

Notes on Clauses

**Government Business Governance Reforms Bill 2025**

**Part 1 - Preliminary**

- Clause 1            Short title.
- Clause 2            Provides for commencement on a day or days to be proclaimed.
- Clause 3            The Act is repealed five years from its commencement, to allow the transitional provisions to remain in force for this period.

**Part 2 – Electricity Companies Act 1997 Amended**

- Clause 4            The Principal Act for the purpose of Part 2 is the *Electricity Companies Act 1997*.
- Clause 5            Inserts a definition of **board of directors** as this term is used in the amendments and the Principal Act.
- Substitutes the current definition of **member of a company** with a definition of **member**. The term **member** is used in the amending legislation to refer to members of a company defined in section 8 of the Principal Act.
- Inserts new definitions of **subsidiary board** and **wholly-owned subsidiary** in the Principal Act.
- Inserts a definition of **Treasurer's Instructions** as this term is used in the amending legislation to refer to Treasurer's Instructions issued under the *Government Business Enterprises Act 1995*.
- Clause 6            Amends section 7 of the Principal Act to require that the company amends its articles of association to include new provisions relating to director term limits as set out in Schedule 1, as soon as practicable after the commencement of the Bill.
- Clause 7            **8 Members of company**
- Repeals section 8 of the Principal Act and substitutes a new section that ensures that there are always two individual members of a company.
- This section specifies that the members of a company are the Minister to whom the administration of Principal Act is assigned and the Treasurer. If one person is both the Minister and Treasurer, the Treasurer must nominate another Minister to be a member and notify the company.

Clause 8

This clause inserts new sections 11B, 11C, 11D, 11E, and 11F into the Principal Act to provide for the issuing of directions and the statement of corporate intent.

**11B Directions by members**

Section 11B provides a power for the members to jointly give directions to the company, or a wholly-owned subsidiary of the company, that must be complied with.

Before issuing a direction, members must issue a notice to the company or wholly-owned subsidiary advising that they intend to issue a direction on a specified matter. The company has the period specified in the notice to provide any information to the members considered relevant.

The direction can be contrary to the company's memorandum and articles of association; the company's, or its subsidiary's, statement of expectations, statement of corporate intent, applicable Treasurer's Instructions, or any information provided by the company in response to the notice of intention to direct; and, if given to a wholly-owned subsidiary, the subsidiary's constitution.

It cannot be contrary to any provisions in the Principal Act, or any other State or Commonwealth Act.

A direction can be amended or revoked by members at their own discretion, on the written request of the board of directors or subsidiary board, or because of an objection.

The section recognises that it can be a defence in proceedings for an offence under any Act, if it is established that the act, or omission, that is the basis of the offence was a result of complying with a direction, or purported direction, given under this section.

**11C Objection to direction**

Section 11C sets out the arrangements by which the board of directors of the company or subsidiary can object to the direction, its amendment or revocation. An objection must be in writing and specify the grounds for the objection.

The section also sets out the arrangements for the members to amend or revoke the direction, or make no changes to the direction, in response to an objection to a direction and provides the parliamentary tabling arrangements where change is not made in response to an objection.

**11D Publication of directions**

Section 11D requires the Minister to table in Parliament a copy of a direction, or a written notice of amendments to, or revocation of, a direction, after it has been given to the board of directors or a subsidiary board.

The section also sets out the alternative arrangements where members have agreed to a request from the relevant board that a direction should not be tabled as it would disadvantage or cause damage to the company or its subsidiary, enable another person to gain an advantage, breach confidentiality or prejudice an investigation.

The section also sets out the arrangements for the publication of the details of any direction in the company's annual report.

### **11E Duty to notify members of compliance with directions**

Section 11E imposes a duty on the board of directors or subsidiary board to notify members in writing of the company or its subsidiary's compliance with directions at regular intervals, and when the company or its subsidiary has complied with the direction in full.

### **11F Statement of corporate intent**

Section 11F requires a board of directors to prepare a statement of corporate intent (SCI) in respect of the company and its subsidiaries for provision to the members by 31 March each year and includes the requirements for the content of the SCI.

The section provides members may approve the SCI if it complies with the requirements of section 11F, and it takes effect on the day it is approved.

