Secretary).

S. 42Y inserted by No. 29/2021 s. 24.

 42Y Power of Secretary to renew first aid service licences

On the expiration of a first aid service licence, the Secretary may renew the licence.

S. 42Z inserted by No. 29/2021 s. 24.

 42Z Application to renew a first aid service licence

 (1) Before a first aid service licence expires, the holder may apply to the Secretary for the renewal of the licence.

 (2) An application under subsection (1)—

 (a) must be in the prescribed form; and

 (b) must be accompanied—

 (i) if the application is made at least 3 months before the licence expires, by the prescribed fee; or

 (ii) if the application is made within the period of 3 months before the licence expires, by the prescribed fee and an additional fee of one half of the prescribed fee.

 (3) An applicant under this section must give to the Secretary any further information relating to the application that the Secretary requests.

 (4) A first aid service licence in respect of which an application is made under this section is taken to continue in force, after the expiry of the licence period, until the Secretary makes a decision in relation to the application.

S. 42ZA inserted by No. 29/2021 s. 24.

 42ZA Matters the Secretary must consider in deciding whether or not to renew a licence

 (1) The Secretary must not renew a first aid service licence unless the Secretary is satisfied that—

 (a) if the applicant is an individual, the applicant is a fit and proper person; and

 (b) if the applicant is a body corporate, each director and officer of the body corporate who does or may exercise control over the service is a fit and proper person; and

 (c) the care provided by the service to patients is safe and of an appropriate quality.

 (2) In determining whether or not to renew a licence, the Secretary must consider—

 (a) the suitability of the clinical governance arrangements and management and staffing arrangements for the service and the compliance of those arrangements with the regulations and any approved standards; and

 (b) whether the service has been operated in accordance with—

 (i) this Act; and

 (ii) regulations made under this Act; and

 (iii) any approved standards; and

 (iv) any other law relating to or affecting the operation of the first aid service; and

 (v) any conditions to which the licence is subject; and

 (c) if the applicant is a body corporate, whether the body corporate is of sound financial reputation and stable financial background.

S. 42ZB inserted by No. 29/2021 s. 24.

 42ZB Time limit for making decision on application for renewal of licence

The Secretary must make a decision under section 42Y and give notice in writing of the decision to an applicant under section 42Z—

 (a) if paragraph (b) does not apply, within 60 days after receiving the application; or

 (b) if the Secretary has requested further information from the applicant, within 28 days after the information last requested is given to the Secretary.

S. 42ZC inserted by No. 29/2021 s. 24.

 42ZC Application to transfer a first aid service licence

 (1) The holder of a first aid service licence may apply to the Secretary for the transfer of the first aid service licence to another person named in the application (the ***proposed transferee***).

 (2) An application under subsection (1) must—

 (a) include any prescribed information; and

 (b) be accompanied by the prescribed fee; and

 (c) be signed by both the holder of the first aid service licence and the proposed transferee.

 (3) The Secretary, by written notice to the holder of the first aid service licence and the proposed transferee, may require either or both of them to give the Secretary any further information or document the Secretary reasonably requires to determine the application, within a reasonable time specified in the notice.

S. 42ZD inserted by No. 29/2021 s. 24.

 42ZD Approval of transfer of first aid service licence

 (1) The Secretary may approve the transfer of a first aid service licence.

 (2) The Secretary must not approve the transfer of a licence under subsection (1) unless the Secretary is satisfied that—

 (a) if the proposed transferee is an individual, the proposed transferee is a fit and proper person; and

 (b) if the proposed transferee is a body corporate, each director and officer of the body corporate who does or may exercise control over the service is a fit and proper person; and

 (c) the arrangements for the care to be provided by the transferred service to patients are such that the care will be safe and of an appropriate quality.

 (3) In determining whether or not to grant a transfer, the Secretary must consider the following matters—

 (a) the suitability of the equipment to be used in the service;

 (b) the suitability of the clinical governance arrangements and management and staffing arrangements for the service and the compliance of those arrangements with regulations made under this Act and any approved standards;

 (c) the suitability of the arrangements for recording, monitoring and reviewing the clinical governance arrangements and management and staffing arrangements for the service;

 (d) if the proposed transferee is a body corporate, whether the body corporate is of sound financial reputation and stable financial background.

S. 42ZE inserted by No. 29/2021 s. 24.

 42ZE Time limit for making decision on application to transfer first aid service licence

The Secretary must make a decision under section 42ZD and give notice in writing of the decision to the applicant under section 42ZC—

 (a) if paragraph (b) does not apply, within 60 days after receiving the transfer application; or

 (b) if the Secretary has requested further information from the holder of the first aid service licence or proposed transferee, within 28 days after the information last requested is given to the Secretary.

S. 42ZF inserted by No. 29/2021 s. 24.

 42ZF Duration of transferred first aid service licence

If the Secretary approves an application under section 42ZD, the first aid service licence continues in force for the remainder of the period specified in the licence.

S. 42ZG inserted by No. 29/2021 s. 24.

 42ZG Power of the Secretary to vary licences

The Secretary may, either on the application of the holder of a first aid service licence, or on the Secretary's own motion—

 (a) vary a first aid service licence; or

 (b) vary a condition on a first aid service licence, other than a prescribed condition.

