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Chief Parliamentary Counsel
Dated 9 November 2021



TASMANIA

GUARDIANSHIP AND ADMINISTRATION ACT 1995

No. 44 of 1995

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GUARDIANSHIP AND ADMINISTRATION ACT 1995

No. 44 of 1995

An Act to enable persons with a disability to be represented by a guardian or administrator and to provide for medical and dental treatment for persons with a disability

[Royal Assent 22 September 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 *Guardianship and Administration Act 1995*.

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2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

(1) In this Act, unless the contrary intention appears

—

administration order means an order of the Tribunal appointing a person as an administrator of the estate of a person;

administrator means any person appointed as administrator in an administration order;

appointor, in relation to an enduring guardian, means the person who appointed the enduring guardian to be the person's enduring guardian;

contravene includes failure to comply with;

determination includes decision and order;

disability means any restriction or lack (resulting from any absence, loss or abnormality of mental, psychological, physiological or anatomical structure or function) of ability to perform an activity in a normal manner;

enduring guardian means a person appointed as an enduring guardian under Part 5;

function includes duty and power;

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guardian means a person named as a guardian in a guardianship order or as an enduring guardian in an instrument of appointment as such;

guardianship order means an order of the Tribunal appointing a person as guardian;

Guardianship stream proceedings means proceedings of the Tribunal under an Act in relation to which the functions and powers of the Tribunal are allocated, under the *Tasmanian Civil and Administrative Tribunal Act 2020*, to the Guardianship stream of the Tribunal established under that Act;

information means information however stored or transmitted;

intimate forensic procedure means –

- (a) an external examination of the genital or anal area, the buttocks or, in the case of a female, the breasts; and
- (b) an internal examination of a body cavity other than the mouth; and
- (c) the taking of a sample of pubic hair; and
- (d) the taking of a sample by swab or washing from the external genital or anal area, the buttocks or, in

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- the case of a female, the breasts;
and
- (e) the taking of a sample by vacuum suction, by scraping or by lifting by tape from the external genital or anal area, the buttocks or, in the case of a female, the breasts;
and
- (f) the taking of a sample by swab or washing from a body cavity other than the mouth; and
- (g) the taking of an X-ray of a part of the body; and
- (h) the taking of a dental impression;
and
- (i) the taking of a photograph of, or an impression or cast from, the external genital or anal area, the buttocks or, in the case of a female, the breasts; and
- (j) any other procedure prescribed by the *Forensic Procedures Regulations 2010* as an intimate forensic procedure;

medical or dental treatment or treatment
means –

- (a) medical treatment (including any medical or surgical procedure, operation or examination and any

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prophylactic, palliative or rehabilitative care) normally carried out by, or under, the supervision of a medical practitioner; or

(b) dental treatment (including any dental procedure, operation or examination) normally carried out by or under the supervision of a dentist; or

(ba) an intimate forensic procedure and a non-intimate forensic procedure normally carried out by a person authorised to carry out the procedure under section 40 of the *Forensic Procedures Act 2000*; or

(c) any other act declared by the regulations to be medical or dental treatment for the purposes of this Act –

but does not include –

(d) any non-intrusive examination made for diagnostic purposes (including a visual examination of the mouth, throat, nasal cavity, eyes or ears); or

(e) first-aid medical or dental treatment; or

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- (f) the administration of a pharmaceutical drug for the purpose, and in accordance with the dosage level, recommended in the manufacturer's instructions (if the drug is one for which a prescription is not required and which is normally self-administered); or
- (g) any other kind of treatment that is declared by the regulations not to be medical or dental treatment for the purposes of this Act;

non-intimate forensic procedure means –

- (a) the taking of a sample of blood;
and
- (b) the taking of a sample of saliva;
and
- (c) the taking of a sample by buccal swab; and
- (d) an external examination of a part of the body, other than the external genital or anal area, the buttocks or, in the case of a female, the breasts, that requires the touching of the body or the removal of clothing; and
- (e) an internal examination of the mouth; and

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-
- (f) the taking of a sample of hair other than pubic hair; and
 - (g) the taking of a sample from a nail or under a nail; and
 - (h) the taking of a sample by swab or washing from any external part of the body other than the genital or anal area, the buttocks or, in the case of a female, the breasts; and
 - (i) the taking of a sample by vacuum suction, by scraping or by lifting by tape from any external part of the body other than the genital or anal area, the buttocks or, in the case of a female, the breasts; and
 - (j) the taking of a handprint, fingerprint, footprint or toeprint; and
 - (k) the taking of a photograph of a person or an external part of a person other than the external genital or anal area, the buttocks or, in the case of a female, the breasts; and
 - (l) the taking of an impression or cast from a part of the body other than the genital or anal area, the buttocks or, in the case of a female, the breasts; and

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(m) any other procedure prescribed by the *Forensic Procedures Regulations 2010* as a non-intimate forensic procedure –

but does not include an intrusion into any body cavity of a person other than the mouth;

non-regenerative tissue means tissue that, after injury or removal, is not replaced in the body of a living person by natural processes of growth or repair;

parent includes a guardian and a person acting *in loco parentis*;

person responsible has the meaning given by section 4;

President has the same meaning as in the *Tasmanian Civil and Administrative Tribunal Act 2020*;

Public Guardian means the person appointed as the Public Guardian under section 14;

registered practitioner means a person who is a medical practitioner or a person registered under the Health Practitioner Regulation National Law (Tasmania) in the dental profession as a dentist;

registrar means the Registrar, within the meaning of the *Tasmanian Civil and Administrative Tribunal Act 2020*;

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regulations means regulations made and in force under this Act;

represented person means a person –

- (a) in respect of whom –
 - (i) a guardianship order is in force; or
 - (ii) an administration order is in force; or
 - (iii) both a guardianship order and an administration order are in force; or
- (b) who appoints an enduring guardian and who, by reason of disability, becomes unable to make reasonable judgments in relation to his or her personal circumstances;

special treatment means –

- (a) any treatment that is intended, or is reasonably likely, to have the effect of rendering permanently infertile the person on whom it is carried out; or
- (b) termination of pregnancy; or
- (c) any removal of non-regenerative tissue for the purposes of transplantation; or

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- (d) any other medical or dental treatment that is declared by the regulations to be special treatment for the purposes of Part 6;

spouse, in relation to a person, includes the person who is in a significant relationship, within the meaning of the *Relationships Act 2003*, with that person;

tissue includes an organ or part of a human body or substance extracted from, or from a part of, the human body.

- (2) Where 2 or more guardians of a person have been appointed under section 20(6), references to a guardian in this Act are taken as references to the guardian exercising the relevant function.
- (3) In this Act, a reference to an enduring guardian making or entering into a transaction is to be taken to be a reference to the enduring guardian making a decision, taking an action, giving a consent or doing an act.

4. Meaning of “person responsible”

- (1) In this Act, *person responsible* for another person means –
 - (a) where the other person is under the age of 18 years and has a spouse, the spouse;
or

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-
- (b) where the other person is under the age of 18 years and has no spouse, his or her parent; or
- (c) where the other person is of or over the age of 18 years, one of the following persons, in order of priority:
- (i) his or her guardian;
 - (ii) his or her spouse;
 - (iii) the person having the care of the other person;
 - (iv) a close friend or relative of the other person; or
- (d) in relation to an intimate forensic procedure, or a non-intimate forensic procedure, in respect of the other person, to which a request under subsection (1A) relates, the Public Guardian.
- (1A) A police officer or registered practitioner may, by notice to the Public Guardian, request the Public Guardian to become the person responsible for a person in relation to an intimate forensic procedure or a non-intimate forensic procedure in respect of the person if –
- (a) the person is a person to whom Part 6 applies; and
 - (b) the police officer or registered practitioner reasonably believes that the carrying out of the procedure on the

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person, by a person authorised to carry out the procedure under section 40 of the *Forensic Procedures Act 2000*, would be in the best interests of the person; and

- (c) the police officer or registered practitioner is satisfied as to the relevant matters in relation to the person.
- (1B) For the purposes of subsection (1A)(c), the relevant matters in relation to a person are that –
- (a) another person, who is not the Public Guardian and who is the person responsible for the person –
 - (i) has refused to consent to the carrying out of the intimate forensic procedure or non-intimate forensic procedure on the person; or
 - (ii) is unavailable or inaccessible and his or her consent cannot be sought within a reasonable time; or
 - (b) there is no person responsible for the person who is not the Public Guardian; or
 - (c) it is not in the best interests of the person for the consent, of a person who is not the Public Guardian and who is a person responsible for the person, to be sought.

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- (2) If a person is under the guardianship of the Secretary of the department administering the *Children, Young Persons and Their Families Act 1997* pursuant to a care and protection order made under that Act, the Secretary of that department is, notwithstanding subsection (1), taken to be the person responsible for him or her.
- (3) The circumstances in which a person is to be regarded as having the care of another person include, but are not limited to, the case where the person, otherwise than for remuneration (whether from the other person or any other source), regularly –
 - (a) provides domestic services and support to the other person; or
 - (b) arranges for the other person to be provided with domestic services and support.
- (4) A person who resides in a hospital, nursing home, group home, boarding-house or hostel or any other similar facility at which he or she is cared for by some other person is not, by reason only of that fact, taken to be in the care of that other person and is taken to remain in the care of the person in whose care he or she was immediately before residing in the facility.
- (5) For the purposes of this section –
 - (a) a reference to a spouse is to be read as a reference to a spouse who is not under guardianship and with whom the relevant

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person has a close and continuing relationship; and

- (b) a person is taken to be a close friend or relative of another person if the person maintains both a close personal relationship with the other person through frequent personal contact and a personal interest in the other person's welfare; and
- (c) a person is taken not to be a close friend or relative if the person is receiving remuneration (whether from the person or some other source) for any services that he or she performs for the other person in relation to the person's care; and
- (d) a reference to remuneration is to be read as not including a reference to a carer's pension; and
- (e) the President may issue guidelines, not inconsistent with this section, specifying the circumstances in which a person is to be regarded as a close friend or relative of another person.

5. Objects of Act

The objects of this Act are –

- (a)

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- (b) to enable the making of guardianship orders and administration orders; and
- (c) to make better provision for the authorization and approval of medical and dental treatment for persons with a disability who are incapable of giving informed consent to any such treatment; and
- (d) to ensure that persons with a disability and their families are informed of, and make use of, the provisions of this Act.

