

Law Compliance Report – April 2024

Welcome to the April 2024 edition of the Law Compliance Report.

In this issue we:

- set out some of the [current Bills](#) we are tracking throughout Australia;
- discuss recent legislative changes occurring in each of the States and Territories:
 - [Commonwealth](#)
 - [Australian Capital Territory](#)
 - [New South Wales](#)
 - [Northern Territory](#)
 - [Queensland](#)
 - [South Australia](#)
 - [Tasmania](#)
 - [Victoria](#)
 - [Western Australia](#); and
- provide ComplyOnline® tips.

Click on the blue links above to go directly to the article.



Some of the legislative changes being tracked

Western Australia

Climate Change and Greenhouse Gas Emissions Reduction Bill 2021 (WA)
 Electricity Industry Amendment (Alternative Electricity Services) Bill 2023 (WA)
 Electricity Industry Amendment (Distributed Energy Resources) Bill 2023 (WA)
 Firearms Bill 2024 (WA)
 Retail Trading Hours Amendment Bill 2021 (WA)
 Short-Term Rental Accommodation Bill 2024 (WA)
 Statutes (Repeals and Minor Amendments) Bill 2021 (WA)

Northern Territory

Children's Commissioner Amendment Bill 2024 (NT)
 Justice and Other Legislation Further Amendment Bill 2024 (NT)
 Liquor Legislation Amendment (Offences) Bill 2023 (NT)
 Liquor Legislation Amendment Bill 2024 (NT)
 Parks and Water Legislation Amendment Bill 2024 (NT)
 Portable Long Service Leave (Community Services Sector) Bill 2024 (NT)
 Traffic Legislation Amendment Bill 2024

Queensland

Agriculture and Fisheries and Other Legislation Amendment Bill 2023 (Qld)
 Building Industry Fairness (Security of Payment) and Other Legislation Amendment Bill 2024 (Qld)
 Corrective Services (Promoting Safety) and Other Legislation Amendment Bill 2024 (Qld)
 Crime and Corruption and Other Legislation Amendment Bill 2024 (Qld)
 Education (General Provisions) and Other Legislation Amendment Bill 2024 (Qld)
 Energy (Renewable Transformation and Jobs) Bill 2023 (Qld)
 Energy (Renewable Transformation and Jobs) Bill 2023 (Qld)
 Environmental Protection (Powers and Penalties) and Other Legislation Amendment Bill 2024 (Qld)
 Land and Other Legislation Amendment Bill (No. 2) 2023 (Qld)
 Marine Rescue Queensland Bill 2023 (Qld)
 Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Bill 2024 (Qld)
 State Emergency Service Bill 2023 (Qld)
 Victims' Commissioner and Sexual Violence Review Board Bill 2024 (Qld)

New South Wales

Ageing and Disability Commissioner Amendment Bill 2023 (NSW)
 Automated External Defibrillators (Public Access) Bill 2024 (NSW)
 Environment Protection Legislation Amendment (Stronger Regulation and Penalties) Bill 2024 (NSW)
 Independent Commission Against Corruption Amendment Bill 2024 (NSW)
 Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill 2023 (NSW)
 Prevention of Cruelty to Animals Amendment (Virtual Stock Fencing) Bill 2024 (NSW)
 Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024 (NSW)
 Residential Tenancies Amendment (Rent Freeze) Bill 2023 (NSW)
 Surveillance Devices Amendment (Public Interest Exemptions) Bill 2023 (NSW)
 Water Management Amendment (Water Access Licence Register) Bill 2023 (NSW)

Commonwealth

Agriculture (Biosecurity Protection) Levies and Charges Collection Bill 2024 (Cth)
 Accountability of Grants, Investment Mandates and Use of Public Resources Amendment (End Pork Barrelling) Bill 2024 (Cth)
 Administrative Review Tribunal (Consequential and Transitional Provisions No. 2) Bill 2024 (Cth)
 Broadcasting Services Amendment (Community Television) Bill 2024 (Cth)
 Childhood Gender Transition Prohibition Bill 2023 (Cth)
 COAG Legislation Amendment Bill 2023 (Cth)
 Customs Amendment (Banning Goods Produced By Forced Labour) Bill 2022 (Cth)
 Customs Amendment (Preventing Child Labour) Bill 2023 (Cth)
 Defence Amendment (Safeguarding Australia's Military Secrets) Bill 2023 (Cth)
 Defence Amendment (Safeguarding Australia's Military Secrets) Bill 2024 (Cth)
 Defence Trade Controls Amendment Bill 2024 (Cth)
 Digital ID Bill 2023 (Cth)
 Electoral Legislation Amendment (Fair and Transparent Elections) Bill 2024 (No. 2) 2024 (Cth)
 Electoral Legislation Amendment (Fairer Contracts and Grants) Bill 2023 (Cth)
 Electoral Legislation Amendment (Restoring Trust) Bill 2023 (Cth)
 Environment Protection and Biodiversity Conservation Amendment (Climate Trigger) Bill 2022 [No. 2] (Cth)
 Environment Protection and Biodiversity Conservation Amendment (Protecting Environmental Heritage) Bill 2024 (Cth)
 Fair Work Amendment (Prohibiting COVID-19 Vaccine Discrimination) Bill 2023 No. (Cth)
 Fair Work Amendment (Right to Disconnect) Bill No.2 2023 (Cth)
 Health Legislation Amendment (Removal of Requirement for a Collaborative Arrangement) Bill 2024 (Cth)
 Legalising Cannabis Bill 2023 (Cth)
 Lobbying (Improving Government Honesty and Trust) Bill 2023 (Cth)
 National Cancer Screening Register Amendment Bill 2024 (Cth)
 National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024 No. (Cth)
 Primary Industries Levies and Charges Disbursement Bill 2023 (Cth)
 Reducing Supermarket Dominance Bill 2024 (Cth)
 Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 (Cth)
 Treasury Laws Amendment (Consumer Data Right) Bill 2022 (Cth)
 Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Bill 2024 (Cth)
 Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024 No. (Cth)
 Treasury Laws Amendment (Making Multinationals Pay Their Fair Share—Integrity and Transparency) Bill 2024 (Cth)
 Treasury Laws Amendment (Tax Accountability and Fairness) Bill 2023 (Cth)

