PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Wednesday 27 October 2021

REVISED EDITION

Contents

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The President, **Mr Farrell**, took the Chair at 11 a.m., acknowledged the Traditional People and read Prayers.

RECOGNITION OF VISITORS

Mr PRESIDENT - Honourable members, I welcome to our Chamber a school group from the Sprent Primary School. I believe the Sprent Primary School is in the fine electorate of Montgomery. Your member is the member for Montgomery, Leader of the Government in the Legislative Council. I am sure all members here will join me in welcoming you to the Chamber today and hope you have an enjoyable time in the parliament.

Members - Hear, hear.

Ms Rattray - And the teacher is a Winnaleah girl, Mr President.

Mr PRESIDENT - And the teacher is a Winnaleah girl, so you get bonus points.

LEAVE OF ABSENCE

Member for Prosser - Ms Howlett

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council)(by leave) - Mr President, I move -

> That the honourable member for Prosser, Ms Howlett, be granted leave of absence from the service of Council at this day's sitting.

Motion agreed.

CHILDREN, YOUNG PERSONS AND THEIR FAMILIES AMENDMENT BILL 2021 (No. 28)

Consideration of Amendments made in the Committee of the Whole Council

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 2R) - Mr President, I move -

> That the bill as amended in Committee be now taken into consideration.

Motion agreed to.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the amendments be read for the first time.

Amendments read the first time.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the amendments be read for the second time.

Amendments read the second time.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the amendments be agreed to.

Amendments agreed to.

Bill as amended agreed to.

Bill read the third time.

DEFAMATION AMENDMENT BILL 2021 (No. 34)

Third Reading

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill be read for the third time.

Bill read the third time.

TASMANIAN CIVIL AND ADMINISTRATIVE TRIBUNAL AMENDMENT BILL 2021 (No. 46)

Second Reading

[11.07 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill now be read for the second time.

As the Minister for Justice has previously stated, she is immensely proud to be introducing these significant reforms to establish the Tasmanian Civil and Administrative Tribunal known as TASCAT. The introduction of TASCAT as Tasmania's single tribunal by our Government is bringing in a new era for Tasmanian's tribunals. As the Minister for Justice

has practised in protective jurisdictions, the minister is pleased to pursue reform in this area as TASCAT will bring about improved access to justice for all Tasmanians. It will allow for the better use of administrative support and resources for tribunal matters, promote greater use of alternative dispute resolution and provide for more consistent decision-making.

The establishment of TASCAT is a significant undertaking. In order to ensure that the transition from multiple tribunals and boards to a single civil and administrative tribunal occurs with appropriate consultation, TASCAT is being established in three stages through several pieces of legislation. Stage 1 of the Government's initiative to establish TASCAT was completed last year with the commencement of the Tasmanian Civil and Administrative Tribunal Act 2020. This enabled the co-location of nine separate tribunals and boards at new premises at Barrack Street in Hobart. The nine co-located tribunals and boards are: the Anti-Discrimination Tribunal; the Asbestos Compensation Tribunal; the Forest Practices Tribunal; the Guardianship and Administration Board; the Health Practitioners Tribunal; the Mental Health Tribunal; the Motor Accidents Compensation Tribunal; the Resource Management and Planning Appeals Tribunal; and the Workers Rehabilitation and Compensation Tribunal.

The commencement of the 2020 act has also enabled the appointment of key personnel to support the establishment, and in March this year the minister was pleased to announce the appointment of Mr Malcolm Schyvens as the inaugural President of TASCAT. The legislation to implement stage 2 of TASCAT consists of the Tasmanian Civil and Administrative Tribunal Amendment Bill 2021 (No.46) and the Tasmanian Civil and Administrative Tribunal (Consequential Amendments) Bill 2021 (No.47). With the passage of these bills, TASCAT will be able to formally commence operations as Tasmania's single tribunal. The legislation will formalise the required amalgamation and transfer of powers, provide for the processes and procedures of the nine co-located tribunals and boards and deliver a combined civil and administrative tribunal for the very first time in Tasmania.

The amendment bill will amend the principal act to add in the provisions required for TASCAT to carry out its functions in exercising its original and review jurisdiction, conferred by 40 relevant pieces of legisaltion. It will also provide a consolidated set of provisions for appeals from TASCAT to the Supreme Court of Tasmania. The consequential bill amends various laws to substitute updated references to the act and the tribunal and repeals provisions that will no longer be required because they will be dealt with through the tribunal's consolidated powers, processes and procedures under the amended act.

I will speak more to the consequential amendments bill following the conclusion of debate on this being the substantive TASCAT amendment bill. It is important to note that the task of preparing these bills has involved accommodating and integrating two important objectives.

It is a guiding principle that, wherever possible, there should be consistent processes and procedures that apply across the various streams of TASCAT's jurisdiction. This furthers the objectives of the act by encouraging transparency and consistency in decision-making and promoting accessibility for users of TASCAT. However, as there are some significant differences in the various jurisdictions that are currently exercised by the nine boards and tribunals that are to be amalgamated, it has been identified that some of these must be maintained.

I will explain these in more detail, but they are required to be maintained in order to ensure natural justice and fairness and to recognise the needs and vulnerabilities within the diverse group of Tasmanians who rely on them to provide just outcomes when their matters are dealt with. This bill aims to ensure these objectives, which sometimes compete, are reflected in the act. Accordingly, while there will be general provisions in the amendment act that are the standard or default for TASCAT, some of these provisions are explicitly excluded from applying in specified streams or in particular circumstances.

By way of example, there are specific protections that apply to those who come before the Mental Health Tribunal and which must continue to apply when these matters are dealt with under the mental health stream of TASCAT. The bill, therefore, sets out the specific provisions that will prevail over the general provisions when TASCAT is dealing with matters in certain streams, such as the resource and planning stream and the guardianship stream.

Despite these required differences provided for in the bills, it is intended that after TASCAT has formally commenced, there will be a future opportunity to identify provisions in the act that can be further consolidated and unified, as users of TASCAT become more familiar with its operations and procedures over time.

I will now turn to several specific aspects of the bill. The new Part 6 provides for the constitution of TASCAT and covers matters such as the number of members who may constitute TASCAT, circumstances where a registrar or staff member may exercise the TASCAT's jurisdiction, establishing who presides over a particular matter, processes for resolving decisions when the opinion of members is divided and disclosure of interests by TASCAT members. It is important to note that the general provisions in Part 6 are modified for particular streams by the specific provisions found in schedules 2 and 3 of the amended act.

The new Part 7 of the act sets out which matters fall within the original and the new jurisdiction of TASCAT. TASCAT will exercise its original jurisdiction where a relevant act confers upon it the powers to act as the original decision-maker for a matter. Where a decision has already been made by a person or body under a relevant act and that act provides for the decision to be appealed, TASCAT will exercise its review jurisdiction. Section 75 of the amended act sets out the nature of proceedings in TASCAT's review jurisdiction and this reflects that there are several types of review that may be undertaken by TASCAT depending on the kind of matter before it. For example, section 75(2) of the amended act provides that for the resource and planning stream, reviews are to be conducted by way of a de novo hearing where the matter is heard afresh. For other matters the review may be conducted as a re-hearing with TASCAT given the capacity to have regard to, or give weight to, the decision of the original decision-maker.

The nature of the review jurisdiction exercised pursuant to Part 7 reflects the way that those matters are currently reviewed by the nine tribunals and boards to be amalgamated as set out in the relevant acts that confer the review power. Part 7 of the bill also includes provisions to empower TASCAT to direct the original decision-maker to provide assistance, to clarify the effect that review proceedings have on the original decision and to set out the range of decisions available to the TASCAT upon completing its review.

The new Part 8 of the bill contains the general provisions relating to principles, powers and procedures that must be followed by TASCAT when conducting proceedings. These include providing for when hearings may be held in private or may be subject to directions that

prohibit or restrict publications or disclosures and the measures TASCAT is to take to promote transparency and accessibility during proceedings.

Division 3 of Part 8 contains powers for proceedings to be dismissed or withdrawn including where proceedings are frivolous, vexatious or being conducted to unnecessarily cause disadvantage to another party. Division 5 of Part 8 sets out who may be a party to proceedings, while Division 6 provides for a party to appear before TASCAT personally or to be represented by an Australian legal practitioner or, by leave of TASCAT, another person.

That division also empowers TASCAT to appoint a person to represent a party to act as guardian ad litem. Some of these general provisions are displaced by specific provisions in schedules 2 and 3 relating to the resource and planning stream and the guardianship stream respectively. Division 7 of Part 8 of the bill provides for compulsory conferences, the purpose of which is to identify and clarify the issues in proceedings and to promote the resolution of matters by settlement between the parties and for alternative dispute resolution processes that may be used to resolve or narrow the issues between parties.

Division 10 of Part 8 contains the provisions relating to costs. The default provision under section 120(1) is that parties bear their own costs in proceedings. However, under subsection (2) TASCAT may make an order for a party to pay any of the costs of another party if it considers it appropriate to do so after taking into account the specified matters.

The provisions of this section may be displaced if otherwise specified in the act, a relevant act or regulations under a relevant act. Sections 121 and 122 provide for the powers TASCAT may exercise in particular circumstances to make an order compensating another party for expenses or loss, to require a party's representative to pay costs incurred unnecessarily by another party because of that representative's conduct in proceedings or to make an order for costs incurred by TASCAT.

It is important to note that in the mental health stream and guardianship stream, TASCAT is not permitted to make an order for a party to pay the costs of another party, including compensatory costs or to pay costs incurred by TASCAT. This recognises the vulnerability and financial hardship that is frequently experienced by people appearing in mental health and guardianship stream proceedings.

It should also be noted that the cost provisions within division 10 do not apply to the resource and planning stream. Specific cost provisions for that stream are included in the amended schedule 2, with replicate current practice for those matters under the Resource Management and Planning Appeal Tribunal Act 1993.

The new Part 9 deals with the federal jurisdiction, enabling proceedings on an application to be referred to the Magistrates Court in circumstances where TASCAT does not or may not have jurisdiction to determine the application because it involves matters of the kind referred to in section 75 or 76 of the Constitution of the Commonwealth. This resolves the legal issues relating to federal diversity jurisdiction that have arisen as a result of the High Court decision of Burns v Corbett in 2018.

The new Part 10 consolidates the provisions for the appeal from TASCAT to the Supreme Court of Tasmania. It captures all such appeals that are currently provided for in relevant acts and replicates the current nature of those appeals in terms of who may appeal and whether the

appeal is permitted on a question of law only, on a question of law or fact, on a question of law as a right and on a question of fact with the leave of the court. The consolidation of these appeal rights within the act means that they can be repealed from the relevant acts by the consequential bill.

The new Part 11 provides appropriate protections and immunity for members of TASCAT. TASCAT staff and persons acting under TASCAT's direction as well as parties and their representatives, witnesses, experts and persons presiding over alternative dispute resolution processes. The new Part 12 contains miscellaneous provisions while saving and transitional provisions are found in Part 13.

I would also draw attention to the bill's amendments to schedule 2 and 3 of the act. As I mentioned earlier, the amended schedules will include provisions that relate to the particular streams in which TASCAT operates. These provisions specify the relevant acts pursuant to which TASCAT may exercise its functions and powers in the stream and how TASCAT is to be constituted for proceedings in that stream. For example, under Part 5 of schedule 3, where TASCAT is constituted by three or more members for purposes of proceedings in the mental health stream, the members must include a psychiatrist and a legally qualified member.

Part 8 of the amended schedule 2 contains a series of additional provisions that apply to the resource and planning stream. The purpose of these provisions is to replicate the current powers, processes and proceedings of the Resource Management and Planning Appeal Tribunal (RMPAT) where those powers, processes and procedures differ from, or are not already reproduced in, the general provisions of the amended act. This means that once TASCAT commences, resource and planning matters will continue to be dealt with in substantially the same way as they now are under RMPAT.

Similarly, Part 4 of schedule 3 includes additional provisions relating to matters in the guardianship stream, preserving particular provisions that will be repealed from the Guardianship and Administration Act 1995.

While the legislation for stage 1 of TASCAT set up the broad structure and appointment provisions for TASCAT, the bills the minister has introduced to implement stage 2 are of considerably greater significance. They provide the legislative framework for TASCAT to commence its work as a single tribunal, enabling a more client-centric focus, delivering greater consistency in decision-making across a range of civil and administrative matters and improving access to justice for all Tasmanians.

As I have noted, the Government has taken the staged process to TASCAT to ensure a smooth transition to a single tribunal and to ensure that there is appropriate consultation with stakeholders and the public. Following the passage of this legislation the Government's attention would turn to stage 3 which will involve the transfer of further powers and functions to TASCAT. As part of this stage, the Department of Justice will consider approaches in other jurisdictions and stakeholder views to inform this further work to determine which tribunals, boards and other areas would be appropriate to be transferred into the TASCAT for the future. Subject to further detailed analysis and consultation, possible matters that the Government will consider for transfer to TASCAT include residential tenancy matters; certain appeals relating to licensing matters within the Consumer Affairs portfolio; building matters including certain building disputes; certain other appeals to the Administrative Appeals Division of the Magistrates Court and certain appeals within the jurisdiction of the Supreme Court of

Tasmania. The Government will consult with stakeholders, the broader Tasmanian community and the tribunal itself before making any final decisions on the scope of this further stage.

The Attorney-General and Minister for Justice is pleased to have prioritised this significant reform and is confident that TASCAT will deliver a more client-centric focus, particularly for our protective jurisdictions. During the briefing, members asked that I add a few more notes there regarding consultation with TASCAT in preparing the bills.

In preparing this bill the Department of Justice has consulted closely with the inaugural president of TASCAT, the registrar and the current heads of jurisdiction for each of the nine existing tribunals and boards that have been amalgamated into TASCAT. This has involved regular and frequent meetings to work through all of the bill's provisions to ensure that current practice and procedure of those boards and tribunals will continue under TASCAT.

Particular attention in this regard has been given to the provisions that are currently contained in the Resource Management and Planning Appeal Tribunal Act of 1993. Following the commencement of the amendments to the act should it be identified that any inadvertent admissions or change has occurred the Government has the capacity to amend the act through one of its periodic justice miscellaneous amendment bills.

I commend the bill to the Council.

[11.27 a.m.]

Ms FORREST (Murchison) - This a complicated bill to read through, both of them, in fact. I start by thanking the Government through the Leader's Office in providing a briefing basically to go through clause by clause areas I was not sure of. It is one time that I really wished I had a law degree just to understand some of the terminology and why things are said in a certain way and what they actually mean. I do thank the departmental officers for their patience and support in getting through that, taking more time than we intended to help me have a greater understanding.

There are a number of points I will raise in relation to the second reading speech and I hope the Leader can reply to in her response to the debate to clarify a few of those matters on the record. I also noted at the briefing that these two bills are the second part of a process; the first part was to establish the tribunal to enable the appointment of the commissioner and the staff and other administrative processes there to start the work on preparing this bill.

I do commend all the tribunal members and staff who have participated in this process and the Office of Parliamentary Counsel (OPC) for the work of pulling all this together. It is a huge task to see why there are common provisions across the different functions of a range of tribunals but also to identify those that need to be brought across or to be specifically named up because they are different due to the nature of the work of that tribunal.

I know Mr Divis said in the briefing that this bill gives the guts to TASCAT. I thought it was a very apt description. These bills do provide the legislative framework for TASCAT to commence its work as a single tribunal, enabling a more client-centric focus delivering greater consistency in decision-making across a range of civil administrative matters, and improving access to justice for all Tasmanians.

They are high ambitions and I hope that is how it plays out, because the matters that are dealt with by these tribunals are very serious matters a lot of the time. We know, particularly in the planning space and some other areas perhaps, you can find vexatious and frivolous complaints being made and procedures being started. There are provisions in the bill to deal with that as much as possible. However, people have a right to be heard and we should provide a framework where people can take their matters forward.

A lot of us in this room have dealt with some of these processes in the past, if not all of them -

Ms Rattray - RMPAT particularly.

Ms FORREST - because most of us engage with that system in one way or another. Not everyone has the privilege of being in a position to build their own home or build a property.

There is also the very important work of the Guardianship and Administration Board around matters relating to very vulnerable people, and the Mental Health Tribunal. Over the years, I have looked at a number of pieces of legislation regarding the Mental Health Tribunal under the Mental Health Act. It is a very important area to get right, because that act, essentially, provides for forced treatment of people, detaining them for their own safety and welfare. The tribunal is exercising very significant powers and considering matters about the rights of individuals. They may have serious mental illness, but those people still have rights and they should be treated with respect and dignity. The same applies to the Guardianship and Administration Board and their work.

I understand this, from memory, is intended to start in July 2022. Is that right?

Mrs Hiscutt - It was originally July 2021.

Ms FORREST - So we have passed that.

Mrs HISCUTT - Yes, COVID-19 got in the way.

Ms FORREST - COVID-19 probably got in the way of lots of things. When this act becomes law, all the other tribunals cease to exist. Everything needs to be lined up so no-one is falling through gaps and there are no proceedings that cannot continue. I appreciate the amount of work that has gone into this, but I am interested to know when this bill will be enacted.

As mentioned in the second reading speech, the third stage will consider other matters that may be brought into the remit of TASCAT in the future. There may also be other aspects of this bill, because we know we do not always get things right - as we will see from the Validation Bill - and sometimes things need to change. I say that particularly in relation to a section related to the Forest Practices Tribunal, a tribunal that I understand has not been used in years. Clause 20 Part 6 in Schedule 2, Forestry Practices stream, brings over the provisions - as most of them do, within their specific stream or tribunal area. This one enables the minister to nominate a member to be in the tribunal. In appointing three members, one is the president, the deputy president assigned to a division or a legally qualified member who is assigned to the forestry practices stream; that is fine. Then, there is one member who is assigned to the forestry practices stream and possesses a sound knowledge, five years in the

aquaculture and forest industry, effectively, and has been nominated to be a member in response to a notice from the minister circulating in two papers. As far as I can understand, this is the only one with this sort of process taking place to have members appointed. I need some clarity on this, but I understand that the minister referred to here will be the Minister for Justice, because this is the Minister for Justice's bill. In the Forest Practices Act it would have been the Minister for Resources.

I consider that members of the tribunal should be appointed through a similar mechanism. Why would we treat this one differently? It is not an urgent problem, because it has not been used for years. I understand from the briefing provided that these provisions, as with the other tribunals, was brought in so there is no change to the current operations when those acts are repealed. I accept and understand that, but I would like to see this considered in the third tranche of legislation that will refine and bring other processes into TASCAT's remit.

Why would the Minister for Justice have any interest in appointing someone to this stream, when it was originally the Minister for Resources? I found this provision rather strange, in that it did not appear in others.

