

# TASMANIA

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## **TRAINING AND WORKFORCE DEVELOPMENT (TRANSITIONAL PROVISIONS) BILL 2013**

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### **CONTENTS**

#### **PART 1 – PRELIMINARY**

1. Short title
2. Commencement

#### **PART 2 – TRANSITIONAL MATTERS FOR TASTAFE**

3. Interpretation of Part
4. TasTAFE successor in title to Polytechnic and Skills Institute
5. Continuation of Skills Institute Board and Skills Institute audit committee
6. Abolition of Skills Institute, Skills Institute Board and Skills Institute committees
7. TasTAFE interim board
8. Interim chief executive officer
9. Employees of TasTAFE
10. Students and courses
11. By-laws of Skills Institute
12. Provisions relating to Polytechnic Regulations
13. Authorised deposit-taking institution accounts
14. Legal matters
15. Financial statements of Skills Institute

- 16. Annual report
- 17. References to Skills Institute Act and Polytechnic Act

**PART 3 – TRANSITIONAL MATTERS FOR FORMER SKILLS TASMANIA AND FORMER TTAC**

- 18. Interpretation of Part
- 19. Continuation of former Skills Tasmania Board and former Skills Tasmania audit committee
- 20. Abolition of former Skills Tasmania, former Skills Tasmania Board and former Skills Tasmania committees
- 21. Continuation of Skills Tasmania Equity Committee
- 22. General manager of former Skills Tasmania
- 23. Initial members of new TTAC
- 24. Tasmanian Operational Requirements for Group Training Organisations and registered group training organisations
- 25. Training agreements
- 26. Vocational placement agreements
- 27. Inquiries
- 28. Disputes
- 29. Inspections
- 30. Contracts
- 31. Documents
- 32. Legal matters
- 33. Semi-annual report
- 34. References to former VET Act

**PART 4 – TRANSITIONAL MATTERS FOR TEACHERS REGISTRATION**

- 35. Reassessment of registration of teachers

**PART 5 – MISCELLANEOUS**

- 36. Regulations
- 37. Administration of Act

# **TRAINING AND WORKFORCE DEVELOPMENT (TRANSITIONAL PROVISIONS) BILL 2013**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*  
21 March 2013

*(Brought in by the Minister for Education and Skills, the  
Honourable Nicholas James McKim)*

## **A BILL FOR**

**An Act to provide for matters of a savings and transitional nature, and to provide for the avoidance of doubt in respect of certain matters, consequent on the enactment of the *Training and Workforce Development Act 2013* and the repeal of the *Vocational Education and Training Act 1994*, the *Education and Training (Tasmanian Polytechnic) Act 2008* and the *Education and Training (Tasmanian Skills Institute) Act 2008***

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

## **PART 1 – PRELIMINARY**

### **1. Short title**

This Act may be cited as the *Training and Workforce Development (Transitional Provisions) Act 2013*.

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THIS BILL IS COGNATE WITH THE *TRAINING AND WORKFORCE DEVELOPMENT BILL 2013*

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

s. 2

Part 1 – Preliminary

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**2. Commencement**

This Act commences on 1 July 2013.

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## **PART 2 – TRANSITIONAL MATTERS FOR TASTAFE**

### **3. Interpretation of Part**

In this Part –

*commencement day* means 1 July 2013;

*Education Department* means the department responsible to the Minister to whom the administration of the *Training and Workforce Development Act 2013*, other than Part 5, is assigned;

*Polytechnic* means the Tasmanian Polytechnic continued as a State educational institution by section 5 of the Polytechnic Act;

*Polytechnic Act* means the *Education and Training (Tasmanian Polytechnic) Act 2008* as in force immediately before the commencement day;

*Polytechnic contract* means any contract in force immediately before the commencement day and entered into in the name of the Polytechnic or by the Crown in relation to the performance of the functions of the Polytechnic, other than a contract of employment or a contract determined under section 4(3) not to be a Polytechnic contract;

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

s. 3

Part 2 – Transitional Matters for TasTAFE

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***Polytechnic liability*** means any liability or obligation (whether actual, prospective or contingent) belonging, immediately before the commencement day, to the Polytechnic or the Crown in relation to the performance of the functions of the Polytechnic, other than a liability or obligation determined under section 4(3) not to be a Polytechnic liability;

***Polytechnic property*** means any property or right held, immediately before the commencement day, in the name of the Polytechnic or by the Crown in relation to the performance of the functions of the Polytechnic, other than any property or right determined under section 4(3) not to be Polytechnic property;

***Secretary*** means the Secretary of the Education Department;

***Skills Institute*** means the Tasmanian Skills Institute established under section 5 of the Skills Institute Act;

***Skills Institute Act*** means the *Education and Training (Tasmanian Skills Institute) Act 2008* as in force immediately before the commencement day;

***Skills Institute audit committee*** means the audit committee established under section 18 of the Skills Institute Act, as

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

Part 2 – Transitional Matters for TasTAFE

s. 3

constituted immediately before the commencement day;

