

South Australia

Ageing and Adult Safeguarding (Review Recommendations) Amendment Act 2025

An Act to amend the *Ageing and Adult Safeguarding Act 1995*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement

Part 2—Amendment of *Ageing and Adult Safeguarding Act 1995*

- 3 Substitution of long title
- 4 Amendment of section 2—Interpretation
- 5 Substitution of sections 3 and 4
 - 3 Meaning of *relevant adult*
 - 4 Meaning of *abuse*
 - 4A Meaning of *safeguarding*
 - 4B Meaning of *serious abuse, serious financial abuse* and *serious criminal offence*
- 6 Insertion of section 6A
 - 6A International human rights instruments to inform administration and operation of Act
- 7 Substitution of sections 8 and 9
 - 8 Objectives of Office for Ageing Well
 - 9 Functions of Office for Ageing Well
- 8 Amendment of section 10—Delegation
- 9 Substitution of heading to Part 3 Division 1
Division 1—Primary purpose and principles
- 10 Insertion of section 11A
 - 11A Primary purpose of Adult Safeguarding Unit
- 11 Amendment of section 12—Principles
- 12 Amendment of section 13—Separate Adult Safeguarding Unit to be established
- 13 Amendment of section 14—Composition of Adult Safeguarding Unit
- 14 Substitution of section 15
 - 15 Functions of Adult Safeguarding Unit
- 15 Amendment of section 16—Delegation
- 16 Repeal of Part 3 Division 3
- 17 Amendment of heading to Part 4
- 18 Substitution of heading to Part 4 Division 1
Division 1—Adult Safeguarding Charter of Rights and Freedoms
- 19 Amendment of section 20—Charter of the Rights and Freedoms of Vulnerable Adults
- 20 Amendment of heading to Part 4 Division 3
- 21 Amendment of section 22—Reporting suspected risk of abuse of vulnerable adults
- 22 Substitution of Part 4 Divisions 4 and 5

	Division 4—Assessment and investigation of reports
23	Assessment
24	Referral to regulatory agency etc
25	Investigation
26	Record keeping etc
	Division 5—Safeguarding
27	Safeguarding responses
28	Consent of relevant adult should be obtained before safeguarding response taken
	Division 5A—Authorised officers
29	Authorised officers
30	Powers of authorised officers
30A	Authorised officer may require information
23	Amendment of heading to Part 4 Division 6
24	Substitution of section 31
31	Director or eligible person may apply for SACAT orders
25	Amendment of section 32—Parties to proceedings
26	Amendment of section 33—Orders that may be made
27	Repeal of section 34
28	Amendment of section 35—Views of vulnerable adult to be heard
29	Amendment of section 36—Right of other interested persons to be heard
30	Amendment of section 37—Contravention of Court order
31	Amendment of section 38—Internal review
32	Amendment of section 39—Delegation
33	Amendment of section 40—External review by Ombudsman
34	Amendment of section 41—Views of vulnerable adult to be heard
35	Amendment of heading to Part 6
36	Repeal of section 42
37	Amendment of section 43—Sharing of information between certain persons and bodies
38	Amendment of section 45—Interaction with <i>Public Sector (Data Sharing) Act 2016</i>
39	Amendment of section 46—Obstruction of person reporting suspected abuse of vulnerable adults
40	Amendment of section 49—Confidentiality
41	Insertion of section 49A
49A	Protection of identity of persons who report to Adult Safeguarding Unit
42	Amendment of section 51—Protections, privileges and immunities
43	Substitution of section 53
53	Review of Act

Schedule 1—Transitional provisions

1	Interpretation
2	Charter
3	References to vulnerable adults
4	Delegations
5	Assessment
6	Investigation
7	Approval for acting without consent
8	Referrals
9	Authorised officers
10	Written notices
11	Internal reviews
12	External reviews

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Ageing and Adult Safeguarding (Review Recommendations) Amendment Act 2025*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

Part 2—Amendment of *Ageing and Adult Safeguarding Act 1995*

3—Substitution of long title

Long title—delete the long title and substitute:

An Act to establish the Office for Ageing Well and the Adult Safeguarding Unit, to promote the rights of older people, to raise awareness of, and respond to, abuse of older people and other adults who may be vulnerable to abuse, and for other purposes.

4—Amendment of section 2—Interpretation

- (1) Section 2(1), definition of *abuse*—delete "vulnerable" and substitute:
relevant
- (2) Section 2(1)—after the definition of *abuse* insert:
Adult Safeguarding Charter of Rights and Freedoms or *Charter* means the Adult Safeguarding Charter of Rights and Freedoms prepared by the Minister under Part 4 Division 1, as in force from time to time;
- (3) Section 2(1), definition of *authorised officer*—delete "section 18" and substitute:
section 29
- (4) Section 2(1), definition of *Charter of the Rights and Freedoms of Vulnerable Adults*—delete the definition
- (5) Section 2(1)—after the definition of *code of practice* insert:
consent means a free and voluntary decision;
- (6) Section 2(1), definition of *Court*—delete the definition
- (7) Section 2(1)—after the definition of *member of the Adult Safeguarding Unit* insert:
relevant adult—see section 3;
relevant matter means—
 - (a) a report under this Act, as defined in subsection (3); or
 - (b) a matter assessed on the Director's own initiative in accordance with section 23(2);*safeguarding*—see section 4A;

