

CLAUSE NOTES

Brand Tasmania Bill 2018

Clause 1: Short title

This clause sets out the Short Title.

Clause 2: Commencement

This clause provides the Bill to commence on a day or days to be proclaimed.

Clause 3: Interpretation

This clause defines certain terms for the purposes of the Bill.

Clause 4: Act binds Crown

This clause ensures the Bill binds the Crown.

Clause 5: Relationship of Act to *Tourism Tasmania Act 1996*

This clause clarifies that this Act does not affect Tourism Tasmania performing or exercising any of its functions or powers under the *Tourism Tasmania Act 1996*.

Clause 6: Establishment of Brand Tasmania

This clause establishes Brand Tasmania.

Clause 7: Objectives of Authority

This clause establishes the objectives of the Authority. The objectives of the Authority are to ensure:

- that a Tasmanian Brand, which differentiates and enhances Tasmania's appeal and national and international competitiveness, is developed, maintained, protected and promoted;
- that Tasmania's image and reputation, locally, nationally and internationally, are strengthened; and
- the Tasmanian Brand is nurtured, enhanced and promoted as a key asset of the Tasmanian community.

Clause 8: Functions of Authority

This clause specifies the Authority's functions which are listed in 8(1)(a) to (h) inclusive. In the performance of its functions, the Authority is to have constant regard to the Authority's objectives under this Act and act in a way that best meets and advances those objectives. A key role of the Authority is to manage and develop a Tasmanian Brand that is of relevance to, and is representative of, Tasmania and Tasmanians. The Tasmanian Brand also differentiates and enhances Tasmania's appeal and competitiveness locally, nationally and internationally and continually evolves and is kept current. The Authority will promote the Tasmanian Brand by creating, coordinating, managing, developing and supporting promotional and marketing activities that:

- strengthen Tasmania's image and reputation;
- enhance the attractiveness of Tasmania as a place in which to live, work, study, visit, invest or trade; and
- maximise the profile, and the competitive position, of Tasmanian goods, services, experiences and products in local, national and international markets.

As the 'custodian' of the Tasmanian Brand, the Authority is responsible for managing risks to the reputation of the Tasmanian Brand, including the early identification of risk and the development of mitigation or contingency plans in relation to that risk. The Authority will also facilitate the collaboration between the government, non-government, business and community sectors in Tasmania in relation to matters relevant to the Authority's functions.

Other functions of the Authority include:

- undertaking, supporting, and interpreting research and other insights into matters relevant to the Authority's functions;
- providing advice and support to the Minister in relation to the Authority's functions;
- performing any other functions that the Authority may be given by this or any other Act; and
- performing any other functions that may be prescribed.

Clause 9: Powers of Authority

This clause specifies the powers of the Authority. In the exercise of its powers, the Authority is to have constant regard to the Authority's objectives and functions and is to act in a way that best meets and advances those objectives and functions.

Clause 10: Board

This clause establishes the Board of the Authority. This clause also specifies that the membership of the Board is to comprise at least nine but not more than 11 members, who are to be appointed by the Governor on the recommendation of the Minister. Three of the Board members are to be State Service Officers, including the Secretary of the Department

of Premier and Cabinet (or their delegate), and one is to be an officer employed by Tourism Tasmania. In making recommendations for appointment, the Minister is to ensure that the Board consists of persons, that together have the expertise, qualifications or experience in, or expert knowledge of, the matters set out in 10(3)(a) to (h) inclusive.

Clause 11: Responsibilities and powers of Board

This clause sets out the responsibilities and powers of the Board. Primarily the Board is responsible to the Minister for the performance and exercise of the Authority's functions and powers, and the achievement of the Authority's objectives.

Clause 12: Delegation

This clause provides the Board with the power to delegate any of the Authority's functions and powers (other than the power of delegation). Functions and powers can be delegated to a member of the Board, the chief executive officer, an employee of the Authority or a Committee.

Clause 13: Duty of Board to notify Minister of developments

This clause requires the Board to notify the Minister as soon as practicable of certain types of matters. The certain types of matters are any developments which, in the opinion of the Board, may have a significant impact on the Board achieving the Authority's objectives or performing and exercising the Authority's functions and powers under this Act. This also includes any development which, in the opinion of the Board, may prevent or significantly affect the achievement of the financial performance objectives under the current corporate plan; or significantly affect the financial viability or operating ability of the Authority.

Clause 14: Protection from liability

This clause provides protection from liability for any member of the Board when acting in good faith in exercising or performing any of the responsibilities as a Board member. The Crown and the Board are not precluded from incurring any liability that a member would, but for that subsection, incur.