6. Principles to be observed

A function or power conferred, or duty imposed, by this Act is to be performed so that –

- (a) the means which is the least restrictive of a person's freedom of decision and action as is possible in the circumstances is adopted; and
- (b) the best interests of a person with a disability or in respect of whom an application is made under this Act are promoted; and
- (c) the wishes of a person with a disability or in respect of whom an application is made under this Act are, if possible, carried into effect.

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PART 2 –

7 - 13.

PART 3 – THE PUBLIC GUARDIAN

14. Public Guardian and Deputy Public Guardian

Subject to and in accordance with the *State Service Act 2000*, persons are to be appointed as the Public Guardian and the Deputy Public Guardian and those persons may hold those offices in conjunction with State Service employment.

15. Functions and powers of Public Guardian

- (1) The Public Guardian has the following functions:
 - (a) to foster the provision of services and facilities for persons with a disability;
 - (b) to support the establishment of organizations which support any such persons;
 - (c) to encourage the development of programmes that support any such persons (including advocacy programmes, educational programmes and programmes to encourage persons to act as guardians and administrators);
 - (d) to promote, speak for and protect the rights and interests of any such persons;
 - (e) to deal, on behalf of any such persons, with persons or bodies providing services;

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- (f) to represent any such persons before the Tribunal in relation to Guardianship stream proceedings;
 - (g) to investigate, report and make recommendations to the Minister on any matter relating to the operation of this Act;
 - (h) to act as a guardian or administrator when so appointed by the Tribunal;
 - (i) to disseminate information concerning –
 - (i) the functions of the Public Guardian; and
 - (ii)
 - (iii) the operation of this Act;
 - (j) to give advice on the powers that may be exercised under this Act relating to persons with a disability as to the operation of this Act generally and on appropriate alternatives to taking action under this Act;
 - (k) any other function assigned to the Public Guardian by any other Act or law.
- (2) The Public Guardian has power to do all things necessary or convenient to be done in connection with the performance of his or her functions.
- (3) During any illness or absence of the Public Guardian or during any vacancy in the office of

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the Public Guardian, the Deputy Public Guardian has the functions of the Public Guardian.

- (4) Any function exercised by the Deputy Public Guardian while acting under subsection (3) is taken to have been exercised by the Public Guardian.
- (5) The Deputy Public Guardian in exercising the functions of the Public Guardian is taken to have sufficient authority to do so.
- (6) In the performance of his or her functions under this Act neither the Public Guardian nor the Deputy Public Guardian is subject to the control or direction of the Minister.

16. Staff of Public Guardian

Subject to and in accordance with the *State Service Act 2000*, there are to be appointed such officers as are necessary to assist the Public Guardian and the Deputy Public Guardian in the performance of their functions under this Act and those officers may hold office in conjunction with State Service employment.

17. Investigations

- (1) The Public Guardian may investigate complaints and allegations concerning the actions of a guardian or administrator or a person acting or purporting to act under an enduring power of attorney.

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- (2) If requested to do so by the Tribunal in Guardianship stream proceedings, the Public Guardian must investigate and report to the Tribunal in relation to a matter to which those proceedings relate.

18. Delegation

- (1) The Public Guardian may in writing –
- (a) delegate to a person appointed under section 16 any of the functions or powers of the Public Guardian, other than this power of delegation; and
 - (b) revoke wholly or partly a delegation.
- (2) A delegation –
- (a) may be made either generally or as otherwise provided by the instrument of delegation; and
 - (b) does not prevent the performance or exercise of a function or power by the Public Guardian.
- (3) A function or power performed or exercised by a delegate has the same effect as if performed or exercised by the Public Guardian.

PART 4 – GUARDIANSHIP ORDERS

Division 1 – Application for guardianship order

19. Application for guardianship order

- (1) A person may apply to the Tribunal for an order appointing a full or limited guardian in respect of a person with a disability who is of or over the age of 18 years.
- (2) The application –
 - (a) is to be lodged with the registrar; and
 - (b) is to contain the prescribed information; and
 - (c) is to specify the grounds on which it is alleged that the proposed represented person needs a guardian.

Division 2 – Appointment of guardian

20. Guardianship order

- (1) If the Tribunal, after a hearing, is satisfied that the person in respect of whom an application for an order appointing a guardian or an order appointing an administrator is made–
 - (a) is a person with a disability; and
 - (b) is unable by reason of the disability to make reasonable judgements in respect of all or any matters relating to his or her person or circumstances; and

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(c) is in need of a guardian–

the Tribunal may make an order appointing a full or limited guardian in respect of that person and any such order may be subject to such conditions or restrictions as the Tribunal considers necessary.

- (2) In determining whether or not a person is in need of a guardian, the Tribunal must consider whether the needs of the proposed represented person could be met by other means less restrictive of that person’s freedom of decision and action.
- (3) The Tribunal must not make an order under subsection (1) unless it is satisfied that the order would be in the best interests of the proposed represented person.
- (4) The Tribunal must not make an order appointing a full guardian unless it is satisfied that an order for limited guardianship would be insufficient to meet the needs of the proposed represented person.
- (5) Where the Tribunal makes an order appointing a limited guardian in respect of a person the order to be made is that which is least restrictive of that person’s freedom of decision and action as is possible in the circumstances.
- (6) Two or more guardians of a person, each with different functions, may be appointed under one or more limited guardianship orders.

21. Persons eligible as guardians

- (1) The Tribunal may appoint as a full guardian or limited guardian any person who is of or over the age of 18 years and consents to act as guardian if the Tribunal is satisfied that that person—
 - (a) will act in the best interests of the proposed represented person; and
 - (b) is not in a position where the person's interests conflict or may conflict with the interests of the proposed represented person; and
 - (c) is a suitable person to act as guardian of the proposed represented person.
- (2) In determining whether a person is suitable to act as a guardian of a represented person, the Tribunal must take into account—
 - (a) the wishes of the proposed represented person so far as they can be ascertained; and
 - (b) the desirability of preserving existing family relationships; and
 - (c) the compatibility of the person proposed as guardian with the proposed represented person and with the administrator (if any) of his or her estate; and

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- (d) whether the person proposed as guardian will be available and accessible to the proposed represented person so as to fulfil the requirements of guardianship of that person.

22. Alternative guardians

- (1) A guardianship order, other than an order appointing the Public Guardian as a guardian, may appoint a person to be an alternative guardian of the represented person.
- (2) During the absence or incapacity of the guardian of a represented person, the alternative guardian of that person has the functions of his or her guardian.

23. Orders to be forwarded to Public Guardian

If the Tribunal makes a guardianship order appointing a person other than the Public Guardian as a guardian, the Tribunal must cause a copy of the order to be forwarded to the Public Guardian.

24. Expiration of guardianship orders

A guardianship order lapses on the expiration of 3 years after the date on which it is made unless it is continued under section 68.

Division 3 – Powers and duties of guardian

25. Authority of full guardian

- (1) A guardianship order appointing a full guardian confers on the full guardian in respect of the represented person all the powers and duties which the full guardian would have in Tasmania if he or she was a parent and the represented person his or her child.
- (2) Without limiting subsection (1), an order appointing a full guardian confers on the person named as full guardian the power –
 - (a) to decide where the represented person is to live, whether permanently or temporarily; and
 - (b) to decide with whom the represented person is to live; and
 - (c) to decide whether the represented person should or should not be permitted to work and if so –
 - (i) the nature or type of work; and
 - (ii) the person for whom the represented person is to work; and
 - (iii) any related matters; and
 - (d) to restrict visits to a represented person to such extent as may be necessary in his or her best interests and to prohibit visits

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by any person if the guardian reasonably believes that they would have an adverse effect on the represented person;

- (e) except as provided in Part 6, to consent to any health care that is in the best interests of the represented person and to refuse or withdraw consent to any such treatment.
- (3) Where a decision is made, action taken, consent given or act done by a full guardian, the decision, action, consent or act has effect as if it had been made, taken, given or done by the represented person and the represented person had the legal capacity to do so.
- (4) A full guardian may, on behalf of a represented person, sign documents and do all such things as are necessary to give effect to any power or duty vested in the guardian.

26. Authority of limited guardian

- (1) A guardianship order appointing a limited guardian confers on the limited guardian such one or more of the powers and duties in respect of the represented person which are conferred on a full guardian under this Act as the Tribunal may specify in the order.
- (2) Where a decision is made, action taken, consent given or act done by a limited guardian, the decision, action, consent or act has effect as if it had been made, taken, given or done by the

represented person and the represented person had the legal capacity to do so.

- (3) A limited guardian may, on behalf of a represented person, sign documents and do all such things as are necessary to give effect to any power or duty vested in the guardian.

27. Exercise of authority by guardian

- (1) A guardian must act at all times in the best interests of the person under guardianship.
- (2) Without limiting subsection (1), a guardian acts in the best interests of a person under guardianship if the guardian acts as far as possible –
 - (a) in consultation with that person, taking into account, as far as possible, his or her wishes; and
 - (b) as an advocate for that person; and
 - (c) in such a way as to encourage that person to participate as much as possible in the life of the community; and
 - (d) in such a way as to encourage and assist that person to become capable of caring for himself or herself and of making reasonable judgements relating to his or her person; and
 - (e) in such a way as to protect that person from neglect, abuse or exploitation.

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Part 4 – Guardianship Orders

28. Power to enforce guardianship order

- (1) Without limiting section 25 or 26, if the Tribunal makes a guardianship order appointing a full or limited guardian, the Tribunal may specify in the order that the person named as full or limited guardian or some other specified person is empowered to take such measures or actions as are specified in the order to ensure that the represented person complies with any decision of the guardian in the exercise of the powers and duties conferred by the order.
- (2) Where a guardian or other person specified in the order under subsection (1) takes any measure or action specified in the order in the reasonable belief that –
 - (a) the measure or action is in the best interests of the represented person; and
 - (b) it is necessary or desirable to take that measure or action in the circumstances –

the guardian or other person is not liable to any action for false imprisonment or assault or any other action, liability, claim or demand arising out of the taking of that measure or action.

29. Urgent powers in case of unlawful detention of persons with a disability

- (1) If the Tribunal has received information that a person with a disability–

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- (a) is being unlawfully detained against his or her will; or
- (b) is likely to suffer damage to his or her physical, emotional or mental health or well-being unless immediate action is taken–

and the Tribunal considers it necessary to do so in order to secure access to that person, the Tribunal may empower the Public Guardian or some other person specified in the order to visit the person with a disability in the company of a police officer for the purpose of preparing a report for the Tribunal.

