

## TASMANIA

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# EDUCATION AND TRAINING (TASMANIAN ACADEMY) AMENDMENT BILL 2010

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# **EDUCATION AND TRAINING (TASMANIAN ACADEMY) AMENDMENT BILL 2010**

*(Brought in by the Minister for Health, the Honourable  
Michelle Anne O'Byrne)*

## **A BILL FOR**

**An Act to amend the *Education and Training (Tasmanian  
Academy) Act 2008***

Be it enacted by His Excellency the Governor of Tasmania, by  
and with the advice and consent of the Legislative Council and  
House of Assembly, in Parliament assembled, as follows:

### **1. Short title**

This Act may be cited as the *Education and  
Training (Tasmanian Academy) Amendment Act  
2010*.

### **2. Commencement**

This Act commences on 1 January 2011.

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THIS BILL IS COGNATE WITH THE *EDUCATION AND TRAINING (TASMANIAN  
POLYTECHNIC) AMENDMENT BILL 2010*, THE *EDUCATION AND TRAINING  
(TRANSITIONAL PROVISIONS) BILL 2010* AND THE *EDUCATION AND TRAINING  
(CONSEQUENTIAL AMENDMENTS AND RESCISSIONS) BILL 2010*

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**3. Principal Act**

In this Act, the *Education and Training (Tasmanian Academy) Act 2008*\* is referred to as the Principal Act.

**4. Long title amended**

The Principal Act is amended as follows:

- (a) by omitting from the long title “**establish**” and substituting “**continue**”;
- (b) by omitting from the long title “**higher education**” and substituting “**the workforce, in higher education and in other further education and training**”.

**5. Section 3 amended (Guiding principle)**

Section 3 of the Principal Act is amended as follows:

- (a) by omitting “established by the *Education and Training (Tasmanian Polytechnic) Act 2008*”;
- (b) by omitting “established by the *Education and Training (Tasmanian Skills Institute) Act 2008*”.

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**6. Section 4 amended (Interpretation)**

Section 4 of the Principal Act is amended as follows:

- (a) by omitting “established” from the definition of “Academy” and substituting “continued”;
- (b) by omitting the definitions of “Board”, “chief executive officer”, “corporate plan” and “director” and substituting the following definitions:

**“Academy association”** means the Academy association established under section 9;

**“campus”** means any premises used by a college for the provision of education to its students, whether or not the premises are also used by another college, the Tasmanian Polytechnic, the Tasmanian Skills Institute or any other educational institution;

**“college”** means a college established under section 12;

**“college association”** means a college association established under section 17;

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- (c) by omitting the definition of “financial statements” and substituting the following definitions:

**“entitled person”** means a person in respect of whom the Secretary, by reason of section 33(2), is not entitled to impose a fee or charge in respect of the provision of post-Year 10 education;

**“executive officer”** means the person appointed as executive officer of the Academy as specified in section 7;

- (d) by inserting the following definitions after the definition of “post-Year 10 education”:

**“principal”** means the principal of a college appointed as specified in section 13;

**“Secretary”** means the Secretary of the Department;

- (e) by inserting the following definitions after the definition of “student organisation”:

**“Tasmanian Polytechnic”** means the Tasmanian Polytechnic established and continued by the *Education and Training*

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*(Tasmanian Polytechnic) Act  
2008;*

**“Tasmanian Skills Institute”** means  
the Tasmanian Skills Institute  
established by the *Education and  
Training (Tasmanian Skills  
Institute) Act 2008*;

**7. Parts 2, 3 and 4 substituted**

Parts 2, 3 and 4 of the Principal Act are repealed  
and the following Parts are substituted:

**PART 2 – TASMANIAN ACADEMY**  
*Division 1 – Continuation of Tasmanian Academy*

**5. Continuation of Tasmanian Academy**

The Tasmanian Academy, which was  
established under section 5 of this Act as  
in force immediately before the  
commencement of the *Education and  
Training (Tasmanian Academy)  
Amendment Act 2010*, is continued as a  
State educational institution.

