

TASMANIA

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**HEALTH PRACTITIONER REGULATION  
NATIONAL LAW (TASMANIA) BILL 2010**

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# **HEALTH PRACTITIONER REGULATION NATIONAL LAW (TASMANIA) BILL 2010**

*(Brought in by the Minister for Health, the Honourable  
Larissa Tahireh Giddings)*

## **A BILL FOR**

### **An Act to regulate health practitioners**

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:

## **PART 1 – PRELIMINARY**

### **1. Short title**

This Act may be cited as the *Health Practitioner Regulation National Law (Tasmania) Act 2010*.

### **2. Commencement**

- (1) Except as provided in this section, this Act commences on a day or days to be proclaimed.
- (2) Sections 9 and 11 commence on the day on which this Act receives the Royal Assent.

### **3. Interpretation**

- (1) In this Act –

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Part 1 – Preliminary

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**“Health Practitioner Regulation National Law (Tasmania)”** means the provisions applying in this jurisdiction because of section 4.

- (2) Terms used in this Act and also in the Health Practitioner Regulation National Law set out in the Schedule to the *Health Practitioner Regulation National Law Act 2009* of Queensland have the same meanings in this Act as they have in that Law.

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**PART 2 – ADOPTION OF HEALTH PRACTITIONER  
REGULATION NATIONAL LAW**

**4. Adoption of Health Practitioner Regulation  
National Law**

The Health Practitioner Regulation National Law, as in force from time to time, set out in the Schedule to the *Health Practitioner Regulation National Law Act 2009* of Queensland –

- (a) applies as a law of this jurisdiction; and
- (b) as so applying may be referred to as the Health Practitioner Regulation National Law (Tasmania); and
- (c) so applies as if it were part of this Act.

**5. Meaning of generic terms in Health Practitioner  
Regulation National Law for purposes of this  
jurisdiction**

In the Health Practitioner Regulation National Law (Tasmania) –

“**court of summary jurisdiction**” means the Magistrates Court or another court exercising summary jurisdiction;

“**magistrate**” has the same meaning as in the *Magistrates Court Act 1987*;

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**“magistrates court”** has the same meaning as  
in the *Magistrates Court Act 1987*;

**“this jurisdiction”** means Tasmania.

**6. Responsible tribunal for Health Practitioner  
Regulation National Law**

The Magistrates Court (Civil Division) is a  
responsible tribunal for the purposes of the  
Health Practitioner Regulation National Law.

**7. Exclusion of legislation of this jurisdiction**

The following Acts of this jurisdiction do not  
apply to the Health Practitioner Regulation  
National Law (Tasmania) or to instruments made  
under that Law:

- (a) *Acts Interpretation Act 1931*;
- (b) *Audit Act 2008*;
- (c) *Financial Management and Audit Act 1990*;
- (d) *Freedom of Information Act 1991*;
- (e) *Ombudsman Act 1978*;
- (f) *Penalty Units and Other Penalties Act 1987*;

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- (g) *Personal Information Protection Act 2004;*
- (h) *Right to Information Act 2009;*
- (i) *State Service Act 2000;*
- (j) *Subordinate Legislation Act 1992.*

**8. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of a provision of this Act.

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Part 3 – Provisions Specific to This Jurisdiction

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**PART 3 – PROVISIONS SPECIFIC TO THIS  
JURISDICTION**

**9. Interpretation**

In this Part –

**“former health practitioner registration Act”** means any of the following Acts:

- (a) *Chiropractors and Osteopaths Registration Act 1997*;
- (b) *Dental Practitioners Registration Act 2001*;
- (c) *Dental Prosthetists Registration Act 1996*;
- (d) *Medical Practitioners Registration Act 1996*;
- (e) *Nursing Act 1995*;
- (f) *Optometrists Registration Act 1994*;
- (g) *Pharmacists Registration Act 2001*;
- (h) *Physiotherapists Registration Act 1999*;
- (i) *Podiatrists Registration Act 1995*;

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(j) *Psychologists Registration Act  
2000*;

**“participation day”**, for this jurisdiction, has the same meaning as in Part 12 of the Health Practitioner Regulation National Law (Tasmania).

**10. Transfer of certain property exempt from duty**

The transfer of any “dutiabale property”, within the meaning of the *Duties Act 2001*, from a local registration authority to the National Agency in accordance with the Health Practitioner Regulation National Law (Tasmania) is exempt from duty under the *Duties Act 2001*.