- (8) Section 2(1), definition of *vulnerable adult*—delete the definition

5—Substitution of sections 3 and 4

Sections 3 and 4—delete the sections and substitute:

3—Meaning of *relevant adult*

- (1) For the purposes of this Act, a reference to a *relevant adult* will be taken to be a reference to a person who is 18 years or older who may be vulnerable to abuse.
- (2) For the purposes of subsection (1), whether an adult may be vulnerable to abuse is to be determined by reference to the circumstances of the adult as they exist at the material time.

4—Meaning of *abuse*

- (1) For the purposes of this Act, *abuse* of a relevant adult means an act or series of acts, including a failure to take appropriate action, occurring within a relationship of trust, dependency or imbalance of power, that causes harm to a relevant adult.
- (2) Without limiting subsection (1), abuse may include 1 or more of the following:
 - (a) financial abuse;
 - (b) physical abuse;
 - (c) psychological or emotional abuse;
 - (d) sexual abuse;
 - (e) neglect;
 - (f) social abuse.

4A—Meaning of *safeguarding*

For the purposes of this Act, *safeguarding*, in respect of a relevant adult, means supporting the relevant adult to promote and protect their health, wellbeing and rights or, where required, protecting, or supporting others to protect, the relevant adult's health, wellbeing and rights, with the goal of enabling the relevant adult to live free from abuse.

4B—Meaning of *serious abuse*, *serious financial abuse* and *serious criminal offence*

- (1) For the purposes of this Act, *serious abuse* of a relevant adult means abuse of a kind referred to in section 4 which has had, or is likely to have, a significant impact on the relevant adult.
- (2) For the purposes of this Act, *serious financial abuse* of a relevant adult means the improper use of a relevant adult's assets or the use or withholding of a relevant adult's resources to the extent that the abuse has caused, or is likely to cause, hardship to, or otherwise have a significant impact on, the relevant adult.

- (3) For the purposes of this Act, *serious criminal offence* means a criminal offence which has been, or is likely to be, committed against a relevant adult which has had, or is likely to have, a significant adverse impact on the relevant adult or their ordinary quality or standard of living.
- (4) Whether abuse, financial abuse or a criminal offence is serious is to be determined on a case-by-case basis with reference to the impact of the abuse or offence on the relevant adult to whom the relevant matter relates.

6—Insertion of section 6A

After section 6 insert:

6A—International human rights instruments to inform administration and operation of Act

The Parliament of South Australia recognises the *United Nations Convention on the Rights of Persons with Disabilities*, the *United Nations Principles for Older Persons*, the *United Nations Declaration on the Rights of Indigenous Peoples* and any other relevant international human rights instruments affecting relevant adults, as in force from time to time, as documents that are to inform, to such extent as may be reasonably practicable, the administration and operation of this Act.

7—Substitution of sections 8 and 9

Sections 8 and 9—delete the sections and substitute:

8—Objectives of Office for Ageing Well

The objectives of the Office for Ageing Well include—

- (a) supporting South Australians of all ages to age well, unencumbered by stigma and discrimination; and
- (b) combating ageism and ageist attitudes across the South Australian community; and
- (c) promoting a life course approach to ageing focused on the unique needs and aspirations of older people, in recognition of the biological, social and environmental determinants of how people age; and
- (d) promoting the contributions, skills and experience that older people bring to the community; and
- (e) promoting social structures in which older people are able to realise their full potential as individuals and as members of the community; and
- (f) promoting a social ethos in which older people are accorded the dignity, appreciation and respect that properly belong to them; and

- (g) ensuring that the diverse nature of the community is reflected in the planning and implementation of programs and services relevant to older people; and
- (h) achieving a proper understanding within the community of the challenges experienced by older people and addressing those challenges so far as it is practicable to do so by promoting the modification of social structures and attitudes.

9—Functions of Office for Ageing Well

The functions of the Office for Ageing Well are—

- (a) to advocate for and promote age friendly and inclusive environments and communities, including through partnering, collaborating and consulting with Commonwealth, State and local government, non-government and community organisations, business, the community and older South Australians; and
- (b) to undertake awareness raising activities and disseminate information relating to the safeguarding of older people's rights and raise awareness of issues affecting, and opportunities for, older people; and
- (c) to compile data and monitor trends and policy and service impacts relating to older people and, as the Director considers appropriate, make appropriate representations to the Minister and other relevant persons and bodies; and
- (d) to assist in the development and coordination of State government strategies and policies affecting older people and contribute to and influence strategies, policies, planning, service development, programs and initiatives affecting older people and, for those purposes, to engage and consult with older people, providers of services to older people and organisations for the benefit of, or representing the interests of, older people and other stakeholders; and
- (e) to take steps to ensure as far as practicable that the interests of older people are considered when programs or services that may affect them are being developed or implemented; and
- (f) where practicable, to actively foster and seek the involvement of older people, providers of services to older people and organisations for the benefit of, or representing the interests of, older people in the development and implementation of programs or services that are intended for the benefit of older people or that will have a specific effect on them; and
- (g) to undertake or commission research into matters affecting people as they age; and