- (2) If, after receiving a report under subsection (1), the Tribunal is satisfied that the information referred to in subsection (1)(a) or (b) is correct, the Tribunal may make an order enabling the person with a disability to be taken to, and cared for at, a place specified in the order until an application under section 19 is heard.
- (3) A police officer acting under an order made under subsection (1) may, with such assistance as is necessary, use such force as is reasonably necessary to enter the premises where the person with a disability is found.
- (4) Any person who delays or obstructs any person acting under an order under this section is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

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30. Removal of persons to place of safety

- (1) If it appears to a police officer that there is reasonable cause to suspect that a person with a disability who appears to be in need of a guardian –
- (a) has been, or is being, ill-treated, neglected or unlawfully detained against his or her will; or
 - (b) is likely to suffer serious damage to his or her physical, emotional or mental health or well-being unless immediate action is taken –

the police officer may enter, if necessary by force, any premises in which that person is believed to be, and, if thought fit, remove that person from those premises.

- (2) A police officer, in removing a person under subsection (1), is to be accompanied by a person nominated by the Public Guardian.
- (3) A person nominated by the Public Guardian must, as soon as practicable –
- (a) convey the person to a place of safety; and
 - (b) ensure that an application for guardianship or other appropriate arrangements are made; and

- (c) provide the Tribunal with a written report giving details of the action that he or she has taken under this section.

31. Advice or directions as to guardianship orders

- (1) A guardian may apply for advice or direction by the Tribunal on any matter relating to the scope of the guardianship order or the exercise of any power by the guardian under the guardianship order.
- (2) The Tribunal may require notice of an application under subsection (1) to be given to any person that the Tribunal directs and may exercise its powers under this section without a hearing.
- (3) The Tribunal may–
 - (a) approve or disapprove of any act proposed to be done by the guardian; and
 - (b) give such advice or direction as it considers appropriate; and
 - (c) vary the guardianship order or make any other order that it could have made on the original application.
- (4) The Tribunal of its own motion may direct, or offer advice to, a guardian in respect of any matter.
- (5) A guardian who contravenes a direction given to him or her under this section is guilty of an

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offence and is liable on summary conviction to a fine not exceeding 20 penalty units.

PART 5 – APPOINTMENT OF ENDURING GUARDIAN

32. Appointment of enduring guardian

- (1) A person who is of or over the age of 18 years may, by instrument in writing, appoint a person as his or her enduring guardian and any such instrument may appoint 2 or more persons to act jointly as enduring guardians.
- (2) An instrument is not effective to appoint an enduring guardian unless –
 - (a) it is in accordance with Form 1 in Schedule 3 or in a form to similar effect; and
 - (b) there is endorsed on it an acceptance in the form or to the effect of the acceptance specified in Form 1 signed by each person appointed as an enduring guardian; and
 - (c) there are at least 2 attesting witnesses to the instrument neither of whom is a party to it nor a relative of a party to it and who have witnessed the instrument in the presence of the appointor and each other; and
 - (d) it is registered with the Tribunal.
- (3) A person is not eligible to be appointed as an enduring guardian unless he or she is of or over the age of 18 years.

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- (4) A person is not eligible to be appointed as an enduring guardian if he or she is, in a professional or administrative capacity, directly or indirectly responsible for, or involved in, the medical care or treatment of the appointor and, if a person who is validly appointed as an enduring guardian becomes so responsible or involved, the appointment lapses.
- (5) Subject to any conditions specified in the instrument, an instrument appointing an enduring guardian authorizes each appointee to exercise the powers of a guardian under section 25 if the appointor subsequently becomes unable by reason of a disability to make reasonable judgements in respect of matters relating to his or her personal circumstances.
- (6) The powers conferred by an instrument appointing an enduring guardian are, unless the Tribunal otherwise directs, to be exercised in accordance with any lawful directions specified in the instrument.
- (7) Section 25(3) applies to an enduring guardian as if he or she were a full guardian appointed under section 20.

32A. Alternative enduring guardian

- (1) An instrument of appointment of an enduring guardian under section 32(1) who is not the Public Guardian may appoint a person to be an alternative enduring guardian of the represented person.

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- (2) During the absence or incapacity of an enduring guardian of a represented person, an alternative enduring guardian of that person has the functions of his or her enduring guardian.

32B. Right of enduring guardian to information

- (1) An enduring guardian has a right –
- (a) to all the information to which the appointor is entitled; and
 - (b) if the appointor is unable by reason of a disability to make reasoned judgments in respect of matters relating to his or her personal circumstances, to all information to which the appointor would have been entitled but for the disability –

if the information is reasonably required for the purpose of exercising a power, or determining whether to exercise a power, of the enduring guardian.

- (2) An enduring guardian has, if the appointor is unable by reason of a disability to make reasoned judgments in respect of matters relating to his or her personal circumstances, a right to obtain, from a person who has possession of a will of the appointor, a copy, of the will, that is certified by the person.
- (3) A person who has custody or control of information, or a will, to which an enduring guardian has a right under subsection (1) or (2),

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must, at the request of the enduring guardian, disclose the information to the enduring guardian or provide to the enduring guardian a copy, of the will, that is certified by the person.

- (4) Subsections (1), (2) and (3) are subject to any condition or contrary intention, or express limitation, in the instrument of appointment of the enduring guardian.

32C. Transactions that may involve conflict of duty

- (1) An enduring guardian may only enter into a transaction that results, or may result, in a conflict of interest, if –
- (a) the instrument of appointment of the enduring guardian specifies that the transaction may, even though it will or may result in a conflict of interest, be entered into by the enduring guardian; or
 - (b) the transaction is a member of a class of transactions that the instrument of appointment of the enduring guardian specifies may, even though the transactions will or may result in a conflict of interest, be entered into by the enduring guardian; or
 - (c) the instrument of appointment of the enduring guardian specifies that, even though such a transaction will or may result in a conflict of interest, any transaction may be entered into by the enduring guardian.

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- (2) For the purposes of subsection (1), a conflict of interest is a conflict between –
- (a) the duties of an enduring guardian in respect of the appointor; and
 - (b) either –
 - (i) the interests of the enduring guardian, or a relative, business associate or close friend of the enduring guardian; or
 - (ii) another duty of the enduring guardian.

32D. Keeping of records, &c.

- (1) An enduring guardian must keep an accurate record of all dealings and transactions made by the person as the enduring guardian.

Penalty: Fine not exceeding 20 penalty units.

- (2) A person who has ceased to be an enduring guardian must –
- (a) retain, for at least 7 years after so ceasing, an accurate record of all dealings and transactions made as the enduring guardian; or
 - (b) provide to the Tribunal an accurate record of all dealings and transactions made as the enduring guardian.

Penalty: Fine not exceeding 20 penalty units.

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- (3) A person with a proper interest in the matter may, in writing, request the Tribunal to exercise its power under subsection (4) in relation to a person who is or was an enduring guardian.
- (4) The Tribunal, after receiving under subsection (3) a request in relation to –
- (a) a person who is an enduring guardian; or
 - (b) a person who was, within the previous 7 years, an enduring guardian and who has not provided an accurate record to the Tribunal in accordance with subsection (2)(b) –

may, by notice in writing to the person, require the person to provide to the Tribunal, within the period of not less than 14 days specified in the notice, a document setting out an accurate record of all dealings and transactions made by the person as an enduring guardian.

- (5) A person who receives a notice under subsection (4) must provide to the Tribunal, before the end of the period specified in the notice, a document setting out an accurate record of all dealings and transactions made by the person as the enduring guardian.

Penalty: Fine not exceeding 20 penalty units.

- (6) A document provided to the Tribunal by a person in accordance with a notice under subsection (4) –

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- (a) is to be in a form approved by the Tribunal; and
- (b) is to be verified by a statutory declaration that is signed by the person; and
- (c) is to be accompanied by other evidence, if any, that the Tribunal specifies in the notice is required to accompany the document.

33. Revocation of appointment by appointor

- (1) The appointor of an enduring guardian may, by instrument in writing, revoke the appointment.
- (2) An instrument is not effective to revoke an appointment as enduring guardian unless –
 - (a) it is in accordance with Form 2 in Schedule 3; and
 - (b) there are at least 2 attesting witnesses to the instrument, neither of whom is a party to it nor a relative of a party to it and who have witnessed the instrument in the presence of the appointor and each other; and
 - (c) it is registered with the Tribunal.

34. Revocation or amendment of appointment by Tribunal

- (1) The Tribunal may, on an application under this section and after a hearing, revoke or amend the

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instrument of appointment of an enduring guardian if–

- (a) the enduring guardian seeks revocation of the appointment; or
 - (b) the Tribunal is satisfied that the enduring guardian–
 - (i) is not willing or able to act in that capacity; or
 - (ii) has, in that capacity, not acted in the best interests of the appointor or has acted in an incompetent or negligent manner or contrary to the provisions of this Act.
- (1A) The Tribunal may, on an application under this section and after a hearing, declare that the instrument of appointment of an enduring guardian is invalid if the Tribunal is satisfied that –
- (a) the appointor did not have the mental capacity to make it; or
 - (b) it is contrary to the provisions of this Act; or
 - (c) the appointor was induced to make it by reason of dishonesty or undue influence.
- (2) The application –
- (a) is to be in writing; and
 - (b) is to be lodged with the registrar; and

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- (c) is to contain the prescribed information.
- (3) The application may be made by –
- (a) the Public Guardian; or
 - (b) the enduring guardian; or
 - (c) the appointor of the enduring guardian;
or
 - (d) the administrator of the appointor’s
estate; or
 - (e) any other person who the Tribunal is
satisfied has a proper interest in the
matter.

**35. Advice or directions as to instruments of
appointment**

- (1) An enduring guardian may apply for advice or
direction by the Tribunal on any matter relating
to the scope of his or her appointment as such or
the exercise of any power by the guardian under
the instrument of appointment.
- (2) The Tribunal may require notice of an
application under subsection (1) to be given to
any person that the Tribunal directs and may
exercise its powers under this section without a
hearing.
- (3) The Tribunal may–

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- (a) approve or disapprove of any act proposed to be done by the enduring guardian; and
 - (b) give such advice or direction as it considers appropriate; and
 - (c) vary the effect of the instrument of appointment or make any other order that it could have made on an application for a guardianship order.
- (4) The Tribunal of its own motion may direct, or offer advice to, an enduring guardian in respect of any matter.
- (5) An enduring guardian who contravenes a direction given to him or her under this section is guilty of an offence and is liable on summary conviction to a fine not exceeding 20 penalty units.

