

LEGISLATION PRESENTED TO PARLIAMENT DURING THIS SITTING

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LEGISLATION STATUS AT 16 JULY 2010

ACTS ENUMERATION AMENDMENT (PRO-FORMA) 1 OF 2010

This is a formal piece of legislation used at the commencement of Parliament. It has no actual effect other than due process.

PARTITION BILL PRO FORMA 2 OF 2010

This is also a formal piece (same as Acts Enumeration)

HEALTH PRACTITIONER REGULATION NATIONAL LAW (TASMANIA) ACT 2010

The Health Practitioner Regulation National Law (Tasmania) Bill 2010 (the Bill) adopts the Schedule to the Health Practitioner Regulation National Law Act 2009 of Queensland as a law of Tasmania. It enables Tasmania to enter and participate in the National Registration and Accreditation Scheme for Health Professions (the national scheme).

Under the national scheme, registration and accreditation functions that were previously carried out by State authorities will be carried out by new national boards for each profession. This Bill abolishes the laws establishing Tasmanian registration authorities and transfers their powers to a new national agency.

The Bill provides that property that is transferred to the new national agency in accordance with the national law is exempt from the Duties Act 2001.

The Bill provides that the Minister can direct an existing Tasmanian registration authority to do or hand over certain things that will assist in the transition to the national scheme.

The national law provides that a national board may request certain criminal history information about a health professional from a police service in a State or Territory. The Bill gives the Tasmanian Police Commissioner the authority to release criminal history information within the meaning of the national law to a national board (or to the police service of another State or Territory).

The Bill provides that an existing Board is still responsible for delivering an annual report into its finances for the period leading up to and including, commencement of the national scheme and it clarifies that references in other Tasmanian law to registered health professionals does not extend to persons who have been registered as students or non-practising registrants under the national law.

Finally, the Bill contains a number of Schedules of legislation that will be repealed, revoked or rescinded following commencement of the national scheme.

It has passed both Houses of Parliament.

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HEALTH PRACTITIONER REGULATION NATIONAL LAW (TASMANIA) (CONSEQUENTIAL AMENDMENTS) ACT 2010

The Health Practitioner Regulation National Law (Tasmania) (Consequential Amendments) Bill 2010 makes consequential amendments to 75 Acts and regulations as a result of the adoption of the Health Practitioner Regulation National Law (Tasmania) by the Health Practitioner Regulation National Law (Tasmania) Bill 2010.

The majority of the amendments relate to the terminology and definitions used in Tasmanian Acts to describe the 10 health professions to which the National Law will apply.

It has passed both Houses of Parliament.

GAMING CONTROL AMENDMENT BILL 5 OF 2010

A Private Members Bill introduced by Kim Booth to amend the Gaming Control Act 1993 to provide for a \$1.00 bet limit for electronic gaming machines (poker machines).

The Bill has not yet been debated.

SECONDARY COLLEGES (RESTORATION) BILL 2010

This Act repeals the Education and Training (Tasmanian Academy) Act 2008 and the Education and Training (Tasmanian Polytechnic) Act 2007, to re-establish secondary colleges, provide for transitional arrangements for employees, property and liabilities and for related purposes.

The Bill has not yet been debated.

AUDIT AMENDMENT BILL 2010

The Act amends the *Audit Act 2008* to ensure that the Auditor-General is protected from liability in the event that a report is made public, before it has been given to Parliament, in cases when Parliament is not sitting.

The Act specifically ensures that the Auditor-General, or a person authorised by the Auditor-General, is protected from liability for acts done in good faith, irrespective of the discretionary or mandatory nature of the act undertaken or authorised.

The Act also provides for the protection of certain types of sensitive information, which the Auditor-General determines should not be disclosed in a report. This is information that could prejudice an entities commercial interest, damage an investigation, prejudice a fair trial or damage intergovernmental relations.

In such cases, the Act provides that the Auditor-General cannot be compelled to disclose sensitive information but that the Auditor-General may choose to include that sensitive information in a report to the Treasurer and the Public Accounts Committee

This Bill has passed the House of Assembly and is being debated in the Legislative Council.

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LEGISLATION REPEAL ACT 2010

The purpose of this Bill is to repeal a number of Acts and statutory rules that are no longer necessary.

This Bill repeals 24 principal Acts, 35 amendment Acts, 15 Proclamations, 20 Orders and two Notices that have been identified by agencies as no longer being necessary.

The following Acts are examples of the legislation to be repealed.