South Australia

Aboriginal Heritage (Miscellaneous) Amendment Bill 2023 (SA)
 Cannabis Legalisation Bill 2022 (SA)
 Controlled Substances (Nicotine) Amendment Bill 2022 (SA)
 Disability Inclusion (Review Recommendations) Amendment Bill 2023 (SA)
 Environment Protection (Cigarette Butt Waste) Amendment Bill 2023 (SA)
 Explosives Bill 2023 (SA)
 Fair Trading (Lifespan of Electrical Products) Amendment Bill 2022 (SA)
 Freedom of Information (Miscellaneous) Amendment Bill 2023 (SA)
 Health Care (Ambulance Response Targets) Amendment Bill 2023 (SA)
 Heritage Places (Adelaide Park Lands) Amendment Bill 2022 (SA)
 Heritage Places (Protection of State Heritage Places) Amendment Bill 2023 (SA)
 Local Nuisance and Litter Control (Miscellaneous) Amendment Bill 2024 (SA)
 Planning, Development and Infrastructure (Gas Infrastructure) Amendment Bill 2022 (SA)
 Public Finance and Audit (Auditor-General Access to Cabinet Submissions) Amendment Bill 2022 (SA)
 Retirement Villages (Miscellaneous) Amendment Bill 2024 (SA)
 Statutes Amendment (Animal Welfare Reforms) Bill 2022 (SA)
 Statutes Amendment (National Energy Laws) (Wholesale Market Monitoring) Bill 2023 (SA)

Tasmania

Charities and Associations Law (Miscellaneous) Amendment Bill 2023 (Tas)
 Industrial Hemp Amendment Bill 2023 (Tas)
 Right to Information Amendment (Public Protected Areas) Bill 2021 (Tas)
 Right to Information Amendment Bill 2021 (Tas)
 State Litigator (Consequential Amendment) Bill 2023 (Tas)
 Work Health Safety Amendment Bill 2023 (Tas)

Victoria

Children, Youth and Families Amendment (Home Stretch) Bill 2023 (Vic)
 Children, Youth and Families Amendment (Raise the Age) Bill 2022 (Vic)
 Disability and Social Services Regulation Amendment Bill 2024 (Vic)
 Drugs, Poisons and Controlled Substances Amendment (Pill Testing Pilot for Drug Harm Reduction) Bill 2023 (Vic)
 Estate Agents, Residential Tenancies and Other Acts Amendment (Funding) Bill 2024 (Vic)
 Planning and Environment Amendment (Soil Protection) (Solar Power Generation Facilities) Bill 2023 (Vic)
 Public Health and Wellbeing Amendment (Health Services Performance Transparency and Accountability) Bill 2023 (Vic)
 Residential Tenancies Amendment (Rent Freeze and Caps) Bill 2023 (Vic)
 Statute Law Revision Bill 2024 (Vic)

ACT

Assisted Reproductive Technology Bill 2023 (ACT)
 Biosecurity Legislation Amendment Bill 2024 (ACT)
 Disability Inclusion Bill 2024 (ACT)
 Domestic Violence Agencies (Information Sharing) Amendment Bill 2023 (ACT)
 Environment Protection (Fossil Fuel Company Advertising) Amendment Bill 2024 (ACT)
 Human Rights Commission (Child Safe Standards) Amendment Bill 2024 (ACT)
 Integrity Commission Amendment Bill 2022 (No 2) (ACT)
 Liquor (Night-Time Economy) Amendment Bill 2024 (ACT)
 Modern Slavery Legislation Amendment Bill 2023 (ACT)
 Parentage (Surrogacy) Amendment Bill 2023 (ACT)
 Property Developers Bill 2023 (ACT)
 Residential Tenancies Amendment Bill 2024 (ACT)
 Voluntary Assisted Dying Bill 2023 (ACT)
 Workplace Legislation Amendment Bill 2024 (ACT)

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Commonwealth Update

Fair Work Legislation Amendment (Closing Loopholes) Act 2023 (Cth)

On 15 December 2023, relevant parts of the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023 (Cth)*, (the **Amending Act**) amended the *Fair Work Act 2009 (Cth)* (the **Act**).

The Amending Act has introduced a number of important new changes, which are discussed below.

Stronger protections against employee discrimination

Organisations will already be aware that section 351 of the Act already prohibits an employer from taking discriminatory adverse action against a person who is a current or prospective employee because of the person's protected attribute.

The Amending Act has amended the Act to add '*subjection to family and domestic violence*' to the existing list of protected attributes. As a result of this change, employers must not discriminate by taking adverse action against their employees (or prospective employees), because they have been *subjected to family and domestic violence*.

Similarly, section 772 now also prohibits an employer from terminating an employee's employment because of their *subjection to family and domestic violence*. Moreover, enterprise agreements must now not contain terms which discriminate on the basis of *subjection to family and domestic violence*.

New workplace delegates' rights

The Amending Act has introduced new protections in the Act for workplace delegates. A **workplace delegate** is a person appointed or elected, in accordance with the rules of an employee organisation, to be a delegate or representative (however described) for members of the organisation who work in a particular enterprise.

Newly introduced section 350A of the Act now prohibits an employer of a workplace delegate from:

- unreasonably failing or refusing to deal with the workplace delegate; or

- knowingly or recklessly making a false or misleading representation to the workplace delegate; or
- unreasonably hindering, obstructing or preventing the exercise of the rights of the workplace delegate under the Act or a fair work instrument.

Under the Act, workplace delegates are now also entitled to:

- represent the industrial interests of members and potential members of the employee organisation (including in disputes with their employer);
- reasonable communication with members and potential members about their industrial interests;
- reasonable access to the workplace and its facilities to represent those industrial interests.

Importantly, those workplace delegates who are employed by non-small businesses are entitled to have reasonable access to paid time during normal working hours for the purposes of workplace delegate training.

Small business redundancy changes

Prior to 15 December 2023, section 121 of the Act provided that a business with fewer than 15 employees (a small business employer) was not required to make redundancy payments to employees if those employees' redundancy entitlements were covered by the National Employment Standards contained in the Act. The Amending Act has sought to address that anomaly by amending section 121. As a result of the amendments, section 121 of the Act now provides that a small business employer will no longer be exempt from the obligation to make redundancy payments, if:

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- at the time of the employee termination, the employer was bankrupt or in liquidation (other than by way of a members voluntary winding up); and
- the employer is a small business employer due to the termination of one or more employees, where those terminations occurred, either 6 months before the employer became bankrupt or went into liquidation, or 6 months before an insolvency practitioner was appointed, or due to insolvency of the employer.

