

## TASMANIA

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# EDUCATION AND TRAINING (TASMANIAN POLYTECHNIC) AMENDMENT BILL 2010

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**EDUCATION AND TRAINING (TASMANIAN  
POLYTECHNIC) AMENDMENT BILL 2010**

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

**A BILL FOR**

**An Act to amend the *Education and Training (Tasmanian  
Polytechnic) 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:

**1. Short title**

This Act may be cited as the *Education and  
Training (Tasmanian Polytechnic) Amendment  
Act 2010*.

**2. Commencement**

This Act commences on 1 January 2011.

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

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**3. Principal Act**

In this Act, the *Education and Training (Tasmanian Polytechnic) Act 2008\** is referred to as the Principal Act.

**4. Long title amended**

The long title of the Principal Act is amended by omitting “**establish**” and substituting “**continue**”.

**5. Section 3 amended (Guiding principle)**

Section 3 of the Principal Act is amended as follows:

- (a) by omitting “established by the *Education and Training (Tasmanian Academy) Act 2008*”;
- (b) by omitting “established by the *Education and Training (Tasmanian Skills Institute) Act 2008*”.

**6. Section 4 amended (Interpretation)**

Section 4 of the Principal Act is amended as follows:

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- (a) by omitting the definitions of “Board”, “chief executive officer”, “corporate plan” and “director” and substituting the following definition:

**“campus”** means any premises used by the Polytechnic for the provision of education or training to its students, whether or not the premises are also used by the Tasmanian Academy, the Tasmanian Skills Institute or any other educational institution;

- (b) by omitting the definition of “financial statements” and substituting the following definition:

**“executive officer”** means the person appointed as executive officer of the Polytechnic as specified in section 7;

- (c) by omitting “established” from the definition of “Polytechnic” and substituting “continued”;

- (d) by inserting the following definitions after the definition of “post-Year 10 education and training”:

**“Secretary”** means the Secretary of the Department;

**“Skills Tasmania”** means Skills Tasmania established by the

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*Vocational Education and  
Training Act 1994;*

- (e) by inserting the following definitions after the definition of “student organisation”:

**“Tasmanian Academy”** means the Tasmanian Academy established and continued by the *Education and Training (Tasmanian Academy) Act 2008*;

**“Tasmanian Skills Institute”** means the Tasmanian Skills Institute established by the *Education and Training (Tasmanian Skills Institute) Act 2008*;

**7. Parts 2, 3 and 4 substituted**

Parts 2, 3 and 4 of the Principal Act are repealed and the following Part is substituted:

**PART 2 – TASMANIAN POLYTECHNIC**  
*Division 1 – Continuation of Tasmanian Polytechnic*

**5. Continuation of Tasmanian Polytechnic**

The Tasmanian Polytechnic, which was established under section 5 of this Act as in force immediately before the commencement of the *Education and Training (Tasmanian Polytechnic)*

*Amendment Act 2010*, is continued as a State educational institution.

## **6. Objectives of Polytechnic**

(1) In this section –

**“entitled person”** means a person in respect of whom the Secretary, by reason of section 33(2), is not entitled to impose a fee or charge in respect of the provision of post-Year 10 education and training.

(2) The Polytechnic has the following objectives:

- (a) to provide and promote post-Year 10 education and training for the purpose of enabling persons (including entitled persons), irrespective of their locations, backgrounds and circumstances, to acquire qualifications and participate in the workforce and further education and training;
- (b) to provide services, career development support and other support for students in relation to post-Year 10 education and training for the purpose of enabling them to acquire

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qualifications and participate in the workforce and further education and training;

- (c) to ensure that the post-Year 10 education and training provided is consistent with meeting the needs, as determined by Skills Tasmania, of Tasmanian industry and the workforce.

***Division 2 – Employees***

**7. Executive officer**

The Polytechnic is to have an executive officer appointed subject to and in accordance with the *State Service Act 2000*.

**8. Other employees**

- (1) Subject to and in accordance with the *State Service Act 2000*, persons may be appointed for the purposes of this Act.
- (2) Despite sections 37(1) and (3) of the *State Service Act 2000*, the Minister administering that Act may appoint, for the purposes of this Act, a person under that Act as a sessional employee to undertake duties for the purpose of delivering training sessions.



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- (3) A person appointed as a sessional employee pursuant to subsection (2) –
- (a) is taken, for all purposes, to be an employee within the meaning of the *State Service Act 2000*; but
  - (b) is not, by reason only of that appointment, to be regarded for any purpose as being in full-time employment, part-time employment or casual employment within the meaning of the *Industrial Relations Act 1984*.
- (4) In this section –
- “training session”** means a workplace-oriented course or part of a course that is designed to –
- (a) facilitate or supervise learning through any one or more of the following:
    - (i) instruction;
    - (ii) mentoring;
    - (iii) coaching;
    - (iv) observation;
    - (v) demonstration;

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- (vi) the conduct of assessment activities; and
- (b) impart knowledge, skills and attitudes.
- (5) Subsections (2), (3) and (4) are incorporated with, and are to be read together with, the *State Service Act 2000*.