The Health Services Act 1960 amended a number of now redundant Acts to provide that any function of the Minister for Health appearing in those Acts may be delegated to a medical practitioner employed within the Department. To date, Health Ministers have chosen to carry out these functions, which relate to health service establishments, particularly under the Hospitals Act 1918. The Health Service Establishments Act 2006 is scheduled to commence in 2010 and will repeal the Hospitals Act 1918. There is therefore no need to retain a specific delegation power.

The Consolidated Fund Appropriation (Supplementary Appropriation for 2006-2007) Act 2007 is an Act for the appropriation of money from the Consolidated Fund to certain agencies for the financial year ending 30 June 2007. The Department of Treasury and Finance has received advice from the Solicitor-General that an appropriation Act cannot authorise the appropriation of money for a longer period than one year. For this reason, the Act is now redundant and can be repealed.

The Tamar Improvement Act (No.2) 1913 amends the Tamar Improvement Act 1912. The Tamar Improvement Act 1912 was repealed by the Legislation Repeal Act 1995. The remaining provisions of the Tamar Improvement Act (No.2) 1913 serve no useful purpose in isolation. For this reason, the Act can be repealed.

The Bill also removes specific sections in Acts that are no longer required. For example, Section 45A of the Acts Interpretation Act 1931 refers to the State rate of interest on Commonwealth debt. This debt was repaid in July 2005. Accordingly, this section is irrelevant and can be removed from the Act.

It has passed both Houses of Parliament.

DANGEROUS GOODS (ROAD AND RAIL TRANSPORT) BILL 2010

The purpose of this Bill is to improve land transport safety by regulating the transport of dangerous goods that, due to their physical, chemical and toxicological properties, can pose a significant risk to human life, health, property and the environment, particularly when being transported by adopting a new package of model laws produced by the National Transport Commission (NTC), an independent body funded by all States and Territories and the Commonwealth.

This will ensure that Tasmanian businesses can transport dangerous goods across Tasmania, through other states, and overseas under a consistent set of packaging, labelling and safety requirements.

The Bill has not yet been debated.

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FINANCIAL MANAGEMENT AND AUDIT AMENDMENT ACT 2010

The 2006 State of the State address announced a series of budgeting and financial reform initiatives, including separate Budget appropriations for the 'independent' agencies of the Office of the Governor, the Office of the Ombudsman, the Auditor-General and the Parliamentary agencies.

It is now proposed that a separate Budget appropriation be provided to the Office of the Director of Public Prosecutions (DPP), commencing from the 2010-11 Budget.

The Financial Management and Audit Act 1990 provides for the management of public finances in Tasmania, including the process for authorising and applying appropriations from the Consolidated Fund to agencies.

Under the proposed amendment, the Attorney General will be deemed responsible Minister for the purposes of the Act. Additionally, the DPP will be deemed the responsible Head of Agency for the purposes of the Act.

It has passed both Houses of Parliament.

OPTOMETRY OFFENCES ACT 2010

The Bill is part of the package of Bills to implement the National Registration and Accreditation Scheme for Health Professionals in Tasmania.

The Bill restates certain offence provisions relating to the supply of optical appliances currently contained in the Optometrists Registration Act 1994. The Optometrists Registration

Act will be repealed when the National Law commences in Tasmania. The relevant provisions:

- prohibit dispensing an optical appliance without a prescription from an optometrist or medical practitioner
- prohibit dispensing an optical appliance on an expired prescription (18 months for contact lenses and three years for other appliances)
- require an optometrist, or the person who dispenses according to a prescription, to provide a free copy of the prescription on request. This is to ensure that a person can shop around for other optical appliances using the one prescription and
- prohibit a person who is not an optometrist or medical practitioner from assessing a person's suitability to wear a contact lens or teaching a person how to place or remove a contact lens from their own eye, and care for the lens.

The Bill maintains existing safeguards against the supply of optical appliances by persons not properly trained to do so.

It has passed both Houses of Parliament.

LAND TAX AMENDMENT ACT 2010

The Land Tax Amendment Bill 2010 amends the *Land Tax Act 2000* and the *Land Tax Rating Act 2000* to give effect to a lowering of the rate of land tax and introduction of new land tax concessions for shacks, home businesses and first home builders. The changes will come into effect on 1 July 2010.

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The Bill prescribes a new single top marginal land tax rate of 1.5 per cent for land owners with aggregate land values exceeding \$350 000; cutting the current marginal rates of 2 per cent for values between \$350 000 and \$749 999 and 2.5 per cent for values in excess of \$750 000.

