

FACT SHEET

Tasmanian Civil and Administrative Tribunal (Miscellaneous Amendments) Bill 2023

The Tasmanian Civil and Administrative Tribunal (Miscellaneous Amendments) Bill 2023 (the Bill) amends seven Acts related to the Tasmanian Civil and Administrative Tribunal (TASCAT). The Bill will make changes to allow TASCAT to deal with matters that are currently dealt with by the Property Agents Tribunal, and to improve TASCAT's operations and create greater consistency.

Property Agents Tribunal matters

The Property Agents Board hears conduct complaints under the *Property Agents and Land Transactions Act 2016*. The Board can refer complaints to the Property Agents Tribunal. The Property Agents Tribunal can also hear appeals against decisions by the Board (for example, if a property agent thinks that a decision by the Board was not proper in law). This Bill will change these arrangements so that TASCAT will be the body that the Board can refer complaints to, and also the body that hears appeals against Board decisions. This is consistent with the consolidated Tribunal function of TASCAT.

The Bill also amends the *Property Agents and Land Transactions Act 2016* to remove some provisions in that Act that relate to how the Property Agents Tribunal runs. This will mean that the provisions in the *Tasmanian Civil and Administrative Tribunal Act 2020* (TASCAT Act) can apply instead, and when property agents' matters are heard by TASCAT, they can be heard in a similar way to other TASCAT matters.

Improving TASCAT's operations

TASCAT has been operating since late 2021. Over the last two years several changes to legislation have been identified that would improve TASCAT's operations and make the Tribunal more efficient.

The Bill will amend the following legislation:

- The *Criminal Justice (Mental Impairment) Act 1999*, to make it clear that supervision orders can continue to be reviewed by TASCAT while they are suspended.
- The *Water Management Act 1999*, to remove the mandatory requirement for alternative dispute resolution or a compulsory conference when an appeal is made to TASCAT. These matters are often about questions of law, which cannot be decided by conciliation. TASCAT can still refer these matters to conciliation where it is appropriate.
- The *Health Practitioners Tribunal Act 2010*, to remove the requirement for the National Board to provide TASCAT with a list of potential health practitioner members. This requirement does not exist in any other Australian state or territory, is unnecessary and is difficult to administer for the Board and for TASCAT.

- The *Workers Rehabilitation and Compensation Act 1988*, to repeal provisions that relate to representation (by lawyers or otherwise) in workers rehabilitation and compensation matters. This will allow the provisions in the TASCAT Act to apply instead, which are less restrictive and include a right to legal representation. Provisions in this Act which relate to methods of serving documents are also being repealed to allow the broader TASCAT Act provisions to apply. The TASCAT Act allows electronic service (if the person receiving the document consents) where the other Act does not.
- The *Anti-Discrimination Act 1998*, to repeal most of section 98A, which provides a limited power to withdraw a complaint. These amendments will enable the broader provisions in the TASCAT Act to apply instead, to allow TASCAT to deal with the withdrawal, dismissal or striking out of all or part of proceedings. Sub-section (4) of section 98A will be retained, as it provides that where a complaint was not withdrawn voluntarily, or where investigating a complaint is in the public interest, the matter can still be investigated or inquired into, even when the complaint has been withdrawn by the person who made it.
- The Bill also amends the Anti-Discrimination Act to allow TASCAT to hear appeals against a decision by the Anti-Discrimination Commissioner *not to accept* a complaint about discrimination. Currently, these sorts of appeals can only be heard in the Supreme Court. An appeal about a decision *to reject* a complaint can already be heard by TASCAT, so this will make the procedure the same for both types of appeal. This is a more accessible appeal mechanism.
- The TASCAT Act, to allow TASCAT to modify timeframes in the Resource and Planning stream, in line with the other streams of TASCAT. This Act is also being amended to enable tribunal members to be appointed for a term of *up to* five years, so that TASCAT can coordinate appointment timeframes, reducing the need to conduct multiple appointment processes.

Most of the Bill is to commence on Royal Assent. Part 5 will commence on proclamation, to give TASCAT time to recruit and train new tribunal members.