

## CLAUSE NOTES

### Occupational Licensing National Law Bill 2011

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| Clause 1     | A formal provision specifying the title of the proposed Act, the Occupational Licensing National Law Act 2011.   |
| Clause 2(1)  | A formal provision specifying the commencement dates of the Act.<br>The Parts of the Act will commence on the days on which those Parts receive Royal Assent.                        |
| 2(2)         | A formal provision specifying the commencement dates of Schedule 1 of the national Act.<br>Those parts of the Schedule will commence on the days on which they receive Royal Assent. |
| Clause 3(1)  | Defines the term: "Occupational Licensing National Law (Tasmania)"   |
| 3(2)         | Specifies that for any term used in this Act the interpretative provisions of the <i>Occupational Licensing National Law Act 2010</i> of Victoria, the national Act, must be used.   |
| Clause 4 (a) | Specifies that the national Act, the <i>Occupational Licensing National Law Act 2010</i> of Victoria, as from time to time amended, applies as if it were a law of Tasmanian.        |
| 4(b)         | Specifies that the national Act can be referred to as the "Occupational Licensing National Law (Tasmania)".  |

- 4(c) Specifies that all of the commenced provisions of the national Act applies as if they are part of this Tasmanian Act.

Clause 5 This clause stops the application of 9 key Tasmanian Statute Laws. The reason for this is that there are minor inconsistencies with the equivalents of those statutes in the other jurisdictions. To cater for this the national Act in Part 8, Part 9 and Schedule 1 either applies Commonwealth legislation or specifically details the requirements to apply.

- 5(a) The requirements of the *Acts Interpretation Act 1931* have been replaced by comprehensive interpretations and requirements contained in Schedule 1 of the national Act.
- 5(b) The requirements of the *Tasmanian Archives Act 1983* have been addressed at section 141 by the application of the *Archives Act 1983* of the Commonwealth.
- 5(c) The requirements of the *Tasmanian Audit Act 2008* have been addressed by the provisions contained at section 147 of the national Act.
- 5(d) The requirements of the *Financial Management and Audit Act 1990* have been addressed by the provisions contained at section 146 of the national Act.
- 5(e) The requirements of the *Tasmanian Ombudsman Act 1978* have been addressed at section 150 of the national Act by the application of the *Ombudsman Act 1976* of the Commonwealth.
- 5(f) The requirements of the *Personal Information Protection Act 2004* have been addressed at section 135 by the application of the *Privacy Act 1988* of the Commonwealth.

- 5(g) The requirements of the *Right to Information Act 2009* have been addressed at section 137 by the application of the *Freedom of Information Act 1982* of the Commonwealth.
- 5(h) It is not appropriate for staff of the National Occupational Licensing Authority to be bound by the *Tasmanian State Service Act 2000*. Section 121(2) of the national Act specifies that the staff of the Licensing Authority are to be employed on the terms and conditions prescribed by national regulations.
- 5(i) The requirements of the *Subordinate Legislation Act 1992* have been addressed by section 159 and Division 6 of Part 9 of the national Act.
- Clause 6 This clause recognises that different Courts and Tribunals have been established in the jurisdictions to process legal issues and there is no one common approach.
- 6(a) Section 13 of the national Act provides for the application for an injunction. In Tasmania injunctions are normally issued by the Supreme Court and this clause reflects that situation.
- 6(b) Sections 58, 59 and 60 of the national Act relate to the hearing and determination of disciplinary action against a license holder. In Tasmania minor breaches are normally determined by the relevant Statutory Office Holder, however this provision provides the option of referring the case to the Magistrates Court (Civil Division) if no other formal process is available.
- 6(c) Sections 93 and 94 of the national Act relate to review of decisions. In Tasmania the Magistrates Court (Administrative Appeals

Division) is one such forum that has been established to facilitate such reviews.

Clause 7

This provision is self-explanatory.  
The maximum penalty that can be issued on an individual under the national Act is, for a third or subsequent offence, \$50,000 or 12 months imprisonment. The maximum penalty for a body corporate is \$250,000.

Clause 8

These provisions are self-explanatory.  
They provide powers for the making of regulations in relation to matters of a transitional nature arising as a result of the enactment of the Bill. These regulations will be able to have retrospective effect to the date of Royal Assent of the Bill to ensure that any unforeseen transitional matters can be dealt with. It is to be anticipated that there will be minimal need for these powers and that the majority of Regulations will be made under the national Act.

Clause 9

The Minister responsible for this Act, when proclaimed, will be the Minister for Workplace Relations.

The Act is to be administered by Workplace Standards Tasmania within the Department of Justice.