S. 42ZH inserted by No. 29/2021 s. 24.

 42ZH Variation of first aid service licence on the motion of the Secretary

 (1) Before—

 (a) varying a first aid service licence; or

 (b) varying a condition on a first aid service licence—

on the Secretary's own motion under section 42ZG, the Secretary must—

 (c) notify the holder of the licence; and

 (d) allow the holder an opportunity to make written submissions.

 (2) Submissions under subsection (1) must be made within the time period specified in the notice.

 (3) In making a decision as to whether or not to vary a licence under section 42ZG, the Secretary must—

 (a) have regard to submissions made within the period for making submissions; and

 (b) notify the holder of the Secretary's decision.

 (4) A variation to which subsection (1) applies has effect from the time specified in the notice under subsection (3).

S. 42ZI inserted by No. 29/2021 s. 24.

 42ZI Application to vary a first aid service licence

 (1) The holder of a first aid service licence may apply to the Secretary for—

 (a) variation of the licence; or

 (b) variation of a condition of the licence.

 (2) An application under subsection (1)—

 (a) must be in the prescribed form; and

 (b) must be accompanied by the prescribed fee.

 (3) An applicant under subsection (1) must give to the Secretary any further information relating to the application that the Secretary requests.

S. 42ZJ inserted by No. 29/2021 s. 24.

 42ZJ Matters the Secretary must consider in deciding on certain applications for variation

 (1) The Secretary must not grant an application under section 42ZI to enable the licence holder to operate an additional class or additional classes of service under the licence unless the Secretary is satisfied that the applicant has demonstrated—

 (a) that the arrangements for the care provided by the additional class or classes of service to patients is such that the care will be safe and of an appropriate quality; and

 (b) that the clinical governance arrangements and management and staffing arrangements for the operation of the additional class or classes of service are suitable; and

 (c) that the arrangements for recording, monitoring and reviewing the clinical governance arrangements and management and staffing arrangements for the additional class or classes of service are suitable.

 (2) The Secretary, by written notice to the applicant, may require the applicant to give the Secretary any further information or document the Secretary reasonably requires to determine the application, within a reasonable time specified in the notice.

S. 42ZK inserted by No. 29/2021 s. 24.

 42ZK Time limit for making decision on application for variation of first aid service licence

The Secretary must make a decision under section 42ZG and give notice in writing of the decision to an applicant under section 42ZI—

 (a) if paragraph (b) does not apply, within 60 days after receiving the application; or

 (b) if the Secretary has requested the applicant to give further information, within 28 days after the information last requested is given to the Secretary.

Division 5—Surrender and suspension of first aid service licences

Subdivision 1—Surrender of first aid service licence

S. 42ZL inserted by No. 29/2021 s. 24.

 42ZL Surrender of first aid service licence

 (1) The holder of a first aid service licence may surrender that licence to the Secretary for cancellation.

 (2) If a licence is surrendered under subsection (1)—

 (a) the Secretary must cancel the licence; and

 (b) the holder must produce the licence certificate to the Secretary for cancellation.

Subdivision 2—Immediate suspension of first aid service licence

S. 42ZM inserted by No. 29/2021 s. 24.

 42ZM Immediate suspension of first aid service licence where serious risk to health or safety

 (1) The Secretary may immediately suspend a first aid service licence as to all or any class or classes of first aid specified in the licence if the Secretary reasonably believes the licence holder is providing the service in a manner that poses a serious risk to patient health or safety.

 (2) As soon as the Secretary suspends the licence the Secretary must give notice of the suspension to the holder of the licence.

 (3) A notice under subsection (2) must set out—

 (a) the reason for the suspension; and

 (b) whether the licence has been fully or partly suspended and if the licence has been partly suspended, the class or classes of first aid for which the licence has been suspended; and

 (c) the period of the suspension, which must be not more than 6 months; and

 (d) that the licence holder may, within 30 days after the notice is given, give the Secretary a written response to the proposed suspension.

 (4) If a first aid service licence is suspended in respect of a class or classes of first aid specified in the licence, but not all of the classes of first aid so specified, the licence continues to authorise the provision of the class or classes of first aid service in respect of which the licence has not been suspended.

S. 42ZN inserted by No. 29/2021 s. 24.

 42ZN Licence holder may give written response to notice of suspension

A licence holder who is given a notice under section 42ZM(2) may, within 30 days after the notice is given, give the Secretary a written response to the suspension.

S. 42ZO inserted by No. 29/2021 s. 24.

 42ZO Review of suspension

 (1) The Secretary must review a suspension under section 42ZM after the expiry of the 30 day period referred to in section 42ZN.

 (2) In reviewing a suspension under section 42ZM, the Secretary must have regard to any written response by the licence holder given to the Secretary within the 30 day period.

S. 42ZP inserted by No. 29/2021 s. 24.

 42ZP Powers of Secretary on review of suspension

After reviewing the suspension under section 42ZO, the Secretary may decide to—

 (a) revoke the suspension; or

 (b) continue the suspension for the period specified; or

 (c) give notice under Division 6 that the Secretary proposes to cancel the licence.