**6. Objectives of Academy**

The Academy has the following  
objectives:

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- (a) to provide post-Year 10 education for the purpose of enabling entitled persons, irrespective of their locations, backgrounds and circumstances, to acquire qualifications and eligibility to participate in the workforce, in higher education and in other further education and training;
- (b) to –
  - (i) provide to entitled persons, irrespective of their locations, backgrounds and circumstances, post-Year 10 education so as to enable those entitled persons to participate in the eligible options, within the meaning of the *Youth Participation in Education and Training (Guaranteeing Futures) Act 2005*, that are specified in their participation records opened under that Act; and
  - (ii) be responsible for those entitled persons successfully completing the eligible options



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specified in those  
participation records; and

- (iii) to provide services and support to entitled persons for the purpose of enabling them, irrespective of their locations, backgrounds and circumstances, to acquire qualifications and eligibility to participate in the workforce, in higher education and in other further education and training.

***Division 2 – Employees***

**7. Executive officer**

The Academy is to have an executive officer appointed subject to and in accordance with the *State Service Act 2000*.

**8. Other employees**

Subject to and in accordance with the *State Service Act 2000*, persons may be appointed for the purposes of this Act.

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***Division 3 – Academy association***

**9. Academy association**

- (1) The Secretary may establish the Academy association.
- (2) The Academy association consists of not less than 7 members of whom –
  - (a) one is the Secretary or his or her delegate; and
  - (b) the remainder are representatives of organisations that the Minister considers have an interest in education and training.
- (3) The members of the Academy association referred to in subsection (2)(b) are appointed by the Minister.
- (4) Before appointing the members of the Academy association referred to in subsection (2)(b), the Minister may request such organisations that the Minister considers have an interest in education and training to nominate suitable persons for appointment as members.
- (5) In appointing members of the Academy association, the Minister is to –

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- (a) have regard to the need for the members together to have an understanding of post-Year 10 education and the needs of students and parents; and
  - (b) take into account the desirability of having as members both men and women; and
  - (c) take into account the desirability of having as members persons from all regions of the State.
- (6) The Secretary or his or her delegate is the chairperson of the Academy association.
- (7) Schedule 1 has effect with respect to the members and meetings of the Academy association.

**10. Functions of Academy association**

- (1) The primary function of the Academy association is to advise the executive officer in relation to the following matters:
  - (a) the coordination of the colleges with respect to issues of state-wide educational interest;
  - (b) procedures for ensuring that the interests of students are a primary consideration of the Academy

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and the colleges, including procedures for effective collaboration between the colleges;

- (c) such other matters as the Secretary or executive officer determines by notice provided to the Academy association.
- (2) The Academy association also has the functions specified in its constitution.
- (3) The Secretary or the executive officer, by notice provided to the Academy association, may require the Academy association to consider and report on a matter within the period, or by the day, specified in the notice.
- (4) The Academy association is to perform its functions in accordance with –
  - (a) its constitution; and
  - (b) any instructions issued by the Minister or the Secretary.
- (5) Instructions issued under subsection (4) must not be inconsistent with this Act or the constitution of the Academy association.

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**11. Constitution of Academy association**

- (1) The Secretary is to submit to the Minister a draft constitution of the Academy association.
- (2) If satisfied that the draft constitution is appropriate, the Minister is to approve it as the constitution of the Academy association.
- (3) Any change to the constitution of the Academy association is to have the prior approval of the Minister.

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**PART 3 – COLLEGES**  
*Division 1 – Establishment of colleges*

**12. Establishment of colleges**

- (1) The Minister may establish colleges for the purposes of the Academy.
- (2) A college is part of the Academy.
- (3) The Minister, in any circumstances the Minister considers appropriate, may –
  - (a) amalgamate colleges; and
  - (b) close any college, either temporarily or permanently; and
  - (c) change the name of a college.

*Division 2 – Principals for colleges*

**13. Principals for colleges**

A college is to have a principal appointed subject to and in accordance with the *State Service Act 2000*.

**14. Functions and powers of principals**

- (1) A principal has the following functions:
  - (a) to carry out the day-to-day management of the college, and

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its students and staff, in  
accordance with the directions of  
the executive officer;

- (b) to prepare the plans, budgets and reports for the college as required by the executive officer;
  - (c) other functions imposed by this Act.
- (2) The principal is to provide educational leadership in the college.
  - (3) The principal may do anything necessary or convenient to perform his or her functions.
  - (4) The principal may not do anything under subsection (3) if it would be inconsistent with this or any other Act.

