

LEGISLATION REPEAL BILL 2010

NOTES ON CLAUSES

- Clause 1** Short title.
- Clause 2** Fixes the date of commencement of the Act as being the day on which it receives Royal Assent.
- Clause 3** The *Substandard Housing Control Act 1973* is listed for repeal in Schedule 2 because legislation that addresses the standard of dwellings has been either amended or enacted. However, as there are still notices declaring a house to be substandard under this Act, this clause requires any remaining notices to be cancelled and directs the Recorder of Titles to amend necessary entries in the register book to reflect these cancellations.
- Clause 4** This clause makes amendments to the *Acts Interpretation Act 1931* and the *Private Forests Act 1994* as specified in Schedule 1. These Acts refer to the State rate of interest on Commonwealth debt, which was repaid in July 2005. There is, therefore, no need to define the State rate of interest and these Acts can be amended to remove any such reference.
- This clause also makes consequential amendments to the *Hospitals Act 1918*. This Act was amended with the introduction of the *Health Services Act 1960* which provides the Minister for Health with the power to delegate functions to medical practitioners. To date, such delegations have never been made and the functions have been carried out under the *Hospitals Act 1918*. The *Health Services Establishments Act 2006* is scheduled to commence later in 2010 and will repeal the *Hospitals Act 1918*. There is no need to retain a specific delegation power.
- Clause 5** Repeals the Acts specified in Schedule 2. All of these Acts have either fulfilled their purpose or are no longer relevant, and are therefore, suitable for revocation.
- Clause 6** Revokes the legislation specified in Schedule 3 which comprises of 15 Proclamations 20 Orders and two Notices, all of which were issued between 1966 and 2009.
- Clause 7** Repeals the *Legislation Repeal Act 2010* one year after the date it commences.

Clause 8

This clause:

- (a) assigns the administration of the Act to the Treasurer; and
- (b) makes the Department of Treasury and Finance responsible to the Treasurer in relation to the administration of this Act.

Schedule 1

Removes Section 45A of the *Acts Interpretation Act 1931* which refers to the calculation of the State rate of interest.

The Schedule also amends Sections 5 and 87 of the *Hospitals Act 1918* by removing subsection (2) of each section which refers to the power or discretion vested in the Minister for Health under the *Health Services Act 1960*.

The Schedule also amends Section 27 of the *Private Forests Act 1994* by removing subsection (2) which refers to the State rate of interest.

Schedule 2

The Acts listed for repeal in Schedule 2 which are not wholly amendment Acts comprise:

The Tasmanian International Velodrome Management Authority (Winding-Up) Act 2006

The Tasmanian International Velodrome Management Authority (Winding-Up) Act 2006 was established to repeal the *Tasmanian International Velodrome Management Act 1984*, to wind up the Tasmanian International Velodrome Management Authority and to transfer all liabilities, assets and the transfer of all contractual matters and legal proceedings to the Crown. The winding up date was 30 December 2006 and all matters have been transferred to the Crown. Accordingly, the Act can now be repealed.

Tasmanian Symphony Orchestra (Financial Assistance) Act 1987

The purpose of the *Tasmanian Symphony Orchestra (Financial Assistance) Act 1987* was to provide for contributions by the State and municipalities and to repeal the *Tasmanian Orchestra (Agreement) Act 1948*. These contributions have been made and the repeal has occurred. The Act no longer has any application and can therefore be repealed.

Health Services Act 1960

The *Health Services Act 1960* amended a number of now redundant Acts to provide that any function of the Minister for Health appearing in those Acts may be delegated to a medical practitioner employed within the Department. To date, Health Ministers have chosen to carry out these functions, which relate to health service establishments, particularly under the *Hospitals Act 1918*. The

Health Service Establishments Act 2006 is scheduled to commence in 2010 and will repeal the *Hospitals Act 1918*. There is therefore no need to retain a specific delegation power.

Anzac Memorial Hostel Act 1924

The *Anzac Memorial Hostel Act 1924* gave authority to the trustees of the Anzac Memorial Hostel in Launceston to allow certain persons to use and occupy the hostel. In 1986 the Act was amended to give power to the trustees to sell the premises and use the net proceeds from that sale to benefit ex-servicemen and ex-servicewomen. The Hostel was sold in 1996 and the proceeds used to purchase Anzac House which are the current premises for the Launceston R.S.L. The Act no longer has any application and can be repealed.

