I certify that this is a copy of the authorised version of this Act as at 20 November 2026, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 20 November 2026.

K Woodward
Chief Parliamentary Counsel
Dated 27 November 2026

TASMANIA

HEALTH COMPLAINTS ACT 1995

No. 95 of 1995

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HEALTH COMPLAINTS ACT 1995

No. 95 of 1995

An Act to provide for the making, conciliation, investigation and resolution of complaints against health service providers, to make provision in respect of the rights and responsibilities of health service users and providers and for related purposes

[Royal Assent 24 November 1995]

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 Complaints Act 1995*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

In this Act, unless the contrary intention appears –

Charter means the Charter of Health Rights developed, and as varied from time to time, under Part 3;

child means a person who has not attained the age of 18 years;

code of conduct means a code of conduct prescribed under section 56AAA;

Commissioner means the Health Complaints Commissioner appointed under section 5;

committee means a committee established under section 10;

complaint means –

(a) a complaint made under Part 4; or

(b) any issue arising out of that complaint;

complainant means a person who makes a complaint;

conciliator means a conciliator appointed under section 15;

confidential information includes –

(a) information about the identity, occupation or whereabouts of the complainant, health service user or health service provider to which a complaint, investigation or inquiry relates or of any person who assists an investigation or inquiry; and

(b) information disclosed by a complaint; and

(c) information of personal concern to an individual; and

(d) information that, if disclosed, may cause detriment to a person;

exempt information means information of a kind that is prescribed to be exempt information;

functions includes duties;

Government department has the same meaning as in the *State Service Act 2000*;

health care worker means a person who provides, or holds himself or herself out as being able to provide, a health service on a paid or voluntary basis and who –

(a) is not a registered health practitioner (including a person who is de-registered); or

(b) is a registered health practitioner but provides a health service that is unrelated to his or her registration; or

(c) is a student, within the meaning of the Health Practitioner Regulation National Law (Tasmania), but provides a health service that is unrelated to his or her area of study; or

(d) is a student of an unregistered health profession;

Health Department means the responsible Department in relation to the *Health Act 1997*;

Health Minister means the Minister to whom the administration of the *Health Act 1997* is assigned;

health service means –

(a) a service specified in Part 1 of Schedule 1, but does not include a service specified in Part 2 of Schedule 1;

(b) an administrative service directly related to a health service specified in paragraph (a) –

but does not include a service that is prescribed by the regulations as not being a health service;

health service provider means –

(a) a person who provides a health service; or

(b) a person who holds himself, herself or itself out as being able to provide a health service; or

(c) a health care worker; or

(d) a registered health practitioner;

health service user means a person who uses or receives a health service;

interim prohibition order means an order made under section 56AAB;

local registration board means a body specified in Schedule 2;

National Board means a National Health Practitioner Board established by the Health Practitioner Regulation National Law (Tasmania);

notification has the same meaning as in the Health Practitioner Regulation National Law (Tasmania) and includes part of a notification;

Ombudsman has the same meaning as in the *Ombudsman Act 1978*;

prescribed means prescribed by this Act or the regulations;

professional mentor means a professional mentor appointed under section 15;

prohibition order means an order made under section 56AAC;

public authority means an incorporated or unincorporated body or authority, other than a Government department –

(a) which is established by or under an Act or the Royal Prerogative; and

(b) which comprises, or of which the governing body comprises, wholly or partly, persons appointed by the Governor, a Minister of the Crown or another public authority;

public warning statement means a statement prepared and published in accordance with section 56AAE;

register includes license, approve, admit, certify (including by way of practising certificate), or authorize in any other manner a person, as required by or under any law, to provide a health service or practise as a practitioner of a health service;

registered health practitioner means a health practitioner registered by a registration board;

registration board means a National Board or a local registration board;

regulations means regulations made and in force under this Act;

relevant law means a law prescribed by the regulations as a relevant law;

relevant registration board, in relation to a person, means a registration board that has registered that person;

staff member means a person appointed or employed under section 14 or 15(2).

4. Act binds Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

PART 2 – HEALTH COMPLAINTS COMMISSIONER

5. Health Complaints Commissioner

(1) The Governor may appoint a person as Health Complaints Commissioner.

(2) Schedule 3 has effect with respect to the Commissioner and the appointment of the Commissioner.

6. Functions of Commissioner

The functions of the Commissioner are –

(a) to prepare and regularly review a Charter of Health Rights as required under Part 3; and

(b) to identify and review issues arising out of complaints and suggest ways of improving health services and preserving and increasing health rights; and

(c) to provide information, education and advice in relation to –

(i) the Charter; and

(ii) health rights and responsibilities; and

(iii) procedures for resolving complaints; and

(iv) a code of conduct; and

(d) to receive, assess and resolve complaints; and

(e) to encourage and assist health service users to resolve complaints directly with health service providers; and

(f) to assist health service providers to develop procedures to resolve complaints; and

(g) to inquire into and report on any matter relating to health services at his or her own discretion or on the direction of the Health Minister; and

(ga) to investigate in accordance with Part 6, on his or her own motion and with or without a complaint, any matter relating to a possible breach of a code of conduct; and

(gb) to monitor compliance with, and the effectiveness of, prohibition orders and interim prohibition orders; and

(h) to advise and report to the Minister and the Health Minister on any matter relating to health services or the administration of this Act; and

(i) to provide information, advice and reports to registration boards; and

(j) to maintain links with –

(i) health service providers generally; and

(ii) organizations that have an interest in the provision of health services; and

(iii) organizations that represent the interests of the users of health services; and

(k) to consult and co-operate with any public authority that has a function to protect the rights of individuals in Tasmania, including –

(i) the Ombudsman; and

(ii) the Human Rights and Equal Opportunity Commission of the Commonwealth; and

(l) to perform any other functions imposed on the Commissioner by or under this or any other Act.

7. Independence of Commissioner

In performing his or her functions, the Commissioner must act independently, impartially and in the public interest.

8. Powers of Commissioner

The Commissioner has power to do all things necessary or convenient to be done in connection

with the performance and exercise of his or her functions and powers.

9. Delegation

The Commissioner may, in writing, delegate any of his or her functions or powers other than this power of delegation.

10. Committees

(1) The Commissioner –

(a) may establish such committees as the Commissioner considers appropriate; and

(b) if directed to do so by the Minister, must establish a committee in accordance with that direction.

(2) A member of a committee is entitled to be paid such remuneration and allowances as are determined by the Minister.

(3) The Commissioner may give written directions to a committee in relation to the calling of, and the conduct of business at, its meetings.

(4) A committee must comply with a direction given under subsection (3).

(5) Subject to subsection (4), a committee may regulate the calling of, and the conduct of business at, its meetings.

(6) A committee may obtain assistance, information and advice from any person.

11. Acting Commissioner

(1) In this section, the Commissioner is absent if he or she –

(a) is absent from duty; or

(b) is absent from Australia; or

(c) is suspended from the office of Health Complaints Commissioner; or

(d) is otherwise unable to perform the functions of that office.

(2) The Minister may appoint a person to act as Commissioner during any or every period during which the Commissioner is absent.

(3) While a person appointed under subsection (2) is acting as Commissioner –

(a) that person is taken to be the Commissioner; and

(b) this Act and any other Act applies to that person as if he or she were the Commissioner.

12. Annual report

Before 30 November in each financial year, the Commissioner must –

(a) prepare a report on the performance and exercise of his or her functions and powers during the preceding financial year; and

(b) lay the report before each House of Parliament.

13. Special report

(1) The Commissioner may provide to the Minister and the Health Minister at any time a report providing information in relation to any one or more of the following matters:

(a) the performance and exercise of the Commissioner's functions and powers;

(ab) an investigation under Part 6;

(b) complaints;

(c) progress and results of inquiries and conciliations;

(d) contraventions of this Act;

(e) any other matter relating to health services that the Commissioner considers appropriate.

(2) If the Minister considers it appropriate the Minister may, or if the Commissioner requests the Minister must, within 10 sitting days after receiving a report, lay a copy of the report before each House of Parliament.

(3) The Commissioner may cause a report to be published in any manner that he or she considers appropriate.

(4) A report made by the Commissioner under subsection (1) that is published under subsection (3) may name a person referred to in the report if –

(a) the Commissioner believes on reasonable grounds that naming the person is reasonably necessary to prevent or lessen a risk to –

(i) the life, health, safety or welfare of any other person; or

(ii) the health, safety or welfare of the public; or

(b) the person is a health service provider who has unreasonably failed to take action that has been specified in a notice under section 56 to remedy an unresolved grievance.

14. Staff

(1) Subject to and in accordance with the *State Service Act 2000*, persons may be appointed or employed for the purposes of enabling the Commissioner to perform and exercise his or her functions and powers under this Act.

(2) The Commissioner may arrange with the Secretary of the Department for State Service

officers and State Service employees employed in the Department to be made available to enable the Commissioner to perform and exercise his or her functions and powers under this Act.

(3) A State Service officer or State Service employee made available under subsection (2) may serve the Commissioner in any capacity in conjunction with State Service employment.

15. Appointment of conciliators and professional mentors

(1) The Commissioner may appoint a person referred to in section 14 as a conciliator or professional mentor.

(2) With the approval of the Secretary of the Department, the Commissioner may appoint a person who is not a State Service officer or State Service employee as a conciliator or professional mentor.

(3) . . . . . .

(4) A person is not entitled to be appointed, or to hold office, as a professional mentor if –

(a) the Commissioner is not satisfied that the person has expertise in dispute resolution; or

(b) the person is a conciliator; or

(c) the person investigates complaints under Part 6.

16. Protection of Commissioner and staff

(1) The Commissioner, a conciliator, a professional mentor, a staff member or a member of a committee does not incur any personal liability in respect of any act done, or omitted, in good faith in the performance or exercise, or the purported performance or exercise, of any function or power under this or any other Act.

(2) A person who is or has been the Commissioner, a conciliator, a professional mentor, a staff member or member of a committee is entitled to be indemnified by the Crown against any costs incurred in contesting any action, claim or demand brought or made in respect of any act done or omitted in good faith in the performance or exercise, or purported performance or exercise, of any function or power under this Act.