Regulated labour hire arrangements

The Amending Act has introduced new obligations to the Act which are designed to close the 'labour hire loophole', to essentially ensure that employees who perform the same job alongside each other receive the same pay.

The new changes introduced by the Amending Act permit the Fair Work Commission (**Commission**) to make a regulated labour hire arrangement order (**Order**) regarding the pay arrangements between the employer who supplies employees to perform work for a regulated host (i.e. a labour hire provider), the labour hire employees (**employees**) and the procurer of those employees. Under the Act, the procurer of those employees is referred to as the **regulated host**.

Newly introduced section 306E of the Act provides that, on application, the Commission may make an Order where:

- an employer supplies, or will supply, either directly or indirectly, one or more employees to perform work for a regulated host; and
- an enterprise agreement (or other employment instrument) that applies to the regulated host would apply to the employees if the regulated host were to employ those employees directly, for work of that kind; and
- the regulated host is not a small business employer.

In addition, the Commission must also be satisfied that the performance of the work by the employees is not for the provision of a service, rather than the supply of labour. Moreover, the Commission is also not permitted to make the Order if it is not fair and reasonable in the circumstances.

We note that no Orders come into effect **until 1 November 2024**. From 1 November 2024, when an Order is in force, employers that supply labour to a regulated host and are covered by an Order will be required to ensure that employees working as part of the arrangement are paid no less than the rate at which they would be paid under the regulated host's enterprise agreement or equivalent instrument, (this is referred to in the Act as the **protected rate of pay**).

Regulated hosts are required under new section 306EE of the Act to notify any tenderers in connection with the supply of labour that they may become subject to an Order. In addition, regulated hosts are also required under section 306H of the Act to provide the employer with information about the protected rate of pay.

It is important to note that the new amendments do not apply where employees are working for a regulated host under a training arrangement. In addition, we note that an Order will not apply to any employee supply for a period of 3 months or less.

Anti-avoidance provisions

It is important to note that the Amending Act has also introduced a number of 'anti-avoidance' provisions to the Act (being sections 306S to 306V of the Act) which essentially all prevent employers and regulated hosts from entering into arrangements for the purposes of preventing the Commission from making an Order, or to avoid the application of an Order. These anti-avoidance provisions operate retrospectively **from 4 September 2023**, and attract significant penalties if breached.

Conclusion

Organisations should ensure relevant staff (including HR staff) are made aware of the new changes discussed above relating to the new discrimination protections, workplace delegates' rights, small business redundancies, and labour hire arrangements discussed above, and as outlined in full in the **NATIONAL - Fair Work Act** topic. Where relevant, organisations should update their policies and procedures, to ensure they reflect these new changes.

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Australian Capital Territory Update

Period Products and Facilities (Access) Act 2023 (ACT)

The *Period Products and Facilities (Access) Act 2023 (ACT)* (the **Act**) requires the ACT Government to provide period products, without prejudice and free of charge, at designated and accessible places across the ACT.

Designated and accessible places include public schools, tertiary training centres, public libraries, and other ACT Government outlets and designated community service providers.

The Act also requires that information on menstrual hygiene is made available publicly and improves access to toilets, handwashing facilities and sanitary waste facilities.

Principles of dignity and period poverty

Section 6 of the Act outlines the principles of dignity that must be considered such as acknowledging that a person may be experiencing period poverty due to economic disadvantage or different aspects of the person's identity such as, their sexual orientation, gender identity, mental health, nationality, religion, or ability. Further, the principle acknowledges that not every person who menstruates identifies as a woman.

The principles of dignity also states a person accessing period products should:

- be given a reasonable amount of privacy; and
- have their personal information protected in a way that complies with the *Information Privacy Act 2014 (ACT)*; and
- as far as reasonably practicable, be given the same access to period products as anyone else seeking access to the products, regardless of their identity; and
- be able to access period products in a way that avoids humiliation and enables age-appropriate participation in decision-making.

Section 7 of the Act defines **period poverty** as the lack of access to sanitary products, menstrual hygiene education, toilets, hand washing facilities, and, or waste management.

Suitable Places

Under the Act the Minister must maintain a list of places at which period products are to be made

available for use by people experiencing period poverty (the **suitable places list**) which may include community facilities, health centres or public libraries.

Organisations can apply to be included on the suitable places list.

Access for students

Education providers

Education provider means:

- (a) a government school; or
- (b) a registered training organisation under the *National Vocational Education and Training Regulator Act 2011 (Cth)*; or
- (c) a registered higher education provider under the *Tertiary Education Quality and Standards Agency Act 2011 (Cth)*; or
- (d) an entity prescribed by regulation.

Government school means:

- (a) a school established under the *Education Act 2004*; or
- (b) a school-related institution established under the *Education Act 2004*.

Pursuant to section 13 of the Act, education providers must ensure period products are made available on the provider's premises, free of charge, for use by students experiencing period poverty.

Where an education provider is making the period products available on their premises, they must

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comply with the access arrangements specified in the Act for the premises. The Act specifies access arrangements at section 14 for government schools and section 15 for other education providers.

An education provider, other than a government school, must make arrangements, in writing, for access by students of the provider to period products on the provider's premises.

Access arrangements for an education provider's premises must:

- be consistent with the principles of dignity; and
- provide for:
 - how a student accesses a period product on the premises in a way that respects the student's dignity; and
 - a reasonable range of period products to be available on the premises.

An education provider must make access arrangements available to students of the provider.

Access in the workplace

A person who works in territory-funded work or is a public employee must have access at their workplace to toilets, handwashing facilities and sanitary waste facilities in a way that:

- is consistent with:
 - the object of the Act; and
 - the principles of dignity; and
 - any guidelines under section 22 (**Access guidelines**); and
- respects the dignity of the person accessing the facilities.

Conclusion

Relevant organisations must be aware of their new obligations to provide access to period products and facilities under the Act as discussed above and outlined in full in the **ACT - Period Products and Facilities (Education Providers)** or the **ACT - Period Products and Facilities (Workplaces)** topics.

Reminder – upcoming Comply Online® Webinar

Law Compliance is running the following Comply Online webinar in April for our subscribers. Join us for a step-by-step tour of Comply Online and have your questions answered along the way.

