



## LEGISLATION PUBLICATION ACT 1996

No. 17 of 1996

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## LEGISLATION PUBLICATION ACT 1996

No. 17 of 1996

**An Act to establish a database as the source of the authorised version of legislation in force in this State, to provide for the production and distribution of authorised copies of legislation on the database, to give evidentiary status to those copies, to provide for the making of editorial changes to legislation and for the reprinting of legislation, to repeal the *Acts Custody Act 1858* and the *Acts Reprinting Act 1979* and to amend certain other Acts**

[Royal Assent 10 July 1996]

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

#### Short title

1. This Act may be cited as the *Legislation Publication Act 1996*.

### **Commencement**

2. This Act commences on a day to be proclaimed.

### **Interpretation**

3. In this Act –

**"Act"** means an enactment of the Parliament of this State;

**"current legislative drafting practice"** means the legislative drafting practice for the time being in use in Tasmania;

**"database"** means the database referred to in section 5;

**"law"** means –

- (a) an Act; and
- (b) a statutory rule;

**"made"** includes enacted;

**"minor error"** means –

- (a) a typographical error; or
- (b) a grammatical error; or
- (c) a spelling error; or
- (d) an error of punctuation; or
- (e) an error in cross-referencing to a provision of a law or other instrument;

**"referential words"** means any of the words specified in section 4 occurring in conjunction

with a number to designate a provision of a law;

**"statutory rule"** has the same meaning as in the *Rules Publication Act 1953*.

### **Referential words**

#### **4. The following are referential words:**

- (a) "of this Act";
- (b) "to this Act";
- (c) "of these regulations";
- (d) "to these regulations";
- (e) "of this Schedule";
- (f) "of this Chapter";
- (g) "of this Part";
- (h) "of this Division";
- (i) "of this Subdivision";
- (j) "of this section";
- (k) "of this subsection";
- (l) "of this regulation";
- (m) "of this subregulation";
- (n) "of this paragraph";
- (o) "of this subparagraph";
- (p) "of this clause";

- (q) "of this subclause";
- (r) "of this item";
- (s) "before-mentioned";
- (t) "afore-mentioned";
- (u) "hereof" or "hereto";
- (v) "thereof" or "thereto";
- (w) "said" or "aforesaid".

## PART 2 - DATABASE

### Database

5. (1) The Chief Parliamentary Counsel must establish a database in electronic form of legislation of this State.

(2) The database is to be under the control of the Chief Parliamentary Counsel.

(3) The database is to consist of –

- (a) all Acts for the time being in force and, if any of those Acts have been amended and the amendments are in force, those Acts with the amendments incorporated; and
- (b) all other Acts enacted after the commencement of this Act; and
- (c) certain statutory rules for the time being in force and, if any of those statutory rules have been amended and the amendments are in force, those statutory rules with the amendments incorporated; and
- (d) all statutory rules made after the commencement of this Act.

(4) The Chief Parliamentary Counsel must produce or cause to be produced original copies of the database in electronic or printed form and cause the original copies to be held securely in a place separate from the place at which the database is held.

(5) Copies of the database produced under subsection (4) are to be treated for all purposes as if they were the database.

**Authorised versions of Acts and statutory rules**

**6. (1)** The Acts and statutory rules of this State are to be taken in all circumstances and for all purposes to be as they appear from time to time in the authorised version of the Acts and statutory rules.

**(2)** Subject to subsections (3) and (4), on and after the commencement of this Act, the authorised version of an Act at any particular date is that version of the Act which appears on the database as at that date.

**(3)** The authorised version of an Act passed before the commencement of this Act and not contained on the database is that Act as deposited and kept among the records of the Supreme Court.

**(4)** Subject to subsection (8), the authorised version of an Act passed before the commencement of this Act, as at a particular date before the commencement of this Act, is that Act, as deposited and kept among the records of the Supreme Court, read and construed with any Act amending that Act as deposited and kept among those records.

**(5)** Subject to subsections (6) and (7), on and after the commencement of this Act, the authorised version of a statutory rule at any particular date is the version of the statutory rule which appears on the database as at that date.

**(6)** The authorised version of a statutory rule made before the commencement of this Act and which is not on the database is that statutory rule as deposited and kept among the records of the responsible Department in relation to the *Justices Act 1959*.