**11. Minister’s directions**

(1) The Minister may, by written notice given to a local registration authority established under a former health practitioner registration Act, direct that authority –

- (a) to transfer any of the local registration authority’s funds to the National Agency before the participation day for this jurisdiction; and
- (b) to give information to the National Agency before the participation day for this jurisdiction; and

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- (c) to sign any documents that are required to enable transition to the proposed national registration and accreditation scheme; and
  - (d) to take any action or do any other thing required to enable transition to the national registration and accreditation scheme.
- (2) A local registration authority is to comply with any direction given by the Minister under subsection (1).

**12. Police commissioner may give criminal history information**

- (1) The police commissioner may give criminal history information to –
- (a) a National Board; or
  - (b) CrimTrac, or a police force or police service of the Commonwealth or another State, for the purpose of CrimTrac or the police force or police service giving the criminal history information to a National Board.

- (2) In this section –

**“criminal history information”** means information about a person’s criminal history that may be included in a written

report under the Health Practitioner Regulation National Law (Tasmania).

**13. Health and performance assessments**

Nothing in Division 9 of Part 8 of the Health Practitioner Regulation National Law (Tasmania) is intended to restrict a registered health practitioner who is required under that Division to undergo a health or performance assessment from being accompanied during that assessment by another person.

**14. Procedure with respect to national law regulations**

(1) For the purposes of section 246 of the Health Practitioner Regulation National Law (Tasmania) –

- (a) any regulations made under the Health Practitioner Regulation National Law (Tasmania) are to be notified in the *Gazette* within 21 days after the day on which the regulations are published by the Victorian Government Printer pursuant to that law; and
- (b) the regulations are to be laid before each House of Parliament within the first 10 sitting days of the House after the regulations are so published; and

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- (c) the regulations are to take effect on or from a day that is specified for the purpose in the regulations.
- (2) If either House of Parliament passes a resolution, of which notice has been given within the first 15 sitting days of the House after any regulation under subsection (1) is laid before it, that the regulation be disallowed –
- (a) the provisions of section 246(2) of the Health Practitioner Regulation National Law (Tasmania) apply; and
  - (b) the Minister is to notify the Ministerial Council of the resolution.

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**PART 4 – SAVINGS AND TRANSITIONAL  
PROVISIONS**

**15. Interpretation**

In this Part –

**“former health practitioner registration Act”** has the same meaning as in Part 3;

**“local registration authority”** has the same meaning as in Part 12 of the Health Practitioner Regulation National Law (Tasmania);

**“participation day”**, for this jurisdiction, has the same meaning as in Part 3.

**16. Declarations of areas of need**

A declaration of an area of need made under section 21 of the *Medical Practitioners Registration Act 1996*, and in force immediately before the participation day for this jurisdiction, continues in force on and after that day as if it were made under the Health Practitioner Regulation National Law (Tasmania).

**17. Complaints being dealt with on participation day**

(1) In this section –

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**“former health practitioner Tribunal”**  
means any of the following:

- (a) a disciplinary tribunal within the meaning of the *Pharmacists Registration Act 2001* or the *Dental Practitioners Registration Act 2001*;
- (b) the Professional Review Tribunal established under the *Nursing Act 1995*;
- (c) the Medical Complaints Tribunal established under the *Medical Practitioners Registration Act 1996*;

**“investigating committee”** means a committee established under a former health practitioner registration Act for the purposes of investigating a complaint.

(2) Notwithstanding section 289 of the Health Practitioner Regulation National Law (Tasmania), if before the participation day for this jurisdiction a local registration authority had started, but not immediately before that day completed, dealing with a complaint about a person registered in a health profession by the local registration authority –

- (a) the complaint is to be dealt with by the National Board for the health profession; and

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- (b) the complaint is to continue to be dealt with under the former health practitioner registration Act under which it was made; and
- (c) if, in so dealing with the matter –
- (i) under the *Nursing Act 1995* or the *Medical Practitioners Registration Act 1996*, the National Board for the health profession; or
  - (ii) under the *Pharmacists Registration Act 2001* or the *Dental Practitioners Registration Act 2001*, an investigating committee established for the complaint –
- considers that the matter should be referred to a former health practitioner Tribunal, the responsible tribunal may deal with the matter as if it were the former health practitioner Tribunal; and
- (d) the responsible tribunal is to deal with the matter under the relevant former health practitioner registration Act under which the complaint was made and may make any decision that the former health practitioner Tribunal could have made.
- (3) Notwithstanding subsection (2), if before the participation day for this jurisdiction a former health practitioner Tribunal had started, but not

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immediately before that day completed, hearing a complaint referred to it by a local registration authority, that Tribunal may continue to deal with the matter under the relevant former health practitioner registration Act under which the complaint was made.