New Features on Comply Online

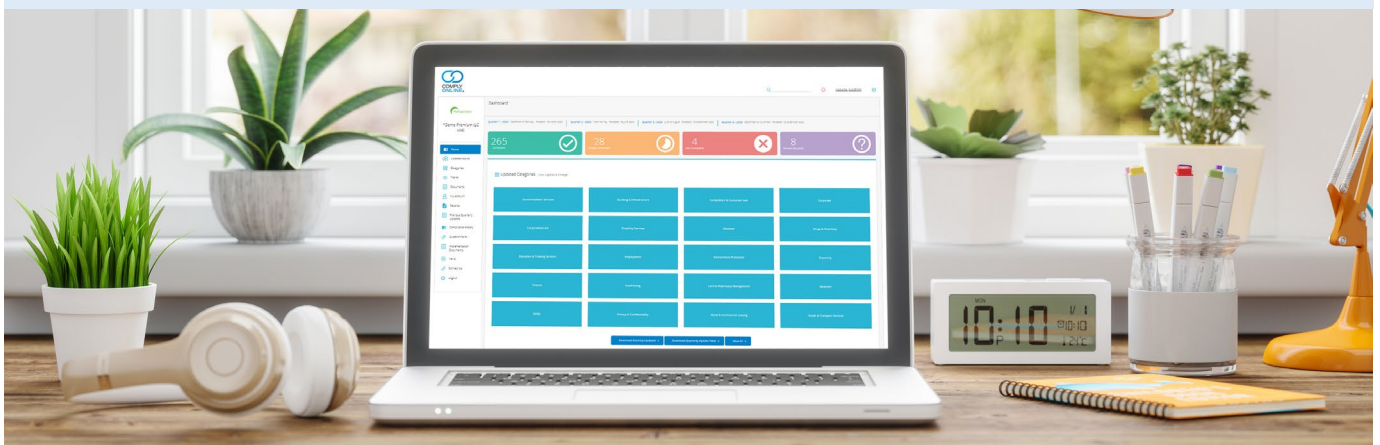
A demonstration of all recent enhancements and new functionality on Comply Online (30 minutes).

Next webinar: **Tuesday 23rd April 2024 – 12.00pm AEST**

[register me](#)

To register your interest, please click the links above or email us [here](#).

If you would like more information, please visit us at <https://lawcompliance.com.au/comply-online/webinars/>



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New South Wales Update

Museums of History NSW Act 2022 (NSW)

On 1 January 2024, relevant parts of the *Museums of History NSW Act 2002* (NSW) (the **Amending Act**) commenced operation and amended the *State Records Act 1998* (NSW) (the **Act**).

By way of background, the Act applies to public offices in New South Wales that are responsible for State records. A State record is a record made or received by a person, whether before or after the commencement of section 3 of the Act:

- in the course of exercising official functions in a public office; or
- for a purpose of a public office; or
- for the use of a public office.

Public office is defined to include a body, whether or not incorporated, established for a public purpose (see section 3 of the Act).

The key changes introduced by the Amending Act are discussed below.

Museums of History NSW entitled to control of State records not currently in use

The newly inserted section 32(4) of the Act now requires public offices to make arrangements with, and provide information to, Museums of History NSW in connection with the transfer of State records under section 32 of the Act. Organisations will already be aware that section 32 of the Act allows a public office that has control of a State record that is more than 25 years old to request Museums of History NSW to take control of the record.

Public access to State records

The Amending Act has shortened the period of time that must elapse before a State record is in the **open access period** from 30 years since it, or the original record of which it is a copy, came into existence, to 20 years (see section 50 of the Act).

In addition, section 51 of the Act has been amended to provide that a State record is, on the commencement of the open access period for the record, deemed to be the subject of a direction that the record is open to public access under the Act (an **OPA direction**), unless the public office responsible

for the record has already given a direction that the record is closed to public access under the Act (a **CPA direction**). This ensures that when State records enter the open access period, they become public by default.

As a result of an OPA direction now applying by default, section 54 of the Act has been omitted (this section provided for the making of an application for an OPA direction for a State record that was in the open access period but not the subject of an access direction) and consequential amendments have been made to section 55 of the Act.

Conclusion

Organisations who are responsible for State records should familiarise themselves with the new requirement to make arrangements with, and provide information to, Museums of History NSW, when transferring a State record into its control. In addition, organisations should ensure that their processes are updated to reflect the shortening of the time that must elapse before a State record enters the open public access period from 30 years to 20 years and the fact that when State records enter this period, they become public by default. These changes are discussed above and outlined in full in the **NSW - State Records** topic.

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Northern Territory Update

Work Health and Safety (National Uniform Legislation) Amendment (Engineered Stone) Regulations 2023 (NT)

On 22 December 2023, the *Work Health and Safety (National Uniform Legislation) Amendment (Engineered Stone) Regulations 2023 (NT)* (the **Amending Regulations**) commenced operation and amended the *Work Health and Safety (National Uniform Legislation) Regulations 2011 (NT)* (the **Regulations**).

Principally, the Amending Regulations introduced a provision relating to the processing of engineered stone in the Northern Territory.

Processing engineered stone containing crystalline silica

Under the new regulation 184A, a person conducting a business or undertaking must not process engineered stone, or direct or allow a worker to do so, unless the processing of the stone is controlled.

The processing of engineered stone is **controlled** if:

- at least one of the following systems is used during the stone's processing:
 - a water delivery system that consistently supplies water to the stone being processed to suppress dust creation;
 - an on-tool extraction system;
 - a local exhaust ventilation system; and
- each worker involved in the processing of engineered stone is equipped with respiratory protective equipment.

Engineered stone means an artificial product that:

- contains crystalline silica; and
- is created by combining natural stone materials with other chemical constituents such as water, resins or pigments; and
- undergoes a process to become hardened.

However, the following are not considered engineered stone:

- concrete and cement products;
- bricks, pavers and similar blocks;
- ceramic and porcelain wall and floor tiles;
- roof tiles;
- grout, mortar and render;
- plasterboard.

Processing, in relation to engineered stone, means using power tools or other mechanical plant to cut, grind, trim, sand, abrasive polish or drill the engineered stone.

Conclusion

Organisations must ensure that they have adequate controls in place to ensure that engineered stone is processed only if the processing of the stone is controlled as discussed above and outlined in full in the new **NT - OH&S - Engineered Stone (Crystalline Silica)** topic.

