

TASMANIA

**SECONDARY COLLEGES (RESTORATION) BILL 2010**

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# SECONDARY COLLEGES (RESTORATION) BILL 2010

*(Brought in by Michael Darrel Joseph Ferguson)*

## A BILL FOR

**An Act to repeal the *Education and Training (Tasmanian Academy) Act 2008* and the *Education and Training (Tasmanian Polytechnic) Act 2008*, to re-establish secondary colleges, provide for transitional arrangements for employees, property and liabilities, 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 *Secondary Colleges (Restoration) Act 2010*.

### **2. Commencement**

(1) Subject to subsection (2), this Act commences on a date fixed by proclamation.

(2) If a date has not been proclaimed for the commencement of this Act by 31 December 2010, this Act shall commence on 1 January 2011.

### **3. Guiding principles**

(1) In the administration of this Act, regard is to be had for the principle that the qualifications and skills of Tasmanians obtained through education and training undertaken after the completion of Year 10 must be maximised.

(2) In the interpretation of this Act, regard is to be had for the provisions of the *Secondary Colleges (Restoration) Consequential Amendments Act 2010*.

#### 4. Definitions

In this Act, unless the contrary intention appears –

“**Consequential Act**” means the *Secondary Colleges (Restoration) Consequential Amendments Act 2010*.

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

“**entity**” means the Tasmanian Academy or the Tasmanian Polytechnic prior to 1 January 2011;

“**former entity**” means the former Tasmanian Academy or the former Tasmanian Polytechnic, after 1 January 2011.

“**secondary college**” means a college established by the department for education and training after Year 10.

#### 5. Acts repealed

(1) The *Education and Training (Tasmanian Academy) Act 2008* is repealed on 1 January 2011.

(2) The *Education and Training (Tasmanian Polytechnic) Act 2008* is repealed on 1 January 2011.

#### 6. Secondary colleges re-established

The Minister must take all necessary actions to re-establish secondary colleges from 1 January 2011.

#### Saving and transitional provisions

#### 7. No liability for Acts, etc done lawfully

Nothing in this Act shall be construed as affecting any act, decision or thing done by the Minister, any director, chief executive officer, employee or other person acting under a provision of a Designated Act, if those acts, decisions or things were done lawfully when a Designated Act was in force.

## **8. Employment**

- (1) Subject to subsection (3), the employment of any person employed under the *State Service Act 2000* to undertake duties in a former entity shall not be terminated or varied solely because of the repeal of the *Education and Training (Tasmanian Academy) Act 2008* or the *Education and Training (Tasmanian Polytechnic) Act 2008*.
- (2) For the avoidance of doubt, employment of a person in a former entity shall be interpreted under this Act or the Consequential Act as continuing in a secondary college after 1 January 2011 if the employment of that person has not otherwise ceased under another provision of the *State Service Act 2000* not contingent on the passage of this Act or the Consequential Act.
- (3) Subsections (1) and (2) do not apply to a person employed as a director or a chief executive officer of a former entity.

## **9. Transfer of property and liabilities**

Any property and rights (other than Crown land) and liabilities and obligations, whether actual, prospective or contingent, held by the former entities shall vest in the Crown on 1 January 2011 or, if this Act commences before that date, on such other earlier date the Minister determines in writing by notice in the *Gazette*.

## **10. Crown land**

- (1) On 1 January 2011 or, if this Act commences before that date, on such other earlier date the Minister determines in writing by notice in the *Gazette*, any land held by the Academy or Polytechnic shall vest in the Crown –
  - (a) Subject only to those estates in the land as existed immediately prior to the commencement of this Act; and
  - (b) If the land was not vested in the Tasmanian Academy or the Tasmanian Polytechnic subject to an estate, free from all encumbrances.
- (2) The Crown shall not be liable to pay any State charges, taxes or duties in respect of the vesting of land under this section.

## **11. Annual report, etc.**

- (1) The Board of the Tasmanian Academy and the Tasmanian Polytechnic are to prepare an annual report for each financial year and for the period from 1 July 2010 to the date this Act commences.
- (2) The annual report is to include the following:
  - (a) the financial statements of the entity or former entity for the financial year to which the annual report relates or the period from 1 July 2010 to the date this Act commences;
  - (b) a copy of any report of the Auditor-General received under section 28 of a Designated Act in respect of the financial statements;
  - (c) a report on the performance of entity or former entity;
  - (d) a report on the operations of entity or former entity;
  - (e) any information the Minister requires relating to the directors, chief executive officer and employees;
  - (f) any other information the Minister requires;
  - (g) any other information the Board considers is appropriate or necessary to properly inform the Minister and Parliament as to the performance and progress of the entity or former entity.

## **12. Tabling of annual report**

- (1) The Minister is to lay a copy of the annual report of a former entity provided under this Act before each House of Parliament within 4 months after the end of the financial year to which the annual report relates or, in the case of a part of a year, within seven sitting days of 31 December 2010.
- (2) If the Minister is unable to lay a copy of the annual report before a House of Parliament within the period specified in

subsection (1) because either House of Parliament is not sitting at the expiration of that period or on that day, the Minister is to –

- (a) provide a copy of the annual report to the Clerk of that House of Parliament immediately after the expiration of that period or that day; and
- (b) lay a copy of the annual report before that House within the next 7 sitting-days of that House.

### **13. 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.