

Disability Rights, Inclusion and Safeguarding (Transitional and Consequential Provisions) Bill 2025

Clause Notes

Clause No.	Notes
Part 1	Preliminary
1	<p>Short Title</p> <p>This Act may be cited as the <i>Disability Rights, Inclusion and Safeguarding (Transitional and Consequential Provisions) Act 2025</i>.</p>
2	<p>Commencement</p> <p>It is intended that the provisions of this Act commence on the day on which the <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> commences.</p> <p>Part 11 is singled out as having commencement on a day or days to be proclaimed. Part 11 relates to the <i>Tasmanian Civil and Administrative Tribunal Act 2020</i> Further Amended. A Bill relating to amendments to the TasCAT Act is also currently before the Parliament. These amendments create a new Jurisdiction in TasCAT which will become the body responsible for External Review for the <i>Disability Rights, Inclusion and Safeguarding Act 2024</i>. The reason for highlighting Part 11 is to ensure interoperability between the TasCAT Act Amendments, commencement of those provisions, commencement of the new Act and the provisions of this Bill.</p>
Part 2	Savings and Transitional
3	<p>Interpretation</p> <p>This clause provides meaning for key terms used in the Bill.</p> <p>Important amongst these are:</p> <ul style="list-style-type: none"> the meaning of <i>former Act</i> being the <i>Disability Services Act 2011</i> and the <i>new Act</i> being the <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> the meaning of <i>former Senior Practitioner</i> being the person who was Senior Practitioner under the <i>Disability Services Act 2011</i>, and the <i>new Senior Practitioner</i> established under the <i>Disability Rights, Inclusion and Safeguarding Act 2024</i>.
4	<p>Senior Practitioner</p> <p>This provision is made to ensure the transition of approvals, determinations, delegations or other decisions made by the former Senior Practitioner, and that were in effect immediately before</p>

	<p>commencement of the new Act, are taken to be a decision made by the new Senior Practitioner as established by the new Act.</p> <p>Decisions are to be in line with the provision of the new Act that most closely approximate the provision in the former Act.</p>
5	<p>Annual Report</p> <p>This provision relates to Annual Reporting of activities of the former and new Senior Practitioner.</p> <p>The provision is made to ensure coverage in Annual Reporting for the entire year of transition and will cover reporting requirements both prior to and after commencement of the new Act.</p>
6	<p>Preservation of approvals to use restrictive practices</p> <p>This provision ensures the smooth transition of approvals for restrictive practices that were in place at the time the new Act commences.</p> <p>(1) An approval made under section 38 of the former Act that was in force immediately before the commencement day will continue as an authorisation for use of a type of restrictive practice granted under section 52 of the new Act on the same terms and conditions.</p> <p>(2) An approval made by the Tribunal under section 41A or section 42 of the former Act that was in force immediately before the commencement day will continue in force as an authorisation for the use of a type of restrictive practice granted under section 52 of the new Act on the same terms and conditions.</p>
7	<p>Applications to use restrictive practices</p> <p>This provision ensures the smooth transition of restrictive intervention applications that were in progress at the time the new Act commences.</p> <p>It ensures that applications under the former Act in progress on and after the commencement of the new Act are to be treated as an application made to the new Senior Practitioner under section 51 or the new Act.</p> <p>The provision ensures that any TasCAT hearing that is in progress at the time of commencement will continue as if the former Act had not been repealed. If the Tribunal then makes an approval regarding a <i>restrictive intervention</i>, it will be taken to be an approval for a <i>restrictive practice</i> under section 52 of the new Act with the same terms and conditions.</p>
8	<p>Review by Secretary under former Act</p> <p>This provision ensures that on or after commencement, an undetermined application to the Secretary for a review under section</p>

	40 of the former Act is taken to be an application made to the new Senior Practitioner for the review of a reviewable decision under section 75 of the new Act.
9	<p>Review by Tribunal under former Act</p> <p>This provision means that an undetermined application to the Tribunal under section 45 of the former Act for the review of an approval to carry out a type of restrictive intervention may continue until determined as if the former Act had not been repealed. If a decision is subsequently amended, that approval continues in force as an authorisation to use a type of restrictive practice granted by the new Senior Practitioner under section 52 of the new Act with the same terms and conditions.</p>
10	<p>Review by Magistrates Court under former Act</p> <p>This provision means that an undetermined application made to the Magistrates Court under section 48 of the former Act may, on and after the commencement day, be continued under that Act until determined as if that Act had not been repealed.</p>
11	<p>Information</p> <p>This clause makes provision for the treatment of information kept or provided under the former Act. On commencement day that information is treated as if it were information kept or provided for the purpose of the new Act.</p> <p>This provision covers information provided by a person or body under the former Act in relation to an undetermined application.</p>
12	<p>Savings and transitional regulations</p> <p>This clause makes provision for regulations of a savings and transitional nature to give effect and facilitate transition from the former to the new Act. No such regulation has been made or is anticipated at this Stage.</p> <p>Regulations are proposed in relation to clause 42 (National Standards) and 55 (Prohibited Practices) of the Principal Act but not related to savings of transitional matters or this Bill.</p>
Part 3	Child and Youth Safe Organisations Act 2023 Amended
13	Principal Act is the <i>Child and Youth Safe Organisations Act 2023</i> .
14	<p>Schedule 2 amended (Entities to comply with child and youth safe standards)</p> <p>Omitting “<i>Disability Services Act 2011</i>” and substituting “<i>Disability Rights, Inclusion and Safeguarding Act 2024</i>”.</p>