- (h) to keep social attitudes towards older people under review and to promote a better understanding of older people within the community; and
- (i) to promote action to overcome age-related discrimination in employment; and
- (j) to keep under review the unique and diverse needs of individual groups of older people, including older people who are Aboriginal or Torres Strait Islander, culturally and linguistically diverse, gender or sexually diverse, living with disability, living with mental illness, experiencing economic disadvantage or living in regional, rural and remote communities; and
- (k) to consult with older people in relation to the means of promoting their interests and, as the Director considers appropriate, to represent the views of older people to the Minister; and
- (l) to report to the Minister on any matter relating to older people referred by the Minister; and
- (m) to provide information and run community education and awareness-raising initiatives on matters relating to older people, for purposes including supporting the Adult Safeguarding Unit in exercising their powers and performing their functions under this Act; and
- (n) to carry out such other functions as may be assigned to the Office by the Minister or under this or any other Act.

8—Amendment of section 10—Delegation

Section 10(1)—delete subsection (1) and substitute:

- (1) The Director may delegate a function or power under this Act (other than a prescribed function or power) to any person or body (including a person who is for the time being holding or acting in a specified office or position).

9—Substitution of heading to Part 3 Division 1

Heading to Part 3 Division 1—delete the heading to Division 1 and substitute:

Division 1—Primary purpose and principles

10—Insertion of section 11A

Before section 12 insert:

11A—Primary purpose of Adult Safeguarding Unit

The primary purpose of the Adult Safeguarding Unit is to safeguard relevant adults.

11—Amendment of section 12—Principles

- (1) Section 12—delete "vulnerable" wherever occurring and substitute in each case:
relevant
- (2) Section 12(c)—delete "and imminent harm" and substitute:
abuse
- (3) Section 12(h)—delete "relevant persons and bodies" and substitute:
appropriate persons and bodies
- (4) Section 12(k)—delete ", and therefore awareness raising and community education programs must be a priority in the administration and operation of this Part"
- (5) Section 12—after paragraph (k) insert:
 - (l) the whole community plays a crucial role in supporting relevant adults to uphold their rights and live free from abuse, and families, friends, service providers, community connection and increased social participation can be vital protective factors supporting the prevention of, identification of and response to abuse.

12—Amendment of section 13—Separate Adult Safeguarding Unit to be established

Section 13(3)—delete subsection (3)

13—Amendment of section 14—Composition of Adult Safeguarding Unit

Section 14(b)—delete "other Public Service employees" and substitute:

such other Public Service employees as may be

14—Substitution of section 15

Section 15—delete the section and substitute:

15—Functions of Adult Safeguarding Unit

- (1) The functions of the Adult Safeguarding Unit are—
 - (a) to receive reports relating to the suspected abuse of relevant adults; and
 - (b) to assess relevant matters relating to the suspected abuse of relevant adults; and
 - (c) to undertake safeguarding responses in respect of relevant adults, including by coordinating with State authorities and other persons or bodies; and
 - (d) to provide education, information and advice to people who make reports to the Adult Safeguarding Unit, relevant adults and other persons or bodies; and
 - (e) to refer relevant matters relating to the suspected abuse of relevant adults to appropriate persons and bodies; and

- (f) to assist in the development of coordinated strategies for early intervention and prevention of ongoing abuse of relevant adults; and
 - (g) to monitor the implementation of safeguarding responses where it is appropriate to do so; and
 - (h) to promote participation by relevant adults in the making of decisions that affect their lives when undertaking safeguarding responses; and
 - (i) to promote the role and functions of the Adult Safeguarding Unit; and
 - (j) to collate data on matters relating to the abuse of relevant adults; and
 - (k) to advise Ministers, State authorities and other bodies (including non-government bodies) on matters relating to the abuse of relevant adults at a systemic level; and
 - (l) to prepare and publish reports on matters relating to the abuse of relevant adults at a systemic level and on issues relating to relevant adults that are of public importance; and
 - (m) to perform such other functions as may be assigned to the Adult Safeguarding Unit by the Minister or under this or any other Act.
- (2) The Adult Safeguarding Unit must, in carrying out its functions, have regard to, and seek to give effect to, the Adult Safeguarding Charter of Rights and Freedoms.
- (3) Where this or any other Act confers a power on the Adult Safeguarding Unit or requires that the Adult Safeguarding Unit perform any function (including requiring that the Adult Safeguarding Unit make a determination, or form an opinion, as to any matter)—
- (a) the power or function may only be exercised or performed by a person who is authorised to do so on behalf of the Adult Safeguarding Unit by the Director; and
 - (b) the exercise of that power or the performance of that function by a person so authorised will be taken to be the exercise of that power or the performance of that function by the Adult Safeguarding Unit.

