

TASMANIA

BUILDING PRACTITIONERS ACCREDITATION (MISCELLANEOUS PROVISIONS) BILL 2006

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**BUILDING PRACTITIONERS
ACCREDITATION (MISCELLANEOUS
PROVISIONS) BILL 2006**

(Brought in by *Andrew Paul Harriss*)

A BILL FOR

**An Act relating to certain agreements for the accreditation
of building practitioners.**

WHEREAS:

- A. On 15 February 2006 an agreement was made by the Minister for Infrastructure, Energy and Resources (in this Preamble referred to as “the Minister”) and Tasmanian Compliance Corporation Pty Ltd (ACN 104 148 165, in this Preamble referred to as “the Company”) which agreement conferred on the Company an authorisation to accredit building practitioners and purported to make that authorisation exclusive:

- B. Pursuant to a subsequent deed signed on behalf of the Crown and the Company on 25 September 2006, the Company has surrendered its authorisation, has paid an amount of \$143 239 to the Crown and has transferred certain property constituting its business assets to the Crown:

purposes of accreditation but which have been retained by the Company —

- (i) for the purpose of dealing with complaints;
or
- (ii) for any other contingency —

and not actually applied for any such purpose; and

- (b) all amounts paid to the Company by accredited building practitioners since 1 July 2006.

(3) The Auditor-General must include in the report a certificate stating the amount which, in the opinion of the Auditor-General, fairly represents the cost of administering the scheme by the Company for the period commenced on 1 July 2006 and ended on 31 October 2006.

(4) The Auditor-General must also include in the report a certificate stating the amount which, in the opinion of the Auditor-General fairly represents the estimated cost of administering the scheme by the Crown for the period commenced on 1 November 2006 and ending on 30 June 2007 in respect of the accredited building practitioners affected by the administration of the scheme referred to in subsection (3).

(5) For the purposes of subsection (4), the Auditor-General is to take into account—

- (a) the amount paid to the Crown by the Company under the subsequent deed; and
- (b) the value to the Crown of the Company having performed its other obligations under that deed—

and the Auditor-General must also include in the report a certificate stating the amount which, in the opinion of the Auditor-General, fairly represents the total of the amount referred to in paragraph (a) and the value referred to in paragraph (b).

(6) For the purposes of this section, the Auditor-General has all the powers conferred on him or her under Part 3 of the Financial Management and Audit Act 1993.

(7) The Minister must cause a copy of the report to be laid upon the table of each House of Parliament within 10 sitting-days of that House after it is received by him or her.

7. Duty of Company to forward financial records to Auditor-General

(1) For the purposes of the audit required by section 6, the Auditor-General may, by notice in writing given to a member, director or employee of the Company require that member, director or employee to forward to the Auditor-General, within such time as may be determined by the Auditor-General, any documents constituting the financial records of the Company.

(2) A member, director or employee of the Company who fails to comply with a requirement under subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding 50 penalty units.

(3) In a prosecution for an offence under subsection (2), it is a defence if the person charged can show that at the relevant time the required documents of the Company were not in the possession or custody of, or under the control of, that person, unless the lack of possession, custody or control arose from a wrongful act or omission on the part of that person.

8. Debt due to Crown by Company

(1) If the amount stated in the certificate under section 6(2), after deducting the amounts stated in the certificates under section 6(3) and (5), is more than zero, that amount is a debt due to the Crown by the Company and recoverable as such in any court of competent jurisdiction.

(2) On compliance with section 6 by the Auditor-General, the Minister may, by notice in writing to the Company, require payment of that debt.

9. Duty of Director of Building Control

Any amount paid to the Crown under this Act is to be applied by the Director of Building Control in the administration of the scheme on and after 1 November 2006.

10. Original agreement to be void

(1) For the removal of doubts, it is hereby declared that the original agreement is void and of no effect.

(2) No action or cause of action may be brought by, or against, the Crown or the Company arising from the operation of this section.

11. Power of Supreme Court to set aside dispositions

If the Supreme Court is satisfied that the Company has on, or after 17 November 2006, made a disposition of property for the purpose of, or which may have the effect of, frustrating the operation of this Act, the Court may, on the application of any person who in the opinion of the Court has a sufficient interest in the matter—

- (a) set aside the disposition; and

- (b) make any consequential orders that the Court considers just and equitable.

12. Regulations

The Governor may make regulations for the purposes of this Act.

13. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990*—

- (a) the administration of this Act is assigned to the Minister for Justice and Workplace Relations; and
- (b) the department responsible to the Minister for Justice and Workplace Relations in relation to the administration of this Act is the Department of Justice.