**18. Proceedings in respect of offences**

- (1) Proceedings in respect of an offence committed under a former health practitioner registration Act that have been instituted by a local registration Authority but have not been finally dealt with before the participation day for this jurisdiction may be continued by the Secretary of the Department.
- (2) Proceedings in respect of an offence committed under a former health practitioner registration Act that could have been instituted by a local registration Authority before the participation day for this jurisdiction may be instituted by the Secretary of the Department.

**19. Annual reports**

- (1) Notwithstanding the repeal of a former health practitioner registration Act, a local registration authority must, not later than 60 days after the participation day for this jurisdiction, give the Minister a report of its operations for the period commencing on 1 July immediately preceding

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the participation day for this jurisdiction and ending on that participation day.

- (2) The report is to incorporate the audited statement of accounts prepared for the period referred to in subsection (1).
- (3) The Minister may, in writing, direct the local registration authority to prepare the report in a particular way or to include particular information in the report.
- (4) The report may be appended to the annual report of the Department.
- (5) Subsection (4) has effect notwithstanding section 36(3) of the *State Service Act 2000* or section 27(2) of the *Financial Management and Audit Act 1990*.
- (6) If the local registration authority's report is not appended to the annual report of the Department, the Minister must cause the local registration authority's report to be laid before each House of Parliament by not later than 30 November after the end of the financial year to which it relates.

**20. References in other Acts**

- (1) A reference in any Act to a person registered under the Health Practitioner Regulation National Law (Tasmania) in a health profession, however described, that enables or requires a health practitioner to act in the course of his or

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her profession does not include a student or a person holding non-practising registration under that Law.

- (2) A reference in any Act to a person registered under the Health Practitioner Regulation National Law (Tasmania) in the pharmacy profession does not include a person who holds provisional registration under that Law unless that Act otherwise provides.

**21. Continuation of excluded legislation, &c.**

- (1) In this section –

**“excluded legislation”** means –

- (a) the *Freedom of Information Act 1991*; and
- (b) the *Right to Information Act 2009*; and
- (c) the *Personal Information Protection Act 2004*;

**“notification”** means –

- (a) in the case of the *Freedom of Information Act 1991*, a request for information made pursuant to section 13 of that Act; or
- (b) in the case of the *Right to Information Act 2009*, an

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application for assessed disclosure made pursuant to section 13 of that Act; or

(c) in the case of the *Personal Information Protection Act 2004*, a matter raised with a local registration authority in its capacity as a personal information custodian under that Act.

(2) Notwithstanding section 7, if, before the participation day for this jurisdiction, a local registration authority had received a notification but had not completed dealing with the notification immediately before that day –

(a) the notification is to be dealt with by the relevant National Board; and

(b) the notification is to continue to be dealt with under the excluded legislation under which it was made; and

(c) any review rights contained in the excluded legislation continue to apply to the notification.

(3) Notwithstanding section 7, if, before the participation day for this jurisdiction, the Ombudsman had received a complaint about a local registration authority under the *Ombudsman Act 1978* or the *Personal Information Protection Act 2004* but had not

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completed dealing with the complaint immediately before that day –

- (a) the complaint is to be dealt with under the *Ombudsman Act 1978* or the *Personal Information Protection Act 2004* (whichever applies); and
- (b) the relevant national board for the health profession is taken to be the local registration authority about which the complaint relates.

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## **PART 5 – MISCELLANEOUS**

### **22. 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 Health; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Health and Human Services.

### **23. Legislation repealed**

The legislation specified in Schedule 1 is repealed.

### **24. Legislation rescinded**

The legislation specified in Schedule 2 is rescinded.

### **25. Legislation revoked**

The legislation specified in Schedule 3 is revoked.

