

I certify that this is a copy of the authorised version of this Act as at 5 November 2021, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 5 November 2021.

Robyn Webb  
Chief Parliamentary Counsel  
Dated 16 November 2021



TASMANIA

---

## HEALTH PRACTITIONERS TRIBUNAL ACT 2010

No. 12 of 2010

---

### CONTENTS

#### PART 1 – PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Application
5. When proceedings under this Act begin and end
6. Act binds Crown

#### [PART 2 – Repealed

7. *Repealed*]

#### PART 3 – MEMBERSHIP OF TRIBUNAL

##### [Division 1 – Repealed

- 8 - 10. *Repealed*]

***Division 2 – Other members of Tribunal for National Law proceedings***

11. Professional members of Tribunal
12. Lists of potential professional members
13. Community members of Tribunal
14. Disclosure of National Law notification
- [15. *Repealed*]

**PART 4 – CONSTITUTION OF TRIBUNAL**

***Division 1 – National Law proceedings***

16. Jurisdiction of Tribunal in respect of matter referred under National Law to Tribunal
17. Jurisdiction of Tribunal to hear and decide appeals against decisions under National Law
18. Constitution of Tribunal for purposes of National Law

***Division 2 – Proceedings other than National Law proceedings***

19. Jurisdiction of Tribunal to hear and decide a review of decision under Act other than National Law
20. Constitution of Tribunal for matter other than referral or appeal under National Law

**PART 5 – PROCEDURE OF TRIBUNAL**

***Division 1 – Preliminary procedure***

21. Applications
22. Withdrawal of application
- [23. *Repealed*]
24. Parties to proceedings
25. Representation
26. Effect of original decision pending review
27. Reasons for decision to be lodged by applicant

***Division 2 – Nature of proceedings***

28. Review to consist of fresh hearing
29. How Tribunal to deal with referred matter
30. Hearing to be open to public

***Division 3 – Decisions and orders in proceedings***

- 31. Powers of Tribunal to decide applications
- 32. Decision-making by Tribunal
- 33. Orders
- 34. Enforcement of orders
- [35. *Repealed*]

***Division 4 – Procedure generally***

- [36 - 38. *Repealed*]
- 39. Determinations
- 40. Costs
- [41. *Repealed*]

***Division 5 – Evidence***

- [42. *Repealed*]
- 43. Evidence
- 44. Authorisation of person to take evidence
- 45. Use of experts
- 46. Rule against self-incrimination does not apply
- [47. *Repealed*]

**PART 6 – MISCELLANEOUS**

- [48 - 49. *Repealed*]
- 50. Records of hearings
- 51. Publication of decisions of Tribunal
- [52 - 53. *Repealed*]
- 54. Secrecy

**PART 7 – CONCLUDING PROVISIONS**

- 55. Regulations
- [56. *Repealed*]
- 57. Administration of Act
- 58. . . . .

**[SCHEDULE 1 – *Repealed*]**

**[SCHEDULE 2 – *Repealed*]**

**SCHEDULE 3 – . . . . .**



## **HEALTH PRACTITIONERS TRIBUNAL ACT 2010**

**No. 12 of 2010**

**An Act to establish the Health Practitioners Tribunal and  
for related purposes**

**[Royal Assent 27 July 2010]**

Be it enacted by His Excellency the Governor of Tasmania, by  
and with the advice and consent of the Legislative Council and  
House of Assembly, in Parliament assembled, as follows:

### **PART 1 – PRELIMINARY**

#### **1. Short title**

This Act may be cited as the *Health Practitioners Tribunal Act 2010*.

#### **2. Commencement**

The provisions of this Act commence on a day  
or days to be proclaimed.

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 3

Part 1 – Preliminary

---

### 3. Interpretation

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

*applicant* means a person who applies to the Tribunal under section 21;

*community member* means a person designated under section 13 as a community member of the Tribunal for particular proceedings;

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

*function* includes duty;

*health profession* has the same meaning as in the National Law;

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

*National Board* has the same meaning as in the National Law;

*National Law* means the Health Practitioner Regulation National Law (Tasmania);

*National Law proceedings* means proceedings in relation to an application under section 21(1) or (2);

*notification* has the same meaning as in the National Law;

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

Part 1 – Preliminary

s. 3

---

***participating jurisdiction*** has the same meaning as in the National Law;

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

***proceedings*** means proceedings, of the Tribunal, that relate to this Act;

***professional member*** means a person designated under section 11 as a professional member of the Tribunal for particular proceedings;

***referring Act*** means a law of Tasmania, other than the National Law or the *Tasmanian Civil and Administrative Tribunal Act 2020*, by or under which jurisdiction is conferred on the Tribunal;

