

TASMANIA

TASMANIAN CIVIL AND ADMINISTRATIVE TRIBUNAL (MISCELLANEOUS AMENDMENTS) BILL 2023

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

PART 2 – ANTI-DISCRIMINATION ACT 1998 AMENDED

3. Principal Act
4. Section 13 amended (Functions of Tribunal)
5. Section 65 amended (Review of rejected or not accepted complaints)
6. Section 72 amended (Review of rejection or dismissal)
7. Section 98A amended (Application to Tribunal to withdraw complaint from inquiry or review)
8. Section 109 amended (Regulations)

PART 3 – CRIMINAL JUSTICE (MENTAL IMPAIRMENT) ACT 1999 AMENDED

9. Principal Act
10. Section 37 amended (Review of persons detained under forensic orders)

**PART 4 – HEALTH PRACTITIONERS TRIBUNAL ACT 2010
AMENDED**

- 11. Principal Act
- 12. Section 11 amended (Professional members of Tribunal)
- 13. Section 12 repealed

**PART 5 – PROPERTY AGENTS AND LAND TRANSACTIONS ACT
2016 AMENDED**

- 14. Principal Act
- 15. Section 3 amended (Interpretation)
- 16. Section 4 amended (Application of Act)
- 17. Section 12 amended (Funds of Board)
- 18. Section 14 amended (Annual report)
- 19. Section 100 amended (Powers of Board after investigation)
- 20. Section 102 amended (Procedure if offence suspected)
- 21. Part 7, Division 5 repealed
- 22. Section 110 amended (Determination by Tribunal)
- 23. Section 111 amended (Costs and expenses of hearings)
- 24. Section 113 repealed
- 25. Section 116 amended (Right to appeal decisions of Board)
- 26. Section 117 repealed
- 27. Schedule 2 repealed

**PART 6 – TASMANIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
ACT 2020 AMENDED**

- 28. Principal Act
- 29. Section 3 amended (Interpretation)
- 30. Section 44 amended (Appointment of senior members and ordinary members)
- 31. Schedule 1 amended (Relevant Acts)
- 32. Schedule 2 amended (General Division)

PART 7 – WATER MANAGEMENT ACT 1999 AMENDED

- 33. Principal Act

34. Section 278 amended (Form of appeal to Appeal Tribunal)

**PART 8 – WORKERS REHABILITATION AND COMPENSATION
ACT 1988 AMENDED**

35. Principal Act
36. Section 42H amended (Representation during conciliation process)
37. Section 47 repealed
38. Section 159 repealed

PART 9 – REPEAL OF ACT

39. Repeal of Act

**TASMANIAN CIVIL AND ADMINISTRATIVE
TRIBUNAL (MISCELLANEOUS AMENDMENTS)
BILL 2023**

*(Brought in by the Minister for Justice, the Honourable Guy
Barnett)*

A BILL FOR

An Act to amend the *Tasmanian Civil and Administrative Tribunal Act 2020*, the *Anti-Discrimination Act 1998*, the *Criminal Justice (Mental Impairment) Act 1999*, the *Health Practitioners Tribunal Act 2010*, the *Property Agents and Land Transactions Act 2016*, the *Water Management Act 1999* and the *Workers Rehabilitation and Compensation Act 1988*

Be it enacted by Her 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:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Tasmanian Civil and Administrative Tribunal (Miscellaneous Amendments) Act 2023*.

2. Commencement

- (1) Except as provided in this section, this Act commences on the day on which this Act receives the Royal Assent.

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

s. 2

Part 1 – Preliminary

(2) Part 5 commences on a day to be proclaimed.

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

Part 2 – Anti-Discrimination Act 1998 Amended

s. 3

**PART 2 – ANTI-DISCRIMINATION ACT 1998
AMENDED**

3. Principal Act

In this Part, the *Anti-Discrimination Act 1998** is referred to as the Principal Act.

4. Section 13 amended (Functions of Tribunal)

Section 13(b) of the Principal Act is amended by omitting “and dismissals” and substituting “, dismissals and non-acceptances”.

5. Section 65 amended (Review of rejected or not accepted complaints)

Section 65 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(a) “or non-acceptance” after “rejection”;
- (b) by inserting in subsection (1)(b) “or non-acceptance” after “rejection”;
- (c) by inserting in subsection (2) “or not accepted” after “rejected”;
- (d) by inserting in subsection (2) “or non-acceptance” after “rejection”;

*No. 46 of 1998

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

s. 6

Part 2 – Anti-Discrimination Act 1998 Amended

- (e) by inserting in subsection (4) “or non-accepted” after “rejected”.