Clause 15: Committees

This clause states that the Board may establish Committees to provide advice to the Board. Committees must provide the Board with advice on any matter referred to it, and perform any functions, and may exercise any powers, delegated to it by the Board.

Clause 16: Ministerial statement of expectations

This clause specifies that the Minister, no later than 3 months before the beginning of the financial year, may provide the Board with the Minister's expectations for the Authority. In doing so, the Minister is to have regard to the Authority's objectives, functions and powers. There are some limitations on the Minister. The Minister cannot set expectations that purport to exert control or influence over the content of events or activities conducted, promoted or supported by the Board.

Clause 17: Ministerial directions

This clause specifies that the Minister is able to provide direction to the Board regarding the discharge of the Board's responsibilities. All directions are to be in writing, and the Minister is to table a Ministerial direction in Parliament within 10 sitting days after it is given. The Board is to comply with a written direction issued by the Minister. There are some limitations on the Minister. In preparing a direction the Minister is to have regard to the Authority's objectives, functions and powers. The Minister cannot issue a direction that purports to exert control or influence over the content of events or activities conducted, promoted or supported by the Board. A Ministerial direction cannot conflict with a Ministerial statement of expectations in force at the particular time a direction is made.

Clause 18: Strategic plans

This clause requires the Board to prepare a strategic plan. The strategic plan must cover a period of at least three years, and may be for a longer planning period if determined by the Board. In preparing a strategic plan, the Board is to have regard to the Authority's objectives, functions and powers. The Board is to consult with the Minister in the development of the strategic plan, and may consult with any other person. The Board is to submit a draft of the strategic plan to the Minister for approval. The Minister may require the Board to amend and resubmit a draft strategic plan. Once approved by the Minister, the strategic plan takes effect as the strategic plan of the Board for that planning period, and the Board is to act during that planning period in accordance with the strategic plan.

Clause 19: Contents of strategic plan

This clause details the contents of the strategic plan. A strategic plan is to be consistent with any applicable Ministerial statement of expectations and any Ministerial directions. The strategic plan is to include the following information:

- a statement of the Authority's goals for the planning period with particular regard to the general management, operation, financial sustainability and development of the Authority including the Authority's financial plans;
- strategies for attaining those goals for the planning period;

- strategies for managing risk, measuring success and monitoring progress towards the attainment of those goals for the planning period;
- an appraisal, if applicable, with regard to the effectiveness and the attainment of the Authority's goals stated in the strategic plan for the previous planning period.

Clause 20: Corporate plans

This clause specifies that the Board is required on or before 31 March in each financial year, to prepare a corporate plan for the following financial year. A corporate plan must be prepared with regard to the Authority's objectives, functions and powers. A corporate plan must be consistent with the strategic plan in effect, as well as any Ministerial statement of expectations and Ministerial directions in effect at the time of the corporate plan's development. A corporate plan is to set out how the Board intends to meet its business and financial objectives for the forthcoming financial year in the context of, and in relation to, the strategic plan in effect at the time of the corporate plan's development; or for the next strategic plan, if a strategic plan is in its final year. The corporate plan is to be submitted to the Minister for approval. The Minister may require the Board to amend a draft corporate plan.

Clause 21: Chief executive officer

This clause specifies that a chief executive officer is to be appointed. The Chairperson of the Board may not be appointed to the position of chief executive officer. This clause also specifies the terms of the chief executive officer's appointment. The appointment is subject to, and in accordance with, the *State Service Act 2000*.

Clause 22: Responsibilities of chief executive officer

This clause sets out the responsibilities of the role of chief executive officer. This clause states that the chief executive officer is to be responsible to the Board for the general administration and management of the Authority. The chief executive officer is to act as secretary to the Board and is to attend meetings of the Board as its secretary, unless the Board for a particular meeting or for certain business decides that the chief executive officer is not to attend.

The chief executive officer is to perform or exercise any functions or powers delegated to them by the Board, or that they are given by this or any other Act. The Board and the chief executive officer may enter into an agreement relating to the Board's expectations of the chief executive officer's responsibilities. This clause also sets out requirements for the chief executive officer to disclose in writing any direct or indirect pecuniary interests to the Board.

Clause 23: Acting chief executive officer

This clause provides for a person to be appointed as acting chief executive officer when the chief executive officer is absent from duty.

Clause 24: Staff

This clause provides for staff to be appointed or employed for the purposes of the Act. Staff are to be appointed or employed subject to, and in accordance with, the *State Service Act 2000*.

Clause 25: Annual reports

This clause states that the Board is to prepare an annual report for the Authority. This annual report is to be combined with the report required under section 36 of the *State Service Act 2000*. In addition to the requirements of a report under section 36 of the *State Service Act 2000*, this clause specifies the additional requirements to be included in the Board's annual report for the Authority.