The other point I raised in the briefing was related to the disclosure of interests of members of the tribunal. It is proposed section 70 of the bill and makes it clear that members of the tribunal need to declare any interests they have. They must disclose to the parties to the proceedings, to the president or, if the president is the member with the interest, make a record of the interest and declare whether he or she will withdraw from the proceedings. It is incumbent on that person to declare and, potentially, withdraw from the proceedings.

There is no penalty for not doing so. I know from the briefing that it was not raised by anybody else, but that is not a reason not to have a response. I understand the Leader has some information about this. These people can be removed from the tribunal if they act inappropriately. One would assume that is the penalty that would apply. When you think about the nature of the work some people are doing, particularly when you look at resource management and planning, you do not want people on a tribunal who are conflicted in that area because you know how that will go.

Similarly, in the mental health tribunal, you do not want a medical practitioner who has been treating the person to be involved in the assessment of an order through the tribunal process. I seek more clarity and whether that will also be considered in tranche 3 of any legislation that comes this way.

With reference to proposed section 79, and this is a comment rather than a question, I asked the departmental staff with regard to the principles governing proceedings to explain 79(c) to me:

> … the Tribunal must act according to equity, good conscience and the substantial merits of the case and without regard to legal technicalities and forms.

That is how we want the tribunal to function, absolutely. However, I found the phrase 'without regard to legal technicalities and forms', to be confusing. I understand it was to make it accessible; if someone fails to exactly fill out the correct form, it does not hold things up or

mean that they cannot proceed. It is trying to make it accessible for people - someone like myself, perhaps - who may not have all the legal knowledge and skills. It ensures matters can proceed and people do not have get every 'i' dotted and every 't' crossed in terms of the technical information, such as the forms. If they missed a box on a form, it does not mean things end. It is about increasing accessibility, and that is a very positive and important aspect. This is not supposed to be an expensive process for people; it is supposed to be an accessible process.

I note there is the broad regulation-making clause in proposed section 145 in the bill.

Scattered throughout the bill, there are provisions for regulations to be made in specific areas and one such case is with regard to the procedure for compulsory conferences, another one regarding alternative dispute resolution. I was saying to the departmental staff when I looked at this that, generally, most of the regulation-making head of power is in the regulations clause, but that is quite broad as they are. One of the roles in the Subordinate Legislation Committee is to make sure there is a regulation-making power in the act for these regulations to even sit under. If you have to search through the whole act to find them, it can be a bit of an onerous task.

I understand these particular processes, like the procedure for compulsory conferences and alternate dispute resolution processes, may require specific provisions around how they are to operate. I am sure there will be regulations to guide the functions of those processes. They are really important inclusions and help to get to the heart of the problem, the conflict resolution or to try to bring the parties closer together to try to reach some sort of agreement.

People often do dig in with some of these processes and hearings. If there can be processes that can be utilised, where there are no costs to people, hopefully, it will see less drawn-out proceedings and a more efficient process to see resolution. I am sure it is not always going to work, but at least you give it a fair shot. Sometimes, having the parties in the room with properly trained people who can mediate that sort of approach can make a difference.

I had some questions about the accessibility of evidence for the public. This is proposed section 110, which states:

> (1) Subject to this Act and any relevant Act, the Tribunal may, on application by any member of the public, allow the applicant to inspect or obtain a copy of -
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> (a) any process relating to proceedings and forming part of the Tribunal's records; or
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> (b) a transcript of evidence taken by the Tribunal in any proceedings; or
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> (c) any documentary or other material received as evidence by the Tribunal in any proceedings; or
>
> (d) any decision or order given or made by the Tribunal; or
>
> (e) any other material of a prescribed kind.

That is another regulation-making power. It says in subsetion (2):

> (1) Despite subsection (1), a member of the public may inspect or obtain a copy of the following material only with the permission of the Tribunal:
>
> (a) material that was produced or provided to the Tribunal in a hearing (or part of a hearing) held in private;

It is possible for members of the public to access information provided to the tribunal in private with the approval or permission of the tribunal? Under what sort of circumstances would you provide information that was provided to the tribunal in a private setting, private hearing, private process to a member of the public? I would hope that bar is fairly high, particularly with some of the matters being dealt with.

Will it be the same across all streams? Matters of mental health and guardianship, I would hope, would have a slightly higher bar. All things matter, but with RMPAT, I think people often think they have an interest in matters, perhaps even when they may not.

I note the appeal provisions. It is a challenge to be sure all those provisions have been brought across, but I am sure OPC have done a really thorough job. I did ask if there was capacity, which I did not see in the appeal provision section, for an appeal to be made against the awarding of costs. That may sit under other legislation like in RMPAT, for example. If a right exists now to appeal a decision, that will be transferred across, because those provisions have been taken across. If the Leader could confirm whether those rights to appeal against cost exist in the streams where cost can be awarded - obviously they cannot in the guardianship and administration or the mental health streams.

I also asked a question in the briefing about correcting mistakes which is proposed section 119. It is important to clarify this on the record, because it says a tribunal may correct a decision given by the tribunal or a statement of the reasons it has given for its decision to the extent necessary to rectify a clerical mistake. A clerical mistake is fine, you do not want to have a review of the whole decision based on a clerical mistake. An error arising from anaccidental slip or omission is self-explanatory. I was a little concerned with (c) which says, 'a material miscalculation of figures or a material mistake in the description of any person, thing or matter referred to in the decision'. What raised the concern for me was when you talk about a material matter, it is something that actually makes a difference, it impacts significantly.

The departmental officers explained to me, and the Leader may like to clarify this in her response, what we are talking about here is not a material miscalculation in correcting an error that alters the decision, for example. Say there was a matter where the person was described as male when clearly they were female, it was an error. I have seen coroner's reports that do this which is quite distressing for the families when they get the coroner's report of a loved one and they are referred to as 'Mr' instead of 'Mrs' or 'Ms'. Clearly, the figure referred to was to be $10 000 but it has been made one million. It was clear from the evidence and clear from everything else it was a material mistake, but it does not alter the intent and the decision.

Mrs Hiscutt - Mr President, would that be material or clerical?

Ms FORREST - That is material. It would be material - if it was supposed to be $10 000 and it ended up being a million, it is a material matter. I wanted to clarify what we are not talking about there is a mistake in the decision that would materially impact on the outcome of that decision. What this is talking about is a mistake that is in the decision that without correction could cause a major issue - it is the reverse of the way I was reading it if that makes sense.

I was somewhat amused by one part here. It is in the section of guardianship and administration stream, proposed section 125, subsection (2). It says:

> For the purposes of this Act, a notice, order or other document may be issued, served or executed on a Sunday as well as any other day.

I thought why would it name up 'on a Sunday' rather than just saying every day of the week? I do not know whether the Leader can provide clarity about why we name up 'on a Sunday' like it is really special. If you get served on a Sunday, really special.

Mr Valentine - Probably precluded in a previous act or something.

Ms FORREST - It might have been because it is one of those parts that has been brought across from going through the administration stream, like tribunal requirements there. If that is the reason it is there and worded that way maybe it can be reviewed just to say, 'on any day of the week'. As far as I know Sunday is a day of the week. My final question is in the Tasmanian Civil Administration Tribunal section. This is clause 20 schedule 2, Part 8(13)(3):

> A member, or a member of the staff of the Tribunal, is not required to give evidence to a court, tribunal or person having power to require the production of documents or the answering of questions, if the giving of the evidence was in relation to a hearing in the Resource and Planning stream proceedings that were conducted in private in accordance with a direction under this Act or a relevant Act.

It is on page 181, for those looking. I am interested whether, if a parliamentary committee was to call on a member of the tribunal or staff of the tribunal to an inquiry into a matter related to this, would this prohibit them from providing that information in camera? You could expect them to want to provide it in camera but, surely, parliament is not drawn into this? I do not want to see this drawn out in future as a reason not to produce a document. To reiterate, it is:

> A member, or a member of the staff of the Tribunal, is not required to give evidence to a court, tribunal or person having power to require the production of documents…

Parliament is not a person, parliament is an institution, and parliament can seek documents. Parliament can require people to come and answer questions as well.

Mr Valentine - I had the same question with regard to a matter we were dealing with in the Public Works Committee. A mediation, and wanting to know what happened in that mediation.

Ms FORREST - That is a private process, the mediation, yes.

Mr Valentine - It is an interesting question.

Ms FORREST - I want to be sure that this will not be pulled out and I will not see it in a letter to me, as a chair of a committee, saying the reason you cannot have this information is because of this clause in this bill. If this is to prevent people having to give over private information in relation to this - it does say 'to a court', 'is not required to give evidence to a court, a tribunal or person having power to require the production of documents'. I really need some clarity on that. The member for Hobart may have an interest in that, too.

I appreciate the opportunity to go through some of those points. Hopefully, they can be addressed in the Leader's reply. I commend the work. It is a dense and comprehensive bill. As the Leader said in her second reading, it will draw together, I think, eight tribunals at this stage and there may be more in future. I hope it does achieve its aim.

Other jurisdictions have similar bodies and, hopefully, it will improve access to justice for all Tasmanians and allow for the better use of administrative support and resources for tribunal matters. The inclusion of the alternative dispute resolution and conferences, hopefully, will be utilised frequently to assist in that. It will take a little while to bed down, I am sure, but I do note the work that has been done to try to get it all together. I support the bill.

[11.54 a.m.]

Ms ARMITAGE (Launceston) - I rise to make some brief remarks on the bill. I thank the Leader's office for organising the briefings on this TASCAT amendment and consequential amendments bill this morning. With a legislative undertaking as significant as establishing a comprehensive administrative and non-judicial review body, I would expect there to be some reasonably technical amendments to be made. We owe it to the people of Tasmania to ensure we get this right and that, in establishing TASCAT, we meaningfully enhance access to non-judicial review and dispute resolution.

This bill seeks to formalise the required amalgamation and transfer of powers necessary for TASCAT to operate. To this end, some 40 pieces of legislation confer powers to the tribunal to operate in both its original and review jurisdictions for the nine co-located tribunals which comprise TASCAT. This has obviously been a significant task and many parties have worked very hard to get this to fruition.

One of the key points which the Leader made in her second reading speech, related to retaining some of the powers that were originally possessed by some of the constituent boards and tribunals. I believe the example the Leader used related to some of the Mental Health Tribunal protections that will continue to apply when matters are dealt with under the mental health stream of TASCAT.

I think that there is also a good argument to be made here that retaining certain aspects of the original tribunals will also retain specific know-how and experience that good non-judicial review requires. There needs to be an adequate balance of having a centralised civil and administrative tribunal whilst also maintaining much of the corporate knowledge and expertise that exists within its constituent parts.

It is perhaps inevitable when amalgamating nine such different bodies in the fashion that has occurred with TASCAT, some objectives and processes will clash and compete with one another. In order to resolve disputes like this the governing legislation should promote natural

justice, fairness in accommodation of the needs and vulnerabilities of diverse groups of TASCAT users. Having reviewed the bill and related material I know this is what the legislation here is attempting to do. I am also aware that as a matter of ongoing monitoring of the TASCAT legislation, future opportunities to identify, consolidate and unify provisions in the act to promote good access to justice will occur.

I would be pleased if the Leader could indicate whether there are any time lines for this or whether any formalised reviews of the act, as it is implemented, will take place. If so, who will be responsible for undertaking any reviews of this nature? I know that a number of concerns were put on the record in the other place relating to the issue of costs and that the Attorney-General and Leader's contribution on this bill have addressed these concerns.

I would simply like to say on record that I concur that TASCAT ought not to have the ability to award costs but the parties should take responsibility for their own costs as a matter of course. I do understand that TASCAT may make an order for a party to pay all or any of the costs of another party if it considers it appropriate to do so after taking into account the specified matters listed in division 10 of Part 8. The power to compensate a party may only be exercised by the President, the Deputy President or a legally qualified member of TASCAT and can only be made in circumstances where that party brought or conducted the proceedings frivolously or vexatiously.

Ideally these situations will be very few and far between given the general requirement of the act for parties to make genuine and good faith attempts to utilise alternative dispute resolution proceedings in the lead-up to being heard by the tribunal.

There are a number of technical changes this bill makes and I believe that in conjunction with the briefings we have received, many of the concerns raised by stakeholders during the consultation process have been addressed. I look forward to the contribution of others and emphasise my support of the bill.

[11.58 a.m.]

Mr VALENTINE (Hobart) - Thank you, Mr President. Let me first thank the Leader for the briefings and especially the officers who gave me a little bit of time after the briefings because it clarified - I do not know how many turnovers I had but quite a lot. I have managed to prune them right down so you will be pleased about that. Thank you to those who provided that opportunity.

As has already been stated, this is a mammoth bill really, the amount of work that has gone into this. I suppose the only concern that I have is whether or not the expertise that currently exists in the tribunals in the various streams at the moment is indeed replicated in this bill. I want to make sure that currently existing experience and expertise is not, in some ways, watered down. I believe it is not but that would be my concern.

When you bring so many different jurisdictions together - and there may well be people who are translated into some boards - and the resources associated with bringing TASCAT together, there is an opportunity there for lots of savings to be made administratively. I would hope that the actual tribunals themselves still retain the level of expertise needed to be able to deal with the matters before them, it is as simple as that. I was comforted in the briefings with the time I spent with the officers. When it comes to RMPAT, all the provisions of RMPAT are translated into this. I have a couple of questions which I will ask on the Floor during the

Committee stage. I have spent a lot of time around RMPAT and there were some things I thought, no, that does not seem to compute and thankfully for the chats I have had, I have been able to have my fears allayed. I congratulate those involved in putting it all together and congratulate the minister for coming up with this.

We will see some amendments coming forward in months or years to come where some things have been missed. That is inevitable when you are doing something this large. I would hope we get the bones of it right in the first instance and we are not bringing something into play that ends up being detrimental to somebody in the system. I would hate to think that was the case. It seems to me a good effort and let us see how it plays out in the long term.

[12.01 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - I thank the members for their contributions and I think we are trying to address all concerns so there will be some more information coming. We are starting with the first one from the member form Launceston, are there any reviews.

There are no statutory review provisions in the bill, but members should note that the Attorney-General has flagged the tranche 3. There will be further work to be undertaken and will provide the opportunity to review any further improvements or unintended consequences.

When is it expected to commence? Straightaway, it is anticipated to receive royal assent shortly, assuming the bills are passed in our House. Subject to any extraordinary events the commencement is expected to be Friday next week following royal assent.

Ms Forrest also asked, when does TASCAT start.

Ms Forrest - TASCAT's already started. I was asking when the bill started, you have already addressed that.

Mrs HISCUTT - This is starting with the member for Murchison. With the forestry practices stream, why does clause 3 retain the capacity for the minister to nominate a member of the tribunal? Clause 3, (2)(b)(iii) within Part 6 of schedule 2 enables the minister to nominate a member for the tribunal where proceedings relate to an appeal under section 25 of the Forest Practices Act 1985 in certain circumstances. This simply replicates the current provisions under section 34 (2A) of the act. Anyone nominated under this clause must already have been appointed to the tribunal as a member under the provisions currently found within Part 3 of the TASCAT act. It will be the Minister for Justice who exercises this power if required.

Disclosure of interest by members of the tribunal - why is there no penalty if a member of the tribunal does not disclose a pecuniary interest or other interest? The general approach to drafting the amendment bill has been to maintain the current practice of those tribunals and boards to be amalgamated into TASCAT. Those current tribunals and boards do not currently provide for penalties where a member does not disclose a pecuniary or other interest. The proposed provisions have been drafted to be consistent with similar provisions in other states and territories where it is also the case that no penalties apply for failure to disclose.

None of the submissions made during consultation on the amendment bill raise this as an issue of concern. Where it is believed a member of the tribunal has acted inappropriately,

Part 3 of the act currently contains provisions that provide for revocation or suspension of that person's appointment.

While it is noticed the consultation draft of the TasTAFE (Skills and Training Business) Act 2021 contains penalties for non-disclosure, that draft provision only applies to pecuniary interests whereas the proposed provision in section 70 of the amendment bill applies to pecuniary and other interests. It should also be noted the nature of the TasTAFE board, including its responsibilities and activities, is significantly different to the role and functions of the tribunal which is more comparable to a court.

Ms Forrest - They should know better, in other words.

Mrs HISCUTT - The member for Murchison also asked about the principles governing proceedings. What does 'without regard to legal technicalities and forms' mean in subparagraph (c)? The purpose of this subsection is to reinforce the tribunal's objectives under the act which include acting with as little formality and technicality as possible to promote accessibility to justice. The tribunal is intended to be a less formal body than the Supreme Court or Magistrates Court. This means the tribunal should not, for example, dismiss or refuse to hear a matter simply because a person forgot to tick a box on the form or made some other very minor mistake that has no bearing on the actual merit of the case.

The member for Murchison also asked about the procedure for compulsory conferences. The question basically was proposed section 100(9) refers to matters that may be included in the regulations. Why is this provision included here rather than in section 145 which states what regulations may be made for? The proposed section 145 provides a board legislative authority for the type of matters for which regulations may be made under the TASCAT act. This is intended as a form of futureproofing to ensure regulations can be made as required when particular needs are identified, following the commencement of TASCAT. Various other proposed sections within the amendment bill contain specific provisions that refer to what regulations may do in relation to the matters dealt with by those sections.

This is a general drafting practice which alerts readers to the possibility there may be further requirements that apply to those matters in addition to what is provided for in the parent act. For example, where a party may be involved in a compulsory conference, the proposed Section 109, suggests they should not just refer to provisions within sections 100 and 101 of the act, but to also check whether the regulations include any provisions that may affect the outcome of a compulsory conference being made publicly available.

The member also asked about accessibility to public of evidence - what is the intention of subsection (2)? The proposed section 110 sets up a general provision for a member of the public to inspect or obtain copies of documents and materials that are part of proceedings, decisions and orders made by the tribunal. This must be done upon application by that person. This section promotes the objectives of the tribunal to be transparent and accountable in exercising its functions. There may be valid reasons to allow third party access to such information, including for research purposes, and to enable members of the public to understand how particular types of matters are dealt with through tribunal processes. Subsection (1) provides that this general provision may be displaced by other provisions in the TASCAT act or in a relevant act, which may provide safeguards if required by limiting or precluding access to evidence under certain circumstances.

An additional requirement, being the granting of permission by the tribunal, applies in the circumstances set out under subsection (3). This means that merely making an application to inspect or obtain copies of documents is not sufficient where, for example, material was provided to the tribunal in a private hearing. This means that the tribunal can refuse to grant access where there may be personal details and information that should not be made publicly available. It is unlikely that the tribunal would make available information from a private hearing.