Subdivision 3—Suspension of first aid service licence with notice

S. 42ZQ inserted by No. 29/2021 s. 24.

 42ZQ Notice before suspension

 (1) If the Secretary is considering the suspension under section 42ZS of a first aid service licence as to all or any of the class or classes of first aid provided under the licence, before imposing the suspension, the Secretary must give the licence holder notice of the proposal to suspend the licence.

 (2) A notice under subsection (1) must state—

 (a) that the Secretary proposes to suspend the licence; and

 (b) the proposed period of suspension; and

 (c) the reasons for the proposed suspension; and

 (d) that the licence holder may, within 30 days after the notice is given, give the Secretary a written response to the proposed suspension.

S. 42ZR inserted by No. 29/2021 s. 24.

 42ZR Licence holder may give written response to proposal to suspend licence

A licence holder who is given a notice under section 42ZQ may, within 30 days after the notice is given, give the Secretary a written response to the proposed suspension.

S. 42ZS inserted by No. 29/2021 s. 24.

 42ZS Suspension of first aid service licence

 (1) The Secretary may suspend a first aid service licence as to all or any class or classes of first aid specified in the licence.

 (2) Before imposing a suspension under this section, the Secretary must consider any written response given by the licence holder under section 42ZR within the period specified in that section.

 (3) The Secretary must not suspend a licence under subsection (1) unless the Secretary is satisfied that—

 (a) if the licence holder is an individual, the person is not a fit and proper person; or

 (b) if the licence holder is a body corporate, a director or officer of the body corporate who does or may exercise control over the service is not a fit and proper person; or

 (c) as to the class or classes of first aid to which the proposed suspension relates, the licence holder has failed to comply with—

 (i) this Act; or

 (ii) regulations made under this Act; or

 (iii) a direction under section 59; or

 (iv) any approved standards; or

 (v) the conditions of the licence; or

 (d) the licence holder is not financially viable; or

 (e) if the licence holder is an individual, the individual has died.

 (4) If a first aid service licence is suspended in respect of a class or classes of first aid specified in the licence, but not all of the classes of first aid so specified, the licence continues to authorise the provision of the class or classes of first aid service in respect of which the licence has not been suspended.

 (5) A suspension under this section must not be for a period of more than 6 months.

S. 42ZT inserted by No. 29/2021 s. 24.

 42ZT Secretary to give notice of suspension

 (1) The Secretary must serve written notice of the suspension of a licence under section 42ZS on the holder of the licence.

 (2) A notice under subsection (1) must set out—

 (a) the fact that the licence has been suspended; and

 (b) whether the licence has been fully or partly suspended and if the licence has been partly suspended, the class or classes of first aid for which the licence has been suspended; and

 (c) the period of the suspension and date on which the suspension takes effect; and

 (d) the reasons for the suspension; and

 (e) the effect of section 42ZU(2).

S. 42ZU inserted by No. 29/2021 s. 24.

 42ZU Taking of effect of suspension and period of suspension

 (1) A suspension under section 42ZS takes effect on the day specified in the notice under section 42ZT, which must not be earlier than the day on which the notice is served on the licence holder.

 (2) A suspension under section 42ZS remains in force until the earlier of the following—

 (a) the end of the period specified in section 42ZS(5);

 (b) if the Secretary determines that it should end on an earlier date, that date.

 (3) The Secretary must not make a determination under subsection (2) unless the Secretary is satisfied that the reason for the suspension no longer exists.

Subdivision 4—Effect of suspension with or without notice

S. 42ZV inserted by No. 29/2021 s. 24.

 42ZV Effect of suspension

A person—

 (a) whose licence is suspended under section 42ZM or 42ZS is taken not to be the holder of a first aid service licence for the period of the suspension; or

 (b) whose licence is suspended as to a class or classes of first aid, is taken not to be the holder of a first aid service licence in respect of that class or those classes.

Division 6—Cancellation of first aid service licence

S. 42ZW inserted by No. 29/2021 s. 24.

 42ZW Notice before cancellation of first aid service licence

 (1) If the Secretary is considering the cancellation under section 42ZY(1) of a first aid service licence, before cancelling the licence, the Secretary must give the licence holder a notice of the proposal to cancel the licence.

 (2) A notice under subsection (1) must state—

 (a) that the Secretary proposes to cancel the licence; and

 (b) the reasons for the proposed cancellation; and

 (c) that the licence holder may, within 30 days after the notice is given, give the Secretary a written response to the proposed cancellation.

S. 42ZX inserted by No. 29/2021 s. 24.

 42ZX First aid service licence holder may give written response to proposal to cancel licence

A licence holder who is given a notice under section 42ZW may, within 30 days after the notice is given, give the Secretary a written response to the proposed cancellation.

S. 42ZY inserted by No. 29/2021 s. 24.

 42ZY Cancellation of first aid service licence

 (1) The Secretary may cancel a first aid service licence if the Secretary is satisfied that—

 (a) if the licence holder is an individual, the person is not a fit and proper person; or

 (b) if the licence holder is a body corporate, a director or officer of the body corporate who does or may exercise control over the service is not a fit and proper person; or

 (c) the licence holder is providing the service in a manner that poses a serious risk to patient health or safety; or

 (d) the licence holder has failed to comply with—

 (i) this Act; or

 (ii) regulations made under this Act; or

 (iii) a direction under section 59; or

 (iv) any approved standards; or

 (v) the conditions of the licence; or

 (e) the licence holder has been found guilty of an offence against—

 (i) this Act; or

 (ii) regulations made under this Act; or

 (f) the licence holder does not have an approved accreditation; or

 (g) one or more of the clinical governance arrangements and management and staffing arrangements of the licence holder are not suitable for the provision of the service; or

 (h) the licence holder has not operated under the licence during the previous 12 months; or

 (i) the licence holder is not financially viable.