The SCI may be amended or substituted at any time and takes effect once approved by members or at later date in the amended or substituted SCI.

The section also requires the board of directors to publish its approved SCI on its website.

## **Clause 9**

Inserts a new Division into the Principal Act to provide for new reporting expectations and expectations in relation to sponsorship.

### **18A Company to report on progress**

Section 18A requires the board of directors to prepare a half-yearly progress report on the performance of the company and its subsidiaries and submit it to members before 28 February each financial year.

The section sets out the requirements for the content and publication of such reports and the notification of any omissions made consistent with the requirements of the section.

### 18B Duty to notify members of adverse circumstances

Section 18B, requires that the board of directors must notify the members in writing as soon as possible after becoming aware of any development affecting the company or its subsidiaries that:

- prevents the achievement of its objectives or significantly affects its financial or operating viability; or
- prevents or significantly affects it complying with a direction; or
- otherwise significantly affects the company or its subsidiaries.

### 18C Sponsorship framework

Section 18C creates a requirement for the board of directors to prepare a framework specifying its sponsorship principles and practices for the company and its subsidiaries.

The framework must be prepared in accordance with Treasurer's Instructions and include provisions and matters that may be prescribed in regulations. A copy of the current framework for a company and its subsidiaries must be available on the company's website.

Clause 10

### Director term limits

This clause amends Schedule 1 of the Principal Act to establish a two-term limit for directors that can only be extended in exceptional circumstances. It also restricts the circumstances for when a person who previously held the position of chief executive officer of the company can be appointed as director.

The clause provides that a notice must be tabled in Parliament should the members consider that there are exceptional circumstances that warrant a director being appointed for another term, or for a previous CEO to be appointed as a director.

The clause also sets out arrangements for the treatment of casual vacancy appointments and clarifies the application of section 21(3)(b) of the *Acts Interpretation Act 1931* for the purposes of this clause.

## Part 3 – Government Business Enterprises Act 1995 Amended

Clause 11 The Principal Act for the purpose of Part 3 is the *Government Business Enterprises Act 1995*.

Clause 12 Clarifies the meaning of **Portfolio Minister**, which may be subject to possible nomination of another Minister if the Minister and Treasurer are the same person under the new section 3C.

Inserts new definitions of **subsidiary board** and **wholly-owned subsidiary** in the Principal Act.

Clause 13

### **3C Treasurer and Portfolio Minister of Government Business Enterprise**

Inserts a new section 3C which requires that, except in the case of the Tasmanian Public Finance Corporation, if the Portfolio Minister and Treasurer are the same person, then the Treasurer must nominate another Minister as the Portfolio Minister.

In the case of the Tasmanian Public Finance Corporation, if the Portfolio Minister and Treasurer are the same person, the Treasurer may nominate another Minister as the Portfolio Minister.

The Treasurer must notify the Government Business Enterprise of the nomination of another Minister as soon as practicable.

Clause 14

This clause inserts new sections 9A, 9B and 9C into the Principal Act.

### **9A Government Business Enterprises subject to Ministerial direction**

Section 9A provides a power for the Portfolio Minister and Treasurer to jointly give directions to a GBE, or a wholly-owned subsidiary of a GBE, that must be complied with.

Before issuing a direction, the Portfolio Minister and Treasurer must issue a notice to the GBE or wholly-owned subsidiary advising that they intend to issue a direction on a specified matter. The GBE or subsidiary has the period specified in the notice to provide any information to the Portfolio Minister and Treasurer considered relevant.

The direction can be contrary to the GBE's ministerial charter; the GBE's, or its subsidiary's, corporate plan, statement of corporate intent, applicable Treasurer's Instructions or any information provided in response to the notice of intention to direct; and, if it is given to a wholly-owned subsidiary, the subsidiary's constitution.

It cannot be contrary to any provisions in the Principal Act or relevant Portfolio Act or any other State or Commonwealth Act.

A direction can be amended or revoked by the Portfolio Minister and Treasurer jointly at their own discretion, on the written request of the Board or subsidiary board, or because of an objection.