15—Amendment of section 16—Delegation

Section 16(1)—delete subsection (1) and substitute:

- (1) The Director may delegate a function or power of the Adult Safeguarding Unit under this Act (other than a prescribed function or power) to any person or body (including a person who is for the time being holding or acting in a specified office or position).

16—Repeal of Part 3 Division 3

Part 3 Division 3—delete Division 3

17—Amendment of heading to Part 4

Heading to Part 4—delete "vulnerable" and substitute:
relevant

18—Substitution of heading to Part 4 Division 1

Heading to Part 4 Division 1—delete the heading to Division 1 and substitute:

Division 1—Adult Safeguarding Charter of Rights and Freedoms

19—Amendment of section 20—Charter of the Rights and Freedoms of Vulnerable Adults

- (1) Section 20, heading—delete "Charter of the Rights and Freedoms of Vulnerable Adults" and substitute:
Adult Safeguarding Charter of Rights and Freedoms
- (2) Section 20(1)—delete "a *Charter of the Rights and Freedoms of Vulnerable Adults*" and substitute:
an Adult Safeguarding Charter of Rights and Freedoms
- (3) Section 20(2) and (3)—delete "Office for Ageing Well" wherever occurring and substitute in each case:
Adult Safeguarding Unit
- (4) Section 20(3)(b)—delete "vulnerable" and substitute:
relevant

20—Amendment of heading to Part 4 Division 3

Heading to Part 4 Division 3—delete "vulnerable" and substitute:
relevant

21—Amendment of section 22—Reporting suspected risk of abuse of vulnerable adults

- (1) Section 22—delete "vulnerable" wherever occurring (including in the heading) and substitute in each case:
relevant
- (2) Section 22(3)(a)—delete "and" and substitute:
or
- (3) Section 22(3)(b)—delete paragraph (b) and substitute:
 - (b) the report relates only to alleged abuse in respect of a relevant adult who has died.

22—Substitution of Part 4 Divisions 4 and 5

Part 4 Divisions 4 and 5—delete Divisions 4 and 5 and substitute:

Division 4—Assessment and investigation of reports

23—Assessment

- (1) The Director must cause each report under this Act to be assessed in accordance with any requirements set out in the regulations.
- (2) The Director may, on their own initiative, cause an assessment of the circumstances of a relevant adult to be undertaken in accordance with any requirements set out in the regulations if the Director considers it appropriate in the circumstances.
- (3) The Director may, in the course of an assessment under this section, make use of or rely on such systems of information gathering, collating or reporting as the Director thinks fit (whether or not the system is operated or provided by a State authority).
- (4) The purpose of an assessment carried out under this section is to determine whether a relevant adult is at risk of abuse, and whether 1 or more safeguarding responses under section 27, or any other action, should be undertaken in respect of the relevant adult to whom the assessment relates.
- (5) Without limiting any other action that may be taken by the Director or the Adult Safeguarding Unit, the Director must, on completion of an assessment under this section, cause at least 1 of the following actions to be, or be satisfied that at least 1 of the following actions has been, taken:
 - (a) subject to section 28, a safeguarding response in accordance with section 27;
 - (b) referral of the matter, or part of the matter, to any law enforcement agency, regulatory agency, complaints body or other body in accordance with section 24;
 - (c) an investigation into the matter, in accordance with section 25;
 - (d) provide information, education or advice to the person who made the report to the Adult Safeguarding Unit, the relevant adult or any other person;
 - (e) if the Director is satisfied that—
 - (i) the matter has previously been dealt with under this or any other Act and there is no reason to reexamine the matter; or
 - (ii) the matter is trivial, vexatious or frivolous; or
 - (iii) the relevant adult does not consent to a safeguarding response being taken and no exception to obtaining consent under section 28(2) applies; or

- (iv) there is good reason why no action should be taken in respect of the matter (for example, because the relevant adult has since died, or for any other reason),

the Director may decline to take further action.

- (6) The regulations may make further provision in relation to an assessment under this section (including provisions relating to a system referred to in subsection (3) and the disclosure and confidentiality of information gathered, collated or provided under the system).
- (7) Following an assessment of a report under this Act, the Director should notify the person or body who made the report to the Adult Safeguarding Unit about the outcome of the assessment if the Director considers it is safe, practicable, appropriate and consistent with the primary purpose of the Adult Safeguarding Unit and the principles in section 12 to do so.

24—Referral to regulatory agency etc

- (1) If, at any time after an assessment under section 23 has commenced, the Director determines that the matter, or part of the matter, would be more appropriately investigated or otherwise dealt with by a law enforcement agency, regulatory agency, complaints body or other body with a responsibility for investigating or managing complaints, whether a State authority or otherwise, the Director may refer the matter, or part of the matter (as the case requires), to that agency or body.
- (2) The referral of a matter, or part of a matter, under this section—
 - (a) does not require the consent of the relevant adult; and
 - (b) does not prevent the Director or Adult Safeguarding Unit from taking any action or performing any function under this Act with respect to the matter.