***Skills Institute Board*** means the Board of Directors of the Skills Institute established under section 8 of the Skills Institute Act, as constituted immediately before the commencement day;

***Skills Institute contract*** means any contract in force immediately before the commencement day and entered into by the Skills Institute, other than a contract of employment, or a contract determined under section 4(3) not to be a Skills Institute contract;

***Skills Institute liability*** means any liability or obligation (whether actual, prospective or contingent) belonging, immediately before the commencement day, to the Skills Institute, other than a liability or obligation determined under section 4(3) not to be a Skills Institute liability;

***Skills Institute property*** means any property or right vested, immediately before the commencement day, in the Skills Institute, other than any property or right determined under section 4(3) not to be Skills Institute property;

***TasTAFE*** means TasTAFE created under section 56 of the *Training and Workforce Development Act 2013*;

*Training and Workforce Development (Transitional Provisions)  
Act 2013  
Act No. of*

s. 4

Part 2 – Transitional Matters for TasTAFE

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***TasTAFE Act*** means Part 5 of the *Training and Workforce Development Act 2013*.

**4. TasTAFE successor in title to Polytechnic and Skills Institute**

- (1) For the avoidance of doubt, it is declared that TasTAFE is the legal successor in title in relation to all Polytechnic property, Polytechnic liabilities, Polytechnic contracts, Skills Institute property, Skills Institute liabilities and Skills Institute contracts.
- (2) Despite the merger and continuation as TasTAFE of the Polytechnic and the Skills Institute by section 56 of the *Training and Workforce Development Act 2013*, TasTAFE is not the legal successor in title in relation to any property, liability or contract determined by the Minister under subsection (3) not to be Polytechnic property, a Polytechnic liability, a Polytechnic contract, Skills Institute property, a Skills Institute liability or a Skills Institute contract.
- (3) The Minister, by notice published in the *Gazette*, may determine that –
  - (a) any property or right is not Polytechnic property or Skills Institute property; and
  - (b) a liability or obligation (whether actual, prospective or contingent) is not a Polytechnic liability or a Skills Institute liability; and



*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

Part 2 – Transitional Matters for TasTAFE

s. 5

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- (c) a contract is not a Polytechnic contract or a Skills Institute contract.
  - (4) A notice under subsection (3) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

**5. Continuation of Skills Institute Board and Skills Institute audit committee**

Despite the repeal of the Skills Institute Act by the *Training and Workforce Development (Repeals and Consequential Amendments) Act 2013*, the Skills Institute Board and the Skills Institute audit committee continue until abolished under section 6.

**6. Abolition of Skills Institute, Skills Institute Board and Skills Institute committees**

- (1) The Skills Institute is abolished on the commencement day.
- (2) The Skills Institute Board is abolished on the day determined by the Minister by notice published in the *Gazette*.
- (3) The Minister is not to determine a day for the abolition of the Skills Institute Board until satisfied that it has fulfilled its obligations under this Part.
- (4) The appointment of each member of the Skills Institute Board is terminated on the day that Board is abolished.

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

s. 7

Part 2 – Transitional Matters for TasTAFE

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- (5) The Skills Institute audit committee is abolished on the day the Skills Institute Board is abolished and the appointment of each of its members is terminated on that day.
- (6) All committees established under section 19 of the Skills Institute Act, as constituted immediately before the commencement day, are abolished on the commencement day and the appointment of each member of such a committee is terminated on the commencement day.
- (7) A member of the Skills Institute Board, the audit committee referred to in subsection (5) or a committee referred to in subsection (6) is not entitled to receive any benefit in respect of the termination of his or her appointment as such a member.
- (8) A notice under subsection (2) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

**7. TasTAFE interim board**

- (1) In this section –

***interim board*** means the board established for the purposes of preparing for and overseeing the establishment of TasTAFE prior to the formal commencement of the *Training and Workforce Development Act 2013* and consisting of persons appointed –

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

Part 2 – Transitional Matters for TasTAFE

s. 7

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- (a) to the interim board of TasTAFE;  
and
  - (b) by the Minister; and
  - (c) for the purposes of preparing for  
the establishment of, and  
establishing, TasTAFE;

***interim chairperson*** means the member of the  
interim board that was appointed by the  
Minister as chairperson of the interim  
board on 22 November 2012.

- (2) A member of the interim board is taken to have been appointed as a member of the Board of Directors of TasTAFE under section 60(1) of the *Training and Workforce Development Act 2013* for the term and on the conditions, including remuneration, specified in his or her instrument of appointment to the interim board.
- (3) The person appointed by the Minister as chairperson of the interim board is taken to have been appointed as chairperson of the Board of Directors of TasTAFE under section 60(5) of the *Training and Workforce Development Act 2013* for the term and on the conditions, including remuneration, specified in his or her instrument of appointment to the office of chairperson of the interim board.
- (4) Any act done by the interim board, its chairperson or a member of the interim board for the purposes of –

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

s. 8

Part 2 – Transitional Matters for TasTAFE

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- (a) preparing for the establishment of, or establishing, TasTAFE; or
- (b) bringing into operation, or giving full effect to, this Act or the TasTAFE Act –

is not invalid by reason only of the fact that this Act or the TasTAFE Act had not commenced or been enacted and, if appropriate, is taken to have been done by the Board of Directors of TasTAFE, its chairperson or a member of that Board of Directors under this Act or the TasTAFE Act.