This section recognises that, except as specified in the Principal Act, it can be a defence in proceedings for an offence under any Act, if it is established that the act, or omission, that is the basis of the offence was a result of complying with a direction, or purported direction given under this section.

## **9B Objection to Ministerial direction**

Section 9B sets out the arrangements by which the Board of the GBE or subsidiary can object to a direction, its amendment or revocation. An objection must be in writing and specify the grounds for the objection.

The section also sets out the arrangements for the Portfolio Minister and Treasurer to amend or revoke the direction, or make no changes to the direction, in response to an objection to a direction and provides the parliamentary tabling arrangements where change is not made in response to an objection.

## **9C Publication of Ministerial directions**

Section 9C requires the Portfolio Minister to table in the Parliament a copy of a direction, or a written notice of amendments to, or revocation of, a direction, after it has been given to the Board or a subsidiary board.

The section also sets out the alternative arrangements where members have agreed to a request from the relevant board that a direction should not be tabled as it would disadvantage or cause damage to the GBE or its subsidiary, enable another person to gain an advantage, breach confidentiality or prejudice an investigation.

The section also sets out the arrangements for the publication of the details of any direction in the GBE's annual report.

### **Clause 15      13(1) Duty to notify Treasurer and Portfolio Minister of adverse developments**

Section 13(1) is amended to impose additional duties on the Board or subsidiary board to notify the Treasurer and Portfolio Minister of any development that prevents, or significantly affects, the ability of the GBE or its subsidiaries from complying with a direction.

### **Clause 16      13A Duty to notify Treasurer and Portfolio Minister of compliance with directions**

Section 13A imposes a duty on the Board or subsidiary board to notify the Treasurer and Portfolio Minister in writing of the GBE or its subsidiary's compliance with directions at regular intervals, and when the GBE or its subsidiary has complied with the direction in full.

### **Clause 17      Amends section 24 to provide that complying with a direction is a defence in proceedings for an offence for officers and employees of a GBE if there was no other action that the officer or employee could lawfully take to comply with the direction.**

An officer includes the directors, chief executive officer and managers of the GBE.

Clause 18

#### **41 Statement of corporate intent**

Repeals section 41 of the Principal Act and substitutes a new section that requires a Board to prepare a statement of corporate intent (SCI) in respect of the GBE and its subsidiaries for provision to the members by 31 March each year and includes the requirements for the content of the SCI.

The section provides that members may approve the SCI if it complies with the requirements of section 41, and it takes effect on the day it is approved.

The SCI may be amended or substituted at any time and takes effect once approved by members or at later date in the amended or substituted SCI.

The section also requires the Board to publish its approved SCI on its website.

Clause 19

Amends section 55 of the Principal Act relating to what must be contained in a GBE's annual report to include the new requirement to report under section 9C any directions issued under section 9A.

Clause 20

#### **57A Government Business Enterprise to report on progress**

The new section 57A requires the Board to prepare a half-yearly progress report on the performance of the GBE and its subsidiaries and submit it to members before 28 February each financial year.

The section sets out the requirements for the content and publication of such reports and the notification of any omissions made consistent with the requirements of the section.

#### **57B Sponsorship framework**

The new section 57B creates a requirement for the Board to prepare a framework specifying its sponsorship principles and practices for the GBE and its subsidiaries.

The framework must be prepared in accordance with Treasurer's Instructions and include provisions and matters that may be prescribed in regulations. A copy of the current framework for the GBE and its subsidiaries must be available on the GBE's website.

Clause 21

Inserts section 107A to reflect that where a provision in this Act cannot be operated within the Corporations Act, then it is declared to be a displacement provision for the purposes of the Corporations Act.

This provision is required to apply to the subsidiaries of a GBE that are established under the Corporations Act.

- Clause 22 Amends the existing provisions in section 114 of the Principal Act relating to the scope of Treasurer's Instructions to include:
- statements of corporate intent in addition to corporate plans; and
  - sponsorship.

Clause 23 **Director term limits**

This clause amends Schedule 5 of the Principal Act to establish a two-term limit for directors that can only be extended in exceptional circumstances. It also restricts the circumstances for when a person who previously held the position of chief executive officer of the GBE can be appointed as director.

