



tasmanian legislation

TASMANIA'S CONSOLIDATED LEGISLATION ONLINE

VIEW SUMMARY

The legislation that is being viewed is valid for **Sessional**.

TasTAFE By-laws 2014 (S.R. 2014, No. 41)

Requested: 23 Jul 2014

Consolidated: Sessional

INFORMATION

Notes:	Not specified
Links:	Not specified
Table of Amending Instruments:	(click to view Table of Amendments)
Responsible Minister and Department:	Not specified

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TasTAFE By-laws 2014

The Board of Directors of TasTAFE makes the following by-laws under section 85 of the Training and Workforce Development Act 2013.

PART 1 - Preliminary

1. Short title

These by-laws may be cited as the TasTAFE By-laws 2014.

2. Commencement

These by-laws take effect on the day on which their making is notified in the *Gazette*.

3. Interpretation

In these by-laws –

authorised person means –

- (a) a person appointed as an authorised person under clause 4(1); and
- (b) a person of a class determined under clause 4(2);

Board means the Board of Directors of TasTAFE appointed under section 60 of the Training and Workforce Development Act 2013;

chief executive officer means the TasTAFE chief executive officer appointed under section 66 of the Training and Workforce Development Act 2013;

controlled substance has the same meaning as in section 3 of the Misuse of Drugs Act 2001;

dangerous article has the same meaning as in section 3 of the *Police Offences Act 1935*;

disciplinary sanction means any sanction imposed under clause 23 or 24;

firearm has the same meaning as in section 3 of the *Firearms Act 1996*;

possession includes custody or control;

TasTAFE campus means any campus that is used by TasTAFE to provide education or training services, whether or not that campus is shared with the Department of Education;

TasTAFE property includes –

- (a) any real property under the control of TasTAFE; and
- (b) any facility owned or managed by TasTAFE; and
- (c) any plant or equipment under the control of, or owned, managed, used or maintained by, TasTAFE; and
- (d) any information, network, system, database or technology used, managed or maintained by TasTAFE;

vehicle includes –

- (a) a vehicle as defined in section 3 of the *Traffic Act 1925*; and
- (b) a skateboard; and
- (c) inline skates; and
- (d) roller skates.

4. Authorised persons

(1) The chief executive officer may appoint, by instrument of appointment, a person as an authorised person for the purposes of these by-laws.

(2) The chief executive officer may determine, in writing, a class of persons to be authorised persons for the purposes of these by-laws.

PART 2 - Student Organisations

5. Purposes of student organisations

A student organisation may be formed for any one or more of the following purposes:

- (a) to further the common interests of students;
- (b) to facilitate communication between students in relation to matters of common interest;
- (c) to provide extracurricular activities for the general wellbeing of students;

- (d) to provide representation for students in their dealings with TasTAFE;
- (e) to facilitate communication between students and TasTAFE;
- (f) to conduct or manage any activity of an educational, cultural, sporting, welfare or recreational nature for the benefit of students –

and may, in addition, have as one of its purposes the purpose of cooperating with any other body or organisation formed for purposes that are similar to the purposes for which the student organisation is formed.

6. Membership of student organisations

Any student, other than a student who is an employee, or officer, of TasTAFE, is eligible to be a member of a student organisation.

7. Operation of student organisations

(1) A student organisation is to operate in accordance with the constitution of that organisation.

(2) Before a student organisation begins to operate, the organisation is to forward its proposed constitution to the Board for approval.

(3) The Board may –

- (a) approve the constitution; or
- (b) approve the constitution subject to any alteration the Board thinks fit.

(4) A student organisation is to submit any proposed alteration to its constitution to the Board for approval.

(5) The Board may –

- (a) approve the proposed alteration; or
- (b) approve the proposed alteration subject to any further alteration the Board thinks fit.

(6) Any provision of a constitution that has not been approved by the Board is of no effect.

PART 3 - Control of Vehicles

8. Conditions relating to vehicles

The Board or chief executive officer may determine the conditions under which vehicles may be driven or parked on, or removed from, a TasTAFE campus.

9. Notice relating to vehicles

(1) The Board or chief executive officer may cause to be displayed on a TasTAFE campus a notice specifying conditions determined under clause 8 relating to the driving, parking or removal of a vehicle on or from a TasTAFE campus.

(2) A person must comply with a notice displayed under subclause (1).

(3) A person who fails to comply with subclause (2) commits a disciplinary offence.

10. Directions relating to vehicles

(1) An authorised person may give a direction to the person in charge of a vehicle relating to the driving, parking or removal of that vehicle on or from a TasTAFE campus.

(2) A person must comply with a direction given to the person under subclause (1).