***registered health practitioner*** has the same meaning as in the National Law;

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

***Secretary*** means the Secretary of the department that is responsible, to the Minister to whom the administration of the *Health Practitioner Regulation National Law (Tasmania) Act 2010* is assigned, in relation to the administration of that Act;

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 3

Part 1 – Preliminary

---

***senior member*** means a member of the Tribunal who –

- (a) is assigned, under the *Tasmanian Civil and Administrative Tribunal Act 2020*, to the Health Practitioners stream; and
- (b) is a senior member within the meaning of that Act; and
- (c) is a legally qualified member, within the meaning of that Act;

***State or Territory Board*** has the same meaning as in the National Law;

***student*** has the same meaning as in the National Law;

***Tribunal*** means the Tasmanian Civil and Administrative Tribunal.

- (2) For the purposes of this Act, proceedings relate to one of the health professions if –
  - (a) the proceedings have begun by way of an application to the Tribunal under section 21(1) by the National Board for the health profession; or
  - (b) the proceedings have begun by way of an application to the Tribunal under section 21(2) in relation to a decision by the National Board for the health profession or a panel established under the National Law by that National Board.

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

Part 1 – Preliminary

s. 4

---

**4. Application**

- (1) In the event of any inconsistency between this Act (or the *Tasmanian Civil and Administrative Tribunal Act 2020*) and the National Law, the National Law prevails to the extent of the inconsistency.
- (2) In the event of any inconsistency between this Act (or the *Tasmanian Civil and Administrative Tribunal Act 2020*) and a referring law, the referring law prevails to the extent of the inconsistency.

**5. When proceedings under this Act begin and end**

- (1) For the purposes of this Act and the *Tasmanian Civil and Administrative Tribunal Act 2020*, proceedings in relation to a matter are to be taken to begin when an application in relation to the matter is lodged with the Tribunal under section 21.
- (2) For the purposes of this Act and the *Tasmanian Civil and Administrative Tribunal Act 2020*, proceedings in relation to a matter are to be taken to have concluded when the Tribunal has given the parties to the proceedings its final orders in relation to the matter.

**6. Act binds Crown**

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

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 7

Part 2 – . . . . .

---

**PART 2 – . . . . .**

7. . . . .

---

**PART 3 – MEMBERSHIP OF TRIBUNAL**

*Division 1 – . . . . .*

8 - 10. . . . .

*Division 2 – Other members of Tribunal for National Law proceedings*

**11. Professional members of Tribunal**

- (1) The President may designate a member of the Tribunal as a professional member of the Tribunal for proceedings in relation to which the President has determined that the Tribunal is to be constituted in accordance with section 18(1)(b) or (c).
- (2) A person may only be designated as a professional member of the Tribunal for proceedings if the person –
  - (a) is a registered health practitioner in respect of the health profession to which the proceedings relate; and
  - (b) is, in the opinion of the President, a person with suitable skill, knowledge or experience to assist in the proceedings; and
  - (c) is included in the list provided to the President by the National Board in accordance with a request under section 12; and

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

**s. 11**

Part 3 – Membership of Tribunal

---

- (d) is not a member of a National Board or a State or Territory Board.
- (3) The designation of a person as a professional member ceases if –
- (a) the person ceases to be a member of the Tribunal; or
  - (b) the person becomes a member of a National Board or a State or Territory Board; or
  - (c) the person ceases to be a registered health practitioner in respect of the health profession to which the proceedings relate; or
  - (d) the person’s registration as a health practitioner in respect of the health profession to which the proceedings relate is suspended; or
  - (e) immediate action under section 155(a) of the National Law has been taken in relation to the person; or
  - (f) the person has received a notification under the National Law and the President has notified the person, in writing, that the grounds for the notification are such that the person ought not continue as a professional member.

**12. Lists of potential professional members**

- (1) The President may from time to time request the National Board for a health profession to provide to the President a list of registered health practitioners who –
  - (a) are registered under the National Law in respect of the health profession; and
  - (b) are practising in Tasmania in respect of the health profession; and
  - (c) have, in the opinion of the National Board, suitable skill, knowledge and experience to enable the practitioners to assist in proceedings under this Act.
- (2) If the President is of the opinion that no person included in a list of the kind referred to in subsection (1) or in this subsection is suitable for proceedings for which the Tribunal is to be constituted, the President is to request the National Board to provide to the President a list of registered health practitioners who –
  - (a) are registered under the National Law in respect of the health profession; and
  - (b) are practising in respect of the health profession in any participating jurisdiction; and
  - (c) have, in the opinion of the National Board, suitable skill, knowledge and experience to enable the practitioners to assist in proceedings under this Act.