**8. Interim chief executive officer**

- (1) In this section –

*interim chief executive officer* means the person appointed –

- (a) on 3 December 2012; and
  - (b) pursuant to and in accordance with the provisions of section 31 of the *State Service Act 2000* as the chief executive officer of TasTAFE; and
  - (c) by the Premier.
- (2) The interim chief executive officer is taken to have been appointed as the chief executive officer of TasTAFE under section 66 of the *Training and Workforce Development Act 2013* for the term and on the conditions, including

*Training and Workforce Development (Transitional Provisions)  
Act 2013  
Act No. of*

Part 2 – Transitional Matters for TasTAFE

**s. 9**

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remuneration, specified in his or her instrument of appointment to the office of chief executive officer of TasTAFE.

- (3) Any act done by the interim chief executive officer for the purposes of –
- (a) preparing for the establishment of, or establishing, TasTAFE; or
  - (b) bringing into operation, or giving full effect to, this Act or the TasTAFE Act –

is not invalid by reason only of the fact that this Act or the TasTAFE Act had not commenced or been enacted and, if appropriate, is taken to have been done by the chief executive officer of TasTAFE under this Act or the TasTAFE Act.

**9. Employees of TasTAFE**

- (1) In this section –

*transferring employee* means –

- (a) a person who, on the commencement day, would have been holding an appointment, or would have been taken to have been holding an appointment, made under the *State Service Act 2000* for the purposes of the Education Department in relation to the Polytechnic or for the purposes of the Polytechnic Act

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

s. 10

Part 2 – Transitional Matters for TasTAFE

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had the *Training and Workforce Development Act 2013* and this Act not been enacted; or

- (b) a person who, on the commencement day, would have been holding an appointment, or would have been taken to have been holding an appointment, made under the *State Service Act 2000* for the purposes of the Skills Institute or the Skills Institute Act.
- (2) For the avoidance of doubt it is declared that the appointment of a transferring employee under the *State Service Act 2000* continues and is taken to have been made for the purposes of TasTAFE and Part 5 of the *Training and Workforce Development Act 2013*.
- (3) The continuation of the appointment of a transferring employee, as done by or referred to in this section, is not a State Service action for the purposes of section 50 of the *State Service Act 2000*.

**10. Students and courses**

- (1) For the avoidance of doubt it is declared that, if a person, immediately before the commencement day, was enrolled as a student at or with the Polytechnic or the Skills Institute, that enrolment continues at or with TasTAFE.

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

Part 2 – Transitional Matters for TasTAFE

**s. 11**

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- (2) For the avoidance of doubt it is declared that, if immediately before the commencement day a course of education and training was being provided to students enrolled at or with the Polytechnic or the Skills Institute and, but for the commencement of the *Training and Workforce Development (Repeals and Consequential Amendments) Act 2013*, that course would continue on or after the commencement day, that course continues as a course provided by TasTAFE.
- (3) For the avoidance of doubt it is declared that, if before the commencement day a course of education and training has been offered to be provided to students enrolled at or with the Polytechnic or the Skills Institute but has not commenced, that offer continues as an offer by TasTAFE to its students and TasTAFE may provide that course on and after the commencement day.

**11. By-laws of Skills Institute**

- (1) In this section –

*Skills Institute by-laws* means the *Education and Training (Tasmanian Skills Institute) By-laws 2010*.

- (2) The Skills Institute by-laws –

- (a) continue until the first of the following occurs:

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

s. 11

Part 2 – Transitional Matters for TasTAFE

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- (i) they are rescinded;
  - (ii) the period of 6 months commencing on the commencement day ends; and
- (b) for that purpose, are taken to have been made by the TasTAFE Board under section 85 of the *Training and Workforce Development Act 2013*.
- (3) In the application of the Skills Institute by-laws on and after the commencement day –
  - (a) a reference to the Act is a reference to the TasTAFE Act and a reference to a section of the Act is a reference to the corresponding section of the TasTAFE Act; and
  - (b) a reference to the Skills Institute is a reference to TasTAFE; and
  - (c) a reference to the Board is a reference to the Board of Directors of TasTAFE; and
  - (d) a reference to the chief executive officer is a reference to the chief executive officer of TasTAFE; and
  - (e) a reference to a student is taken to be a reference to a TasTAFE student; and
  - (f) a reference to the Polytechnic is taken to have been omitted from the by-laws; and



