

TASMANIA

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**EDUCATION AND TRAINING (REPEALS AND  
TRANSITIONAL PROVISIONS) BILL 2008**

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# **EDUCATION AND TRAINING (REPEALS AND TRANSITIONAL PROVISIONS) BILL 2008**

*(Brought in by the Minister for Education and Skills, the  
Honourable David John Bartlett)*

## **A BILL FOR**

**An Act to repeal the *TAFE Tasmania Act 1997*, to provide for matters of a savings and transitional nature consequent on that repeal, on the establishment of the Tasmanian Academy, the Tasmanian Polytechnic and the Tasmanian Skills Institute and on the enactment of the *Education and Training (Miscellaneous and Consequential Amendments) Act 2008* and the *Education and Training (Further Consequential Amendments) Act 2008* and for related purposes**

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 (Repeals and Transitional Provisions) Act 2008*.

### **2. Commencement**

This Act commences on 1 January 2009.

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THIS BILL IS COGNATE WITH THE *EDUCATION AND TRAINING (TASMANIAN ACADEMY) BILL 2008*, THE *EDUCATION AND TRAINING (TASMANIAN POLYTECHNIC) BILL 2008*, THE *EDUCATION AND TRAINING (TASMANIAN SKILLS INSTITUTE) BILL 2008*, THE *EDUCATION AND TRAINING (MISCELLANEOUS AND CONSEQUENTIAL AMENDMENTS) BILL 2008* AND THE *EDUCATION AND TRAINING (FURTHER CONSEQUENTIAL AMENDMENTS) BILL 2008*

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### **3. Interpretation**

In this Act –

“**Academy**” means the Tasmanian Academy established under section 5 of the *Education and Training (Tasmanian Academy) Act 2008*;

“**Polytechnic**” means the Tasmanian Polytechnic established under section 5 of the *Education and Training (Tasmanian Polytechnic) Act 2008*;

“**Skills Institute**” means the Tasmanian Skills Institute established under section 5 of the *Education and Training (Tasmanian Skills Institute) Act 2008*.

### **4. Legislation repealed**

The legislation specified in Schedule 2 is repealed.

### **5. Legislation rescinded**

The legislation specified in Schedule 3 is rescinded.

## **6. Legislation revoked**

The legislation specified in Schedule 4 is revoked.

## **7. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Regulations may be made so as to apply differently according to such factors as are specified in the regulations.
- (3) The regulations may authorise any matter to be from time to time determined, applied or regulated by –
  - (a) the Secretary of the department responsible for the administration of the *Education Act 1994*; or
  - (b) the Academy or its chief executive officer; or
  - (c) the Polytechnic or its chief executive officer; or
  - (d) the Skills Institute or its chief executive officer.
- (4) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act, the *Education and Training (Tasmanian Academy) Act 2008*, the

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*Education and Training (Tasmanian Polytechnic) Act 2008, the Education and Training (Tasmanian Skills Institute) Act 2008, the Education and Training (Miscellaneous and Consequential Amendments) Act 2008 or the Education and Training (Further Consequential Amendments) Act 2008.*

- (5) A provision referred to in subsection (4) may take effect on and from the day on which this Act commences or a later day.

**8. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Education and Skills; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Education.

**9. Transitional and savings provisions**

Schedule 1 has effect.

**SCHEDULE 1 – TRANSITIONAL AND SAVINGS  
PROVISIONS**

Section 9

**PART 1 – TRANSITIONAL PROVISIONS  
CONSEQUENT ON REPEAL OF *TAFE TASMANIA ACT*  
1997**

**1. Interpretation**

In this Part –

“**Academy**” means the Tasmanian Academy established under section 5 of the *Academy Act*;

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

“**audit committee**” means the audit committee established under section 33 of the *TAFE Act* as constituted immediately before the repeal day;

“**Polytechnic**” means the Tasmanian Polytechnic established under section 5 of the *Polytechnic Act*;

“**Polytechnic Act**” means the *Education and Training (Tasmanian Polytechnic) Act 2008*;

“**repeal day**” means 1 January 2009;

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**“Skills Institute”** means the Tasmanian Skills Institute established under section 5 of the *Skills Institute Act*;

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

**“TAFE Act”** means the *TAFE Tasmania Act 1997* as in force immediately before the repeal day;

**“TAFE Board”** means the Board of directors referred to in section 8 of the *TAFE Act* as constituted immediately before the repeal day;

