

TASMANIA

ABORIGINAL LANDS AMENDMENT BILL 2008

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ABORIGINAL LANDS AMENDMENT BILL 2008

(Brought in by the Premier, the Honourable David John Bartlett)

A BILL FOR

An Act to amend the *Aboriginal Lands Act 1995*

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

1. Short title

This Act may be cited as the *Aboriginal Lands Amendment Act 2008*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Principal Act

In this Act, the *Aboriginal Lands Act 1995** is referred to as the Principal Act.

*No. 98 of 1995

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4. Section 10AA inserted

After section 10 of the Principal Act, the following section is inserted in Division 2:

10AA. Protection of sensitive enrolment records

- (1) The procedures referred to in section 10(7) are not to be taken as including a requirement for the Electoral Commissioner to –
 - (a) divulge the existence or contents of any sensitive enrolment record to any person; or
 - (b) give any person an opportunity to comment on any sensitive enrolment record or its contents.
- (2) A court must not, under the *Judicial Review Act 2000* or otherwise, make an order impugning an enrolment decision on the ground that the Electoral Commissioner –
 - (a) did not divulge to a person the existence or contents of any sensitive enrolment record taken into account in making the decision; or
 - (b) did not give a person an opportunity to comment on any sensitive enrolment record taken into account in making the

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decision or on the contents of any
such record.

- (3) For the purposes of subsection (2), an order of a court is taken to impugn an enrolment decision if the order –
- (a) quashes the decision or sets it aside; or
 - (b) varies the decision; or
 - (c) remits the decision to the Electoral Commissioner, with or without directions, for further consideration or remaking; or
 - (d) contains any adverse declaration about the legality or fairness of the decision or the process by which it was arrived at; or
 - (e) stays or defers the implementation of the decision.
- (4) This section applies to every enrolment decision made after the commencement of the *Aboriginal Lands Amendment Act 2008*, even if the decision –
- (a) relates to a Preliminary Roll or Roll in respect of which, immediately before that commencement, proceedings of any kind were in progress; or

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(b) is in substitution for an enrolment decision made before that commencement.

(5) In this section –

“enrolment decision” means any decision of the Electoral Commissioner under section 10;

“proceedings” include –

- (a) appeals under section 10(7); and
- (b) applications for orders of review under the *Judicial Review Act 2000*; and
- (c) applications for any form of equitable relief;

“sensitive enrolment record” means a record –

- (a) which is provided to the Electoral Commissioner by any person for or in connection with the preparation of a Preliminary Roll or Roll; and
- (b) which the Electoral Commissioner in good faith believes is regarded by that person as being a

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record of a personally
sensitive or confidential
nature.