(3) A person who fails to comply with subclause (2) commits a disciplinary offence.

11. Maximum speed limits

(1) The Board or chief executive officer may –

(a) determine the maximum speed at which vehicles may be driven on a TasTAFE campus; and

(b) cause to have erected on the campus a sign specifying that maximum speed.

(2) A person must not drive a vehicle on a TasTAFE campus at a speed in excess of the maximum speed determined for that campus and specified on a sign erected under subclause (1).

(3) A person who fails to comply with subclause (2) commits a disciplinary offence.

12. Requirement to consult for shared campuses

The Board or chief executive officer is not to make a determination under these by-laws, or take any other action under this Part, in respect of a campus that is shared by TasTAFE with the Department of Education, unless the Board or chief executive officer has first consulted with the Secretary of that Department.

PART 4 - Conduct

13. General conduct

(1) In this clause –

assistance animal has the same meaning as in the *Disability Discrimination Act 1992* of the Commonwealth;

guide dog has the same meaning as in the *Guide Dogs and Hearing Dogs Act 1967*.

(2) Unless permission has been granted by an authorised person, a person on a TasTAFE campus must not –

(a) hold a public meeting; or

(b) have possession of any alcoholic liquor or controlled substance; or

(c) have possession of any dangerous article, offensive weapon or firearm; or

(d) conduct or advertise any business for private gain; or

(e) have possession of any animal, other than an assistance animal or a guide dog.

(3) A person who fails to comply with subclause (1) commits a disciplinary offence.

14. Conduct in relation to assessment

(1) A person must not act dishonestly in relation to –

(a) any examination, assessment or test conducted by TasTAFE; or

(b) any thesis, report or other work undertaken by a student.

(2) A person who fails to comply with subclause (1) commits a disciplinary offence.

15. Conduct in relation to property

(1) A person must not unlawfully destroy or injure any TasTAFE property.

(2) A person who fails to comply with subclause (1) commits a disciplinary offence.

16. Notice relating to conduct

(1) The Board may cause to be displayed a notice on a TasTAFE campus specifying appropriate, or inappropriate, conduct in relation to any TasTAFE property.

(2) A person must comply with a notice displayed under subclause (1).

(3) A person who fails to comply with subclause (2) commits a disciplinary offence.

17. Obstructive conduct

(1) A person on a TasTAFE campus must not –

(a) hinder or obstruct an employee, or officer, of TasTAFE who is carrying out his or her duties; or

(b) hinder or obstruct any other person who is carrying out any lawful activity.

(2) A person must not –

(a) hinder or obstruct an employee, or officer, of TasTAFE who is carrying out his or her duties on a TasTAFE campus; or

(b) hinder or obstruct any other person who is carrying out any lawful activity on a TasTAFE campus.

(3) A person who fails to comply with subclause (1) or (2) commits a disciplinary offence.

18. Disorderly conduct

(1) A person on a TasTAFE campus must not –

(a) behave in a disorderly manner; or

(b) behave in a manner that threatens his or her own safety or the safety of any other person.

(2) A person who fails to comply with subclause (1) commits a disciplinary offence.

19. Closure of TasTAFE campus

The chief executive officer or an authorised person may close all or part of a TasTAFE campus –

(a) if the officer or authorised person is of the opinion that any person in or on that TasTAFE campus is behaving or is likely to behave –

(i) in a disorderly manner; or

(ii) in a manner that threatens his or her own safety or the safety of any other person; or

(b) for any other purpose.

20. Notice relating to closure

(1) If a TasTAFE campus or part of a TasTAFE campus has been closed in accordance with clause 19, the chief executive officer or an authorised person is to cause to be displayed, in a prominent position on the campus, a notice specifying –

(a) that the TasTAFE campus, or part of the TasTAFE campus, has been closed; and

(b) the period of the closure; and

(c) the class of persons to whom the TasTAFE campus, or part of the TasTAFE campus, has been closed.

(2) A person of the class of persons to whom a TasTAFE campus, or part of a TasTAFE campus, has been closed must not enter or remain on that TasTAFE campus or that part of that TasTAFE campus.

Penalty:

Fine not exceeding 20 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues.

(3) If directed to do so by the chief executive officer or an authorised person, a person of the class of persons to whom a TasTAFE campus or part of a TasTAFE campus has been closed must immediately leave that campus or that part of that campus.

Penalty:

Fine not exceeding 20 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues.