***Division 3 – Management of facilities and equipment of  
Polytechnic***

**9. Hiring out Polytechnic facilities and equipment, &c.**

- (1) The executive officer may hire out, or authorise the use of, any facilities or equipment used by the Polytechnic –
  - (a) at any fee determined by the Secretary; and
  - (b) on any conditions determined by the Secretary.
- (2) The executive officer may authorise the sale to any person of any text books, teaching aids or other materials or equipment devised, produced or otherwise acquired for use in the Polytechnic –
  - (a) at any fee determined by the Secretary; and

- (b) on any conditions determined by the Secretary.
- (3) Any fees received under this section are to be paid into an account with an authorised deposit-taking institution and used for the purposes of the Polytechnic as approved by the Secretary.

#### **10. Property and equipment**

- (1) The Secretary may lease property and equipment to or from any person for the purposes of this Act.
- (2) The Secretary may authorise a person to occupy any property of the Department on any conditions the Secretary considers appropriate.

#### **8. Section 33 amended (Fees, levies and charges)**

Section 33 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Polytechnic, subject to this section, may impose, as it” and substituting “Secretary may impose, as he or she”;
- (b) by inserting in subsection (1)(a) “by the Polytechnic” after “provision”;

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- (c) by inserting in subsection (1)(b) “by the Polytechnic” after “incurred”;
- (d) by omitting from subsection (1)(c) “it provides.” and substituting “provided by the Polytechnic.”;
- (e) by omitting from subsection (2) “The Polytechnic” and substituting “Despite subsection (1), the Secretary”;
- (f) by inserting in subsection (2) “by the Polytechnic” after “provision”;
- (g) by omitting from subsection (3) “Polytechnic” and substituting “Secretary”;
- (h) by inserting the following subsection after subsection (3):
  - (4) Any fees received by the Polytechnic or the Secretary under this section are to be paid into an account with an authorised deposit-taking institution and used for the purposes of the Polytechnic as approved by the Secretary.

**9. Sections 34, 35 and 36 substituted**

Sections 34, 35 and 36 of the Principal Act are repealed and the following sections are substituted:

### **34. Reviews**

- (1) At his or her own discretion or on the direction of the Minister, the Secretary is to carry out reviews for the purpose of assessing one or more of the following:
  - (a) whether or not the Polytechnic is achieving its objectives;
  - (b) the relevance of the qualifications acquired by students to their eligibility to participate in the workforce and further education and training.
- (2) In carrying out a review, the Secretary may –
  - (a) determine standards against which the achievements of the Polytechnic may be assessed; and
  - (b) require persons employed for the purposes of this Act to provide reports in relation to the achievements of the Polytechnic.
- (3) A report required under subsection (2) is to –
  - (a) be provided to the Secretary, or such other person as the Secretary determines, within the period determined by the Secretary; and

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- (b) contain the information required by the Secretary; and
  - (c) be in a form determined by the Secretary.
- (4) The Secretary may have reports required under subsection (2) reviewed by such persons as he or she considers appropriate.
- (5) On the completion of a review, the Secretary is to publish his or her findings to the public in such manner as the Secretary considers appropriate.

**35. Secretary's instructions**

- (1) The Secretary may issue instructions to be observed by persons, or a class of persons, employed for, or performing functions in relation to the administration of, this Act.
- (2) Instructions must not be inconsistent with this Act.

**36. Delegations by Secretary and executive officer**

- (1) The Secretary may delegate any of his or her functions or powers under this Act, other than this power of delegation.
- (2) The executive officer may delegate any of his or her functions or powers under

this or any other Act, other than this power of delegation.

**10. Section 37 amended (Regulations)**

Section 37 of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (1):

(1A) Without limiting the generality of subsection (1), the regulations may be made in relation to one or more of the following:

- (a) student organisations;
- (b) the conduct and discipline of persons –
  - (i) on campuses; and
  - (ii) in respect of facilities and equipment managed or used by the Polytechnic; and
  - (iii) in respect of the provision of post-Year 10 education and training.

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- (b) by omitting from subsection (4) “Board or the chief” and substituting “Secretary or the”;
- (c) by omitting subsection (5) and substituting the following subsection:
  - (5) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of –
    - (a) this Act; or
    - (b) the *Education and Training (Consequential Amendments and Rescissions) Act 2010*; or
    - (c) any other Act amending this Act; or
    - (d) the *Education and Training (Transitional Provisions) Act 2010*.
- (d) by omitting from subsection (6) “Act” and substituting “Act, or an Act amending this Act,”;
- (e) by inserting the following subsection after subsection (6):
  - (7) The regulations may be combined with regulations made under one or more of the following Acts:



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- (a) *Education Act 1994;*
- (b) *Education and Training  
(Tasmanian Academy) Act  
2008;*
- (c) *Education and Training  
(Tasmanian Skills  
Institute) Act 2008.*

**11. Schedules 1, 2 and 3 repealed**

Schedules 1, 2 and 3 to the Principal Act are repealed.

**12. Repeal of Act**

This Act is repealed on the ninetieth day from the day on which it commences.