The member also asked about costs of the parties - can cost orders be appealed to the Supreme Court? Clause 5 of the bill inserts a new definition of 'decision' into section 3 of the act, so the decision of the tribunal includes a direction, determination or order. This definition means that an order for costs made by the tribunal would be a decision for purposes of the proposed section 136 of the act and may be subject to appeal to the Supreme Court. The grounds for appealing a decision, whether on a question of fact and/or law and who may appeal, are determined in accordance with section 136, based on the relevant act that conferred jurisdiction on the tribunal.

This will apply to a costs order. For example, an order for a party to pay the costs of another party may not be made by the tribunal in the guardianship stream or mental health stream. If the tribunal made such an order it could be appealed as a question of law. A costs order could be appealed as a question of fact where there was a dispute that the amount claimed to have been incurred by a party was actually incurred. The bill does not change current practices.

We were talking about correcting mistakes. What is a material miscalculation or mistake under proposed section 119 (1)(c)? This refers to a substantive error that is more than a mere clerical error, which needs to be corrected in order to give effect to the intention of the decision. For example, a calculation that several amounts add up to $1000 rather than $10 000 or an incorrect reference to the name of a party, that means they are not properly identified for the purposes of giving effect to an order. This section may only be used to rectify actual mistakes, not to change or revisit a decision or change the outcome of the decision.

Provision of documents, legal processes and service, proposed section 125. Why does subsection (2) say, 'on a Sunday as well as any other day'? The Chief Parliamentary Counsel has advised that this wording has been included simply for the avoidance of doubt that any day includes a Sunday. This is because there are a few provisions within Tasmanian legislation that currently prevent things being done on a Sunday. For example, section 70(2) of the Landlord and Tenant Act 1935 states, 'Entry upon any such warrant shall not be made on a Sunday'.

Mr Valentine - Day of rest.

Ms Forrest - That's because they were at church.

Mrs HISCUTT - That is from the Landlord and Tenant Act 1935 and that would be the reason. The member for Hobart talked about maintaining specialist knowledge. The provisions in schedules 2 and 3 provide for the tribunal to be constituted in each stream. These provisions replicate how those tribunals and boards are currently constituted, including the requirement for members to have particular expertise or specialist knowledge.

Mr Valentine - It's the same as previously.

Mrs HISCUTT - Yes. The member for Murchison's question regarding schedule 2, Part 8,(13)(3), the refusal to answer questions or produce documents. This simply reproduces what currently already exists under section 35 of the Resource Management and Planning Appeal Tribunal Act of 1993. There is no change of policy or additional protections and the status quo is maintained.

Mr President, I think I have ticked off on all those questions.

Bill read the second time.

TASMANIAN CIVIL AND ADMINISTRATIVE TRIBUNAL AMENDMENT BILL 2021 (No. 46)

In Committee

Madam CHAIR - Before we start, this bill is a little bit complicated in trying to make sure that everyone has a chance to ask questions they may have so just to clarify how the committee will deal with clauses 18, 20 and 21 which have significant detail. Clause 18 substitutes a number of new sections in Part 6. The Deputy Clerk will call clause 18 in parts and divisions to allow an opportunity for members to scrutinise the clause in its various parts in detail and then clauses 20 and 21 which amend the schedule, schedules 2 and 3. These clauses will be called in parts to identify the streams so we will call each stream individually so initially the first subclause will be called and then each part or stream.

If anyone finds it is not working just let us know and we will see how we go.

Clauses 1 to 17 agreed to.

Clause 18 agreed to.

New Part 7 divisions 1, 2 and 3
Subclauses 71 to 78 agreed to.

New Part 8 Principles, Powers and Procedures
Division 1, 2 and 3,
Subclauses 79 to 90 inclusive agreed to.

New Part 8 Divisions 4, 5 and 6
Subclauses 91 to 98 inclusive agreed to

New Part 8 Division 7 and 8
Subclauses 99 to 110 inclusive agreed to

New Part 8 Division 9 and 10
Subclauses 111 to 119 inclusive agreed to.

New Part 8 Division 10 -
Subclauses 120, 121 and 122

Mr VALENTINE - This is the Part about costs of parties I am interested in and know this occurs in a couple of places, so I will ask it here. To my knowledge generally a tribunal receives an application for costs. It seems here they take it upon themselves to apply costs at their discretion. It does not mention after having received an application. Is it at the discretion of the president of the tribunal or, as with RMPAT, was it application for costs and then it was dealt with? I am interested to know what is the general case and if there is some different treatment? I could ask it further down, but you might care to give that answer at the same time as to whether or not it is also on application because I cannot see where it actually states that.

Mrs HISCUTT - Currently in the existing RMPAT act there is no current existence for that so we have transferred and it now happens in RMPAT through this bill.

Ms RATTRAY - Following on from the question from the member for Hobart, can you appeal the costs that have been put in place by the tribunal? I have a question on 122 when it talks about costs incurred by the tribunal in relation to proceedings and then it goes on to describe the cost of proceedings. On (4)(b), it says, 'the prescribed circumstances exist'. What are they? Is that (1), (2), (3) and (4)?

Recognition of Visitors

Madam DEPUTY PRESIDENT - I welcome to the Chamber students from St Mary's College, the year 9 law and politics class. I hope you find this riveting. The Leader is taking advice in response to questions, hopefully you will bear with us. I believe it is the member for Hobart's electorate.

Mr Valentine - It is, indeed.

Mrs HISCUTT - With regard to your first question, appeal the costs, I will read it in again so it is clear. This was in answer to a question from the member for Murchison in my summing up. Can costs orders be appealed to the Supreme Court? Clause 5 of the bill inserts a new definition of decision into section 3 of the act, so that a decision of the tribunal includes a direction, determination or order. This definition means that an order for costs made by the tribunal would be a decision for purposes of the proposed section 136 of the act, and may be subject to appeal to the Supreme Court.

The grounds for appealing a decision, whether on a question of fact and/or law and who may appeal, are determined in accordance with Section 136, based on the relevant act that conferred jurisdiction on the tribunal. This would apply to a costs order. For example, an order for a party to pay the costs of another party may not be made by the tribunal in the guardianship stream or mental health stream. If the tribunal made such an order it could be appealed as a question of law. A costs order could be appealed as a question of fact where there was a dispute that the amount claimed to have been incurred by a party was actually incurred. The bill does not change current practices.

In answer to your second question, prescribed circumstances are those that may be prescribed in regulations.

Madam DEPUTY PRESIDENT - Another regulation, maybe.

Ms RATTRAY - Can you appeal frivolous and vexatious claims? Proposed section 122(4)(a):

> The Tribunal cannot make an order under this section against a party to the proceedings unless -
>
> (a) the party brought or conducted the proceedings frivolously or vexatiously;

I might think it is genuine, you might think it is frivolous and vexatious. We have had a lot of discussions in this place over many years around somebody's notion of that. It seems like the tribunal has all the power.

Mrs HISCUTT - While I am seeking that further advice, members should be assured that the tribunal will make clear information and it will be available to Tasmanians on all the processes and it will be available on their website and other areas. This work is underway, and we understand it will be ready when TASCAT commences. Turning to the specifics of your question about a vexatious appeal, it has been transferred from the other acts into this main one, so nothing has changed there.

I am advised that you would have to seek advice from your lawyer as to whether you had grounds for appeal in those circumstances.

Ms RATTRAY - Does that mean you would need legal representation to be able to defend a -

Mrs HISCUTT - What you believed was a vexatious claim?

Ms RATTRAY - What I believed was not frivolous and vexatious, but the tribunal believed it was. My second question, because I do not have any more calls left, is around TASCAT informing the Tasmanian community. Will the information be in plain English? I consider that to be very important in transferring these procedures that may well be passed today in the parliament, into a form that can be, I do not say easily understood, but in a manner that means you can understand your rights in these processes. These are very stressful situations. As the member for Murchison said, these are not a couple of hours out of your day. They are significant events. We need to ensure people can clearly understand it. I hope it is not the case that you would need to engage a lawyer. With all due respect to the legal profession, you cannot pick up the phone unless you have got $300 in your pocket. I am interested in how that information is going to be relayed to the Tasmanian community who might well end up in these processes. You might say well, there is always going to be legal representation or advice required. I hope we do not get to that stage because not everyone is in that position.

Mrs HISCUTT - To clarify what you are talking about, legal jargon, and I do understand that lawyers are a very technical lot of people so the tribunal -

Ms Rattray - And super smart and all of those things.

Mrs HISCUTT - Without a doubt but do we understand it? Most of us do not, that is why the tribunal is going to make clear information available, and I imagine it would be something most reasonable people can understand - what is the term?

Madam CHAIR - A reasonable person.

Mrs HISCUTT - A reasonable person can understand. That is going to be made available to all Tasmanians, and it will be available on their website and other areas. Where are the other areas? That could be on flyers or leaflets for people that need it. That work is currently underway. The clear information is happening as we speak. This is a big part of the Government's actions to increase access to justice, and that is why we are progressing TASCAT. Vexatious and frivolous; I will read this first to make sure I understand it.

Madam CHAIR - The Leader is responding to a question. I will come back to you, member for Hobart.

Mr Valentine - I thought she had just responded.

Mrs HISCUTT - A party could submit to the tribunal that a matter should not be dismissed on the basis of being frivolous or vexatious. That could be done regardless of whether the party was represented by a legal practitioner. Any appeal against such dismissal would be to the Supreme Court which would require representation as per the court rules. There is no specific requirement for a person to be legally represented, but they have that right.

Mr VALENTINE - Turning to proposed section 120, subsection (4), page 92. I am trying to get my head around it. It probably turns on 'prescribed circumstances'. The tribunal does not seem to have any room to move here:

> Without limiting subsection (2), if the Tribunal dismisses or strikes out any proceedings in any prescribed circumstances, the Tribunal should also make an order for costs against the party against whom the action is directed.

It is definite that the tribunal must do this and I am thinking, under what circumstances is the tribunal being directed to award costs against a party that is not the defence?

Mrs HISCUTT - There are no prescribed circumstances at the moment. That will come through in regulations. Regulations will go before the Subordinate Legislation Committee and will be scrutinised by parliament.

Madam CHAIR - This is your third call, member for Hobart.

Mr VALENTINE - Yes. Somebody must have something in mind about what is going to occur to be able to give a direction such as that. I cannot understand why the tribunal would be directed to make an order for costs against the party against whom the action is directed. It is like a specific circumstance where someone has been taken to the tribunal for a particular reason, and it seems to direct the tribunal to award costs against that person, or body. It seems odd that there is no room to move. It is not 'consider awarding'; it is actually awarding costs against that party. If it is to do with a regulation that is to come to us, there must be a reason why it has been put in there. It would be helpful if that could be explained.

Mrs HISCUTT - There is nothing in mind at the moment. It is there for futureproofing in case it is needed. 'Should' is directory language, not mandated. It does not say 'must'. It is there as a fall back in case something may happen in the future.

Mr Valentine - I will take that on board, thank you.

New Part 8 Division 10 subclauses 120 to 122 agreed to.

New Part 8 Division 11 subclauses 123 to 124 agreed to.

Division 12 -
New Part 8 subclause 125
Provision of documents, legal process and service

Mr VALENTINE - I realise, in proposed subsection (3) on page 101, we are trying to modernise things in allowing electronic communication. Ordinarily with the mail, it must get through. It does not always, I suppose, but there is a fairly good guarantee. Here, if they made a mistake in the typing of the email address it could float off into the never-never and the person would never be aware that something had been sent to them. It seems to me some electronic receipt is needed to guarantee the person actually got it. I am wondering if we are setting ourselves up for a problem. Somebody could claim they never received the email. Yes, you could show evidence it was sent, I suppose.

It becomes a little more complex with electronic communication as opposed to a physical letter. I am interested to know how that circumstance has been covered. Would it be that it is forcing an individual who is supposed to have received an email but never did because there was some mistyping or whatever? At least with a letter it goes back as a dead letter and is returned to the department and they know it has not been received. With an email, it might say, I suppose, it is not a valid address.

Ms Armitage - I had that very case this morning. The member for Rosevears sent me an email, which was in her sent box but was not in my inbox. The IT people have not been able to find it yet.

Mr VALENTINE - Well, there you go. Ipso facto. It is not always the same as a physical letter. I do not know if you have the answer for me but I will give you the opportunity.

Mrs HISCUTT - Subsection (3) refers to an email address of a person. If the tribunal does not use a valid email, it cannot rely on it. It is a matter for the tribunal and it would aim to be flexible and accessible where a person submitted that they had not received their material. The processes of natural justice would still have to apply in that circumstance. As a point, the physical mail processes are not flawless in themselves and emails are currently used by tribunals.

Ms RATTRAY - Proposed section 125 (1) and (2) on page 99, it talks about posting a copy of the notice or document addressed to the person or body and then it says to the address for service of the person or body or if there is no address for service in relation to the person or body, to the business address or residential address - it just said there is no address of the person or body - or the business address or residential address of the person or body that is last known to the person or body serving the notice or document.

Is there any point sending it to the last known address? Normally people who have left addresses very rarely pay to have their mail forwarded on, very rarely, because it is a cost. They are not always waiting for these important documents or even perhaps have an awareness about that. What happens if there is not an email address or an address? Are they then served? How does the tribunal find them is really the question? Do they have a backup process for that?

Mrs HISCUTT - These are standard service provisions which are designed to cover any circumstances possible. The section is designed to cover the field to the greatest extent possible. So paragraph (f) as you might note on page 101 includes a catch-all provision for service in a matter determined by the tribunal or a registrar. Every effort is made.

Subclause 125 agreed to.

Division 12 -
Subclause 126
Enforcement of decisions and orders of Tribunal

Ms RATTRAY - A clarification in regard to the appropriate court and then it talks about, in relation to an order of the tribunal that is a monetary order for the amount that does not exceed the amount that represents the jurisdiction limit of the Magistrates Court.

What is that limit? Thankfully, I do not spend a lot of time in the courts.

Mrs HISCUTT - That is nice to hear. I will get some advice.

Ms RATTRAY - I did ask my colleague who was not quite sure and that is why I am finding out.

Mrs HISCUTT - It is set by legislation. It is legislation that deals with the Magistrates Court. We have not got that here, so I cannot point it out to you but it is set in another act.

Subclause 126 agreed to.

Subclauses 127 to 128 agreed to.

Subclauses 129 to 135 agreed to.

Subclauses 136 to 139 agreed to.

Subclauses 140 to 142 agreed to.

Subclauses 143 to 146 agreed to.

Subclauses 147 to 151 agreed to.

Subclauses 152 to 160 agreed to.

Clause 18 agreed to.

Clause 19 agreed to.

Clause 20, Schedule 2, subclauses (a), (b), (c), (d), (e) and (f) agreed to.

Clause 20, Part 4 agreed to.

Clause 20, Part 5 agreed to.

Clause 20, Part 6 agreed to.

Clause 20, Part 7 agreed to.

Clause 20, Part 8 -
Resource and Planning Stream

Mr VALENTINE - I go to proposed section (3) on page 159, and then it goes over to 160, so it is 160 in the sense the Wellington Park management act is not included and I did have a bit of a conversation on this but I would like it to be explained on the record. The Wellington Park plan interacts with the planning schemes and processes. The plan is approved by the Governor and is to be included in planning schemes and is possibly statutory in that respect, but it can be over-ridden by a planning directive, and would not that therefore place it in this list? It should be in this list of acts. I will listen to the answer as to why it is not in this list of acts. It seems to me that having instruments within it that need to be taken into account and are automatically included in planning schemes, unless otherwise stated in a planning directive which overrides it, why is it not in here?

Mrs HISCUTT - The actual Wellington Park Act does not have any reference to a tribunal, therefore it would have to go through whatever processes it says, which may be LUPA or something like that.

Clause 20 Part 8 agreed to.

Clause 20 as read agreed to.

Madam CHAIR - Member for McIntyre, I will call the clause and you can stand on the clause rather than on the particular stream.

Clause 20
Schedule 2 amended (General Division)

Ms RATTRAY - Apologies for missing it, it is a tad confusing the way it is put together. I am interested in Part 8 section 4 (2)(c) on page 163. It says:

> the President is to have regard to -
>
> (c) the degree of public importance or complexity of the matters to which the proceedings relate;

This is regarding appointing someone to the panel. Is it the president who makes the assessment on the degree of public importance? How is that determined by one person? They

might have a significant interest in something they consider as public importance or the absolute opposite. They might have no interest in something I think, in the far north-east, is of significant public importance. How is that going to work in actual practise? I can see the theory of it, but the practice might be a whole different ball game.

Mrs HISCUTT - I will seek some advice on that. I would like to say, this is a direct transposition from -

Ms Rattray - That, again, does not mean it was right in the first place.

Mrs HISCUTT - Public importance is a test at law and it is not the president's personal view.

Ms Rattray - It says, only the president is to have regard to.

Mrs HISCUTT - It is a test of law. It is not the president's personal view. He has legal advice to tell him what it is.

Mr VALENTINE - In the interests of modernising things, I am interested to know, on page 164, it says:

> **6. Institution of Resource and Planning stream proceedings**
>
> (1) Unless otherwise required under a Resource and Planning stream Act, an appeal must be instituted -
>
> (a) in writing; and
>
> (b) within 14 days after the making of the decision which is appealed against.

I did have reason, at one point, to put in an appeal, which was sent by email. It did not arrive until 11.30 at night and it said it was not within the period because it had to be received by 5 p.m. that day. It ended up it was turned around and, because it is email, it could be received up until 12 o'clock at night, midnight. Does this have the same -

Sitting suspended from 1 p.m. to 2.30 p.m.

QUESTIONS

Impact of Commonwealth's Proposed Religious Freedom Bill

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.32p.m.]

The federal Attorney-General, Michaelia Cash, has indicated a religious discrimination bill will be introduced to the federal parliament by December 2021. Two previous iterations of the bill have included provisions that effectively override and weaken section 17(1) of the

Tasmanian Anti-Discrimination Act which effectively prohibits a range of bullying behaviour. Its wording is echoed in a range of government and nongovernment anti-bullying policies. Tasmanians, including those with disability, have accessed its protections. If the federal religious discrimination bill, when tabled, includes a weakening of section 17(1), will the Premier -

(1) defend Tasmania's right to make our own human rights laws free from federal intervention?

(2) make representations to his federal colleagues highlighting that a range of groups will be disadvantaged by the weakening of section 17(1), including Tasmanians with disability?

(3) confirm that he has no intention of weakening section 17(1) through state legislation.?

ANSWER

I thank the member for her question. I note that your question is directed to the Premier but the response has come from the Attorney-General as the responsible minister.

The Tasmanian Government is committed to free speech and allowing all Tasmanians to express their views reasonably and respectfully in accordance with their views. Regarding the Commonwealth's religious freedom bill, the Government can confirm that the second draft has been carefully considered, particularly as to how it interacts with Tasmanian law.