 (2) If the Secretary is proposing to cancel a licence under subsection (1)(d), before doing so the Secretary may give notice to the licence holder that the Secretary intends to cancel the licence if satisfactory arrangements are not made to remedy the failure to comply with the relevant provision within the period specified in the notice.

 (3) A notice under subsection (2)—

 (a) must set out the relevant provision of—

 (i) this Act; or

 (ii) regulations made under this Act; or

 (iii) a direction under section 59; or

 (iv) any approved standards; or

 (v) the conditions of the licence—

with which the person has failed to comply; and

 (b) must set out the time within which arrangements must be made to remedy the failure to comply (which must be not less than 28 days).

 (4) After giving a notice under subsection (2), the Secretary may cancel the licence under subsection (1) if, after the expiry of the period specified in the notice, satisfactory arrangements to remedy the failure have not been made.

 (5) Before cancelling a licence under this section, or giving a notice under subsection (2), the Secretary must consider any written response that is given by the licence holder under section 42ZX within the period specified in that section.

S. 42ZZ inserted by No. 29/2021 s. 24.

 42ZZ Matters for Secretary to consider in cancelling a first aid service licence

In making a decision to cancel a licence under section 42ZY(1), the Secretary must consider—

 (a) the conduct of the licence holder; and

 (b) the seriousness of any breach of—

 (i) this Act; or

 (ii) regulations made under this Act; or

 (iii) a direction under section 59; or

 (iv) any approved standards; or

 (v) the conditions of the licence; and

 (c) whether or not any such breach could have been avoided by the reasonable exercise of care; and

 (d) any circumstances that may prevent the licence holder from being able to continue to carry on the service in accordance with this Act, the regulations or the conditions of licence.

S. 42ZZA inserted by No. 29/2021 s. 24.

 42ZZA Secretary to serve notice of cancellation

 (1) The Secretary must serve written notice of the cancellation of a licence under section 42ZY(1) on the holder of the licence.

 (2) A notice under subsection (1) must set out—

 (a) the fact that the licence has been cancelled; and

 (b) the fact that, under section 42ZZB, the cancellation takes effect on the day of service of the notice; and

 (c) the reasons for the cancellation.

S. 42ZZB inserted by No. 29/2021 s. 24.

 42ZZB Taking of effect of cancellation

The cancellation of a licence under section 42ZY(1) takes effect on the day the notice under section 42ZZA is served on the licence holder.

Division 7—Special notification requirements

S. 42ZZC inserted by No. 29/2021 s. 24.

 42ZZC Change of trading name—first aid service licence holder

If there is a change in the trading name of the holder of a first aid service licence, the licence holder must make an application under section 42ZI for variation of the first aid service licence to reflect the change in trading name within 14 days of that change.

Penalty: 60 penalty units.

S. 42ZZD inserted by No. 29/2021 s. 24.

 42ZZD First aid service licence holder must notify Secretary as to certain matters

If the holder of a first aid service licence has not attended any events for the purposes of providing first aid during a 12 month period, the licence holder must so notify the Secretary as soon as practicable after the end of the 12 month period.

Penalty: In the case of a natural person, 60 penalty units;

 In the case of a body corporate, 240 penalty units.

Part 3—Review by Victorian Civil and Administrative Tribunal

 43 Review by VCAT

 (1) A person, whose interests are affected by the relevant decision, may apply to the Victorian Civil and Administrative Tribunal for review of—

S. 43(1)(a) amended by No. 29/2021 s. 25(1).

 (a) a decision on an application for the grant of a Part 2 licence or a Part 2A licence; or

 (b) a decision to impose conditions on such a licence; or

 (c) a decision to vary such a licence; or

 (d) a decision to cancel or suspend such a licence.

S. 43(2) repealed by No. 29/2021 s. 25(2).

 \* \* \* \* \*

 44 Time period for making application for review

An application for review under section 43 must be made within 28 days of the later of—

 (a) the day on which the decision is made; or

 (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

Part 4—Inspection and enforcement powers

Division 1—Inspection

 45 Appointment of authorised officers

The Secretary may, by instrument, appoint as an authorised officer any employee of the Secretary, who, the Secretary is satisfied, is suitable to be so authorised.

 46 Authorised officer's identity card

 (1) The Secretary must issue an identity card to each authorised officer.

 (2) An identity card must contain a photograph of the authorised officer to whom the card is issued.

 47 Production of identity card

An authorised officer must produce his or her identity card for inspection—

 (a) before exercising a power under this Act or the regulations, other than a requirement made by post; and

 (b) at any time during the exercise of a power under this Act or the regulations, if asked to do so.

