

TASMANIA

**TASMANIAN PUBLIC FINANCE CORPORATION
AMENDMENT BILL 2023**

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TASMANIAN PUBLIC FINANCE CORPORATION AMENDMENT BILL 2023

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.

LAURA ROSS, *Clerk of the House*
5 September 2023

*(Brought in by the Treasurer, the Honourable Michael Darrel
Joseph Ferguson)*

A BILL FOR

An Act to amend the *Tasmanian Public Finance Corporation Act 1985* and to consequentially amend certain other Acts for related purposes

Be it enacted by Her 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 *Tasmanian Public Finance Corporation Amendment Act 2023*.

2. Commencement

This Act commences on 1 July 2023 but, if this Act does not receive the Royal Assent by 1 July 2023, this Act is taken to have commenced on 1 July 2023.

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Part 1 – Preliminary

3. Repeal of Act

This Act is repealed on 1 July 2024.

**PART 2 – TASMANIAN PUBLIC FINANCE
CORPORATION ACT 1985 AMENDED**

4. Principal Act

In this Part, the *Tasmanian Public Finance Corporation Act 1985** is referred to as the Principal Act.

5. Section 15A inserted

After section 15 of the Principal Act, the following section is inserted in Part III:

15A. Government guarantee of certain borrowings

(1) In this section –

relevant organisation means an organisation or entity referred to in Schedule 1.

(2) One or more amounts borrowed by a relevant organisation from the Corporation is guaranteed by the State up to, and not in excess of, such amount, in total, as is determined by the Treasurer as the maximum amount guaranteed under this section in respect of the relevant organisation.

*No. 59 of 1985

Tasmanian Public Finance Corporation Amendment Act 2023
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Part 2 – Tasmanian Public Finance Corporation Act 1985 Amended

- (3) For the purposes of subsection (2), an amount borrowed by a relevant organisation from the Corporation includes each of the following:
- (a) the amount borrowed by the relevant organisation from the Corporation;
 - (b) the interest payable by the Corporation in respect of the amount borrowed by the relevant organisation;
 - (c) any charges payable to the Corporation, by the relevant organisation, in respect of the amount borrowed;
 - (d) any expenses that are incurred by the Corporation in relation to the amount borrowed by the relevant organisation.
- (4) This section only applies in respect of an amount borrowed by a relevant organisation from the Corporation if the Corporation has exercised all of its rights and remedies under all securities held in respect of the amount borrowed by the relevant organisation.
- (5) A payment by the State to the Corporation under this section –
- (a) is a charge on the Public Account; and

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Part 2 – Tasmanian Public Finance Corporation Act 1985 Amended

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- (b) is payable out of the Public Account without further appropriation than this section.
- (6) If the State is required to make a payment to the Corporation under this section in respect of an amount borrowed by a relevant organisation –
- (a) the amount so paid by the State under this section is a debt due and owing, by the relevant organisation, to the State; and
 - (b) in addition to any other action that may be taken by the State in respect of that debt, the Treasurer may enter into an agreement with the relevant organisation for the repayment of the debt, on such terms and conditions, and in such manner, as may be determined by the Treasurer.

6. Section 24 and Schedule 1 inserted

After section 23 of the Principal Act, the following section and Schedule are inserted in Part IV:

24. Amendment of Schedule 1

- (1) The Treasurer, by order, may amend Schedule 1 by doing any one or more of the following:

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Part 2 – Tasmanian Public Finance Corporation Act 1985 Amended

- (a) inserting a new organisation or entity;
 - (b) omitting an organisation or entity;
 - (c) omitting an organisation, or entity, and substituting another organisation or entity.
- (2) The provisions of section 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order under this section as if the order were regulations within the meaning of that Act.
- (3) For the avoidance of doubt, an order under this section –
- (a) is a statutory rule within the meaning of the *Rules Publication Act 1953*; and
 - (b) is not subordinate legislation within the meaning of the *Subordinate Legislation Act 1992*.