21. Person may be directed to leave TasTAFE campus

(1) The chief executive officer or an authorised person may direct any person to leave a TasTAFE campus, or part of a TasTAFE campus, if –

(a) that person fails to comply with any of these by-laws, or the chief executive officer or authorised person has reasonable grounds for believing that the person is likely to contravene any of these by-laws; or

(b) the chief executive officer or authorised person has reasonable grounds for believing that the presence or behaviour of that person is likely to be detrimental to –

(i) another person on the TasTAFE campus; or

(ii) any TasTAFE property; or

(c) the chief executive officer or authorised person has reasonable grounds for believing that the person has used, or is likely to use, any TasTAFE property in a way that the chief executive officer or authorised person believes is inappropriate; or

(d) the person fails to comply with an instruction or direction by the chief executive officer, an authorised person, or a teacher employed or engaged for the purposes of TasTAFE.

(2) A person to whom a direction has been given under subclause (1) must comply immediately with the direction.

Penalty:

Fine not exceeding 20 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues.

PART 5 - Discipline

22. Disciplinary hearings

(1) A person who has reasonable grounds for believing a student has committed, or is committing, a disciplinary offence under these by-laws may report the matter to the chief executive officer.

(2) The chief executive officer or an authorised person, other than the person who reported the matter under subclause (1), may hear and determine any matter relating to a disciplinary offence under these by-laws.

(3) An offence under clause 20 or 21 is not a disciplinary offence under these by-laws.

23. Disciplinary sanctions

(1) If, upon hearing a matter under clause 22(2), the chief executive officer determines that a student has committed a disciplinary offence under these by-laws, the chief executive officer may impose one or more of the following disciplinary sanctions on the student:

(a) suspension of the student's privileges;

- (b) withholding of the student's results;
- (c) deferral of the issue of an award to the student;
- (d) suspension of the student for a period for not more than one year;
- (e) expulsion of the student;
- (f) refusal to re-enrol the student.

(2) As soon as practicable after imposing a disciplinary sanction, the chief executive officer is to give notice of the sanction, in writing, to the student to whom it applies.

(3) If, upon hearing a matter under clause 22(2), an authorised person determines that a student has committed a disciplinary offence under these by-laws, the authorised person may recommend to the chief executive officer that the chief executive officer impose any one or more of the disciplinary sanctions specified in subclause (1).

(4) If the chief executive officer accepts the recommendation of the authorised person made under subclause (3), the chief executive officer is to impose the recommended disciplinary sanction and give notice of the sanction, in writing, to the student to whom it applies.

24. Disciplinary sanctions due to criminal or civil action

(1) In this clause –

criminal or civil action, in respect of a student, means criminal or civil action that the chief executive officer has reason to believe directly or indirectly involves –

- (a) TasTAFE; or
- (b) TasTAFE property; or
- (c) another student at TasTAFE; or
- (d) a person employed or engaged for the purposes of TasTAFE; or
- (e) the spouse, or the partner within the meaning of the Relationships Act 2003, of a person referred to in paragraph (c) or (d); or
- (f) a child within the meaning of the Children, Young Persons and Their Families Act 1997, of a person referred to in paragraph (c), (d) or (e).

(2) The chief executive officer may impose one or more of the following disciplinary sanctions in respect of a student, if an incident is reported to the chief executive officer that has resulted in, or may result in, a criminal or civil action being instituted against the student:

- (a) suspension of the student's privileges;
- (b) deferral of the issue of an award to the student;
- (c) suspension of the student for a period not exceeding one year;
- (d) refusal to re-enrol the student.

(3) A disciplinary sanction may only be imposed under subclause (2) within the relevant period.

(4) For the purposes of subclause (3), the relevant period is –

(a) if no criminal or civil action is commenced within 12 months after the day on which the incident is reported to the chief executive officer, 24 months after the day of that report; or

(b) if a criminal or civil action is commenced within 12 months after the day on which the incident is reported to the chief executive officer, the day on which that action is resolved.

(5) The chief executive officer may remove a disciplinary sanction imposed under subclause (2) if at any time the chief executive officer considers that the criminal or civil action that has resulted, or may result, from the incident no longer involves, directly or indirectly, any of the organisations, property or persons listed in subclause (1).

(6) The chief executive officer, as soon as practicable after any disciplinary sanction is imposed under subclause (2) or removed under subclause (5), is to give to the student to whom the imposition or removal applies notice in writing of the imposition or removal of the disciplinary sanction.

(7) The imposition of a disciplinary sanction under this clause in relation to an incident does not prevent any further disciplinary sanction from being imposed under clause 23 in respect of that incident.

25. Appeal against disciplinary sanction

(1) A student may appeal to the Board against the imposition of a disciplinary sanction in relation to the student within 21 days of receiving notification of the imposition of that sanction.

