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**TRANSITION INFORMATION**

**Mental Health 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. The statutory reforms to implement the Tasmanian Civil and Administrative Tribunal have resulted in some changes to the *Mental Health Act 2013* and related legislation but had minimal effect upon the existing day to day processes under relevant legislation within the Mental Health Stream.
	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 Mental Health Stream in its processes.
	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’. The *Mental Health Act 2013* and other statutes within the jurisdiction of the Mental Health Stream are ‘relevant Acts.’
	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.
	5. A number of provisions in the *Mental Health Act* 2013 have been repealed. The table below provides details about where the equivalent power can be found in the *Tasmanian Civil and Administrative Tribunal Act* 2020:

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| ***Mental Health Act 2013* provision repealed** | **Equivalent provision in *Tasmanian Civil and Administrative Tribunal Act 2020*** |
| s167 – establishment of the Mental Health Tribunal | s8 – establishment of the Tasmanian Civil and Administrative Tribunals11 – membership of the Tribunal Sch 3, Part 5, Clause 3 – composition of Tribunal in relation to Mental Health Stream |
| s169 (1) – power to do all things necessary to perform functions | s14 – President’s functions generallys28 – Deputy President’s functions generally (both have a power to do all things necessary to perform their functions) |
| s170 and s171 – sitting in divisions and acting by majority | s59 – Divisions of the Tribunals62 – assignment of members to Divisions of the TribunalSchedule 3, Part 5, clause 3 – Composition of Tribunal in relation to Mental Health Stream |
| s172(1) – general power to adjourn | s83( 3)(f) – power to adjourn |
| s173 – questions of law | s117 |
| s174 – appeals from determinations | Part 10 – Appeals to the Supreme Court |
| s175 – appeals procedure | s137 – appeals procedure s138 – determination of appeal |
| s176 – registrar and staff | s53 and s56 |
| s178 – annual report | s143 |
| s199 (2) and (3) – judicial notice of signature of President, Deputy President and Registrar and copy of determination is evidence of the determination | s127 – proof of decisions and orders of Tribunal |
| s216 contravention of Tribunal determinations | s126 – enforcement of decisions and orders of Tribunal |
| Schedule 3 – membership of the Tribunal | Part 3 – membership and staff of TribunalSchedule 3, Part 5, Clause 3 – composition of Tribunal in relation to Mental Health Stream |
| Sch 4, Part 2, Clause 1 – President determines sitting times and places | s80 - sittings |
| Sch 4, Part 2, Clause 5 – informality and expedition | s10 (1)(f) – to act with as little formality and technicality as possible |
| Sch 4, Part 2, Clause 6(1)(2) and (3) - evidence | s79 – principles governing proceedingss83 – practice and procedure generally |
| Sch 4, Part 2, Clause 6(5) – witness has the same protections as a Supreme Court witness | s140 – protection and immunities |
| Sch 4, Part 2, Clause 7(4)(5)(6) – making arrangements for the representation of a patient | s98 – representation |
| Sch 4, Part 3 – practice directions | s93 – practice directions |
| Sch 4, Part 4, Clause 1 – general powers (summons, production of documents, requiring any person to answer questions, determine proceedings in the absence of a person who has been summonsed, adjourn any proceedings) | s104 – power to require a person to give evidence or to produces83(3)(f) – power to adjourn |
| Sch 4, Part 4, Clause 5 – contempt of Tribunal | S128 – disrupting proceedings of the Tribunal |
| Sch 4, Part 5 – votes and decisions | S68 – decisions of 2 or more members constitute TribunalS83 – practice and procedure generally |