PART 3 – CHARTER OF HEALTH RIGHTS

17. Development of Charter of Health Rights

(1) The Commissioner is to develop a draft Charter of Health Rights for the consideration of the Health Minister within 18 months after the commencement of this Act or such longer period as the Health Minister determines in writing.

(2) The Commissioner is to report to the Health Minister on the progress of the development of the draft Charter at intervals of not more than 6 months until it is given to the Health Minister for consideration.

18. Review of Charter

The Commissioner –

(a) may at any time review the Charter; and

(b) if the Health Minister so directs, must review the Charter.

19. Consultation on Charter

In developing the draft Charter or reviewing the Charter, the Commissioner must invite submissions from, and consult with, interested persons to the extent necessary to ensure that a wide range of views is obtained in the development of the draft Charter or review of the Charter.

20. Content of Charter

(1) In developing the draft Charter or reviewing the Charter, the Commissioner is to consider and make recommendations to the Health Minister in relation to its content, application, enforcement and regular review.

(2) In developing or reviewing the content of the Charter, the Commissioner may have regard to all matters relevant to the provision and use of health services.

(3) In developing or reviewing the content of the Charter, the Commissioner must have regard to the following principles:

(a) that a person should be entitled to participate effectively in decisions about his or her health;

(b) that a person should be entitled to take an active role in his or her health care;

(c) that a person should be entitled to be provided with health services in a considerate way that takes into account his or her background, needs and wishes;

(d) that a health service provider should be given consideration and recognition for the contribution he or she makes to health care;

(e) that a person who provides care for another person receiving a health service should be given consideration and

recognition for the contribution he or she makes to health care;

(f) that the confidentiality of information about a person's health should be preserved;

(g) that a person should be entitled to reasonable access to records concerning his or her health;

(h) that a person should be entitled to reasonable access to procedures for the redress of grievances with respect to the provision of health services.

21. Approval of Charter

(1) The Health Minister may approve, in writing, a draft Charter or a variation of the Charter.

(2) After approving a draft Charter or a variation of the Charter, the Health Minister must lay the draft Charter or variation on the table of each House of Parliament.

(3) A House of Parliament is taken to have approved a draft Charter or variation of the Charter if –

(a) the draft Charter or variation is approved by the House; or

(b) at the expiration of 5 sitting days after the draft Charter or variation was laid on the table of the House, there was no notice of a motion to disapprove it before the House; or

(c) at the expiration of that 5 day period such a notice was before the House, the notice is later withdrawn or the motion is later negatived.

(4) A House of Parliament may request the Health Minister to amend a draft Charter or variation of the Charter.

(5) If the Health Minister agrees to the request of a House of Parliament to amend a draft Charter or variation of the Charter, the Health Minister must withdraw the draft Charter or variation from both Houses of Parliament and lay the amended draft Charter or amended variation on the table of each House of Parliament.

(6) On the approval by both Houses of Parliament of a draft Charter or variation of the Charter, the draft Charter becomes the Charter or the Charter is varied as approved, whichever the case requires.

PART 4 – COMPLAINTS

Division 1 – Making complaints

22. Who may complain

Any of the following persons is entitled to make a complaint to the Commissioner about a health service sought, used or received by, or administered to, a health service user:

(a) the health service user;

(b) in the case of a health service user who is a child –

(i) where the child has attained the age of 14 years, a person appointed by that child to make the complaint on that child's behalf; or

(ii) where the child has not attained the age of 14 years, a parent or guardian of that child; or

(iii) where the Commissioner is of the opinion that the child is capable of lodging a complaint himself or herself, the child;

(c) . . . . . .

(d) the donee of a power of attorney from the health service user whose authority includes the making of a complaint under this Act;

(e) where a person, under any other law or an order of a court, has the care of the affairs of the health service user, that person;

(f) where it is difficult or impossible for the health service user to make a complaint, or to make a complaint that complies with section 23, a person approved by the Commissioner;

(g) a health service provider;

(h) the Minister;

(i) the Health Minister;

(j) the Secretary of the Health Department;

(k) if the Commissioner considers that in the circumstances of the particular case a person other than a person referred to in paragraph (a) to (j) (inclusive) should be permitted to make a complaint, that person.

22A. Complaints relating to health care workers

Any person may make a complaint to the Commissioner that a health care worker has acted in a manner that is in breach of a code of conduct.

23. Making a complaint

(1) A person who is entitled to make a complaint under section 22 may make one or more of the following complaints to the Commissioner:

(a) a health service provider acted unreasonably by not providing a health service;

(b) the provision of a health service or of part of a health service was not necessary;

(c) a health service provider acted unreasonably in the manner of providing a health service;

(d) a health service provider failed to exercise due skill;

(e) a health service provider failed to treat a health service user in an appropriate professional manner;

(f) a health service provider failed to respect a health service user's privacy or dignity;

(g) a health service user was not provided–

(i) in language and terms understandable to the user, with sufficient information on the treatment and health services available to enable the user to make an informed decision; or

(ii) with a reasonable opportunity to make an informed choice of the treatment or services available; or

(iii) with adequate information on the availability of further advice on the user's condition or of relevant education programmes; or

(iv) with adequate information on the treatment or services received; or

(v) with any prognosis that it would have been reasonable for the user to be provided with;

(h) a health service provider acted unreasonably by–

(i) denying a health service user access to, or restricting the user's access to, records relating to the user that were in the provider's possession; or

(ii) not making available to a health service user information about the user's condition that the health service provider was able to make available;

(i) a health service provider acted unreasonably in disclosing information in relation to a health service user;

(j) a health service provider acted unreasonably by not taking proper action

in relation to a complaint made to him or her by the user about a provider's action of a kind referred to in this section;

(k) a health service provider acted in any other manner that was inconsistent with the Charter.

(2) A person who is entitled to make a complaint under section 22 may make the complaint even though the circumstances that give rise to the complaint occurred before the commencement of this Act if the complainant became aware of those circumstances not earlier than 2 years before the commencement of this Act.

(3) Subject to this section, a complaint –

(a) is to be in writing; and

(b) is to be signed by the complainant; and

(c) is to disclose the name and address of the complainant.

(4) The Commissioner may accept a complaint that does not comply with subsection (3).

(5) If the Commissioner accepts an oral complaint, the Commissioner must require the complainant to put the complaint in writing and sign it unless satisfied that there are good reasons for not doing so.

(6) If a complainant changes his or her name or address, the complainant must notify the Commissioner of that change in writing.

(7) If the Commissioner becomes aware that a complainant has changed his or her name or address without notifying the Commissioner, the Commissioner must require the complainant to provide his or her name or address.

24. Further information may be required

(1) The Commissioner may, at any time, require a complainant –

(a) to provide further information or documents; or

(b) to verify all or any part of the complaint by statutory declaration.

(2) When making a requirement under subsection (1), the Commissioner must specify a reasonable period of time within which the requirement is to be satisfied.

(3) The Commissioner may extend the period specified under subsection (2), whether before or after its expiry.

24A. Notice of complaints to local registration boards

As soon as practicable after receiving a complaint, the Commissioner is to notify any relevant local registration board stating –

(a) the name of the health service provider against whom the complaint is made; and

(b) the substance of the complaint; and

(c) the date or dates on which the events forming the basis of the complaint occurred; and

(d) any other details that the Commissioner considers relevant.

Division 2 – Assessment of complaints

25. Assessment

(1) The Commissioner must assess a complaint within 45 days after receiving it.

(1A) On assessing a complaint under subsection (1) –

(a) if the Commissioner is of the opinion that it is appropriate to do so because the complaint relates to a matter that falls within the functions imposed on the Ombudsman, a relevant registration board or other person by a law of Tasmania, another State, a Territory or the Commonwealth, the Commissioner may refer the complaint to the Ombudsman, the relevant registration board or the other person; or

(b) if the Commissioner is of the opinion that it is appropriate to do so, the Commissioner may –

(i) refer the complaint to a conciliator for conciliation under Part 5; or

(ii) investigate the complaint under Part 6; or

(iii) dismiss the complaint.

(1B) The Commissioner may refer a complaint to both a relevant registration board and a conciliator or defer the matter of conciliation until the relevant registration board has reported to him or her on the matter.

(1C) The Commissioner may extend the period for assessment referred to in subsection (1) for an additional period not exceeding 45 days if –

(a) the Commissioner has, under section 25A, attempted to facilitate the early resolution of the complaint and the attempt has been unsuccessful; or

(b) the Commissioner considers it necessary for the purposes of assessment to extend the period.

(1CA) If there is a delay in obtaining information sought by the Commissioner, the Commissioner may extend the period referred to in subsection (1) for such time as is necessary to allow the provision and consideration of the requested information.

(1D) The Commissioner must notify the complainant and the relevant health service provider of any extension of the period for assessment under subsection (1C) or (1CA).

(1E) Nothing in this section prevents the early resolution of a complaint under section 25A.

(2) In subsection (1), ***complaint*** includes a complaint or notification that has been referred, or referred back, to the Commissioner by the Ombudsman, a registration board or a person referred to in that subsection.

(2A) For the purposes of subsection (2), a notification which is or is to be dealt with by the Commissioner by reason of the provisions or operation of section 150 of the Health Practitioner Regulation National Law (Tasmania) is taken to have been referred to the Commissioner by the National Board to which the notification was made.

(3) The Commissioner must not refer a complaint to a registration board without first consulting that board.

(4) The Commissioner must not refer a complaint to a conciliator if –

(a) the complaint appears to the Commissioner to indicate –

(i) the existence of a significant issue of public safety or public interest; or

(ii) a significant question as to the practice of a health service provider; or

(b) section 64 would prevent the Commissioner from disclosing to the health service provider information that would enable the health service user to be identified.

(5) The Commissioner must dismiss a complaint if satisfied that –

(a) the complainant is not a person entitled to make a complaint; or

(b) the complaint does not disclose a subject matter of complaint referred to in section 23; or

(c) the health service user became aware of the circumstances that gave rise to the complaint more than 2 years before the complaint was made; or

(ca) in the case of a complaint relating to a health care worker, the complainant became aware of the circumstances that gave rise to the complaint more than 2 years before the complaint was made; or

(d) the complainant has failed, without good reason, to take reasonable steps to resolve with the health service provider the grievance on which the complaint is based; or

(e) all the issues arising out of the subject matter of the complaint have been adjudicated upon by a court, tribunal, board or other person established by or

under a law of Tasmania, the Commonwealth, a Territory or another State; or

(f) a court has commenced to hear a proceeding that relates to the subject matter of the complaint; or

(g) the complainant has been given reasonable explanations and information and there would be no benefit in further entertaining the complaint; or

(h) the complaint lacks substance; or

(i) the complaint is frivolous, vexatious or was not made in good faith; or

(j) the complaint has been resolved.

