

TASMANIA

EDUCATION AND TRAINING (TRANSITIONAL PROVISIONS) BILL 2010

CONTENTS

1. Short title
2. Commencement
3. Interpretation
4. Abolition of former Academy, former Polytechnic, Academy Board and Polytechnic Boards
5. Abolition of Academy audit committee and Polytechnic audit committee
6. Employees
7. Property
8. Contracts
9. Documents
10. Legal matters
11. Financial statements of former Academy and former Polytechnic
12. Semi-annual report for former Academy and former Polytechnic
13. Tabling of semi-annual report
14. Regulations
15. Administration of Act

EDUCATION AND TRAINING (TRANSITIONAL PROVISIONS) BILL 2010

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

A BILL FOR

An Act to provide for matters of a savings and transitional nature consequent on the continuation of the Tasmanian Academy and the Tasmanian Polytechnic as State educational institutions

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 (Transitional Provisions) Act 2010*.

2. Commencement

This Act commences on 1 January 2011.

3. Interpretation

In this Act, unless the contrary intention appears –

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

Education and Training (Transitional Provisions) Act 2010
Act No. of

s. 3

“Academy audit committee” means the audit committee established under section 18 of the former Academy Act;

“Academy Board” means the Board of the former Academy established under section 8 of the former Academy Act;

“former Academy” means the Tasmanian Academy established under section 5 of the former Academy Act;

“former Academy Act” means the *Education and Training (Tasmanian Academy) Act 2008* as in force immediately before 1 January 2011;

“former Polytechnic” means the Tasmanian Polytechnic established under section 5 of the former Polytechnic Act;

“former Polytechnic Act” means the *Education and Training (Tasmanian Polytechnic) Act 2008* as in force immediately before 1 January 2011;

“Polytechnic audit committee” means the audit committee established under section 18 of the former Polytechnic Act;

“Polytechnic Board” means the Board of the former Polytechnic established under section 8 of the former Polytechnic Act;

“transition day” means 1 January 2011.

4. Abolition of former Academy, former Polytechnic, Academy Board and Polytechnic Boards

- (1) The former Academy and the former Polytechnic are abolished.
- (2) The Academy Board is abolished on the day determined by the Minister by notice published in the *Gazette*.
- (3) The Polytechnic Board is abolished on the day determined by the Minister by notice published in the *Gazette*.
- (4) The Minister is not to determine a day for the abolition of the Academy Board or the Polytechnic Board until satisfied that the Board has fulfilled its obligations under sections 11 and 12.
- (5) The appointment of each member of the Academy Board is revoked on the day the Academy Board is abolished, and the appointment of each member of the Polytechnic Board is revoked on the day the Polytechnic Board is abolished.
- (6) A member of the Academy Board or the Polytechnic Board is not entitled to receive any benefit in respect of the termination of his or her appointment as such a member.
- (7) A notice by the Minister under this section –
 - (a) is not a statutory rule for the purposes of the *Rules Publication Act 1953*; and

Education and Training (Transitional Provisions) Act 2010
Act No. of

s. 5

- (b) may be combined with another notice under this section.

5. Abolition of Academy audit committee and Polytechnic audit committee

- (1) The Academy audit committee is abolished on the day the Academy Board is abolished and the appointment of each member of the Academy audit committee is revoked on that day.
- (2) The Polytechnic audit committee is abolished on the day the Polytechnic Board is abolished and the appointment of each member of the Polytechnic audit committee is revoked on that day.
- (3) A member of the Academy audit committee or the Polytechnic audit committee is not entitled to receive any benefit in respect of the termination of his or her appointment as such a member.

6. Employees

- (1) In this section –

“transferring Academy employee” means a person who was, immediately before 1 January 2011, appointed, or taken to have been appointed, under the *State Service Act 2000* for the purposes of the former Academy Act;

“transferring Polytechnic employee” means a person who was, immediately before 1 January 2011, appointed, or taken to have been appointed, under the *State Service Act 2000* for the purposes of the former Polytechnic Act;

(2) On and after 1 January 2011 –

(a) a transferring Academy employee is taken to have been appointed under the *State Service Act 2000* for the purposes of the Department in relation to the former Academy Act; and

(b) a transferring Polytechnic employee is taken to have been appointed under the *State Service Act 2000* for the purposes of the Department in relation to the former Polytechnic Act.

(3) The transfer, by reason of this section, of the employment of a person from employment for the purposes of the former Academy or the former Polytechnic to employment for the purposes of the Department is not a State Service action for the purposes of section 50 of the *State Service Act 2000*.

7. Property

(1) In this section –

“relevant liabilities” means all liabilities and obligations (whether actual, prospective

Education and Training (Transitional Provisions) Act 2010
Act No. of

s. 8

or contingent) belonging, immediately before the transition day, to the former Academy or the former Polytechnic;

“relevant property” means all property and rights vested, immediately before the transition day, in the former Academy or the former Polytechnic.