**(7)** The authorised version of a statutory rule made before the commencement of this Act, as at a particular date before the commencement of this Act, is that



statutory rule, as deposited and kept among the records of the responsible Department in relation to the *Justices Act 1959*, read and construed with any statutory rule amending that statutory rule as deposited and kept among those records.

(8) If an Act passed or a statutory rule made before the commencement of this Act was reprinted under the *Acts Reprinting Act 1979*, the authorised version of that Act or statutory rule, as at a particular date before the commencement of this Act, is the reprint of that Act or statutory rule as in force at that date.

(9) All Acts and statutory rules on the database are to include a certificate of the Chief Parliamentary Counsel indicating that –

- (a) the Act or statutory rule is the authorised version at the date specified in the certificate; and
- (b) the Act or statutory rule incorporates all amendments, if any, made before and in force as at the date shown on the certificate and any reprint changes –
  - (i) made under any Act, in force before the commencement of this Act, authorising the reprint of the Acts and statutory rules; or
  - (ii) permitted under this Act and made before that date.

(10) The Chief Parliamentary Counsel may approve the production of authorised copies of Acts or statutory rules and copies of reprints of Acts or statutory rules in electronic or printed form by a person approved in writing by the Chief Parliamentary Counsel for the purposes of reproduction or distribution.

(11) A copy of an Act or a statutory rule produced under subsection (10) is to contain a statement to the effect that the copy is produced with the approval of the Chief Parliamentary Counsel.

### **Offences**

7. (1) A person who falsely includes in a document purporting to be an Act or statutory rule a certificate purporting to be a certificate under section 6(9) is guilty of an offence.

Penalty: Fine not exceeding 100 penalty units.

(2) A person who falsely represents that a copy of an Act or statutory rule is produced with the approval of the Chief Parliamentary Counsel is guilty of an offence.

Penalty: Fine not exceeding 100 penalty units.

## **PART 3 - REPRINTS**

### ***Division 1 - Authorisation and compilation of reprints***

#### **Application of provisions of this Part**

8. The provisions of this Part are to apply in relation to the authorisation and compilation of a reprint of a law.

#### **Power to authorise and cause reprints to be compiled**

9. (1) The Chief Parliamentary Counsel may authorise and cause to be compiled a reprint of a law.

(2) In a reprint of a law under this Act, the text of the law may be given incorporating any change to the law permitted under Division 2 of this Part.

(3) A reprinted law is to include a note stating the date of the reprint.

#### **Reprint changes not to change effect of law**

10. Section 9 does not permit any change to the text of a provision of a law that would change the effect of the provision.

#### **Effect of reprinted law**

11. If in a reprint of a law the text of the law is given as permitted under this Act, the law has effect as if the changes effected under this Act had been made expressly

by another law that amended the law immediately before the reprint date.

### *Division 2 - Alterations*

#### **Citations and references to law**

**12.** (1) If a law has a citation that includes a comma before or after a year in the citation, the citation or a reference to the law may be given omitting the comma.

(2) If a law has a citation that begins and ends with inverted commas, the citation or a reference to the law may be given omitting the inverted commas.

(3) If a law has a citation that begins with the word "The", the citation or a reference to the law may be given omitting the word.

(4) If an Act has a citation that does not include the word "Act", the citation or a reference to the Act may be given including the word "Act" and any necessary consequential amendments may be made to the citation or reference.

(5) If a law has a citation that does not include a year, the citation or a reference to the law may be given including the year in which the law was made.

(6) In a provision of a law, a reference to another law may be given omitting from the reference any words occurring after the first year.

(7) If a law does not have a citation, it may be given a citation that is consistent with current legislative drafting practice.

(8) If a law has a citation that is inconsistent with current legislative drafting practice in a way that is not mentioned in subsections (1) to (6), the citation may be

given in a way that is consistent with current legislative drafting practice.

(9) If there is a reference to a law's citation and since the reference was made the citation has been amended by another law or under subsections (1) to (8), the reference may be given using the citation as amended.

(10) In this section, "law" includes a law of the Commonwealth, another State or a Territory.

### **Remade law or provision**

13. (1) A reference to a law, or a provision of a law, for which any other law or provision has been substituted may be altered to the substituted law or provision.

(2) In this section, "law" includes a law of the Commonwealth, another State or a Territory.

### **Gender**

14. (1) If a provision of a law uses a word indicating a gender or that could be taken to indicate a gender, the provision may be expressed in a way that is consistent with current legislative drafting practice.