*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

Part 2 – Transitional Matters for TasTAFE

**s. 11**

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- (g) a person who, immediately before the commencement day, was an authorised person for the purposes of the Skills Institute by-laws continues to be such an authorised officer.
- (4) For the avoidance of doubt, it is declared that –
- (a) any disciplinary hearing under the Skills Institute by-laws commenced but not completed before the commencement day may be continued by the chief executive officer of TasTAFE; and
  - (b) any disciplinary sanction imposed by the chief executive officer under the Skills Institute by-laws on any of its students before the commencement day is taken, if appropriate, to have been imposed by the chief executive officer of TasTAFE; and
  - (c) any appeal under the Skills Institute by-laws against the imposition of a disciplinary sanction commenced but not completed before the commencement day may be continued by the Board of Directors of TasTAFE; and
  - (d) any disciplinary sanction confirmed or substituted by the Skills Institute Board on an appeal under the Skills Institute by-laws against the imposition of a disciplinary sanction before the commencement day is taken, if

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

s. 12

Part 2 – Transitional Matters for TasTAFE

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appropriate, to have been confirmed or substituted by the Board of Directors of TasTAFE; and

- (e) if the issue of an award from the Skills Institute was deferred under the Skills Institute by-laws and so not issued before the commencement day, that award is taken to be an award of TasTAFE and may be issued by TasTAFE in accordance with the by-laws.

**12. Provisions relating to Polytechnic Regulations**

- (1) In this section –

***Polytechnic Regulations*** means the *Education and Training (Tasmanian Polytechnic) Regulations 2011*, as in force immediately before the commencement day;

***Skills Institute by-laws*** means the *Education and Training (Tasmanian Skills Institute) By-laws 2010*.

- (2) A disciplinary hearing under the Polytechnic Regulations commenced but not completed before the commencement day may be continued by the chief executive officer of TasTAFE.
- (3) A disciplinary sanction imposed by the Secretary of the Education Department or an authorised person under the Polytechnic Regulations on a student of the Polytechnic before the

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

Part 2 – Transitional Matters for TasTAFE

s. 13

commencement day is taken, if appropriate, to have been imposed by the chief executive officer of TasTAFE.

- (4) An appeal under the Polytechnic Regulations against the imposition of a disciplinary sanction commenced but not completed before the commencement day may be continued by the Board of Directors of TasTAFE.
- (5) A disciplinary sanction confirmed or substituted by the Secretary of the Education Department on an appeal under the Polytechnic Regulations against the imposition of a disciplinary sanction before the commencement day is taken, if appropriate, to have been confirmed or substituted by the Board of Directors of TasTAFE.
- (6) If the issue of an award from the Polytechnic was deferred under the Polytechnic Regulations and so not issued before the commencement day, that award is taken to be an award of TasTAFE and may be issued by TasTAFE in accordance with the by-laws.

**13. Authorised deposit-taking institution accounts**

Despite TasTAFE being the legal successor in title to the Skills Institute, on or as soon as practicable after the commencement day, the Skills Institute Board is to close all authorised deposit-taking institution accounts that are maintained in the name of the Skills Institute and is to deal with the money from those accounts as

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

s. 14

Part 2 – Transitional Matters for TasTAFE

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specified by the Minister by notice provided to the Skills Institute Board.

**14. Legal matters**

(1) In this section –

*relevant Polytechnic contract* means a Polytechnic contract that has not been performed or discharged before the commencement day;

*relevant Skills Institute contract* means a Skills Institute contract that has not been performed or discharged before the commencement day;

*transferred matter* means Polytechnic property, a Polytechnic liability, a relevant Polytechnic contract, Skills Institute property, a Skills Institute liability, a relevant Skills Institute contract, a transferring student or a transferring employee;

*transferring employee* has the same meaning as in section 9;

*transferring student* means a person who, immediately before the commencement day, was enrolled as a student at or with the Polytechnic or the Skills Institute and who, but for the commencement of the *Training and Workforce Development Act 2013* and the *Training and Workforce*

*Training and Workforce Development (Transitional Provisions)  
Act 2013  
Act No. of*

Part 2 – Transitional Matters for TasTAFE

s. 15

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*Development (Repeals and  
Consequential Amendments) Act 2013,*  
would have remained enrolled as a  
student at or with the Polytechnic or the  
Skills Institute.

- (2) For the avoidance of doubt, it is declared that a legal proceeding in relation to a transferred matter that is instituted by or against the Crown or the Skills Institute and is pending immediately before the commencement day may be continued by or against TasTAFE.
- (3) For the avoidance of doubt, it is declared that a legal proceeding in relation to a transferred matter that could have been instituted by or against the Crown or the Skills Institute to enforce a right that had accrued, and was in existence, immediately before the commencement day may be instituted by or against TasTAFE.
- (4) For the avoidance of doubt, it is declared that a judgment or order of a court obtained by or against the Crown or the Skills Institute in relation to a transferred matter before the commencement day may be enforced by or against TasTAFE.