(6) Subsection (5)(c) and (ca) do not apply where the Commissioner is satisfied that the complainant had good reason for not making the complaint within 2 years of becoming aware of the circumstances that gave rise to it.

(7) Where the Commissioner has made a requirement on a complainant under section 24(1), the Commissioner may dismiss the complaint if –

(a) the period for satisfying the requirement has expired; and

(b) after the expiration of that period, the Commissioner notified the complainant in writing that the complaint might be

dismissed unless the requirement was satisfied within 14 days after the notice was provided; and

(c) that period of 14 days has expired; and

(d) the requirement is unsatisfied.

25A. Early resolution of complaints

(1) As soon as practicable after receiving a complaint, the Commissioner may, if he or she is of the opinion that it is reasonable to do so and if the complainant consents, attempt to facilitate the early resolution of the complaint to the satisfaction of the parties without the need for the Commissioner to proceed to assessment under section 25.

(2) Without limiting the Commissioner's powers of resolution, the Commissioner may provide mediation.

26. Enquiries during assessment

(1) Before making a determination under section 25(1), the Commissioner may make enquiries and obtain information that the Commissioner considers necessary or appropriate.

(2) Subsection (1) does not authorize the exercise of a power under Part 6.

(3) If the Commissioner, having made enquiries in accordance with subsection (1), is unable to obtain relevant information from a person and

has reason to believe that a person other than the complainant is capable of providing information or producing a document relevant to an assessment, the Commissioner may, by notice in writing provided to the latter person, require that person to do one or more of the following:

(a) provide that information to the Commissioner in writing signed by that person or, in the case of a body corporate, by an officer of the body corporate;

(b) produce that document to the Commissioner;

(c) attend before a person specified in the notice and provide information by answering questions relevant to the assessment.

(4) A notice referred to in subsection (3) is to specify the period within which, or the day on which and the time and place at which, the person is required to provide the information or document or attend to answer questions.

(5) Nothing in subsection (3) authorises the Commissioner to require the provision of exempt information or any part of a document containing exempt information.

(6) Where a document is produced in accordance with a requirement under this section, the Commissioner may take possession of, make copies of or take extracts from the document.

27. Notice of assessment

Within 14 days after making a determination under section 25(1), the Commissioner must provide written notice of the determination –

(a) to the complainant; and

(b) except where the Commissioner has determined to dismiss the complaint, to the health service provider.

28. Provision of documents, &c., on referral of complaint

(1) Where the Commissioner has referred a complaint to another person under section 25, the Commissioner must give to the other person all documents and information in the possession of the Commissioner that relate to the complaint.

(2) The Commissioner may –

(a) make and retain a record of information referred to in subsection (1); and

(b) make copies of, or take extracts from, a document referred to in subsection (1) and retain those copies or extracts.

29. Splitting of complaints

(1) This section applies to a complaint that –

(a) deals with more than one subject matter; or

(b) deals with more than one set of circumstances; or

(c) makes allegations against more than one health service provider; or

(d) makes more than one allegation against a health service provider; or

(e) for any other reason is susceptible to being dealt with in separate parts.

(2) If it is administratively or otherwise convenient to do so, the Commissioner may determine that a complaint to which this section applies be treated as 2 or more complaints.

(3) The Commissioner must determine that a complaint to which this section applies be treated as 2 or more complaints if it is in the interests of a health service user or complainant that the Commissioner do so.

(4) The Commissioner must not make a determination under subsection (2) or (3) except where he or she is satisfied that any attempt at resolution or conciliation is not likely to be prejudiced by the making of the determination.

Division 3 – Miscellaneous

29A. Powers of Commissioner

(1) The Commissioner may add further grounds, persons or particulars to a complaint received under section 23 if at any stage the

Commissioner is of the opinion that any such matters should form part of the complaint.

(2) On adding further grounds, persons or particulars to a complaint, the Commissioner must notify the complainant, the health service provider and any relevant registration board.

29B. Power of Commissioner to give information to registration board

For the purpose of assisting a registration board to perform its functions under this or any other Act, the Commissioner may make available to the board any information that he or she receives in the administration of this Act.

30. Withdrawal of complaint

(1) A complainant may withdraw a complaint at any time by notifying the Commissioner in writing of the withdrawal.

(2) Where a complaint is withdrawn the Commissioner must –

(a) if the health service provider has been notified of the receipt of the complaint, notify that provider of the withdrawal within 14 days; and

(b) take no further action in relation to the complaint other than an investigation under Part 6.

(3) If the Commissioner has referred a complaint to the Ombudsman, a relevant registration board or another person under section 25(1A)(a), the withdrawal of that complaint under subsection (1) does not affect the performance and exercise by the Ombudsman, board or person of his, her or its functions and powers in respect of the matters raised by or in the complaint.

PART 5 – CONCILIATION OF COMPLAINTS

31. Function of conciliator

The function of a conciliator is to encourage the settlement of a complaint by –

(a) arranging discussions or negotiations between the complainant and the health service provider; and

(b) assisting in the conduct of any such discussions or negotiations; and

(c) assisting the complainant and the health service provider to reach agreement; and

(d) assisting in the resolution of the complaint in any other way.

32. Public interest

(1) Before the conciliation of a complaint starts, the Commissioner must identify and inform the conciliator of any issue raised by the complaint that the Commissioner considers involves the public interest.

(2) At the start of the conciliation, the conciliator is to draw any issues involving the public interest of which he or she has been informed under subsection (1) to the attention of the complainant and the health service provider.

(3) In the course of the conciliation, at times the conciliator considers appropriate, the conciliator

must draw to the attention of the parties any issues involving the public interest that the conciliator considers are raised by the complaint.

(4) The conciliator must report to the Commissioner any issue involving the public interest that the conciliator considers is raised by the complaint, other than an issue of which the conciliator has been informed under subsection (1).

32A. Duty to attend initial meeting

Where the Commissioner has referred a complaint for conciliation, the complainant and the health service provider must attend an initial meeting, but any subsequent participation in the conciliation by the parties is voluntary and either party may withdraw from the conciliation process at any time.

33. Representation at conciliation

A party in a conciliation process may not be represented by another person except where –

(a) the Commissioner is satisfied that such representation is likely to assist substantially in resolving the complaint; and

(b) not less than 48 hours before requesting the Commissioner to allow such representation, that party has notified the other party, in writing, that he or she will be making that request.

34. Progress report from conciliator

A conciliator must provide to the Commissioner a written report of the progress of a conciliation when requested to do so by the Commissioner.

35. Results report from conciliator

(1) A conciliator must provide to the Commissioner a written report of the results of a conciliation when the conciliator is satisfied that –

(a) the complainant and the health service provider have reached agreement on all issues raised by a complaint on which the conciliator considers agreement to be possible; or

(b) no agreement between the complainant and health service provider on any issue raised by a complaint is possible.

(2) The report –

(a) must provide details of any agreement reached; and

(b) must provide details of progress towards agreement on any issue in respect of which agreement has not been reached; and

(c) may recommend action that the conciliator considers appropriate for the Commissioner to take on receipt of the report.

(3) The conciliator must provide the complainant and the health service provider with a copy of the report as soon as practicable after the report has been provided to the Commissioner.

(4) A relevant registration board is not entitled to receive a copy of the report but the Commissioner may inform the registration board that the conciliation process has been concluded and that agreement has or has not been reached.

36. Commissioner may end conciliation

(1) If the Commissioner considers that a complaint that is the subject of a conciliation cannot be resolved in that way, the Commissioner may end the conciliation.

(2) After ending a conciliation under subsection (1), the Commissioner may –

(a) investigate it under Part 6; or

(b) refer it to a person specified in section 25(1A)(a); or

(c) dismiss the complaint.

37. Privilege and confidentiality

(1) Anything said or admitted during conciliation –

(a) is not admissible as evidence in a proceeding before a court or tribunal; and

(b) cannot be used by the Commissioner as a ground for investigation or inquiry.

(2) Except where a disclosure is authorized under this Part, a conciliator must not disclose information gained during conciliation –

(a) in any further conciliation; or

(b) to any person appointed, employed or engaged for the purposes of this Act.

Penalty: Fine not exceeding 50 penalty units.

38. Professional mentor

(1) The Commissioner is to ensure that each conciliator has a professional mentor available to advise the conciliator in the performance of his or her functions.

(2) A conciliator may discuss all matters arising in relation to the performance of his or her functions with a professional mentor.

(3) A professional mentor must not disclose information that was gained by a conciliator during conciliation and communicated by the conciliator to the professional mentor.

Penalty: Fine not exceeding 50 penalty units.

39. Enforceable agreements

(1) Any agreement reached between a complainant and a health service provider in the course of the

conciliation process may be put in a form that is binding on them.

(2) An agreement is not binding unless it is –

(a) in writing; and

(b) entered into within 14 days after the verbal agreement is reached in the course of the conciliation.

(3) Subsection (1) does not affect the effectiveness of any agreement reached outside the conciliation process.

(4) A conciliator –

(a) must not be a party to any agreement between a complainant and a health service provider relating to a matter that has been dealt with in a process of conciliation; and

(b) is not eligible to attest the signature of a party to a document that evidences such an agreement.

PART 6 – INVESTIGATIONS

Division 1 – Application of Part 6

40. Matters that may be investigated

(1) The Commissioner may investigate, by exercising the powers conferred by this Part –

(a) any matter specified in a written direction given by the Health Minister; and

(b) a complaint that the Commissioner has determined to investigate under section 25(1A)(b)(ii); and

(c) an issue or question arising from a complaint if it appears to the Commissioner –

(i) to be a significant issue of public safety or public interest; or

(ii) to be a significant question as to the practice of a health service provider; and

(d) on his or her own motion, any other matter relating to the provision of health services in Tasmania; and

(e) on his or her own motion and with or without a complaint, any matter relating to a possible breach of a code of conduct by a health care worker.