 48 Production of vehicles or documents for inspection

S. 48(1) substituted by No. 29/2021 s. 26.

 (1) For the purpose of monitoring compliance with this Act or the regulations an authorised officer may require the holder of a Part 2 licence or a Part 2A licence, at a time and place specified by the authorised officer—

 (a) to produce for inspection any vehicles used in the provision of the service operated under the licence; or

 (b) to produce to the authorised officer any documents required to be kept by the licence holder under this Act or regulations made under this Act.

 (2) For the purpose of monitoring compliance with this Act or the regulations an authorised officer may require—

 (a) an ambulance service that is the operator of a non-emergency patient transport service; or

 (b) a public hospital or denominational hospital that is the operator of a non-emergency patient transport service—

at a time and place specified by the authorised officer—

 (c) to produce for inspection any vehicles used in the provision of the service operated by the service or hospital; or

 (d) to produce to the authorised officer any documents required to be kept by the service or hospital under this Act or the regulations.

 49 Self-incrimination

 (1) A person is not excused from complying with a requirement of an authorised officer under section 48 on the ground that to do so may result in information being provided that might incriminate the person.

 (2) Any information obtained from a person under this Division is not admissible in evidence against the person in criminal proceedings other than in proceedings in respect of the provision of false information.

 (3) Despite subsection (2), any information obtained from a person under this Division that is contained in any document—

 (a) that the person is required to keep by any law; or

S. 49(3)(b) amended by No. 29/2021 s. 27(a).

 (b) that the operator of a non-emergency patient transport service or a first aid service is required to keep by any law; or

S. 49(3)(c) repealed by No. 29/2021 s. 27(b).

 \* \* \* \* \*

 (d) that was obtained without the direct assistance of the person—

is admissible in evidence against the person in criminal proceedings.

 (4) For the purposes of subsection (3), a person provides direct assistance in the obtaining of a document if the person identifies, reveals the location of, or explains the contents of, the document.

S. 50 amended by No. 29/2021 s. 28.

 50 Offences relating to inspection

A person must not—

 (a) without reasonable excuse, obstruct an authorised officer in exercising his or her powers under this Act or the regulations; or

 (b) knowingly make any false or misleading statement in any application to the Secretary under this Act; or

 (c) impersonate the Secretary or an authorised officer in the performance of his or her powers or duties under this Act.

Penalty: In the case of a natural person, 60 penalty units;

 In the case of a body corporate, 240 penalty units.

Division 2—Enforcement

S. 51 amended by No. 37/2014 s. 10(Sch. item 116.2).

 51 Proceedings for offences

The Secretary, an authorised officer, a police officer or a person authorised generally or in a particular case by the Secretary may take proceedings for an offence against this Act or the regulations.

 52 Service of documents

A notice or other document required or authorised by this Act or the regulations to be served on or given to a person is deemed to have been duly served on or given to the person—

 (a) if delivered personally to or left with an adult person at the premises that is the last known place of residence or business of the person on or to whom the notice or document is to be served or given or, if there is no adult person present, by affixing the notice or document to a conspicuous part of the premises; or

 (b) if sent to the person by post.

 53 Offences by bodies corporate

 (1) If a body corporate contravenes a provision of this Act or the regulations, each director or officer of the body corporate is deemed to have contravened the provision, if the director or officer knowingly authorised or permitted the contravention.

 (2) A person may be proceeded against and found guilty under a provision in accordance with subsection (1) whether or not the body corporate has been proceeded against under that provision.

 (3) Nothing in this section affects any liability imposed on a body corporate for an offence committed by a body corporate against this Act or the regulations.

 54 Imputing states of mind to bodies corporate

If, in any proceedings for an offence against this Act or the regulations, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show that—

 (a) the conduct was engaged in by an officer or agent of the body corporate within the scope of his or her actual or apparent authority; and

 (b) the officer or agent had that state of mind.

 55 Liability of body corporate or employer for acts of others

If an officer or agent of a body corporate engages in conduct on behalf of the body corporate within the scope of his or her actual or apparent authority, the body corporate must be taken for the purposes of a prosecution for an offence against this Act or the regulations, also to have engaged in the conduct, unless the body corporate establishes that the body corporate took reasonable precautions and exercised due diligence to avoid the conduct.

Pt 5 (Heading and ss 56−63) amended by Nos 32/2006 s. 94(Sch. item 35), 37/2014 s. 10(Sch. item 116.3), repealed by No. 29/2021 s. 29.

 \* \* \* \* \*

Pt 6 (Heading) substituted by No. 29/2021 s. 30.

Part 6—General matters

Pt 6 Div. 1 (Heading and new s. 58) inserted by No. 29/2021 s. 31.

Division 1—Particular conditions on licences

New s. 58 inserted by No. 29/2021 s. 31.

 58 Use of paramedic

It is a condition of any Part 2 licence or Part 2A licence that the holder of the licence must not use the word "paramedic" or any related name, title or description as part of the title or description of the service.

Pt 6 Div. 2 (Heading and new s. 59) inserted by No. 29/2021 s. 31.

Division 2—Directions of the Secretary

New s. 59 inserted by No. 29/2021 s. 31.

 59 Directions of the Secretary

 (1) The Secretary may give written directions to the holder of a Part 2 licence or a Part 2A licence as to ensuring—

 (a) the safety of the service provided by the licence holder; and

 (b) the quality of care provided to persons using the service.