SCHEDULE 1 – RELEVANT ORGANISATION

Section 15A(1)

1. A Government Business Enterprise within the meaning of the *Government Business Enterprises Act 1995*.
2. A company formed under the *Electricity Companies Act 1997*.

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Part 2 – Tasmanian Public Finance Corporation Act 1985 Amended

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3. The Company as defined in the *Irrigation Company Act 2011*.
 4. The Company as defined in the *Metro Tasmania Act 1997*.
 5. The Company as defined in the *Racing (Tasracing Pty Ltd) Act 2009*.
 6. The Company formed under the *Rail Company Act 2009*.
 7. The Company formed under the *TT-Line Arrangements Act 1993*.
 8. The Corporation as defined in the *Tasmanian Ports Corporation Act 2005*.
 9. A subsidiary, within the meaning of the Corporations Act, that is wholly owned by one of the entities specified in item 1, 2, 3, 4, 5, 6, 7 or 8.
 10. The Forest Practices Authority continued under the *Forest Practices Act 1985*.
 11. Homes Tasmania, as established by the *Homes Tasmania Act 2022*.
 12. Macquarie Point Development Corporation, as established by the *Macquarie Point Development Corporation Act 2012*.
 13. Private Forests Tasmania, as established by the *Private Forests Act 1994*.

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Part 2 – Tasmanian Public Finance Corporation Act 1985 Amended

- 14.** Stadiums Tasmania, as established by the *Stadiums Tasmania Act 2022*.
- 15.** The State Fire Commission, as established by the *Fire Service Act 1979*.
- 16.** Tasmania Development and Resources, as continued by the *Tasmanian Development Act 1983*.
- 17.** TasTAFE, as continued under the *TasTAFE (Skills and Training Business) Act 2021*.

**PART 3 – ELECTRICITY COMPANIES ACT 1997
AMENDED**

7. Principal Act

In this Part, the *Electricity Companies Act 1997** is referred to as the Principal Act.

8. Section 11 amended (Status of company)

Section 11 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

- (2) The Crown is not liable for any liability or obligation of a company or subsidiary of a company unless –
 - (a) the Treasurer gives a guarantee or indemnity under section 12; or
 - (b) a guarantee is given under the *Tasmanian Public Finance Corporation Act 1985* in respect of the company or subsidiary.

9. Section 12 amended (Guarantee or indemnity)

Section 12 of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) from subsection (1);

*No. 69 of 1997

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Part 3 – Electricity Companies Act 1997 Amended

- (b) by omitting paragraph (a) from subsection (2);
- (c) by omitting from subsection (4) “loan or”;
- (d) by omitting from subsection (4) “repaid or”.

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Part 4 – Fire Service Act 1979 Amended

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PART 4 – FIRE SERVICE ACT 1979 AMENDED

10. Principal Act

In this Part, the *Fire Service Act 1979** is referred to as the Principal Act.

11. Section 102 amended (Borrowing debentures or inscribed stock)

Section 102 of the Principal Act is amended by omitting subsection (8).

*No. 35 of 1979

Tasmanian Public Finance Corporation Amendment Act 2023
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s. 12

Part 5 – Forest Practices Act 1985 Amended

PART 5 – FOREST PRACTICES ACT 1985 AMENDED

12. Principal Act

In this Part, the *Forest Practices Act 1985** is referred to as the Principal Act.

13. Section 4S amended (Borrowing from person other than Treasurer)

Section 4S of the Principal Act is amended by omitting subsections (4), (5), (6) and (7).

*No. 48 of 1985

**PART 6 – GOVERNMENT BUSINESS ENTERPRISES
ACT 1995 AMENDED**

14. Principal Act

In this Part, the *Government Business Enterprises Act 1995** is referred to as the Principal Act.