**“TAFE employee”** means a person who, immediately before the repeal day, was a State Service employee or State Service officer employed or appointed for the purposes of the *TAFE Act*;

**“TAFE Tasmania”** means TAFE Tasmania established under the *TAFE Act*;

**“transfer notice”** means a notice under clause 4, 6, 17, 18, 23 or 24;

**“transferred liability”** means any liability or obligation belonging to TAFE Tasmania immediately before the repeal day, or belonging to the Crown immediately before the repeal day, and specified in a notice under clause 6;



**“transferred property”** means any property or right vested in TAFE Tasmania immediately before the repeal day, or vested in the Crown immediately before the repeal day, and specified in a notice under clause 6.

**2. Continuation of TAFE Board and audit committee**

Despite the repeal of the *TAFE Act* by this Act, the TAFE Board and the audit committee continue until abolished under clause 3.

**3. Abolition of TAFE Tasmania, TAFE Board and TAFE committees**

- (1) TAFE Tasmania is abolished.
- (2) The TAFE Board is abolished on the day determined by the Minister by notice published in the *Gazette*.
- (3) The Minister is not to determine a day for the abolition of the TAFE Board until satisfied that the TAFE Board has fulfilled its obligations under this Part.
- (4) The appointment of each member of the TAFE Board is revoked on the day the TAFE Board is abolished.
- (5) The audit committee is abolished on the day the TAFE Board is abolished and the appointment of

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each member of the audit committee is revoked on that day.

- (6) All other committees established by the TAFE Board under the *TAFE Act* are abolished on the repeal day and the appointment of each member of such a committee is revoked on that day.
- (7) A member of the TAFE Board, the audit committee or another committee established by the TAFE Board is not entitled to receive any benefit in respect of the termination of his or her appointment as such a member.

**4. TAFE employees**

- (1) The Minister, by notice published in the *Gazette*, may –
  - (a) specify that on and from the repeal day a particular TAFE employee, or a TAFE employee of a class of employees, is to be taken to have been appointed under the *State Service Act 2000* for the purposes of the *Skills Institute Act*, the *Polytechnic Act* or the *Academy Act*; and
  - (b) provide for any matters that are incidental to the continuation of employment of an employee referred to in paragraph (a).
- (2) If it is specified in a notice under subclause (1) that a particular TAFE employee, or a TAFE

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employee of a class of employees, is to be taken to have been appointed under the *State Service Act 2000* for the purposes of the *Skills Institute Act*, the *Polytechnic Act* or the *Academy Act*, on and from the repeal day that TAFE employee is taken to have been appointed under the *State Service Act 2000* for those purposes.

- (3) Despite anything to the contrary in the *State Service Act 2000* –
- (a) the publication of a notice under subclause (1) that specifies that a particular TAFE employee, or a TAFE employee of a class of employees, is to be taken to have been appointed under the *State Service Act 2000* for the purposes of the *Skills Institute Act*, the *Polytechnic Act* or the *Academy Act*; and
  - (b) the continuation, by reason of this section, of the employment under the *State Service Act 2000* of that TAFE employee for the purposes of the *Skills Institute Act*, the *Polytechnic Act* or the *Academy Act* –

are taken to be one State Service action for the purposes of section 50 of the *State Service Act 2000*.

- (4) A notice under subclause (1) –
- (a) is not a statutory rule for the purposes of the *Rules Publication Act 1953*; and

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(b) may be combined with any other transfer notice.

(5) A person who –

(a) was appointed under section 36(6) of the *TAFE Act* as a sessional employee; and

(b) has been remunerated for that employment in such a way as to compensate him or her for the absence of leave, allowances, penalties and other similar entitlements –

is not entitled to further remuneration or compensation for those entitlements.

**5. Authorised deposit-taking institution account**

On or as soon as practicable after the repeal day, the TAFE Board is to close all authorised deposit-taking institution accounts that are maintained in the name of TAFE Tasmania and is to deal with the money from those accounts as specified by the Minister by notice provided to the TAFE Board.