The Tasmanian Government has also been involved in discussions with the Commonwealth during the various consultation processes in the drafting of the bill. The Attorney-General, on behalf of the Government, has written to the then Commonwealth Attorney-General to indicate that the Tasmanian Government is of the view that every member of the community should enjoy full freedom of religious belief and freedom of expression as well as to ensure that the Tasmanian position is considered.

It remains important the laws strike the right balance between providing protection from discrimination and unlawful conduct whilst still allowing for the responsible expression of beliefs, public debate and discussion on important issues. In particular, the Attorney-General has also made it clear to the Commonwealth that it was the Tasmanian Government's view that the bill as drafted would diminish the ability of the Tasmanian Anti-Discrimination Tribunal to deal with certain complaints. We have made our Government's views and concerns known. However, it is recognised that ultimately any changes to the draft bill are a federal matter.

The then Commonwealth Attorney-General advised he was considering the concerns raised by Tasmania along with other issues raised during the consultation with Tasmania.

While there are no current plans to revisit amendments to the act it is appropriate that all legislation should be reviewed from time to time - this is Tasmanian legislation - to ensure that it remains contemporary and consistent with other legislation and meets community expectations.

Reprocessing of Silage Wraps

Ms RATTRAY question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.35 p.m.]

I have my country girl hat on for this question. Given the community focus on the environment:

(1) Is the Government aware that the silage wrap reprocessing is no longer available to access for those on the land wishing to dispose of their silage wrap in a sustainable manner?

(2) What action is the Government taking to enable this important opportunity, such as Envorinex process, that has in the past undertaken silage wrap reprocessing?

ANSWER

I thank the member for McIntyre for her question. Yes, when you talk about silage I can see our farm trailer with the plastic in it everywhere.

Ms Rattray - Pink, purple, green.

Mr PRESIDENT - You can almost smell it.

Mrs HISCUTT - In answer to your question, member for McIntyre:

(1) Yes.

(2) We will continue to drive investment in commercial recycling in Tasmania, including through use of funds raised by the proposed statewide levy on waste disposed at landfill, which is scheduled to commence on the 1 July 2022.

The Government's $5.5 million co-founding of the Recycling Modernisation Fund (Plastics) Grants will result in over $20 million being invested in three plastics recycling projects in Tasmania, one of those being Envorinex. When at full capacity these three projects will process an additional 15 000 tonnes of recovered plastic in Tasmania. This is evidence of the Government's commitment to investment in our circular economy.

Funding for Print Radio Tasmania

Ms RATTRAY question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.37 p.m.]

The member for Huon recently shared with the House the great work that Print Radio Tasmania (PRT) does in the community. I was so impressed with the work that they do. With

the funding cut to this organisation my question is will the Government consider reinstating funding to enable Print Radio Tasmania (PRT) to continue its valuable work to enable the organisation to expand its links into the community? I hope the answer is yes.

ANSWER

I thank the member for McIntyre for her question. The Tasmanian Government is committed to supporting Tasmanians living with disability to access the best possible services and support that they need. While the implementation of Information, Linkages and Capacity Building (ILC) funding is benefiting many organisations in Tasmania, we are aware that there are some organisations who have so far missed out on these funds.

The Commonwealth's commitment to review the Information, Linkages and Capacity Building grants program funding model is welcome and it is expected this will look at the scope and types of activities that are eligible under the program in the future. Tasmania will be engaging with this work to ensure that Tasmania's needs are well understood.

The Government acknowledges the work of Print Radio Tasmania, having provided more than $50 000 in bridging support last year. PRT has also been successful to date with applications to Community Broadcasting Foundation, as well as other funding sources.

The Department of Communities Tasmania has been closely engaged with PRT and we will continue to work with them to assist with identifying opportunities to improve sustainability as well as to try to support their access to new funding avenues as they emerge.

Launceston General Hospital Water Systems

Ms ARMITAGE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.39 p.m.]

Regarding the state of the Launceston General Hospital's steam and hot water operation and maintenance:

(1) Are the Launceston General Hospital's steam and hot water systems in safe and good working order?

(2) How often are these systems maintained?

(3) Who maintains these systems?

(4) How much money is paid each year towards maintaining these systems?

(5) Whether any flaws or risks in the LGH's steam and hot water system have been identified in the past three years, and if so, what are they.

ANSWER

I thank the honorable member for her question.

(1) The Launceston General Hospital steam and hot water systems are safe and in very good condition. To improve safety for both patients and staff, thermostatic mixing valves have been installed in all patient areas to prevent burns from hot water.

(2) The preventative maintenance schedules vary depending on the system.

(3) Systems are maintained by qualified trades staff within facilities and engineering, or external contractors for specialised equipment.

(4) Maintenance of systems is funded from the all-over facilities and engineering annual operational budget. The actual expenditure in any given year varies, depending on the preventative maintenance schedule requirements in any given year.

(5) As part of regular maintenance schedules, a switchboard that provides power to the gas boilers has been identified as nearing the end of its product lifecycle, and is scheduled to be replaced in May 2022.

TASMANIAN CIVIL AND ADMINISTRATIVE TRIBUNAL AMENDMENT BILL 2021 (No. 46)

In Committee

Continued from page 25.

[2.42 p.m]

Madam CHAIR - We are allowing the member for Hobart a little bit of leeway to finish his question from earlier in the day.

Clause 20 -
Schedule 2 amended (General Division)

Mr VALENTINE - Thank you, Madam Chair. It was in relation to what constitutes 14 days. Whether it goes to midnight or whether it goes to 5pm on the last day.

Madam Chair, I am happy to take it on notice. It is not anything to die in a ditch over.

Mrs HISCUTT - I think we have drafted an answer in anticipation of your question. Within schedule 2, Part 8, section (6), subsections (1) through to (5) inclusive replicate the provisions in relation to instituting proceedings currently found in subsections (1), (2), (2A), (3), (4), and (7) of section 13 of the Resource Management and Planning Appeals Tribunal Act of 1993. This means there will be no change to the way the timing issues are dealt with and when proceedings are instituted for resource and planning matters. Subsection (4) in clause (6) provides flexibility for the tribunal to extend the time for instituting an appeal if deemed necessary.

It is defined in the Acts Interpretation Act but we cannot locate it at the moment.

Mr Valentine - That is fine, thank you.

Mrs HISCUTT - Did you require any follow-up?

Mr Valentine - That is fine.

Clause 20 agreed to.

Clauses 21 and 22 agreed to.

Bill reported without amendment.

[2.48 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the third reading be made an order of the day for a future sitting.

Motion agreed to.

Mrs HISCUTT - Mr President, before I move into the second reading speech I would like to pay a thank you to my advisers, who I believe have done a wonderful job with this technical bill, Mr Petr Divis and Ms Brooke Craven.

TASMANIAN CIVIL AND ADMINISTRATIVE TRIBUNAL (CONSEQUENTIAL AMENDMENTS) BILL 2021 (No. 47)

Second Reading

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 2R) - Mr President, I move -

That the bill be read the second time.

This is the second of two bills that will implement stage 2 of the Tasmania Civil and Administrative Tribunal (TASCAT), with the other being the Tasmanian Civil and Administrative Tribunal Amendment Bill 2021. This bill makes consequential amendments to 46 different Tasmanian acts, nine sets of regulations and the Probate Rules 2017.

It recalls provisions in Tasmanian legislation that will no longer be necessary once the amendment bill amends the Tasmanian Civil and Administrative Tribunal Act 2020, the act allowing TASCAT to commence. These redundant provisions include those relating to the establishment and membership of the nine tribunals and boards that will no longer exist once TASCAT is operational.

The bill also repeals provisions that will be replicated or replaced by the general or special provisions in the act, which set out TASCAT's processes, powers and procedures when dealing with matters in its original core review jurisdiction. It updates references in Tasmanian legislation to refer to the act, TASCAT, its members and staff and makes minor technical amendments. It is important to clarify that the consequential amendments bill repeals the Resource Management and Planning Appeal Tribunal Act 1993 in its entirety, which has the

effect of rescinding the Resource Management and Planning Appeal Tribunal Regulations 2014.

With the repeal of the Resource Management and Planning Appeal Tribunal Act 1993, the provisions in that legislation are replicated in the principal act through the amendment bill, largely within Part 8 of the amended Schedule 2, enabling them to be applied and enforced when TASCAT is dealing with matters in the resource and planning stream.

I thank the many stakeholders who provided submissions on the draft bill. I also acknowledge the significant work undertaken by the Office of Parliamentary Counsel in preparing the legislation to implement stage 2 of TASCAT, as well as the Department of Justice for their considerable work. I commend the bill to the House.

[2.52 p.m.]

Ms RATTRAY (McIntyre) - I was out of the Chamber when the previous bill went through and I missed the opportunity to make a couple of comments, so I will take this opportunity. This is the enabling part of the bill that we have just dealt with, in some respects. It is significant when you talk about the consequential amendments to 46 Tasmanian acts, nine sets of regulations and the probate rules. It is not insignificant and I believe it is exactly the same number of pages as the previous bill - 220 to be exact. It is enabling, but also significant.

Ms Forrest - Two hundred pages.

Mr PRESIDENT - Two hundred and one.

Ms RATTRAY - Two hundred and one - apologies. I was only 19 out. The Leader acknowledged the work that has been put into this, not only by the team she has in her Reserve, but also the Justice department and the wonderful office of OPC. I am sure they are listening or watching to see if this progresses. I am interested in the many stakeholders. Is there a list of the many stakeholders that can be provided? It is important for something as significant as this, to have them on the public record so in the future, anyone who looks will say that it certainly had the required input and the appropriate scrutiny. I have those comments, and that one request for information, but I support part 2 of the Tasmanian Civil and Administrative Tribunal bill set.

[2.54 p.m.]

Ms FORREST (Murchison) - I acknowledge this is a large bill, predominately around the consequential amendments of the last bill we have been dealing with. I make one point and ask the Leader a question in light of the information she provided during the last debate. This bill is going to be enacted as soon as possible so it will be operational. She says it is important to clarify that the consequential amendment bill repeals the Resource Planning Management and Planning Appeal Tribunal Act 1993 in its entirety, which has the effect of rescinding the Resource Management and Planning Appeal Tribunal Regulations of 2014.

One assumes that there are regulations ready to go under this as well, because if not, we have a problem. We are told in this place many times, 'the regulations will come later'. We have already been told in this debate regarding TASCAT, that the regulations are not yet done. I assume under the TASCAT bill there will be TASCAT regulations that will deal with the regulations required for the Resource Management and Planning Appeal Tribunal, because we know how popular that entity is.

If that is the case, then I assume regulations will have been brought across from the other acts. We would expect to see the regulations tabled very promptly after this act is passed through this place and receives Royal Assent.

Mrs HISCUTT - Regarding the regulations, OPC has drafted them and they are underway.

Ms Forrest - They will be tabled soon or gazetted almost at the same time as the bill?

Mrs HISCUTT - Just after, so they should come across the Subordinate Legislation Committee very soon after that. Regarding the consultation and briefings and the stakeholder list, there are two pages of them so I will table them. Before I ask for that permission I will also talk about the submissions that were received on the draft amendment bill. Submissions on the draft amendment bill were received from the following stakeholders - I will read this little bit in:

'The Chief Justice; the Chief Magistrate; the Solicitor-General; the Anti -Discrimination Commissioner; the Commissioner for Children and Young People; the Police Association of Tasmania; Medical Insurance Group Australia; The City of Launceston; the Magistrates Court; the Tasmanian Bar; Tasmanian Legal Aid; and the Environmental Defenders Office. There was a joint submission from the Tasmanian Conservation Trust and Planning Matters Alliance Tasmania. There was a joint submission from the nine tribunal boards collocated under stage 1 of the project. They were the Anti-Discrimination Tribunal; the Asbestos Compensation Tribunal; the Forest Practices Tribunal; the Guardianship and Administration Board; the Health Practitioners Tribunal; the Mental Health Tribunal; the Motor Accidents Compensation Tribunal; the Resource Management and Planning Appeal Tribunal; and the Workers Rehabilitation and Compensation Tribunal.'

Consultation submissions received on the draft consequential bill were received from the following stakeholders: the Australian Health Practitioner Regulation Agency; the Department of State Growth; the Department of Health; the Tasmanian Conservation Trust and Northeast Bioregional Network joint submission; the Environmental Defenders Office; and the Planning Matters Alliance Office.

Mr President, I have an extensive list of all the stakeholders who were consulted. Because of the length of it, I seek leave to table this list and have it incorporated into *Hansard.*

Leave granted.

See Appendix 1 for incorporated document (page 70).

Bill read the second time.

TASMANIAN CIVIL AND ADMINISTRATIVE TRIBUNAL (CONSEQUENTIAL AMENDMENTS) BILL 2021 (No. 47)

In Committee

Clauses 1 to 57 agreed to.

Clause 58 -
Section 36B amended (Appeal against direction under section 36A)

Ms RATTRAY - I am seeking some clarification about clause 58, section 36B(c) subsection (4).

It talks about 'omitting from subsection (4)) and substituting the following subsection: The Tasmanian Civil and Administrative Tribunal Act 2020 applies to the hearing and determination of an appeal regardless of whether or not the prisoner or detainee has a mental illness, as if it were a review under that Act'.

Can I have some clarification about what that means for a prisoner or a detainee who has a mental illness? I want to completely understand the intent and the meaning of that particular clause.

Mrs HISCUTT - The wording is exactly the same as it was before it came over.

Ms Rattray - I understand that completely.

Mrs HISCUTT - I can understand your question. The answer is not apparent to us. It would be an OPC question. Is it something we can find out later? We have explained to the member why it is there but not what it means or how it interacts.

Ms Rattray - It says, 'and substituting the following subsection.'

Madam CHAIR - It might be - if you look at what we are amending, it is the Corrections Act that is being amended.

Mrs HISCUTT - Yes, it is just a name change to bring it across to here. It is from a different act to here, so, it is exactly the same as it was before. I am happy to stand on my feet while you clarify.

Ms Rattray - It clearly articulates that you are omitting (4) and substituting the following subsection and then it goes on to say the rest in (4). I am interested in how it works because, obviously, a prisoner or a detainee who has a mental illness - and it says that it applies to the hearing and determination of an appeal regardless of whether or not, so -

Mrs HISCUTT - As it is, as we have transposed it from one to the other, it originally read:

> The Mental Health Act of 2013 applies to the hearing and determination of an appeal, regardless of whether or not the prisoner or detainee has a mental illness, as if it were a review under that Act.

Which is the same that we have moved over. The question you are asking is a question for Mental Health, not a question for TASCAT.

Ms RATTRAY - Will not TASCAT have to understand what that means? They are the ones who will be implementing the tribunal.

Mrs HISCUTT - We are presuming that they would understand but the advisers that I have here are advising on TASCAT and not the Mental Health Act. It may be a question the member wishes to pose as a question without notice and we can put it into the appropriate advisers at that stage. Sorry about that.

Ms RATTRAY - I understand what the Leader is saying but here we are passing a piece of legislation and I need to understand what I am supporting. Others may well be right across it but regardless of whether it is a transfer from another act or not, that is irrelevant to me. This is what we have got today. I understand what you are saying and, yes, I will ask the question in another forum but as a legislator, you always want to know that you have understood as best as you possibly can the implications of whatever you are providing your support to.

Mrs HISCUTT - It already is in law but in a different act and we have brought it across so it is a question for Mental Health, not TASCAT advisers.

Ms RATTRAY - I expect that TASCAT will have a full understanding of it as well but I just thought that is interesting that it says that applies to the hearing and determination of an appeal regardless of whether or not the prisoner or detainee has a mental illness. I mean, that is -

Mrs HISCUTT - It is brought across directly.

Ms RATTRAY - I am not arguing about it being brought across.

Mrs HISCUTT - I know that, yes.

Ms RATTRAY - I am just looking for some clarification.

Mrs HISCUTT - And I am saying we have the wrong advisers on. We cannot advise on the Mental Health Act.

Ms RATTRAY - I thought you had expert advice there at the table.

Mrs HISCUTT - It is not within the scope of this bill so if you wanted to pose a question in another form it would be welcomed.

Mr GAFFNEY - I am interested in that. I appreciate the member.

Ms Rattray - Thank you, member. I thought I was a lone fish here.

Mr GAFFNEY - I did not say I agreed with you, I just said I appreciated it. What they have done and what they have said is they have transposed the words 'Tasmanian Civil and Administrative Tribunal Act 2020' with 'The Mental Health Act 2013', so they have had to highlight that is what they have done. There is no change to it. They have had to swap it.

Mrs Hiscutt - It has been like it forever.

Ms Rattray - I acknowledge that. I was looking for some explanation.

Mr GAFFNEY - As you said, it is not the right process here to do that.

Ms Rattray - I thought you were giving me 100 per cent support and it was about 10 per cent.

Clause 58 agreed to.

Clauses 59 and 60 agreed to.

Clauses 61 to 65 agreed to.

Clauses 66 to 67 agreed to.

Clauses 68 to 71 agreed to.

Clauses 72 to 74 agreed to.

Clauses 75 to 78 agreed to.

Clauses 79 to 81 agreed to.

Clauses 82 to 84 agreed to.

Clauses 85 and 86 agreed to.

Clauses 87 and 88 agreed to.

Clauses 89 and 90 agreed to.

Clauses 91 to 94 agreed to.

Clauses 95 to 97 agreed to.

Clauses 98 to 101 agreed to.

Clauses 102 to 104 agreed to.

Clauses 105 to 107 agreed to.

Mr GAFFNEY - Can I ask a question?

Madam CHAIR - That we do bigger chunks at a time?

Mr GAFFNEY - We do have 400 clauses and if people are going to say 88 or 105 then I think we should try to do bigger chunks if you can, if we are allowed to. I am not questioning the Clerk.

Madam CHAIR - We were reading it in parts but there is one very long part, Part 12.

Mr GAFFNEY - But even when we are doing it in parts, we are breaking up into three clauses. You could do the whole, unless somebody has got an objection to it.

Madam CHAIR - We will group them more, yes.

Clauses 108 to 115 agreed to.

Part 19
Clauses 116 to 135 agreed to.

Part 19
Clauses 136 to 156 agreed to.

Part 19
Clauses 157 to 170 agreed to.

Part 20
Clauses 171 to 174 agreed to.

Parts 21 and 22
Clauses 175 to 178 agreed to.

Part 23
Clauses 179 to 191 agreed to.

Clauses 192 to 211 agreed to.

Part 24
Clauses 212 to 217 agreed to.

Parts 25 and 26
Clauses 218 to 222 agreed to.

Parts 27 and 28
Clauses 223 to 234 agreed to.

Parts 29, 30 and 31
Clauses 235 to 241 agreed to.

Parts 32 and 33
Clauses 242 to 251 agreed to.

Part 34
Clauses 252 to 275 agreed to.