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 13

Part 3 – Membership of Tribunal

---

**13. Community members of Tribunal**

- (1) The President may designate a member of the Tribunal as the community member of the Tribunal for proceedings in relation to which the President has determined that the Tribunal is to be constituted in accordance with section 18(1)(c).
- (2) A person may only be designated as a community member of the Tribunal for proceedings if the person –
  - (a) has at no time been a registered health practitioner or been registered in respect of a health profession; and
  - (b) is not a member of a National Board or a State or Territory Board; and
  - (c) is specified on a list prepared under subsection (3).
- (3) The Minister must prepare from time to time a list of persons who are suitable to be designated under this section as community members of the Tribunal for proceedings that are National Law proceedings.
- (4) The designation of a person as a community member ceases if –
  - (a) the person ceases to be a member of the Tribunal; or

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

Part 3 – Membership of Tribunal

**s. 14**

- (b) the person becomes a member of a National Board or a State or Territory Board; or
- (c) the person becomes a registered health practitioner.

**14. Disclosure of National Law notification**

(1 - 2) . . . . .

- (3) A professional member must notify the President as soon as practicable after the member receives under the National Law notice of a notification about the member.

15. . . . .

**PART 4 – CONSTITUTION OF TRIBUNAL**

*Division 1 – National Law proceedings*

**16. Jurisdiction of Tribunal in respect of matter referred under National Law to Tribunal**

- (1) A reference in the National Law to a referral of a matter to the responsible tribunal is, for a referral of a matter in accordance with that Law to the Tribunal, a reference to an application to the Tribunal for a decision in relation to the matter.
- (2) The jurisdiction, conferred by the National Law on the Tribunal as the responsible tribunal, to hear and decide a matter referred to the Tribunal is to be taken to be jurisdiction conferred on the Tribunal to hear and decide the matter under this Act.
- (3) The Tribunal may exercise the jurisdiction, conferred by the National Law on the Tribunal as the responsible tribunal, to hear and decide a matter referred to the Tribunal in accordance with that Law if a person has, under section 21(1), applied to the Tribunal for a decision in relation to the matter.
- (4) In exercising the jurisdiction, conferred by the National Law on the Tribunal as the responsible tribunal, to hear and decide a matter referred to the Tribunal under that Law, the Tribunal may exercise the powers, and perform the functions, conferred on the Tribunal by this Act, the *Tasmanian Civil and Administrative Tribunal Act 2020* or the National Law.

**17. Jurisdiction of Tribunal to hear and decide appeals against decisions under National Law**

- (1) A reference in the National Law to an appeal against a decision is, for an appeal in accordance with that Law to the Tribunal, a reference to a review of the decision as provided under this Act.
- (2) The jurisdiction, conferred by the National Law on the Tribunal as the responsible tribunal, to hear and decide an appeal against a decision is to be taken to be jurisdiction conferred on the Tribunal to hear and decide under this Act a review of a decision.
- (3) The Tribunal may exercise the jurisdiction, conferred by the National Law on the Tribunal as the responsible tribunal, to hear and decide an appeal against a decision if a person has, under section 21(2), applied to the Tribunal for a review of the decision.
- (4) In exercising the jurisdiction, conferred by the National Law on the Tribunal as the responsible tribunal, to hear and decide an appeal against a decision, the Tribunal may exercise the powers, and perform the functions, conferred on the Tribunal by this Act, the *Tasmanian Civil and Administrative Tribunal Act 2020* or the National Law.

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 18

Part 4 – Constitution of Tribunal

---

**18. Constitution of Tribunal for purposes of National Law**

- (1) The President, as soon as practicable after National Law proceedings begin, must determine whether the Tribunal is, for the proceedings, to be constituted under the *Tasmanian Civil and Administrative Tribunal Act 2020* by –
  - (a) the President, a Deputy President or senior member; or
  - (b) the President (or a Deputy President or senior member) and 2 professional members; or
  - (c) the President (or a Deputy President or senior member), a professional member and a community member.
- (2) The President must determine that the Tribunal is, under the *Tasmanian Civil and Administrative Tribunal Act 2020*, to be constituted, for the purposes of National Law proceedings, in accordance with subsection (1)(b) or (c), if a party to the proceedings requests that the proceedings be heard and decided other than by the President, a Deputy President, or a senior member, acting alone.

***Division 2 – Proceedings other than National Law proceedings***

**19. Jurisdiction of Tribunal to hear and decide a review of decision under Act other than National Law**

- (1) The Tribunal may exercise the jurisdiction conferred on it by a referring Act to hear and decide a review of a decision if a person has applied under section 21(4) to the Tribunal for a review of the decision.
- (2) In exercising the jurisdiction conferred on the Tribunal by a referring Act to hear and decide a review of a decision, the Tribunal may exercise the powers, and perform the functions, conferred on the Tribunal by this Act, the *Tasmanian Civil and Administrative Tribunal Act 2020* or the referring Act.