**PART 6 – CONSENT TO MEDICAL AND DENTAL
TREATMENT**

Division 1 – Preliminary

36. Application of Part 6

- (1) This Part applies to a person with a disability who is incapable of giving consent to the carrying out of medical or dental treatment, whether or not the person is a represented person.
- (2) For the purposes of subsection (1), a person is incapable of giving consent to the carrying out of medical or dental treatment if the person –
 - (a) is incapable of understanding the general nature and effect of the proposed treatment; or
 - (b) is incapable of indicating whether or not he or she consents or does not consent to the carrying out of the treatment.

37. Part 6 to prevail over *Criminal Code*

This Part has effect notwithstanding sections 51 and 178E of the *Criminal Code*.

Division 2 – Medical and dental treatment

38. Unlawful medical or dental treatment

- (1) A person must not carry out medical or dental treatment on a person to whom this Part applies unless –
 - (a) consent for the treatment has been given in accordance with this Part; or
 - (b) the carrying out of the treatment is authorized by this Part without any such consent.
- (2) A person who contravenes subsection (1) by carrying out special treatment is guilty of a crime and is liable to punishment on indictment under the *Criminal Code* accordingly.
- (3) A person who contravenes subsection (1) by carrying out any treatment other than special treatment is guilty of an offence and is liable on summary conviction to imprisonment for a period not exceeding one year or to a fine not exceeding 10 penalty units, or both.

39. Persons authorized to consent to medical or dental treatment

- (1) Consent to the carrying out of medical or dental treatment on a person to whom this Part applies may be given by the Tribunal or, if the medical treatment or dental treatment is not special treatment, by the person responsible for that person.

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- (2) The guardian of a person to whom this Part applies may also consent to the carrying out of, or continuing, special treatment if the Tribunal has previously given consent to the carrying out of, or continuing, that treatment and has authorized the guardian to give consent to the continuation of that treatment or to further treatment of a similar nature.
- (3) Where a consent to medical or dental treatment has been given by a person who is not authorized to give that consent under this section, the consent may be taken as valid if the person providing the medical or dental treatment did not know that the person giving the consent was not authorized to do so or reasonably believed that the person giving the consent was authorized to do so.

40. Urgent medical or dental treatment

Medical or dental treatment may be carried out on a person to whom this Part applies without consent given in accordance with this Division if the medical practitioner or dentist carrying out or supervising the treatment considers the treatment is necessary, as a matter of urgency –

- (a) to save the person's life; or
- (b) to prevent serious damage to the person's health; or
- (c) except in the case of special treatment, to prevent the person from suffering or

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continuing to suffer significant pain or distress.

41. Medical or dental treatment without consent

(1) Where –

- (a) it is proposed to carry out any medical or dental treatment which is not special treatment on a person to whom this Part applies; and
- (b) there is no person responsible for that person; and
- (c) the treatment is necessary and is the form of treatment that will most successfully promote that person's health and well-being; and
- (d) that person does not object to the carrying out of the treatment –

it is lawful, subject to subsection (2), for the medical or dental treatment to be carried out on that person without consent under this Division.

- (2) The regulations may provide that in such cases as are specified in the regulations medical or dental treatment may not be carried out on a person to whom this Part applies without consent under this Division.
- (3) A medical practitioner or dentist who carries out or supervises any medical or dental treatment under subsection (1) without the consent of the

relevant person must certify in the clinical records relating to the treatment that –

- (a) the treatment is necessary and is the form of treatment that will most successfully promote that person's health and wellbeing; and
- (b) the person does not object to the carrying out of the treatment.

42. Unlawful consent to medical or dental treatment

A person who is not authorized to give consent to medical or dental treatment for a person to whom this Part applies but purports to give any such consent, or represents to a registered practitioner that he or she has the power to consent, is guilty of an offence and is liable on summary conviction to a fine not exceeding 20 penalty units.

43. Consent by persons responsible

- (1) A person responsible for a person to whom this Part applies may consent to the carrying out of medical or dental treatment which is not special treatment if he or she is satisfied that –
 - (a) the relevant person is incapable of giving consent; and
 - (b) the medical or dental treatment would be in the best interests of that person.

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- (2) Subject to subsection (3), for the purposes of determining whether any medical or dental treatment would be in the best interests of a person to whom this Part applies, matters to be taken into account by the person responsible include—
- (a) the wishes of that person, so far as they can be ascertained; and
 - (b) the consequences to that person if the proposed treatment is not carried out; and
 - (c) any alternative treatment available to that person; and
 - (d) the nature and degree of any significant risks associated with the proposed treatment or any alternative treatment; and
 - (e) that the treatment is to be carried out only to promote and maintain the health and wellbeing of that person; and
 - (ea) in the case of proposed medical or dental treatment that is an intimate forensic procedure or a non-intimate forensic procedure –
 - (i) that a police officer or registered practitioner suspects that that person is a victim of a crime; and
 - (ii) that a police officer or registered practitioner has requested the treatment be carried out in

relation to that person because the officer or practitioner suspects that that person is a victim of a crime; and

- (f) any other matters prescribed by the regulations.
- (3) Subsection (2)(e) does not apply to medical or dental treatment that is an intimate forensic procedure or a non-intimate forensic procedure.

44. Applications for consent of Tribunal

- (1) An application for the consent of the Tribunal to the carrying out of any medical or dental treatment on a person to whom this Part applies may be made by any person who the Tribunal is satisfied has a proper interest in the matter.
- (2) The application –
 - (a) is to be in writing; and
 - (b) is to be lodged with the registrar; and
 - (c) is to contain the prescribed information.
- (3) The Tribunal may issue and make available to members of the public guidelines specifying situations in which applications under subsection (1) should be made to the Tribunal for its consent to medical or dental treatment.
- (4) Where the application is made for consent to the carrying out of medical or dental treatment and

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the treatment cannot be carried out without that consent, the Tribunal may, by order—

- (a) direct the person who is to carry out the treatment not to start the treatment; or
- (b) if the treatment has already started, direct the person who is carrying out the treatment to discontinue it—

until the Tribunal has determined the application.

- (5) A person who, without lawful excuse, fails to comply with an order under subsection (4) is guilty of an offence and is liable on summary conviction to a fine not exceeding 20 penalty units or to imprisonment for a term not exceeding 1 year, or both.

45. Consent of Tribunal

- (1) On hearing an application for its consent to the carrying out of medical or dental treatment the Tribunal may consent to the carrying out of the medical or dental treatment if it is satisfied that—
 - (a) the medical or dental treatment is otherwise lawful; and
 - (b) that person is incapable of giving consent; and
 - (c) the medical or dental treatment would be in the best interests of that person.

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- (2) For the purposes of determining whether any medical or dental treatment would be in the best interests of a person to whom this Part applies, matters to be taken into account by the Tribunal include—
- (a) the wishes of that person, so far as they can be ascertained; and
 - (b) the consequences to that person if the proposed treatment is not carried out; and
 - (c) any alternative treatment available to that person; and
 - (d) whether the proposed treatment can be postponed on the ground that better treatment may become available and whether that person is likely to become capable of consenting to the treatment; and
 - (e) in the case of transplantation of tissue, the relationship between the 2 persons concerned; and
 - (ea) in the case of proposed medical or dental treatment that is an intimate forensic procedure or a non-intimate forensic procedure, where a police officer or registered practitioner suspects that that person is a victim of a crime –
 - (i) that a police officer or registered practitioner reasonably believes that the person responsible for that person may have committed

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the crime of which that person is suspected of being a victim; or

- (ii) that a police officer or registered practitioner reasonably believes that that person's interests would not be protected if the consent of a person responsible is sought; and

- (f) any other matters prescribed by the regulations.

- (3) Subject to subsection (4), a decision of the Tribunal to give its consent to medical or dental treatment has no effect until the period of appeal under section 76 has expired or, if an appeal has been instituted, it is set aside, withdrawn or dismissed.

- (4) If –

- (a) an application for the consent of the Tribunal for the carrying out of medical or dental treatment on a person has been made under section 44; and

- (b) the Tribunal considers that the treatment is urgent –

the Tribunal may give its consent for the treatment to be carried out immediately.

46. Consent to continuing or further special treatment by guardian with authority of Tribunal

- (1) The Tribunal may, in giving consent to the carrying out of special treatment on a person to whom this Part applies, confer on the guardian of the person authority to consent—
 - (a) to the continuation of the treatment; or
 - (b) to the carrying out on the person of further special treatment of a similar nature.
- (2) The Tribunal may confer the authority only at the request, or with the consent, of the guardian.
- (3) The Tribunal may—
 - (a) impose conditions or give directions as to the exercise of the authority; or
 - (b) revoke the authority.
- (4) If the guardian has authority under this section, a person may request his or her consent to the carrying out of the relevant treatment.

Division 2A – Power to make guardianship order or administration order

46A. Power to make guardianship order or administration order

At the hearing of an application under this Part for the consent of the Tribunal to the carrying out of medical or dental treatment on a person,

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the Tribunal, in addition to giving or refusing that consent, may make under section 65 a guardianship order or an administration order, or both, if satisfied of the matters specified in section 20(1) or section 51(1), or both those sections.

Division 3 – General

47. Effect of consent

A consent given under this Part in respect of the carrying out of medical or dental treatment on a person to whom this Part applies has effect as if –

- (a) that person had been capable of giving consent to the carrying out of the treatment; and
- (b) the treatment had been carried out with that person's consent.

48. Preservation of liability

Nothing in this Part relieves a person from liability in respect of the carrying out of medical or dental treatment on a person to whom this Part applies, where that person would have been subject to that liability if –

- (a) that person had been capable of giving consent to the carrying out of the treatment; and

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- (b) the treatment had been carried out with that person's consent.

48A. Saving for rights under other laws

Nothing in this Part is taken to affect any rights conferred by any other law to consent to, or to refuse to consent to, medical or dental treatment.

PART 7 – ADMINISTRATION ORDERS

Division 1 – Objects of Part 7

49. Objects of Part 7

The objects of this Part are to provide for the administration, by virtue of administration orders, of the estates of persons who are of or over the age of 18 years.