Substandard Housing Control Act 1973

Since the *Substandard Housing Control Act 1973* came into effect, legislation that addresses the standard of dwellings has been either amended or enacted. These Acts include the *Public Health Act 1997*, the *Residential Tenancy Act 1997*, the *Building Act 2000* and the *Local Government Act 1993*. Therefore the Substandard Housing Control Act 1973 is no longer required and can now be repealed.

Constitution (Legislative Council) Special Provisions Act 1997

The *Constitution (Legislative Council) Special Provisions Act 1997* was passed to manage the restructuring of the electoral districts of the Legislative Council. Most of the Act was absorbed into the *Constitution Act 1934* (and was subsequently changed again when the Council was reduced to 15 members.) The Act is no longer relevant and can be repealed.

Justices of the Peace (Validation) Act 2002

Due to an administrative oversight, the Magistrates Court had sworn in a number of justices using a judicial oath which had been replaced by a new oath. All actions taken by those justices were invalid and the *Justices of the Peace (Validation) Act 2002* was passed to retrospectively validate their oaths and actions. The Act is no longer required and can be repealed.

Legislative Council (Division of Hobart) By-election Validation Act 1992

In 1992, a candidate for the Division of Hobart died after the close of the polls. The election would have been invalid and a new election would have had to have been held without the passing of the *Legislative Council (Division of Hobart) By-election Validation Act 1992*. The Act is no longer required and can be repealed.

Trustee Companies (Merger) Act 2001

The purpose of this Act was to facilitate the merger of Perpetual Trustees Tasmania Limited and Tasmania Trustees Limited which occurred in that year. The merger created Tasmanian Perpetual Trustees Limited which continues to operate as a trustee company. The Act is no longer required and can be repealed.

Consolidated Fund Appropriation (Supplementary Appropriation for 2006-2007) Act 2007

The *Consolidated Fund Appropriation (Supplementary Appropriation for 2006-2007) Act 2007* is an Act for the appropriation of money from the Consolidated Fund to certain agencies for the financial year ending 30 June 2007. The Department of Treasury and Finance has received advice from the Solicitor-General that an appropriation Act cannot authorise the appropriation of money for a longer period than one year. For this reason, the Act is now redundant and can be repealed.

Four Acts relate to the appropriation of funds for the specified financial year. These Acts are the;

Consolidated Fund Supply Act 1994-1995;

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Consolidated Fund Supply Act 1997-1998

These Acts have no impact or effect on any other financial year. Each Act has therefore become redundant and can be repealed.

Tamar Improvement Act (No.2) 1913

The *Tamar Improvement Act (No.2) 1913* amends the *Tamar Improvement Act 1912*. The *Tamar Improvement Act 1912* was repealed by the *Legislation Repeal Act 1995*. The remaining provisions of the *Tamar Improvement Act (No.2) 1913*, which deal with the acquisition of land surrounding the Tamar River foreshore, serve no useful purpose in isolation. For this reason, the Act can be repealed.

Tamar Improvement Act (No.4) 1918

The *Tamar Improvement Act (No. 4) 1918* amends the *Tamar Improvement Act 1912*. The *Tamar Improvement Act 1912* was repealed by the *Legislation Repeal Act 1995*. The remaining provisions of the *Tamar Improvement Act (No. 4) 1918* which also deal with matters relating to land surrounding the Tamar River

foreshore, serve no useful purpose in isolation. For this reason, the Act can be repealed.

Midway Point Improvement Act 1975

The *Midway Point Improvement Act 1975* provided for a loan to be advanced to the Sorell Council for the upgrading of streets and drainage at Midway Point. The debt owed by the Sorell Council for street improvement and drainage works will remain as a debt owing to the Crown. The Sorell Council has been consulted and has given its consent to the repeal of the legislation.

Midway Point Improvement (Doubts Removal) Act 1983

The *Midway Point Improvement (Doubts Removal) Act 1983* clarified the obligation of owners of lands at Midway Point and their financial liability to the Sorell Council regarding the loan under the *Midway Point Improvement Act 1975*. As the Bill repeals the *Midway Point Improvement Act 1975* the Act is no longer required.