**15. Financial statements of Skills Institute**

- (1) As soon as practicable after the commencement day, the Skills Institute Board is to –

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

**s. 15**

Part 2 – Transitional Matters for TasTAFE

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- (a) prepare financial statements for the Skills Institute for the financial year ending on 30 June 2013; and
  - (b) provide the Auditor-General with those financial statements.
- (2) The financial statements are to contain the information and documents that are referred to in section 27(2) of the Skills Institute Act.
- (3) The financial statements –
  - (a) are to comply with any directions given under subsection (4); and
  - (b) subject to any directions so given, are to comply with the Australian Accounting Standards.
- (4) The Treasurer may give written directions to the Skills Institute Board with respect to the form of the financial statements.
- (5) The Skills Institute audit committee is to provide the Skills Institute Board with such advice as that Board requires for the purposes of fulfilling its obligations under this section.
- (6) The Auditor-General must –
  - (a) audit the financial statements as if the Skills Institute were still in existence and a State authority, within the meaning of the *Audit Act 2008*; and

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

Part 2 – Transitional Matters for TasTAFE

**s. 16**

- (b) provide the Skills Institute Board and the Minister with a copy of his or her report made under section 19 of the *Audit Act 2008*.

**16. Annual report**

- (1) As soon as practicable after the commencement day, the Skills Institute Board is to prepare and provide to the Minister an annual report for the financial year ending on 30 June 2013.
- (2) The annual report is to contain the information and documents referred to in section 29(2) of the Skills Institute Act.
- (3) The Minister is to lay a copy of the annual report before each House of Parliament within 10 sitting-days after receiving the annual report under subsection (1).
- (4) If the Minister is unable to comply with subsection (3) before the expiration of the period specified in that subsection, the Minister is to lay before each House of Parliament a statement specifying –
  - (a) the reasons for the failure to comply with that subsection; and
  - (b) an estimate of the day by which a copy of the annual report may be ready to be laid before each House of Parliament.

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

s. 17

Part 2 – Transitional Matters for TasTAFE

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**17. References to Skills Institute Act and Polytechnic Act**

If appropriate, a reference in an Act or document to the Skills Institute Act or a provision of the Skills Institute Act, or to the Polytechnic Act or a provision of the Polytechnic Act, is taken to be, or to include, a reference to Part 5 of the *Training and Workforce Development Act 2013* or the corresponding provision in Part 5 of the *Training and Workforce Development Act 2013*.



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**PART 3 – TRANSITIONAL MATTERS FOR FORMER  
SKILLS TASMANIA AND FORMER TTAC**

**18. Interpretation of Part**

In this Part –

*commencement day* means 1 July 2013;

*Education Department* means the department responsible to the Minister to whom the administration of the *Training and Workforce Development Act 2013*, other than Part 5, is assigned;

*former Skills Tasmania* means Skills Tasmania established under section 6 of the former VET Act;

*former Skills Tasmania audit committee* means the audit committee established under section 14(1)(a) of the former VET Act, as constituted immediately before the commencement day;

*former Skills Tasmania Board* means the Board of Directors of Skills Tasmania established under section 10C of the former VET Act, as constituted immediately before the commencement day;

*former Skills Tasmania Equity Committee* means the committee of that name established under section 14(1)(c) of the

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

**s. 19**      Part 3 – Transitional Matters for Former Skills Tasmania and Former TTAC

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former VET Act, as constituted immediately before the commencement day;

*former TTAC* means the Tasmanian Training Agreements Committee established under section 14(1)(b) of the former VET Act;

*former VET Act* means the *Vocational Education and Training Act 1994* as in force immediately before the commencement day;

*new TTAC* means the Tasmanian Traineeships and Apprenticeships Committee established under section 17 of the *Training and Workforce Development Act 2013*;

*Secretary* means the Secretary of the Education Department.

**19. Continuation of former Skills Tasmania Board and former Skills Tasmania audit committee**

Despite the repeal of the former VET Act by the *Training and Workforce Development (Repeals and Consequential Amendments) Act 2013*, the former Skills Tasmania Board and the former Skills Tasmania audit committee continue until abolished under section 20.

**20. Abolition of former Skills Tasmania, former Skills Tasmania Board and former Skills Tasmania committees**

(1) In this section –

*prescribed committee* means a committee established under section 14(1)(c) of the former VET Act, as constituted immediately before the commencement day, but does not include the former Skills Tasmania Equity Committee.

- (2) The former Skills Tasmania is abolished on the commencement day.
- (3) The former Skills Tasmania Board is abolished on the day determined by the Minister by notice published in the *Gazette*.
- (4) The Minister is not to determine a day for the abolition of the former Skills Tasmania Board until satisfied that it has fulfilled its obligations under this Part.
- (5) The appointment of each member of the former Skills Tasmania Board is terminated on the day that Board is abolished.
- (6) The former Skills Tasmania audit committee is abolished on the day the former Skills Tasmania Board is abolished and the appointment of each of its members is terminated on that day.
- (7) The former TTAC and all prescribed committees are abolished on the commencement day and the

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

**s. 21**      Part 3 – Transitional Matters for Former Skills Tasmania and Former TTAC

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appointment of each member of such a committee is terminated on that day.