(2) An investigation referred to in subsection (1)(c) or (1)(e) may be carried out whether or not–

(a) the process of assessment of the relevant complaint has been completed; or

(b) any process of conciliation of the relevant complaint has been completed; or

(c) the relevant complaint has been withdrawn; or

(d) the Commissioner has decided to dismiss the relevant complaint.

(2A) An investigation referred to in subsection (1)(b) or (1)(e) may be carried out whether or not –

(a) the relevant complaint has been withdrawn; or

(b) the Commissioner has decided to dismiss the relevant complaint.

(3) Notwithstanding subsection (2), an investigation referred to in subsection (1)(c) or (1)(e) may not be carried out to the extent that it interferes with a process of conciliation.

41. Continuation of investigation after resolution

The Commissioner is not required to cease an investigation referred to in section 40(1)(b) or (c) or (e) only because the relevant complaint has been resolved.

42. Limitation of powers

The powers conferred by this Part may be exercised only for purposes of an investigation.

Division 2 – Conduct of investigations

43. Conduct of investigation

(1) An investigation is to be conducted in such manner as the Commissioner considers appropriate.

(2) A conciliator to whom a complaint had been referred under section 25(1A)(b)(i) is not eligible, in an investigation of that complaint or of an issue, matter or question arising out of it–

(a) to act as the delegate of the Commissioner; or

(b) to perform any function in relation to the investigation.

(3) The Commissioner may, when conducting an investigation into a complaint, refer the complaint or any part of, or issue arising out of, the complaint for conciliation under Part 5.

(4) An investigation may be conducted jointly by the Commissioner and a registration board.

44. Representation

A person required to appear or to produce documents under this Part may be assisted or represented by another person.

45. Use and obtaining of information

(1) If the Commissioner has obtained a document or information under this Act, other than the report of a conciliator obtained under section 34 or 35, the Commissioner may use that document or information for the purposes of this Part.

(2) If the Commissioner has reason to believe that a person is capable of providing information or producing a document relevant to an investigation, the Commissioner may, by notice in writing provided to the person, require the person to do one or more of the following:

(a) to provide that information to the Commissioner in writing signed by that person or, in the case of a body corporate, by an officer of the body corporate;

(b) to produce that document to the Commissioner;

(c) to attend before a person specified in the notice and provide information by answering questions relevant to the investigation.

(3) A notice referred to in subsection (2) is to specify the period within which, or the time, day and place at which, the person is required to provide the information or document or attend to answer questions.

(4) Nothing in subsection (2) authorizes the Commissioner to require the provision of exempt information or that part of a document containing exempt information.

(5) Where a document is produced in accordance with a requirement under this section, the Commissioner may take possession of, make copies of, or take extracts from, the document.

46. Power to examine witnesses, &c.

(1) The Commissioner, or a person who is to receive information under section 45(2), may administer an oath or affirmation to a person required to attend before him or her under this Part and may examine the person on oath or affirmation.

(2) The Commissioner may require a person to verify by statutory declaration –

(a) any information or document produced under this Part; or

(b) a statement that the person has no relevant information or documents or no further relevant information or documents.

(3) A person must comply with a requirement under subsection (2).

Penalty: Fine not exceeding 50 penalty units.

47. Search powers and warrants

(1) On the application of the Commissioner, a magistrate or justice may issue a warrant if the magistrate or justice is satisfied that there are reasonable grounds –

(a) for believing that entry and inspection of premises are necessary to enable the Commissioner to carry out an investigation under this Part; or

(b) for suspecting that there may be on premises a document or other thing relevant to a matter the Commissioner is investigating under this Part.

(2) A warrant authorizes a person named in the warrant and any other person acting in aid of that person, with such force as is necessary –

(a) to enter and remain in the premises specified in the warrant; and

(b) search those premises and any person or thing in those premises; and

(c) break open and search anything in those premises in which any document or other thing relevant to the investigation may be contained; and

(d) take photographs; and

(e) seize and remove anything in those premises which that person has reasonable grounds for believing is relevant to the investigation; and

(f) examine, seize and remove, make copies of, or take extracts from, any document in those premises which that person has reasonable grounds for believing is relevant to the investigation; and

(g) require a health service provider or any other person employed in those premises to provide information by answering questions which that person considers relevant to the investigation.

(3) A warrant is to –

(a) be in a prescribed form; and

(b) specify the premises in respect of which it is made.

(4) A warrant has effect for a period of 30 days after the day on which it is issued.

47A. Entry of premises

(1) For the purposes of carrying out an investigation under this Act, the Commissioner or, if so authorised by the Commissioner, any State Service officer or State Service employee may at any reasonable time enter any premises occupied or used by a health service or a health service

provider and inspect the premises or anything for the time being on or within them.

(2) The powers conferred by this section to enter premises occupied or used by a health service or a health service provider are not to be exercised unless previous notice of the intention to do so has been given in writing to –

(a) the owner or occupier of the premises in which the health service is provided; or

(b) the health service provider.

48. Reimbursement of expenses

A person required to attend before the Commissioner or another person under this Part is entitled to be paid the expenses and allowances –

(a) that are prescribed; or

(b) if none are prescribed, that the Commissioner determines.

49. Reference to another authority for investigation

(1) If the Commissioner considers that a matter raised by, or during the course of, an investigation should be investigated by the Ombudsman, a registration board or another person that has functions under any law of Tasmania, another State, a Territory or the Commonwealth, the Commissioner may refer the matter to the Ombudsman, registration board

or other person (as the case requires) for investigation.

(2) The Commissioner must not refer a matter to a registration board without first consulting that board.

(3) The Commissioner's powers to investigate a matter are not affected by the matter having been referred under subsection (1) to another person for investigation.

50. Possession by Commissioner of document or other seized item

(1) Where the Commissioner or another person has taken possession of or seized a document or other thing under this Part, the Commissioner may retain possession of the document or other thing for such period not exceeding 60 days as is necessary for the purposes of an investigation.

(2) Where the Commissioner or another person has taken possession of a document, the Commissioner must –

(a) provide the person from whom it was taken with a copy of the document as soon as practicable and, in any case, within 48 hours after it was taken; and

(b) allow a person who would be entitled to inspect the document if it were not in the possession of the Commissioner to inspect, make a copy of, or take an extract from, it at any reasonable time.

Division 3 – Privilege

51. Application of Division

This Division applies in relation to any information or document that a person is required to provide or produce under this Part.

52. Witness privilege and production of documents

(1) Neither the Crown or any other person is entitled to prevent or obstruct the provision of information or the production of any document or evidence from being given for the purpose of an investigation under this Act, notwithstanding any entitlement that might arise if the investigation were a legal proceeding held before a court.

(2) A person is not excused from providing any information, producing any document or answering a question, when required to do so under this Act, on the ground that to do so would disclose legal advice furnished to a health service provider or other person to whom this Act applies.

(3) Notwithstanding section 62B or anything in subsections (1) and (2) of this section, if the Attorney-General provides the Commissioner with a certificate that the disclosure of information concerning a specified matter (including the giving of information in answer to a question) or the disclosure of the contents of a specified document would be contrary to the

public interest because the information or document would, if disclosed, prejudice the taking of proceedings for a crime or other offence, the Commissioner is not entitled to require a person to –

(a) provide the information; or

(b) answer questions concerning the matter or the document; or

(c) produce the document to the Commissioner.

53. Privilege in case of unjustifiable exercise of power

(1) A person is not required to provide or produce any information or document under this Part if the Supreme Court determines that the purpose for which the information or document was required to be provided or produced does not justify –

(a) the adverse effect on the financial interests of the person; or

(b) the intrusion on the privacy of an individual by disclosure of private or confidential matters relating to the individual –

that would likely result from the provision or production of the information or document.

(2) An application to the Supreme Court for a determination referred to in subsection (1) may

be made by the person required to provide or produce the information or document.

54. Supreme Court applications

(1) An application to the Supreme Court under section 53 –

(a) is to be made in accordance with the Rules of Court made under the *Supreme Court Civil Procedure Act 1932* or, to the extent the rules do not provide, as directed by the Supreme Court; and

(b) is to be heard in Chambers.

(2) The burden of proof on an application is on the person seeking to withhold the information or document.

(3) In determining an application, the Supreme Court may make all orders necessary for the practical operation of this Division and, in particular, may make orders –

(a) excusing a person from providing or producing, or requiring a person to provide or produce, the whole or part of the information or document; or

(b) amending the notice or order by which the information or document was required to be provided or produced.

(4) The costs of an application are to be borne as ordered by the Supreme Court.

Division 4 – Action on investigation

55. Reports

(1) The Commissioner –

(a) may prepare a report of his or her findings and conclusions at any time during an investigation; and

(b) must prepare such a report at the conclusion of an investigation.

(2) A copy of each report is to be provided to –

(a - b) . . . . . .

(c) any health service provider mentioned in the report; and

(d) that provider's employer; and

(e) any person who, under a law of Tasmania, another State, a Territory or the Commonwealth, has a function exercisable in relation to a matter raised in the report; and

(f) if the investigation is one referred to in section 40(1)(b) or (c), the complainant; and

(g) if the investigation is one referred to in section 40(1)(b) or (c), any relevant registration board.

(2A) If the Commissioner is satisfied that it is desirable to do so having regard to the nature of the allegations or the seriousness of the findings, the Commissioner must provide a copy of each report to –

(a) the Minister; and

(b) the Health Minister.

(3) Subject to section 63, a report may contain information, comments, opinions and recommendations for action.

56. Notice of action to providers

(1) If, after investigating a complaint, the Commissioner forms the view that the complaint is justified but appears to be incapable of being resolved, the Commissioner may –

(a) provide to the health service provider a notice of recommended action; and

(b) advise the complainant of the provision of that notice.

(2) A notice is to set out –

(a) the particulars of the complaint; and

(b) the reasons for making the decision referred to in subsection (1); and

(c) any action that the Commissioner considers the health service provider ought to take in order to remedy each

unresolved grievance disclosed by the complaint.