Parts 35, 36 and 37
Clauses 276 to 293 agreed to.

Parts 38, 39 and 40
Clauses 294 to 304 inclusive, agreed to.

Part 41
Clauses 305 to 317 agreed to.

Parts 42, 43, 44 and 45
Clauses 318 to 326 agreed to.

Parts 46, 47, 48 and 49
Clauses 327 to 339 agreed to.

Parts 50, 51, 52 and 53
Clauses 340 to 353 agreed to.

Part 54
Clauses 354 to 366 agreed to.

Part 55
Clauses 367 to 390 agreed to.

Parts 56, 57, 58 and 59
Clauses 391 to 400 agreed to.

Schedule 1 agreed to.

Schedule 2 agreed to.

Bill reported without amendment.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the third reading of the bill be made an order of the day for tomorrow.

Motion agreed to.

VALIDATION BILL 2021 (No. 39)

Second Reading

[3.22 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 2R) - Mr President, I move that the bill now be read a second time.

The Validation Bill 2021 provides for validation of technical matters arising with the appointment of statutory officers and decisions of the Mental Health Tribunal, the Guardianship and Administration Board, the Workers Rehabilitation and Compensation Tribunal, the Legal Profession Disciplinary Tribunal, and the Tasmanian Industrial Commission.

The bill also addresses issues associated with the transitional arrangements of the Justice of the Peace Act 2018 and makes a number of amendments to the Industrial Relations Act of 1984, to resolve issues regarding the appointment of the members of the Tasmanian Industrial Commission.

Validation in relation to the Acts Interpretation Act of 1931.

The bill includes amendments to retrospectively validate the appointment and performance or exercise of powers, authorities, functions and duties of certain persons appointed to a relevant statutory body. These are persons who continue to perform functions and duties after the expiry of their term of appointment, under the mistaken understanding of the Government and the relevant bodies that their power to do so had been extended by the relevant act or the Acts Interpretation Act of 1931.

Consequently, the bill also validates the constitution and decisions of the relevant statutory bodies affected by such an issue.

Section 21 (3) of the Acts Interpretation Act allows a person, after expiry of a fixed term appointment, to continue to exercise their powers, authorities, functions and duties conferred or imposed on the office, for up to six months, where they have not been reappointed and no other person has been appointed in their stead. This extension does not apply where the appointing act includes an expressed contrary intent.

It was recently identified that the enactment legislation of the Mental Health Tribunal, the Guardianship and Administration Board, the Workers Rehabilitation and Compensation Tribunal and the Tasmanian Industrial Commission include provisions which are now interpreted as meaning an extension under section 21 (3) did not apply.

Whilst the existing legislation for the relevant statutory bodies includes provisions that validate decisions, where there are technical defects or irregularities, these do not apply to the absence of an extension of appointment or an acting appointment under the AIA. As has been noted with previous statutory appointment validation legislation, there are common law doctrines such as the de facto public officer doctrine, that could be relied upon to support any decision made by any invalidly appointed person. In short, this doctrine essentially provides that if a statutory officer acts in a legally recognised role to which they and others believe they have been properly appointed, their exercise of power will remain valid, despite any errors or irregularities in their appointment process. However, this doctrine also requires action to be taken to remedy the defect once the problem is known.

Accordingly, the amendments have been drafted to retrospectively validate these matters to remove any doubt or uncertainty as to the validity of any decisions or actions made by these persons. It is important to note that this bill does not intend to call into question the professionalism or expertise of any of the statutory officers or members of a board, commission or tribunal who have made the decisions that are now potentially impacted. The bill simply puts beyond doubt any issues of invalidity associated with these appointments and decisions.

It should be further noted that these validation amendments are not related to the commencement of the Tasmanian Civil and Administrative Tribunal (TASCAT), which is due to be established later this year, following the passage of stage 2 enacting legislation. The bill, which was released for public consultation in early 2021, will set out the transitional

arrangements allowing all current tribunal and board members to be transferred to TASCAT from its commencement date.

Validation and Legal Profession Disciplinary Tribunal

This bill includes amendments to the Legal Profession Act 2007 to retrospectively validate the appointment of any member of the Disciplinary Tribunal and therefore any actions or decisions of the member who was appointed prior to 22 June 2021. The bill also validates the constitution of the tribunal where this issue arises.

The bill addresses an error which has become apparent regarding the appointment of the Legal Profession Disciplinary Tribunal on March 2019. The Disciplinary Tribunal is formed under section 610 of the Legal Profession Act 2007 which provides that the 15-member tribunal consists of 10 legal practitioners and five laypersons appointed by the judges of the Supreme Court. However, the instrument of appointment for the Disciplinary Tribunal dated 1 March 2019 incorrectly appointed 11 legal practitioners and four laypersons. A fifth layperson was appointed later in March 2019.

One of the appointed legal practitioners retired in June 2021 and a fresh instrument of appointment has been made correctly appointing the required 10 legal practitioners and five laypersons until February 2022. This instrument, dated 22 June 2021 ensures any future decisions of the Disciplinary Tribunal are valid. However, the amendments are required to remove any doubt as to the validity of the decisions made by the Disciplinary Tribunal in the intervening period.

Validation of Justices of the Peace

The Justices of the Peace Act 2018 commenced by proclamation on 1 July 2019, which enacted changes to contemporise the framework for Tasmanian Justices of the Peace who do excellent and valuable work in our communities. Broadly, the reforms introduced a new and more comprehensive framework for the appointment and regulation of the conduct of Justices of the Peace in Tasmania. The new act importantly included transitional arrangements to allow Justices of the Peace (JPs) to continue in their role who had previously been appointed to the office under the repealed Justices Act 1959.

Specifically, the new act provides that those JPs who are appointed under the old framework were taken to have been appointed under the Justices of the Peace Act if they notified the Secretary of the Department of Justice (the Secretary) of certain matters. The transitional arrangements also stipulated that if these JPs did not notify the Secretary by the commencement date their appointment would be terminated.

Issues have been recently identified regarding the awareness of a number of JPs about the legislative reforms and the transitional arrangements, including the notification requirements. While the appointments of those JPs who failed to notify the Secretary were terminated on the commencement date, certain JPs appear to have been unaware of this change and continued to exercise their functions.

This occurred in instances where despite the Department of Justice forwarding correspondence to all JPs on the database at the time to inform them of the legislative changes and transitional arrangements, as well as through communications via the three Justice of the

Peace associations, the JPs either failed to return the documentation to the department that was forwarded to them to indicate their preference to remain a JP, or they did not receive said paperwork due to incorrect or not current contact information held by the department.

The Justices of the Peace Act does include provisions that allow for validity of actions of a JP where there is a defect or irregularity in their appointment. However, this position only applies to appointed JPs and not previous JPs who had their appointments terminated. The bill, therefore, includes amendments to the Justices of the Peace Act to validate the appointments and any actions of JPs who were previously appointed under the Justices Act and have continued to carry out the functions of a JP.

This retrospectivity applies between the date of the commencement of the Justice of the Peace Act and the date of commencement of this act. Any affected JP who wishes to continue in their role and who meets the eligibility criteria in the Justice of the Peace Act can be appointed under the current legislation in the usual way.

The department has taken steps to update the JP register to ensure all contact details are correct or have been updated as well as contacting all impacted JPs and previous JPs to ensure that they are aware of these arrangements and the new requirements.

Additional validation issues relating to the appointment of members of the Tasmanian Industrial Commission

This bill also responds to issues arising with the appointment of members to the Tasmanian Industrial Commission under the Industrial Relations Act of 1984.

These issues are largely associated with the new appointment processes and the role of additional commissioners introduced in 2012 by the State Service Amendment Act 2012. This change was made following a review that recommended additional commissioners be appointed by the minister for shorter periods to assist in meeting varying workloads or to undertake specific tasks when required. The appointment terms of these commissioners are to be defined by the minister.

These commissioners are distinct from the president and deputy president of the commission who are by appointment of the Governor for a longer period, of up to seven years. It has recently been identified that following the 2012 amendment, commissioners have inadvertently been appointed by the Governor which is not in alignment with the act requirements.

It has also recently been identified that the act's references to the appointment of members of the Commonwealth and interstate industrial bodies to the commission are inconsistent and may have led to technical issues or invalidity in some appointments.

The bill seeks to rectify these issues and ensure the validity of all actions and decisions made by the commission by including retrospective amendments to the Industrial Relations Act to provide that any person purported to be appointed as a member of the commission by either the Governor or the minister prior to the commencement day is to have been validly appointed as a commissioner.

It further provides that the powers and functions of those commissioners and the constitution of the commission, including the full bench, were not affected by the potential invalidity of any appointment. These amendments in the bill address any doubt regarding the administrative processes for appointment of commissioners, including the terms of appointment in line with the processes introduced in 2012. The amendments are retrospective to ensure that all commissioners appointed immediately prior to the 2012 amendments continued to hold those appointments and therefore the functions exercised by those commissioners are validated. In addition to these matters, the bill also makes minor technical amendments under the Industrial Relations Act of 1984. These minor technical amendments do not substantially change the operation of the Tasmanian Industrial Commission or the Industrial Relations Act.

The amendments in the bill relating to the number of amendments of the commissioners address an anomaly in the current Industrial Relations Act, which suggests that the commission may be constituted only by the president and deputy president with the role of other commissioners effectively optional. In fact, the full bench requires at least three commissioners under section 14 in order to function, so at least one additional commissioner is required.

Further, in recognition of the original intent of 2012 for additional commissioners to be appointed to the Tasmanian Industrial Commission for shorter periods, the bill amends section 6 of the Industrial Relations Act to provide that commissioners, other than the president and the deputy president, may be appointed for a period of up to three years as specified in the instrument of appointment. This reflects current practice for appointments of the additional commissioners. The president and deputy president retain the appointment period of up to seven years. The bill also provides that the current appointments to the Tasmanian Industrial Commission continue after commencement of the Validation Act 2021.

The bill also repeals section 10A and references to 'additional commissioners' as the term and provision are no longer relevant as the appointment of all commissioners will be defined in the amended section 5.

In summary, the technical amendments in the bill clarify that all commissioners are to be appointed by the Governor. The commission is to be constituted by at least three members. Members of the Commonwealth or another state or territory industrial commission or similar body may be appointed to the commission. The president and deputy president may be appointed for up to seven years and any commissioner other than the president and deputy president may be appointed for up to three years.

I commend the bill to the House.

Ms FORREST (Murchison) - I rise to speak on the 'uh-oh' Validation **B**ill. I know we do get retrospective legislation in this place from time to time to deal with oversights and areas that have occurred. As we know it is impossible often to get things completely right in the first instance. I appreciate the opportunity to hear from the departmental offices around this bill and believe after the briefing today oversights had been picked up through mechanisms like someone's term expiry as opposed to the person expiring is how it was put to us - looking at the reappointment or the ongoing appointments of certain officers and members of these tribunals.

It is important that we deal with this soon and fix it up because once we change to TASCAT they will be subsumed into there.

As noted in the second reading speech it was recently identified that the enactment legislation for the Mental Health Tribunal, the Guardianship and Administration Board, the Workers Rehabilitation and Compensation Tribunal and the Tasmanian Industrial Commission included provisions which are now interpreted as meaning the extensions under section 213 did not apply. This meant their ongoing appointment and allowing them to continue in those roles is not covered by the relevant legislation and thus needed to be validated. I have a high level of confidence the people acting in these roles have done so in good faith assuming they were duly appointed. Some were found, others were found through a range of processes. Thus, we get to this point where there are a number of areas that require validation and correction of the procedure. The correction of the procedure particularly relates to the Industrial Commission where they have an unusual process of the minister appointing the members, not just the Governor appointing the commissioners, which is unusual and different to every other tribunal and jurisdiction.

With regard to the Justice of the Peace validation, I remember when we brought that bill through this place and basically contemporised that process. I am pretty sure, from memory, there was a degree of discussion about communication to existing JPs about how this is going to happen, what their responsibilities were and all that sort of thing. It reminds us all of the importance of communication of legislative change to those people most affected.

Justices of the Peace are not people who are not computer literate, are not available by phone. That is their job. Their job is to act in a significant manner with the duties they undertake and, therefore, one would hope their information will be up to date, their contact information will be up to date on the website. I have been to the website recently looking for a JP to see who is in the local community.

If that information is not up to date, then it makes it very hard for people to find. It might have been the member for MacIntyre or Launceston talking about a person who sought a JPs signature for a document and it was then found to be invalid because that JP was not currently registered through the proper process. Two points there. It is very important when legislation is passed through this place it is the government of the day whose responsibility it is to ensure it is properly communicated. The other thing is the targeted communication with those people needs to ensure that if you send out information, but do not get any response, then maybe that is a concern to require a follow-up, particularly with something like this where they should give the caller a positive action to continue in that role.

I do not know if the Leader can provide information, particularly with regard to the justices, how many actively chose not to participate any further and would be wanting to retire from the position or whatever, or how many just decided they would continue, assuming they did not need to respond or some other mechanism because it is clear that has happened. It is clear there have been justices who have not responded either because they have not got the communication - and I do say Australia Post is pretty bad at the moment.

If you are relying on Australia Post, you may as well give up at the moment. It is a disgrace in terms of letters. Parcels are good; parcels make lots of money for Australia Post but letters, not so. I can send a heavy box parcel to the US, it would get there in a week - and it has - and a birthday card I sent to my daughter-in-law in Melbourne took two weeks. That

is what Australia Post is like at the moment. If you are relying on it for important information like this, find some other way.

Ms Rattray - Should not have let the CEO go.

Ms FORREST - Yes, probably; yes. It takes at least three or four days for a letter to get from here to my office. That is why I say do not post anything. If you have got something serious to send me, put it with a courier. At least I know I am going to get it.

Mr Valentine - Or email.

Ms FORREST - It is a disgrace.

Mr Gaffney - Or a pigeon.

Ms FORREST - A pigeon would be quicker and probably more accurate. Parcels and things like that seem to be fine, it is the letters that seem to take forever to come and because the government courier does not come to Wynyard.

Ms Rattray - Or Scottsdale.

Ms FORREST - Yes, or Scottsdale, and we have to rely on Australia Post for those sorts of things.

Ms Rattray - You have opened a Pandora's box there.

Ms FORREST - I know. That is about communication. I am interested in how many justices decided not to continue and whether they have been in terms of this validation - I assume there will be follow-up with all these people to make sure they are intending to continue and are thus registered with accurate information about their contacts, which says they have been - the Leader said:

> The department has taken steps to update the JP register to ensure all contact details are correct and have been updated, as well as contacting all impacted JPs and previous JPs to ensure they are aware of these arrangements and the new requirements.

I thought that was already done the first time and it did not work. Are we sure this has worked? If you want any degree of clarity about this, you have to make sure there is a response, positive or negative. It is the same as the discussion we had in the last bill about email communication - it needs to have a read receipt, to have some sort of mechanism to know that the email has been read. If the person doesn't respond, it is their responsibility. Lots of things get captured in the parliamentary security system, and it might take a week or two for some things to get out of the box that they go into for a while. I would like to have a good look at it.

Mr Valentine - That is what I was saying in the last bill.

Ms FORREST - Yes, that is right. A read receipt will tell you when that person has opened it and when they have read it, because there are different levels of receipt you can put on emails.

Mr Valentine - Except they have the option not to send a receipt.

Ms FORREST - You can still see when it is opened. There is a read receipt, and there is also a receipt when they have received it.

Mrs Hiscutt - A delivery receipt.

Ms FORREST - You don't have to have the read receipt. You can have a delivery receipt so you know it has landed in their inbox. It is the responsibility of the person beyond that, but without either of those you have no idea. Lots of things get caught up. Interestingly, Australia Post emails get caught up in the spam filter too. I am having a bad day with Australia Post, aren't I?

I do not have any objection to this bill. It is important to do these things when they are identified. It does highlight the need for clear, meaningful communication when people have a legal obligation in how they act. In this case the JP certainly did; but it is to make sure they are aware of that. Any new JP would have come in under the new arrangements. However, I feel for the people who were already JPs, when they got the letter to say that the document was not valid because they were no longer a JP. That would have been quite concerning for some of these people because they do take their roles very seriously - as they should. They are the points I wanted to make, but I do support the principle of the legislation.

[3.47 p.m.]

Mr VALENTINE (Hobart) - The member for Murchison's points are important. You could have some JPs in the system that have been there for 30 years or 40 years, and some of them might not even use email. I know some of the older JPs that would not necessarily be digitally aware, as they say. It is important that we bring people up to speed, especially when they are undertaking roles like that.

As for Australia Post, I have to say I posted a card on Sunday, and today I received an email to thank me for the card. It was in Launceston, so it has taken 2.5 days to get to Launceston. I suppose that is not too bad.

Ms Armitage - They do not leave Launceston until Monday night.

Mr VALENTINE - They do not leave Hobart until Monday. It is increasingly the case. You cannot necessarily expect Australia Post to be timely, especially given the fact that physical mail is reducing every day.

Ms Rattray - It is interesting. If you post a letter at the Winnaleah Post Office and it has a Winnaleah address for the recipient, it goes to Hobart, gets stamped and comes back to Winnaleah.

Ms Forrest - You had better put it under their door!

Mr VALENTINE - Save yourself a stamp.

Ms Rattray - I will use the Scottsdale example then. You can post it at Scottsdale for a Winnaleah address, it goes to Hobart and then back to Winnaleah. It is no wonder the system is like it is.

Mr VALENTINE - My main concern that I asked during the briefings was whether there were any court cases on foot that these changes will impact. The answer I received was no, and I would like that on the record.

Mrs Hiscutt - I can answer that now. No, there are not.

Mr VALENTINE - We would not want to see people disadvantaged in any way. I support the bill. When bills come through this House we like to think we give it proper scrutiny. Sometimes things get through and other times there is no way that we could possibly discover a problem or an issue until the legislation has been in train for a while. We have dealt with the big Tasmanian Civil Administrative Tribunal bills; I am sure we are going to see some changes back as a result of that set-up. There is no question in my mind that that will occur. I support the bill.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - I will sum up. The member for Murchison had some questions here. Justices of the Peace were given almost a year's notice to act on the requirements to notify the secretary. All efforts were made to contact them and help them through the notice or reapplication process. Unfortunately, not all previous Justices of the Peace are eligible for reappointment due to the age restriction. We were talking about numbers of JPs. According to the department's records there are 857 active Justices of the Peace in Tasmania. The department is aware of 278 persons who are appointed to the office of Justice of the Peace under the Justices Act 1959 and did not respond to the department during the transitional period.