***Division 3 – Management of facilities and equipment of colleges***

**15. Hiring out college facilities and equipment, &c.**

- (1) With the written authorisation of the executive officer, a principal may hire out, or authorise the use of, any facilities, materials or equipment of the college –
  - (a) at any fee determined by the Secretary; and

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- (b) on any conditions determined by the Secretary.
- (2) The executive officer may authorise the sale to any person of any text books, teaching aids or other materials or equipment devised, produced or otherwise acquired for use in a college –
  - (a) at any fee determined by the Secretary; and
  - (b) on any conditions determined by the Secretary.
- (3) Any fees received by a principal, a college, the executive officer or the Academy under this section are to be paid into an account with an authorised deposit-taking institution and used for the purposes of the Academy as approved by the Secretary.

**16. Property and equipment**

- (1) The Secretary may lease property and equipment to or from any person for the purposes of this Act.
- (2) The Secretary may authorise a person to occupy any property of the Department on any conditions the Secretary considers appropriate.



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***Division 4 – College associations***

**17. College associations**

- (1) A college may have a college association.
- (2) A principal is to submit to the Secretary a draft constitution of a proposed college association.
- (3) If satisfied that a draft constitution is appropriate, the Secretary is to establish the college association and approve the draft constitution as the constitution of that college association.
- (4) Any change to the constitution of a college association is to have the prior approval of the Secretary.
- (5) The Secretary, if satisfied that it is necessary to do so, may abolish a college association.

**18. Function of college association**

- (1) A college association has the following functions:
  - (a) to provide advice and recommendations to the principal in relation to local issues affecting students at the college;

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- (b) the functions specified in its constitution;
  - (c) any other function the Minister or Secretary determines.
- (2) A college association is to perform its functions in accordance with any instructions issued by the Secretary.
- (3) Instructions issued under subsection (2) must not be inconsistent with this Act or the constitution of the college association.

**19. Powers of college association**

- (1) A college association has the following powers:
  - (a) the powers specified in its constitution;
  - (b) the power to carry out trading activities not relating to education that are authorised by the Secretary and used for the benefit of the college;
  - (c) the power to provide, or assist in the provision of, financial or other resources or services that are authorised by the Secretary and used for the benefit of the college.

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- (2) A college association is to exercise its powers in accordance with any instructions issued by the Secretary.
- (3) Instructions issued under subsection (2) must not be inconsistent with this Act or the constitution of the college association.

**8. Section 33 amended (Fees, levies and charges)**

Section 33 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “The Academy, subject to this section, may impose, as it” and substituting “The Secretary may impose, as he or she”;
- (b) by inserting in subsection (1)(a) “by the Academy” after “provision”;
- (c) by inserting in subsection (1)(b) “by the Academy” after “incurred”;
- (d) by omitting from subsection (1)(c) “it provides.” and substituting “provided by the Academy.”;
- (e) by omitting from subsection (2) “The Academy” and substituting “Despite subsection (1), the Secretary”;
- (f) by inserting in subsection (2) “by the Academy” after “provision”;

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- (g) by omitting from subsection (3) “Academy” and substituting “Secretary”;
- (h) by inserting the following subsection after subsection (3):
  - (4) Any fees received by the Academy or the Secretary under this section are to be paid into an account with an authorised deposit-taking institution and used for the purposes of the Academy as approved by the Secretary.

**9. Sections 34, 35 and 36 substituted**

Sections 34, 35 and 36 of the Principal Act are repealed and the following sections are substituted:

**34. Reviews**

- (1) At his or her own discretion or on the direction of the Minister, the Secretary is to carry out reviews for the purpose of assessing one or more of the following:
  - (a) whether or not the Academy is achieving its objectives;
  - (b) the relevance of the qualifications acquired by students to their eligibility to participate in the workforce, higher education and

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other further education and  
training.

- (2) In carrying out a review, the Secretary may –
  - (a) determine standards against which the achievements of the Academy may be assessed; and
  - (b) require persons employed for the purposes of this Act to provide reports in relation to the achievements of the Academy.
- (3) A report required under subsection (2) is to –
  - (a) be provided to the Secretary, or such other person as the Secretary determines, within the period determined by the Secretary; and
  - (b) contain the information required by the Secretary; and
  - (c) be in a form determined by the Secretary.
- (4) The Secretary may have reports required under subsection (2) reviewed by such persons as he or she considers appropriate.
- (5) On the completion of a review, the Secretary is to publish his or her findings

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to the public in such manner as the  
Secretary considers appropriate.