25—Investigation

- (1) If, at any time after an assessment under section 23 has commenced, it appears to the Director that it may be appropriate to undertake a safeguarding response of a kind referred to in section 27(2)(c) or (d), and the Director is satisfied that further information or evidence is required for the purposes of such a response, the Director may cause an investigation to be carried out in accordance with any requirements set out in the regulations in relation to the matter for the purposes of gathering such information or evidence.
- (2) Without limiting any other action that may be taken by the Director or the Adult Safeguarding Unit, the Director must, subject to section 28, on the completion of an investigation under this section, cause at least 1 of the actions listed in section 23(5) (other than an action referred to in section 23(5)(c)) to be, or be satisfied that at least 1 of those actions has been, taken.

- (3) The Director may, in the course of an investigation under this section, make use of or rely on such systems of information gathering, collating or reporting as the Director thinks fit (whether or not the system is operated or provided by a State authority).
- (4) The regulations may make further provision in relation to an investigation under this section (including provisions relating to a system referred to in subsection (3) and the disclosure and confidentiality of information gathered, collated or provided under the system).

26—Record keeping etc

The Director must, in accordance with any requirements set out in the regulations—

- (a) cause a record of each action taken under this Division, and the reasons for the action, to be kept in relation to each relevant matter; and
- (b) include statistical information relating to action taken under this Division in the annual report of the Adult Safeguarding Unit.

Division 5—Safeguarding

27—Safeguarding responses

- (1) Subject to section 28, the Adult Safeguarding Unit may, at any time after an assessment under section 23 has commenced, undertake 1 or more safeguarding responses in respect of the relevant adult to whom the assessment relates.
- (2) Without limiting the measures that may be taken, a safeguarding response may consist of or include 1 or more of the following:
 - (a) engaging or increasing formal or informal supports available to the relevant adult;
 - (b) assisting other organisations to support the relevant adult;
 - (c) assisting in SACAT proceedings in respect of the relevant adult (for example, proceedings under the *Guardianship and Administration Act 1993*);
 - (d) seeking an order of SACAT under Part 4 Division 6;
 - (e) referring the matter, or part of the matter, to be dealt with by a more appropriate person or body;

Note—

A referral under section 24 is not a safeguarding response for the purposes of this section.

- (f) any other response the Director considers appropriate to safeguard the relevant adult.

- (3) The Adult Safeguarding Unit may monitor the implementation of a safeguarding response undertaken under this section to determine whether that safeguarding response is being undertaken appropriately and effectively.
- (4) Subject to subsection (5), an authorised officer may, with the consent of the relevant adult to whom the safeguarding response relates, exercise any of their powers under this Act for the purposes of subsection (3).
- (5) An authorised officer may exercise a power for the purposes of subsection (3) without the consent of the relevant adult if—
 - (a) an exception to obtaining consent under section 28(2) applies; or
 - (b) the Director considers that the exercise of the power is necessary to assess or respond to a potential risk to the life or physical safety of the relevant adult or another person.

28—Consent of relevant adult should be obtained before safeguarding response taken

- (1) Subject to this section, the Adult Safeguarding Unit should not undertake a safeguarding response under section 27 unless—
 - (a) the relevant adult to whom the response relates consents to the action being taken; or
 - (b) the safeguarding response is authorised by an order of SACAT under this Act.
- (2) However, the Adult Safeguarding Unit may undertake a safeguarding response under section 27 without first obtaining the consent of the relevant adult if—
 - (a) —
 - (i) the relevant adult's life or physical safety is at risk; or
 - (ii) the risk of abuse to which the relevant matter relates consists of an allegation that a serious criminal offence has been, or is likely to be, committed against the relevant adult; or
 - (iii) the risk of abuse to which the relevant matter relates amounts or is likely to amount to serious financial abuse of the relevant adult; or
 - (iv) the relevant adult has impaired decision-making capacity in respect of a decision to consent to action of the relevant kind being taken; or
 - (v) the Adult Safeguarding Unit has not, after reasonable inquiries, been able to contact the relevant adult; or

- (vi) in any other circumstances prescribed by the regulations; and
- (b) the Director approves the taking of the action.
- (3) The regulations may make further provision in relation to obtaining consent for the purposes of this section (including by specifying circumstances in which another person may consent on behalf of a relevant adult).

Division 5A—Authorised officers

29—Authorised officers

- (1) The following persons are authorised officers for the purposes of this Act:
 - (a) the Director;
 - (b) a member of the Adult Safeguarding Unit who is authorised by the Director by instrument in writing for the purposes of this paragraph;
 - (c) an employee of the Department who is authorised by the Director by instrument in writing for the purposes of this paragraph.
- (2) An authorisation under subsection (1)(b) or (c) may be made subject to conditions or limitations specified in the instrument of authorisation.
- (3) An officer authorised under subsection (1)(b) or (c) must be issued with an identity card—
 - (a) containing the person's name and a photograph of the person; and
 - (b) stating that the person is an authorised officer under this Act; and
 - (c) if the powers of the authorised officer have been limited by conditions—stating those limitations.
- (4) An authorised officer must, at the request of a person in relation to whom the officer intends to exercise powers under this Act, produce for inspection their identity card or other evidence of their authority.
- (5) The Director may, by notice in writing to an authorised officer, vary or revoke the authorisation of the officer, or a condition or limitation of the authorisation, on any grounds the Director thinks fit.