**6. Property**

(1) The Minister, by notice published in the *Gazette*, may –

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- (a) transfer any property or right vested in TAFE Tasmania and any liability or obligation, whether actual, prospective or contingent, belonging to TAFE Tasmania to the Skills Institute, the Polytechnic or the Academy; and
  - (b) provide for any matters that are incidental to the transfer of any such property, right, liability or obligation.
- (2) On the day specified in the notice under subclause (1), being 1 January 2009 or a later day –
  - (a) transferred property vests in the Skills Institute, the Polytechnic or the Academy in accordance with the transfer specified in the notice; and
  - (b) transferred liabilities become the liabilities of the Skills Institute, the Polytechnic or the Academy in accordance with the transfer specified in the notice.
- (3) A notice under subclause (1) –
  - (a) is not a statutory rule for the purposes of the *Rules Publication Act 1953*; and
  - (b) may be combined with a notice under clause 4(1).

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**7. Contracts**

If appropriate, a contract made by TAFE Tasmania but not performed or discharged before the repeal day is taken to have been made by the Skills Institute, the Polytechnic or the Academy.

**8. Documents**

(1) If appropriate –

(a) a document issued or made by TAFE Tasmania under the *TAFE Act* is taken to have been issued or made by the Skills Institute, the Polytechnic or the Academy; and

(b) a document served on or by, or provided to or by, TAFE Tasmania is taken to have been served on or by, or provided to or by, the Skills Institute, the Polytechnic or the Academy.

(2) If appropriate, a reference in a document to TAFE Tasmania is taken to be, or to include, a reference to the Skills Institute, the Polytechnic or the Academy.

**9. Legal matters**

(1) A legal proceeding that is instituted by or against TAFE Tasmania and is pending immediately

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before the repeal day may be continued by or against the Skills Institute, the Polytechnic or the Academy, as appropriate.

- (2) A legal proceeding that could have been instituted by or against TAFE Tasmania to enforce a right that had accrued, and was in existence, immediately before the repeal day may be instituted by or against the Skills Institute, the Polytechnic or the Academy, as appropriate.
- (3) A judgment or order of a court obtained by or against TAFE Tasmania before the repeal day may be enforced by or against the Skills Institute, the Polytechnic or the Academy, as appropriate.

**10. Financial statements of TAFE Tasmania**

- (1) As soon as practicable after the repeal day, the TAFE Board is to –
  - (a) prepare financial statements for TAFE Tasmania relating to the period of 6 months ending on 31 December 2008; and
  - (b) provide the Auditor-General with those financial statements.
- (2) The financial statements are to contain the information and documents that are referred to in section 25(2) of the *TAFE Act*.

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- (3) The financial statements –
  - (a) are to comply with any directions given under subclause (4); and
  - (b) subject to any directions so given, are to comply with the Australian Accounting Standards.
- (4) The Treasurer may give any written directions to the TAFE Board with respect to the form of the financial statements.
- (5) The audit committee is to provide the TAFE Board with such advice as the TAFE Board requires for the purposes of fulfilling its obligations under this clause.

**11. Semi-annual report by TAFE Tasmania**

- (1) As soon as practicable after the repeal day, the TAFE Board is to prepare and provide to the Minister, the Skills Institute and the Polytechnic a semi-annual report for TAFE Tasmania relating to the period of 6 months ending on 31 December 2008.
- (2) The semi-annual report is to contain the information and documents referred to in section 28(2) of the *TAFE Act*.



**12. Tabling of semi-annual report**

- (1) The Minister is to lay a copy of the semi-annual report of TAFE Tasmania provided under clause 11 before each House of Parliament within 10 sitting-days after receiving that report.
- (2) If the Minister is unable to comply with subclause (1) before the expiration of the period specified in that subclause, the Minister is to lay before each House of Parliament a statement specifying –
  - (a) the reasons for the failure to comply with that subclause; and
  - (b) an estimate of the day by which a copy of the semi-annual report may be ready to be laid before each House of Parliament.

**13. References to *TAFE Act***

If appropriate, a reference in an Act or document to the *TAFE Act* or a provision of the *TAFE Act* is taken to be, or to include, a reference to the *Skills Institute Act* or the *Polytechnic Act*, or to the corresponding provision of the *Skills Institute Act* or the *Polytechnic Act*.