(3) A health service provider to whom a notice is provided must, within 45 days after receiving the notice or such longer period as the Commissioner allows under subsection (4), advise the Commissioner, in writing, of what action he, she or it has taken in order to remedy the grievances referred to in the notice.

Penalty: Fine not exceeding 50 penalty units.

(4) If the Commissioner receives before the end of the period of 45 days referred to in subsection (3) a written request by a health service provider to extend that period, the Commissioner may extend that period by not more than 15 days.

Division 5 – Codes of conduct for health care workers

56AAA. Codes of conduct

(1) The regulations may prescribe codes of conduct for the provision of health services by health care workers.

(2) A code of conduct may make different provisions for different classes of health services.

(3) A person who breaches a code of conduct is not, on account of the breach alone, liable to any civil or criminal action.

(4) However, if a person breaches a code of conduct, the Commissioner may enforce compliance with

the code of conduct in the circumstances contemplated by sections 56AAB and 56AAC.

(5) Subsections (3) and (4) do not limit or derogate from any other provision of this Act or any other law.

56AAB. Making of interim prohibition orders

(1) Subject to subsection (2), the Commissioner may, at any time during the investigation of a complaint against a health care worker, make an order (***interim prohibition order***) doing one or both of the following:

(a) prohibiting the health care worker from providing all or part of the health services being investigated;

(b) imposing any conditions that the Commissioner is satisfied are appropriate on the provision by the health care worker of all or part of the health services being investigated.

(2) The Commissioner must not make an interim prohibition order unless –

(a) the Commissioner reasonably believes that the health care worker has –

(i) breached a code of conduct applying to the health services being provided; or

(ii) previously had his or her registration under the Health

Practitioner Regulation National Law (Tasmania) cancelled; or

(iii) been convicted or found guilty of a prescribed offence; and

(b) the Commissioner is satisfied that it is necessary to make the order to avoid an immediate risk to –

(i) the life, health, safety or welfare of a person; or

(ii) the health, safety or welfare of the public.

(3) An interim prohibition order remains in force for a period of 12 weeks or a shorter period as may be specified in the order.

(4) The Commissioner may, at any time before the expiry of an interim prohibition order, renew, vary or revoke the order.

(5) An interim prohibition order takes effect on the service of the order on the health care worker to whom it applies.

(6) The Commissioner must notify the health care worker of the decision to make an interim prohibition order, and provide the health care worker with a written statement of decision, as soon as practicable after the decision is made.

(7) A statement of decision under subsection (6) is to include a copy of the order and the grounds on which the decision was made.

(8) On the expiration of the 12-week period referred to in subsection (3), the Commissioner may make a further interim prohibition order.

(9) A person who contravenes an interim prohibition order is guilty of an offence.

Penalty: Fine not exceeding 150 penalty units or a term of imprisonment not exceeding one year, or both.

56AAC. Making of prohibition orders

(1) Subject to subsection (2), the Commissioner may, at the conclusion of an investigation against a health care worker, make an order (***prohibition order***) doing one or both of the following:

(a) prohibiting the health care worker from providing all or part of the health services that were the subject of the investigation for a period specified in the order, or indefinitely;

(b) imposing any conditions that the Commissioner is satisfied are appropriate, on the provision by the health care worker of all or part of the health services that were the subject of the investigation, for a specified period, or indefinitely.

(2) The Commissioner must not make a prohibition order unless –

(a) the Commissioner is satisfied that the health care worker has –

(i) breached a code of conduct applying to the health services being provided; or

(ii) previously had his or her registration under the Health Practitioner Regulation National Law (Tasmania) cancelled; or

(iii) been convicted or found guilty of a prescribed offence; and

(b) the Commissioner is satisfied that it is necessary to make the prohibition order to avoid an immediate risk to –

(i) the life, health, safety or welfare of a person; or

(ii) the health, safety or welfare of the public.

(3) The Commissioner may at any time vary or revoke a prohibition order.

(4) A prohibition order takes effect on the service of the order on the health care worker to whom it applies.

(5) A person who contravenes a prohibition order is guilty of an offence.

Penalty: Fine not exceeding 150 penalty units or a term of imprisonment not exceeding one year, or both.

56AAD. Commissioner to provide details of action taken

(1) If the Commissioner makes a prohibition order, the Commissioner must, as soon as practicable after the prohibition order is made, provide the health care worker to whom the order applies with a written statement of decision –

(a) setting out the Commissioner's findings on significant questions of fact and including a copy of the prohibition order; and

(b) referring to any evidence or other material on which the findings of fact were based; and

(c) giving the reason, or reasons, for making the prohibition order.

(2) Subject to subsections (3) and (4), the Commissioner –

(a) in the case of a prohibition order made as the result of a complaint, must provide a copy of the statement of decision referred to in subsection (1) to the complainant; and

(b) must provide a copy of the statement of decision referred to in subsection (1) to any professional body or association that the Commissioner considers to be relevant to the health care worker or to the area of practice to which the action relates; and

(c) may publish the statement of decision referred to in subsection (1), or parts of the statement, in a manner, and in any publication, that the Commissioner considers appropriate.

(3) The Commissioner may remove from a statement of decision that is provided to a person or body, or made publicly available, under subsection (2), any material that it considers to be confidential information.

(4) When confidential material is not included in a statement of decision, the statement should indicate that the material has been removed.

(5) This section does not affect the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

56AAE. Public warning statements

(1) As soon as practicable after completing an investigation, the Commissioner may prepare a statement (***public warning statement***) if the Commissioner reasonably believes that –

(a) a person has suffered, or is likely to suffer, a detriment as a result of the provision of the health service by the health care worker; and

(b) it is necessary to publish the statement to avoid an immediate risk to –

(i) the life, health, safety or welfare of a person; or

(ii) the health, safety or welfare of the public.

(2) A public warning statement is to include –

(a) the name of the health care worker; and

(b) any warnings and other information that the Commissioner considers appropriate in relation to the health services provided by the health care worker.

(3) As soon as practicable after preparing a public warning statement, the Commissioner is to –

(a) advise the health care worker of the Commissioner's intention to publish the statement; and

(b) provide the health care worker with a copy of the statement.

(4) Within 14 days after being provided with a copy of the statement, the health care worker may lodge with the Commissioner a notice disputing the statement or requesting changes to it.

(5) After the expiration of the period referred to in subsection (4), the Commissioner may decide to –

(a) withdraw the public warning statement; or

(b) publish the public warning statement with amendments; or

(c) publish the public warning statement without amendment.

(6) The Commissioner must notify the health care worker of the Commissioner's decision.

(7) A health care worker may appeal, in accordance with section 56AAG, against a decision under subsection (5).

(8) After the resolution of any relevant appeal or the expiration of any relevant appeal period, the Commissioner may publish the public warning statement –

(a) in a newspaper circulating throughout the State; and

(b) on the Commissioner's internet site.

(9) If the public warning statement is amended, the Commissioner must provide the health care worker with a copy of the amended statement before publishing it.

(10) The Commissioner may revoke a public warning statement by publishing, in a newspaper circulating throughout the State and on the Commissioner's internet site, a statement setting out the reason for the revocation.

(11) If the Commissioner believes that a public warning statement contains a minor error, the Commissioner may amend the statement

accordingly and must publish, in a newspaper circulating throughout the State and on the Commissioner's internet site, a statement setting out the reason for the amendment.

56AAF. Offence to provide health services if prohibited from doing so in another State or a Territory

A health care worker must not provide a health service in this State if that person is prohibited from providing that health service under a law of the Commonwealth or of another State or a Territory.

Penalty: Fine not exceeding 150 penalty units or a term of imprisonment not exceeding one year, or both.

56AAG. Appeals

(1) A person in relation to whom the Commissioner makes an interim prohibition order or a prohibition order, or intends to publish a statement under section 56AAE(5), may appeal the decision to make the interim prohibition order or prohibition order, or to publish the statement, to the Administrative Appeals Division of the Magistrates Court.

(2) An appeal under this section must be commenced within one month after notification of the decision to make an interim prohibition order under section 56AAB(6) or service of a prohibition order under section 56AAC(4) or provision of a public warning statement under

section 56AAE, or such extended period as may be allowed by the Administrative Appeals Division of the Magistrates Court.

(3) On an appeal under this section the Court may confirm, vary or revoke an order or publication the subject of the appeal.

56AAH. Related matters

(1) The regulations may prescribe a specified person, or a person of a specified class, who is excluded from the application of this Division.

(2) To avoid doubt, action may not be taken under this Division in relation to conduct that falls within the ambit of Part 7.

PART 7 – REGISTRATION BOARDS

56AA. Relationship of this Act to Health Practitioner Regulation National Law (Tasmania)

(1) If a provision of this Act is inconsistent with section 150 of the Health Practitioner Regulation National Law (Tasmania), section 150 prevails and the provision of this Act has no effect to the extent of the inconsistency.

(2) If part of a complaint or notification is dealt with by a National Board pursuant to section 150 of the Health Practitioner Regulation National Law (Tasmania), the Commissioner is not precluded from dealing with the remaining part of the complaint or notification under this Act.

56A. Agreement on protocol

The Commissioner and a National Board may agree on protocols that relate to all or any of the following:

(a) the consultation process referred to in this Act;

(b) the agreement process referred to in section 150 of the Health Practitioner Regulation National Law (Tasmania);

(c) the referral of complaints or notifications made or likely to be made under this Act or the Health Practitioner Regulation National Law (Tasmania).

57. Referral of complaint to Commissioner by local registration board

(1) If a local registration board that receives a grievance against a health service provider considers that the grievance is made by a person who is entitled under section 22 to make a complaint and discloses a ground for complaint specified in section 23(1), the board must–

(a) provide the Commissioner with a copy of the grievance and all other documents in its possession that relate to the grievance; and

(b) consult with the Commissioner with respect to whether or not the grievance is to be referred to the Commissioner; and

(c) if the Commissioner and board agree –

(i) refer the grievance to the Commissioner; or

(ii) retain the grievance for investigation under section 58.

(2) If the Commissioner and a local registration board fail to reach an agreement as to whether or not a grievance is to be referred to the Commissioner, the board must comply with the written decision of the Commissioner.

(3) A grievance referred to the Commissioner under this section is taken to be a complaint made to the Commissioner.