6. Section 72 amended (Review of rejection or dismissal)

Section 72 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “or dismissal” and substituting “, dismissal or non-acceptance”;
- (b) by omitting from subsection (1) “or dismissing” and substituting “, dismissing or not accepting”;
- (c) by inserting the following subsection after subsection (3):
 - (4) If, on reviewing the non-acceptance of a complaint, the Tribunal is not satisfied that the Commissioner made a correct decision in not accepting the complaint, the Tribunal is to refer the complaint back to the Commissioner for acceptance or rejection.

7. Section 98A amended (Application to Tribunal to withdraw complaint from inquiry or review)

Section 98A of the Principal Act is amended as follows:

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

Part 2 – Anti-Discrimination Act 1998 Amended

s. 8

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- (a) by omitting subsections (1), (2) and (3);
 - (b) by inserting in subsection (4) “, under section 88 of the *Tasmanian Civil and Administrative Tribunal Act 2020*,” after “withdrawal”.

8. Section 109 amended (Regulations)

Section 109(1B)(b) of the Principal Act is amended by inserting “or non-accepted” after “rejected”.

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023
Act No. of 2023*

s. 9 Part 3 – Criminal Justice (Mental Impairment) Act 1999 Amended

**PART 3 – CRIMINAL JUSTICE (MENTAL
IMPAIRMENT) ACT 1999 AMENDED**

9. Principal Act

In this Part, the *Criminal Justice (Mental Impairment) Act 1999** is referred to as the Principal Act.

10. Section 37 amended (Review of persons detained under forensic orders)

Section 37 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) If a supervision order is suspended, the order may be reviewed in accordance with this section notwithstanding the suspension.

*No. 21 of 1999

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

Part 4 – Health Practitioners Tribunal Act 2010 Amended

s. 11

**PART 4 – HEALTH PRACTITIONERS TRIBUNAL ACT
2010 AMENDED**

11. Principal Act

In this Part, the *Health Practitioners Tribunal Act 2010** is referred to as the Principal Act.

12. Section 11 amended (Professional members of Tribunal)

Section 11(2) of the Principal Act is amended by omitting paragraph (c).

13. Section 12 repealed

Section 12 of the Principal Act is repealed.

*No. 12 of 2010

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023
Act No. of 2023*

s. 14 Part 5 – Property Agents and Land Transactions Act 2016 Amended

**PART 5 – PROPERTY AGENTS AND LAND
TRANSACTIONS ACT 2016 AMENDED**

14. Principal Act

In this Part, the *Property Agents and Land Transactions Act 2016** is referred to as the Principal Act.

15. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by omitting the definition of *Tribunal* and substituting the following definition:

Tribunal means the Tasmanian Civil and Administrative Tribunal;

16. Section 4 amended (Application of Act)

Section 4(1) of the Principal Act is amended by omitting paragraph (a) from the definition of *accountant* and substituting:

(a) CPA Australia; or

17. Section 12 amended (Funds of Board)

Section 12(3) of the Principal Act is amended as follows:

*No. 58 of 2016

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

Part 5 – Property Agents and Land Transactions Act 2016 Amended

s. 18

- (a) by omitting from paragraph (c) “employees; and” and substituting “employees.”;
- (b) by omitting paragraph (d).

18. Section 14 amended (Annual report)

Section 14(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (e) “year; and” and substituting “year.”;
- (b) by omitting paragraph (f).

19. Section 100 amended (Powers of Board after investigation)

Section 100 of the Principal Act is amended by omitting paragraph (c) and substituting the following paragraph:

- (c) apply to the Tribunal to hear and determine the complaint in accordance with the *Tasmanian Civil and Administrative Tribunal Act 2020*.

20. Section 102 amended (Procedure if offence suspected)

Section 102 of the Principal Act is amended as follows:

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

s. 21 Part 5 – Property Agents and Land Transactions Act 2016 Amended

- (a) by omitting from subsection (1) “or Tribunal”;
- (b) by omitting from subsection (2) “or Tribunal”.

21. Part 7, Division 5 repealed

Division 5 of Part 7 of the Principal Act is repealed.

22. Section 110 amended (Determination by Tribunal)

Section 110 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(d) “1 000” and substituting “750”;
- (b) by inserting the following subsection after subsection (2):
 - (2A) A fine imposed by the Tribunal under this section is to be paid to the Board.

23. Section 111 amended (Costs and expenses of hearings)

Section 111 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:

- (1) The Tribunal may order a party to proceedings to pay all or part of the costs

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

Part 5 – Property Agents and Land Transactions Act 2016 Amended

s. 24

of another party to those proceedings if the Tribunal considers it appropriate to do so.

- (2) Section 120(1), (2), (3) and (4) of the *Tasmanian Civil and Administrative Tribunal Act 2020* do not apply in relation to proceedings under this Act.

24. Section 113 repealed

Section 113 of the Principal Act is repealed.

25. Section 116 amended (Right to appeal decisions of Board)

Section 116 of the Principal Act is amended by omitting subsection (5).

26. Section 117 repealed

Section 117 of the Principal Act is repealed.