 (2) It is a condition of any Part 2 licence or Part 2A licence that the holder of the licence must comply with a direction of the Secretary given under subsection (1).

Pt 6 Div. 3 (Heading and ss 60−63E) inserted by No. 29/2021 s. 31.

Division 3—Miscellaneous matters

New s. 60 inserted by No. 29/2021 s. 31.

 60 Fit and proper person

 (1) In determining whether or not a person is a fit and proper person for the purposes of this Act, the Secretary may take into account all or any of the following matters—

 (a) whether or not the person has been found guilty of an offence against this Act;

 (b) whether or not the person is of sound financial reputation and stable financial background;

 (c) whether or not the person is of good repute, having regard to character, honesty and integrity;

 (d) whether or not the person is a person in relation to whom not more than 10 years have expired since that person was found guilty of—

 (i) an indictable offence; or

 (ii) an offence involving dishonesty, fraud or trafficking in drugs of dependence, where the maximum penalty for the offence is more than 3 months imprisonment;

 (e) whether—

 (i) if the person is a registered health practitioner under the Health Practitioner Regulation National Law, there is any condition on that person's registration; or

 (ii) any registration of the person under the Health Practitioner Regulation National Law has been cancelled or suspended.

 (2) Subsection (1) is not to be taken to limit the circumstances in which a person may be considered not to be a fit and proper person for the purposes of this Act.

 (3) For the purposes of determining whether a person is of sound financial reputation and stable financial background under subsection (1)(b), the Secretary may consider—

 (a) that person's financial viability and financial history; and

 (b) the financial viability and financial history of any body corporate of which the person is or was a director or officer, being a body corporate that operates or operated a non‑emergency patient transport service or a first aid service.

New s. 61 inserted by No. 29/2021 s. 31.

 61 Endorsement of licence

 (1) If the Secretary transfers, varies or imposes a condition on a Part 2 licence or a Part 2A licence—

 (a) the holder of the licence must produce the licence to the Secretary; and

 (b) the Secretary must issue a new licence to the holder of the licence that sets out the particulars of the transfer, variation or condition.

 (2) Subsection (1) applies to a variation whether or not it is made on an application under Part 2 or 2A or at the time of renewal.

New s. 62 inserted by No. 29/2021 s. 31.

 62 Change of directors etc.

 (1) If a person ceases to be, or is appointed as, a director of or other officer having control of a body corporate that holds a Part 2 licence or a Part 2A licence, the body corporate must within 30 days after the change occurs give the Secretary a statement setting out—

 (a) the name and address of the person who has ceased to hold, or been appointed to, a position (as the case requires); and

 (b) the position which the person has ceased to hold or been appointed to (as the case requires).

Penalty: 60 penalty units.

 (2) The Secretary, by written notice given to the body corporate, may require the body corporate to give to the Secretary any information or a document that the Secretary reasonably requires to determine whether a director or other officer who has been appointed is a fit and proper person.

 (3) A notice under subsection (2) must state a time within which the information must be given to the Secretary, and if a time is stated in the notice, the information must be given within that time.

S. 62A inserted by No. 29/2021 s. 31.

 62A Annual report

 (1) The holder of a Part 2 licence or a Part 2A licence must, no later than 2 months after the end of each financial year, submit to the Secretary an annual report on the operation of the service provided under the licence during the previous financial year.

 (2) An annual report must contain any prescribed information in respect of the financial year reported on.

New s. 63 inserted by No. 29/2021 s. 31.

 63 Legal personal representatives

 (1) If the holder of a Part 2 licence or a Part 2A licence dies, a person who is named as or who intends to apply to become a legal personal representative of the holder may apply to the Secretary to carry on the service until the period of one year after the death of the holder expires.

 (2) An application to carry on a service under subsection (1) must be made—

 (a) within 28 days after the death of the holder; or

 (b) if the Secretary allows a longer period, that period.

 (3) The Secretary must grant an application under subsection (1) unless the Secretary has any reason to believe that, if the applicant were to make an application for the licence, the Secretary would refuse the application.

 (4) The granting of an application under this section has effect as a variation of the licence for the period to which the application relates.

S. 63A inserted by No. 29/2021 s. 31.

 63A Power to require information to be given

 (1) The Secretary, by written notice, may require the holder of a Part 2 licence or a Part 2A licence to give to the Secretary all or any of the following information in relation to the service operated under the licence—

 (a) the number of patients transported by the service;

 (b) the number of emergency calls made by the licence holder to request an emergency ambulance;

 (c) the number of public events at which the services were provided and information about those events;

 (d) the number of patients taken to hospital emergency departments.

 (2) The Secretary must not require any identifying information to be given under subsection (1).

 (3) A notice under subsection (1) must—

 (a) specify the nature of the information to be given, which must be information that it is reasonable for the Secretary to require; and

 (b) set out a reasonable period of time within which the holder of the licence must give the information to the Secretary.

 (4) The Secretary may extend the time within which the holder of a Part 2 licence or a Part 2A licence must comply with a requirement under this section.

S. 63B inserted by No. 29/2021 s. 31.

 63B Secretary may approve standards

 (1) The Secretary may approve standards made by another person or body as to any matter relating to the provision of a non-emergency patient transport service or a first aid service.