- (8) A member of the former Skills Tasmania Board, the former Skills Tasmania audit committee or a committee referred to in subsection (7) is not entitled to receive any benefit in respect of the termination of his or her appointment as such a member.
- (9) A notice under subsection (2) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

**21. Continuation of Skills Tasmania Equity Committee**

- (1) The former Skills Tasmania Equity Committee continues and is taken to be a committee, with the name of “Skills Tasmania Equity Committee” (*continuing committee*), established by the Secretary under section 7 of the *Training and Workforce Development Act 2013*.
- (2) For the avoidance of doubt, it is declared –
  - (a) that the initial members, and the chairperson, of the continuing committee are the persons who held office as member, and chairperson, of the former Skills Tasmania Equity Committee immediately before the commencement day; and
  - (b) that those persons hold those offices in the continuing committee for the term

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and on the conditions specified in their instruments of appointment.

## **22. General manager of former Skills Tasmania**

(1) In this section –

*general manager* means the person appointed as general manager of the former Skills Tasmania under section 10I of the former VET Act and holding that office immediately before the commencement day.

(2) For the avoidance of doubt, it is declared that the appointment of the general manager under the *State Service Act 2000* continues for the purposes of the Education Department.

(3) The transfer, by reason of this section, of the employment of the general manager from employment for the purposes of the former Skills Tasmania to employment for the purposes of the Education Department is not a State Service action for the purposes of section 50 of the *State Service Act 2000*.

## **23. Initial members of new TTAC**

The initial members of the new TTAC are those persons who, immediately before the commencement day, were members of the former TTAC and for that purpose each of those persons –

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

**s. 24**      Part 3 – Transitional Matters for Former Skills Tasmania and Former TTAC

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- (a) is taken to have been appointed as a member of the new TTAC by the Minister under section 17 of the *Training and Workforce Development Act 2013*; and
- (b) holds office as a member of the new TTAC for the term specified in, and on and in accordance with the terms of, his or her appointment as a member of the former TTAC.

**24. Tasmanian Operational Requirements for Group Training Organisations and registered group training organisations**

(1) In this section –

***former Operational Requirements*** means the Tasmanian Operational Requirements for Group Training Organisations –

- (a) issued by the former TTAC and published on the website of the former Skills Tasmania; and
- (b) as in force immediately before the commencement day;

***former registered group training organisation*** means a group training organisation that, immediately before the commencement day, was registered under the former Operational Requirements;

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

Part 3 – Transitional Matters for Former Skills Tasmania and Former TTAC

s. 24

*listed group training organisation* has the same meaning as in the *Training and Workforce Development Act 2013*;

*operational requirement guidelines* means guidelines made by the new TTAC under section 21 of the *Training and Workforce Development Act 2013* in relation to operational requirements for group training organisations in Tasmania.

- (2) The former Operational Requirements are taken to be operational requirement guidelines and continue to have effect, in so far as they are not inconsistent with the *Training and Workforce Development Act 2013*, until such time as they are repealed by the new TTAC under section 21 of that Act.
- (3) A group training organisation that, immediately before the commencement day, was registered under the former Operational Requirements is taken to have been registered as a listed group training organisation under section 13 of the *Training and Workforce Development Act 2013* until –
  - (a) the end of the term for which it was registered under the former Operational Requirements; or
  - (b) its registration as a listed group training organisation is cancelled under section 15 of that Act –

whichever first occurs.

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

s. 25      Part 3 – Transitional Matters for Former Skills Tasmania and Former TTAC

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**25. Training agreements**

(1) In this section –

***existing training agreement*** means a training agreement that –

- (a) was entered into under section 34, and approved by the former TTAC under section 36, of the former VET Act; and
- (b) had effect immediately before the commencement day –

and includes any amendment to such a training agreement;

***training contract*** means a training contract entered into under section 30, and approved by the Secretary under section 32, of the *Training and Workforce Development Act 2013*.

(2) An existing training agreement –

- (a) continues to have effect in accordance with its terms and subject to its conditions; and
- (b) is taken to be a training contract.

(3) If immediately before the commencement day an existing training agreement was suspended and would have continued to be suspended had not the former VET Act been repealed by the *Training and Workforce Development (Repeals*



*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

Part 3 – Transitional Matters for Former Skills Tasmania and Former TTAC

---

s. 25

*and Consequential Amendments*) Act 2013, that suspension –

- (a) continues to have effect in accordance with its terms; and
- (b) is taken to have been done under section 36 of the *Training and Workforce Development Act 2013* by the parties, with the approval of the Secretary, or by the Secretary, as appropriate.

(4) If –

- (a) a determination or approval was made or given by the former TTAC under a provision of the former VET Act in relation to training agreements generally, a class of training agreements or a particular existing training agreement; and
- (b) that determination or approval is in effect immediately before the commencement day –

that determination or approval is taken to have been made or given by the Secretary or the new TTAC, as appropriate, under the corresponding provision of the *Training and Workforce Development Act 2013* in relation to training contracts generally, a class of training contracts or the relevant particular training contract.