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**PART 2 – TRANSITIONAL PROVISIONS**  
**CONSEQUENT ON ENACTMENT OF *EDUCATION***  
***AND TRAINING (TASMANIAN SKILLS INSTITUTE)***  
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**14. Interpretation**

(1) In this Part –

**“interim board”** means a board consisting of persons appointed –

- (a) in 2008; and
- (b) to the interim board of the Skills Institute; and
- (c) by the Minister; and
- (d) for the purposes of preparing for the establishment of, and establishing, the Skills Institute;

**“interim chief executive officer”** means the person assigned, by the Premier by memorandum dated 7 July 2008, to the office of Chief Executive Officer, Skills Institute in the State Service;

**“Skills Institute”** means the Tasmanian Skills Institute established under section 5 of the *Skills Institute Act*;

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

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**“State school”** means a school established under section 18 of the *Education Act 1994* and part of such a school;

**“transfer day”** means the day determined by the Minister by notice published in the *Gazette* as the day on which the premises of a State school become a campus of the Academy or the Polytechnic, or both;

**“transfer notice”** means a notice under clause 4, 6, 17, 18, 23 or 24;

**“transferred liability”** means any liability or obligation belonging to the Crown immediately before the transfer day and specified in a notice under clause 18(1);

**“transferred property”** means any property or right vested in the Crown immediately before the transfer day and specified in a notice under clause 18(1);

**“transferring employee”** means a person who, immediately before the transfer day, was a State Service employee or State Service officer appointed in relation to a State school for the purposes of the department responsible for the administration of the *Education Act 1994*.

- (2) In this Part, a reference to the Skills Institute is taken to include a reference to that body by any of its provisional names.

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(3) For the purpose of subclause (2) –

**“provisional name”**, of the Skills Institute,  
means –

- (a) Training Tasmania; or
- (b) the Training Enterprise.

**15. Interim board**

- (1) A member of the interim board is taken to have been appointed as a director of the Board of the Skills Institute under section 8(1) of the *Skills Institute Act* for the term and on the conditions, including remuneration, specified in his or her instrument of appointment to the interim board.
- (2) The person appointed by the Minister in 2008 as chairperson of the interim board is taken to have been appointed as chairperson of the Board of the Skills Institute under section 8(4) of the *Skills Institute Act* for the term and on the conditions, including remuneration, specified in his or her instrument of appointment to the office of chairperson of the interim board.
- (3) Any act done by the interim board, its chairperson or a member of that board for the purposes of –
  - (a) preparing for the establishment of, or establishing, the Skills Institute; or

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- (b) bringing into operation, or giving full effect to, this Act or the *Skills Institute Act* –

is not invalid by reason only of the fact that this Act or the *Skills Institute Act* had not commenced or been enacted and, if appropriate, is taken to have been done by the Board of the Skills Institute, its chairperson or a member of that Board under this Act or the *Skills Institute Act*.

**16. Interim chief executive officer**

The interim chief executive officer is taken to have been appointed as the chief executive officer of the Skills Institute under section 14 of the *Skills Institute Act* for the term and on the conditions, including remuneration, for which he or she would have held the office of chief executive officer of TAFE Tasmania if he or she had not been assigned to the office of Chief Executive Officer, Skills Institute and this Act had not been enacted.

**17. Transferring employees**

- (1) The Minister, by notice published in the *Gazette*, may –
  - (a) specify that on and after the transfer day or a later day specified in the notice a particular transferring employee, or a

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transferring employee of a class, is to be taken to have been appointed under the *State Service Act 2000* for the purposes of the *Skills Institute Act*; and

- (b) provide for any matters that are incidental to the transfer of employment of transferring employees to the Skills Institute.
- (2) If it is specified in a notice under subclause (1) that a particular transferring employee, or a transferring employee of a class, is to be taken to have been appointed under the *State Service Act 2000* for the purposes of the *Skills Institute Act*, that transferring employee is taken, on and after the transfer day or the later day as specified in the notice, to have been appointed under the *State Service Act 2000* for those purposes.
- (3) Despite anything to the contrary in the *State Service Act 2000* –
- (a) the publication of a notice under subclause (1) that specifies that a particular transferring employee, or a transferring employee of a class, is to be taken to have been appointed under the *State Service Act 2000* for the purposes of the *Skills Institute Act*; and
  - (b) the continuation, by reason of this section, of the employment under the *State Service Act 2000* of that

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transferring employee for the purposes of  
the *Skills Institute Act* –

are taken to be one State Service action for the  
purposes of section 50 of the *State Service Act*  
2000.

- (4) A notice under subclause (1) –
- (a) is not a statutory rule for the purposes of  
the *Rules Publication Act 1953*; and
  - (b) may be combined with any other transfer  
notice.