The department has attempted to contact all Justices of the Peace who are listed as holding the office under the Justices Act but did not notify the secretary prior to the commencement of the Justice of the Peace Act, to determine if they wished to continue in the office of Justice of the Peace or to ascertain if they had continued to perform the functions of a Justice of the Peace since 1 July 2019, and to inform them of the processes necessary to appoint them as a Justice of the Peace if they wish to continue in the office - including eligibility restrictions that may apply. The department is currently finalising that process, and will then proceed with the appointment of eligible Justices of the Peace in accordance with section 5 of the Justice of the Peace Act.

Considerable efforts were made to contact and engage all Justices of the Peace. This included communicating directly with all Justices of the Peace as per the details known at the time, by phone and mail, as well as through the three Justice of the Peace associations - and I can verify that, being with one of them - which use their extensive electronic contact databases.

Ms Rattray - Those peak bodies know how to get in touch with you to see if you are going to join up and become a member of their organisation.

Mrs HISCUTT - Regarding the question on what is being done to ensure this will not happen again, significant work has been undertaken with the Tasmanian Electoral Commission to update the Justices of the Peace register and current contact details, and hopefully that is up to date. Thank you, Mr President, I believe I have covered most things.

Bill read the second time.

VALIDATION BILL 2021 (No 39)

In Committee

Part 1 Clauses 1 and 2 agreed to.

Part 2 Clauses 3 and 4 agreed to.

Part 3 Clauses 5 to 10 agreed to.

Part 4 Clauses 11 and 12 agreed to.

Part 5 Clauses 13 and 14 agreed to.

Part 6 Clauses 15 and 16 agreed to.

Part 7 Clauses 17 and 18 agreed to.

Part 8 Clause 19 agreed to.

Bill reported without amendment.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

> That the third reading of the bill be made an order of the day for a future sitting.

Motion agreed to.

MUTUAL RECOGNITION (TASMANIA) AMENDMENT BILL 2021 (No. 42)

Second Reading

[3.58 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

> That the bill be now read the second time.

This bill will introduce in Tasmania the national Automatic Mutual Recognition of Occupational Registrations scheme by putting in place the new arrangements agreed to by National Cabinet in December 2020.

The goal of Automatic Mutual Recognition is to promote the freedom of movement of service providers across Australian states and territories by reducing unnecessary regulatory red tape while maintaining high safety standards.

The bill builds on the existing mutual recognition arrangements which have been in place since the early 1990s. The principle of mutual recognition is that, if a person is registered to carry out an occupation in one state or territory, they should be able to carry out the same occupation in another, without the need for that person's qualifications and experience to be assessed again.

In 2015, the Productivity Commission was asked to examine the mutual recognition framework. While it found that these arrangements generally worked well, it indicated there would be economic benefits from automating such processes.

This is because under the existing mutual recognition arrangements, a worker must go through a separate registration process and may need to pay an additional registration or licence fee before starting work in another state or territory.

In 2020, as part of the deregulation agenda, Australian governments agreed that the Council on Federal Financial Relations, would prioritise and lead the development of a uniform scheme to enable occupational licences to be automatically recognised across jurisdictions.

Based on advice from the CFFR at National Cabinet in December 2020, governments committed to establishing a widespread uniform scheme for automatic recognition of licensed occupations for the purposes of streamlining processes across jurisdictions to commence on 1 July 2021.

This was formalised in the Intergovernmental Agreement on the Automatic Mutual Recognition of Occupational Registration. At its core, an automatic mutual recognition scheme will improve job mobility. It will help employers access registered skilled workers more quickly and at a lower cost by more seamlessly allowing employees to move where they are most needed. It will match job seekers with employment opportunities.

To fully realise the benefits of automatic mutual recognition, it is important that the scheme is consistent across the states and territories. This is achieved by this bill implementing the framework put in place by the law which recently passed the Australian Parliament.

However, our laws must always be what is in the best interests of Tasmanians. In this regard, the bill provides the ability for the Governor, at any time, to cease the automatic mutual recognition scheme or terminate the ability for the Australian Government to make further changes to the scheme through the referral of power in this bill.

The bill provides for appropriate parliamentary oversight of this process as any such declaration by the Governor must be approved by both Houses of Parliament.

Automatic mutual recognition will have tangible outcomes for Tasmanian workers and businesses. It will result in increased job mobility and decreased costs for workers, consumers and businesses. Employers will be able to access skilled workers more quickly and at a lower cost. This will boost competition, productivity, and economic growth.

Tasmanian workers will be able to more quickly react to changing job markets elsewhere. In the unfortunate event of a natural disaster, Tasmanian workers will be able to quickly respond to address immediate impacts or contribute to long-term recovery on the mainland.

Similarly, mainland workers will be able to more quickly react to assist Tasmanians and aid economic recovery.

Importantly, the Tasmanian Government is ensuring that the existing regulations put in place to protect our community will be kept under the new scheme where mainland workers decide to operate in our state.

I will now step through some of these safeguards.

A person subject to disciplinary actions or who has conditions on their registration as a result of disciplinary or legal action in their home state or territory will not be eligible for automatic mutual recognition in Tasmania. Any conditions a person has on their home licence will apply here in Tasmania. A worker wishing to work in this state must also satisfy a working with vulnerable people character test, where required by our law.

In addition, our local laws will continue to apply to everyone carrying on the activity in the state. This includes the need for workers to meet financial requirements such as having insurance. Tasmanian regulators will also be able to take action, including suspending or cancelling a person's registration, consistent with Tasmanian law.

The Minister for Finance will be able to exempt on a temporary basis an occupation from the automatic mutual recognition scheme until 30 June 2022. The minister will also be able to make longer term exemptions for an occupation where a certain risk cannot be satisfactorily addressed. The new scheme may not be appropriate for certain occupations from the outset. For some, there will need to be a transitional period or more time needed to figure out how automatic mutual recognition should work. These exemptions are able to be made by the minister under the Commonwealth law once the bill has passed.

However, what I can say is that temporary exemption arrangements in this state are likely to be broad and in line with the other states and territories where automatic mutual recognition is already in place. Possible longer term exemptions will be considered during the temporary exemption phase as agencies work through whether any changes can be made to address the risks identified or whether a longer term exemption is more appropriate.

This bill will increase the strength and resilience of the Tasmanian economy. Automatic mutual recognition arrangements will result in increased job mobility and decreased costs for Tasmanian workers, consumers and businesses. It is critical that Tasmanians can take up job opportunities wherever they arise. The scheme will also have benefits for Tasmanian businesses and consumers as it will allow workers form the mainland to quickly and flexibility respond to sudden increases in demand in particular areas.

Competition will also increase, resulting in lower prices and improved service quality for Tasmanian consumers. In order to realise the benefits of the scheme and consistent with the National Cabinet agreement, automatic mutual recognition in Tasmania will commence shortly after passage of the bill.

I commend the bill to the House.

[4.06 p.m.]

Ms RATTRAY (McIntyre) - I have a few questions around this and I am not opposed to the idea of mutual recognition. Most would accept we have been seeking mutual recognition

for teachers registration in this country for years and years and we still do not have it. What occupations are going to be available under this legislation should it pass? How can you pass a piece of legislation if you do not know what employment opportunities, what areas the skilled employment is going to be in? It does not say in any of the information, and certainly not in the Leader's second reading speech, where the focus might be, who is expected to come under this mutual recognition, what areas of skills would have the necessary insurance. One of the areas is it says 'in addition, our local laws will continue to apply to everyone carrying on the activity in the state'. What activity? 'This includes the need for workers to meet financial requirements such as having insurance'. In what field of insurance? We know how difficult it is now to secure insurance in any area.

While it might seem like a good idea, I am not sure there is enough detail to know what we are passing here. I am interested in what other members glean from what is being presented. Then it says, 'it is critical that Tasmanians can take up job opportunities wherever they arise'. I am assuming it is for Tasmanian workers to go to mainland states. We know how hard that is. I am not sure how easy it will ever be again unless you are travelling to Queensland or Western Australia and I know we are going to have open borders. Still there are going to be significant restrictions for a long time around COVID-19 and travel amongst states.

Is that relating to Tasmanians going to the mainland or is it relating to Tasmanians here because a lot of people coming into Tasmania with mutual recognition skills end up taking jobs and job opportunities from Tasmanian workers? Then that in itself is going to be an issue. I am somewhat confused about how we can have this blanket approach, but I am not clear in my mind what areas of work and skilled work this is looking to cover. The biggest question is why was teacher registration not included in this mutual recognition? That is one of the main issues we are looking at.

This is one of those COAG initiatives. We have seen before in this place some of those initiatives sometimes benefit some states and not always benefit others but yet we get dragged in, except for good old WA who do and continue to do their own thing.

Ms Forrest - Except in this case they are doing this one.

Ms RATTRAY - Yes, it is interesting, because normally they do their own thing. Some questions there on what other members see as being - whether it is an issue or whether they see this is clear in their mind, because it is certainly not clear in mine. I will be listening to contributions of others, but I am interested in if there is a list to be provided or just somebody will apply. Is it electricians, plumbers, labour force or aged care? Is it whatever? How is the mutual recognition going to work in Tasmania and how might it affect Tasmanian workers? Even though this second reading speech indicates it is going to be an economic benefit for Tasmania, how is that going to be an economic benefit? What areas are going to generate that benefit?

[4.11 p.m.]

Ms FORREST (Murchison) - Thanks, Mr President. This bill introduces an automatic mutual recognition of occupations framework. We already have a mutual recognitions framework where in 1993 we adopted the federal government and the Commonwealth government's act that regulated this area. If I could just borrow this computer of my colleague for a minute because I have left mine down in my office, but there is a list here of the current declarations, including carpenters, joiners, bricklayers, builders, plumbing, automotive gas

installers, air conditioning, refrigeration, mechanics, electricians, electrical fitters, cable joiners, line workers, restricted electrical licenses and as noted, the builders schedule has been updated. It goes on to electrical contractors, driving instructors, and it goes down to areas of mining, including gaming, shotfirers, pyrotechnicians, pest and weed controllers, motor vehicle repairers. There is a whole list there, then it goes on to areas in mining. I will not read all of that out.

Ms Rattray - Aged care workers?

Ms FORREST - No, they are occupational licensing arrangements, like those who are licensed under this occupational licensing framework, which we also have dealt with in legislation in the past as I understand it. It might be helpful if there is a quick access to a list of the occupations included under this framework.

Health professionals are regulated under the Health Practitioner Regulation National Law. This is under the occupational licencing approach. As I said, we already have a mutual recognition framework. The Commonwealth is the overarching legislation - we adopted that in 1993. This introduces, as was said in the second reading speech by the Leader - last year as part of the deregulation agenda, Australian governments agreed that the Council on Federal Financial Relations would prioritise and lead to the development of a uniform scheme to enable occupational licences to be automatically recognised across jurisdictions. This was based on the advice from the Council on Federal Financial Relations at the National Cabinet in December 2020, which replaced all others of those, like COAG-type bodies, after COVID-19 became a thing.

I also understand from the briefing there is an intergovernmental agreement that basically oversights this and provides the framework for agreement between the states, territories and the Commonwealth regarding changes made to it. The biggest thing that concerned me about this is there is the provision for exemptions, like if the Minister for Finance in Tasmania's case, cannot be satisfied the necessary provisions are there to ensure those workers within that occupation meet the same standards we expect in Tasmania and whether it is in construction or gasfitting or whether it is in some other area, that they can exempt them, which is a double negative

Mr Valentine - A strange term, yes.

Ms FORREST - - Because you are exempting them and removing them from it rather than allowing them through. You are saying you cannot be recognised under this automatic recognition. You can be recognised under the current national recognition scheme but in doing that you need - as they currently do - to demonstrate you have your insurance, your necessary tickets and qualifications. If working in an area where you maybe engage with vulnerable people, you have to have your working with vulnerable people checks and card and that sort of thing.

All that is fairly straightforward in it enables those people where the occupations have been pretty streamlined and the obligations, expectations and requirements for them to be licensed in South Australia are commensurate with the requirements to licence and operate in Tasmania and you do not have to, every time you move state, prove to that state you have the relevant tickets and things like that. Where there is not that acceptance, that is when the

so-called exemption - I call it the exception - applies and you have to then go through and demonstrate.

The legislation provides for those exemptions or exceptions until 30 June 2022, but the minister can make longer exemptions for an occupation where a certain risk cannot be satisfactorily addressed. I do not believe there is a time limit on the length of those exemptions that can be applied. Hopefully, you would find there will be more uniformity of requirements and it will become less of an issue. In the briefing we heard maybe in a few years time there are hardly any exemptions being applied because everyone is consistent in their requirements.

The bill we are dealing with today provides a power for Tasmania to effectively reject inclusion in this automatic national recognition scheme if the Commonwealth brings in an amendment we really do not like. We deal with nationally consistent legislation often in this place and the usual process has been the principal legislation, if you like, resides in one jurisdiction, whether it is Victoria, New South Wales, Queensland, and we have got one in here, the business names, one resides in Tasmania.

Ms Rattray - Mostly Queensland.

Ms FORREST - Yes. Then there are the regulations that sit sometimes in a different jurisdiction completely, which hosts the regulations, and any amendments made to the regulations or to the principal legislation require those to be tabled in our parliament. We sometimes see them coming through. That was because we insisted on it happening so that we actually knew what was happening.

Mr Valentine - Transport is one example.

Ms FORREST - Yes, there are lots of them but I am talking about the amendments. When amendments were made they are required under those other acts to be tabled in this parliament, so we know what has been changed because our act does not change, our adopting act. It is the legislation in Victoria or New South Wales or Queensland that changes. This is not the same process because it is the Commonwealth that changes the legislation.

We were assured and I would like the Leader to confirm, that the intergovernmental agreement process is where changes are agreed to and there is some agreement and obviously discussion with the other states and territories. The Commonwealth are just not going to act unilaterally here and say, we have decided we are going to override all your state laws because we can. We would not like that - I know I would not like that and do not think many others in this place would - and this bill provides a provision where a proclamation can be made by the Governor, I believe.

The Governor may fix by proclamation a day as the day on which the adoption of a Commonwealth act under section 4(1) terminates or the adoption of the amendment to the Commonwealth act under section 4(3) terminates. The clarity I sought around that - sorry, before I go on to the clarity, that proclamation has to be dealt with in parliament. It has to come to the parliament, sit on the table and be either - the usual disallowance process over five sitting days. The way I read it was the Governor may issue a proclamation that could kick out the whole of this automatic national recognition or in 4A (1)(b), they could knock out the adoption of an amendment. In the briefing it was made fairly clear to me and I am clarifying this is the case, if an amendment was made and the Government or the state was not happy with it, we

would not just knock out the amendment, the whole process would be rejected and we would be back to not having any automatic mutual recognition, but still the mutual recognition would stand with the processes in place now.

I need the Leader to clarify whether I am right in that, because there was a fair degree of confusion in my mind at least about what this bill sought to achieve, where there was significant disagreement. It is not like I am talking about changing a minor provision in the bill or the act that has been identified not to work properly, or some of these minor technical amendments we see from time to time. It is where there is a significant change that is not in the best interests of Tasmania. It could disadvantage Tasmania. It could disadvantage Tasmanian workers or workers coming into the state to assist Tasmania that would be rejected. It seemed to me from the advice provided at the briefing if there was a disagreement, the Governor could not issue a proclamation just to get rid of that amendment. The risk with that is you end up having quite non-consistent national legislation and that is a problem. It would get rid of the whole automatic national recognition process. That is the matter I need clarity on.

Other than that, it makes sense, particularly when we see times of emergency, like our bushfires, floods where there is major infrastructure damage, any of those other natural disasters or other times when we need help and we need it fast and there is capacity in another state. COVID-19 excepted, there will be free movement of people from 15 December to and from Tasmania. There may be requirements for vaccination, but these people will predominately be vaccinated. We are the envy of many countries around the world. My husband was speaking to his cousin in the United States and he cannot believe our vaccination rates. He lives in North Carolina, not the best vaccination rate I might say.

Tasmanians and Australians have taken this seriously. Canberra was one of the most vaccinated jurisdictions in the world. Australians have rolled their sleeves up. They have taken this seriously and they have come on board, by far and away the majority of them, and it is positive. I thank every single person who has been vaccinated for doing that, for themselves and for the rest of us.

There are real benefits to be had in this to enable free movement and movement of workers without having to go through processes when the requirements are there clearly to meet the requirements Tasmania has in order for those people to work in Tasmania. I want the Leader to clarify that for me when she replies to the debate.

[4.24 p.m.]

Mr VALENTINE (Hobart) - Mr President, to the point the member for Murchison was making, it does say in the second reading speech the bill 'provides the ability for the Governor at any time to cease the automatic mutual recognition scheme or terminate the ability for the Australian Government to make future changes to the scheme through the referral of power in this bill', so it seems like if there are changes made federally, you can put up the hand and say no, we are not going there. The question I would have then is, when are other amendments then allowed to be accepted? I do not know if that would be the case.

My concern when I first read this bill was that we might end up with the lowest common denominator that people could forum-shop to get qualifications in various disciplines but apparently that is not the case. If the Leader can clarify that in her response that would be good.

I understand that it may well provide opportunity for people across Australia; open the country up to opportunities for people in different states to be able to find employment elsewhere. I go to the point that the member for McIntyre was making really and that is to my mind there may well be people in this state who are working towards getting qualifications for certain roles and have opportunities only to find that those opportunities are taken up by people who have got the qualifications already or at a higher level. That may reduce their opportunities and not increase them. I take the point there.

The overriding thing for me with this bill is making sure that the state and that we as a community are protected in whatever those professions are doing, whether it is in the construction industry or whatever industry we are talking about, that we are protected. People who are getting houses built, that the building surveyors undertaking that role are properly qualified and are the best. That is important as well. We would not want people coming in from interstate being able to transfer their skill across Bass Strait if the qualification levels here were higher than they have in their state. I am told that if a state has a lesser standard, a Certificate III, and our state had a Certificate IV standard we can exempt that state. It is not a carte blanche that they can come across and automatically take roles here if the qualifications are not right.

However, if there is an individual in that other state who has a Cert IV standard themselves they can actually apply in this state to be able to work here which does not reduce the threshold that we are dealing with or the bar that they have to jump. At the end of the day, it is making sure that our community is protected. I have a concern about exactly how the various professions in this state are consulted when it comes to inclusion on the list. Is it truly automatic in the sense that professions do not - the peak bodies for those professions do not - have an opportunity to say, 'hey we really do not want to have these skills transfer across the border for x and y reasons'.

There might be really good, cogent reasons because it is going to impact on their profession or industry. I would be interested to know, from the Leader, as to whether it truly does mean automatic for any profession or whether it is only those that are placed on a particular schedule and there is proper consultation with that particular industry in our state. If the Leader could tell us how that works, how particular sectors or industries get onto this mutual recognition arrangement or whether it is just automatic, there is no discussion, no consultation. We just light the fuse and away it goes. I would be interested to know what that process looks like.