27. Schedule 2 repealed

Schedule 2 to the Principal Act is repealed.

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

s. 28 Part 6 – Tasmanian Civil and Administrative Tribunal Act 2020 Amended

**PART 6 – TASMANIAN CIVIL AND
ADMINISTRATIVE TRIBUNAL ACT 2020 AMENDED**

28. Principal Act

In this Part, the *Tasmanian Civil and Administrative Tribunal Act 2020** is referred to as the Principal Act.

29. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by omitting the definition of *Health Practitioners stream*;
- (b) by inserting the following definition after the definition of *monetary order*:

Occupational and Disciplinary stream means the Occupational and Disciplinary stream established by clause 1 of Part 5 of Schedule 2;

30. Section 44 amended (Appointment of senior members and ordinary members)

Section 44(5)(a) of the Principal Act is amended by inserting “not more than” after “term of”.

*No. 24 of 2020

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

Part 6 – Tasmanian Civil and Administrative Tribunal Act 2020 Amended

s. 31

31. Schedule 1 amended (Relevant Acts)

Schedule 1 to the Principal Act is amended by inserting after item 30 the following item:

30A. The *Property Agents and Land Transactions Act 2016*.

32. Schedule 2 amended (General Division)

Schedule 2 to the Principal Act is amended as follows:

(a) by inserting the following paragraph after paragraph (y) in clause 1(1) of Part 3:

(ya) the *Property Agents and Land Transactions Act 2016*;

(b) by omitting Part 5 and substituting the following Part:

PART 5 – OCCUPATIONAL AND DISCIPLINARY STREAM

1. Occupational and Disciplinary stream

There is a stream of the Division to be known as the Occupational and Disciplinary stream.

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

s. 32 Part 6 – Tasmanian Civil and Administrative Tribunal Act 2020 Amended

**2. Functions and powers allocated to
Occupational and Disciplinary
stream**

The following functions and
powers are allocated to the
Occupational and Disciplinary
stream:

- (a) the functions and powers of the Tribunal in relation to the following Acts, including functions and powers conferred or imposed on the Tribunal by regulations or instruments made under those Acts:
 - (i) the *Health Practitioner Regulation National Law (Tasmania)*;
 - (ii) the *Health Practitioners Tribunal Act 2010*;
 - (iii) the *Pharmacy Control Act 2001*;
- (b) the functions and powers allocated to the Tribunal under the *Property Agents*

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

Part 6 – Tasmanian Civil and Administrative Tribunal Act 2020 Amended

s. 32

*and Land Transactions
Act 2016.*

**3. Composition of Tribunal in relation
to Occupational and Disciplinary
stream**

- (1) If proceedings relate to the functions or powers of the Tribunal allocated to the Occupational and Disciplinary stream in respect of the *Property Agents and Land Transactions Act 2016*, the Tribunal is to include in its composition, if practicable, a person who has at least 5 years' experience as a property agent.
- (2) If proceedings relate to the functions or powers of the Tribunal allocated to the Occupational and Disciplinary stream in respect of the *Health Practitioner Regulation National Law (Tasmania)* or the *Health Practitioners Tribunal Act 2010*, the Tribunal is not to be constituted, in whole or in part, in relation to the proceedings, other than in accordance with the requirements of the *Health Practitioners Tribunal Act 2010*.

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023
Act No. of 2023*

s. 32 Part 6 – Tasmanian Civil and Administrative Tribunal Act 2020 Amended

- (c) by omitting subclauses (1), (2) and (3)
from clause 9 of Part 8.

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

Part 7 – Water Management Act 1999 Amended

s. 33

**PART 7 – WATER MANAGEMENT ACT 1999
AMENDED**

33. Principal Act

In this Part, the *Water Management Act 1999** is referred to as the Principal Act.

34. Section 278 amended (Form of appeal to Appeal Tribunal)

Section 278 of the Principal Act is amended by omitting subsection (2).

*No. 45 of 1999

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

s. 35 Part 8 – Workers Rehabilitation and Compensation Act 1988 Amended

**PART 8 – WORKERS REHABILITATION AND
COMPENSATION ACT 1988 AMENDED**

35. Principal Act

In this Part, the *Workers Rehabilitation and Compensation Act 1988** is referred to as the Principal Act.

36. Section 42H amended (Representation during conciliation process)

Section 42H of the Principal Act is amended by omitting subsections (4), (5) and (6).

37. Section 47 repealed

Section 47 of the Principal Act is repealed.

38. Section 159 repealed

Section 159 of the Principal Act is repealed.

*No. 4 of 1988

*Tasmanian Civil and Administrative Tribunal (Miscellaneous
Amendments) Act 2023*
Act No. of 2023

Part 9 – Repeal of Act

s. 39

PART 9 – REPEAL OF ACT

39. Repeal of Act

This Act is repealed on the first anniversary of the day on which the last uncommenced provision of this Act commenced.