*For more information please contact our team on **1300 862 667** or visit our website www.lawcompliance.com.au*

Queensland Update

Information Privacy and Other Legislation Amendment Bill 2023 (Qld)

On 29 November 2023, the *Information Privacy and Other Legislation Amendment Bill 2023* (Qld) (the **Bill**) passed Queensland Parliament and was assented to on 4 December 2023. Parts 1, 1A, 6 and Schedule 1, Part 1 commenced on the date of assent whilst Parts 2-5 and Schedule 1, Part 2 will commence on a day to be proclaimed.

Overview

The Bill will primarily amend the *Information Privacy Act 2009* (Qld) (the **IP Act**).

The key objectives of the Bill are to make changes to Queensland's information privacy framework to better protect personal information and provide appropriate remedies for data breaches and misuse of personal information by agencies whilst improving the operation of the State's information privacy and right to information framework.

Mandatory notification of data breaches

The Bill introduces new requirements for agencies (including public authorities) in relation to eligible data breaches under Chapter 3A of the IP Act.

An **eligible data breach** of an agency is a data breach of the agency that occurs in relation to personal information held by the agency if:

- both of the following apply:
 - the data breach involves unauthorised access to, or unauthorised disclosure of, the personal information;
 - the access or disclosure is likely to result in serious harm to an individual (an **affected individual**) to whom the personal information relates, having regard to the matters stated in section 47(2) of the Bill; or
- the data breach involves the personal information being lost in circumstances where:
 - unauthorised access to, or unauthorised disclosure of, the personal information is likely to occur; and
 - if the unauthorised access to or unauthorised disclosure of the personal information were to

occur, it would be likely to result in serious harm to an individual (also an **affected individual**) to whom the personal information relates, having regard to the matters stated in section 47(2) of the Bill.

Under the new section 48 of the IP Act, if an agency knows, or reasonably suspects, that there is a data breach which is an eligible data breach of the agency, the agency will have a requirement to:

- immediately take all reasonable steps to contain the data breach; and
- if the agency does not know whether the data breach is an eligible data breach of the agency – assess whether there are reasonable grounds to believe the data breach is an eligible data breach of the agency:
 - within 30 days after the suspicion of an eligible data breach was formed; or
 - if the period mentioned in the above dot point is extended under section 49 of the IP Act – the extended period.

Additionally, after becoming aware or forming the reasonable suspicion of the eligible data breach, including during an assessment of the data breach the agency will have to:

- take, or continue to take all reasonable steps to contain the data breach, and take all reasonable steps to mitigate the harm caused by the data breach; and
- if the agency is aware the data breach may affect another agency – give a written notice to the other agency of the data breach that includes:
 - a description of the data breach; and

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- a description of the kind of personal information the subject of the data breach, without including any personal information in the description.

The Bill also introduces further requirements for agencies to give statements about eligible data breaches to the Information Commissioner whilst requiring agencies to notify individuals if their information has been accessed, disclosed or lost due to an eligible data breach. These obligations are outlined in full under Chapter 3A, Part 3 of the Bill.

New Queensland Privacy Principles

The Bill will also amend Schedules 3 and 4 of the IP Act by removing and replacing the current National Privacy Principles (NPPs), that apply to health agencies, and the Information Privacy Principles (IPPs), that apply to all other agencies, with a single set of privacy principles called the Queensland Privacy Principles (QPPs). The QPPs will apply to agencies, other than APP entities.

The new QPPs are based on the Australian Privacy Principles outlined in the *Privacy Act 1988* (Cth); however, they have been adapted in a manner more appropriate for Queensland agencies.

The new QPPs introduce a variety of new obligations for agencies (including public authorities) to ensure that personal information is protected in a more efficient manner. Relevantly, they will require agencies to:

- manage personal information in an open and transparent way;
- give individuals the option to remain anonymous, or use a pseudonym, when dealing with an agency in relation to a particular matter;
- only collect personal information if the information is reasonably necessary for, or directly

related to, 1 or more of the agency's functions or activities;

- destroy unsolicited personal information that could not have been collected or is contained in a public record;
- notify individuals when their personal information has been collected;
- use personal information of individuals for the primary purpose unless consent is given to use it for a secondary purpose;
- ensure that the personal information that is collected is accurate, up to date and complete;
- protect the information from misuse, interference, loss, unauthorised access, modification or disclosure;
- give individuals access to their personal information upon request; and
- take reasonable steps to correct information that is inaccurate, out of date, incomplete, irrelevant or misleading.

Other requirements for agencies

Under the new section 72 of the IP Act, an agency will be required to keep a register of eligible data breaches, that includes stated information such as a description of the eligible data breach, the individuals notified of the breach and the date and method used to notify them and details of the steps taken to contain the eligible data breach and mitigate the harm caused by the breach.

Additionally, the new section 73 of the IP Act will require an agency to prepare and publish a policy on its website about how it will respond to a data breach, including a suspected eligible data breach.

Please [click here](#) to access the full Bill.

*For more information please contact our team on **1300 862 667**
or visit our website www.lawcompliance.com.au*

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South Australia Update

The Work Health and Safety (Psychosocial Risks) Amendment Regulations 2023 (SA)

The *Work Health and Safety (Psychosocial Risks) Amendment Regulations 2023 (SA)* (the **Amending Regulations**) commenced on 25 December 2023 and amended the *Work Health and Safety Regulations 2012 (SA)* (the **Regulations**) by introducing requirements on persons conducting a business or undertaking (PCBU) in respect of psychosocial risks.

Psychosocial risks

The Amending Regulations introduced new Division 11 of Chapter 3 of Part 2 of the Regulations. In particular, this new Division includes provision 55C which requires a PCBU to manage psychosocial risks in accordance with existing Chapter 3 Part 1 of the Regulations.

Among other things, Chapter 3 Part 1 of the Regulations sets out an organisation's duty to identify hazards, manage risks to health and safety and how control measures must be implemented, maintained and reviewed.

Organisations required to implement control measures to manage psychosocial risks must have regard to all the relevant matters set out under new regulation 55D in determining which control measures to implement. The relevant matters are as follows:

- the duration, frequency and severity of the exposure of workers and other persons to the psychosocial hazards;
- how the psychosocial hazards may interact or combine;
- the design of work, including job demands and tasks;
- the systems of work, including how work is managed, organised and supported;
- the design and layout, and environmental conditions, of the workplace, including the provision of:
 - a safe means of entering and exiting the workplace; and
 - facilities for the welfare of workers;

- the design and layout, and environmental conditions, of workers' accommodation;
- the plant, substances and structures at the workplace;
- workplace interactions or behaviours; and
- the information, training, instruction and supervision provided to workers.