(2) If the name of an office established by a law uses a word indicating a gender or that could be taken to indicate a gender –

- (a) the name of the office may be changed in a way that is consistent with current legislative drafting practice; and
- (b) any reference in a law to the office may be given in a way that is consistent with current legislative drafting practice.

(3) A change in the name of an office does not otherwise affect the office or the holding of the office by the office holder.

### **Changed name or title**

15. (1) A reference in a law to the name or title of a body, office, person, place or thing that has been changed may be given using the name or title as changed.

(2) The words "His Majesty the King" or "Her Majesty the Queen" in a law may be changed to the words "Sovereign" or "Crown".

### **Replacement of body, &c.**

16. A reference in a law to a body, office, person, place or thing which has been replaced by another body, office, person, place or thing may be given using that other body, office, person, place or thing.

### **Spelling**

17. If a provision of a law uses a word that is spelt in a way that is inconsistent with current legislative drafting practice, the word may be spelt in a way that is consistent with current legislative drafting practice.

### **Punctuation**

18. If a provision of a law uses punctuation that is inconsistent with current legislative drafting practice, the provision may be expressed by using punctuation that is consistent with current legislative drafting practice.

**Conjunctives and disjunctives**

19. A provision of a law may be expressed by using a conjunctive or disjunctive at the end of the provision if the use of the conjunctive or disjunctive is consistent with current legislative drafting practice.

**Order of definitions**

20. A provision of a law that contains definitions in a particular order may be expressed so that the definitions are in an order that is consistent with current legislative drafting practice.

**Order of other provisions**

21. A provision of a law that contains provisions in a particular order may be expressed so that the provisions are in an order that is consistent with current legislative drafting practice.

**Penalty provisions**

22. If a penalty provision of a law is expressed in a manner that is inconsistent with current legislative drafting practice, the provision may be expressed in a manner that is consistent with current legislative drafting practice.

**Relocation of marginal notes**

23. A marginal note to a provision of a law descriptive of the subject matter of that provision may be placed above the provision as the heading to that provision.

**Format and printing style**

24. The format and printing style of a law, including the setting out of provisions, Schedules and tables, the placement of conjunctives and disjunctives, the use of numbering, lettering and indenting and the use of capital letters, lower case letters, hyphens, italics, bolding and quotation marks, may be changed in a way that is consistent with current legislative drafting practice.

**Omission of certain provisions**

25. (1) A provision of a law that is spent, has expired or has otherwise ceased to have effect may be omitted.

(2) A saving, transitional or validation provision of a law which only applies to a time or event that has passed may be omitted.

**Omission of certain words and notes**

26. (1) Any unnecessary referential words in a provision of a law may be omitted.

(2) Any notes in a provision of a law indicating the legislative history of the provision, the source of the provision or any corresponding provision in another jurisdiction may be omitted.

(3) Any words of enactment or notification of a law may be omitted.

**Numbering and renumbering of provisions**

27. (1) If a provision of a law is unnumbered –



- (a) the provision may be numbered in a way that is consistent with current legislative drafting practice; and
- (b) all necessary consequential numbering amendments may be made.

(2) If a provision of a law is numbered in a way that is inconsistent with current legislative drafting practice –

- (a) the provision may be renumbered in a way that is consistent with current legislative drafting practice; and
- (b) all necessary consequential numbering amendments may be made.

(3) If a law has been amended so that the numbering of provisions of the law is significantly different to the way in which the provisions would have been numbered if the law were to be remade –

- (a) the law may be renumbered in a way that is consistent with current legislative drafting practice; and
- (b) all necessary consequential numbering amendments may be made.

(4) If a provision of a law is numbered or renumbered under this section –

- (a) a reference in any law to the provision is a reference to the provision as numbered or renumbered; and
- (b) a reference in the law or another law to the provision may be changed to a reference to the provision as numbered or renumbered.

**Number, date, time and money, &c.**

28. (1) If a provision of a law expresses any item in a particular way, the item may be expressed in a way that is consistent with current legislative drafting practice.

(2) In this section, "item" means any number, fraction, year, date, time, amount of money, quantity or measurement of a thing.

**Correction of minor errors**

29. A provision of a law that contains a minor error may be expressed in a different way so as to correct the error.

**Incorporation into Act of certain provisions**

30. A provision of a savings or transitional nature, a validation provision or any other provision contained in an amendment Act which is not by the amendment Act incorporated in another Act may be incorporated as a provision of the Act to which it relates and all necessary consequential amendments may be made to that Act.