The clause provides should the Treasurer and Portfolio Minister consider that there are exceptional circumstances that warrant a director being appointed for another term, or for a previous CEO to be appointed as a director, they may recommend appointment and, if approved, a notice must be tabled in Parliament.

The clause also sets out arrangements for the treatment of casual vacancy appointments and clarifies the application of section 21(3)(b) of the *Acts Interpretation Act 1931* for the purposes of this clause.

**Part 4 – Hydro-Electric Corporation Act 1995 - Amended**

- Clause 24 The Principal Act for the purpose of Part 4 is the *Hydro-Electric Corporation Act 1995*.
- Clause 25 This clause amends section 5 of the Principal Act relating to the Corporation's powers to enter trading and financial arrangements concerning derivatives or electricity generated from renewable or other energy sources in accordance with Treasurer's Instructions issued under the GBE Act, to include directions issued by the Minister and the Treasurer jointly, under the Government Business Enterprises Act.
- Clause 26 Section 7 is amended to specify that, despite anything contrary to the Government Business Enterprises Act, the Corporation may only deal with or dispose of prescribed generating plant or land with the written consent given by the Minister or Minister's delegate.
- A new subsection is inserted to clarify that consent is in addition to any requirement under the Government Business Enterprises Act, a requirement imposed by Treasurer's Instructions, or directions jointly given by the Minister and Treasurer.

**Part 5 – Irrigation Company Act 2011 Amended**

- Clause 27 The Principal Act for the purpose of Part 5 is the *Irrigation Company Act 2011*.
- Clause 28 Inserts new definitions of **subsidiary board** and **wholly-owned subsidiary** in the Principal Act.



Clause 29 Amends section 8 of the Principal Act to require that the Company amends its constitution to include new provisions relating to director term limits as set out in Schedule 2, as soon as practicable after the commencement of the Bill.

Clause 30 **9 Members of Company**

Amends section 9 of the Principal Act by omitting subsection (2) and substituting new subsections (2) and (3) to specify if one person is both the Minister and Treasurer, the Treasurer must nominate another Minister to be a member and notify the Company as soon as practicable.

Clause 31 This clause inserts new sections 13A, 13B, 13C, 13D, and 13E into the Principal Act to provide for the issuing of directions and the statement of corporate intent.

**13A Directions by members**

Section 13A provides a power for the members to jointly give directions to the Company, or a wholly-owned subsidiary of the Company, that must be complied with.

Before issuing a direction, members must issue a notice to the Company or wholly-owned subsidiary advising that they intend to issue a direction on a specified matter. The Company has the period specified in the notice to provide any information to the members considered relevant.

The direction can be contrary to the Company's constitution; the Company's, or its subsidiary's, statement of expectations, statement of corporate intent, applicable Treasurer's Instructions or any information provided by the Company in response to the notice of intention to direct; and, if given to a wholly-owned subsidiary, the subsidiary's constitution.

It cannot be contrary to any provisions in the Principal Act, or any other State or Commonwealth Act.

A direction can be amended or revoked by members at their own discretion, on the written request of the Board or subsidiary board, or because of an objection.

The section recognises that it can be a defence in proceedings for an offence under any Act, if it is established that the act, or omission, that is the basis of the offence was a result of complying with a direction, or purported direction given under this section.

**13B Objection to direction**

Section 13B sets out the arrangements by which the Board or subsidiary board can object to the direction, its amendment or revocation. An objection must be in writing and specify the grounds for the objection.

The section also sets out the arrangements for the members to amend or revoke the direction, or make no changes to the direction, in response to an objection to a direction and provides the parliamentary tabling arrangements where change is not made in response to an objection.

### **13C Publication of directions**

Section 13C requires the Minister to table in Parliament a copy of a direction, or a written notice of amendments to, or revocation of, a direction, after it has been given to the Board or a subsidiary board.

The section also sets out the alternative arrangements where members have agreed to a request from the relevant board that a direction should not be tabled as it would disadvantage or cause damage to the Company or its subsidiary, enable another person to gain an advantage, breach confidentiality or prejudice an investigation.

The section also sets out the arrangements for the publication of the details of any direction in the Company's annual report.