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**SCHEDULE 1 – LEGISLATION REPEALED**

Section 23

- Optometrists Registration Act 1994* (No. 87 of 1994)
- Podiatrists Registration Act 1995* (No. 81 of 1995)
- Nursing Act 1995* (No. 100 of 1995)
- Medical Practitioners Registration Act 1996* (No. 2 of 1996)
- Dental Prosthetists Registration Act 1996* (No. 56 of 1996)
- Chiropractors and Osteopaths Registration Act 1997* (No. 48  
of 1997)
- Physiotherapists Registration Act 1999* (No. 106 of 1999)
- Psychologists Registration Act 2000* (No. 9 of 2000)
- Dental Practitioners Registration Act 2001* (No. 20 of 2001)
- Medical Practitioners Registration Amendment Act 2004* (No.  
18 of 2004)
- Medical Practitioners Registration Amendment Act 2007* (No.  
50 of 2007)

**SCHEDULE 2 – LEGISLATION RESCINDED**

Section 24

- Dental Prosthetists Registration (Fees) Regulations 2000 (No. 196 of 2000)*
- Physiotherapists Registration (Fees) Regulations 2000 (No. 199 of 2000)*
- Physiotherapists Registration (Fees) Amendment Regulations 2001 (No. 148 of 2001)*
- Dental Prosthetists Registration (Fees) Amendment Regulations 2002 (No. 50 of 2002)*
- Dental Practitioners Registration (Fees) Regulations 2002 (No. 126 of 2002)*
- Chiropractors and Osteopaths Registration Regulations 2003 (No. 36 of 2003)*
- Dental Practitioners Registration (Fees) Amendment Regulations 2003 (No. 134 of 2003)*
- Chiropractors and Osteopaths Registration Amendment Regulations 2003 (No. 158 of 2003)*
- Physiotherapists Registration (Fees) Amendment Regulations 2003 (No. 170 of 2003)*
- Physiotherapists Registration (Fees) Amendment Regulations 2004 (No. 102 of 2004)*
- Dental Prosthetists Registration (Fees) Amendment Regulations 2005 (No. 27 of 2005)*

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*Optometrists Registration (Fees) Regulations 2005 (No. 92 of 2005)*

*Dental Practitioners Registration Regulations 2005 (No. 110 of 2005)*

*Nursing Regulations 2005 (No. 132 of 2005)*

*Chiropractors and Osteopaths Registration Amendment Regulations 2006 (No. 18 of 2006)*

*Chiropractors and Osteopaths Registration (Fees) Regulations 2006 (No. 27 of 2006)*

*Dental Practitioners Registration (Fees) Amendment Regulations 2006 (No. 104 of 2006)*

*Psychologists Registration (Fees) Regulations 2006 (No. 136 of 2006)*

*Optometrists Registration (Fees) Amendment Regulations 2006 (No. 140 of 2006)*

*Physiotherapists Registration Regulations 2007 (No. 51 of 2007)*

*Dental Prosthetists Registration (Fees) Amendment Regulations 2007 (No. 90 of 2007)*

*Nursing (Fees) Regulations 2007 (No. 127 of 2007)*

*Chiropractors and Osteopaths Registration (Fees) Amendment Regulations 2008 (No. 35 of 2008)*

*Medical Practitioners Registration (Fees) Regulations 2008 (No. 132 of 2008)*

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*Podiatrists Registration (Fees) Regulations 2009 (No. 17 of  
2009)*

*Dental Practitioners Registration (Fees) Amendment  
Regulations 2009 (No. 93 of 2009)*

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**SCHEDULE 3 – LEGISLATION REVOKED**

Section 25

*Proclamation under the Optometrists Registration Act 1995  
(No. 33 of 1995)*

*Proclamation under the Nursing Act 1996 (No. 45 of 1996)*

*Proclamation under the Medical Practitioners Registration  
Act 1996 (No. 113 of 1996)*

*Proclamation under the Dental Prosthetists Registration Act  
1996 (No. 221 of 1996)*

*Proclamation under the Chiropractors and Osteopaths  
Registration Act 1997 (No. 65 of 1998)*

*Proclamation under the Physiotherapists Registration Act  
1999 (No. 4 of 2000)*

*Proclamation under the Psychologists Registration Act 2000  
(No. 174 of 2000)*

*Proclamation under the Dental Practitioners Registration Act  
2001 (No. 108 of 2001)*

*Proclamation under the Medical Practitioners Registration  
Amendment Act 2004 (No. 71 of 2004)*