30—Powers of authorised officers

- (1) Without limiting any other powers conferred under this Act, an authorised officer may, for the purposes of an assessment under section 23, an investigation under section 25 or to monitor the implementation of a safeguarding response under section 27, exercise 1 or more of the following powers:
 - (a) enter and remain in or on any premises, place, vehicle or vessel (and for that purpose require a vehicle or vessel to stop);
 - (b) inspect any premises, place, vehicle or vessel;
 - (c) use reasonable force to break into or open any part of, or anything in or on, any premises, place, vehicle or vessel;
 - (d) require any person (whether on particular premises or otherwise) who has possession of books of account or any other records relevant to a relevant adult to produce those books of account or records for inspection;
 - (e) examine, copy or take extracts from such books of account or records;
 - (f) remove and retain such books of account or records for so long as is reasonably necessary for the purpose of making a copy of the book of account or record;
 - (g) take photographs, films, audio, video or other recordings;
 - (h) require any person who is in a position to provide information relating to a relevant adult, or to an assessment, investigation or safeguarding response being undertaken by the Adult Safeguarding Unit, to answer any question put by the authorised officer on that subject;
 - (i) require any such person to state their full name, address and date of birth;
 - (j) give such directions as may be reasonably required in connection with the exercise of a power conferred by a preceding paragraph or otherwise for a purpose related to the administration, operation or enforcement of this Act.
- (2) However, an authorised officer may only use force to enter any premises, place, vehicle or vessel, or to break into or open any part of, or anything in or on, any premises, place, vehicle or vessel—
 - (a) on the authority of a warrant issued by a magistrate; or
 - (b) if—
 - (i) entry to the premises, place, vehicle or vessel has been refused or cannot be gained; and

- (ii) the authorised officer believes on reasonable grounds that the delay that would ensue as a result of applying for a warrant would significantly increase the risk of harm, or further harm, being caused to a relevant adult; and
 - (iii) the Director has approved the use of force to enter the premises, place, vehicle or vessel.
- (3) A magistrate must not issue a warrant under this section unless satisfied on information given on oath, personally or by affidavit, that there are reasonable grounds for the issue of a warrant.
- (4) An application for the issue of a warrant under this section—
 - (a) may be made either personally or by telephone; and
 - (b) must be made in accordance with the rules of the Magistrates Court.
- (5) A magistrate by whom a warrant is issued under this section must file the warrant, or a copy of it, and any supporting affidavit in the Magistrates Court.
- (6) An authorised officer may, in exercising powers under this Act, be accompanied by such assistants as are reasonably required in the circumstances.
- (7) A person must not, without reasonable excuse, refuse or fail to comply with a requirement or direction under this section.
Maximum penalty: Imprisonment for 1 year.
- (8) To avoid doubt, this section does not limit any other powers conferred by any other provision of this Act, or any other Act.
- (9) The Director must, in accordance with any requirements set out in the regulations—
 - (a) cause a record of each power exercised under this section, and the reasons for the exercise of that power, to be kept in relation to each relevant matter; and
 - (b) include statistical information relating to powers exercised under this section in the annual report of the Adult Safeguarding Unit.

30A—Authorised officer may require information

- (1) An authorised officer may, by notice in writing, require a specified person (whether or not the person is a State authority, or an officer or employee of a State authority) to provide to them such information, or such documents, as may be specified in the notice (being information or documents in the possession of the person that the authorised officer, the Director or the Adult Safeguarding Unit reasonably requires for the performance of functions under this Act).

- (2) An authorised officer may, by notice in writing, require a specified person or body to produce a written statement of information, or to answer specified questions, about a specified matter.
- (3) A person required to provide information, documents or answers under subsection (1) or (2) must give the specified information, documents or answers to the authorised officer, in the manner (including, if the authorised officer so requires, verified by statutory declaration) and within the period specified in the notice.
- (4) A person (other than a State authority) who refuses or fails to comply with a notice under subsection (1) or (2) is guilty of an offence.
Maximum penalty: \$10 000.
- (5) If a State authority refuses or fails to comply with a notice under subsection (1) or (2), the Director may, after consultation with the State authority—
 - (a) report the refusal or failure to the Minister and to the Minister responsible for the State authority (if any); and
 - (b) include details of the refusal or failure in the annual report of the Adult Safeguarding Unit.
- (6) The Minister may, by notice in writing, exempt a specified person or body, or persons or bodies of a specified class, from the operation of this section.
- (7) An exemption—
 - (a) may be conditional or unconditional; and
 - (b) may be varied or revoked by the Minister by further notice in writing.