**20. Constitution of Tribunal for matter other than referral or appeal under National Law**

The President, as soon as practicable after proceedings in relation to an application under section 21(4) begin, must determine whether the Tribunal is, for the purposes of the proceedings, to be constituted by the President, a Deputy President or a senior member.

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 21

Part 5 – Procedure of Tribunal

---

**PART 5 – PROCEDURE OF TRIBUNAL**

*Division 1 – Preliminary procedure*

**21. Applications**

- (1) A National Board which is required under the National Law to refer a matter about a registered health practitioner or student to the responsible tribunal may apply to the Tribunal for a decision in relation to the matter.
- (2) A person who is the subject of a decision referred to in section 199(1) of the National Law and who may, under that Law, appeal to the responsible tribunal, may apply to the Tribunal for a review of the decision.
- (3) Except with the approval of the Tribunal, an application may only be made under subsection (2) in relation to a decision referred to in section 199(1) of the National Law within 28 days after –
  - (a) the decision is made; or
  - (b) reasons for the decision are given to a person under the National Law –whichever is the later.
- (4) A person who is the subject of a decision against which an application for a review of a decision may be made to the Tribunal under a referring Act may apply to the Tribunal for a review of the decision.

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

Part 5 – Procedure of Tribunal

**s. 21**

---

- (5) Except with the approval of the Tribunal or as otherwise provided by the referring Act, an application may only be made under subsection (4) against a decision under a referring Act within 28 days after –
- (a) the decision is made; or
  - (b) reasons for the decision are given to a person under the referring Act –
- whichever is the later.
- (6) An application under this section must be –
- (a) in a form approved by the President; and
  - (b) lodged with the registrar; and
  - (c) accompanied by any documents or further information that the President requires; and
  - (d) accompanied by any documents or further information that are required by the referring Act or the National Law, as the case may be, to be provided to the Tribunal; and
  - (e) accompanied by the prescribed fee, if any; and
  - (f) made in a manner approved by the President.
- (7) An applicant must serve a copy of an application under this section –

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 22

Part 5 – Procedure of Tribunal

---

- (a) on each other party to the proceedings in respect of the application; and
- (b) on any other person entitled to notice of the application under the referring Act or the National Law; and
- (c) on any person that the Tribunal or the registrar directs be given notice of the proceedings in relation to the application.

**22. Withdrawal of application**

- (1) An applicant may, if the Tribunal gives leave to do so, withdraw an application before the Tribunal determines the application.
- (2) An applicant who withdraws an application may not make a further application in relation to the facts or circumstances to which the application relates, except with the leave of the Tribunal.
- (3) If the Tribunal gives leave to withdraw an application under subsection (1), it may make an order for costs against the applicant.
- (4) An order under subsection (3) may be made on the application of a party to the proceedings or on the Tribunal’s own initiative.

23. . . . .

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

Part 5 – Procedure of Tribunal

s. 24

---

**24. Parties to proceedings**

- (1) The parties to National Law proceedings are the persons who are, in accordance with the National Law, parties to the proceedings.
- (2) If an application is made to the Tribunal under section 21(4), the parties to proceedings in respect of the application are –
  - (a) the persons who are, in accordance with the referring Act, the parties to the proceedings; or
  - (b) if the referring Act does not specify the persons who are the parties to the proceedings, the following persons:
    - (i) the applicant;
    - (ii) the person who made the decision in respect of which the application is made;
    - (iii) if the Secretary is joined as a party to the proceedings under subsection (3), the Secretary.
- (3) The Secretary may, by notice to the Tribunal, become a party to proceedings other than National Law proceedings.

**25. Representation**

- (1) A party to proceedings is entitled to be represented in those proceedings by a legal practitioner or any other person.

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 26

Part 5 – Procedure of Tribunal

---

- (2) The Secretary may be represented, in proceedings to which the Secretary becomes a party, by a legal practitioner or any other person appointed by the Secretary.

**26. Effect of original decision pending review**

- (1) Subject to subsection (2), the beginning of proceedings for review of a decision does not affect the operation of the decision or prevent the taking of action to implement the decision.
- (2) Subsection (1) does not apply in relation to proceedings if –
- (a) the referring Act to which the proceedings relate provides otherwise; or
  - (b) the Tribunal makes an order under subsection (3).
- (3) The Tribunal may make an order staying the operation of a decision to which an application under this Act relates.
- (4) The Tribunal may make an order under subsection (3) on the application of a party to the proceedings or on the Tribunal's own initiative.
- (5) The Tribunal may make an order under subsection (3) whether or not it has given any person whose interests may be affected by the order the opportunity to be heard.
- (6) In making an order under subsection (3), the Tribunal –

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

Part 5 – Procedure of Tribunal

s. 27

---

- (a) may require any undertaking as to costs that it considers appropriate; and
  - (b) may make provision for the lifting of the order if conditions specified in the order are met or are not met.
- (7) The Tribunal may assess any costs referred to in subsection (6)(a).

