



TASMANIA

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**CHILD PROTECTION AMENDMENT ACT 1990**

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**No. 43 of 1990**

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**AN ACT to amend the *Child Protection Act 1974*****[Royal Assent 20 December 1990]**

**B**E 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:—

**Short title**

**1**—This Act may be cited as the *Child Protection Amendment Act 1990*.

**Commencement**

**2**—The provisions of this Act commence on a day or days to be proclaimed.

**Principal Act**

3—In this Act, the *Child Protection Act 1974\** is referred to as the Principal Act.

**Section 2 amended (Interpretation)**

4—Section 2 (1) of the Principal Act is amended as follows:—

- (a) by omitting the definition of “appointed member”;
- (b) by omitting “Assessment” from the definition of “Board”;
- (c) by inserting the following definition after the definition of “Director”:—  
     “functions” includes duties;

**Section 3 amended (Child Protection Board)**

5—Section 3 of the Principal Act is amended as follows:—

- (a) by omitting “Assessment” from subsection (1);
- (b) by omitting subsections (2) and (4) and substituting the following subsections:—
  - (2) The Board shall consist of the following members:—
    - (a) the chairperson who shall be the Secretary of the Department;
    - (b) a person employed in the responsible Department in relation to the *Child Welfare Act 1960*;
    - (c) a person employed in the responsible Department in relation to the *Police Regulation Act 1898*;
    - (d) a person employed in the responsible Department in relation to the *Criminal Code Act 1924*;
    - (e) a person employed in the responsible Department in relation to the *Education Act 1932*;
    - (f) a person employed in the responsible Department in relation to the *Health Services Act 1960*;
    - (g) not more than 4 other persons.
  - (3) The members of the Board, other than the chairperson, shall be appointed by the Minister.
- (c) by omitting “An appointed member of the Board” from subsection (5) and substituting “A member of the Board, other than the chairperson,”;
- (d) by omitting “chairman” (twice occurring) from subsection (7) and substituting “chairperson”;
- (e) by omitting “chairman” from subsection (8) and substituting “chairperson”;

\* No. 104 of 1974. For this Act, as amended to 1 June 1979, see the continuing Reprint of Statutes. Subsequently amended by No. 67 of 1982, No. 29 of 1984, No. 29 of 1986, No. 31 of 1987 and No. 5 of 1990.

(f) by adding the following subsection after subsection (13):—

(14) A member of the Board shall not incur any personal liability in respect of any act done or omitted to be done by the member in good faith—

(a) in the performance or exercise, or the purported performance or exercise, of any function or power under this Act; or

(b) in the administration or execution, or the purported administration or execution, of this Act.

### **Section 3B amended (Community education)**

6—Section 3B of the Principal Act is amended by omitting “Minister,” and substituting “Minister or a person authorized by the Minister,”.

### **Section 3C amended (Arrangements with other bodies, &c.)**

7—Section 3C of the Principal Act is amended by omitting “Minister,” and substituting “Minister or a person authorized by the Minister,”.

### **Section 5A inserted**

8—After section 5 of the Principal Act, the following section is inserted:—

#### **Annual report**

5A—(1) The Board shall, on or before 31 October in each year or such other date as may be determined by the Secretary of the Department—

(a) prepare an annual report in respect of the period of 12 months that ended on the last preceding 30 June or such other period of 12 months as may have been prescribed under the *Tasmanian State Service Act 1984* in relation to the Head of Agency, within the meaning of that Act, for the Department; and

(b) furnish the Head of Agency with that annual report.

(2) The annual report shall relate to—

(a) the performance of the functions and the exercise of the powers of—

(i) the Board; and

(ii) the authorized officers; and

- (iii) the staff attached to the Board; and
- (iv) any committee appointed under section 6A; and
- (v) any sub-committee appointed under section 6A; and
- (b) such other matters as the Head of Agency specified in subsection (1) considers is appropriate or is necessary for Parliament to be properly informed as to the performance and progress of the Board during the period of 12 months to which the annual report relates.

### **Section 6 amended (Exercise of the functions of the Board)**

**9**—Section (6) (1) of the Principal Act is amended by omitting “chairman” and substituting “chairperson”.

### **Section 6A amended (Committees of Board)**

**10**—Section 6A of the Principal Act is amended by adding the following subsections after subsection (7):—

(8) Subject to subsection (9), a member of a committee or sub-committee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister, or a person authorized by the Minister, may from time to time determine.

(9) The remuneration determined in respect of a member may be determined generally or in relation to a class of members or that particular member.

(10) A member of a committee or sub-committee who is an employee, within the meaning of the *Tasmanian State Service Act 1984*, is not entitled to remuneration under subsection (8), except with the approval of the Head of the Agency in which the employee is employed.

(11) A member of a committee or sub-committee shall not incur any personal liability in respect of any act done or omitted to be done by the member in good faith—

- (a) in the performance or exercise, or the purported performance or exercise, of any function or power under this Act; or
- (b) in the administration or execution, or the purported administration or execution, of this Act.

**Section 9 amended (Requirement to take child for treatment)**

**11**—Section 9 (3) of the Principal Act is amended by omitting “form 1 in Schedule I to this Act,” and substituting “the prescribed form,”.

**Section 15 amended (Supplementary provisions as to taking of children to places of safety)**

**12**—Section 15 (2) of the Principal Act is amended by omitting “form 2 in Schedule 1 to this Act,” and substituting “the prescribed form,”.

**Section 17C amended (Obstruction, &c., of persons acting under Act)**

**13**—Section 17C of the Principal Act is amended as follows:—

(a) by inserting “(1)” before “A person”;

(b) by adding the following subsection as subsection (2) of that section:—

(2) A police officer may arrest, without warrant, a person whom—

(a) the police officer; or

(b) a person acting in pursuance of a provision of this Act or of an order made, or a direction given, under this Act—

has reasonable grounds for believing has committed or is committing an offence under subsection (1).

**Section 18 amended (Payments by Board, &c.)**

**14**—Section 18 of the Principal Act is amended as follows:—

(a) by omitting “Minister,” from subsection (1) and substituting “Minister or a person authorized by the Minister to give such directions,”;

(b) by inserting in subsection (2) “or a person authorized by the Minister under subsection (1)” after “Minister”.

**Section 20 added**

**15**—After section 19 of the Principal Act, the following section is added:—

**Regulations**

**20**—The Governor may make regulations for the purposes of this Act.

**Schedule 1 repealed**

**16**—Schedule 1 to the Principal Act is repealed.

**Transitional provisions relating to Principal Act**

**17**—(1) Where a person was a member of the Child Protection Assessment Board immediately before the commencement of this Act, the term of office of that member terminates on that commencement notwithstanding the terms of that member's appointment.

(2) Any act, matter or thing done or omitted to be done by the Child Protection Assessment Board before the commencement of this Act shall, on and from that day, have the same effect as if it had been done or omitted to be done by the Child Protection Board.