A **control measure**, in relation to a risk to health and safety, means a measure to eliminate or minimise the risk.

A **psychosocial risk** is a risk to the health or safety of a worker or other person arising from a psychosocial hazard.

A **psychosocial hazard** is a hazard that:

- arises from, or relates to:
 - the design or management of work; or
 - a work environment; or
 - plant at a workplace; or
 - workplace interactions or behaviours; and
- may cause psychological harm (whether or not it may also cause physical harm).

SafeWork SA has released [guidance](#) on the changes made by the Amending Regulation, including a psychological health safety checklist designed to help PCBUs meet their obligations.

Conclusion

Organisations need to review their existing duties in Chapter 3 Part 1 of the Regulations in light of the new requirements to manage psychosocial risks (detailed throughout). If organisations implement

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control measures to manage psychosocial risks, they must first review the relevant matters set out under new regulation 55D.

These changes can be viewed in full in the **SA - OH&S - General Duties** topic.



Law Compliance is on LinkedIn.
Follow us for current news and updates.

Comply Online® – Tip

Each quarter we recommend you download your organisation’s Quarterly Update Table from Comply Online. The Quarterly Update Table contains an overview of the quarter’s updates specific to the topics on your profile, with “traffic light” highlighting to indicate the importance of each update.

This helps your organisation prioritise critical updates, and also identify changes that have “no compliance impact”.

A video and PDF guide on Comply Online’s Resources page can show you how.

Topic	Category	Legislation	Comment	Importance
NATIONAL - Fair Work Act	Employment	Fair Work Act 2009 (Cth), Fair Work Commission Rules 2013 (Cth), Fair Work Regulations 2009 (Cth), Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)	On 15 December 2023, relevant parts of the Fair Work Legislation Amendment (Closing Loopholes) Act 2023 (Cth) (the Amending Act) amended the Fair Work Act 2009 (Cth) (the Act). The Amending Act introduced a number of important new changes to the Act relating to new discrimination protections, workplace delegates rights, small business redundancies, as well as labour hire arrangements. Please refer to the Fair Work Legislation Amendment (Closing Loopholes) Act 2023 (Cth) training brochure for further information.	Critical
NATIONAL - National Anti-Corruption Commission	Corporate	National Anti-Corruption Commission Act 2022 (Cth)	On 5 December 2023, the Inspector-General of Live Animal Exports Amendment (Animal Welfare) Act 2023 (Cth) made minor technical amendments to section 11 of the National Anti-Corruption Commission Act 2022 (Cth) to replace references to the Inspector-General of Live Animal Exports with the Inspector-General of Animal Welfare and Live Animal Exports. These amendments were made as a result of the new renaming of the office of the Inspector-General of Live Animal Exports to the Inspector-General of Animal Welfare and Live Animal Exports. These particular changes do not result in any compliance impact for subscribers.	No compliance impact
NSW - Duties Act	Finance	Duties Act 1997 (NSW)	On 1 January 2024, relevant sections of the Treasury and Revenue Legislation Amendment Act 2023 No 26 (NSW) commenced amending the Duties Act 1997 (NSW) to specify that increased fees payable on certain dutiable transfers under section 18 of that Act will only apply to transactions made on or after 1 February 2024. A further amendment, commencing on that same date, amends the definition of a person who has a significant interest in a landholder under section 15(1) of the Act, however this change will not impact on current subscribers.	Minor
VIC - Notification of Diseases	Diseases	Public Health and Wellbeing Act 2008 (Vic), Public Health and Wellbeing Regulations 2019 (Vic)	On 13 February 2024 the Public Health and Wellbeing Amendment (GHG Diseases) Regulations 2024 (Vic) amended the Public Health and Wellbeing Act 2008 (Vic) to include the GHG Diseases Regulations 2024 (Vic).	Important

Number of Acts and Regulations passed in 2023

The regulatory burden on organisations is always increasing. On top of all the existing legislative obligations that each organisation must comply with, there are constant changes and new laws that need to be kept up with. Law Compliance does the work for you.

The number of Bills introduced, Acts, Regulations and other Subordinate Legislation passed in 2023 are set out in the table below:

Jurisdiction	Bills introduced in 2023	Acts passed in 2023	Regulations and other Subordinate Legislation passed in 2023
Commonwealth	170	122	304
ACT	48	57	42
New South Wales	100	56	154
Northern Territory	38	37	26
Queensland	45	34	196
South Australia	82	44	120
Tasmania	44	39	98
Victoria	62	38	135
Western Australia	50	34	209

That’s **639** Bills, **461** Acts and **1,284** Regulations and Rules that the Law Compliance team reviewed!

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Tasmania Update

Child and Youth Safe Organisations Regulations 2023 (Tas)

The *Child and Youth Safe Organisations Regulations 2023 (Tas)* (the **Regulations**) commenced in full on 29 November 2023 and prescribe, for the purposes of the *Child and Youth Safe Organisations Act 2023 (Tas)* (the **Act**), an extended definition of what constitutes a recognised Aboriginal organisation and a recognised Torres Strait Islander organisation; and set out additional offences that constitute reportable conduct, additional persons by whom and to whom information may be disclosed, and infringement penalties under the Act.

This article only covers the additional offences that constitute reportable conduct and the additional persons by whom and to whom information may be disclosed under the Act.

Prescribed Reportable Conduct under the Reportable Conduct Scheme

Part 4 of the Act sets out the Reportable Conduct Scheme (the **scheme**). A relevant entity or member of a class of relevant entities that is specified in Schedule 3 of the Act must comply with the scheme. Section 7(2) of the Act outlines what constitutes reportable conduct for the purposes of the Act which includes for example sexual misconduct, that does not form part of a sexual offence, against, with or in the presence of a child or physical violence against a child.

Regulation 5 now prescribes, for the purposes of section 7(2)(g) of the Act, the following additional offences, if committed against, with or in the presence of a child, whether or not criminal proceedings in relation to the offence have been commenced or concluded, as reportable conduct to which the scheme applies:

- an offence under Division 270 (Slavery and slavery-like offences) of the *Criminal Code Act 1995 (Cth)*;
- an offence under section 124A (Penetrative sexual abuse of child or young person by person in position of authority) or 125E (Failure by a person in authority to protect a child from a sexual offence) of the *Criminal Code Act 1924 (Tas)* (the **Tasmanian Criminal Code**);
- an offence under section 298 (Inciting to commit crimes), 299 (Attempts to commit crimes) or 300 (Accessories after the fact) of the Tasmanian

Criminal Code in respect of an offence specified in the above dot point.