**27. Reasons for decision to be lodged by applicant**

- (1) If an application is made under section 21(2) or (4) for a review of a decision and the applicant has been given, by the person who made the decision, a statement of reasons for the decision, the applicant must provide the statement to the Tribunal.
- (2) If the Tribunal considers that there are documents that –
  - (a) are in the possession of a party to the proceedings; and
  - (b) may be relevant to the proceedings –the Tribunal may order the party to lodge a copy of each document with the Tribunal within the time specified in the notice.
- (3) This section applies despite any rule of law relating to privilege or the public interest in relation to the production of documents.

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 28

Part 5 – Procedure of Tribunal

---

***Division 2 – Nature of proceedings***

**28. Review to consist of fresh hearing**

- (1) The purpose of a review by the Tribunal of a decision is to produce the correct and preferable result in respect of the matter to which the decision relates.
- (2) The Tribunal must hear and decide a review of a decision by way of a fresh hearing on the merits of the matter to which the decision relates.

**29. How Tribunal to deal with referred matter**

- (1) The purpose of a decision of the Tribunal in relation to a matter referred to the Tribunal in accordance with section 21(1) is to produce the correct and preferable result in respect of the matter.
- (2) The Tribunal must hear and decide, by way of a hearing on the merits of the matter, a matter that is referred to the Tribunal in accordance with section 21(1).

**30. Hearing to be open to public**

- (1) Except as provided by this section, a hearing in proceedings is to be open to the public.
- (2) During any hearing in proceedings the Tribunal may, on the application of a party to the proceedings or on the Tribunal's own initiative,

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

Part 5 – Procedure of Tribunal

s. 30

---

do either or both of the following, if it considers that there are compelling grounds to do so:

- (a) make an order excluding any person from the hearing;
  - (b) make an order prohibiting the reporting or other disclosure of all or any part of the proceedings or prohibiting the reporting or other disclosure of particular information in respect of the proceedings.
- (3) Without limiting the grounds that may be relevant for the purposes of subsection (2), the Tribunal may exercise its power under that subsection if –
- (a) it is dealing with privileged information or information that has been communicated to the National Board or the Tribunal in confidence; or
  - (b) it is dealing with information concerning the personal affairs, finances or business arrangements of a person; or
  - (c) the disclosure of the information may be unfairly prejudicial to the reputation of a person.
- (4) Nothing in this section is to be taken to prevent the Tribunal from –
- (a) meeting in private for the purpose of preparing for any proceedings or any stage of any proceedings; or

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 31

Part 5 – Procedure of Tribunal

---

- (b) meeting in private for the purposes of reaching a finding on any matter in the course of any proceedings.
- (5) A person must not fail to comply with an order under subsection (2)(a).  

Penalty: Fine not exceeding 25 penalty units.
- (6) A person must not fail to comply with an order under subsection (2)(b).  

Penalty: In the case of –

  - (a) a body corporate, a fine not exceeding 100 penalty units; or
  - (b) an individual, a fine not exceeding 50 penalty units.

***Division 3 – Decisions and orders in proceedings***

**31. Powers of Tribunal to decide applications**

- (1) The Tribunal is to determine an application made to the Tribunal under section 21(1) by making a decision in accordance with section 196 or 197, as the case may be, of the National Law.
- (2) The Tribunal is to determine an application made to the Tribunal under section 21(2) by making a decision in accordance with section 202 of the National Law.
- (3) The Tribunal is to determine an application made to the Tribunal under section 21(4) for a

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

Part 5 – Procedure of Tribunal

s. 31

---

review of a decision under a referring Act by making a decision in accordance with the referring Act.

- (4) If the referring Act to which an application under section 21(4) in respect of a decision relates does not set out how the Tribunal may decide the application, the Tribunal may determine the matter by –
- (a) affirming the decision; or
  - (b) varying the decision; or
  - (c) setting aside the decision and making another decision in substitution for it; or
  - (d) setting aside the decision and remitting the matter for reconsideration, by the person who made the decision, in accordance with any directions or recommendations of the Tribunal.
- (5) Subject to subsection (6), a decision of a person or body that is affirmed or varied by the Tribunal or a decision made by the Tribunal in substitution for a decision of a person or body –
- (a) is taken to be a decision of the person or body; and
  - (b) subject to any contrary order by the Tribunal, has, or is taken to have had, effect from the time at which the decision affirmed or varied, or for which the decision is substituted, had effect.