Clause 26: Offences

This clause allows for specific offences and prescribes penalties.

Clause 27: Regulations

This clause allows for the making of regulations.

Clause 28: Administration of Act

This clause specifies that the administration of the Act is assigned to the Premier, with the Department of Premier and Cabinet to be the responsible department before the commencement day, and after the commencement day, the Authority.

Clause 29: Savings and transitional

This clause enables the transitional provisions of Schedule 4 to have effect.

Clause 30: Consequential amendments

This clause provides the legislation to be amended as set out in Schedule 5 is amended.

Schedule 1 – Membership of Board**Clause 1: Interpretation**

This clause defines certain terms for the purposes of the Bill.

Clause 2: Term of office

This clause specifies the term of office for members of the Board.

Clause 3: Holding other office

This clause specifies that persons who hold an office and who must devote their time to their employment are not disqualified from being a member of the Board and can accept remuneration for being a Board member.

Clause 4: State service employment

This clause specifies that a person may hold the office of member in conjunction with State Service employment.

Clause 5: Remuneration and conditions of appointment

This clause specifies that the Board is to be remunerated and paid allowances as determined by the Minister. A State Service employee or officer is not entitled to remuneration or allowances unless approved by the Minister administering the *State Service Act 2000*. A member holds office on the conditions of their instrument of employment where these are not provided for in the Act.

Clause 6: Vacation of office

This clause sets out the circumstances upon which a member of the Board vacates office.

Clause 7: Filling of vacancies

This clause sets out the provision for the filling of vacancies to the Board.

Clause 8: Validation of proceedings, &c.

This clause validates proceedings of the Board notwithstanding that there might be a vacancy or a defect in the appointment of a member, or a person has been disqualified, or is incapable of being a member of the Board.

Clause 9: Presumptions

This clause sets out matters, unless there is evidence to the contrary, not required to be provided in any proceedings by, or against, the Board.

Schedule 2 – Meetings of Board

Clause 1: Interpretation

This clause defines certain terms for the purposes of the Bill.

Clause 2: Convening of meetings

This clause establishes the requirements for convening meetings of the Board.

Clause 3: Presiding at meetings

This clause provides that the chairperson, unless absent, is to preside over meetings of the Board.

Clause 4: Quorum and voting at meetings

This clause sets out the requirements for the formation of a quorum to transact business of the Board and the voting of Board members at Board meetings.

Clause 5: Conduct of meetings

This clause specifies the conduct of meetings of the Board. The Board may invite any person to a meeting to advise or inform the Board on any matter. This clause also sets out the means by which Board members may be permitted to participate in meetings.

Clause 6: Absences

This clause sets out requirements for addressing absences of Board members from meetings of the Board.

Clause 7: Minutes

This clause requires the Board to keep accurate minutes of its meetings.

Clause 8: Disclosure of interests

This clause sets out the requirements for Board members for the management of declarations of direct and indirect pecuniary interests in matters before the Board, including the circumstances in which disclosure is not required.

Clause 9: General procedure

This clause specifies that, except as set out in the legislation, the Board can regulate its own proceedings.

Clause 10: Presumptions

This clause sets out matters, unless there is contrary evidence, not required to be proved in any proceedings by, or against, the Board.

Schedule 3 – Membership and meetings of Committees

Clause 1: Membership of Committees

This clause provides for the membership of a Committee the Board may establish under section 15.

Clause 2: Conditions of appointment

This clause specifies that a member of a committee is entitled to be paid such remuneration and allowances as the Minister determines. Members hold office for the term, and on the conditions, as specified in the member's instrument of appointment. A member of a committee vacates office when they resign by notice to the Board, or when they are removed by the Board.

Clause 3: Meetings

This clause specifies that meetings of a Committee are to be held in accordance with any directions from the Board and the Committee is to comply with those directions. Committees can seek information, assistance and advice from any person. The Committee must also keep accurate minutes or its proceedings, and except as provided for in the Act, can regulate its own proceedings

Schedule 4 – Transitional and savings provisions

Clause 1: References to former Board

This clause specifies that any reference to the former Board in a will, bequest other document on or before the commencement of this Act is taken to be a reference to the new Board of the Authority established by this Act.

Clause 2: Assets and liabilities

This clause specifies that all property vested in the former Board and all other property of the former Board remains property of the new Board. All liabilities of the former Board remain liabilities of the new Board.

Clause 3: Accounts

This clause provides that any accounts of the former Board are taken to be accounts maintained by the new Board.

Schedule 5 – Consequential amendments

This schedule details the consequential amends to other legislation to be made by this Act.