Servants' Home Trustees Enabling Act 1914

The *Servants' Home Trustees Enabling Act 1914* established a trust arrangement for the Servants' Home charity organisation known as the Gore House Institute to allow it to be administered under the *Trustee Act 1898*. The Institute later became the Industrial School for Girls and the administration was subsequently taken over by the Salvation Army in 1945. The enabling legislation is no longer required and can be repealed.

Tourism and Recreational Development Act 1977

This Act established a fund for the purpose of making grants and loans to promote tourism and development in Tasmania. A new statutory authority, Tourism Tasmania, was established in 1997 under the *Tourism Tasmania Act 1996*. The *Tourism and Recreational Development Act 1977* is now redundant and can be repealed.

Cascade Brewery Co. Ltd. (Shareholders Trust) Act 1981

The *Cascade Brewery Co. Ltd. (Shareholders Trust) Act 1981* finalised a trust administered by Tasmanian Perpetual Trustees where shares and dividends for missing shareholders in Cascade were held in trust for those shareholders. The Act required Tasmanian Perpetual Trustees to make payments to those shareholders immediately after the Act was proclaimed. Tasmanian Perpetual Trustees state that this was done in 1981, effectively finalising the Trust. The Act has served its purpose and can now be repealed.

Commonwealth Bank (Interpretation) Act 1954

The *Commonwealth Bank (Interpretation) Act 1954* makes reference to the Commonwealth Savings Bank and the Commonwealth Trading Bank. Both of these names are no longer in use. The Act is irrelevant and can now be repealed.

Land Tax Act 1995

The *Land Tax Act 1995* prescribes the scales of land tax in respect of various classes of land. However, it is redundant as current scales are now reflected in the *Land Tax Rating Act 2000*. For this reason the Act can now be repealed.

Legislation Repeal Act 2008

The *Legislation Repeal Act 2008* repealed 102 Acts and 194 statutory rules that were no longer necessary. As the legislation has been repealed, this Act is no longer necessary.

The following Acts listed in Schedule 2 are entirely amendment Acts and all relevant sections are now in the principal Acts. These Acts are therefore suitable for repeal:

Tasmanian Development Amendment Act 2008

Adoption Amendment Act 2007

Health Amendment (Quality Assurance Committees) Act 2007

Health Practitioners Registration (Miscellaneous Amendments) Act 2007

Human Cloning and Other Prohibited Practices Amendment Act 2007

Mental Health (Miscellaneous Amendments) Act 2007

Mental Health Amendment Act 2007

Poisons Amendment (Nurse Practitioners) Act 2007

Public Health Amendment Act 2007

Youth Justice Amendment Act 2007

Food Amendment Act 2008

Health Professionals Registration (Miscellaneous Amendments) Act 2008

Human Tissue Amendment Act 2008

Poisons Amendment (Poppy Advisory and Control Board) Act 2008

Public Health Amendment Act 2008

Agricultural and Veterinary Chemicals (Control of Use) Amendment Act 2007

Animal Welfare Amendment Act 2008

Environmental Management and Pollution Control (Environment Protection Authority) (Consequential Amendments) Act 2007

Environmental Management and Pollution Control Amendment Act 2007

Environmental Management and Pollution Control Amendment (Contaminated Sites) Act 2007

Environmental Management and Pollution Control Amendment (Environmental Protection Authority) Act 2007

Genetically Modified Organisms Control Amendment Act 2007

Genetically Modified Organisms Control Amendment Act 2009

Inland Fisheries Amendment Act 2007

Inland Fisheries Amendment Act 2009

Living Marine Resources Management Amendment (Biosecurity) Act 2007

Living Marine Resources Management Amendment (Licensing) Act 2009

Marine Farming Planning Amendment Act 2007

National Parks and Reserves Management Amendment Act 2008

Plant Quarantine Amendment Act 2007

Powers of Attorney Amendment Act 2008

Self's Point Land Amendment Act 2009

Water and Sewerage Industry (Consequential and Transitional) Amendment Act 2009

Water and Sewerage Industry Amendment Act 2008

Weed Management Amendment Act 2007

Schedule 3 This Schedule lists the Order and Proclamations to be revoked in the Act. These have all been made and therefore serve no useful purpose.