Division 2 – Administration orders

50. Application for administration order

- (1) A person may apply to the Tribunal for an administration order in favour of himself, herself or any other person in respect of the estate of a person with a disability.
- (2) Where a person with a disability who is of or over the age of 18 years does not reside in Tasmania but has an estate the whole or part of which is in Tasmania, any person may apply to the Tribunal for an administration order in respect of so much of the estate as is in Tasmania.
- (3) An application under this section –
 - (a) is to be lodged with the registrar; and
 - (b) is to contain the prescribed information; and

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- (c) is to be accompanied by the written consent of the person proposed as administrator, if any, to act as administrator.

51. Administration orders

- (1) If, after a hearing, the Tribunal is satisfied that the person in respect of whom an application for an order appointing an administrator or an order appointing a guardian is made—
 - (a) is a person with a disability; and
 - (b) is unable by reason of the disability to make reasonable judgements in respect of matters relating to all or any part of his or her estate; and
 - (c) is in need of an administrator of his or her estate—

the Tribunal may make an order appointing an administrator of that person's estate.

- (2) In determining whether or not a person is in need of an administrator of his or her estate, the Tribunal must consider whether the needs of the proposed represented person could be met by other means less restrictive of the person's freedom of decision and action.
- (3) The Tribunal must not make an order under subsection (1) unless it is satisfied that the order would be in the best interests of the proposed represented person.

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- (4) Where the Tribunal makes an order appointing an administrator of a person's estate, the order is to be that which is the least restrictive of that person's freedom of decision and action as is possible in the circumstances.
- (5) An order made under subsection (1) –
 - (a) may be made subject to such conditions and restrictions as the Tribunal thinks fit; and
 - (b) may be expressed to take effect when the represented person is aged 18 years.
- (6) The Tribunal may exercise its powers under this section on an application under Part 4 of the *Powers of Attorney Act 2000*.

52. Expiration of administration orders

An administration order lapses on the expiration of 3 years after the date on which it is made unless it is continued under section 68.

53. Administration order may not be made if enduring power of attorney is in force

- (1) Where a proposed represented person has granted an enduring power of attorney under section 11A of the *Powers of Attorney Act 1934* or under section 30 of the *Powers of Attorney Act 2000*, it is not competent for the Tribunal to make an administration order in respect of his or her estate so long as the enduring power of

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attorney is in force unless the order is made under Part 8.

- (2) If any such enduring power of attorney relates to part only of the estate of the proposed represented person, the Tribunal may make an administration order relating to any part of the represented person's estate that is not subject to the enduring power of attorney.
- (3) Notwithstanding subsection (1), any action taken by a person purporting to act under an administration order before he or she has notice of an enduring power of attorney is valid and effectual.

54. Persons eligible as administrators

- (1) The Tribunal may appoint as an administrator of the estate of a proposed represented person—
 - (a) The Public Trustee; or
 - (b) the Public Guardian; or
 - (c) a trustee company within the meaning of the *Trustee Companies Act 1953*; or
 - (d) any other person, including the guardian of the proposed represented person, who consents to act as administrator if the Tribunal is satisfied that—
 - (i) the person will act in the best interests of the proposed represented person; and

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- (ii) the person is not in a position where his or her interests conflict or may conflict with the interests of the proposed represented person; and
 - (iii) the person is a suitable person to act as the administrator of the estate of the proposed represented person; and
 - (iv) the person has sufficient expertise to administer the estate.
- (2) In determining whether a person is suitable to act as the administrator of the estate of a proposed represented person, the Tribunal must take into account–
- (a) the wishes of the proposed represented person, so far as they can be ascertained; and
 - (b) the compatibility of the person proposed as administrator with the proposed represented person and with his or her guardian, if any.

55. Remuneration of professional administrators

- (1) An administrator who carries on a business of, or including, the administration of estates, whether under this Act or otherwise, is, if the Tribunal so determines, entitled to remuneration out of the estate of the represented person for the work involved in administering that estate, whether

the work was or is performed before or after the commencement of this section.

- (2) This section does not affect the right of The Public Trustee or a trustee company to recover charges and expenses under any other law.

Division 4 – Powers and duties of administrator

56. Powers and duties of administrator

- (1) Subject to and in accordance with this Act and the relevant administration order appointing him or her, an administrator –
- (a) has the general care and management of the estate of the represented person; and
 - (b) has the duty to take possession and care of, recover, collect and administer the property and estate of the represented person and generally to manage his or her affairs with the exercise of all rights, statutory or otherwise, in respect of the estate; and
 - (c) in the name of, and on behalf of, the represented person may generally do all acts and exercise all powers that he or she is authorized to do with respect to the estate with the same effect and in the same manner as the represented person could have done if that person were not under a legal disability.

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- (2) Without limiting subsection (1), an administrator may, in the name and on behalf of the represented person and so far as may be specified in the administration order –
- (a) collect, receive and recover any income or property to which the represented person is entitled; and
 - (b) invest money in any manner in which trustees may by law invest; and
 - (c) take a lease of real estate at such rent and on such conditions as he or she thinks fit, but not for a term exceeding 5 years without the consent of the Tribunal; and
 - (d) exercise any power of leasing vested in the represented person; and
 - (e) surrender any lease, accept any lease, accept the surrender of any lease or renew any lease; and
 - (f) sell, exchange, partition or convert into money any property other than real estate; and
 - (g) sell, exchange, partition, convert into money or grant any interest in any real estate; and
 - (h) mortgage, purchase, acquire, lease or charge any property or sever any joint tenancy; and

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- (i) pay any debts and settle, adjust or compromise any demand made by or against the estate, and discharge any encumbrance on the estate, and reimburse (whether legally obliged to make such reimbursement or not) any person who has expended money for the benefit of the represented person; and
- (j) carry on, so far as appears desirable, any trade, profession or business which the represented person carried on; and
- (k) agree to any alteration of the conditions of any partnership into which any represented person has entered or to a dissolution and distribution of the assets of the partnership; and
- (l) bring and defend actions and other legal proceedings in the name of the represented person; and
- (m) execute and sign deeds, instruments and other documents; and
- (n) complete any contract for the performance of which the represented person was liable or enter into any agreement terminating liability; and
- (o) pay any sum for the maintenance of the represented person (and, in the event of his or her death, for funeral expenses) for the maintenance of his or her spouse or any child, parent or other person dependent on him or her and for the

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- maintenance and education of his or her children as may be expedient and reasonable; and
- (p) expend money in the repair, maintenance, renovation, reconstruction or preservation of any property; and
 - (q) pay or cause to be paid to the represented person for the personal use of that person an amount of money standing to the credit of that person; and
 - (r) give or cause to be given to the represented person for the personal use of that person any personal property which belongs to that person; and
 - (s) do all matters necessary or incidental to the performance of any of the matters specified in this subsection and apply any money which it is necessary to apply for the purposes of this Act; and
 - (t) exercise any power, including a power to consent, vested in the represented person, whether beneficially, or as a trustee, or otherwise.
- (3) The Tribunal may, by order, limit the exercise of any power as it thinks fit or direct that the represented person may continue to be responsible for any part of his or her property or estate.
- (4) The Tribunal may, subject to such conditions or restrictions as it considers necessary, authorize

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an administrator to do any act not specified in this section.

- (5) Where a decision, action, consent or act is made, taken, given or done by an administrator under an order made by the Tribunal or under any power or authority given by this Act, the decision, action, consent or act has effect as if it had been made, taken, given or done by the represented person and the represented person had the legal capacity to do so.
- (6) On the death of a represented person, an order appointing an administrator of that person's estate under this Act ceases to have effect except so far as it authorizes payment of funeral expenses.

57. Exercise of power by administrator

- (1) An administrator must act at all times in the best interests of the represented person.
- (2) Without limiting subsection (1), an administrator acts in the best interests of the represented person if the administrator acts as far as possible –
 - (a) in such a way as to encourage and assist the represented person to become capable of administering his or her estate; and
 - (b) in consultation with the represented person, taking into account as far as possible the wishes of the represented person.

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58. Settlements and gifts

The Tribunal on the application of an administrator or of its own motion after conducting a hearing may authorize the settlement of any property of a represented person, or the gift of any property of a represented person for–

- (a) the maintenance or other benefit of members of the represented person’s family; or
- (b) making provision for other persons for whom, or purposes for which the represented person might be expected to provide if he or she were not a person with a disability; or
- (c) otherwise administering the represented person’s affairs.

59. Powers of investment

An administrator may, with the consent of the Tribunal and notwithstanding the *Trustee Act 1898*–

- (a) retain any investment, whether or not it is a trustee investment; and
- (b) invest in any investment specified by the Tribunal, whether or not it is a trustee investment.

60. Preservation of interests in represented person's property

(1) Where –

- (a) any property of a represented person is disposed of under an administration order; and
- (b) under the will or intestacy of the represented person, or by any gift perfected or appointment taking effect on his or her death, any other person would, but for that disposal, have taken an interest in the property –

the other person is to take the same interest, so far as the circumstances may allow, in any property forming part of the represented person's estate that represents the property disposed of.

- (2) If the property disposed of was real property, any property representing it, so long as it remains part of the represented person's estate, is to be treated as if it were real property.
- (3) The Tribunal may give such directions as may be necessary or expedient for the purpose of facilitating the operation of subsections (1) and (2), including the carrying of money to a separate account and the transfer of property other than money.
- (4) Where–

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- (a) any property of a represented person is disposed of under an administration order; or
- (b) the Tribunal or the administrator has ordered, directed or authorized that any such property be so disposed of–

and the disposal would, but for this section, result in the conversion of personal property into real property, the Tribunal may direct that the property representing the property disposed of, so long as it remains the represented person's property or forms part of his or her estate, is to be treated as if it were personal property.

- (5) References in this section to the disposal of property are taken to include references to –
 - (a) the sale, exchange, charging or other dealing with property other than money; and
 - (b) the removal of property from one place to another; and
 - (c) the application of money in acquiring property; and
 - (d) the transfer of money from one account to another –

and any such references to property representing property disposed of are to be construed accordingly and as including the result of successive disposals.

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(6) Where–

- (a) any money is paid under an administration order; or
- (b) the Tribunal or the administrator has ordered, directed or authorized that any such money be paid–

for carrying out permanent improvements on, or otherwise for the benefit of, a represented person's property, the Tribunal may–

- (c) give directions as to accounting for the payment of that money; or
- (d) order that the whole or any part of the money so paid, or to be paid, is to be a charge on the property, whether without interest or with interest at a specified rate.