The scheme applies on and after 1 January 2024 to a relevant entity or member of a class of relevant entities which include:

- entities that provide certain accommodation or residential services such as housing services or other assistance to homeless persons;
- a religious community service or a religious entity that provides activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children;
- entities that provide child care, child-minding services, child protection services or out-of-home care;
- a disability services provider within the meaning of the *Disability Services Act 2011 (Tas)*; and
- entities that provide educational services or health services.

The scheme applies on and after 1 July 2024 to a club, association or cadet organisation that has a significant membership of, or involvement by, children, and an entity that provides a coaching or tuition service to children.

Prescribed persons and bodies may disclose certain information or documents

Section 40 of the Act provides that the information or documents referred to in section 40(2) may be

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disclosed to the people or bodies referred to in section 40(3) (including the Independent Regulator appointed under the Act, entity regulators, the head of an entity, commissioned police officers) provided that the disclosure relates to one or more of the following as set out in section 40(4):

- the purposes of the Act;
- the promotion of the safety and wellbeing of children;
- a prescribed purpose.

The information or documents that may be disclosed under section 40(2) of the Act include those in relation to:

- a failure to comply, or a concern that there has been a failure to comply, with the standards or the universal principle under the Act;
- a reportable allegation or reportable conviction; and
- a concern or belief that reportable conduct has been committed.

Regulation 6 now prescribes the following persons and purposes for the purposes of section 40(3)(k) of the Act:

- the Health Complaints Commissioner appointed under section 5 of the *Health Complaints Act 1995* (Tas), for the purpose of the performance of

a function conferred on the Health Complaints Commissioner under that Act or the Act;

- the Ombudsman appointed under section 5 of the *Ombudsman Act 1978* (Tas), for the purpose of the performance of a function conferred on the Ombudsman under that Act or the Act;
- the Custodial Inspector appointed under section 5 of the *Custodial Inspector Act 2016* (Tas), for the purpose of the performance of a function conferred on the Custodial Inspector under that Act or the Act.

Conclusion

Organisations should review and update their policies, processes and systems to include the Regulations, particularly the additional offences that constitute reportable conduct under the Act. All relevant staff should be made aware of the Regulations and organisations may wish to provide relevant staff with additional training to ensure compliance with the scheme by 1 January 2024 or 1 July 2024 as set out above. The changes outlined here are set out in more detail in the **TAS - Minors and Children** topic.

*For more information please contact our team on **1300 862 667** or visit our website www.lawcompliance.com.au*

Policy Service

In our experience, understanding where a legislative obligation fits within a policy framework can be difficult, and organisations often don't have sufficient resources to keep their policies legally up to date.

Our Policy service aims to assist organisations to overcome these issues by providing subscribers with quarterly updates that include:

- guidance about the types of policies that may be affected by a legislative change;
- suggested wording for relevant policies to allow subscribers to modify their own policies, and
- completely new policies if Acts in new areas of law are introduced (or existing Acts are substantially re-written).

Recent Policies written for our subscribers include Fair Work policies, Disability Services and Inclusion policies, Environment Protection policies, Aged Care policies and Information Sharing policies.

*For more information please contact our team on **1300 862 667** or visit our website www.lawcompliance.com.au*

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Victoria Update

Health Legislation Amendment (Information Sharing) Act 2023 (Vic)

On 7 February 2024, the *Health Legislation Amendment (Information Sharing) Act 2023 (Vic)* (the **Amending Act**) amended the *Health Services Act 1988 (Vic)* (the **Act**).

Although the Amending Act has commenced, it is proposed that the System will be progressively implemented across Victorian public health services from 2024. At the time of writing, the System has not been rolled out in public health services and it is unclear when, and which, participating health services will need to comply with these requirements.

Electronic Patient Health Information Sharing System

The Amending Act inserts a new Part 6C into the Act which establishes a centralised Electronic Patient Health Information Sharing System (the **System**), which allows hospitals and other relevant health services to share information for the purpose of providing medical treatment to patients. The System is established and maintained by the Secretary of the Department of Health (the **Secretary**).

The System is accessible by **participating health services**, including:

- ambulance services;
- metropolitan hospitals;
- multi purpose services;
- public health services;
- public hospitals;
- registered community health centres;
- the Victorian Institute of Forensic Mental Health;
- State funded residential aged care services;
- the Victorian Collaborative Centre for Mental Health and Wellbeing; and
- other prescribed entities that provide health services (under section 134ZE of the Amending Act).

Under the new Part 6C of the Act, participating health services are required to collect and disclose specified patient health information (and historical health information that may be up to 3 years old) to the Secretary for the purpose of establishing and maintaining the System.

Specified patient health information means health information specified in a notice published in the Government Gazette under section 134ZH of the Act that is about a person who is or has been a patient in, or has received health services from, a participating health service, but does not include a unique identification number assigned by the participating health service to that person. This may include medicines prescribed to the patient, allergies, alerts, laboratory and imaging results, etc.

No requirement to obtain patient consent

Importantly, the new Part 6C of the Act enables participating health services and the Secretary to collect, use or disclose specified patient health information for the purposes of the System, without the need to first obtain consent from the patients to whom the information relates. This is to confirm that, for patients of participating health services, the System and related arrangements are not optional – there is no way to ‘opt out’ from the System.

Access to the System

The new Part 6C of the Act restricts access to the System to persons employed or engaged by participating health services who are specifically authorised by that health service to access the System. Persons authorised to access the System. Persons authorised to access the system may only use and disclose specified patient health information for the purpose of providing medical treatment to a person.

These persons can also access the System to:

- give the information to the Secretary as required; and

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- for the purposes of information security and data management.

Part 6C of the Act establishes an offence prohibiting any person from knowingly accessing the System unless they are authorised, carrying a maximum penalty of 240 penalty units (currently **\$46,154.40**) or 2 years' imprisonment.

Privacy Management Framework

Finally, the new Part 6C of the Act introduces a Privacy Management Framework for the System to provide additional layers of protection for certain categories of sensitive information. Participating health services will need to ensure that they adhere to the Framework as reasonably practicable. Relevantly, the Framework will:

- specify categories of health information that are sensitive in nature and include a process to safeguard that information;
- include a process to safeguard the identity of patients who may be at risk of harm, including

patients who identify as being at risk of family violence;

- include a process to facilitate patients accessing reports that specify who has accessed their health information through the System; and
- include a process for regular audits and compliance checks of the System.