### **13D Duty to notify members of compliance with directions**

Section 13D imposes a duty on the Board or subsidiary board to notify members in writing of the Company or its subsidiary's compliance with the directions at regular intervals, and when the Company or its subsidiary has complied with the direction in full.

### **13E Statement of corporate intent**

Section 13E requires the Board to prepare a statement of corporate intent (SCI) in respect of the Company and its subsidiaries for provision to the members by 31 March each year and includes the requirements for the content of the SCI.

The section provides that members may approve the SCI if it complies with the requirements of section 13E, and it takes effect on the day it is approved.

The SCI may be amended or substituted at any time and takes effect once approved by members or at later date in the amended or substituted SCI.

The section also requires the Board to publish its approved SCI on its website.

Clause 32

Inserts new sections 26A, 26B and 26C into the Principal Act on reporting expectations and expectations in relation to sponsorship.

### **26A Company to report on progress**

Section 26A requires the Board to prepare a half-yearly progress report on the performance of the Company and its subsidiaries and submit it to members before 28 February each financial year.

The section sets out the requirements for the content and publication of such reports and the notification of any omissions made consistent with the requirements of the section.

### **26B Duty to notify members of adverse circumstances**

Section 26B requires that the Board must notify the members in writing as soon as possible after becoming aware of any development affecting the Company or its subsidiaries that:

- prevents the achievement of its objectives or significantly affects its financial or operating viability; or
- prevents or significantly affects it complying with a direction; or
- otherwise significantly affects the Company or its subsidiaries.

### **26C Sponsorship framework**

Section 26C creates a requirement for the Board to prepare a framework specifying its sponsorship principles and practices for the Company and its subsidiaries.

The framework must be prepared in accordance with Treasurer's Instructions and include provisions and matters that may be prescribed in regulations. A copy of the current framework for the Company and its subsidiaries must be available on the Company's website.

Clause 33

### **Director term limits**

This clause inserts Schedule 2 in the Principal Act to establish a two-term limit for directors that can only be extended in exceptional circumstances. It also restricts the circumstances for when a person who previously held the position of chief executive officer of the Company can be appointed as director.

The clause provides a notice must be tabled in Parliament should the members consider that there are exceptional circumstances that warrant a director being appointed for another term, or for a previous CEO to be appointed as a director.

The clause also sets out arrangements for the treatment of casual vacancy appointments and clarifies the application of section 21(3)(b) of the *Acts Interpretation Act 1931* for the purposes of this clause.

## **Part 6 – Metro Tasmania Act 1997 Amended**

Clause 34 The Principal Act for the purpose of Part 6 is the *Metro Tasmania Act 1997*.

Clause 35 Inserts new definitions of ***subsidiary board*** and ***wholly-owned subsidiary*** in the Principal Act.

Inserts a definition of ***Treasurer's Instructions*** as this term is used in the amending legislation to refer to Treasurer's Instructions issued under the *Government Business Enterprises Act 1995*.

Clause 36 Amends section 6 of the Principal Act to require that the Company amends its articles of association to include new provisions relating to director term limits as set out in Schedule 1, as soon as practicable after the commencement of the Bill.

Clause 37 **7 Members of Company**

Repeals section 7 of the Principal Act and substitutes a new section that ensures that there are always two individual members of the Company.

This section specifies that the members of the Company are the Minister to whom the administration of Principal Act is assigned and the Treasurer. If one person is both the Minister and Treasurer, the Treasurer must nominate another Minister to be a member and notify the Company as soon as practicable.

Clause 38 Inserts new sections 10B, 10C, 10D, 10E, 10F, 10G, 10H and 10I into the Principal Act related to directions, statement of corporate intent, reporting, and sponsorship.

**10B Directions by members**

Section 10B provides a power for the members to jointly give directions to the Company, or a wholly-owned subsidiary of the Company, that must be complied with.

Before issuing a direction, members must issue a notice to the Company or wholly-owned subsidiary advising that they intend to issue a direction on a specified matter. The Company has the period specified in the notice to provide any information to the members considered relevant.

The direction can be contrary to the Company's memorandum and articles of association; the Company's, or its subsidiary's, statement of expectations, statement of corporate intent, applicable Treasurer's Instructions or any information provided by the Company in response to the notice of intention to direct; and, if given to a wholly-owned subsidiary, the subsidiary's constitution.