(7) A charge under subsection (6) may be made in favour of any person as the Tribunal may determine and, in particular, where the money charged is paid out of the represented person's estate, may be made in favour of a person as trustee for the represented person.

(8) An order under subsection (6) may provide for excluding or restricting the operation of subsections (1) and (2).

(9) A charge under subsection (6) does not confer any right of sale or foreclosure during the life of the represented person.

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61. Application by administrator for advice, &c.

- (1) An administrator may apply to the Tribunal for advice or directions on any matter relating to the scope of an administration order or the exercise of any power by the administrator under it.
- (2) The Tribunal may require notice of the application under subsection (1) to be given to any person that the Tribunal directs and may exercise its powers under this section without a hearing.
- (3) The Tribunal may—
 - (a) approve or disapprove of any act proposed to be done by the administrator; and
 - (b) give such advice as it considers appropriate; and
 - (c) vary the administration order or make any other order that it could have made on the original application relating to the administration of the estate that it considers necessary.
- (4) The Tribunal of its own motion may direct, or offer advice to, an administrator in respect of any matter.
- (5) An administrator who contravenes a direction given to him or her under this section is guilty of an offence and is liable on summary conviction to a fine not exceeding 20 penalty units.

62. Power of administrator to act until notice of discharge

- (1) Where the Tribunal has received information otherwise than from the administrator that a represented person has died or has ceased to be a represented person, the Tribunal must forthwith give notice of that fact to the administrator.
- (2) Unless the administrator knows that a person has ceased to be a represented person or has died, he or she may exercise all or any of the powers given to him or her by the Tribunal with respect to the estate of the represented person.
- (3) On notice being given under subsection (1), the represented person or his or her legal representative, as the case may be, is bound by and may take advantage of any act done on behalf of the represented person by the administrator within the powers conferred on the administrator by the Tribunal as if it had been done by the represented person and he or she had legal capacity to do so.

63. Reporting requirements for administrators

- (1) An administrator of a represented person's estate must furnish the Tribunal, at such times as the Tribunal determines, with a statement of the accounts of the estate, specifying—
 - (a) the assets and liabilities of the estate; and
 - (b) the income and expenditure of the estate over a specified period; and

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- (c) such other particulars relating to the estate as the Tribunal may require.
- (2) A statement under this section –
- (a) is to be in a form approved by the Tribunal; and
 - (b) is to be verified by statutory declaration signed by the administrator and supported by such other evidence, if any, as the Tribunal may require.
- (3) Where a represented person dies –
- (a) the administrator of his or her estate must, within 7 days after notification of the death, inform the Tribunal in writing of the date of death; and
 - (b) the administrator must, within 28 days after that notification, provide the Tribunal with a statement of the accounts of the estate–
- and the cost of auditing the accounts may be paid from the estate notwithstanding that the administration order has ceased to have effect.
- (4) The Tribunal must examine a statement of accounts and may–
- (a) cause the accounts to be audited by The Public Trustee or another person determined by the Tribunal at the cost of the represented person’s estate; and

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- (b) if of opinion that the administrator, in making any expenditure in the exercise, or purported exercise, of his or her powers as such, did not act in good faith or with reasonable care, disallow that item of expenditure.
- (5) The Tribunal must not disallow an item of expenditure unless it first gives the administrator and any other person the Tribunal thinks fit the opportunity to appear before the Tribunal and be heard on the matter.
 - (6) Where the Tribunal disallows an item of expenditure under subsection (4)(b), the administrator is personally liable to the represented person for the amount of the expenditure and to the Tribunal for its costs and expenses incurred in relation to the disallowance.
 - (7) An administrator who, without reasonable excuse, contravenes this section is guilty of an offence and is liable on summary conviction to a penalty not exceeding 20 penalty units.

64. Delegation of Tribunal’s functions as to reporting

- (1) The Tribunal may in writing–
 - (a) delegate to such person as the Tribunal may approve any of the functions or powers of the Tribunal under section 63; and
 - (b) revoke wholly or partly a delegation.

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- (2) A delegation –
 - (a) may be made either generally or as otherwise provided by the instrument of delegation; and
 - (b) does not prevent the performance or exercise of a function or power by the Tribunal.
- (3) A function performed, or power exercised, by a delegate has the same effect as if performed or exercised by the Tribunal.

PART 8 – EMERGENCY ORDERS

65. Emergency orders

- (1) Where the Tribunal considers it proper to do so by reason of urgency, the Tribunal may in respect of a represented person make any order or give any direction considered appropriate in the circumstances.
- (2) Where the Tribunal considers it proper to do so, by reason of urgency, the Tribunal may, in respect of a person who is not a represented person but in respect of whom the Tribunal considers that there may be grounds for making a guardianship order or an administration order make an order appointing—
 - (a) the Public Guardian as his or her guardian; or
 - (b) The Public Trustee as administrator of his or her estate—

and in either case the Tribunal may make any order or give any direction considered appropriate in the circumstances.

- (3) The Tribunal may make an order under this section of its own motion or on request by any person whom the Tribunal considers to have a proper interest in the matter.
- (4) In the exercise of its powers under this section –
 - (a) the Tribunal is not required to give notice to any person or to hold a hearing before

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- making an order but the Tribunal must make such inquiries or investigations as the Tribunal may think appropriate; and
- (b) the Tribunal may act on a request made, or information received, by telephone or any other means that the Tribunal considers appropriate in the circumstances; and
 - (c) the Tribunal may make an administration order in respect of the estate of a person who is the donor of an enduring power of attorney in force under Part 4 of the *Powers of Attorney Act 2000*, if he or she is of or over the age of 18 years.
- (4A) The powers and functions of the Tribunal under this section may be exercised and performed by one or 3 members of the Tribunal as may be determined in each case by the President.
- (5) An order under this section –
- (a) remains in effect for such period as the Tribunal determines but not exceeding 28 days; and
 - (b) may be renewed but only once for a further period not exceeding 28 days.
- (6) A power or function under this section that has been exercised or performed, or purportedly exercised or performed, by any member or members of the Board before the commencement of the *Guardianship and Administration Amendment Act 2006* is taken to

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have been validly exercised or performed by the Board.

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Part 9 – Annual Reports and Review of Orders

**PART 9 – ANNUAL REPORTS AND REVIEW OF
ORDERS**

66. Annual reports in respect of represented persons

- (1) The Tribunal must at least once in each period of 12 months obtain and consider a written report on the circumstances of each person who is subject to a guardianship order or administration order, including such details as the Tribunal may require as to the guardianship or administration from—
 - (a) the administrator or guardian or both; and
 - (b) such other person as the Tribunal may determine.
- (2) An administrator, guardian or other person referred to in subsection (1) must, within 14 days after receiving a notice requiring him or her to do so or within such further period as the Tribunal may allow, furnish the Tribunal with a written report on the circumstances of a person who is subject to a guardianship order or administration order giving such particulars in respect of that person as the Tribunal may require.
- (3) An administrator, guardian or other person who contravenes subsection (2) is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

67. Review of orders

The Tribunal may at any time—

- (a) of its own motion; or
- (b) on application by, or on behalf of, a represented person; or
- (c) on the application of any other person—

hold a hearing to review a guardianship order or administration order.

68. Order after review

- (1) On a review under section 67, the Tribunal may vary or continue a guardianship order or administration order subject to any conditions or requirements it considers necessary or the Tribunal may revoke the order.
- (2) The Tribunal may make such further orders as it considers necessary in order to give effect to an order made under subsection (1).

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PART 10 – MISCELLANEOUS AND SUPPLEMENTAL

Division 1 –

69 - 74A.

Division 2 –

75 - 76.

Division 3 – Powers of courts

77. Powers of courts

- (1) If, in any proceedings before a court, the court considers that a party may need to have a guardian or administrator or both appointed under this Act, the court may refer the issue to the Tribunal for its determination.
- (2) A referral under this section has effect as if an application had been made to the Tribunal under this Act.

Division 4 – Legal provisions

78.

79. Evidentiary

All courts and persons acting judicially must take judicial notice of the signature of any person who is or has been the Public Guardian or Deputy Public Guardian and of the fact that that

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person is or was the Public Guardian or Deputy
Public Guardian, as the case may be.

80.

81. Recognition of orders made in other States, &c.

(1) Where it appears to the Minister that a law in force in another State, a Territory or another country has substantially the same effect as this Act, the Minister may, by notice published in the *Gazette*, declare that that law is a corresponding law for the purposes of this section.

(2) Where—

(a) the Tribunal is satisfied that a person has under a corresponding law been appointed guardian of another person or the administrator of the estate of another person; and

(b) the applicant furnishes the Tribunal with the original instrument of his or her appointment, a certified copy of that instrument or other evidence satisfactory to the Tribunal of that appointment—

the Tribunal must register the instrument.

(3) On registration of the instrument the applicant is taken to be—

(a) the guardian of that person; or

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(b) the administrator of the estate of that person–

as the case may be, as if the applicant had been appointed as such by the Tribunal for the purposes of this Act.

(4) On registration of the instrument the Tribunal must notify the appropriate authority in the relevant State, Territory or country of–

(a) that registration; and

(b) any subsequent revocation of the appointment; and

(c) any other action taken by the Tribunal relating to the appointment.

81A. Instruments made under corresponding laws

(1) Where it appears to the Minister that a law in force in another State, or in a Territory or country has substantially the same effect as Part 5 of this Act, the Minister may by notice published in the *Gazette* declare that the law is a corresponding law for the purpose of this section.

(2) Subject to subsection (3), if an instrument appointing an enduring guardian that is made in another State, or in a Territory or country under a corresponding law complies with that corresponding law, the instrument is taken to be an instrument appointing an enduring guardian made in accordance with Part 5.

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-
- (3) An instrument referred to in subsection (2) is valid only to the extent that it would be valid if it were an instrument appointing an enduring guardian made in accordance with Part 5.
 - (4) For the purposes of this section, a certificate, from an Australian legal practitioner or from the Registrar of a relevant Court, Board or Tribunal exercising a guardianship jurisdiction, that the instrument appointing an enduring guardian satisfies the requirements of the relevant corresponding law is evidence of that fact.
 - (5) An instrument appointing an enduring guardian recognised in accordance with this section must be registered in accordance with section 89(1)(c).
 - (6) A notice under subsection (1) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

Division 5 – Accounts and reports

82. Accounts and records of Public Guardian

The Public Guardian must keep proper accounts and records of all matters relating to the administration of this Act by the Public Guardian and such other records as will present fairly the financial transactions and financial position of the Public Guardian, as the case requires.