**35. Secretary's instructions**

- (1) The Secretary may issue instructions to be observed by persons, or a class of persons, employed for, or performing functions in relation to the administration of, this Act.
- (2) Instructions must not be inconsistent with this Act.

**36. Delegations by Secretary and executive officer**

- (1) The Secretary may delegate any of his or her functions or powers under this Act, other than this power of delegation.
- (2) The executive officer may delegate any of his or her functions or powers under this Act, other than this power of delegation.

**10. Section 37 amended (Regulations)**

Section 37 of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (1):

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- (1A) Without limiting the generality of subsection (1), the regulations may be made in relation to one or more of the following:
- (a) the Academy association;
  - (b) college associations;
  - (c) student organisations;
  - (d) the conduct and discipline of persons –
    - (i) on campuses; and
    - (ii) in respect of facilities and equipment managed or used by the Academy; and
    - (iii) in respect of the provision of post-Year 10 education.
- (b) by omitting from subsection (4) “Board or the chief executive officer.” and substituting “Secretary, the executive officer or a principal.”;
- (c) by omitting subsection (5) and substituting the following subsection:
- (5) The regulations may contain provisions of a savings or

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transitional nature consequent on  
the enactment of –

- (a) this Act; or
  - (b) the *Education and Training (Consequential Amendments and Rescissions) Act 2010*; or
  - (c) any other Act amending this Act; or
  - (d) the *Education and Training (Transitional Provisions) Act 2010*.
- (d) by omitting from subsection (6) “Act” and substituting “Act, or any other Act referred to in subsection (5),”;
- (e) by inserting the following subsection after subsection (6):
- (7) The regulations may be combined with regulations made under one or more of the following Acts:
- (a) *Education Act 1994*;
  - (b) *Education and Training (Tasmanian Polytechnic) Act 2008*;
  - (c) *Education and Training (Tasmanian Skills Institute) Act 2008*.



**11. Schedules 1, 2 and 3 substituted**

Schedules 1, 2 and 3 to the Principal Act are repealed and the following Schedule is substituted:

**SCHEDULE 1 – MEMBERS AND MEETINGS OF  
ACADEMY ASSOCIATION**

Section 9(7)

**1. Interpretation**

In this Schedule –

“**constitution**” means the constitution of the Academy association;

“**member**” means a member of the Academy association appointed under section 9(3).

**2. Term of office**

A member is appointed for such period, not exceeding 3 years, as is specified in the member’s instrument of appointment and, if eligible, may be reappointed.

**3. Holding other office**

The holder of an office who is required by the terms of his or her employment to devote the whole of his or her time to the

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duties of that office is not disqualified from holding that office and also the office of a member.

**4. *State Service Act 2000***

- (1) The *State Service Act 2000* does not apply in relation to a member in his or her capacity as a member.
- (2) A person may hold the office of a member in conjunction with State Service employment.

**5. Allowances and conditions of appointment**

- (1) A member is entitled to be paid such allowances as the Minister determines.
- (2) A member who is a State Service employee or State Service officer is not entitled to allowances under this clause except with the approval of the Minister administering the *State Service Act 2000*.
- (3) A member holds office on such conditions in relation to matters not provided for by this Act as are specified in the member's instrument of appointment or the constitution.

**6. Removal of member from office**

- (1) The Minister may remove a member from office –
- (a) if the member –
    - (i) is absent from 3 consecutive meetings of the Academy association without the permission of the other members of the Academy association; or
    - (ii) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for 12 months or longer or a fine of 300 penalty units or more; or
    - (iii) under this Act, ceases to be eligible to hold the office; or
  - (b) for any other reason or in any other circumstances specified in the constitution.
- (2) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.

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- (3) A member of the Academy association must not be removed from office otherwise than in accordance with this clause.

**7. Convening of, and procedure at, meetings**

- (1) Meetings of the Academy association are to be convened and conducted in accordance with the constitution.
- (2) Subject to this Act and the constitution, the Academy association may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.

**8. Minutes**

The Academy association is to keep accurate minutes of its meetings.

**12. Repeal of Act**

This Act is repealed on the ninetieth day from the day on which it commences.