

## DRAFT SECOND READING SPEECH

HON ELISE ARCHER MP

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

*\*check Hansard for delivery\**

Mr Speaker, I move that the Bill now be read a second time.

This Bill contains minor amendments that update and clarify a number of different Acts in my Justice portfolio. Further, the Bill makes minor technical amendments to Acts administered by other Departments, most of which are consequential amendments following the establishment of the Tasmanian Civil and Administrative Tribunal (TASCAT).

Some of the amendments have been requested by various officers or agencies, including the Director of Public Prosecutions, the Ombudsman, TASCAT and the Magistrates Court.

The Department of Justice has undertaken stakeholder and public consultation on the Bill, which was also released for consultation on the Department's website.

Mr Speaker, I will now address each of the proposed changes and outline the reasons behind them.

#### Amendments to the *Appeal Costs Fund Act 1968*

Currently, the *Appeal Costs Fund Act 1968* contains references to the former Workers Rehabilitation and Compensation Tribunal and the former Asbestos Compensation Tribunal. The powers and functions of these Tribunals have been transferred to TASCAT.

The amendments in the Bill remove these references and introduce a new defined term "Tribunal" which means TASCAT.

#### Amendment to the *Crimes at Sea Act 1999*

The Bill amends the *Crimes at Sea Act 1999* by inserting an updated map of the permanent maritime boundaries between Australia and Timor-Leste.

These boundaries were established under the *Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea*, which came into force on 30 August 2019.

#### Amendment to the *Criminal Code Act 1924*

The Bill amends section 361AA(2)(a) of the *Criminal Code Act 1924* to provide 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.

This amendment responds to a request made by the Director of Public Prosecutions.

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 matters for trial before an election must be made for a trial by judge alone.

#### Amendment to the *Dangerous Criminals and High Risk Offenders Act 2021*

The Bill amends section 34(2) of the *Dangerous Criminals and High Risk Offenders Act 2021* to expand 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 an HRO order application.

Further, 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.

Mr Speaker, sections 27 and 28 of the Act currently provide for each of these types of reports to be prepared in relation to an offender, if the High Risk Offender Assessment Committee determines that they are required. If prepared, these reports are provided to the Director of Public Prosecutions and must accompany any application to the Court for an HRO order.

The purpose of these 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.

#### Amendments to the *Goldamere Pty Ltd (Agreement) Act 1996*, *Strategic Infrastructure Corridors (Strategic and Recreational Use) Act 2016* and *Urban Drainage Act 2013*

The Bill makes technical amendments to the *Goldamere Pty Ltd (Agreement) Act 1996*, *Strategic Infrastructure Corridors (Strategic and Recreational Use) Act 2016* and *Urban Drainage Act 2013* to remove references to the repealed *Resource Management and Planning Appeal Tribunal Act 1993*

and substitute references to the *Tasmanian Civil and Administrative Tribunal Act 2020* (the TASCAT Act).

#### Amendments to the *Magistrates Court (Civil Division) Act 1992*

In response to a request from the Chief Magistrate, the Bill provides an alternative legislative mechanism for setting the rate of interest on debts and judgements that aligns to the rates of interest that apply in the Supreme Court.

Currently the *Magistrates Court (Civil Division) Act 1992* provides for either the Minister to fix a rate of interest or for an interest rate of 10% a year.

The Bill aligns the rates of interest to the relevant rates of interest that are in force from time to time in the *Supreme Court Civil Procedure Act 1932*, creating greater consistency across our justice system.

#### Amendment to the *Nature Conservation Act 2002*

Currently, section 33 of the *Nature Conservation Act 2002* contains defined terms that refer to the former Forest Practices Tribunal.

The functions and powers of the Forest Practices Tribunal have been transferred to TASCAT.

The Bill amends the defined terms within section 33 by substituting references to TASCAT.

#### Amendment to the *Ombudsman Act 1978*

As requested by the Ombudsman, the Bill amends section 20A(1) of the *Ombudsman Act 1978* to allow for preliminary investigations 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.

The amendment is consistent with the purpose of section 20A(1) which is to encourage the early resolution of matters by reducing the need for formal investigations, and the time and resources they require.

#### Amendments to the *Public Accounts Committee Act 1970*

The Bill makes minor technical amendments to section 7(11) of the *Public Accounts Committee Act 1970*, which contains incorrect references to the "*Parliamentary Privilege Act 1957*" and the word "Division".

The Bill replaces the incorrect references by substituting the correct references of "*Parliamentary Privilege Act 1858*" and the word "section" respectively.

### Amendment to the *Public Works Committee Act 1914*

The *Public Works Committee Act 1914* also contains an incorrect reference to the *Parliamentary Privilege 1957*.

The Bill amends this reference, contained in section 22(2), replacing it with the *Parliamentary Privilege Act 1858*.

### Amendments to the *Tasmanian Civil and Administrative Tribunal Act 2020*

The Bill makes minor technical amendments to the TASCAT Act, replacing the words “this subsection” with the words “this clause” in two clauses of Schedule 2 of the Act.

### Amendments to the *Workers Rehabilitation and Compensation Act 1988*

Section 63 of the *Worker Rehabilitation and Compensation Act 1988* was repealed in 2021, however three references to section 63 still exist in the Act.

The Bill amends the references to section 63 and substitutes the relevant sections of the TASCAT Act.

### Amendments to the *Workers' (Occupational Diseases) Relief Fund Act 1954*

The Bill makes two minor, technical amendments to the *Workers' (Occupational) Disease Relief Fund Act 1954* to correct references to the former Workers Rehabilitation and Compensation Commission and the position of Registrar of that Tribunal.

These references are replaced with a reference to TASCAT.

In conclusion Mr Speaker, like other justice miscellaneous bills I bring into this House, this Bill ensures that our legislation remains contemporary and fit for purpose, and implements amendments that will improve the operation of several Acts.

Relevant stakeholders, along with the legal profession and the public, have had the opportunity to inform the development of these amendments through the consultation process. I wish to thank all stakeholders for their input throughout this process.

Mr Speaker, I commend the Bill to the House.