

TASMANIA

**GOVERNMENT BUSINESS ENTERPRISES AND
STATE-OWNED COMPANIES LEGISLATION
AMENDMENT BILL 2009**

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**GOVERNMENT BUSINESS ENTERPRISES AND
STATE-OWNED COMPANIES LEGISLATION
AMENDMENT BILL 2009**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
12 March 2009

*(Brought in by the Premier, the Honourable David John
Bartlett)*

A BILL FOR

An Act to provide for the board of directors and chief executive officer of the Forestry corporation to be appointed under the *Government Business Enterprises Act 1995*, to amend, in relation to the payment of guarantee fees, the *Government Business Enterprises Act 1995* and certain Acts providing for the establishment of State-owned companies and for related purposes

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:

1. Short title

This Act may be cited as the *Government Business Enterprises and State-owned Companies Legislation Amendment Act 2009*.

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2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Consequential amendments

The legislation specified in Schedule 1 is amended as specified in that Schedule.

4. Legislation rescinded

The legislation specified in Schedule 2 is rescinded.

SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

Section 3

Forestry Act 1920

1. Section 4(1) is amended as follows:
 - (a) by omitting “corporation;” from the definition of “Board” and substituting “corporation appointed under section 11(2) of the *Government Business Enterprises Act 1995*.”;
 - (b) by omitting the definition of “chairperson”;
 - (c) by omitting the definition of “Stakeholder Minister”.
2. Section 12C(2) is amended by omitting “or Stakeholder Minister” and substituting “and Treasurer”.
3. Division 2 of Part II is repealed.
4. Schedule 2 is repealed.

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Government Business Enterprises Act 1995

1. Section 3(1) is amended by omitting “a financial benefit or assistance to obtain a financial benefit arising from or as a result of” from the definition of “financial accommodation”.
2. Section 78 is repealed and the following section is substituted:

78. Guarantee fees

- (1) A Government Business Enterprise must pay guarantee fees into the Consolidated Fund if it has financial accommodation.
- (2) The guarantee fees in respect of a financial year that are payable by a Government Business Enterprise are to be calculated as specified in the Treasurer’s Instructions.
- (3) The Treasurer must determine one or more guarantee fee rates for each Government Business Enterprise and must notify each Government Business Enterprise of the guarantee fee rates applicable to it.
- (4) A Government Business Enterprise must –

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- (a) provide to the Treasurer guarantee fee returns in the form and at the times specified in the Treasurer's Instructions; and
- (b) pay its guarantee fees at the times, and in the manner, specified in the Treasurer's Instructions.

3. After section 120, the following section is inserted in Part 13:

121. Transitional provisions consequent on *Government Business Enterprises and State-owned Companies Legislation Amendment Act 2009*

(1) In this section –

“Forestry corporation” means the Forestry corporation established under section 6 of the *Forestry Act 1920*;

“former Act” means the *Forestry Act 1920* as in force immediately before the transfer day;

“former chairperson” means the person who, immediately before the transfer day, was the chairperson of the Board of

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Directors of the Forestry corporation;

“former chief executive officer” means the person who, immediately before the transfer day, was the chief executive officer, within the meaning of the former Act, of the Forestry corporation;

“former director” means a person who, immediately before the transfer day –

(a) was a director of the Forestry corporation appointed under section 12E(2) of the former Act; but

(b) was not also the former chairperson;

“transfer day” means the day on which the *Government Business Enterprises and State-owned Companies Legislation Amendment Act 2009* commences.

(2) A former director continues as a director of the Forestry corporation, and for that purpose he or she is taken to have been appointed as a director of the Board of the Forestry corporation under

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section 11(2) of this Act for the term, and on the conditions, to which his or her appointment under section 12E(2) of the former Act was subject.

- (3) The former chairperson continues as chairperson of the Board of the Forestry corporation, and for that purpose he or she is taken to have been appointed as chairperson of the Board of the Forestry corporation under section 11(2) of this Act for the term, and on the conditions, to which his or her appointment under section 12E(3) of the former Act was subject.
- (4) The former chief executive officer continues as a director, and as the chief executive officer, of the Forestry corporation, and for those purposes he or she is taken to have been appointed as a director of the Forestry corporation under section 11(2) of this Act and as the chief executive officer of the Forestry corporation under section 18(2) of this Act, for the term, and on the conditions, to which his or her appointment under section 12M of the former Act was subject.