Aggregated land value	Marginal tax rate
\$0 – \$24 999	0% (no change)
\$25 000 – \$349 000	0.55% (no change)
\$350 000 and above	1.5 % (currently 2%)
(Currently a marginal rate of 2.5% applies to land valued over \$750 000)	

The Bill provides for the zero rating of land tax (effectively providing an exemption) on land determined by the Commissioner of State Revenue to be 'shack land'.

A taxpayer and their spouse may only receive the shack land classification for one parcel of land. Furthermore, companies are ineligible.

Anti-avoidance provisions are included to ensure that the land value of the shack land does not exceed \$500 000; must include a fixed dwelling; and does not generate income.

The dwelling must also not be subject to a closure order by a council and not be used as a permanent residence by any person. Building work on shacks since 1 July 2004 must demonstrate compliance with the Building Act 2000 to be eligible for the concession.

The Bill provides a concession for qualifying home business operators who currently pay land tax on the portion of their principal residence land used to operate a business.

The Bill also provides a two year land tax concession for first home builders. All home builders are currently entitled to one year of land tax rebate for the year in which land is not resided on due to construction of a dwelling. First home builders may receive a rebate for an additional year during which land is vacant or building work is underway.

It is expected that the land tax reforms will provide over \$28 million in tax relief annually.

It has passed both Houses of Parliament.

TAXATION AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) ACT 2010

The *Taxation and Related Legislation (Miscellaneous Amendments) Bill 2010* amends the *Duties Act 2001*, the *Land Tax Act 2000*, the *Taxation Administration Act 1997* and the *First Home Owner Grant Act 2000*.

The amendments contained in the Bill are designed to maintain operational integrity of the Acts by deterring tax avoidance, ensuring clarity and certainty for tax payers, and improving equity of application.

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The *Duties Act 2001* is amended to:

- restrict opportunities for tax avoidance in cases where transactions are split or structured in such a way that they minimise duty, by clarifying that it is just and reasonable for the Commissioner of State Revenue to aggregate gifts forming substantially part of one arrangement with a transaction for value;
- ensure that duty is paid with regards to general insurance purchased from insurance intermediaries, by extending the definition of when a premium is paid to include payments to insurance intermediaries;
- remove an opportunity for tax avoidance by replacing an up front duty exemption with a provision that requires the Commissioner of State Revenue to refund duty when certain requirements have been met. This change relates only to the transfer of vacant land from one party in a relationship to joint ownership by both parties in a relationship where they intend to build their principal place of residence on the land; and
- enable parties to a de facto relationship that has broken down to obtain a duty exemption on property transfers effected in accordance with an order or agreement reached under the *Family Law Act 1975* of the Commonwealth. A similar exemption already exists for couples who elect to deal with property settlements under the Tasmanian *Relationships Act 2003*.

The *Land Tax Act 2000* is amended to:

- remove the requirement on taxpayers that own multiple properties to pay land tax at the time of sale of a property that is otherwise not subject to land tax.

The Taxation Administration Act 1997 is amended to:

- extend the general anti-avoidance provisions which are used to deter artificial, blatant or contrived schemes to reduce liability to pay tax, to apply to schemes entered into with the sole or dominant purpose of obtaining a tax benefit by creating a situation where an exemption or concession would apply; and
- ensure equity in the calculation of interest where an overpayment of tax is refunded to a taxpayer. Rather than being calculated from the latter of the date of the overpayment or the date of assessment, interest will be calculated from the date of payment of the amount overpaid until the date that the Commissioner approves the refund.

The *First Home Owner Grant Act 2000* is amended to:

- allow applicants for the First Home Owner Grant who have held an interest in another property used at anytime on or after 1 July 2000 as their residence for a continuous period of less than six months to remain eligible for the Grant, provided all other eligibility criteria are met; and
- change the definition of residential property so that a grant applicant remains entitled to the grant even if they have held an interest in residential property, unless there was a building on the land that was lawfully occupied as a place of residence and it was also suitable for occupation as a place of residence.

It has passed both Houses of Parliament.

TELECOMMUNICATIONS (INTERCEPTION) TASMANIA AMENDMENT ACT 2010

The Government introduced legislation into Parliament to amend the *Telecommunications (Interception) Tasmania Act 1999* to remove the requirement for the Commissioner of Police to provide the Minister administering the Act, the Minister for Police and Emergency Management, with copies of warrants and revocations of warrants for telecommunications interception matters.

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The legislation also removes the requirement for the Minister to provide the Commonwealth Attorney-General with copies of those warrants and revocations of warrants.

These amendments bring the Tasmanian telecommunications interception legislation into line with the corresponding Commonwealth Telecommunications (Interception and Access) Act 1979, which was amended in 2008. The Commonwealth Act no longer requires the Chief Officer of an interception agency, in Tasmania the Commissioner of Police to provide the State Minister with those documents, and no longer requires the State Minister to provide those documents to the Commonwealth Attorney-General.