Details of the Privacy Management Framework will be published by the Minister for Health by order in the Government Gazette as soon as practicable after the commencement of the Amending Act.

Conclusion

Organisations that are participating health services should ensure that their systems and processes are appropriately updated to reflect the new requirements that have been introduced alongside the establishment of the System. The new requirements are as outlined above and set out in full in the **VIC - Electronic Patient Health Information Sharing System** topic.

Comply Online® – Tip

We make reviewing the quarterly changes simple, by highlighting any new legislation in blue, and striking through any repealed legislation in red. Any text that has been highlighted in green is to show content that has been added to improve readability, but isn't a new legislative change. See our legend (right).

LEGEND
New topic
New legislative change
Enhanced content
No longer relevant

Cybersecurity and IT Management

Law Compliance is aware that everyone is constantly aiming to have the highest possible cybersecurity in place from spam and hackers, as we are too. Sometimes, unfortunately firewalls and spam filters are also preventing us from sending emails to our subscribers.

To ensure you receive all future communications promptly and avoid difficulties with our Law Compliance updates / alerts emails reaching you and/or your team (because of these varied spam filtering services falsely classifying emails as spam or going into junk folders), we ask that you please let your IT team know to whitelist the following Law Compliance addresses:

- info@mailgun.lawcompliance.com.au;
- lawcompliance.com.au;
- our account system accountright@apps.myob.com

Should you or your IT team have further questions regarding this, please feel free to contact us / your CRM.

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Western Australia Update

Teacher Registration Amendment Act 2023 No. 3 (WA) and Teacher Registration Regulations Amendment Regulations 2023 (WA)

On 19 December 2023, the remaining sections of the *Teacher Registration Amendment Act 2023 No. 3 (WA)* (the **Amending Act**) commenced and amended the *Teacher Registration Act 2012 (WA)* (the **Act**).

To coincide with the commencement of these sections in the Act, on 19 December 2023, the *Teacher Registration Regulations Amendment Regulations 2023 (WA)* (the **Amending Regulations**) commenced and amended the *Teacher Registration (General) Regulations 2012 (WA)* (the **Regulations**).

The key changes contained within the Amending Act and Amending Regulations are discussed in detail below.

New requirement on employers to give notice to the Board of serious incompetence or serious misconduct

Subscribers will already be aware that under section 42 of the Act, employers have a duty to notify the Teacher Registration Board of WA (the **Board**) of certain situations in relation to an employee registered teacher and in the interests of child safety.

The Amending Act has amended this section by now requiring an employer to give notice to the Board if:

- it is suspected on reasonable grounds that the teacher has engaged in serious misconduct or taught with serious incompetence; and
- as a result, the teacher is dismissed, suspended, resigns or ceases teaching at the educational institution.

This amendment means that employers must no longer wait for the result of an investigation to provide the notice.

The Amending Act has also reduced the time period for an employer to provide such notice from 30 days to 7 days. This reduction in time aims to reduce the scope for the teacher to engage, unchecked, with another employer and thereby, better protect the safety and wellbeing of children.

The prescribed particulars of a section 42 Notice are set out in regulation 26 of the Regulations, which has been amended by the Amending Regulations and now includes the requirement to provide a clear explanation of the reason for forming a suspicion as well as the reasons for dismissal or suspension.

New section 48A of the Act provides that a teacher will be considered to have taught with **serious incompetence** if they have taught at a standard substantially below that which is reasonably expected of a registered teacher.

New section 48B of the Act provides that a teacher will be considered to have engaged in **serious misconduct** if they have engaged in improper conduct of a serious kind that departs from the standard of behaviour reasonably expected of a registered teacher.

Changes to definitions

The Amending Act has updated some definitions and added new definitions, to reduce confusion and improve clarity.

Of note, the term **educational venue** has been replaced with **educational institution**, with the definition of an **educational institution** being included to mean:

- a child care service (within the meaning of section 4 of the *Child Care Services Act 2007 (WA)*);

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- a centre-based service (meaning an education and care service as defined in section 5(1) of the *Education and Care Services National Law (WA)* but not including a family day care service as defined in that same section); and
- any other prescribed institution for the purposes of this definition.

These definition changes ensure that the place of teaching is not tied to a geographical location, thereby recognising that teaching can occur off-site or online.

Teach has also been amended to mean delivery and assessment of educational programs, including

leading delivery and assessment (including managing others undertaking the delivery and assessment). This definition more clearly covers the work of principals, deputy principals and heads of learning areas.

Conclusion

Organisations that employ teachers should ensure that their systems and processes are appropriately updated to reflect the changes outlined above and as set out in full in the **WA – Education and Care Services** topic.

Comply Online® – Tip

Primary users have the ability to create new users and edit the details of existing users, via the **My Team** tab, located under the **My Account** drop down menu.

This provides added flexibility when new members join your team or when staff go on leave. To completely remove users, you will need to contact us to archive those login details for you.

A report showing all Current User details is available on this page as well as on the **Reports** and **My Account** pages.

The screenshot shows the 'My Team' page in the Comply Online system. The page title is 'My Account / My Team'. On the left is a navigation menu with 'My Team' selected. On the right, there are two buttons: 'Current Users Report' and '+ Add new user'. Below these is a table of users.

First Name	Last Name	Username	Job Title	Business Unit	Email	Tier	Status / Edit
Alex	Client	AlexC	National Compliance Manager	Risk & Compliance		Tier 1 (Primary Users)	Edit
Hong	Lu	HongL	Chief Operations Officer	Executive		Tier 2 (Executives)	Edit
Jo	Rosenberg	JoeR	Chief Financial	Finance		Tier 2 (Executives)	Edit

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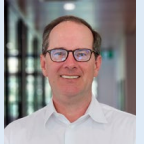
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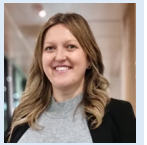
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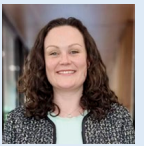
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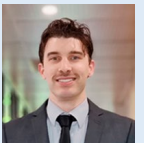
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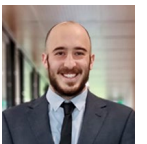
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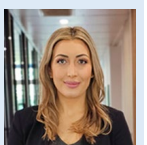
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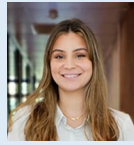
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