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83.

84. Annual report of Public Guardian

(1) The Public Guardian must, in respect of each financial year prepare an annual report specifying—

- (a) a report of the administration of this Act during the financial year; and
- (b) financial statements for the financial year –

and must furnish the Minister with the report and statements before the following 30 September.

(2) The Minister must cause the report and statements received under subsection (1) to be laid before each House of Parliament within 14 sitting days of that House after that receipt.

85.

Division 6 – Offences and supplemental

86. Confidentiality of information

(1) A person must not disclose any information obtained by the Tribunal or the Public Guardian under this Act, or under the *Tasmanian Civil and Administrative Tribunal Act 2020*, that deals with the personal history or records of a

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represented person, proposed represented person or a person to whom Part 6 applies except–

- (a) at a hearing under the *Tasmanian Civil and Administrative Tribunal Act 2020*; or
 - (b) where in the opinion of the Tribunal or the Public Guardian it is in the best interests of the represented person to disclose the information; or
 - (c) where the disclosure of the information is made by a person authorized in writing either generally or in a particular case by the President.
- (2) Subsection (1) does not prevent the disclosure of information as required or permitted by any law if, in the case of information relating to the personal affairs of another person, that other person has given consent in writing.
- (3) Nothing in this section prohibits the Tribunal from publishing notices of hearings or other notices that may be necessary in the interests of justice or for the proper administration of this Act.
- (4) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine not exceeding 20 penalty units or imprisonment for a period not exceeding 12 months or both.

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88. Power to open wills

- (1) The Tribunal, The Public Trustee or a trustee company, within the meaning of the *Trustee Companies Act 1953*, may, before or after the death of a represented person, open and read any paper or writing which purports to be, or is alleged to be, the will of the represented person.
- (2) An administrator other than The Public Trustee or a trustee company may, with the approval of the Tribunal, open and read any paper or writing which purports to be the will of a represented person, but must not disclose its contents to any other person without the further approval of the Tribunal.
- (3) The Tribunal may, for the purposes of a hearing in relation to Guardianship stream proceedings, open and read any paper or writing which purports to be, or is alleged to be, the will of a person in respect of whom an application for a guardianship order or an administration order has been made.

89. Duty to keep register

- (1) The Tribunal must keep a register containing particulars of—
 - (a) applications lodged with the registrar; and
 - (b) any determinations of the Tribunal in Guardianship stream proceedings; and

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- (c) any instruments of appointment as an enduring guardian under Part 5; and
 - (e) any instruments registered under section 81(2).
- (2) The register is open for inspection during normal business hours by members of the public.

90. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the Governor may make regulations as to –
 - (a) fees to be paid to the Tribunal in respect of any matters arising under this Act; and
 - (ab) the waiving, and refunding, of any such fee or part of any such fee; and
 - (b) prescribing information to be supplied in support of an application under this Act.
- (3) The regulations may –
 - (a) provide that a contravention of any of the regulations is an offence; and
 - (b) in respect of any such offence, provide for the imposition of a fine not exceeding 10 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.

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- (4) 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.

90A. Savings and transitional provisions

The savings and transitional provisions specified in Schedule 4 have effect.

90B. Transitional provisions consequent on *Guardianship and Administration Amendment Act 2013*

- (1) Section 32C applies to, and in relation to, an enduring guardianship created before that section commences, but only to, or in relation to, the taking of an action, or an action taken, after that section commences.
- (2) Section 32D applies to, and in relation to, an enduring guardianship created before that section commences, but only in relation to a dealing or transaction made after the section commences.
- (3) Nothing in this section is to be taken to limit the application of sections 32C and 32D to an enduring guardianship created after section 32C or 32D, respectively, commences.

90C. Validation

- (1) In this section –

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Board means the Guardianship and Administration Board established under this Act as in force immediately before the validation day;

member of the Board has the same meaning as in this Act as in force immediately before the validation day;

validation day means the day on which the *Validation Act 2021* commences.

(2) If –

(a) a person was appointed as a member of the Board before the validation day; and

(b) during all or part of the period –

(i) beginning on the day on which the appointment referred to in paragraph (a) expired; and

(ii) ending immediately before the validation day –

the person purported to be authorised, under this Act or the *Acts Interpretation Act 1931*, to perform, or exercise, as a member of the Board, a function or power of a member of the Board that a member of the Board may perform or exercise –

then, despite any provision of this Act or any other Act –

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- (c) the person is to be taken to have been, and to always have been, a member of the Board during the period; and
- (d) that performance or exercise of that function or power by the person during the period is not to be taken to be, or to ever have been, invalid by reason only that the person was not, but for this section, a member of the Board during all or part of the period; and
- (e) the Board is not to be taken to have been, or to ever have been, invalidly constituted by reason only that the person was not, but for this section, a member of the Board during all or part of the period.

91. Administration of Act

Until an order is made under section 4 of the *Administrative Arrangements Act 1990* –

- (a) this Act is administered by 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.

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SCHEDULE 1 –

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SCHEDULE 2 –

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**SCHEDULE 3 – INSTRUMENTS RELATING TO
ENDURING GUARDIANS**

Section 32(2)(a) and (b)

Form 1 – Appointment of Enduring Guardian

1—I (*insert name, address and occupation of appointor*),
appoint (*insert name, address and occupation of proposed
guardian*) to be my guardian.

2—I authorize my guardian, in the event that I become
unable by reason of a disability to make reasonable judgments
in respect of matters relating to my personal circumstances,
to exercise the powers of a guardian under section 25 of the
Guardianship and Administration Act 1995.

3—I require my guardian to observe the following conditions
in exercising, or in relation to the exercise of, the powers
conferred by this instrument:—

(State any conditions to which the powers are subject)

4—This is an appointment of an enduring guardian made
under Part 5 of the *Guardianship and Administration Act
1995*.

.....
(Signature of appointor)

ACCEPTANCE OF APPOINTMENT

I, (*insert name, address and occupation of proposed guardian*)
accept appointment as a guardian under this instrument and
undertake to exercise the powers conferred honestly and in
accordance with the provisions of the *Guardianship and
Administration Act 1995*.

.....
(Signature of proposed guardian)

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CERTIFICATE OF WITNESSES

We (*insert names, addresses and occupations of at least 2 witnesses*)
certify –

- (a) that the appointor has signed this instrument freely and voluntarily in our presence; and
- (b) that the appointor appeared to understand the effect of this instrument.

.....
.....
(*Signature of at least 2 witnesses*)

Form 2 – Revocation of Appointment of Enduring Guardian

1—I (*insert name, address and occupation of appointor*),
revoke the appointment of (*insert name, address and occupation of proposed guardian*) as my guardian.

2—This revocation of appointment as an enduring guardian
is made under Part 5 of the *Guardianship and Administration Act 1995*.

.....
(*Signature of appointor*)

CERTIFICATE OF WITNESSES

We (*insert names, addresses and occupations of at least 2 witnesses*) certify—

- (a) that the appointor has signed this instrument freely and voluntarily in our presence; and
- (b) that the appointor appeared to understand the effect of this instrument.

.....
.....
(*Signature of at least 2 witnesses*)

**SCHEDULE 4 – SAVINGS AND TRANSITIONAL
PROVISIONS**

Section 90A

1. In this Schedule –

commencement date means the date on which this Act commences;

former Board means the Guardianship Board established under the *Mental Health Act 1963*;

initial period means the period of 6 months commencing on the commencement date.

2. Where a guardianship application was received by the former Board under section 23 of the *Mental Health Act 1963* and in force immediately before the commencement date, the application is taken to be an application for a guardianship order under this Act.

3. A guardianship order made under the *Mental Health Act 1963* and in force immediately before the commencement date is taken to be a guardianship order made under this Act.

4. Where an appointment of the former Board as guardian of a person was in force immediately before the commencement date, the Guardianship and Administration Board has the functions of a guardian for the initial period as if

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it had been appointed as a full guardian of that person as mention in section 25.

5. Where the Public Trustee has been appointed as a committee on the filing of a certificate of disability under the *Mental Health Act 1963* and the appointment was in force immediately before the commencement date –
 - (a) the certificate of disability is taken to be an administration order made under this Act; and
 - (b) the Public Trustee is taken to be administrator of the estate of the person to whom the order relates without limitation of his or her powers.

6. Where an order for the appointment of a committee made under the *Mental Health Act 1963* was in force immediately before the commencement date –
 - (a) the order has effect as if it were an administration order made under this Act; and
 - (b) the person appointed as a committee is taken to be the administrator of the estate of the person to whom the order relates on the same terms and conditions, if any, as are specified in the order.

7. (1) The Guardianship and Administration Board must within the initial period review all

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appointments and orders made under the *Mental Health Act 1963* that are continued in effect under this Schedule.

- (2) If the Minister is satisfied that it is impracticable for the Board to complete the review required under subclause (1) in the initial period, the Minister may, by notice published in the *Gazette*, extend that period for a further period not exceeding 6 months.