Under both the Tasmanian Act and Commonwealth Act, the oversight of telecommunications interceptions conducted in this State will continue to be performed at various levels, including:

- the provision of a report by the Commissioner of Police to the Minister for Police and Emergency Management regarding the use and disclose of communications for each interception warrant, which is to be received within 3 months after a warrant issued to the Tasmania Police Service ceases to be in force;
- the provision of an annual report from the Commissioner of Police to the Minister, which will be received as soon as practicable, and in any event within 3 months after the end of the financial year;
- the Minister will provide the Commonwealth Attorney-General with the written reports provided by the Commissioner for Police;
- copies of all warrants and revocations of warrants issued to the Tasmania Police Service in respect to telecommunications interception will continue to be provided to the Commonwealth Attorney-General's Department. These form the basis of the Special and General Warrant register, which the Commonwealth Attorney-General inspects quarterly;
- the Commonwealth Attorney-General's Department compiles an Annual Report which includes details of the interception activities conducted by all jurisdictions, including the Tasmania Police Service; and
- the State Ombudsman's Office inspects bi-annually, the Tasmania Police Service records in relation to telecommunications interceptions.

In summary, the provisions contained in this Bill will bring the Tasmanian Act into line with the Commonwealth Telecommunications (Interception and Access) Act 1979, will reduce unnecessary duplication in the legislation and will reduce the risk of police investigations being compromised.

It has passed both Houses of Parliament.

POLICE OFFENCES AMENDMENT (LASER POINTERS) ACT 2010

The Government has introduced legislation into Parliament to amend the *Police Offences Act 1935* to provide for the regulation of laser pointers.

The Bill introduces legislation which is consistent with the Tasmania Together Community Goal, 'to have confident, friendly and safe communities'.

The background to this matter is that on 1 July 2008, the Commonwealth Government prohibited the importation of laser pointers designed or adapted to emit a laser beam greater than 1 milliwatt (mW) under the Customs (Prohibited Imports) Regulations 1956.

The prohibition followed a series of incidents where high-powered laser pointers were used inappropriately to target aircraft and their pilots. Most of these incidents

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involved the use of green laser pointers. Unlike other types of laser pointers, green laser pointers remain visible to the operator over a greater distance, which enables easier targeting of aircraft and painting with intense light the cockpits and pilots' view. Permanent eye damage can also result from a laser pointer being shone into someone's eyes.

Most incidents that have been reported have occurred interstate, some of which have resulted in the courts imposing custodial sentences due to the serious nature of the incident.

Since these events, the issue of high powered laser pointers has been considered at a number of high level meetings and national forums, including the Ministerial Council for Police and Emergency Management. Most other jurisdictions now have legislation to regulate the use of laser pointers in some form.

Whilst green lasers and high powered lasers are the major concern, it is appropriate to provide for legislation to regulate all laser products where they are used inappropriately, cause or may cause injuries or are used intentionally or recklessly in a manner that may result in unsafe circumstances. The provisions contained in the Bill will enable police to respond appropriately in instances where laser pointers are misused.

The provisions contained in the Bill will enable police to respond appropriately in instances where laser pointers are misused.

The ***Police Offences Amendment (Laser Pointers) Bill 2010*** amends the *Police Offences Act 1935* to make it an offence:

- a) for a person to possess, carry or use a laser pointer in a public place, without having a lawful excuse; and
- b) for a person to intentionally or recklessly direct a laser beam from a laser pointer at any person, animal, vehicle, vessel or aircraft, without having a lawful excuse.

The lawful excuse provision will allow those persons who have a lawful excuse, such as surveyors, astronomers, medical professionals and those in the construction and mining industries, to continue to possess, carry, and use laser pointers, and or direct a laser beam for a lawful purpose.

The offences proposed in the Bill relate to all laser pointers. This is designed to prevent confusion for members of the public and those enforcing the legislation, because some laser pointers are not labelled and others may be labelled with a class number or power level which is inaccurate or misleading.

Appropriate authorities to facilitate enforcement of the offence provisions have been included. These include the authority to allow a police officer to stop, detain and search a person, vehicle, vessel or aircraft, and enter and search premises in certain circumstances. In addition to this, any laser pointer found in the course of a search may be seized, deactivated and detained by a police officer, and where a person is found offending under the offence provisions proposed, the person may be arrested without warrant.

These provisions relate strictly to circumstances where people have used the devices inappropriately and or do not have a lawful excuse for their possession.

