

TRANSITION INFORMATION

Guardianship Stream

The following is a brief summary of the changes to the legislation and where current legislative operations are maintained or preserved in the new *Tasmanian Civil and Administrative Tribunal Act 2020*.

- 1.1 The statutory reforms to implement the Tasmanian Civil and Administrative Tribunal have resulted in some changes to the *Guardianship and Administration Act 1995* and related legislation but had minimal effect upon the existing day to day processes under relevant legislation within the Guardianship Stream.
- 1.2 Section 152 to Section 160 of the *Tasmanian Civil and Administrative Tribunal Act 2020* contain the provisions which preserve certain processes and rights that accrued prior to the commencement date of the TASCAT. Those requirements have been considered and implemented by the Guardianship Stream in its processes.
- 1.3 It is important to note that Section 7A of the *Tasmanian Civil and Administrative Tribunal Act 2020* operates to override any provision of the *Tasmanian Civil and Administrative Tribunal Act 2020* which is inconsistent with the provisions of a 'relevant Act' and the *Guardianship and Administration Act 1995* and other statutes within the jurisdiction of the Guardianship Stream are 'relevant Acts.'
- 1.4 It is also important to note that Section 59(7) of the *Tasmanian Civil and Administrative Tribunal Act 2020* operates to override any provision of the *Tasmanian Civil and Administrative Tribunal Act 2020* which is inconsistent with provisions contained in Schedule 3 of the *Tasmanian Civil and Administrative Tribunal Act 2020*.
- 1.5 Part 10, Divisions 1 and 2 of the *Guardianship and Administration Act 1995* have been repealed. Some of these provisions are unnecessary as new provisions under the *Tasmanian Civil and Administrative Tribunal Act 2020* govern some of those matters (for example, Section 74A Contempt of the Board is unnecessary given the new Section 128 of the *Tasmanian Civil and Administrative Tribunal Act 2020*). The balance of the provisions in Part 10, Division 1 and 2 that need to be preserved to ensure the continued existing operations, have been included in Schedule 2, Parts 1, 2, 3 and 4 of the *Tasmanian Civil and Administrative Tribunal Act 2020*.
- 1.6 Section 87 of the *Guardianship and Administration Act 1995* has been repealed and replaced with the new provisions under Section 104 and 128 of the *Tasmanian Civil and Administrative Tribunal Act 2020*.
- 1.7 Schedules 1 and 2 of the *Guardianship and Administration Act 1995* have been repealed and replaced with a range of similar provisions that govern the operation of the Tribunal (for examples: Section 80 of the *Tasmanian Civil and Administrative Tribunal Act 2020* relates to sittings of the Tribunal; Section 119 of the *Tasmanian Civil and Administrative Tribunal Act 2020*

relates to correction of mistakes; Section 93 of the *Tasmanian Civil and Administrative Tribunal Act 2020* relates to the issuance of Practice Directions.)

- I.8 TASCAT Guardianship stream (formerly the Guardianship and Administration Board) will hold oral hearings for Emergency Requests and Emergency Renewal Requests from 8 November 2021. While Part 8 of the *Guardianship and Administration Act 1995* does not require the Tribunal to hold a hearing, the move to an oral hearing provides a greater focus on the centrality of the person who is the subject of the Emergency Request for guardianship and/or administration or suspension of an attorney under a power of attorney. An oral hearing allows greater opportunity to maximise the participation of the Person if they wish to be involved in the hearing and for the Person to be supported to express their views and wishes. It allow the parties to speak to the Request and to receive a copy of the application and supporting documentation and hear all the evidence presented to the Tribunal, before a determination is made.