***Division 3 – Miscellaneous provisions relating to reprints***

**Provisions not shown**

31. (1) Nothing in this Act requires every provision of a law which has been incorporated in another Act to be shown in a reprint of the law.

(2) If a provision of a law is not shown in a reprint of the law, the reprint is to indicate that fact in a suitable place.

## PART 4 - MISCELLANEOUS

### Custody of Acts

**32.** The Clerk of the Legislative Council must transmit this Act and all Acts passed after the commencement of this Act to the Supreme Court, within 7 days from the day on which the Royal Assent is given to those Acts, where they are to be kept among the records of the Supreme Court.

### Regulations

**33.** (1) The Governor may make regulations for the purposes of this Act.

(2) The regulations may prescribe changes, not otherwise permitted under this Act, that are permitted to be made to the text of a law in a reprint of that law.

(3) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.

### Repeals

**34.** The following Acts are repealed:

- (a) *Acts Custody Act 1858*;
- (b) *Acts Reprinting Act 1979*.

***Acts Interpretation Act 1931\** amended**

**35. (1)** Section 10 of the *Acts Interpretation Act 1931* is amended by omitting "printed by the Government Printer" and substituting "produced under section 6(10) of the *Legislation Publication Act 1996*".

**(2)** Section 13 of the *Acts Interpretation Act 1931* is amended as follows:

(a) by omitting paragraph (a) of subsection (1) and substituting the following paragraph:

(a) an Act may be cited by its short title, if any, or by reference to the regnal year in which it is passed, or calendar year in which it is passed, and its number;

(b) by omitting from subsection (1)(c) "secular" and substituting "calendar";

(c) by omitting subsection (3) and substituting the following subsection:

**(3)** Any reference referred to in subsections (1) and (2) is to be made –

(a) in the case of an Act of this State contained on the database, within the meaning of the *Legislation Publication Act 1996*, according to a copy of the Act produced or purporting to be produced under

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\* 22 Geo. V No. 59. For this Act, as amended to 1 July 1986, see the continuing Reprint of Statutes. Subsequently amended by Nos. 88 and 92 of 1986, No. 13 of 1987, Nos. 4 and 41 of 1990, No. 43 of 1991, Nos. 10, 20, 30 and 43 of 1992, Nos. 10, 43 and 68 of 1994 and Nos. 30 and 103 of 1995.

section 6(10) of the *Legislation Publication Act 1996*; and

- (b) in the case of any other Act of this State, according to a copy of the Act printed or purporting to be printed by the Government Printer of Tasmania; and
- (c) in the case of any other Act or Ordinance, according to a copy of the Act or Ordinance printed or purporting to be printed by the official printer for the Government of the United Kingdom, the Commonwealth or the State or Territory.

(3) Section 24 of the *Acts Interpretation Act 1931* is amended by omitting from paragraph (ba) "or electrical" and substituting ", electrical or electronic".

### ***Evidence Act 1910\** amended**

**36. (1)** Section 44 of the *Evidence Act 1910* is amended as follows:

- (a) by inserting after subsection (1) the following subsections:

**(1A)** On and after the commencement of the *Legislation Publication Act 1996*, a

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\* 1 Geo. V No. 20. For this Act, as amended to 1 June 1979, see the continuing Reprint of Statutes. Subsequently amended by No. 52 of 1981, Nos. 60 and 75 of 1982, No. 29 of 1984, Nos. 5, 21 and 51 of 1985, No. 34 of 1986, Nos. 55 and 77 of 1987, Nos. 4 and 25 of 1988, No. 5 of 1990, Nos. 1, 25, 27 and 46 of 1991, Nos. 13 and 36 of 1992, Nos. 5, 57, 73, 89 and 100 of 1993, Nos. 25, 64, 68 and 72 of 1994 and Nos. 30, 37, 70 and 75 of 1995.

document or other matter purporting to be a copy of an Act or a statutory rule produced under section 6(10) of the *Legislation Publication Act 1996* is to be taken in all circumstances and for all purposes to be a copy of the authorised version of the Act or statutory rule as at the date appearing on the certificate referred to in section 6(9) of the *Legislation Publication Act 1996*.

(1B) A statement on a document or other matter purporting to be a copy of an Act or a statutory rule produced under section 6(10) of the *Legislation Publication Act 1996* that the copy has been produced with the approval of the Chief Parliamentary Counsel is evidence that it has been so produced.