I also asked a question about if someone has attempted to be deregistered and it is appealed, that person will not be deregistered until the appeal is complete and the outcome is determined. As soon as they get deregistered here automatically there is a pop-up if they attempt to go somewhere else in Australia to be employed. I believe that is the case, a pop-up will show this person was deregistered in Tasmania and they are not allowed to work in that field any more because of their deregistration.

Yet they may have appealed their deregistration or attempted deregistration here, and so I just wanted to make sure that those who might be in that boat, and have a valid reason to appeal it, that they are protected and their livelihood is not threatened by an immediate deregistration on the system. That could mean that they cannot work elsewhere, yet the outcome is not known. I would be interested in having that clarified.

I realise this is not going to be an immediate implementation in the sense that IT systems have to be put in place for the changes that are required. I believe that is the case. Again, I think, we need to make sure that at the end of the day, our protections are not reduced.

I thank the Leader for the briefings. They were quite good briefings and we learnt a lot of information but I want to hear the answers to some of those questions.

Ms LOVELL (Rumney) - I will be supporting this bill and believe that this is a good move towards streamlining licensing requirements across the country and part of a national approach that will make it easier for people to work across different jurisdictions.

Some concerns were raised in the lower House about equivalency of qualification and what that might mean for a scheme like this, with automatic mutual recognition. I know other members have spoken to that as well, and we spoke about it in the briefing this morning. I thank the Leader for the briefing and the officials who helped us through those issues there.

I am comfortable with the answers and the information that has been provided about requirements for anyone working in Tasmania under these automatic mutual recognition provisions. There is a way to ensure compliance with state regulations and other requirements. We are comfortable with the way that has been dealt with.

I think one of the benefits of this is that there is that notification requirement, where automatic mutual recognition takes place. There is an automatic process for notification to happen for our regulators so that we can ensure that that compliance is happening.

In the briefing, I was pleased also to hear that there is a process for licence holders to be excepted from this bill, excepted from automatic mutual recognition by class or by location, and that there is a way that that can be raised with the regulator through workplaces, through employers, through unions. There are various ways for that to be done, and then advice provided to governments. I was pleased to hear that.

Overall, I think this is a good move. It is a good bill. It is important that we are careful with it and that we do make sure we are doing this the right way because there are a very large number of workers across Australia who are licensed in some way. We cannot just say this is making things easier and we accept it. It is going to have a significant impact on the workforce across Australia, so it is important that we make sure we are doing it right.

Having said that, I am comfortable with the information that has been provided to us, and I support the bill.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Starting from the top, what occupations will AMR apply to in Tasmania from commencement? That was the question from the member for McIntyre.

Consistent with the existing mutual recognition scheme, the AMR framework applies to all applicable occupations and registrations unless specifically exempted by the minister.

There is no definitive list of occupations or licences where mutual recognition applies, or where AMR will apply, although we do have indicative indications based on advice from agencies. I will read through that list to give you an idea. However, in working with Tasmanian

agencies to implement AMR it has been estimated that there are approximately 150 occupations or licences which MR and therefore AMR could apply to in this state. There will be a broad temporary exemption in place for Tasmania to allow time for agencies and regulators to implement appropriate arrangements for the AMR. It is anticipated that AMR will apply to fewer than five occupations or licences, from commencement. This is consistent with the approach adopted in other jurisdictions that have already implemented the AMR. Therefore, there are no changes to current Tasmanian insurance requirements. This is a long-term reform. Interstate travel is likely to return to normal in the longer term, we hope. Also, for many occupations, services can be provided without a physical presence - architects, for example. I have a list here of proposed Tasmanian exemptions -

Ms Rattray - Do you want to table the list?

Mrs HISCUTT - No; because some are and some are not. I will go through them. There is high-risk work licence assessor; health and safety representative training provider; work health and safety entry permit holders and training providers; security-sensitive dangerous substances permit or responsible worker status; shotfire permits; asbestos assessors and removalists; gaming employees; cemetery and crematorium managers and regulated businesses under the Burial and Cremation Act of 2019; architects; building designers; engineers of various licences; and building service designers (various sorts); building surveyors; builders; plumbing practitioner; gasfitters; electrical practitioners; licensed conveyancers; security agent; commercial agent; crowd controllers or inquiry agent; licenced motor vehicle traders; real estate professions, from real estate agents, property managers, general auctioneers, and property representatives; land surveyors; well drillers; fire protection service permits for equipment and systems; occupations that use radiation; teaching; firearms dealers, firearms dealer employees, paintball operators and any other registered occupations that may constitute a genuine reason for holding a firearms licence; and all types of provisional licence granted under the Occupational Licensing Act 2005 - plumbing or gasfitters and things like that. That is the list of proposed exemptions to start with.

Then we went on to the impact of automatic mutual recognition. Will automatic mutual recognition result in interstate workers taking Tasmanian jobs? This was also mentioned by the member for Hobart. The automatic mutual recognition model is for workers who wish to work beyond their home state or territory on a temporary or occasional basis. The scheme will have benefits for Tasmanian businesses, as it will allow skilled workers from the mainland to quickly and flexibly respond to sudden increases in demand in particular areas. This is important for a small state such as ours, as Tasmanian businesses may not necessarily be able to quickly respond to changing market conditions and access skilled labour locally. It will also allow Tasmanians to take up work opportunities interstate without needing to, for instance, pay additional licensing fees.

The member for Murchison asked about long-term exemptions. Longer term exemptions can apply for up to five years, but can be renewed after that, subject to review. The member for Murchison also asked, how would the Governor's termination proclamation be used? To realise the benefits of AMR it is important that the scheme is harmonised across Australia. This is achieved by the states and territories committing to the intergovernmental agreement, including the adoption of the framework put in place by the commonwealth act. While it is important that the AMR scheme is harmonised, it is equally important to ensure that the laws in place in Tasmania are in the best interests for our community. For this reason, under the bill the Governor can -

(1) Terminate the referral of power to the Commonwealth which allows the Commonwealth to make laws in relation to AMR and MR, or

(2) Terminate the adoption of the commonwealth 2021 act that puts in place the AMR, or the entire legislation that puts in place both the AMR and the MR schemes - the 1992 commonwealth act which was amended in 2021.

While it is difficult to imagine what Commonwealth proposals may warrant a termination proclamation, these provisions are designed to be an emergency backstop or a mechanism of last resort, in the event that the Commonwealth changes would not be in the best interests of our state. Practically speaking, to maintain harmonisation and realise the benefits of AMR, the Commonwealth would be likely to seek the agreement of jurisdictions before any substantive changes to the AMR are made. This is because without jurisdictional agreement, the scheme is likely to end up fragmented as jurisdictions terminate their adoption or put in place other jurisdiction-specific arrangements in response.

The Government considers the arrangements in the bill appropriately balance the achievements of the nationally consistent approach to AMR whilst ensuring that Tasmania always retains the ability to withdraw from the scheme if it is no longer in our best interests.

The member for Hobart discussed forum-shopping concerns. There may be a concern that differences in occupational standards across jurisdictions may create the potential for people to register in the jurisdiction with the least stringent requirements, and then use the AMR to work in a preferred jurisdiction. AMR is a framework to facilitate temporary or transitional workforce mobility. The AMR requires a worker to have a home state registration where they principally reside or work, with AMR then facilitating that individual to work in other jurisdictions. Workers cannot pick a state in which they consider it to be easier to gain a substantive licence.

A person's home state and the licence they use for AMR must be their principal place of residence for work. Where there are concerns about AMR applying to a certain occupation in Tasmania, given another jurisdiction's qualifications and education requirements, the minister at any time can exempt AMR from applying to a certain occupation. That is broadly, or in relation to specific jurisdictions.

What protections exist for workers with disciplinary action? In effect, there will be no change to regulatory compliance processes and it will be with due process and appeal provisions being common.

The member for Hobart also queried, will work standards fall? Workers operating under the AMR in Tasmania will need to understand and meet local rules and requirements, to ensure they are providing service consistent with Tasmanian standards. The AMR builds on, and improves, the existing mutual recognition arrangements by maintaining existing protections in place nationally and in each jurisdiction. Workers must hold a substantive registration in their home state. Workers must comply with the laws in the jurisdictions they are working in, and satisfy any public protection requirements imposed by that jurisdiction; for example, working with vulnerable people tests. Workers will face oversight and disciplinary action by local regulators consistent with locally licenced workers, which could include financial penalties and licence terminations.

Under AMR, a state can also require workers to first notify the regulator they intend to work in their state. The provision enables regulators to communicate exceptions for interstate workers, particularly in highly regulated sectors.

One last question from the member for Hobart. It is the scope of automatic mutual recognition. Automatic mutual recognition is intended to apply to all occupations and registrations - this goes to the member for McIntyre a little bit as well with her question. Automatic mutual recognition is intended to apply to all occupations and registrations as defined by the current mutual recognition arrangements unless specifically exempted by the Minister for Finance.

The minister will be able to temporarily exempt an occupation from all or just one jurisdiction until 30 June 2022 or more permanently exempt an occupation where identified risk cannot be satisfactorily mitigated for up to five years. I address that answer to the member for Murchison. Initially, temporary exemptions will be necessary to allow agencies time to undertake further consultation with impacted stakeholders, consider and implement consequential legislative amendments or to implement necessary electronic-based information-sharing mechanisms in consultation with other jurisdictions.

The need for any longer term exemptions will be considered during the temporary exemption phase as agencies work through whether any mitigating strategies can be put in place to address the risk identified or whether a longer term exemption is more appropriate. The Government will ensure that exemption arrangements in Tasmania will protect the integrity of the Tasmanian regulatory framework during the implementation phase while ensuring that the economic benefits of the automatic mutual recognition scheme accrue to Tasmania in the longer term. When fully implemented, automatic mutual recognition will apply to a broad range of occupations - and I named a few of them earlier.

I think I have ticked off, hopefully, on all those questions. For the information of members, if we get this bill done in reasonable time we might move on to the Poisons Act as well.

MUTUAL RECOGNITION (TASMANIA) AMENDMENT BILL (No. 42)

In Committee

Clauses 1 to 9 agreed to.

Bill reported without amendment.

[4.50 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the third reading of the bill be made an order of the day for tomorrow.

Motion agreed to.

POISONS AMENDMENT BILL 2021 (No. 35)

Second Reading

[4.51 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill be now read for a second time.

The primary purpose of this bill is to amend the Poisons Act 1971 to support Tasmania's adoption of a nationally consistent real-time prescription monitoring, or RTPM system for certain high-risk medicines. The bill also amends the Poisons Act to clarify when information obtained under the act can be released or shared to provide for emergency orders authorising a person to undertake certain activities in relation to certain substances in an emergency and to provide for the making of regulations that permit discretionary decisions.

On 13 April 2018 the now disbanded Council of Australian Governments Health Council agreed to progress a national system to enable prescribers and pharmacists to access a patient's medication history before prescribing specific high-risk drugs. All jurisdictions committed to develop or adapt local systems to connect to and interface with the Australian Government's National Data Exchange to achieve a national solution.

Tasmania pioneered Australia's first RTPM system, known as DORA, in 2009. DORA is a clinical decision support tool that records the dispensing of Schedule 8 medicines and Schedule 4 opioids by prescribers, pharmacists and the Department of Health in real time. DORA set the precedent for the use of the RTPM systems in Australia and has been instrumental in reducing morbidity and mortality associated with the prescribing and dispensing of these high-risk medicines in Tasmania.

Tasmanian data has shown that DORA and the clinical-regulatory approach to authorising the prescribing of narcotic prescription medicines in Tasmania, in collaboration with Tasmania's medical practitioners and pharmacists, has achieved a population level reduction in authorised opioid doses prescribed over the past 15 years. It is of note that Tasmania experienced a much lower percentage increase in the rate of unintentional prescription drug poisoning deaths per capita compared with the rest of Australia between 2001 and 2018.

The nationally consistent RTPM system has been developed to securely integrate with existing clinical workflows for clinicians using their prescribing and dispensing software. The contemporary technology underpinning the national system will enable real-time pop-up notifications to be presented to prescribers and pharmacists through their practice software at the time of prescribing or supply. These notifications can be used to directly access the health practitioner portal of the national RTPM system to enable a seamless user experience and facilitate timely access to relevant clinical and regulatory information. Access will also be available to those who handwrite prescriptions via the health practitioner portal, like DORA.

The national system will also allow for secure access to the health practitioner portal via a mobile or tablet device. This bill amends the Poisons Act to facilitate Tasmania's implementation of the nationally consistent RTPM system. The amendments are needed to

allow the system to operate in Tasmania and are largely reflective of the provisions in place in other states and territories. The bill also includes provisions mandating the national RTPM system's use by prescribers and pharmacists.

Mandatory use ensures both integrity of the data within the RTPM system for all users and will maximise the benefits of such a system to patient and health professionals. Mandatory use of RTPM systems adopted in other countries has shown to provide greater reduction in harms from high-risk prescription medicines and represents worldwide best practice. It is also consistent with the approach taken in other states and territories. The concept of RTPM is not new in Tasmania and key stakeholders, including the Tasmanian branches of the Australian Medical Association, the Royal Australian College of General Practitioners, the Pharmaceutical Society of Australia and the Pharmaceutical Guild of Australia are supportive of both the national RTPM system and of this bill.

The Poisons Act does not currently include information-sharing powers. Amendments are needed to provide clarity around when information obtained under the Poisons Act can be released or shared. This is important, given the sensitive nature of the information that is collected by the department in its administration of the act. Amendments to allow for the making of emergency orders are needed to improve the state's capacity to act quickly to ensure the continued supply of essential medicines without prescription in an emergency.

Medications can only be supplied without prescription in an emergency in Tasmania if this is permitted under the regulations. While the regulations enable emergency supply in relevant circumstances, they are inflexible, and it has been necessary in the past to make legislative amendments at very short notice to accommodate previously unanticipated emergency scenarios.

For example, the Poisons Regulations were amended in 2020 to allow for the emergency supply of certain substances without a prescription when an emergency declaration is in force, either under the Public Health Act of 1997 or the Emergency Management Act of 2006. The amendments were made in response to COVID-19 and were progressed urgently to provide flexibility during the pandemic. In contrast, poisons legislation in place in New South Wales, Victoria, South Australia and the ACT provides discretion to the relevant minister, secretary or chief health officer to make orders enabling emergency supply of prescription medicines. Queensland's Medicines and Poisons Act of 2019 similarly enables the chief executive to make emergency orders authorising the supply of certain substances without prescription in an emergency.

The bill amends the Poisons Act to enable the secretary to make an emergency order authorising a person to possess, sell or supply a scheduled substance without a prescription in certain circumstances. Amendments providing authority for the Governor to make regulations that allow for discretionary decisions, approvals of matters and issuing of declarations or notices are necessary to enable a flexible approach to the safe management of scheduled substances.

Discretionary decisions to which the amendments would apply include decisions such as approving relevant courses of training for the administration of scheduled substances, determining locations that are suitable to store scheduled substances and providing instructions as to when and in what circumstances substances that are normally prescription substances may be supplied without prescription.

I note that the inclusion of provisions in the Poisons Act for these purposes have been widely supported by key stakeholders in Tasmania and Mr President, I commend the bill to the Council.

[4.59 p.m.]

Dr SEIDEL (Huon) - Mr President, I will state right at the beginning that I will be supporting this bill. Real-time prescribing and reporting systems for schedule A drugs in particular are really indispensable in reducing drug-related accidental and incidental intentional overdoses. And I am pleased to see legislation being tabled that allows for a nationally consistent approach.

The misuse, overuse and abuse of opioids and other drugs of dependence, is a significant public health issue in Tasmania, as well as nationally.

To address this, the Department of Health was progressing a number of initiatives back in 2008 and 2009 that aimed to reduce morbidity and mortality associated with the misuse and diversion of prescription drugs of high abuse potential.

I will quote from an article that Chief Pharmacist, Peter Boyles published in 2019 in the *Australian Prescriber*. He said between 2012 and 2016, 3903 Australians died from prescription opioid poisoning. Over 3900 Australians died.

These figures present an increase of approximately 113 percent with 2002-2006. Then we had just 1800 opioid poisoning deaths.

Tasmania's per capita death rate from prescription opioids was approximately 30 per cent above the average between 2002-2006, and changed to approximately 27 per cent below the national average between 2012-2016. It is important to note that the Tasmanian government records show that the number of patients prescribed opioid analgesics for persistent non-malignant pain increased from 1600 in 2002 to over 6400 in 2016.

While the Australian figures represent an unacceptable increase in preventable deaths, there has been a significant reduction in individual patient risk in Tasmania. I am quite convinced that our online database that is accessible 24/7 really played a part in that.

Mr President, when it comes to the prescribing of opioids, in particular, the central principle of balance applies. On one hand, governments need to ensure the medical availability of the drug. On the other hand, governments are obliged to establish systems of control, to prevent abuse, trafficking and diversion of a narcotic drug. While opioid analgesics are controlled drugs, they are also essential drugs and are absolutely necessary for the relief of acute pain, in particular. This is exactly why opioid analgesics should be accessible to all patients who need them for pain relief.

Therefore, governments must take steps to ensure the adequate availability of opioids for medical and clinical purposes by empowering health care practitioners to provide opioids in the course of professional practice, by allowing them to prescribe, dispense and administer according to the individual medical need of patients, and by ensuring that a sufficient supply of opioids is available to meet clinical demand.

However, the medical availability needs to be balanced against appropriate drug control measures. When misused, as I mentioned before, opioids pose a threat to society. It is for that reason a system of controls is necessary to prevent abuse, trafficking, and diversion.

The intention of the system of controls is not to diminish the medical usefulness of opioids, nor to interfere in their legitimate medical use of patient care. The DORA program back in 2008 was specifically designed to address this.

I am very pleased that I was allowed to mention Peter Boyles, Chief Pharmacist back in 2019. Back in 2008-2009, he was just a junior staffer in Pharmaceutical Services, and I was a very junior GP in the Huon Valley.

When I got the phone call from Peter to say, wouldn't it be interesting to have a system in place that allows 24/7 access to prescriber and dispensing data? And shouldn't we try this in the Huon Valley, of all places, in your practice, with you being the first GP? I said why not, let's do it. It was a very different time. We had Windows XP running. We had single servers. We were using Internet Explorer 6. We needed specific certificates to ensure that those certificates were actually on the individual computers. Surprisingly enough, it worked. It actually worked.

What Peter said, at the time - and I only just saw him now in the Gallery -was, 'Well, just see how it works. Is it going to interfere with your workflow?' because being a busy GP the concern was 'yet another new system' and you are meant to access a database whenever a patient comes in, in order to have an opioid prescription. There were many of them at the time. The alternative model of accessing this information was to make a phone call, and that is nice and works well between 9 and 4 when Peter Boyles was able to take that call.