(4) A local registration board is to take no further action on a grievance referred to the Commissioner under this section unless the Commissioner refers the complaint back to the board under this Act.

(5) The Commissioner may issue guidelines to local registration boards in relation to–

(a) the consultation process referred to in subsection (1)(b); and

(b) referrals of grievances made, or likely to be made, under this section.

58. Investigation of complaints or grievances by a local registration board

(1) A local registration board must investigate –

(a) a complaint referred to it by the Commissioner under this Act; or

(b) a grievance retained under section 57(1)(c)(ii).

(2) On investigating the complaint or grievance, the local registration board must provide the Commissioner with a report of–

(a) its findings; and

(ab) a statement of the reasons for its decision; and

(b) any action it has taken or proposes to take.

(3) In investigating a complaint under subsection (1)(a), the local registration board must consult with the Commissioner with respect to whether or not the complaint or any part of, or issue arising out of, the complaint is to be referred back to the Commissioner for action under section 25(1A).

(4) In investigating a grievance under subsection (1)(b), the local registration board must consult with the Commissioner with respect to whether or not the grievance or any part of, or issue arising out of, the grievance is to be referred to the Commissioner for action under section 25(1A).

(5) If the Commissioner determines that a complaint is to be referred under subsection (3) or a grievance is to be referred under subsection (4) –

(a) the Commissioner, by notice in writing, is to notify the local registration board of that determination; and

(b) the board must comply with that determination.

(6) An investigation may be conducted jointly by the local registration board and the Commissioner.

59. Action on investigation reports

(1) As soon as practicable after receiving a report provided under section 55 which recommends that a registration board perform a function, the

registration board must notify the Commissioner, in writing, of whether or not it intends to perform the function.

(2) As soon as practicable after performing a function in accordance with a recommendation contained in a report provided under section 55, a registration board must advise the Commissioner, in writing, of –

(a) the result of the performance of the function; and

(b) any finding it has made; and

(ba) a statement of reasons for that finding; and

(c) any other action it has taken or proposes to take.

(3) If the Commissioner is dissatisfied with the failure of a registration board to perform a function that the Commissioner has recommended in a report provided under section 55 or with the time being taken by the board to perform that function or a function under this Act, the Commissioner may report the matter to the Health Minister.

60. Information from registration board and other bodies

A registration board or any professional body or association that the Commissioner considers relevant may provide to the Commissioner

information, comment and recommendations in relation to a complaint and the health service provider against whom the complaint was made.

61. Information to registration board

(1) A relevant registration board may, at any time, request the Commissioner for reasonable reports on the progress and results of an investigation of a complaint.

(1A) The Commissioner may, at any time, request a relevant registration board to provide reasonable reports on the progress and results of an investigation of a complaint or grievance.

(2) The Commissioner or a registration board must comply with a request made under this section.

62. Commissioner may intervene in disciplinary proceedings

At any stage in a disciplinary proceeding before a local registration board taken against a health service provider for matters in relation to or arising out of a complaint or an investigation, the Commissioner may become a party to the proceedings.

62A. Power of local registration board to give information to Commissioner

For the purpose of assisting the Commissioner to perform his or her functions under this Act, a local registration board may make any

information that it receives in the performance of its functions under this Act or any other Act available to the Commissioner.

PART 8 – MISCELLANEOUS

62B. Freedom of disclosure and communication to Commissioner

Where a provision of an Act –

(a) prohibits or restricts; or

(b) authorises or requires the imposition of a prohibition or restriction on –

the disclosure or communication of information, that provision does not apply to, or in respect of, the disclosure or communication of information in a manner that will prevent or restrict the making of a complaint to, or the carrying out of an investigation by, the Commissioner or the performance of the Commissioner's other functions under this Act.

62C. Commissioner may give information or copies of orders to other bodies or jurisdictions

(1) For the purposes of this Act, the Health Practitioner Regulation National Law (Tasmania) or a relevant law, the Commissioner may give information obtained in the course of administering this Act that is, or may be, the subject of, or relevant to, a complaint, investigation or inquiry under the Health Practitioner Regulation National Law (Tasmania) or a relevant law to –

(a) in the case of the Health Practitioner Regulation National Law (Tasmania), the

Australian Health Practitioner Regulation Agency established by section 23 of the Health Practitioner Regulation National Law (Tasmania) or any relevant National Board; or

(b) in any other case –

(i) the person or body responsible for dealing with the matter under the relevant law; or

(ii) any professional body or association that the Commissioner considers relevant to the health care worker or the health care worker's area of practice.

(2) If the Commissioner makes an interim prohibition order or a prohibition order, the Commissioner may give a copy of the order to –

(a) the Australian Health Practitioner Regulation Agency established by section 23 of the Health Practitioner Regulation National Law (Tasmania) or any relevant National Board; and

(b) any person or body dealing with health complaints under the jurisdiction of another State, a Territory or the Commonwealth, if the person or body has the power to make orders in the nature of the interim prohibition order or prohibition order; and

(c) any professional body or association that the Commissioner considers relevant to the health care worker or the health care worker's area of practice.

(3) If the Commissioner publishes a public warning statement, he or she may give a copy of the statement to –

(a) the Australian Health Practitioner Regulation Agency established by section 23 of the Health Practitioner Regulation National Law (Tasmania) or any relevant National Board; and

(b) any person or body dealing with health complaints under the jurisdiction of another State, a Territory or the Commonwealth, if the person or body has the power to make statements in the nature of the public warning statement; and

(c) any professional body or association that the Commissioner considers relevant to the health care worker or the health care worker's area of practice.

62D. Commissioner authorised to receive information under the Health Practitioner Regulation National Law (Tasmania)

To avoid doubt –

(a) the Commissioner is a State entity for the purposes of sections 219 and 220 of the

Health Practitioner Regulation National Law (Tasmania); and

(b) a disclosure of protected information (within the meaning of the Health Practitioner Regulation National Law (Tasmania)) to the Commissioner is authorised and permitted for the purposes of section 216(2)(b) and (c) of that Law.

63. Adverse comment in reports

(1) The Commissioner must not include in a report under this Act a comment adverse to a person identifiable from the report except where the person has been given a reasonable opportunity –

(a) to make a submission to the Commissioner in relation to the proposed comment; and

(b) to provide to the Commissioner a written statement in relation to it.

(2) If a person referred to in subsection (1) so requests, the Commissioner must include in the report the statement given under subsection (1)(b) or a fair summary of it.

(3) The Commissioner is not required to provide to a person the opportunity referred to in subsection (1) if the Commissioner believes, on reasonable grounds, that awareness of the proposed comment by any person would be likely to result in –

(a) the health or safety of any person being put at risk; or

(b) the provision to a person of a health service of a lower standard than would otherwise have been provided; or

(c) action that would prejudice the fair assessment of a complaint or an investigation under this Act.

64. Protection of identity of health service user or complainant from health service provider

(1) Notwithstanding any other provision of this Act, the Commissioner must not disclose to a health service provider information that would enable a health service user or a complainant to be identified if the Commissioner believes, on reasonable grounds, that the disclosure would, directly or indirectly –

(a) put at risk the health or safety of any person; or

(b) occasion the receipt by a person of a health service of a lower standard than he or she would otherwise have received; or

(c) prejudice the assessment of a complaint or an investigation by the Commissioner.

(2) If the Commissioner has not provided information to a health service provider in pursuance of subsection (1), the Commissioner

must provide that information if he or she ceases to hold the belief referred to in that subsection.

65. Preservation of confidentiality

(1) A person must not record, disclose or use confidential information gained by the person through involvement in the administration of this Act, unless the person does so –

(a) when necessary for the purposes of this Act; or

(b) when expressly authorized or required under this or another Act; or

(c) when expressly authorized or required under the regulations; or

(d) when expressly authorized, in writing, by the person to whom it relates.

Penalty: Fine not exceeding 50 penalty units.

(2) Except where it is necessary to do so for the purposes of this Act, a person is not required –

(a) to disclose confidential information to a court or tribunal; or

(b) to produce that part of a document that contains confidential information to a court or tribunal.

(3) For the purposes of this section, a person gains information through involvement in the

administration of this Act if the person gains the information –

(a) in the course of the involvement; or

(b) because of opportunity provided by the involvement.

(4) For the purposes of this section, the following persons are involved in the administration of this Act:

(a) the Commissioner;

(b) a conciliator;

(c) a professional mentor;

(d) another staff member;

(e) a member of a committee.

(5) This section does not apply to the recording, disclosure or use of statistical or other information that could not reasonably be expected to lead to the identification of any person.

66. Returns by prescribed providers

(1) Within the prescribed time after the end of a financial year a prescribed health service provider must lodge with the Commissioner a return that sets out the prescribed particulars concerning –

(a) all complaints of which the Commissioner has notified the health service provider under this Act during that financial year; and

(b) all complaints that the health service provider has received during that financial year; and

(c) any action taken during that financial year in response to, or as a result of the receipt of, a complaint referred to in paragraph (a) or (b) or such a complaint received during a previous financial year.

Penalty: Fine not exceeding 50 penalty units.

(2) In subsection (1), a reference to a complaint received by a health service provider includes a reference to –

(a) a complaint received by a health service provider in relation to a health service, whether or not the same or a similar complaint has been made to the Commissioner; and

(b) a complaint which the Commissioner, if the complaint had been made to him or her, would have dismissed.

67. Offences relating to intimidation

(1) Without reasonable excuse, a person must not persuade or attempt to persuade by threat or intimidation another person –

(a) to refrain from making to the Commissioner or any other person a complaint; or

(b) to withdraw a complaint; or

(c) to fail to co-operate with the Commissioner or another person who is performing or exercising a function or power under this Act; or

(d) to fail to provide information or a document to the Commissioner or any other person who is performing a function or exercising a power under this Act; or

(e) to provide information or a document that is false or misleading in a material particular, or to provide information or a document in a manner that will make the information or document false or misleading in a material particular, to the Commissioner or any other person performing a function or exercising a power under this Act.

Penalty: Fine not exceeding 100 penalty units.

(2) It is a defence to a prosecution for an offence under subsection (1) that –

(a) the defendant had another ground for engaging in the conduct alleged; and

(b) that ground is a reasonable one.