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NOTES

The foregoing text of the *Guardianship and Administration 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 5 November 2021 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Guardianship and Administration (Miscellaneous Amendments) Act 1996</i>	No. 33 of 1996	13.11.1996
<i>Guardianship and Administration Act 1995</i>	No. 44 of 1995	1.9.1997
<i>Guardianship and Administration Amendment Act 2000</i>	No. 4 of 2000	28.4.2000
<i>Powers of Attorney Act 2000</i>	No. 68 of 2000	4.4.2001
<i>State Service (Consequential and Miscellaneous Amendments) Act 2000</i>	No. 86 of 2000	1.5.2001
<i>Evidence (Consequential Amendments) Act 2001</i>	No. 80 of 2001	1.7.2002
<i>Statute Law Revision Act 2003</i>	No. 9 of 2003	16.4.2003
<i>Relationships (Consequential Amendments) Act 2003</i>	No. 45 of 2003	1.1.2004
<i>Police Service (Consequential Amendments) Act 2003</i>	No. 76 of 2003	1.1.2004
<i>Statutory Officers (Age for Retirement) Act 2005</i>	No. 17 of 2005	10.6.2005
<i>Mental Health Amendment (Secure Mental Health Unit) Act 2005</i>	No. 72 of 2005	20.2.2006
<i>Guardianship and Administration Amendment Act 2006</i>	No. 11 of 2006	13.9.2006
<i>Justice and Related Legislation (Further Miscellaneous Amendments) Act 2006</i>	No. 43 of 2006	18.12.2006
<i>Legal Profession (Miscellaneous and Consequential Amendments) Act 2007</i>	No. 66 of 2007	31.12.2008
<i>Audit (Consequential Amendments) Act 2008</i>	No. 50 of 2008	1.3.2009

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Act	Number and year	Date of commencement
<i>Justice and Related Legislation (Miscellaneous Amendments) Act 2009</i>	No. 23 of 2009	16.6.2009
<i>Audit (Consequential Amendments) Act 2008</i>	No. 50 of 2008	1.7.2010
<i>Health Practitioner Regulation National Law (Tasmania) (Consequential Amendments) Act 2010</i>	No. 3 of 2010	1.7.2010
<i>Vexatious Proceedings Act 2011</i>	No. 31 of 2011	1.3.2013
<i>Guardianship and Administration Amendment Act 2013</i>	No. 40 of 2013	21.10.2013
<i>Reproductive Health (Access to Terminations) Act 2013</i>	No. 72 of 2013	12.2.2014
<i>Guardianship and Administration Amendment Act 2015</i>	No. 30 of 2015	6.10.2015
<i>Justice and Related Legislation (Miscellaneous Amendments) Act 2018</i>	No. 29 of 2018	10.12.2018
<i>Tasmanian Civil and Administrative Tribunal (Consequential Amendments) Act 2021</i>	No. 18 of 2021	5.11.2021
<i>Validation Act 2021</i>	No. 19 of 2021	5.11.2021
<i>Guardianship and Administration Amendment (Advance Care Directives) Act 2021</i>	No. 15 of 2021	not commenced

TABLE OF AMENDMENTS

Provision affected	How affected
Section 2	Amended by No. 33 of 1996, s. 4
Section 3	Amended by No. 4 of 2000, s. 4, No. 45 of 2003, Sched. 1, No. 76 of 2003, Sched. 1, No. 72 of 2005, s. 121, No. 43 of 2006, s. 21, No. 3 of 2010, Sched. 1, No. 40 of 2013, s. 4, No. 30 of 2015, s. 4 and No. 18 of 2021, s. 117
Section 4	Amended by No. 9 of 2003, Sched. 1 and No. 30 of 2015, s. 5
Section 5	Amended by No. 18 of 2021, s. 118
Part 2	Repealed by No. 18 of 2021, s. 119
Section 7	Amended by No. 66 of 2007, Sched. 1 Repealed by No. 18 of 2021, s. 119
Section 7A	Inserted by No. 43 of 2006, s. 22 Repealed by No. 18 of 2021, s. 119
Section 8	Substituted by No. 68 of 2000, s. 61

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Provision affected	How affected
Section 8A	Repealed by No. 18 of 2021, s. 119 Inserted by No. 43 of 2006, s. 23
Section 9	Repealed by No. 18 of 2021, s. 119 Amended by No. 86 of 2000, Sched. 1
Section 10	Repealed by No. 18 of 2021, s. 119 Amended by No. 66 of 2007, Sched. 1
Section 11	Repealed by No. 18 of 2021, s. 119 Amended by No. 4 of 2000, s. 5, No. 86 of 2000, Sched. 1, No. 80 of 2001, Sched. 1 Subsection (13) inserted by No. 43 of 2006, s. 24 Subsection (14) inserted by No. 43 of 2006, s. 24 Subsection (15) inserted by No. 43 of 2006, s. 24 Subsection (16) inserted by No. 43 of 2006, s. 24 Subsection (17) inserted by No. 43 of 2006, s. 24 Amended by No. 43 of 2006, s. 24
Section 12	Repealed by No. 18 of 2021, s. 119
Section 13	Repealed by No. 18 of 2021, s. 119
Section 14	Amended by No. 86 of 2000, Sched. 1
Section 15	Amended by No. 18 of 2021, s. 120
Section 16	Amended by No. 86 of 2000, Sched. 1
Section 17	Amended by No. 18 of 2021, s. 121
Section 19	Amended by No. 18 of 2021, s. 122
Section 20	Amended by No. 4 of 2000, s. 6 and No. 18 of 2021, s. 123
Section 21	Amended by No. 18 of 2021, s. 124
Section 23	Amended by No. 18 of 2021, s. 125
Section 25	Amended by No. 4 of 2000, s. 7
Section 26	Amended by No. 18 of 2021, s. 126
Section 28	Amended by No. 18 of 2021, s. 127
Section 29	Amended by No. 18 of 2021, s. 128
Section 30	Amended by No. 18 of 2021, s. 129
Section 31	Amended by No. 18 of 2021, s. 130
Section 32	Amended by No. 4 of 2000, s. 8, No. 43 of 2006, s. 25 and No. 18 of 2021, s. 131
Section 32A	Inserted by No. 4 of 2000, s. 9
Section 32B	Inserted by No. 40 of 2013, s. 5
Section 32C	Inserted by No. 40 of 2013, s. 5
Section 32D	Inserted by No. 40 of 2013, s. 5
Section 33	Amended by No. 18 of 2021, s. 132
Section 34	Amended by No. 18 of 2021, s. 133
Section 35	Amended by No. 43 of 2006, s. 26, No. 23 of 2009, s. 14, No. 40 of 2013, s. 6 and No. 18 of 2021, s. 134
Section 37	Amended by No. 18 of 2021, s. 135
Section 39	Amended by No. 72 of 2013, s. 16
Section 43	Amended by No. 18 of 2021, s. 136
Section 44	Amended by No. 30 of 2015, s. 6
Section 45	Amended by No. 18 of 2021, s. 137
Section 45	Amended by No. 4 of 2000, s. 10, No. 30 of 2015, s. 7 and

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Provision affected	How affected
	No. 18 of 2021, s. 138
Section 46	Amended by No. 18 of 2021, s. 139
Section 46A	Amended by No. 18 of 2021, s. 140
Section 46A of Part 6	Inserted by No. 72 of 2005, s. 122
Section 48A	Inserted by No. 4 of 2000, s. 11
Section 50	Amended by No. 18 of 2021, s. 141
Section 51	Amended by No. 4 of 2000, s. 12, No. 68 of 2000, s. 61 and No. 18 of 2021, s. 142
Section 53	Amended by No. 33 of 1996, s. 5, No. 4 of 2000, s. 13, No. 9 of 2003, Sched. 1 and No. 18 of 2021, s. 143
Section 54	Amended by No. 18 of 2021, s. 144
Section 55	Amended by No. 18 of 2021, s. 145
Section 56	Amended by No. 18 of 2021, s. 146
Section 58	Amended by No. 18 of 2021, s. 147
Section 59	Amended by No. 18 of 2021, s. 148
Section 60	Amended by No. 18 of 2021, s. 149
Section 61	Amended by No. 18 of 2021, s. 150
Section 62	Amended by No. 18 of 2021, s. 151
Section 63	Amended by No. 18 of 2021, s. 152
Section 64	Amended by No. 18 of 2021, s. 153
Section 65	Amended by No. 4 of 2000, s. 14, No. 68 of 2000, s. 61, No. 11 of 2006, s. 4 and No. 18 of 2021, s. 154
Section 66	Amended by No. 18 of 2021, s. 155
Section 67	Amended by No. 18 of 2021, s. 156
Section 68	Amended by No. 18 of 2021, s. 157
Division 1 of Part 10	Repealed by No. 18 of 2021, s. 158
Section 69	Amended by No. 4 of 2000, s. 15 Subsection (3) substituted by No. 4 of 2000, s. 15 Repealed by No. 18 of 2021, s. 158
Section 69A	Inserted by No. 31 of 2011, Sched. 1 Repealed by No. 18 of 2021, s. 158
Section 70	Repealed by No. 18 of 2021, s. 158
Section 71	Repealed by No. 18 of 2021, s. 158
Section 72	Substituted by No. 4 of 2000, s. 16 Repealed by No. 18 of 2021, s. 158
Section 73	Amended by No. 43 of 2006, s. 27 Repealed by No. 18 of 2021, s. 158
Section 73A	Inserted by No. 43 of 2006, s. 28 Subsection (1) substituted by No. 23 of 2009, s. 15 Repealed by No. 18 of 2021, s. 158
Section 74	Repealed by No. 18 of 2021, s. 158
Section 74A	Inserted by No. 43 of 2006, s. 29 Repealed by No. 18 of 2021, s. 158
Division 2 of Part 10	Repealed by No. 18 of 2021, s. 158
Section 75	Repealed by No. 18 of 2021, s. 158

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Provision affected	How affected
Section 76	Repealed by No. 18 of 2021, s. 158
Section 77	Amended by No. 18 of 2021, s. 159
Section 78	Amended by No. 9 of 2003, Sched. 1 Repealed by No. 18 of 2021, s. 160
Section 79	Substituted by No. 18 of 2021, s. 160
Section 80	Repealed by No. 18 of 2021, s. 160
Section 81	Amended by No. 18 of 2021, s. 161
Section 81A	Inserted by No. 43 of 2006, s. 30 Amended by No. 66 of 2007, Sched. 1
Section 82	Substituted by No. 18 of 2021, s. 162
Section 83	Amended by No. 50 of 2008, Sched. 1 Repealed by No. 50 of 2008, Sched. 2
Section 84	Amended by No. 18 of 2021, s. 163
Section 85	Repealed by No. 18 of 2021, s. 164
Section 86	Amended by No. 18 of 2021, s. 165
Section 87	Amended by No. 43 of 2006, s. 31 Repealed by No. 18 of 2021, s. 166
Section 88	Amended by No. 4 of 2000, s. 17 and No. 18 of 2021, s. 167
Section 89	Amended by No. 18 of 2021, s. 168
Section 90	Amended by No. 29 of 2018, s. 36 and No. 18 of 2021, s. 169
Section 90A	Inserted by No. 33 of 1996, s. 6
Section 90B	Inserted by No. 40 of 2013, s. 7
Section 90C	Inserted by No. 19 of 2021, s. 4
Schedule 1	Amended by No. 86 of 2000, Sched. 1, No. 17 of 2005, Sched. 1, No. 72 of 2005, s. 123 Repealed by No. 18 of 2021, s. 169
Schedule 2	Repealed by No. 18 of 2021, s. 170
Part 1 of Schedule 2	Amended by No. 43 of 2006, s. 32
Schedule 3	Amended by No. 4 of 2000, s. 18
Schedule 4	Inserted by No. 33 of 1996, s. 7
