

## CLAUSE NOTES

### *Justice and Related Legislation (Further Miscellaneous Amendments) Bill 2023*

#### PART 1

- Clause 1      **Short title**  
Specifies the name of the proposed Act.
- Clause 2      **Commencement**  
Provides that the Act commences on Royal Assent.
- Clause 3      **Repeal of Act**  
This clause automatically repeals the amending legislation after the first anniversary of this Act commencing. The amendments made to various other Acts by the provisions in this Act will remain in force after the repeal of this Act.

#### PART 2

- Clause 4      **Principal Act**  
Provides that the Principal Act being amended in Part 2 is the *Appeal Costs Fund Act 1968*.
- Clause 5      **Section 2 amended (Interpretation)**  
This clause makes a technical amendment to insert a new term *Tribunal* and defines that to mean the Tasmanian Civil and Administrative Tribunal.
- Clause 6      **Section 5A amended (Annual statement to Workplace Safety Board of Tasmania)**  
This clause makes a technical amendment to substitute the reference to the former Workers Rehabilitation and Compensation Tribunal with the defined term *Tribunal* and makes minor consequential adjustments to the wording of the section.
- Clause 7      **Section 5B amended (Annual statement to Asbestos Compensation Commissioner)**  
This clause makes a technical amendment to substitute the reference to the former Asbestos Compensation Tribunal with the defined term *Tribunal* and makes minor consequential adjustments to the wording of the section.

## PART 3

**Clause 8**      **Principal Act**

Provides that the Principal Act being amended in Part 3 is the *Crimes at Sea Act 1999*.

**Clause 9**      **Principal Act amended**

This clause replaces a map in the Principal Act with an updated map that accurately reflects the new permanent maritime boundaries between Australia and Timor-Leste.

## PART 4

**Clause 10**     **Principal Act**

Provides that the Principal Act being amended in Part 4 is the *Criminal Code Act 1924*.

**Clause 11**     **Section 36IAA amended (Trial by judge alone)**

This clause amends section 36IAA(2)(a) of the Principal Act to provide that that the three month period within which an application for a judge alone trial can be made is to commence from the date of the accused person's first appearance in the Supreme Court pursuant to the order committing them to trial.

Under the current provisions, the three month period commences immediately after the accused person is committed for trial. The purpose of the amendment is to provide additional time for the accused person and the prosecutor to consider the matter(s) for trial before an election must be made for trial by judge alone.

## PART 5

**Clause 12**     Provides that the Principal Act being amended in Part 5 is the *Dangerous Criminals and High Risk Offenders Act 2021*.

**Clause 13**     **Section 34 amended (Hearing of application)**

This clause substitutes a new subsection 34(2) in the Principal Act that expands the range of reports that the Supreme Court may exercise its discretion to order after receiving an application for a High Risk Offender (HRO) order.

The new subsection (2)(a) replicates the existing power of the Court, currently set out in subsection (2), to order the Chief Psychiatrist to provide a report as to the likelihood of the offender committing another serious offence.

The new subsection (2)(b) provides a new power for the Court to order updated behavioural and/or management reports in relation to the offender,

where such a report was previously prepared and accompanied the HRO order application.

The new subsection (2)(c) provides a new power for the Court to order a behavioural and/or management report in relation to the offender, where such a report has not previously been prepared.

The purpose of the amendments is to ensure that the Court may consider the most up to date information in relation to an offender in circumstances where significant time has elapsed between the making of an application for an HRO order and the hearing of that application, or where the relevant reports have not previously been prepared.

## PART 6

### Clause 14      **Principal Act**

Provides that the Principal Act being amended in Part 6 is the *Goldamere Pty Ltd (Agreement) Act 1996*.

### Clause 15      **Section 8 amended (Application of Environmental Legislation, &c., to ABM Project)**

This clause makes a technical amendment to remove a reference to the repealed *Resource Management and Planning Appeal Tribunal Act 1993*, replacing it with a reference to the *Tasmanian Civil and Administrative Tribunal Act 2020*.

## PART 7

### Clause 16      **Principal Act**

Provides that the Principal Act being amended in Part 7 is the *Magistrates Court (Civil Division) Act 1992*.

### Clause 17      **Section 23 amended (Interpretation of Division)**

This clause omits the current definition of *prescribed rate* and substitutes a new definition which refers to the prescribed rate of interest referred to in section 35A of the *Supreme Court Civil Procedure Act 1932*.

### Clause 18      **Section 24 repealed**

This clause removes section 24 of the Principal Act, which currently provides for either the Minister to fix a rate of interest or for an interest rate of 10% a year.

Upon commencement of the amendments in clauses 17 and 19 of the Bill, section 24 of the Principal Act will no longer be required as the rates of interest will be aligned to the relevant rates of interest that are in force from time to time in the *Supreme Court Civil Procedure Act 1932*.

- Clause 19      **Section 26 amended (Interest on Judgments)**  
This clause substitutes a new subsection 26(1)(a) which refers to the rate of interest under section 165 of the *Supreme Court Civil Procedure Act 1932*.