**18. Property**

- (1) The Minister, by notice published in the *Gazette*,  
may –
- (a) transfer to the Skills Institute any  
property or right vested in the Crown and  
any liability or obligation, whether  
actual, prospective or contingent,  
belonging to the Crown; and
  - (b) provide for any matters that are  
incidental to the transfer of any such  
property, right, liability or obligation.
- (2) On the day specified in the notice under  
subclause (1), being 1 January 2009 or a later  
day –

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- (a) property specified in that notice vests in the Skills Institute in accordance with the transfer specified in the notice; and
  - (b) liabilities specified in that notice become the liabilities of the Skills Institute in accordance with the transfer specified in the notice.
- (3) A notice under subclause (1) –
  - (a) is not a statutory rule for the purposes of the *Rules Publication Act 1953*; and
  - (b) may be combined with any other transfer notice.

**19. Legal matters**

- (1) On and after the day specified in a transfer notice on which transferred property vests in, or transferred liabilities become the liabilities of, the Skills Institute, unless otherwise specified in a transfer notice, a legal proceeding that –
  - (a) had been instituted by or against the Crown and was pending immediately before that day; and
  - (b) relates to that transferred property or transferred liability –may be continued by or against the Crown.



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(2) On and after the day specified in a transfer notice on which transferred property vests in, or transferred liabilities become the liabilities of, the Skills Institute, a legal proceeding that –

(a) had been instituted by or against the Crown and was pending immediately before that day; and

(b) relates to that transferred property or transferred liability –

may be continued by or against the Skills Institute if a transfer notice specifies that that legal proceeding is, or legal proceedings of a class which includes that legal proceeding are, to be continued by or against the Skills Institute.

(3) On and after the day specified in a transfer notice on which transferred property vests in, or transferred liabilities become the liabilities of, the Skills Institute, unless otherwise specified in a transfer notice, a legal proceeding that –

(a) could have been instituted by or against the Crown to enforce a right that had accrued, and was in existence, immediately before that day; and

(b) relates to that transferred property or transferred liability –

may be instituted by or against the Crown.

(4) On and after the day specified in a transfer notice on which transferred property vests in, or

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transferred liabilities become the liabilities of, the Skills Institute, a legal proceeding that –

- (a) could have been instituted by or against the Crown to enforce a right that had accrued, and was in existence, immediately before that day; and
- (b) relates to that transferred property or transferred liability –

may be instituted by or against the Skills Institute if a transfer notice specifies that that legal proceeding is, or legal proceedings of a class which includes that legal proceeding are, to be continued by or against the Skills Institute.

- (5) On and after the day specified in a transfer notice on which transferred property vests in, or transferred liabilities become the liabilities of, the Skills Institute, unless otherwise specified in a transfer notice, a judgment or order of a court obtained by or against the Crown before that day in relation to that transferred property or transferred liability may be enforced by or against the Crown.
- (6) On and after the day specified in a transfer notice on which transferred property vests in, or transferred liabilities become the liabilities of, the Skills Institute, a judgment or order of a court obtained by or against the Crown before that day in relation to that transferred property or transferred liability may be enforced by or against the Skills Institute if a transfer notice

specifies that that judgment or order is, or judgments or orders of a court of a class which includes that judgment or order are, to be enforced by or against the Skills Institute.

**PART 3 – TRANSITIONAL PROVISIONS  
CONSEQUENT ON ENACTMENT OF *EDUCATION  
AND TRAINING (TASMANIAN ACADEMY) ACT 2008*  
AND *EDUCATION AND TRAINING (TASMANIAN  
POLYTECHNIC) ACT 2008***

**20. Interpretation**

In this Part –

“**Academy**” means the Tasmanian Academy established under section 5 of the *Academy Act*;

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

“**Education Department**” means the department responsible for the administration of the *Education Act 1994*;

“**interim board (Academy)**” means a board consisting of persons appointed –

(a) in 2008; and

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- (b) to the interim board of the Tasmanian Academy; and
- (c) by the Minister; and
- (d) for the purposes of preparing for the establishment of, and establishing, the Academy;

**“interim board (Polytechnic)”** means a board consisting of persons appointed –

- (a) in 2008; and
- (b) to the interim board of the Tasmanian Polytechnic; and
- (c) by the Minister; and
- (d) for the purposes of preparing for the establishment of, and establishing, the Polytechnic;

**“interim chief executive officer (Academy)”** means the person appointed, by instrument, on 7 July 2008 to the office of Chief Executive Officer, Tasmanian Academy in the State Service;