(2) On the transition day –

- (a) all relevant property vests in the Crown;
and
- (b) all relevant liabilities become the liabilities and obligations of the Crown.

8. Contracts

If appropriate, a contract made by the former Academy or the former Polytechnic but not performed or discharged before the transition day is taken to have been made by the Crown.

9. Documents

(1) If appropriate –

- (a) a document issued or made by the former Academy or the former Polytechnic is taken to have been issued or made by the Crown; and
- (b) a document served on or by, or provided to or by, the former Academy or the

former Polytechnic is taken to have been served on or by, or provided to or by, the Crown.

- (2) If appropriate, a reference in a document to the former Academy or the former Polytechnic is taken to be, or to include, a reference to the Crown.

10. Legal matters

- (1) A legal proceeding that is instituted by or against the former Academy or the former Polytechnic and is pending immediately before the transition day may be continued by or against the Crown.
- (2) A legal proceeding that could have been instituted by or against the former Academy or the former Polytechnic to enforce a right that had accrued, and was in existence, immediately before the transition day may be instituted by or against the Crown.
- (3) A judgment or order of a court obtained by or against the former Academy or the former Polytechnic before the transition day may be enforced by or against the Crown.

11. Financial statements of former Academy and former Polytechnic

- (1) As soon as practicable after the transition day, the Academy Board is to –

Education and Training (Transitional Provisions) Act 2010
Act No. of

s. 11

- (a) prepare financial statements for the former Academy relating to the period of 6 months ending on 31 December 2010; and
 - (b) provide the Auditor-General with those financial statements.
- (2) As soon as practicable after the transition day, the Polytechnic Board is to –
 - (a) prepare financial statements for the former Polytechnic relating to the period of 6 months ending on 31 December 2010; and
 - (b) provide the Auditor-General with those financial statements.
- (3) The financial statements for the former Academy are to contain the information and documents that are referred to in section 27(2) of the former Academy Act, and the financial statements for the former Polytechnic are to contain the information and documents that are referred to in section 27(2) of the former Polytechnic Act.
- (4) The financial statements –
 - (a) are to comply with any directions given under subsection (5); and
 - (b) subject to any directions so given, are to comply with the Australian Accounting Standards.

- (5) The Treasurer may give written directions to the former Academy Board and the former Polytechnic Board with respect to the form of the financial statements.
- (6) The Academy audit committee is to provide the Academy Board with such advice as the Academy Board requires for the purposes of fulfilling its obligations under this section, and the Polytechnic audit committee is to provide the Polytechnic Board with such advice as the Polytechnic Board requires for the purposes of fulfilling its obligations under this section.

12. Semi-annual report for former Academy and former Polytechnic

- (1) As soon as practicable after the transition day –
 - (a) the Academy Board is to prepare and provide to the Minister a semi-annual report for the former Academy relating to the period of 6 months ending on 31 December 2010; and
 - (b) the Polytechnic Board is to prepare and provide to the Minister a semi-annual report for the former Polytechnic relating to the period of 6 months ending on 31 December 2010.
- (2) The semi-annual report for the former Academy is to contain the information and documents referred to in section 29(2) of the former Academy Act, and the semi-annual report for the

former Polytechnic is to contain the information and documents referred to in section 29(2) of the former Polytechnic Act.

13. Tabling of semi-annual report

- (1) The Minister is to lay a copy of the semi-annual report of the former Academy, and of the semi-annual report of the former Polytechnic, provided under section 12 before each House of Parliament within 10 sitting-days after receiving that report.
- (2) If the Minister is unable to comply with subsection (1) before the expiration of the period specified in that subclause, the Minister is to lay before each House of Parliament a statement specifying –
 - (a) the reasons for the failure to comply with that subclause; and
 - (b) an estimate of the day by which a copy of the semi-annual report may be ready to be laid before each House of Parliament.

14. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may be made so as to apply differently according to matters, limitations or

restrictions, whether as to time, circumstance or otherwise, specified in the regulations.

- (3) The regulations may authorise any matter to be from time to time determined, applied, approved or regulated by the Minister, the Secretary or any other person or body specified in the regulations.
- (4) The regulations may –
 - (a) provide for savings or transitional matters necessary or expedient for bringing this Act, the *Education and Training (Tasmanian Academy) Amendment Act 2010* and the *Education and Training (Tasmanian Polytechnic) Amendment Act 2010* into operation; and
 - (b) provide for any of those savings or transitional matters to take effect when this Act commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.

15. 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 Education and Skills; and

Education and Training (Transitional Provisions) Act 2010
Act No. of

s. 15

- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Education.