It has passed both Houses of Parliament.

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CONSOLIDATED FUND APPROPRIATION ACT (NO. 1) 2010

An Act for the appropriation of \$4,334,212,000 out of the Consolidated Fund for the service of the financial year ending on 30 June 2011 and to authorise the Treasurer to borrow money on behalf of the State

It has passed both Houses of Parliament.

CONSOLIDATED FUND APPROPRIATION ACT (NO. 2) 2010

A 2010/2011 State Budget Bill. An Act for the appropriation of \$25 994 000 out of the Consolidated Fund for the service of the financial year ending on 30 June 2011 and to authorise the Treasurer to borrow money on behalf of the State.

It has passed both Houses of Parliament.

HEALTH PRACTITIONERS TRIBUNAL BILL 2010

The Practitioners Tribunal Bill 2010 (the Bill) establishes the Health Practitioners Tribunal in Tasmania.

The Tribunal is being established to hear and determine disciplinary matters and reviews of decisions under the Health Practitioner Regulation National Law (Tasmania).

The Tribunal is to be presided over by a Chairperson and Deputy Chairperson, who are both to be Magistrates, appointed by the Minister for Justice on the recommendation of the Chief Magistrate.

The presiding members will have the powers to appoint professional and community members in appropriate circumstances.

It is expected that the Tribunal will deal with matters before it expeditiously, cost effectively and with as little formality as each matter allows.

This Bill has passed the House of Assembly and is being debated in the Legislative Council.

INTESTACY BILL 2010

This Bill provides for the distribution of intestate estates and other purposes.

The Bill has not yet been debated.

AGRICULTURAL AND VETERINARY CHEMICALS (CONTROL OF USE) AMENDMENT BILL (BAN 1080) 20 OF 2010

Private Members Bill introduced by Kim Booth to amend the Agricultural and Veterinary Chemicals (Control of Use) Act 1995 by making it unlawful to poison or attempt to poison any native fauna using sodium fluoroacetate (compound 1080).

The Bill has not yet been debated.

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RELATIONSHIPS AMENDMENT (RECOGNITION OF REGISTERED RELATIONSHIPS) BILL 2010

A Bill to amend the Relationships Act 2003. This amendment provides recognition of relationships under corresponding laws.

The Bill has not yet been debated.

PERSONAL PROPERTY SECURITIES (COMMONWEALTH POWERS) BILL 2010

This Bill provides for the adoption of the *Personal Property Securities Act 2009* of the Commonwealth as amended by the *Personal Property Securities (Consequential Amendments) Act 2009* of the Commonwealth and the *Personal Property Securities (Corporations and Other Amendments) Act 2010* of the Commonwealth. It also refers matters relating to security interests in personal property to the Parliament of the Commonwealth for the purposes of the Commonwealth Constitution

The Bill has not yet been debated.

IRRIGATION CLAUSES AMENDMENT BILL 2010

This Bill proposes to amend the Irrigation Clauses Act 1973. The *Irrigation Clauses Act 1973* provides the statutory basis for the construction, operation and funding of irrigation schemes by a responsible water entity and the statutory base for the development, operation and funding of all irrigation schemes in Tasmania.

The Act also provides for the supply of water for irrigation under the system of irrigation rights or general availability, and for the transfer of irrigation rights. The Act is incorporated with the Water Management Act 1999, for the purposes of the application of the Water Management Act to irrigation districts.

The Bill makes minor amendments to the Irrigation Clauses Act 1973. In its current form, a literal interpretation of the Act may give rise to uncertainty in relation to which persons the responsible water entity ("undertakers") of an irrigation district are able to grant irrigation rights. Section 23(2) currently provides that under the system of irrigation rights, the undertakers may grant to the occupiers of land in an irrigation district and their successors a right to be supplied each irrigation season with a certain volume of water.

The proposed amendments clarify that the Minister may declare that the undertakers may grant an irrigation right to a person other than an occupier of land, subject to any conditions that the Minister deems appropriate. Some further minor consequential amendments to other sections of the Act are made to clarify certain matters in relation to irrigation rights held by non-occupiers of land.

The amendments will also provide certainty to operators and prospective purchasers of rights in new irrigation schemes. It will also ensure that the current legislation is entirely consistent with the intent of the National Water Initiative.

The Department of Primary Industries, Parks, Water and Environment has undertaken a comprehensive review of the Irrigation Clauses Act 1973 and intends to make major amendments to the Act in 2011. In the interim these minor amendments are intended to remove any ambiguity around who may be granted irrigation rights in new irrigation districts.

The Bill has not yet been debated.