- (5) For the purposes of, and without limiting the generality of, subsection (4), a determination or

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

**s. 26**      Part 3 – Transitional Matters for Former Skills Tasmania and Former TTAC

---

approval by the former TTAC referred to in that subsection includes –

- (a) a determination as to whether an employer is a fit and proper person for the purposes of entering into training agreements; and
  - (b) an approval of a temporary release from the obligations of an existing training agreement.
- (6) A direction validly given to a party to an existing training agreement by the former TTAC, under a provision of the former VET Act, that has effect immediately before the commencement day –
- (a) continues to have effect in accordance with its terms; and
  - (b) is taken to have been validly given by the new TTAC under the corresponding provision of the *Training and Workforce Development Act 2013*.

**26. Vocational placement agreements**

- (1) In this section –

***existing vocational placement agreement***  
means a vocational placement agreement that –

- (a) complies with section 45 of the former VET Act; and

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

- (b) had effect immediately before the commencement day –  
  
and includes any amendment to such a vocational placement agreement.
- (2) An existing vocational placement agreement –
  - (a) continues to have effect in accordance with its terms; and
  - (b) is taken to be a vocational placement agreement that complies with section 42 of the *Training and Workforce Development Act 2013* and was entered into under that Act.
- (3) A determination as to whether an employer is a fit and proper person for the purposes of entering into vocational placement agreements made by the former TTAC under section 54 of the former VET Act and in effect immediately before the commencement day is taken to have been made by the new TTAC under section 48 of the *Training and Workforce Development Act 2013*.
- (4) A notice provided by the former TTAC under section 54 of the former VET Act and not revoked before the commencement day –
  - (a) continues to have effect; and
  - (b) is taken to have been provided by the new TTAC under section 48 of the *Training and Workforce Development Act 2013*.

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

**s. 27**      Part 3 – Transitional Matters for Former Skills Tasmania and Former TTAC

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- (5) A direction validly given to a party to an existing vocational training agreement by the former TTAC, under a provision of the former VET Act, that has effect immediately before the commencement day –
  - (a) continues to have effect in accordance with its terms; and
  - (b) is taken to have been validly given by the new TTAC under the corresponding provision of the *Training and Workforce Development Act 2013*.

**27. Inquiries**

- (1) If, under section 67 of the former VET Act, a person applied to the former Skills Tasmania to carry out an inquiry, or the former Skills Tasmania determined to carry out an inquiry, and that inquiry had not commenced or was not completed before the commencement day –
  - (a) that application is taken to have been made to, or that determination is taken to have been made by, the Secretary under section 53 of the *Training and Workforce Development Act 2013*; and
  - (b) the inquiry may be commenced or continued under section 53 of the *Training and Workforce Development Act 2013*.

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

Part 3 – Transitional Matters for Former Skills Tasmania and Former TTAC

---

s. 28

- (2) If appropriate, a decision by the former TTAC following an inquiry undertaken under section 67 of the former VET Act is taken to be a decision of the Secretary under section 53 of the *Training and Workforce Development Act 2013*.

## **28. Disputes**

For the avoidance of doubt, it is declared that if under section 68 of the former VET Act a person applied to the former TTAC to hear and determine a dispute, or the former Skills Tasmania determined to hear and determine a dispute, and the hearing had not commenced or was not completed before the commencement day –

- (a) that application is taken to have been made to the new TTAC under section 52 of the *Training and Workforce Development Act 2013*; and
- (b) the hearing may be commenced or continued, and the determination of the dispute made, under section 52 of the *Training and Workforce Development Act 2013*; and
- (c) a notice provided by the former TTAC requiring a person to attend a conference is taken to have been given by the new TTAC under section 52 of the *Training and Workforce Development Act 2013*.

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

s. 29      Part 3 – Transitional Matters for Former Skills Tasmania and Former TTAC

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**29. Inspections**

- (1) A certificate of authority issued by the former Skills Tasmania to a person under section 69 of the former VET Act is taken to be a certificate of authority issued by the Secretary to that person under section 54 of the *Training and Workforce Development Act 2013*.
- (2) An inspection commenced under section 69 of the former VET Act may be continued under section 54 of the *Training and Workforce Development Act 2013*.

**30. Contracts**

If appropriate, a contract made by the former Skills Tasmania but not performed or discharged before the commencement day is taken to have been made by the Secretary on behalf of the Crown.