(2) On hearing an appeal, the Board may –

(a) uphold the appeal and revoke the imposition of any disciplinary sanction; or

(b) dismiss the appeal and confirm the imposition of the sanction; or

(c) uphold the appeal and substitute any other disciplinary sanction.

26. Procedure for appeals

The Board is to establish procedures for the hearing and determination of appeals.

27. Issue of award may be deferred

(1) If proceedings for an offence under clause 20 or 21 have commenced in relation to a student who has qualified for an award from TasTAFE, the issue of the award may be deferred until after the proceedings are completed.

(2) The Board may determine any other circumstances in which the issue of an award to a student may be deferred.

(3) The Board is to cause to be displayed a notice specifying any determination made under subclause (2).

(4) The issue of an award to a student may be deferred in the circumstances specified in a notice displayed under subclause (3).

28. Power to refuse enrolment

The chief executive officer may refuse to re-enrol a student if the student has a debt owing to TasTAFE.

29. Transitional matters

(1) In this by-law –

commencement day means the day on which these by-laws take effect;

former by-laws means the *Education and Training (Tasmanian Skills Institute) By-laws 2010* continued in force under section 11 of the *Training and Workforce Development (Transitional Provisions) Act 2013*;

repeal day means the day on which the former by-laws ceased to be in effect.

(2) An appointment, of a person to be an authorised person, that was in effect under the former by-laws immediately before the repeal day, is taken to be, on or after the commencement day, an appointment of an authorised person under these by-laws.

(3) An approval of the constitution of a student organisation, or of an alteration of such a constitution, that is an approval that is in effect immediately before the repeal day is to be taken to be, on or after the commencement day, an approval of such a constitution, or of an alteration of such a constitution, respectively, given under these by-laws.

(4) A determination or decision, of the Board or the chief executive officer, that is in effect under the former by-laws immediately before the repeal day, is taken to be, on or after the commencement day, a determination or decision of the Board or the chief executive officer, respectively, under these by-laws.

(5) If –

(a) a permission is granted, a direction is given, or another decision is made, under the former by-laws by a person who was an authorised officer under the former by-laws; and

(b) the permission, direction or other decision is in effect immediately before the repeal day –

the permission, direction or other decision is taken to be, on or after the commencement day, made under these by-laws by the person as an authorised officer.

(6) A notice that is, immediately before the repeal day, being displayed under the former by-laws and that, after the commencement day, to be displayed is to be taken to be a notice being displayed under these by-laws.

(7) A disciplinary sanction that is imposed on a student under the former by-laws and that is in effect immediately before the repeal day is taken to be, on or after the commencement day, imposed under these by-laws.

(8) The deferral of an award, under the former by-laws, that is a deferral that was in effect immediately before the repeal day is taken to be, on or after the commencement day, a deferral of the award under these by-laws.

(9) If a disciplinary offence is committed by a student against a provision (the *former provision*) of the former by-laws before the repeal day and before the repeal day –

(a) proceedings to impose a disciplinary sanction in relation to the offence had commenced, but had not been determined or withdrawn, the proceedings continue under these by-laws as if the former provision were a provision of these by-laws; or

(b) proceedings to impose a disciplinary sanction in relation to the offence had not commenced, proceedings may be taken under these by-laws in relation to the offence as if the former provision were a provision of these by-laws.

(10) Nothing in this by-law is to be taken to limit the operation of section 16 of the *Acts Interpretation Act 1931* except in relation to a matter specifically provided for in this by-law.

These by-laws were made by Board of Directors of TasTAFE at a meeting held on 11 February 2014.

The common seal of Board of Directors of TasTAFE was affixed on 11 February 2014, in the presence of –

Kathryn Thoms

Chairperson

Michelle Swallow

Director

Neville Smith

Director

Robert Gozzi

Director

Michael Brough

Director

Nick Burrows

Director

Christine Mucha

Director

Displayed and numbered in accordance with the [Rules Publication Act 1953](#).

Notified in the *Gazette* on 26 February 2014.

These by-laws are administered by TasTAFE.

EXPLANATORY NOTE

(This note is not part of the bylaw)

These by-laws, made under section 85 of the *Training and Workforce Development Act 2013*, provide for –

- (a) student organisations on TasTAFE campuses; and
- (b) the control of vehicles on TasTAFE campuses; and
- (c) the conduct of students and persons on TasTAFE campuses; and
- (d) disciplinary measures for students of TasTAFE; and
- (e) certain transitional matters consequent on the *Education and Training (Tasmanian Skills Institute) By-laws 2010* ceasing to be in effect; and
- (f) other miscellaneous matters relating to the provision of education and training services by TasTAFE.