(b) by inserting in subsection (2) ", other than this State" after "State".

(2) Section 49 of the *Evidence Act 1910* is amended by inserting after subsection (1) the following subsection:

(1A) Notwithstanding subsection (1), on and after the commencement of the *Legislation Publication Act 1996*, evidence of a statutory rule, within the meaning of the *Rules Publication Act 1953*, that is on the database, within the meaning of the *Legislation Publication Act 1996*, may only be given by the production of a document or other matter purporting to be a copy of the statutory rule produced under section 6(10) of the *Legislation Publication Act 1996*.

(3) Section 51 of the *Evidence Act 1910* is amended by inserting after subsection (2) the following subsection:

(3) Subsection (1) does not apply to a statutory rule, within the meaning of the *Rules Publication*

*Act 1953*, that is on the database, within the meaning of the *Legislation Publication Act 1996*.

(4) After section 60A of the *Evidence Act 1910*, the following section is inserted:

**Certificate of Chief Parliamentary Counsel to be evidence**

**60B.** A certificate of the Chief Parliamentary Counsel that an Act or statutory rule is not on the database, within the meaning of the *Legislation Publication Act 1996*, is to be taken in all circumstances and for all purposes to be evidence of that fact.

(5) Section 65 of the *Evidence Act 1910* is amended by inserting "other than this State," after "State," (first occurring).

(6) Section 73 of the *Evidence Act 1910* is amended by inserting after subsection (1) the following subsections:

(2) On and after the commencement of the *Legislation Publication Act 1996*, subsection (1) does not apply to statutory rules, within the meaning of the *Rules Publication Act 1953*, on the database, within the meaning of the *Legislation Publication Act 1996*.

(3) On and after the commencement of the *Legislation Publication Act 1996*, where by any Act of the State power to make statutory rules, within the meaning of the *Rules Publication Act 1953*, is conferred on any person or body corporate or unincorporate, a document or other matter purporting to be a copy of the statutory rules produced under section 6(10) of the *Legislation Publication Act 1996* is evidence –



- (a) that statutory rules in the form contained in the document or other matter were duly made by that person or body corporate or unincorporate; and
- (b) that all things necessary to give validity to the statutory rules have been duly done and that they are in force.

(7) Part II of Schedule 4 to the *Evidence Act 1910* is amended by inserting "Chief Parliamentary Counsel" before "Chief Superintendent of the Prison Service".

### ***Rules Publication Act 1953\** amended**

**37.** (1) Section 5 of the *Rules Publication Act 1953* is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:

(1) After a statutory rule is made, it is to be –

- (a) numbered as prescribed; and
- (b) sent to a person approved in writing by the Chief Parliamentary Counsel under section 6(10) of the *Legislation Publication Act 1996* for the purposes of reproduction or distribution.

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\* No. 50 of 1953. For this Act, as amended to 1959, see the Reprint of Statutes (1826-1959), Vol. 5, p. 399. Subsequently amended by No. 11 of 1979, No. 99 of 1982, No. 5 of 1990, No. 46 of 1991, No. 30 of 1992 and No. 68 of 1994.

- (b) by omitting subsection (3) and substituting the following subsection:

(3) A statutory rule which is produced with the omission of any formal or introductory parts is to contain, in such form as the Chief Parliamentary Counsel approves –

- (a) a reference to the Act or other authority under which it was made; and
  - (b) the date on which it was made; and
  - (c) the date on which it takes effect.
- (c) by omitting subsection (4) and substituting the following subsection:

(4) A statutory rule, or a reprint of a statutory rule under the *Legislation Publication Act 1996*, which is produced in accordance with subsection (3) is taken in all circumstances and for all purposes to be a copy of that statutory rule or reprint, notwithstanding the omission of the formal or introductory parts.

(2) Section 7 of the *Rules Publication Act 1953* is repealed.

(3) Section 9 of the *Rules Publication Act 1953* is amended by omitting paragraph (b) and substituting the following paragraph:

- (b) providing for the producing of all or any statutory rules with the omission of such formal or introductory parts as the Chief Parliamentary Counsel or a person authorised

by the Chief Parliamentary Counsel may approve or direct;

### **Administration of Act**

**38.** 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 Premier; and
- (b) the Department responsible to the Premier in relation to the administration of this Act is the Department of Premier and Cabinet.

*[Second reading presentation speech made in:–  
House of Assembly on 18 June 1996  
Legislative Council on 26 June 1996]*