**31. Documents**

- (1) In this section –  

***document*** does not include a contract.
- (2) If appropriate –
  - (a) a document issued or made by the former Skills Tasmania is taken to have been issued or made by the Secretary or the new TTAC; and

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

Part 3 – Transitional Matters for Former Skills Tasmania and Former TTAC

---

**s. 32**

- (b) a document served on or by, or provided to or by, the former Skills Tasmania is taken to have been served on or by, or provided to or by, the Secretary or the new TTAC; and
  - (c) a reference in a document to the former Skills Tasmania is taken to be, or include, a reference to the Crown in relation to the Education Department or the new TTAC.
- (3) If appropriate –
  - (a) a document issued or made by the former TTAC is taken to have been issued or made by the Secretary or the new TTAC; and
  - (b) a document served on or by, or provided to or by, the former TTAC is taken to have been served on or by, or provided to or by, the Secretary or the new TTAC; and
  - (c) a reference in a document to the former TTAC is taken to be, or include, a reference to the Secretary or the new TTAC.

**32. Legal matters**

- (1) A legal proceeding that was instituted by or against the former Skills Tasmania and is

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

**s. 33**      Part 3 – Transitional Matters for Former Skills Tasmania and Former TTAC

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pending immediately before the commencement day may be continued by or against the Crown.

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

**33. Semi-annual report**

As soon as practicable after the commencement day, the former Skills Tasmania Board is to prepare and provide to the Minister a report on the activities of the former Skills Tasmania for the period commencing on 1 January 2013 and ending on 30 June 2013.

**34. References to former VET Act**

If appropriate, a reference in an Act or document to the former VET Act or a provision of the former VET Act is taken to be, or to include, a reference to the *Training and Workforce Development Act 2013* or the corresponding provision of the *Training and Workforce Development Act 2013*.



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**PART 4 – TRANSITIONAL MATTERS FOR  
TEACHERS REGISTRATION**

**35. Reassessment of registration of teachers**

(1) In this section –

*Board* means the Teachers Registration Board continued by section 5 of the *Teachers Registration Act 2000*;

*commencement day* means 1 July 2013;

*full registration* has the same meaning as in the *Teachers Registration Act 2000*;

*fully registered* has the same meaning as in the *Teachers Registration Act 2000*;

*provisional registration* has the same meaning as in the *Teachers Registration Act 2000*;

*provisionally registered* has the same meaning as in the *Teachers Registration Act 2000*;

*specialist vocational education and training registration* has the same meaning as in the *Teachers Registration Act 2000*.

(2) On the written application of a person or on its own motion, the Board may grant, under section 13 of the *Teachers Registration Act 2000*, specialist vocational education and training registration to the person if satisfied that the person –

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

s. 35

Part 4 – Transitional Matters for Teachers Registration

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- (a) is, and immediately before the commencement day was, fully registered or provisionally registered; and
  - (b) satisfies the criteria for specialist vocational education and training registration as set out in that section.
- (3) On granting specialist vocational education and training registration to a person in pursuance of subsection (2), the Board, if it considers it appropriate, may cancel the full registration or provisional registration of the person.
- (4) If the person granted specialist vocational education and training registration in pursuance of subsection (2) has paid the annual registration fee payable under the *Teachers Registration Act 2000* for the year in which the specialist vocational education and training registration is so granted, or the annual registration fees for that year and a later year, in relation to his or her full registration or provisional registration –
  - (a) no further annual registration fee is payable only because the person has been so granted specialist vocational education and training registration; and
  - (b) no refund is owing if the person's full registration or provisional registration is cancelled.

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**PART 5 – MISCELLANEOUS**

**36. Regulations**

- (1) In this section –

*chief executive officer of TasTAFE* means the person appointed, or taken to have been appointed, as the chief executive officer of TasTAFE under section 66 of the *Training and Workforce Development Act 2013*;

*Education Department* means the department responsible to the Minister to whom the administration of the *Education Act 1994* is assigned;

*new TTAC* means the Tasmanian Traineeships and Apprenticeships Committee established under section 17 of the *Training and Workforce Development Act 2013*.

- (2) The Governor may make regulations for the purposes of this Act.
- (3) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (4) The regulations may authorise any matter to be from time to time determined, applied, approved or regulated by the Minister, the Secretary of the

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

s. 37

Part 5 – Miscellaneous

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Education Department, the chief executive officer of TasTAFE or the new TTAC.

- (5) The regulations may –
  - (a) provide for savings or transitional matters necessary or expedient for bringing this Act into operation; and
  - (b) provide for any of those savings or transitional matters to take effect when this Act commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.
- (6) These regulations may be combined with regulations made under the *Training and Workforce Development Act 2013* or the *Training and Workforce Development (Repeals and Consequential Amendments) Act 2013*, or both.

**37. Administration of Act**

- (1) In this section –

***TasTAFE*** means TasTAFE established under section 56 of the *Training and Workforce Development Act 2013*.

- (2) Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

*Training and Workforce Development (Transitional Provisions)*  
*Act 2013*  
*Act No. of*

Part 5 – Miscellaneous

**s. 37**

- 
- (a) the administration of this Act is assigned to the Minister for Education and Skills; and
  - (b) the department responsible to that Minister in relation to the administration of this Act, other than Part 2 and except in so far as it relates to TasTAFE, is the Department of Education; and
  - (c) the department responsible to that Minister in relation to the administration of Part 2 and this Act in so far as it relates to TasTAFE, is TasTAFE.