68. Offences relating to reprisals

(1) A person must not take, attempt to take or conspire to take a reprisal against another person because, or in the belief that, any person –

(a) has made or may make a complaint; or

(b) has co-operated, may co-operate or is co-operating with the Commissioner or any other person who performs a function or exercises a power under this Act; or

(c) has provided, may provide or is providing documents or information, by answering questions or otherwise, to the Commissioner or any other person who performs a function or exercises a power under this Act.

Penalty: Fine not exceeding 100 penalty units.

(2) Without limiting subsection (1), the following are examples of a reprisal:

(a) failing to employ a person;

(b) dismissing a person from employment;

(c) penalizing or discriminating against a person in the course of his or her employment.

(3) It is sufficient for a contravention of subsection (1) if the ground specified in subsection (1) is a significant factor in inducing the person to take, attempt to take or conspire to take a reprisal.

(4) An attempt to take a reprisal includes an attempt to induce a person to take a reprisal.

(5) It is a defence to a prosecution for an offence under subsection (1) for the defendant to prove that despite a ground specified in subsection (1) being a significant factor for engaging in the conduct alleged to constitute the reprisal –

(a) the defendant had another ground for engaging in that conduct; and

(b) that ground is a reasonable one; and

(c) the defendant had taken a significant step towards engaging in that conduct before acting on the ground specified in subsection (1).

69. Offences relating to obstruction, &c.

Without reasonable excuse, a person must not obstruct, hinder, resist or improperly influence, or attempt to obstruct, hinder, resist or improperly influence, the Commissioner or any other person in the performance or exercise of a function or power under this Act.

Penalty: Fine not exceeding 50 penalty units.

70. Offences relating to provision of information, &c.

(1) Without reasonable excuse, a person who is required to do so under this Act must not refuse or fail –

(a) to attend before a person for the purpose of providing information; or

(b) to be sworn or make an affirmation; or

(c) to provide information by answering a question or otherwise; or

(d) to produce a document.

Penalty: Fine not exceeding 50 penalty units.

(2) A person must not –

(a) provide to the Commissioner or any other person who is performing or exercising a function or power under this Act information that the person knows is false or misleading in a material particular; or

(b) refuse or fail to include in information provided to a person who is performing or exercising a function or power under this Act other information without which the information provided is, to the knowledge of the person, false or misleading in a material particular.

Penalty: Fine not exceeding 50 penalty units.

(3) A person must not provide to the Commissioner or any other person performing or exercising a function or power under this Act a document containing information that the person knows is false or misleading in a material particular without –

(a) indicating that the document is false or misleading and the manner in which it is false or misleading; and

(b) giving correct information if the person has, or can reasonably obtain, the correct information.

Penalty: Fine not exceeding 50 penalty units.

(4) The Commissioner may apply to the Supreme Court for, and the Supreme Court may make, an order directing a person to provide information by answering questions or otherwise, to produce a document or to attend to answer questions before another person, at such place and within such period or on such day and at such time as are specified in the order if –

(a) that person refuses or fails to comply with a requirement made by the Commissioner under section 45 to provide information by answering questions or otherwise, produce a document or attend to answer questions; or

(b) that person provides information that is false or misleading in a material particular; or

(c) that person refuses or fails to include in information provided other information without which the information provided is false or misleading in a material particular.

(5) Without limiting subsection (1), it is a reasonable excuse to refuse or fail to provide information by answering a question or otherwise or to produce the whole or part of a document if to do so would disclose or provide exempt information.

(6) A person is not liable to any penalty under the provisions of any other Act because the person, when required to do so under this Act –

(a) provided information that is not exempt information; or

(b) produced a document that does not contain exempt information; or

(c) answered a question if the answer does not disclose exempt information.

71. Proceedings for offence

Proceedings for an offence against this Act are to start –

(a) within 6 months after the commission of the offence; or

(b) within 6 months after the offence comes to the knowledge of the Commissioner.

72. Evidence

(1) In any proceeding, a certificate purporting to be that of the Commissioner stating that a person is a delegate in relation to a power specified in the

certificate or is a conciliator, professional mentor or staff member is evidence of that matter.

(2) In any proceeding, a certificate purporting to be that of the Commissioner or another person referred to in subsection (1) stating that the Commissioner or the person has made or taken a decision, step or action or that a document is held by or was provided to the Commissioner or the person is evidence of those matters.

(3) Judicial notice is to be taken of –

(a) an appointment of the Commissioner or a person to act as Commissioner, whenever made; and

(b) the Commissioner's and that person's signature.

73. Protection from civil actions

A person is not liable in respect of loss, damage or injury of any kind suffered by another person as a result of any of the following done in good faith:

(a) the making of a complaint;

(ab) the making of a grievance received by a local registration board under section 57(1);

(b) the making of a statement, the provision of any information whether by answering a question or otherwise or the provision of any document for the purposes of this

Act to the Commissioner, a conciliator or another person authorized to receive the statement, information or document;

(c) the making of a report under this Act;

(d) the provision of a copy of a report to a person to whom it may be provided under this Act;

(e) the doing, or omission, of anything in the performance or exercise of a function or power under this Act.

74. Informality of procedures

(1) In performing functions and exercising powers under this Act, the Commissioner and all conciliators must have regard to the rules of natural justice.

(2) Subject to subsection (1), the Commissioner and a conciliator –

(a) must proceed with as little formality and technicality and with as much expedition as the requirements of this or any other Act and a proper consideration of the matter permit; and

(b) is not bound by rules of evidence but may inform himself or herself of any matter in any manner that he or she considers appropriate.

75. Determining reasonableness of health service provider's actions

In determining whether a health service provider has acted reasonably, the Commissioner must have regard to –

(a) the Charter; and

(b) the principles specified in section 20(3); and

(c) the generally accepted standard of health service delivery expected of a provider of that kind; and

(d) any other matter or information the Commissioner considers relevant.

76. . . . . .

77. Amendment of Schedules 1 and 2

(1) The Governor may, by order, amend Schedule 1 or 2 as follows:

(a) by omitting any matter;

(b) by inserting or adding any matter;

(c) by omitting any matter and substituting any other matter.

(2) The Governor may, by order, repeal Schedule 1 or 2 and substitute another Schedule for the Schedule repealed.

(3) The provisions of sections 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order under this section as if the order were regulations within the meaning of that Act.

78. Providing documents

A document is effectively provided to a person under this Act if –

(a) in the case of a natural person, it is –

(i) given to the person; or

(ii) left at, or sent by post to, the person's postal or residential address or place or address of business or employment last known to the provider of the document; or

(iii) sent by way of facsimile transmission to the person's facsimile number; and

(b) in the case of any other person, it is –

(i) left at, or sent by post to, the person's principal or registered office or principal place of business; or

(ii) sent by way of facsimile transmission to the person's facsimile number.

79. Regulations

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

(2) 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.

(3) The regulations may –

(a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and

(b) in respect of such an offence, provide for the imposition of a fine not exceeding 20 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

(4) The regulations may prescribe expenses and allowances payable to witnesses under this Act by reference to similar expenses and allowances payable to persons attending as a witness before a court specified in the regulations.

80. *The amendment effected by this section has been incorporated into the authorised version of the Ombudsman Act 1978.*

81. 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 Justice; and

(b) the Department responsible to the Minister for Justice in relation to the administration of this Act is the Department of Justice.

SCHEDULE 1 – HEALTH SERVICES

Section 3

PART 1 – SERVICES THAT ARE HEALTH SERVICES

1. A service provided at a hospital, health institution or nursing home.

2. A medical, dental, pharmaceutical, mental health, community health, environmental health or specialized health service or a service related to such a service.

3. A service provided for the care, treatment or accommodation of persons who are aged or have a physical disability or mental dysfunction.

4. A laboratory service provided in support of a health service.

5. A laundry, dry cleaning, catering or other support service provided to a hospital, health institution, nursing home or premises for the care, treatment or accommodation of persons who are aged or have a physical disability or mental dysfunction, if the service affects the care or treatment of a patient or a resident.

6. A social work, welfare, recreational or leisure service, if provided as part of a health service.

7. An ambulance service.

8. Any other service provided by a provider for, or purportedly for, the care or treatment of another person.

9. A service provided by an audiologist, audiometrist, optical dispenser, dietitian, prosthetist, dental prosthetist, psychotherapist, medical radiation science professional, podiatrist, therapeutic counsellor or any other service of a professional or technical nature provided for, or purportedly for, the care or treatment of another person or in support of a health service.

10. A service provided by a practitioner of massage, naturopathy or acupuncture or in another natural or alternative health care or diagnostic field.

11. The provision of information relating to the promotion or provision of health care or to health education.

11A. A service provided at a hospital or health institution for the temporary storage of human remains as defined in the *Burial and Cremation Act 2002*.

12. Any other service provided by a person registered by a registration board.

13. A prescribed service.

PART 2 – SERVICES THAT ARE NOT HEALTH SERVICES

1. The provision of an opinion or the making of a decision for the purposes of a claim under the *Workers Rehabilitation and Compensation Act 1988*.

2. The provision of an opinion or the making of a decision for the purposes of, or in relation to, an application made to the Asbestos Compensation Commissioner, or the Tasmanian Civil and Administrative Tribunal, under the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011*.

3. A prescribed service.

SCHEDULE 2 – . . . . . .

SCHEDULE 3 – HEALTH COMPLAINTS COMMISSIONER

Section 5 (2)

1. . . . . .

1A. Term of office

The Commissioner holds office for such term, not exceeding 5 years, as is specified in the instrument of appointment.

2. Conditions of appointment

(1) The Commissioner is entitled to be paid the remuneration and allowances determined by the Governor from time to time.

(2) If a State Service officer or State Service employee is appointed as Commissioner, that officer or employee is entitled to retain all his or her existing and accruing rights as if service as Commissioner were a continuation of service as such an officer or employee.

(3) Where a person ceases to be Commissioner and becomes a State Service officer or State Service employee, service as Commissioner is service in the State Service for the purposes of determining his or her rights as such an officer or employee.

(4) The Commissioner holds office on such conditions in relation to matters not provided for

by this Act as are specified in the instrument of appointment.

(5) The Commissioner is an employee for the purposes of the *Public Sector Superannuation Reform Act 2016*.