15	Schedule 3 amended (Relevant entities to which reportable conduct scheme applies) Omitting “ <i>Disability Services Act 2011</i> ” and substituting “ <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> ”.
Part 4	Children, Young Persons and the Families Act 1997 Amended
16	Principal Act is the <i>Children, Young Persons and the Families Act 1997</i> .
17	Section 3 amended (Interpretation) This amendment updates the meaning of (e) information sharing entity, in 3 (1) of the Principal Act to include the person in charge of an organisation that is a disability services provider within the meaning of the <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> .
Part 5	Dangerous Criminals and High Risk Offenders Act 2020 Amended
18	Principal Act is the <i>Dangerous Criminals and High Risk Offenders Act 2020</i> .
19	Section 25 amended (Meaning of relevant agency) Omitting “ <i>Disability Services Act 2011</i> ” and substituting “ <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> ”.
20	Section 26 amended (High risk offenders assessment committee) Omitting “ <i>Disability Services Act 2011</i> ” and substituting “ <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> ”.
Part 6	End-of-life Choices (Voluntary Assisted Dying) Act 2021 Amended
21	Principal Act is the <i>End-of-life Choices (Voluntary Assisted Dying) Act 2021</i> .
22	Section 5 amended (Interpretation) Omitting paragraph (b) from the definition of <i>professional care service</i> and substituting: (b) a disability service withing the meaning of the <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> .
23	Section 10 amended (When person is eligible to access voluntary assisted dying) 10 (a) and (b) Omitting “ <i>Disability Services Act 2011</i> ” and substituting “ <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> ”.
Part 7	Obstetric and Paediatric Mortality and Morbidity Act 1994 Amended

24	Principal Act is the <i>Obstetric and Paediatric Mortality and Morbidity Act 1994</i> .
25	Section 3 amended (Interpretation) Omitting “ <i>Disability Services Act 2011</i> ” from the definition of <i>relevant Minister</i> and substituting “ <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> ”.
Part 8	Poisons Regulations 2018 Amended
26	Principal Regulations are the Poisons Regulations 2018.
27	Regulation 3 amended (Interpretation) Amending 3(1) of the Poisons Regulations by: <ul style="list-style-type: none"> • omitting “<i>Disability Services Act 2011</i>” from the definition of <i>disability</i> and substituting “<i>Disability Rights, Inclusion and Safeguarding Act 2024</i>” and • updating the meaning of disability services provider as having the same meaning as the <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> and • omitting the definition of funding agreement as this concept is no longer relevant.
28	Regulation 127 amended (Administration of certain substances by disability service workers) is updated by omitting “ <i>Disability Services Act 2011</i> ” and substituting “ <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> ” and clarifying the interpretation of disability service provider as interpreted in the new Act.
29	Regulation 128 amended (Disability service workers may assist with self-administration) clarifies the interpretation of disability service provider as interpreted in the <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> .
30	Regulation 135 amended (Administration of certain substances by carers) clarifies the interpretation of disability service provider as interpreted in the <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> .
Part 9	Registration to work with Vulnerable People Regulations 2024 Amended
31	Principal Regulations are the Registration to work with Vulnerable People Regulation 2024
32	Regulation 15 amended (Child disability service – regulated activity) Regulation 15(1) of the Principal Regulations is amended by omitting “ <i>Disability Services Act 2011</i> ” from the definition of <i>disability</i> and substituting “ <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> ”.

Part 10	Tasmanian Civil and Administrative Tribunal Act 2020 Amended
33	Principal Act is <i>Tasmanian Civil and Administrative Tribunal Act 2020</i> .
34	Section 136 amended (Appeals to Supreme Court) Omitting “ <i>Disability Services Act 2011</i> ” and substituting “ <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> ”.
35	Schedule 3 amended (Protective Division) Schedule 3 to the Principal Act is amended by omitting “ <i>Disability Services Act 2011</i> ” from clause 1(1)(b) of Part 3 and substituting “ <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> ”.
Part 11	Tasmanian Civil and Administrative Tribunal Act 2020 Further Amended
36	Principal Act is the <i>Tasmanian Civil and Administrative Tribunal Act 2020</i> .
37	This clause updates references in Schedule 1 to the <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> . Schedule 1 amended (Relevant Acts)
38	This updates the definitions in Schedule 3: <ul style="list-style-type: none"> to remove the definition of restrictive intervention as used in the former Act and inserting the definition of restrictive practice as used in the <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> amended (Protective Division) by Omitting references to the “<i>Disability Services Act 2011</i>” and substituting “<i>Disability Rights, Inclusion and Safeguarding Act 2024</i>” make changes to remove the former Act from the Guardian stream of TasCAT and place the external review function created in the <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> in a Jurisdiction of TasCAT. This jurisdiction will be the Communities, Children and Families jurisdiction to be established by the TasCAT Additional Jurisdictions Bill when it commences. This is why Part 11 is singled out as possibly having a different commencement date than the remaining parts.
Part 12	Miscellaneous
39	Effect of certain consequential amendments The amendment means that changes made by the <i>Disability Rights, Inclusion and Safeguarding Act 2024</i> to regulations don’t preclude subsequent changes being made to those regulations.
40	Administration of Act

	<p>Administration of this Act is assigned to the Minister for Disability Services.</p> <p>The Department responsible for administration the Act is the Department of Premier and Cabinet.</p>
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