23—Amendment of heading to Part 4 Division 6

Heading to Part 4 Division 6—delete "Court" and substitute:

SACAT

24—Substitution of section 31

Section 31—delete the section and substitute:

31—Director or eligible person may apply for SACAT orders

- (1) The Director may apply for an order of SACAT under this Division—
 - (a) if the Director—
 - (i) reasonably suspects that a relevant adult is at risk of abuse; and
 - (ii) is of the opinion that the making of such an order is necessary or appropriate to—
 - (A) protect the relevant adult from such abuse; or

- (B) properly assess whether the relevant adult has been abused, or is at risk of being abused; or
 - (C) allow the exercise of powers or the performance of functions under this Act in respect of the relevant adult; or
- (b) in any other circumstances with the permission of SACAT.
- (2) An eligible person may apply for an order of SACAT of a kind contemplated by section 33(1)(a), (b) or (e) if the eligible person reasonably suspects that a relevant adult is at risk of abuse and is of the opinion that the making of such an order is necessary and appropriate to safeguard the relevant adult from such abuse.
- (3) The jurisdiction conferred by this section comes within the original jurisdiction of SACAT.
- (4) The regulations may make further provision in relation to an application under this section (including by limiting the circumstances in which an application, or application of a class, can be made).
- (5) In this section—
- eligible person* means—
- (a) the relevant adult; or
 - (b) a guardian, as defined in the *Guardianship and Administration Act 1993*, of the relevant adult; or
 - (c) a substitute decision-maker for the relevant adult appointed under an in force advance care directive given by the relevant adult under the *Advance Care Directives Act 2013*; or
 - (d) any other person or class of person specified by the regulations.

25—Amendment of section 32—Parties to proceedings

- (1) Section 32—delete subsection (1) and substitute:
- (1) The relevant adult to whom the application relates is a party to an application for an order under this Division, or for the variation, extension or revocation of such an order.
- (1a) The Director—
- (a) is a party to an application for an order under section 31(1), or for the variation, extension or revocation of such an order; and
 - (b) has a right to appear and be heard in any proceedings for an order under section 31(2), or for the variation, extension or revocation of such an order.

- (2) Section 32(2)—delete "the Court" wherever occurring and substitute in each case:
SACAT

26—Amendment of section 33—Orders that may be made

- (1) Section 33—delete "the Court" wherever occurring and substitute in each case:
SACAT
- (2) Section 33(1)—delete "vulnerable" wherever occurring and substitute in each case:
relevant
- (3) Section 33(2) and (3)—delete "The Court" wherever occurring and substitute in each case:
SACAT

27—Repeal of section 34

Section 34—delete the section

28—Amendment of section 35—Views of vulnerable adult to be heard

- (1) Section 35—delete "vulnerable" wherever occurring (including in the heading) and substitute in each case:
relevant
- (2) Section 35(1)—delete "the Court" wherever occurring and substitute in each case:
SACAT

29—Amendment of section 36—Right of other interested persons to be heard

- (1) Section 36—delete "vulnerable" wherever occurring and substitute in each case:
relevant
- (2) Section 36—delete "the Court" wherever occurring and substitute in each case:
SACAT

30—Amendment of section 37—Contravention of Court order

- (1) Section 37, heading—delete "Court" and substitute:
SACAT
- (2) Section 37(1)—delete "the Court" and substitute:
SACAT
- (3) Section 37(2)—delete "vulnerable" and substitute:
relevant

31—Amendment of section 38—Internal review

- (1) Section 38—after subsection (2) insert:
- (2a) A review may be commenced under subsection (1), or a review commenced under that subsection may be continued, despite the relevant adult in respect of whom the decision of the Adult Safeguarding Unit was made having died, if the Chief Executive considers it to be in the public interest to do so.
 - (2b) On receiving an application for review under this section, the Chief Executive may, by notice in writing—
 - (a) request further information from the applicant; and
 - (b) specify the period within which the information is to be provided.
- (2) Section 38—after subsection (3) insert:
- (3a) A review under this section must be completed within the prescribed time.
 - (3b) The Chief Executive may extend the time for completion of a review under this section if—
 - (a) the Chief Executive has requested further information from the applicant under subsection (2b)(a) and the applicant is yet to provide it; or
 - (b) there are special reasons in the circumstances of the particular review requiring an extension of time.
- (3) Section 38(4)—after "determination" insert:
- , and the reasons for the determination,

32—Amendment of section 39—Delegation

Section 39(1)—after "body" insert:

(including a person who is for the time being holding or acting in a specified office or position)

33—Amendment of section 40—External review by Ombudsman

- (1) Section 40(1)(b)—delete "vulnerable" and substitute:
- relevant
- (2) Section 40—after subsection (1) insert:
- (1a) A review may be commenced under subsection (1), or a review commenced under that subsection may be continued, despite the relevant adult in respect of whom the determination of the Chief Executive was made having died, if the Ombudsman considers it to be in the public interest to do so.
- (3) Section 40(9)—delete "vulnerable" and substitute:
- relevant