 (2) The Secretary must cause notice of approval of standards under subsection (1) to be published—

 (a) in the Government Gazette; and

 (b) on the Internet site of the Department.

 (3) A notice of approval of standards must state—

 (a) where a copy of the standards may be obtained; and

 (b) the date on which the approval of the standards take effect; and

 (c) whether the standards operate as at the date of the approval or as amended from time to time.

S. 63C inserted by No. 29/2021 s. 31.

 63C Secretary may approve schemes for accreditation

 (1) The Secretary may approve a scheme made by a person or body—

 (a) that sets out requirements as to the safety and quality of care of patients of non-emergency patient transport services or first aid services; and

 (b) that accredits non-emergency patient transport services or first aid services as meeting the requirements of the scheme.

 (2) The Secretary must cause notice of approval of an accreditation scheme under subsection (1) to be published—

 (a) in the Government Gazette; and

 (b) on the Internet site of the Department.

 (3) A notice of approval of an accreditation scheme must state—

 (a) where a copy of the accreditation scheme may be obtained; and

 (b) the date on which the approval of the accreditation scheme takes effect; and

 (c) the type of non-emergency patient transport service or first aid service to which the accreditation scheme applies.

S. 63D inserted by No. 29/2021 s. 31.

 63D Inconsistency with the Occupational Health and Safety Act 2004

If a provision of this Act or regulations made under this Act is inconsistent with a provision of the **Occupational Health and Safety Act 2004** or any regulation made under that Act, the provision of the **Occupational Health and Safety Act 2004** or the regulation made under that Act prevails to the extent of the inconsistency.

S. 63E inserted by No. 29/2021 s. 31.

 63E Inconsistency with the Ambulance Services Act 1986

If a provision of this Act or regulations made under this Act is inconsistent with a provision of the **Ambulance Services Act 1986** or any regulation made under that Act, the provision of the **Ambulance Services Act 1986** or the regulation made under that Act prevails to the extent of the inconsistency.

Pt 6 Div. 4 (Heading) inserted by No. 29/2021 s. 31.

Division 4—Regulations

 64 Regulations

 (1) The Governor in Council may make regulations for or with respect to prescribing—

S. 64(1)(a) substituted by No. 29/2021 s. 32(1)(a).

 (a) standards and requirements for the operation of non-emergency patient transport services and first aid services and, in particular, but not limited to, the following matters—

 (i) the quality, safety, cleanliness and hygiene (including infection control procedures) of the services;

 (ii) the welfare of persons receiving the services, including but not limited to the comfort, privacy and respectful treatment of those persons;

 (iii) matters related to the staff who are delivering the services, including but not limited to—

 (A) numbers, qualifications, clinical accreditation and matters related to the ability of persons to deliver the services; and

**Example**

An example of a matter related to the ability of persons to deliver the service is the driving licence status and history of a person.

 (B) the health and safety of persons delivering the services;

 (iv) the provision, inspection and maintenance of vehicles and equipment;

 (v) storage facilities for the services;

 (vi) the amount and type of insurance to be maintained by the services;

 (vii) the arrangements to be made to evaluate, monitor and improve the quality of the services and supervision of staff or other persons delivering the services;

 (viii) the provision of and display of information by the services;

 (ix) communication devices to be carried by staff or other persons delivering the services or to be installed in vehicles operated by the services;

S. 64(1)(b) repealed by No. 29/2021 s. 32(1)(b).

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S. 64(1)(c) substituted by No. 29/2021 s. 32(1)(c).

 (c) records to be kept by non-emergency patient transport services and first aid services, including but not limited to—

 (i) the form and the nature of entries to be made in such records; and

 (ii) the time within which such entries are to be made; and

 (iii) the period for which such records must be maintained;

S. 64(1)(ca) inserted by No. 29/2021 s. 32(1)(c).

 (ca) matters relating to clinical governance arrangements;

S. 64(1)(d) amended by No. 29/2021 s. 32(1)(d).

 (d) classes of non-emergency patient transport services or first aid service for the purposes of licensing;

S. 64(1)(e) amended by No. 29/2021 s. 32(1)(e).

 (e) in relation to any class of non-emergency patient transport service or first aid service, the class or classes of persons who may or may not operate that class of service;

 (f) prescribing offences against this Act or the regulations for the purposes of Part 5;

 (g) fees to be paid for applications under this Act;

S. 64(1)(h) amended by No. 29/2021 s. 32(1)(f).

 (h) penalties, not exceeding 60 penalty units, for breaches of the regulations;

 (i) any other matter or thing required or permitted to be prescribed or necessary to be prescribed to give effect to this Act.

 (2) The regulations—

 (a) may be of general or limited application; and

 (b) may differ according to differences in time, place or circumstances; and

S. 64(2)(c) amended by No. 29/2021 s. 32(2)(a).

 (c) may make different prescriptions or impose different standards for different classes of non-emergency patient transport service operators or first aid service operators; and

S. 64(2)(d) amended by No. 29/2021 s. 32(2)(b).

 (d) may exempt any class of person who operates a non-emergency patient transport service or first aid service from complying with all or any of the regulations; and

 (e) may leave any matter or thing to be, from time to time, determined, applied, dispensed with or regulated by the Secretary; and

 (f) may apply adopt or incorporate by reference any document, either—

 (i) as in force at the date the regulations come into operation or at any date before then; or

 (ii) wholly or in part as amended by the regulations; and

 (g) may make provision for—

 (i) a scale of fees according to the nature of the application being made or licence being granted; or

 (ii) the reduction, waiver or refund in whole or in part of any fees.