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 32

Part 5 – Procedure of Tribunal

---

- (6) Subsection (5)(a) does not apply for the purposes of an appeal to the Supreme Court.

**32. Decision-making by Tribunal**

- (1) . . . . .
- (2) The Tribunal must make an order as to its decision in relation to proceedings as soon as practicable after the end of the hearing, or hearings, in respect of the proceedings.

**33. Orders**

- (1) An order of the Tribunal must be in writing.
- (2) The Tribunal must give a copy of any order it makes in proceedings to –
  - (a) each party to the proceedings; and
  - (b) each other person entitled to notice of the proceedings or of the order under this Act, the National Law or the referring Act.
- (3) The Tribunal must give reasons for making an order in proceedings, other than an order that has effect only for the duration of the proceedings or a shorter period.
- (4) The Tribunal must give under subsection (3) its reasons for making an order, within 60 days, or a later period determined by the Tribunal, after making the order.

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

Part 5 – Procedure of Tribunal

s. 34

---

- (5) If the Tribunal gives orally reasons for making an order in proceedings, a party to the proceedings may, within 14 days after the order is made, request the Tribunal to give its reasons in writing.
- (6) The Tribunal must, within 45 days after receiving a request under subsection (5), comply with the request.
- (7) The Tribunal may extend the period referred to in subsection (6), but only if the Tribunal gives, to the person who requested the reasons for an order be given in writing, reasons for the extension.
- (8) If the Tribunal gives written reasons for making an order, it must include in those reasons its findings on material questions of fact.
- (9) An order of the Tribunal comes into effect immediately after it is made or at a later time, if any, specified in the order.

**34. Enforcement of orders**

- (1) An order of the Tribunal may, on the application of a party to the proceedings in which it is made, be filed in a court of competent jurisdiction.
- (2) An order of the Tribunal filed in a court under subsection (1) may be enforced as if it were an order of that court.

35. . . . .

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

Part 5 – Procedure of Tribunal

---

***Division 4 – Procedure generally***

36 - 38. . . . .

**39. Determinations**

- (1) At any time after proceedings begin, the Tribunal may –
  - (a) determine any question of law or procedure that has arisen or that is expected to arise later in the proceedings; and
  - (b) determine any other question that it considers necessary or convenient to determine in order to ensure that the remainder of the proceedings will be conducted fairly and as quickly as possible; and
  - (c) give the directions, consistent with the practice directions issued under section 38, that it thinks fit for the purposes of resolving an issue or matter that it considers necessary or convenient to resolve for the remainder of the proceedings.
- (2) A question of law arising during proceedings may only be decided by the President, a Deputy President or senior member, by whom the Tribunal is constituted in whole or in part for the proceedings.

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

Part 5 – Procedure of Tribunal

s. 40

---

**40. Costs**

- (1) Except as provided under this Act, the National Law or a referring Act, each party to proceedings under this Act must bear the party's own costs in the proceedings.
- (2) The Tribunal may order a party to proceedings to pay all the costs, or a part of the costs specified in the order, of another party to the proceedings if the Tribunal considers that it is in the interests of justice to do so.
- (3) In deciding whether to award costs in proceedings, the Tribunal is to take into account –
  - (a) whether a party to the proceedings has behaved in a way that has unnecessarily disadvantaged another party to the proceedings; and
  - (b) the nature and complexity of the proceedings; and
  - (c) the relative strengths of the claims made by the parties in the proceedings; and
  - (d) if the proceedings are for review of a decision –
    - (i) whether the applicant was accorded procedural fairness by the person who made the decision; and

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 40

Part 5 – Procedure of Tribunal

---

- (ii) whether the applicant genuinely attempted to enable, and assist, to make the decision, the person who made the decision; and
  - (e) the financial circumstances of the parties to the proceedings; and
  - (f) any other matter the Tribunal thinks relevant.
- (4) If the Tribunal considers that a representative of a party to proceedings, rather than the party, is responsible for behaviour, referred to in subsection (3)(a), that has unnecessarily disadvantaged another party to the proceedings, the Tribunal may order the representative to pay to the other party an amount specified in the order, as compensation for the unnecessary costs incurred by the other party as a result of the behaviour.
- (5) The Tribunal may not make an order under subsection (4) against a representative of a party to proceedings unless the representative has been given a reasonable opportunity to be heard before the order is made.
- (6) If an order is made under subsection (4) against a representative of a party to proceedings –
  - (a) the representative may not require the party to pay to the representative an amount, in addition to the amount that the party would otherwise be required to pay the representative, so as to reimburse

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

the representative for the amount paid as a consequence of the order; and

- (b) a party to the proceedings is not required to pay to a representative an amount, in addition to the amount that the party would otherwise be required to pay the representative, that the representative requires the party to pay so as to reimburse the representative for the amount paid as a consequence of the order.
- (7) Costs that may be ordered under this Act, the National Law or a referring Act may be ordered at any stage during proceedings or after the proceedings conclude.
- (8) Section 120(2) and (4) of the *Tasmanian Civil and Administrative Tribunal Act 2020* does not apply in relation to the costs of a party in proceedings under this Act.