34—Amendment of section 41—Views of vulnerable adult to be heard

Section 41—delete "vulnerable" wherever occurring (including in the heading) and substitute in each case:

relevant

35—Amendment of heading to Part 6

Heading to Part 6—delete "gathering" and substitute:

sharing

36—Repeal of section 42

Section 42—delete the section

37—Amendment of section 43—Sharing of information between certain persons and bodies

Section 43(2) and (6)—delete "vulnerable" wherever occurring and substitute in each case:

relevant

38—Amendment of section 45—Interaction with *Public Sector (Data Sharing) Act 2016*

Section 45—delete "Part" and substitute:

Act

39—Amendment of section 46—Obstruction of person reporting suspected abuse of vulnerable adults

Section 46—delete "vulnerable" wherever occurring (including in the heading) and substitute in each case:

relevant

40—Amendment of section 49—Confidentiality

(1) Section 49(1)(d)—delete "vulnerable" and substitute:

relevant

(2) Section 49(1)—after paragraph (f) insert:

or

(g) for the purposes of assessing or responding to a potential risk to the life or physical safety of—

(i) Adult Safeguarding Unit staff responding to a relevant matter; or

(ii) the relevant adult; or

(iii) another person; or

(h) for any other purpose prescribed by the regulations.

41—Insertion of section 49A

After section 49 insert:

49A—Protection of identity of persons who report to Adult Safeguarding Unit

A person who receives a report under this Act that a relevant adult is at risk of abuse, or who otherwise becomes aware of the identity of a person who has made such a report, must not disclose the identity of the person who made the report unless the disclosure—

- (a) is made with the consent of the person who made the report;
or
- (b) is required or authorised by this Act or any other Act or law;
or
- (c) is, in the opinion of the Director, otherwise necessary.

Maximum penalty: \$10 000.

42—Amendment of section 51—Protections, privileges and immunities

Section 51(3)—after paragraph (c) insert:

or

- (d) the privilege against self-incrimination.

43—Substitution of section 53

Section 53—delete the section and substitute:

53—Review of Act

- (1) The Minister must cause an independent review of the operation of this Act to be conducted, and a report on the review submitted to the Minister, before the fifth anniversary of the commencement of this section.
- (2) The Minister must cause a copy of the report submitted under subsection (1) to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

Schedule 1—Transitional provisions

1—Interpretation

In this Schedule—

principal Act means the *Ageing and Adult Safeguarding Act 1995*.

2—Charter

The Charter of the Rights and Freedoms of Vulnerable Adults in force under the principal Act immediately before the commencement of section 19 of this Act will, on the commencement of that section, continue as the Adult Safeguarding Charter of Rights and Freedoms.

3—References to vulnerable adults

If a provision of an Act that was enacted, or of an instrument that was made, before the commencement of this Act refers to a vulnerable adult within the meaning of the principal Act, that reference will be taken to be a reference to a relevant adult unless the contrary intention appears.

4—Delegations

A delegation in force under the principal Act immediately before the commencement of this clause is, by force of this clause, revoked.

5—Assessment

An assessment of a report under section 23 of the principal Act commenced but not completed before the commencement of section 22 of this Act will, on the commencement of that section, be taken to be, and may be continued as, an assessment under section 23 of the principal Act (as enacted by this Act).

6—Investigation

An investigation under section 26 of the principal Act commenced but not completed before the commencement of section 22 of this Act will, on the commencement of that section, be taken to be, and may be continued as, an assessment under section 23 of the principal Act (as enacted by this Act).

7—Approval for acting without consent

An approval by the Director under section 24(4) of the principal Act given before the commencement of section 22 of this Act will, on the commencement of that section, continue as an approval of the Director under section 28(2) of the principal Act (as enacted by this Act).

8—Referrals

A matter referred under section 25 of the principal Act before the commencement of section 22 of this Act will, on the commencement of that section, be taken to have been referred under section 27(2)(e) of the principal Act (as enacted by this Act), and section 25(3) and (4) and any regulations made pursuant to section 25(5) of the principal Act cease to apply to the referral.

9—Authorised officers

- (1) Subject to subclause (2), a person who was an authorised officer under section 18(1)(b) of the principal Act immediately before the commencement of section 22 of this Act will, on the commencement of that section, be taken to be an authorised officer under section 29(1)(b) of the principal Act (as enacted by this Act).
- (2) An authorisation referred to in subclause (1) is subject to the same conditions or limitations applying to the authorisation immediately before the commencement of section 22 of this Act.

10—Written notices

- (1) A notice under section 23(6) of the principal Act in force immediately before the commencement of section 22 of this Act will, on the commencement of that section, be taken to be a notice under section 30A of the principal Act (as enacted by this Act).

- (2) A notice under section 42 of the principal Act in force immediately before the commencement of section 22 of this Act will, on the commencement of that section, be taken to be a notice under section 30A of the principal Act (as enacted by this Act).

11—Internal reviews

Section 38 of the principal Act (as amended by this Act) applies in relation to a review whether commenced before or after the commencement of section 31 of this Act.

12—External reviews

Section 40(1a) of the principal Act (as enacted by this Act) applies in relation to a review whether commenced before or after the commencement of section 33 of this Act.