Pt 7 (Heading and ss 65–68) repealed by No. 28/2007 s. 3(Sch. item 47), new Pt 7 (Heading and new ss 65, 66) inserted by No. 29/2021 s. 33.

Part 7—Transitional provisions

New s. 65 inserted by No. 29/2021 s. 33.

 65 Transitional provision—change of title of Act

On and from the commencement of section 4 of the **Non-Emergency Patient Transport Amendment Act 2021**, a reference to the **Non‑Emergency Patient Transport Act 2003** in any Act or in any instrument made under any Act or in any other document of any kind must be read and construed as a reference to the **Non‑Emergency Patient Transport and First Aid Services Act 2003**, unless the context otherwise requires.

New s. 66 inserted by No. 29/2021 s. 33.

 66 Transitional provision—non-emergency patient transport service licence

On and from the commencement of a provision of the **Non-Emergency Patient Transport Amendment Act 2021**, an amendment made to this Act by the provision applies to a non‑emergency patient transport service licence that was in force immediately before the commencement of the provision.

Endnotes

1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current Versions of legislation and up-to-date legislative information.

*Minister's second reading speech—*

*Legislative Assembly: 28 August 2003*

*Legislative Council: 7 October 2003*

The long title for the Bill for this Act was "to regulate the operation of the non-emergency transport of persons to or from medical services and the operation of particular stand-by services at public events, to amend the **Ambulance Services Act 1986** and for other purposes."

The **Non-Emergency Patient Transport Act 2003** was assented to on 14 October 2003 and came into operation as follows:

Sections 1, 2, 65–67 on 25 March 2004: Government Gazette 25 March 2004 page 627; rest of Act on 1 February 2006: section 2(2).

The title of this Act was changed from the **Non-Emergency Patient Transport Act 2003** to the **Non-Emergency Patient Transport and First Aid Services Act 2003** by section 4 of the **Non-Emergency Patient Transport Amendment Act 2021**, No. 29/2021.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

• Headings

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

• Examples, diagrams or notes

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

• Punctuation

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

• Provision numbers

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

• Location of "legislative items"

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

• Other material

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act.
See section 36(3)(3D)(3E).

2 Table of Amendments

This publication incorporatesamendments made to the **Non-Emergency Patient Transport and First Aid Services Act 2003** by Acts and subordinate instruments.

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**Public Administration Act 2004, No. 108/2004**

|  |  |
| --- | --- |
| Assent Date: | 21.12.04 |
| Commencement Date: | S. 117(1)(Sch. 3 item 141) on 5.4.05: Government Gazette 31.3.05 p. 602 |
| Current State: | This information relates only to the provision/s amending the **Non-Emergency Patient Transport and First Aid Services Act 2003** |

**Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006**

|  |  |
| --- | --- |
| Assent Date: | 13.6.06 |
| Commencement Date: | S. 94(Sch. item 35) on 1.7.06: Government Gazette 29.6.06 p. 1315 |
| Current State: | This information relates only to the provision/s amending the **Non-Emergency Patient Transport and First Aid Services Act 2003** |

**Statute Law Revision Act 2007, No. 28/2007**

|  |  |
| --- | --- |
| Assent Date: | 26.6.07 |
| Commencement Date: | S. 3(Sch. item 47) on 27.6.07: s. 2(1) |
| Current State: | This information relates only to the provision/s amending the **Non-Emergency Patient Transport and First Aid Services Act 2003** |

**Health and Human Services Legislation Amendment Act 2010, No. 29/2010**

|  |  |
| --- | --- |
| Assent Date: | 8.6.10 |
| Commencement Date: | S. 66 on 1.7.10: Special Gazette (No. 235) 23.6.10 p. 1 |
| Current State: | This information relates only to the provision/s amending the **Non-Emergency Patient Transport and First Aid Services Act 2003** |

**Emergency Management Legislation Amendment Act 2011, No. 56/2011**

|  |  |
| --- | --- |
| Assent Date: | 2.11.11 |
| Commencement Date: | S. 29 on 3.11.11: s. 2(1) |
| Current State: | This information relates only to the provision/s amending the **Non-Emergency Patient Transport and First Aid Services Act 2003** |

**Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014**

|  |  |
| --- | --- |
| Assent Date: | 3.6.14 |
| Commencement Date: | S. 10(Sch. item 116) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2 |
| Current State: | This information relates only to the provision/s amending the **Non-Emergency Patient Transport and First Aid Services Act 2003** |

**Non-Emergency Patient Transport Amendment Act 2021, No. 29/2021**

|  |  |
| --- | --- |
| Assent Date: | 10.8.21 |
| Commencement Date: | Ss 4–33 on 30.9.21: s. 2(2) |
| Current State: | This information relates only to the provision/s amending the **Non-Emergency Patient Transport and First Aid Services Act 2003** |

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3 Amendments Not in Operation

This version does not contain amendments that are not yet in operation.

4 Explanatory details

No entries at date of publication.