41. . . . .

***Division 5 – Evidence***

42. . . . .

**43. Evidence**

- (1) The Tribunal must allow a party to proceedings a reasonable opportunity –

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 44

Part 5 – Procedure of Tribunal

---

- (a) to call or give evidence; and
  - (b) to examine, cross-examine or re-examine witnesses; and
  - (c) to make submissions to the Tribunal.
- (2) Despite subsection (1), the Tribunal may refuse to allow a party to proceedings to call evidence on a matter if the Tribunal considers that there is already sufficient evidence of that matter before the Tribunal.
- (3) Evidence in proceedings –
- (a) may be given orally or in writing; and
  - (b) if the Tribunal requires, must be given on oath or by affidavit.
- (4) A member may administer or cause to be administered an oath, or take or cause to be taken an affirmation, for the purpose of taking and receiving evidence during proceedings.

**44. Authorisation of person to take evidence**

- (1) The Tribunal may authorise, in writing, a person (whether or not a member) to take evidence on behalf of the Tribunal for the purposes of any proceedings.
- (2) The Tribunal's power under subsection (1) to authorise the taking of evidence is exercisable only by the President, or a Deputy President or senior member, constituting in whole or in part the Tribunal for the proceedings.

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

Part 5 – Procedure of Tribunal

s. 45

---

- (3) A person may take evidence under this section outside Tasmania if authorised to do so by the Tribunal.
- (4) The Tribunal may give directions as to the taking of evidence under this section.
- (5) If a person other than a member is authorised to take evidence –
  - (a) the person has all the powers of a member in relation to the taking of evidence; and
  - (b) section 53(2)(b) applies as if the person were the Tribunal.
- (6) Evidence taken under this section –
  - (a) is to be taken to be evidence given to the Tribunal; and
  - (b) in the case of evidence taken outside Tasmania, is to be taken to have been given in Tasmania.

**45. Use of experts**

- (1) The Tribunal may call in the assistance of an expert to advise the Tribunal in respect of any matter arising in a proceeding before the Tribunal.
- (2) The parties to proceedings before the Tribunal –

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 46

Part 5 – Procedure of Tribunal

---

- (a) are responsible for the costs of the advice provided to the Tribunal by an expert called in by the Tribunal; and
  - (b) are to pay the costs in the proportions determined by the Tribunal.
- (3) The Tribunal is not bound by the advice provided by an expert called in by the Tribunal.

**46. Rule against self-incrimination does not apply**

- (1) A person is not excused from answering a question or producing a document in proceedings on the ground that the answer or document might tend to incriminate the person.
- (2) If the person claims, before answering a question or producing a document, that the answer or document might tend to incriminate the person, the answer or document is not admissible in evidence in any criminal proceedings in relation to an offence alleged to have been committed by the person, other than in proceedings in respect of the falsity of the answer or the document.

47. . . . .

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

Part 6 – Miscellaneous

---

**PART 6 – MISCELLANEOUS**

48 - 49. . . . .

**50. Records of hearings**

The Tribunal is to keep a record, which may be an electronic record, of each hearing in proceedings before the Tribunal, other than any meeting of the Tribunal that is held in private.

**51. Publication of decisions of Tribunal**

The Tribunal may, as it thinks fit, publish in the manner it thinks fit, or refuse to publish, a decision of the Tribunal in respect of proceedings under this Act.

52 - 53. . . . .

**54. Secrecy**

- (1) This section applies to any person who –
  - (a) is or has been a member of the Tribunal;  
or
  - (b) is or has been a State Service officer, or a State Service employee, who is engaged to provide services to the Tribunal.
- (2) Except as permitted by this section, a person to whom this section applies must not directly or

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 54

Part 6 – Miscellaneous

---

indirectly make a record of, or disclose to any person, any information about the affairs of a person acquired in the performance of functions under or in connection with this Act, the National Law or a referring Act.

Penalty: Fine not exceeding 50 penalty units.