15. Section 47 amended (Borrowing from person other than Treasurer)

Section 47 of the Principal Act is amended by omitting subsections (3), (4), (5), (6) and (7).

16. Section 118 amended (Delegation by Portfolio Minister or Treasurer)

Section 118(2) of the Principal Act is amended by omitting paragraph (f).

*No. 22 of 1995

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Part 7 – Homes Tasmania Act 2022 Amended

PART 7 – HOMES TASMANIA ACT 2022 AMENDED

17. Principal Act

In this Part, the *Homes Tasmania Act 2022** is referred to as the Principal Act.

18. Section 30 amended (Borrowing from person other than Treasurer)

Section 30 of the Principal Act is amended by omitting subsections (4), (5) and (6).

*No. 25 of 2022

**PART 8 – IRRIGATION COMPANY ACT 2011
AMENDED**

19. Principal Act

In this Part, the *Irrigation Company Act 2011** is referred to as the Principal Act.

20. Section 12 amended (Status of Company)

Section 12 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

- (2) The Crown is not liable for any liability or obligation of the Company or subsidiary of the Company unless –
 - (a) the Treasurer gives a guarantee or indemnity under section 16 in relation to that liability or obligation; or
 - (b) a guarantee is given under the *Tasmanian Public Finance Corporation Act 1985* in respect of the Company or subsidiary.

21. Section 16 amended (Guarantee or indemnity)

Section 16 of the Principal Act is amended as follows:

*No. 12 of 2011

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Part 8 – Irrigation Company Act 2011 Amended

- (a) by omitting paragraph (a) from subsection (1);
- (b) by omitting paragraph (a) from subsection (2);
- (c) by omitting from subsection (4) “loan or”;
- (d) by omitting from subsection (4) “repaid or”.

**PART 9 – MACQUARIE POINT DEVELOPMENT
CORPORATION ACT 2012 AMENDED**

22. Principal Act

In this Part, the *Macquarie Point Development Corporation Act 2012** is referred to as the Principal Act.

23. Section 47 amended (Borrowing from person other than Treasurer)

Section 47 of the Principal Act is amended by omitting subsections (4), (5), (6) and (7).

*No. 50 of 2012

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Part 10 – Metro Tasmania Act 1997 Amended

PART 10 – METRO TASMANIA ACT 1997 AMENDED

24. Principal Act

In this Part, the *Metro Tasmania Act 1997** is referred to as the Principal Act.

25. Section 10 amended (Status of Company)

Section 10 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

- (2) The Crown in right of Tasmania is not liable for any liability or obligation of the Company unless –
 - (a) the Treasurer gives a guarantee or indemnity under section 13; or
 - (b) a guarantee is given under the *Tasmanian Public Finance Corporation Act 1985* in respect of the Company.

26. Section 13 amended (Guarantee or indemnity)

Section 13 of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) from subsection (1);

*No. 78 of 1997

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Part 10 – Metro Tasmania Act 1997 Amended

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- (b) by omitting paragraph (a) from subsection (2);
- (c) by omitting from subsection (4) “loan or”;
- (d) by omitting from subsection (4) “repaid or”.

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Part 11 – Private Forests Act 1994 Amended

PART 11 – PRIVATE FORESTS ACT 1994 AMENDED

27. Principal Act

In this Part, the *Private Forests Act 1994** is referred to as the Principal Act.

28. Section 25 amended (Borrowing from person other than Treasurer)

Section 25 of the Principal Act is amended by omitting subsections (4), (5), (6) and (7).

*No. 28 of 1994

**PART 12 – RACING (TASRACING PTY LTD) ACT 2009
AMENDED**

29. Principal Act

In this Part, the *Racing (Tasracing Pty Ltd) Act 2009** is referred to as the Principal Act.

30. Section 7 amended (Status of Company)

Section 7 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

- (2) The Crown in right of Tasmania is not liable for any liability or obligation of the Company unless –
 - (a) the Treasurer gives a guarantee or an indemnity under section 17; or
 - (b) a guarantee is given under the *Tasmanian Public Finance Corporation Act 1985* in respect of the Company.