**“interim chief executive officer (Polytechnic)”** means the person appointed, by instrument, on 7 July 2008 to the office of Chief Executive Officer, Tasmanian Polytechnic in the State Service;

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**“Polytechnic”** means the Tasmanian Polytechnic established under section 5 of the *Polytechnic Act*;

**“Polytechnic Act”** means the *Education and Training (Tasmanian Polytechnic) Act 2008*;

**“premises”** includes a part of premises;

**“principal”**, in relation to a State school, means the person who, immediately before the transfer day on which the premises of the State school become a campus of the Academy or the Polytechnic, was the principal, within the meaning of the *Education Act 1994*, of that State school;

**“State school”** means a school established under section 18 of the *Education Act 1994* and part of such a school;

**“transfer day”** means the day determined by the Minister by notice published in the *Gazette* as the day on which the premises of a State school become a campus of the Academy or the Polytechnic, or both;

**“transfer notice”** means a notice under clause 4, 6, 17, 18, 23 or 24;

**“transferred liability”** means any liability or obligation belonging to the Crown immediately before the transfer day and specified in a notice under clause 24(1);

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**“transferred property”** means any property or right vested in the Crown immediately before the transfer day and specified in a notice under clause 24(1);

**“transferring employee”** means a person who, immediately before the transfer day, was a State Service employee or State Service officer appointed for the purposes of the Education Department in relation to a State school.

**21. Interim boards**

- (1) A member of the interim board (Academy) is taken to have been appointed as a director of the Board of the Academy under section 8(1) of the *Academy Act* for the term and on the conditions, including remuneration, specified in his or her instrument of appointment to the interim board (Academy).
- (2) The person appointed as chairperson of the interim board (Academy) by the Minister in 2008 is taken to have been appointed as chairperson of the Board of the Academy under section 8(4) of the *Academy Act* for the term and on the conditions, including remuneration, specified in his or her instrument of appointment to the office of chairperson of the interim board (Academy).
- (3) A member of the interim board (Polytechnic) is taken to have been appointed as a director of the

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Board of the Polytechnic under section 8(1) of the *Polytechnic Act* for the term and on the conditions, including remuneration, specified in his or her instrument of appointment to the interim board (Polytechnic).

- (4) The person appointed as chairperson of the interim board (Polytechnic) by the Minister in 2008 is taken to have been appointed as chairperson of the Board of the Polytechnic under section 8(4) of the *Polytechnic Act* for the term and on the conditions, including remuneration, specified in his or her instrument of appointment to the office of chairperson of the interim board (Polytechnic).
- (5) Any act done by the interim board (Academy), its chairperson or a member of that board, or the interim board (Polytechnic), its chairperson or a member of that board, for the purposes of –
  - (a) preparing for the establishment of, or establishing, the Academy or the Polytechnic; or
  - (b) bringing into operation, or giving full effect to, this Act, the *Academy Act* or the *Polytechnic Act* –

is not invalid by reason only of the fact that this Act, the *Academy Act* or the *Polytechnic Act* had not commenced or been enacted and, if appropriate, is taken to have been done by the Board of the Academy or the Board of the Polytechnic or the chairperson, or a member, of

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such a Board under this Act, the *Academy Act* or  
the *Polytechnic Act*.

**22. Interim chief executive officers**

- (1) The interim chief executive officer (Academy) is taken to have been appointed as the chief executive officer of the Academy under the *State Service Act 2000*, for the purposes of the *Academy Act*, for the term and on the conditions, including remuneration, specified in his or her instrument of appointment to the office of Chief Executive Officer, Tasmanian Academy in the State Service.
- (2) The interim chief executive officer (Polytechnic) is taken to have been appointed as the chief executive officer of the Polytechnic under the *State Service Act 2000*, for the purposes of the *Polytechnic Act*, for the term and on the conditions, including remuneration, specified in his or her instrument of appointment to the office of Chief Executive Officer, Tasmanian Polytechnic in the State Service.