- (3) A person to whom this section applies may record or disclose information referred to in subsection (2) –
- (a) with the written consent of the person to whom the information relates; or
  - (b) in connection with the performance of functions under this Act, the National Law or a referring Act.
- (4) A person to whom this section applies may disclose any information referred to in subsection (2) to a member of the police force for the purposes of reporting a suspected offence or assisting in the investigation of a suspected offence.
- (5) Nothing in this section applies to the recording or disclosure of –
- (a) information that consists of anything said or done at a hearing of the Tribunal, except if an order is made under section 30(2)(b) in relation to the information; or

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

Part 6 – Miscellaneous

**s. 54**

---

- (b) any decision or order of the Tribunal or the reasons for any such decision or order.

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

s. 55

Part 7 – Concluding Provisions

---

**PART 7 – CONCLUDING PROVISIONS**

**55. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may prescribe the fees payable for an application under section 21(2) or (4).
- (3) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.

56. . . . .

**57. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Justice; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.

58. *See Schedule 3.*

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

**sch. 1**

---

**SCHEDULE 1 – . . . . .**

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

**sch. 2**

---

**SCHEDULE 2 – . . . . .**

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

**sch. 3**

---

**SCHEDULE 3**

*The amendments effected by Section 58 and this Schedule have been incorporated into the authorised version of the Health Practitioner Regulation National Law (Tasmania) Act 2010.*

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

sch. 3

**NOTES**

The foregoing text of the *Health Practitioners Tribunal Act 2010* 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>Health Practitioners Tribunal Act 2010</i>	No. 12 of 2010	15.8.2010
<i>Health Practitioners Tribunal Amendment Act 2015</i>	No. 26 of 2015	14.9.2015
<i>Tasmanian Civil and Administrative Tribunal (Consequential Amendments) Act 2021</i>	No. 18 of 2021	5.11.2021

**TABLE OF AMENDMENTS**

Provision affected	How affected
Section 3	Amended by No. 18 of 2021, s. 180
Section 4	Amended by No. 18 of 2021, s. 181
Section 5	Amended by No. 18 of 2021, s. 182
Part 2	Repealed by No. 18 of 2021, s. 183
Section 7	Repealed by No. 18 of 2021, s. 183
Division 1 of Part 3	Repealed by No. 18 of 2021, s. 184
Section 8	Subsection (1) substituted by No. 26 of 2015, s. 4 Repealed by No. 18 of 2021, s. 184
Section 9	Subsection (1) substituted by No. 26 of 2015, s. 5 Repealed by No. 18 of 2021, s. 184
Section 10	Repealed by No. 18 of 2021, s. 184
Section 11	Amended by No. 18 of 2021, s. 185
Section 12	Amended by No. 18 of 2021, s. 186
Section 13	Amended by No. 18 of 2021, s. 187
Section 14	Amended by No. 18 of 2021, s. 188
Section 15	Repealed by No. 18 of 2021, s. 189
Section 16	Amended by No. 18 of 2021, s. 190
Section 17	Amended by No. 18 of 2021, s. 191
Section 18	Amended by No. 18 of 2021, s. 192

*Health Practitioners Tribunal Act 2010*  
*Act No. 12 of 2010*

**sch. 3**

---

Provision affected	How affected
Section 19	Amended by No. 18 of 2021, s. 193
Section 20	Amended by No. 18 of 2021, s. 194
Section 21	Amended by No. 18 of 2021, s. 195
Section 23	Repealed by No. 18 of 2021, s. 196
Section 30	Amended by No. 18 of 2021, s. 197
Section 32	Amended by No. 18 of 2021, s. 198
Section 35	Repealed by No. 18 of 2021, s. 199
Section 36	Repealed by No. 18 of 2021, s. 200
Section 37	Repealed by No. 18 of 2021, s. 200
Section 38	Repealed by No. 18 of 2021, s. 200
Section 39	Amended by No. 18 of 2021, s. 201
Section 40	Amended by No. 18 of 2021, s. 202
Section 41	Repealed by No. 18 of 2021, s. 203
Section 42	Repealed by No. 18 of 2021, s. 204
Section 44	Amended by No. 18 of 2021, s. 205
Section 47	Repealed by No. 18 of 2021, s. 206
Section 48	Repealed by No. 18 of 2021, s. 207
Section 49	Repealed by No. 18 of 2021, s. 207
Section 52	Repealed by No. 18 of 2021, s. 208
Section 53	Repealed by No. 18 of 2021, s. 208
Section 54	Amended by No. 18 of 2021, s. 209
Section 56	Repealed by No. 18 of 2021, s. 210
Schedule 1	Amended by No. 26 of 2015, s. 6
	Repealed by No. 18 of 2021, s. 211
Schedule 2	Repealed by No. 18 of 2021, s. 211

---