4. Schedule 1 is amended as follows:

- (a) by inserting in Part 1 before

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Hydro-Electric Corporation

the following item:

Forestry corporation established by the *Forestry Act 1920*

- (b) by omitting from Part 2 the item relating to the *Forestry Act 1920*.

Electricity Companies Act 1997

1. Section 13 is repealed and the following section is substituted:

13. Guarantee fees

Division 1 of Part 11 of the *Government Business Enterprises Act 1995* applies in relation to a company and a subsidiary of a company as if –

- (a) the company were a Government Business Enterprise specified in Schedule 3 to that Act; and
- (b) the subsidiary were a subsidiary within the meaning of that Act.

Metro Tasmania Act 1997

1. Section 14 is repealed and the following section is substituted:

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14. Guarantee fees

Division 1 of Part 11 of the *Government Business Enterprises Act 1995* applies in respect of the Company as if the Company were a Government Business Enterprise specified in Schedule 3 to that Act.

2. Section 16 is amended by omitting “specified in Schedule 2 to” and substituting “under”.

Tasmanian Ports Corporation Act 2005

1. Section 17 is repealed and the following section is substituted:

17. Guarantee fees

- (1) Division 1 of Part 11 of the *Government Business Enterprises Act 1995* applies in relation to the Corporation and a subsidiary of the Corporation as if –
 - (a) the Corporation were a Government Business Enterprise specified in Schedule 3 to that Act; and
 - (b) the subsidiary were a subsidiary within the meaning of that Act.

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(2) Any Treasurer's Instructions issued under the *Government Business Enterprises Act 1995* providing for guidelines in respect of –

(a) the determination, calculation and payment of guarantee fees; or

(b) any other matter relating to guarantee fees –

apply to the Corporation or a subsidiary of the Corporation as if the Corporation or subsidiary were a Government Business Enterprise under that Act.

TOTE Tasmania Act 2000

1. Sections 16 and 17 are repealed and the following sections are substituted:

16. Guarantee fees

Division 1 of Part 11 of the *Government Business Enterprises Act 1995* applies in respect of the Company and a subsidiary of the Company as if –

(a) the Company were a Government Business Enterprise specified in Schedule 3 to that Act; and

(b) the subsidiary were a subsidiary within the meaning of that Act.

17. Tax equivalents

Part 10 of the *Government Business Enterprises Act 1995* applies in respect of the Company and a subsidiary of the Company as if –

- (a) the Company were a Government Business Enterprise specified in Schedule 2 to that Act; and
- (b) the subsidiary were a subsidiary within the meaning of that Act.

2. Section 19 is repealed and the following section is substituted:

19. Treasurer's Instructions

Any Treasurer's Instructions issued under the *Government Business Enterprises Act 1995* providing for guidelines relating to the determination, calculation and payment of income tax equivalents and guarantee fees and other related matters, including superannuation, apply to the Company or a subsidiary of the Company as if it were a Government Business Enterprise under that Act.

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TT-Line Arrangements Act 1993

1. After section 17, the following section is inserted in Part 2:

17A. Guarantee fees

Division 1 of Part 11 of the *Government Business Enterprises Act 1995* applies in relation to the Company and a subsidiary of the Company as if the Company were a Government Business Enterprise specified in Schedule 3 to that Act and the subsidiary were a subsidiary within the meaning of that Act.

2. After section 18, the following section is inserted in Part 2:

18A. Treasurer's Instructions

Any Treasurer's Instructions issued under the *Government Business Enterprises Act 1995* providing for guidelines relating to the determination, calculation and payment of income tax equivalents and guarantee fees and other related matters apply to the Company or its subsidiary as if the Company or subsidiary were a Government Business Enterprise under that Act.

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SCHEDULE 2 – LEGISLATION RESCINDED

Section 4

*Government Business Enterprises Regulations 2005 (No. 131
of 2005)*