#### PART 8

- Clause 20      **Principal Act**  
Provides that the Principal Act being amended in Part 8 is the *Nature Conservation Act 2002*.

- Clause 21      **Section 33 amended (Interpretation of Part)**  
This clause makes technical amendments to several defined terms within section 33 of the Principal Act,  
It remove the reference to the former Forest Practices Tribunal in the definition of *affected owner*.  
It also substitutes a reference to the Forest Practices Tribunal in the definition of *arbitrator* with a reference to the Tasmanian Civil and Administrative Tribunal.  
Further, the definition of *Forest Practices Tribunal* is removed.

#### PART 9

- Clause 22      **Principal Act**  
Provides that the Principal Act being amended in Part 9 is the *Ombudsman Act 1978*.

- Clause 23      **Section 20A amended (Ombudsman may make preliminary inquiries)**  
This clause amends subsection 20A(1) of the Principal Act to allow for preliminary inquiries to be undertaken where an own motion investigation is being considered by the Ombudsman.  
Under the current provisions, preliminary inquiries may only be made where a complaint has been made to the Ombudsman.

#### PART 10

- Clause 24      **Principal Act**  
Provides that the Principal Act being amended in Part 10 is the *Public Accounts Committee Act 1970*.

- Clause 25      **Section 7 amended (Evidence before Committee)**  
This clause makes a technical amendment to replace the incorrect reference to the *Parliamentary Privilege Act 1957* in subsection 7(11) with a reference to the *Parliamentary Privilege Act 1858*.

This clause also replaces the incorrect reference in the same subsection to “Division” with a reference to “section”.

## PART 11

**Clause 26**      **Principal Act**

Provides that the Principal Act being amended in Part 11 is the *Public Works Committee Act 1914*.

**Clause 27**      **Section 22 amended (Power to take evidence)**

This clause makes a technical amendment to replace the incorrect reference to the *Parliamentary Privilege Act 1957* with a reference to the *Parliamentary Privilege Act 1858*.

## PART 12

**Clause 28**      **Principal Act**

Provides that the Principal Act being amended in Part 12 is the *Strategic Infrastructure Corridors (Strategic and Recreational Use) Act 2016*.

**Clause 29**      **Section 56 amended (Applications for permitted development in relation to land within, or adjoining, corridor)**

This clause makes a technical amendment to remove the redundant reference in subsection 56(3)(b) to the repealed *Resource Management and Planning Appeal Tribunal Act 1993*, replacing it with a reference to the relevant clause of Part 8 of Schedule 2 to the *Tasmanian Civil and Administrative Tribunal Act 2020*.

## PART 13

**Clause 30**      **Principal Act**

Provides that the Principal Act being amended in Part 13 is the *Tasmanian Civil and Administrative Tribunal Act 2020*.

**Clause 31**      **Schedule 2 amended (General Division)**

This clause makes technical amendments to substitute references to “this subsection” with references to “this clause” in clauses 9(6)(b) and 9(7)(c) of Part 8 of Schedule 2.

## PART 14

**Clause 32**      **Principal Act**

Provides that the Principal Act being amended in Part 14 is the *Urban Drainage Act 2013*.

**Clause 33**      **Section 15 amended (Power of authorised officers to carry out work on or adjacent to public land)**

This clause makes a technical amendment to subsection 15(11) to replace the redundant reference to the now repealed *Resource Management and Planning Appeal Tribunal Act 1993* with a reference to the *Tasmanian Civil and Administrative Tribunal Act 2020*.

**PART 15**

**Clause 34**      **Principal Act**

Provides that the Principal Act being amended in Part 15 is the *Workers Rehabilitation and Compensation Act 1988*.

**Clause 35**      **Section 62 amended (Orders of Tribunal final)**

This clause amends subsections 62(1) and (4) by omitting references to section 63 of the Principal Act (which was previously repealed) and substituting references to the relevant sections of the *Tasmanian Civil and Administrative Tribunal Act 2020*.

**Clause 36**      **Section 77G amended (Appeals)**

This clause amends subsection 77G(7) by omitting the reference to section 63 of the Principal Act (which was previously repealed) and substituting the relevant section of the *Tasmanian Civil and Administrative Tribunal Act 2020*.

**PART 16**

**Clause 37**      **Principal Act**

Provides that the Principal Act being amended in Part 16 is the *Workers' (Occupational Diseases) Relief Fund Act 1954*.

**Clause 38**      **Section 43 amended (Appeal from decisions of Secretary)**

This clause makes a technical amendment to amend subsection 43(1) by replacing the reference to the former Workers Rehabilitation and Compensation Tribunal with a reference to the Tasmanian Civil and Administrative Tribunal.

This clause also amends subsection 43(2)(b) to replace the reference to the Registrar of the Workers Rehabilitation and Compensation Tribunal with a reference to the Tasmanian Civil and Administrative Tribunal.