(6 - 9) . . . . . .

3. Who may be Commissioner

(1) A person is not eligible to be reappointed as Commissioner if the person has served 3 consecutive terms of office as Commissioner.

(2) For the purposes of subclause (1), an appointment to a vacant office under clause 8(2) is not a term of office as Commissioner.

(3) The Commissioner may hold the office of Health Complaints Commissioner in conjunction with the office of Ombudsman held under the *Ombudsman Act 1978*.

(4) The Commissioner may hold the office of Health Complaints Commissioner in conjunction with State Service employment.

(5) A person may not hold the office of Health Complaints Commissioner if that person is –

(a) a member of a House of Parliament of the Commonwealth, a State or a Territory; or

(b) a candidate for election as a member of any such House of Parliament.

(6) For the purposes of subclause (5)(b), a person becomes a candidate for election as a member of a House of Parliament when nominated for that election in accordance with the law regulating that election.

(7) Where the holder of an office under an Act is required by or under any Act to devote the whole of his or her time to the duties of that office, that requirement does not operate to disqualify the holder from holding that office in conjunction with the office of Health Complaints Commissioner.

4. Application of certain Acts

(1) The *State Service Act 2000* does not apply in relation to the Commissioner.

(2) . . . . . .

(3) For the purposes of the *Long Service Leave (State Employees) Act 1994*, the Commissioner is an employee.

5. Resignation

The Commissioner may resign by signed notice given to the Minister.

6. Suspension

(1) The Governor may suspend the Commissioner from office if the Governor is satisfied that the Commissioner –

(a) is physically or mentally incapable of continuing as Commissioner; or

(b) is unable to perform adequately or competently the functions of the office of Health Complaints Commissioner; or

(c) has been convicted, in Tasmania or elsewhere, of an offence punishable by imprisonment for 12 months or longer; or

(d) has become bankrupt, applied to take the benefit of the law for the relief of bankrupt or insolvent debtors, compounded with creditors or made an assignment of his or her remuneration or estate for their benefit; or

(e) has been guilty of misconduct.

(2) Where the Commissioner has been suspended from office, the Commissioner is restored to office if –

(a) a statement specifying the reasons for the suspension is not laid before each House of Parliament during the first 7 sitting days of that House following the suspension; or

(b) each House of Parliament does not pass an address praying for the removal of the Commissioner from office during the session in which, and within 30 sitting days after, such a statement is laid before it.

7. Removal from office

(1) The Governor, on addresses from both Houses of Parliament, may remove the Commissioner from office.

(2) The Commissioner may not be removed from office except as provided in subclause (1).

8. Filling a vacancy

(1) The Commissioner vacates office if he or she –

(a) dies; or

(b) resigns; or

(c) is removed from office under clause 7.

(2) The Governor may appoint a person to the vacant office of Commissioner for the residue of the predecessor's term of office.

9. Defect does not invalidate appointment

An appointment of a person as Commissioner is not invalid merely because of a defect or irregularity in relation to the appointment.

NOTES

The foregoing text of the *Health Complaints Act 1995* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 20 November 2026 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
Health Complaints Act 1995	No. 95 of 1995	1.5.1997
Health Act 1997	No. 13 of 1997	1.7.1997
Physiotherapists Registration Act 1999	No. 106 of 1999	1.3.2000
Psychologists Registration Act 2000	No. 9 of 2000	1.10.2000
Superannuation (Miscellaneous and Consequential Amendments) Act 2000	No. 103 of 2000	13.12.2000
State Service (Consequential and Miscellaneous Amendments) Act 2000	No. 86 of 2000	1.5.2001
Health Complaints Amendment Act 2001	No. 85 of 2001	22.11.2001
Medical Radiation Science Professionals Registration Act 2000	No. 65 of 2000	1.7.2002
Health Complaints Amendment Act 2005	No. 5 of 2005	6.5.2005
Public Sector Superannuation (Miscellaneous Amendments) Act 2005	No. 65 of 2005	15.12.2005
Justice and Related Legislation (Miscellaneous Amendments) Act 2006	No. 16 of 2006	1.11.2006
Justice and Related Legislation (Miscellaneous Amendments) Act 2008	No. 18 of 2008	26.6.2008
Health Practitioner Regulation National Law (Tasmania) (Consequential Amendments) Act 2010	No. 3 of 2010	1.7.2010
Asbestos-Related Diseases (Occupational Exposure) Compensation (Consequential	No. 28 of 2011	31.10.2011

Act	Number and year	Date of commencement
Amendments) Act 2011		
Medical Radiation Science Professionals Registration (Repeal) Act 2011	No. 33 of 2011	1.7.2012
Justice and Related Legislation (Miscellaneous Amendments) Act 2015	No. 38 of 2015	13.10.2015
Public Sector Superannuation Reform (Consequential and Transitional Provisions) Act 2016	No. 54 of 2016	31.3.2017
Tasmanian Civil and Administrative Tribunal (Consequential Amendments) Act 2021	No. 18 of 2021	5.11.2021
Health Complaints Amendment (Code of Conduct) Act 2018	No. 19 of 2018	31.12.2024
Justice and Related Legislation (Miscellaneous Amendments) Act 2026	No. 25 of 2026	20.11.2026

TABLE OF AMENDMENTS

Provision affected	How affected
Section 3	Amended by No. 13 of 1997, Sched. 4, No. 86 of 2000, Sched. 1, No. 85 of 2001, s. 4, No. 5 of 2005, s. 4, No. 3 of 2010, Sched. 1, No. 19 of 2018, s. 4 and No. 25 of 2026, s. 20
Section 6	Amended by No. 19 of 2018, s. 5
Section 13	Amended by No. 5 of 2005, s. 5
Section 14	Amended by No. 86 of 2000, Sched. 1
Section 15	Amended by No. 86 of 2000, Sched. 1 and No. 18 of 2008, s. 28
Section 22	Amended by No. 5 of 2005, s. 6
Section 22A	Inserted by No. 19 of 2018, s. 6
Section 23	Amended by No. 5 of 2005, s. 7
Section 24A	Inserted by No. 5 of 2005, s. 8 Amended by No. 3 of 2010, Sched. 1
Section 25	Amended by No. 5 of 2005, s. 9, No. 3 of 2010, Sched. 1, No. 38 of 2015, s. 32 and No. 19 of 2018, s. 7
Section 25A	Inserted by No. 5 of 2005, s. 10
Section 26	Amended by No. 5 of 2005, s. 11
Section 29	Amended by No. 19 of 2018, s. 8
Section 29A	Inserted by No. 5 of 2005, s. 12
Section 29B	Inserted by No. 5 of 2005, s. 12
Section 30	Amended by No. 28 of 2011, s. 26 and No. 33 of 2011, s. 6
Section 32A	Inserted by No. 5 of 2005, s. 13
Section 35	Amended by No. 5 of 2005, s. 14
Section 36	Amended by No. 28 of 2011, s. 27 and No. 33 of 2011, s. 7

Provision affected	How affected
Section 40	Amended by No. 5 of 2005, s. 15, No. 33 of 2011, s. 8 and No. 19 of 2018, s. 9
Section 41	Amended by No. 19 of 2018, s. 10
Section 43	Amended by No. 5 of 2005, s. 16, No. 28 of 2011, s. 28 and No. 33 of 2011, s. 9
Section 47A	Inserted by No. 5 of 2005, s. 17
Section 52	Substituted by No. 5 of 2005, s. 18
Section 54	Amended by No. 5 of 2005, s. 19
Section 55	Amended by No. 5 of 2005, s. 20
Division 5 of Part 6	Inserted by No. 19 of 2018, s. 11
Section 56AAA of Part 6	Inserted by No. 19 of 2018, s. 11
Section 56AAB of Part 6	Inserted by No. 19 of 2018, s. 11
Section 56AAC of Part 6	Inserted by No. 19 of 2018, s. 11
Section 56AAD of Part 6	Inserted by No. 19 of 2018, s. 11
Section 56AAE of Part 6	Inserted by No. 19 of 2018, s. 11
Section 56AAF of Part 6	Inserted by No. 19 of 2018, s. 11
Section 56AAG of Part 6	Inserted by No. 19 of 2018, s. 11
Section 56AAH of Part 6	Inserted by No. 19 of 2018, s. 11
Section 56AA	Inserted by No. 3 of 2010, Sched. 1
Section 56A	Inserted by No. 5 of 2005, s. 21 Substituted by No. 3 of 2010, Sched. 1
Section 57	Amended by No. 85 of 2001, s. 5 and No. 3 of 2010, Sched. 1
Section 58	Substituted by No. 85 of 2001, s. 6 Amended by No. 5 of 2005, s. 22, No. 3 of 2010, Sched. 1 and No. 33 of 2011, s. 10
Section 59	Amended by No. 5 of 2005, s. 23
Section 60	Amended by No. 19 of 2018, s. 12
Section 61	Amended by No. 5 of 2005, s. 24
Section 62	Amended by No. 3 of 2010, Sched. 1
Section 62A	Inserted by No. 5 of 2005, s. 25 Amended by No. 3 of 2010, Sched. 1
Section 62B	Inserted by No. 5 of 2005, s. 26
Section 62C	Inserted by No. 19 of 2018, s. 13
Section 62D	Inserted by No. 19 of 2018, s. 13
Section 73	Amended by No. 85 of 2001, s. 7 and No. 3 of 2010, Sched. 1
Section 76	Repealed by No. 16 of 2006, s. 24
Part 1 of	Amended by No. 65 of 2000, s. 78, No. 5 of 2005, s. 27

Provision affected	How affected
Schedule 1	and No. 25 of 2026, s. 21
Part 2 of Schedule 1	Substituted by No. 28 of 2011, s. 29
	Amended by No. 18 of 2021, s. 176 and No. 25 of 2026, s. 21
Schedule 2	Amended by No. 106 of 1999, Sched. 6, No. 9 of 2000, s. 82 and No. 3 of 2010, Sched. 1
	Repealed by No. 33 of 2011, s. 11
Schedule 3	Amended by No. 103 of 2000, Sched. 1, No. 86 of 2000, Sched. 1, No. 5 of 2005, s. 28, No. 65 of 2005, Sched. 1 and No. 54 of 2016, s. 43