**23. Transferring employees**

- (1) The Minister, by notice published in the *Gazette*, may –
  - (a) specify that on and after the transfer day or a later day specified in the notice a particular transferring employee, or a



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transferring employee of a class of employees, is to be taken to have been appointed under the *State Service Act 2000* for the purposes of the *Academy Act* or the *Polytechnic Act*; and

- (b) provide for any matters that are incidental to the transfer of employment of transferring employees to the Academy or the Polytechnic.
- (2) If it is specified in a notice under subclause (1) that a particular transferring employee, or a transferring employee of a class of employees, is to be taken to have been appointed under the *State Service Act 2000* for the purposes of the *Academy Act* or the *Polytechnic Act*, that transferring employee is taken, on and after the transfer day or a later day as specified in the notice, to have been appointed under the *State Service Act 2000* for those purposes.
- (3) Despite anything to the contrary in the *State Service Act 2000* –
  - (a) the publication of a notice under subclause (1) that specifies that a particular transferring employee, or a transferring employee of a class of employees, is to be taken to have been appointed under the *State Service Act 2000* for the purposes of the *Academy Act* or the *Polytechnic Act*; and

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- (b) the continuation, by reason of this section, of the employment under the *State Service Act 2000* of that transferring employee for the purposes of the *Academy Act* or the *Polytechnic Act* –

are taken to be one State Service action for the purposes of section 50 of the *State Service Act 2000*.

- (4) A notice under subclause (1) –
  - (a) is not a statutory rule for the purposes of the *Rules Publication Act 1953*; and
  - (b) may be combined with any other transfer notice.

## **24. Property**

- (1) The Minister, by notice published in the *Gazette*, may –
  - (a) transfer any property or right vested in the Crown and any liability or obligation, whether actual, prospective or contingent, belonging to the Crown to the Academy or the Polytechnic; and
  - (b) provide for any matters that are incidental to the transfer of any property, right, liability or obligation.

- (2) On the day specified in a notice under subclause (1), being the transfer day or a later day –
  - (a) transferred property specified in the notice vests in the Academy or the Polytechnic in accordance with the transfer specified in the notice; and
  - (b) transferred liabilities specified in the notice become the liabilities of the Academy or the Polytechnic in accordance with the transfer specified in the notice.
- (3) A notice under subclause (1) –
  - (a) is not a statutory rule for the purposes of the *Rules Publication Act 1953*; and
  - (b) may be combined with any other transfer notice.

## **25. Contracts**

If appropriate, on and after the transfer day on which the premises of a State school become a campus of the Academy or the Polytechnic, or both, a contract made or entered into by or on behalf of the Crown in relation to that State school but not performed or discharged before the transfer day is taken to have been made or entered into by the Academy or the Polytechnic.

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**26. Documents**

- (1) If appropriate, on and after the transfer day on which the premises of a State school become a campus of the Academy or the Polytechnic, or both –
  - (a) a document issued or made by or on behalf of the Crown is taken to have been issued or made by the Academy or the Polytechnic; and
  - (b) a document served on, by or on behalf of, or provided to, by or on behalf of, the Crown is taken to have been served on or by, or provided to or by, the Academy or the Polytechnic.
- (2) If appropriate, a reference in a document to a State school, the Crown or the Education Department is taken to be, or to include, a reference to the Academy or the Polytechnic.

**27. Legal matters**

- (1) On an after the transfer day on which the premises of a State school become a campus of the Academy or the Polytechnic, or both, a legal proceeding that –
  - (a) had been instituted by or against the Crown and was pending immediately before the transfer day; and

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- (b) relates to transferred property or a transferred liability –

may be continued by or against the Crown.

- (2) On and after the transfer day on which the premises of a State school become a campus of the Academy or the Polytechnic, or both, a legal proceeding that –

- (a) could have been instituted by or against the Crown to enforce a right that had accrued, and was in existence, immediately before the transfer day; and

- (b) relates to transferred property or a transferred liability –

may be instituted by or against the Crown.

- (3) On and after the transfer day on which the premises of a State school become a campus of the Academy or the Polytechnic, or both, a judgment or order of a court obtained by or against the Crown before the transfer day in relation to transferred property or a transferred liability may be enforced by or against the Crown.

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**SCHEDULE 2 – LEGISLATION REPEALED**

Section 4

*TAFE Tasmania Act 1997* (No. 50 of 1997)

*TAFE Tasmania Amendment Act 2007* (No. 56 of 2007)

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**SCHEDULE 3 – LEGISLATION RESCINDED**

Section 5

*TAFE Tasmania By-laws 1998* (No. 135 of 1998)

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**SCHEDULE 4 – LEGISLATION REVOKED**

Section 6

*TAFE Tasmania Order 2001* (No. 98 of 2001)

*TAFE Tasmania Order (No. 2) 2001* (No. 99 of 2001)