It is not so easy when you are working Saturday mornings or when you are working later after 6 o'clock. There was no access point to get this particular information. It turned out, using our web browser system with Internet Explorer and Windows XP, that was actually a practical way to access important information about whether a patient had an authority in place to have opioids prescribed, whether the proper amount was dispensed, whether the patient was, indeed, running short of medication. What I would like to say is that -

Ms Rattray - Whether the dog had eaten some of the tablets.

Dr SEIDEL - I, at the time, could see the benefit. Pharmaceutical Services could see the benefit. The government at the time could see the benefit. What we then did in 2008, 2009 was to say, 'Okay. Well, tell us about it. Tell your peers about it.' This is not a new artificial barrier. It is not another computer gizmo that puts extra burden onto GPs or practitioners.

So, we did. We did the state roadshow for two or three years and eventually the national newspapers called and said, 'What are you doing in Tasmania and why does it work?' There was a lot of scepticism at the time, but it turned out other states said, 'This is a great idea. Let's do it because we have an obvious problem.' If you have over 6000 people dying from opioid overdoses, that is a substantial problem, and if you can make a difference and reduce the number of deaths, then -

Ms Forrest - Were they all accidental or some of those were not, but it is still a lot of people.

Dr SEIDEL - That is right. It is a lot of people so it almost does not matter. Anything goes in order to reduce the number of deaths I found was unacceptable. It turns out in 2013, 2014 other states followed suit. Unfortunately, when there was the call for a national system runout and who was going to design and run it, Tasmania put a tender in and it did not win. I think it was a different state or different entity that actually got the tender for the program but, never mind.

What I want to say is Tasmania was leading in this, and what a fabulous, good news story it is to say we have improved patient care. We have made a difference to so many vulnerable people who are meant to be using really strong medications and we were able to come up with a system that was easy and stable to use, that was accessible 24/7 and the most important thing, it actually worked. It just worked.

You must remember it is now 2021 and we started in 2008, 2009. That is how long it takes to put a policy really into practice and vice versa. I would like to say thank you very much to Peter Boyles and his team who were leading it, a fabulous effort. It made a huge difference and I am really pleased to see it now becoming national.

There are a couple of points I want to make. Commonwealth and state governments, of course, need to work together in this; this is not over. There is more work to be done. I also want to say this is a confidential database and not accessible to patients. This is really for practitioners, pharmacists, prescribers in particular and it helped certainly in the initial phase that we practitioners felt this is confidential and something we can access.

There really is not much of a backup system, it is through a phone, so if the system is not available online, a phone call it is. I am saying that in my experience it has never failed. There has not been a single incident where the system has failed for many years now, which is quite remarkable. When we first started it was meant to be voluntary. It is now compulsory, for good reason, because that is best practice and it should be compulsory. I am really pleased my colleagues in the medical colleges have broadly supported the mandatory use in offline and online databases.

Thank you to the RACGP and to the AMA. I also want to say the authority system for prescribing opiates in particular is still in place. If you are using opioids for more than two years, you need to apply for authority for ongoing prescribing. The DORA online system does not change that. Unfortunately, there is still often no paper-based faxed mail. Hopefully, there will be ways in future for this to become fully electronic. I also want to say just because we have a national database now, it does not mean the states do not have a role any more. They certainly do, prescribing of opioids is still a state matter. If tourists are coming from interstate and want to fill their interstate prescriptions, they cannot. They still need to see a prescriber in Tasmania to have an opioid prescription. That is also not going to change. Hopefully, that is going to be the next step because, if the data is in the database and we know who has prescribed it, we know there are appropriate authorities in place. There is no reason why patients have to go from one state doctor to another state doctor to another state doctor.

Ms Forrest - Particularly when it is not very easy to get in.

Dr SEIDEL - It is not very easy, it is just completely unnecessary. That is why I am saying the Commonwealth and the states need to work together on this. We have a system in

place that is stable, that really works, that works really well for practitioners, let us make sure it is going to make a difference to patients also.

[5.11 p.m.]

Mr VALENTINE (Hobart) - Well, we are a happy family today, that is all I can say. DORA, I think, was one of the systems I was involved with. Peter, congratulations for all the work you have done. Mine was more on the contract side, as I recall, government information technology conditions contracts. It is really great to see a system that was, basically, homegrown here and it finally becoming something national. For those who might be wondering what DORA means, as far as I am aware, it is drugs and poisons information system online remote access.

Ms Forrest - It should have more letters in it.

Mr VALENTINE - I think they went for simplicity. It is a system you can access via mobile or tablet. It was a great concept in its day and has proven to be nationally significant. All respect to Peter for his persistence and push in that regard and the department seeing the benefit of this particular system. It is fair to say it is reducing doctor-shopping for drugs. It prevents people from being able to get prescriptions. You can have the information at your fingertips. That is the big benefit in this. As the member for Huon pointed out, it has saved lives, when you look at the figures he was quoting. I wholeheartedly support this and think it is a great day for Tasmania.

[5.13 p.m.]

Ms FORREST (Murchison) - I do support the bill and thank the member for Huon for his history lesson. I was not aware of all the ins and outs of the start of it.

Dr Seidel - In the dark days.

Ms FORREST - In the dark days, in the dark arts of S8 drugs and trying to keep them out of being diverted to places they should not be. That is what caused a lot of the deaths, diversion into the community from misuse of prescriptions and the like.

Ms Rattray - At one stage an Endone tablet was worth $20.

Ms FORREST - That is the thing, it can still happen, but this has made it much less likely. I have spoken to many GPs over the years about their frustrations with former systems, particularly when you are discharging patients from hospitals and things like that. It has been an ongoing challenge and it is really great to hear. I did not realise this was a Tasmanian-developed system from your little backyard operation in the Huon, which is almost what it was.

All credit to those who suggested, progressed and implemented the idea and to see the success it has been to the point it has been picked up around the country is fantastic. That does not even count the reductions in morbidity and mortality associated with accidental and other drug overdoses, the issues with addiction and other problems that occur with these sorts of medications. It is one of those things that we sometimes see and it is important that we recognise the achievements and do not be afraid to sing of our achievements from the rooftops.

I note some changes in the bill, or some sections of the bill, that refer to the emergency orders as well. I have a question about that in one point, where it says, currently with the medication under an emergency situation, the amendments allow for the making of emergency orders and they are needed to improve the state's capacity to act quickly to ensure the continued supply of essential medicines without prescription in an emergency. Medications can only be supplied without prescription in an emergency in Tasmania. This is permitted under the regulations and while the regulations enable emergency supply in relevant circumstances, they are inflexible. I always thought you put things in the regulations because they were flexible. There you go. It is not always the case. It has been necessary in the past to make legislative instruments at very short notice to accommodate previously unanticipated emergency scenarios.

In the bill under clause 7, authorisation under emergency order, this gives the provisions to enable an order to be made. In 38J(3) it does say 'An emergency order must include the following information', and it goes through the person or class of persons to whom the emergency order applies and on it goes, down to (f), it must include 'the day, no later than 3 months after the day on which the emergency order starts, on which the emergency order ends'.

I will then go over to (4), where the secretary may make an emergency order in any of the following events - and have we not seen some of these in recent times - a declaration of public health emergency in accordance with section 14 of the Public Health Act 1997 and the authorisation of emergency powers in accordance with section 40 of the Emergency Management Act, and there are other declarations there too.

As we know, the declarations under the Public Health Act and the Emergency Management Act can go on much longer than three months in this circumstance. I do not think anyone ever imagined back whenever it was, March or April 2020, that we would still be under a state of public health emergency. Assuming this particular order can only last for three months, does it need to have a provision to reapply or should it be dealt with through other mechanisms after that period of three months has passed? This can be issued under the issuing of an emergency order under the following events I have just described but this particular emergency is time-limited to three months. I am interested to know what the mechanism is if the circumstances continue under an emergency public health order or Emergency Management Act order in relation to the supply or the person to possess several supply - scheduled substances without a prescription?

Mrs Hiscutt - You are asking whether it could be renewed and renewed?

Ms FORREST - Yes, and what is the mechanism there or do they have to then make sure that they go back to the normal way of doing things?

Mrs HISCUTT - The provisions do not limit the number of successive orders that can be made. If a new order was required it would be made. At the minute it is three months while there is a medical emergency going but it can be a month or more if necessary.

Bill read the second time.

POISONS AMENDMENT BILL 2021 (No. 35)

In Committee

Clauses 1 to 6 agreed to.

Clause 7 -
Part III, Divisions 4 and 5 inserted

Dr SEIDEL - Thank you very much, Madam Chair. It is just a question under 38A, Interpretation. 38A(c), 'the Commonwealth, another State or a territory in respect of which the Secretary has entered into an agreement or memorandum of understanding under section 38C(2)'.

I talked about this in previous legislation. What is the role of the Commonwealth in this particular legislation, noting that under 38B and 38C it actually is the power of the secretary to establish the medicines database? I would imagine we are referring to the Tasmanian secretary of the Tasmanian database. So, to be clear, are we going to have a national database hosted in Canberra and therefore we need to have a Commonwealth agreement? Can you explain what the role of the Commonwealth is as part of this legislation?

Mrs HISCUTT - It is there because the Commonwealth does hold some of the information which will be pulled into the system, so it needs to be there.

Dr SEIDEL - Just as a follow-up question, what sort of information would that be considering that most of the information is actually entered by Tasmanian practitioners or dispensing pharmacists? So, what is the additional information that you are obtaining from a Commonwealth department?

Mrs HISCUTT - They are the universal identifier. It is prescriber identity.

Dr SEIDEL - Okay. So, the prescriber identity is already clear. We all have - all Medicare-accredited prescribers have a Medicare prescriber number, right? That is Commonwealth-based. However, if you are an employee in a state system, as the Public Health doctor or in a public emergency department, you have a prescriber number that is actually just a state-based number, yet you are also somebody who will be able to access the database. So again, is there any additional information the Commonwealth supplies that is essential for the use of the database and essential for the legislation?

Mrs HISCUTT - The Medicare information which is held by the Commonwealth is sucked into the system. I am being told by my advisers who are happy to give you a briefing.

Dr Seidel - I would appreciate that, absolutely.

Mrs HISCUTT - Would you like to adjourn to have the briefing?

Dr Seidel - Yes.

[5.25 p.m.]
Mrs HISCUTT - Madam Chair, I seek leave to report progress.

Leave granted.

Progress reported.

SUSPENSION OF SITTING

[5.26 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the sitting being suspended until the ringing of the division bells.

This is for the purposes of a briefing.

Sitting suspended from 5.25 p.m. to 5.34 p.m.

POISONS AMENDMENT BILL 2021 (No. 35)

In Committee

Resumed from above.

[5:36 p.m.]

Madam CHAIR - Given the number of subclauses in clause 7 and the member for Huon required a briefing on a particular matter, I will allow a little leeway here to give him another call to have that point he raised in his last call clarified.

Dr SEIDEL - Thank you very much, Madam Chair, I appreciate it. The specific question is about the role of the Commonwealth and what data in particular the Commonwealth provides. We heard in the briefing the Commonwealth is providing data for the unique prescriber identifier. Is the Commonwealth also providing any other data, in particular, the unique patient identifier? For the record, each and every Australian has a unique patient identifier. You might have five names or five aliases, but your patient identifier is unique to you.

Madam CHAIR - It is on your COVID-19 vaccination certificate.

Dr SEIDEL - It is absolutely essential for actors or celebrities, not politicians, necessarily. The question is, is the Commonwealth providing any other data to the database? In particular, is the Commonwealth providing the unique patient identifier to the database?

Mrs HISCUTT - At the moment, the information you are asking for will be put into regulations, but at the moment the answer is, yes.

Mr VALENTINE - Given the Commonwealth is mentioned here in the entity, what access does the Commonwealth have to any of the data in this database?

Mrs HISCUTT - The Commonwealth has no access. They contribute to it but they do not access it.

Ms RATTRAY - In regard to 38A, Interpretation, I wanted some clarification as to what dispenser means. As an aside, I really appreciated the member for Huon's contribution to this legislation today.

Madam CHAIR - I agree.

Ms RATTRAY - The history of it was really interesting. I also expected the member for Hobart would have had some input into DORA. I guessed that right up-front.

Mr Valentine - I was just a follower.

Ms RATTRAY - Having some pharmacy background myself, I am interested in -

> *dispenser* means -
>
> (a) a pharmaceutical chemist; and
> (b) a person who is prescribed as a dispenser for the purposes of this definition;

The normal use of the word is a pharmacist, I was of the understanding, these days. Perhaps I am out of touch, Leader. Is it a pharmaceutical chemist? We used to have chemists, now we have pharmacists.

Mrs HISCUTT - Subclause (b) is for a remote pharmaceutical medical practitioner who can do some dispensing. Bear in mind this comes from an act from 1971, so that is the difference between a pharmaceutical chemist and a pharmacist.

Ms Rattray - Why have we not updated it?

Mrs HISCUTT - It could be next on the line.

Ms RATTRAY - That is my question to the Leader. Why do we not amend it now?

Madam CHAIR - It is the principal act she is talking about.

Mrs Hiscutt - It has to come from an act in 1971 so that is the -

Ms RATTRAY - When they were chemists, yes.

Mrs Hiscutt - That is the act that we would have to amend.

Ms RATTRAY - Right. We cannot amend this part without amending the principal act.

Mrs Hiscutt - You have to amend the principal act and then all other places where it has been used, yes.

Ms RATTRAY - Right. When are we going to update the principal act?

Mrs Hiscutt - I will make sure I suggest it to the appropriate people.

Ms RATTRAY - Right. I am sure the appropriate people are sitting at the table.

Mrs Hiscutt - It would be the minister, Ms Courtney, I imagine.

Ms RATTRAY - Yes. Thank you. Referring to them as chemists is way out of kilter now, I suggest. I hope somebody is going to back me up. I have not had much luck today in being backed up.

Mrs Hiscutt - If I can just say that your point is noted, yes.

Ms RATTRAY - My second question relates to clause 38C. I am interested in the WA situation, because it talks about disclosing information in the monitored medicines database to the Commonwealth, or another state or a territory. I did get a response through the briefing, which was very much appreciated, however *Hansard* is always an appropriate place to have those responses.

Mrs HISCUTT - The Western Australian Government is working to replace its existing prescription monitoring system with a new RTPM system. The health practitioner portal for the system is expected to be completed in early 2022 so, yes, they are doing it.

Ms Rattray - I am sure they use 'pharmacist' over there.

Clauses 7 to 10 agreed to.

Clause 11 -
Section 93 amended (Regulations)

Ms RATTRAY - If the member for Murchison was in her seat, she would ask this question around the regulations, so I take the opportunity to ask what has to be put in regulation for this amendment - a time frame, if possible.

Mrs HISCUTT - The member for McIntyre will be pleased to know that the regulations are being drafted. When this bill is finished and done -

Ms Rattray - The focus will go to regulations?

Mrs HISCUTT - Yes; and they will go out for consultation with health practitioners before they being tabled.

Ms Rattray - The committee members will await with anticipation.

Clause 11 and 12 agreed to.

Bill reported without amendment.

[5.44 p.m.]
Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the third reading of the bill be made an order of the day for tomorrow.

Motion agreed to.

ADJOURNMENT

[5.45 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the Council do now adjourn.

The Council adjourned at 5.45 p.m.

Appendix 1

tabled and incorporated into Hansard
L. Hiscutt
Leader
27 Oct 2021

CONSULTATION & BRIEFINGS

Consultation – stakeholder list

- Drafts of both Bills were provided to a wide range of stakeholder for comment:
  - Chief Justice
  - Chief Magistrate
  - Department of Premier and Cabinet
  - Department of Education
  - Department of Treasury and Finance
  - Department of Communities Tasmania
  - Department of Police, Fire and Emergency Management
  - Department of Health
  - Department of Primary Industries, Parks, Water and Environment
  - Department of State Growth
  - Solicitor-General
  - Office of the Director of Public Prosecutions
  - Registrar of the Supreme Court of Tasmania
  - Magistrates Court
  - Commissioner for Children and Young People
  - Victim Support Services
  - Legal Aid Commission of Tasmania
  - Anti-Discrimination Commissioner
  - Chief Psychiatrist
  - Public Trustee
  - Public Guardian
  - Guardianship and Administration Board
  - Mental Health Tribunal
  - Forest Practices Tribunal
  - Tasmanian Planning Commission
  - Tasmanian Industrial Commission
  - Legal Profession Board of Tasmania
  - Disciplinary Tribunal
  - Property Agents Board
  - Tasmanian Electoral Commission
  - Residential Tenancy Commissioner
  - Tasmanian Liquor and Gaming Commission
  - Tasmanian Racing Appeal Board
  - Workers Rehabilitation and Compensation Tribunal
  - Asbestos Compensation Tribunal
  - Health Practitioners Tribunal
  - Motor Accidents Compensation Tribunal
  - Anti-Discrimination Tribunal
  - Resource Management and Planning Appeal Tribunal
  - Ombudsman
  - Australian Lawyers Alliance
  - Civil Liberties Australia (Tasmania)
  - Community Legal Centres Tasmania
  - Hobart Community Legal Service

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- Launceston Community Legal Service
- North West Community Legal Centre
- Tasmanian Aboriginal Legal Service
- Tasmanian Aboriginal Centre
- Law Society of Tasmania
- Tasmanian Bar
- Tasmanian Women Lawyers
- Women's Legal Service Tasmania
- Tenants Union Tasmania
- Tasmania Law Reform Institute
- Prisoners Legal Service
- Australian Medical Association Tasmania
- Royal Australian College of General Practitioners Tasmania
- Advocacy Tasmania
- Speak Out Advocacy Tasmania
- NDIS Quality and Safeguards Commission
- Police Association of Tasmania
- Unions Tasmania
- Community and Public Sector Union
- United Workers Union (Tasmanian Branch)
- Tasmanian Council of Social Services (TasCOSS)
- Local Government Association of Tasmania
- Aged and Community Services Australia
- National Disability Services Tasmania
- Tasmanian Chamber of Commerce and Industry
- Environmental Defenders Office (Tas)
- Flourish
- Insurance Council of Australia
- Mental Health Council of Tasmania
- Planning Institute of Australia
- Real Estate Institute of Tasmania
- Royal Australian and New Zealand College of Psychiatrists (Tasmanian Branch)
- Tasmanian Farmers and Graziers Association
- Planning Matters Alliance
- All Councils

- A consultation draft of the Amendment Bill was made available for public comment on the Department of Justice website. Consultation on the draft Bill commenced on 21 December 2020 and concluded on 8 February 2021.

- A consultation draft of the Consequential Bill was made available for public comment on the Department of Justice website. Consultation on the draft Bill commenced on 1 September 2021 and concluded on 16 September 2021.