31. Section 17 amended (Guarantee or indemnity)

Section 17 of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) from subsection (1);

*No. 30 of 2009

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Part 12 – Racing (Tasracing Pty Ltd) Act 2009 Amended

- (b) by omitting paragraph (a) from subsection (2);
- (c) by omitting from subsection (4) “loan or”;
- (d) by omitting from subsection (4) “repaid or”.

PART 13 – RAIL COMPANY ACT 2009 AMENDED

32. Principal Act

In this Part, the *Rail Company Act 2009** is referred to as the Principal Act.

33. Section 11 amended (Status of Company)

Section 11 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

- (2) The Crown is not liable for any liability or obligation of the Company or subsidiary of the Company unless –
 - (a) the Treasurer gives a guarantee or indemnity under section 14 in relation to that liability or obligation; or
 - (b) a guarantee is given under the *Tasmanian Public Finance Corporation Act 1985* in respect of the Company or subsidiary.

34. Section 14 amended (Guarantee or indemnity)

Section 14 of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) from subsection (1);

*No. 46 of 2009

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Part 13 – Rail Company Act 2009 Amended

- (b) by omitting paragraph (a) from subsection (2);
- (c) by omitting from subsection (4) “loan or”;
- (d) by omitting from subsection (4) “repaid or”.

**PART 14 – STADIUMS TASMANIA ACT 2022
AMENDED**

35. Principal Act

In this Part, the *Stadiums Tasmania Act 2022** is referred to as the Principal Act.

36. Section 30 amended (Borrowing from person other than Treasurer)

Section 30 of the Principal Act is amended by omitting subsections (4), (5), (6) and (7).

*No. 7 of 2022

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Part 15 – TT-Line Arrangements Act 1993 Amended

**PART 15 – TT-LINE ARRANGEMENTS ACT 1993
AMENDED**

37. Principal Act

In this Part, the *TT-Line Arrangements Act 1993** is referred to as the Principal Act.

38. Section 17 amended (Guarantee or indemnity)

Section 17 of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) from subsection (1);
- (b) by omitting paragraph (a) from subsection (2);
- (c) by omitting from subsection (4) “loan or”;
- (d) by omitting from subsection (4) “repaid or”.

39. Section 20 repealed

Section 20 of the Principal Act is repealed.

*No. 39 of 1993

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Part 16 – Tasmanian Development Act 1983 Amended

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**PART 16 – TASMANIAN DEVELOPMENT ACT 1983
AMENDED**

40. Principal Act

In this Part, the *Tasmanian Development Act 1983** is referred to as the Principal Act.

41. Section 25 repealed

Section 25 of the Principal Act is repealed.

*No. 84 of 1983

**PART 17 – TASMANIAN PORTS CORPORATION ACT
2005 AMENDED**

42. Principal Act

In this Part, the *Tasmanian Ports Corporation Act 2005** is referred to as the Principal Act.

43. Section 13 amended (Status of Corporation)

Section 13 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

- (2) The Crown is not liable for any liability or obligation of the Corporation or subsidiary of the Corporation unless –
 - (a) the Treasurer gives a guarantee or indemnity under section 16 in relation to that liability or obligation; or
 - (b) a guarantee is given under the *Tasmanian Public Finance Corporation Act 1985* in respect of the Corporation or subsidiary.

44. Section 16 amended (Guarantee or indemnity)

Section 16 of the Principal Act is amended as follows:

*No. 41 of 2005

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Part 17 – Tasmanian Ports Corporation Act 2005 Amended

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- (a) by omitting paragraph (a) from subsection (1);
- (b) by omitting paragraph (a) from subsection (2);
- (c) by omitting from subsection (4) “loan or”;
- (d) by omitting from subsection (4) “repaid or”.