It cannot be contrary to any provisions in the Principal Act, or any other State or Commonwealth Act.

A direction can be amended or revoked by members at their own discretion, on the written request of the Board or subsidiary board, or because of an objection.

The section recognises that it can be a defence in proceedings for an offence under any Act, if it is established that the act, or omission, that is the basis of the offence was a result of complying with a direction, or purported direction given under this section.

### **10C Objection to direction**

Section 10C sets out the arrangements by which the Board or subsidiary board can object to the direction, its amendment or revocation. An objection must be made in writing and specify the grounds for the objection.

The section also sets out the arrangements for the members to amend or revoke the direction, or make no changes to the direction, in response to an objection to a direction and provides the parliamentary tabling arrangements where change is not made in response to an objection.

### **10D Publication of directions**

Section 10D requires the Minister to table in Parliament a copy of a direction, or a written notice of amendments to, or revocation of, a direction, after it has been given to the Board or a subsidiary board.

The section also sets out the alternative arrangements where members have agreed to a request from the relevant board that a direction should not be tabled as it would disadvantage or cause damage to the Company or its subsidiary, enable another person to gain an advantage, breach confidentiality or prejudice an investigation.

The section also sets out the arrangements for the publication of the details of any direction in the Company's annual report.

### **10E Duty to notify members of compliance with directions**

Section 10E imposes a duty on the Board or subsidiary board to notify the members in writing of the Company or its subsidiary's compliance with the directions at regular intervals, and when the Company or its subsidiary has complied with the direction in full.

### **10F Statement of corporate intent**

Section 10F requires a Board to prepare a statement of corporate intent (SCI) in respect of the Company and its subsidiaries for provision to the members by 31 March each year and includes the requirements for the content of the SCI.

The section provides that members may approve the SCI if it complies with the requirements of section 10F, and it takes effect on the day it is approved.

The SCI may be amended or substituted at any time and takes effect once approved by members or at later date in the amended or substituted SCI.

The section also requires the Board to publish its approved SCI on its website.

### **10G Half-yearly progress reports**

Section 10G requires the Board to prepare a half-yearly progress report on the performance of the Company and its subsidiaries and submit it to members before 28 February each financial year.

The section sets out the requirements for the content and publication of such reports and the notification of any omissions made consistent with the requirements of the section.

### **10H Duty to notify members of adverse circumstances**

Section 10H requires that the Board must notify members in writing as soon as possible after becoming aware of any development affecting the Company or its subsidiaries that:

- prevents the achievement of its objectives or significantly affects its financial or operating viability; or
- prevents or significantly affects it complying with a direction; or
- otherwise significantly affects the Company or its subsidiaries.

### **10I Sponsorship framework**

Section 10I creates a requirement for the Board to prepare a framework specifying its sponsorship principles and practices for the Company and its subsidiaries.

The framework must be prepared in accordance with Treasurer's Instructions and include provisions and matters that may be prescribed in regulations. A copy of the current framework for the Company and its subsidiaries must be available on the Company's website.

Clause 39

### **Director term limits**

This clause inserts Schedule 1 in the Principal Act to establish a two-term limit for directors that can only be extended in exceptional circumstances. It also restricts the circumstances for when a person who previously held the position of chief executive officer of the Company can be appointed as director.

The clause provides that a notice must be tabled in Parliament should the members consider that there are exceptional circumstances that warrant a director being appointed for another term, or for a previous CEO to be appointed as a director.

The clause also sets out arrangements for the treatment of casual vacancy appointments and clarifies the application of section 21(3)(b) of the *Acts Interpretation Act 1931* for the purposes of this clause.

## **Part 7 – Motor Accidents (Liabilities and Compensation) Act 1973 Amended**

Clause 40

The Principal Act for the purpose of Part 7 is the *Motor Accidents (Liabilities and Compensation) Act 1973*.

- Clause 41 This clause amends section 7B of the Principal Act to include provisions under the Government Business Enterprises Act as circumstances where members of the Board or an employee of the Board are not prevented from the disclosure of information under 7B(1) of the Principal Act.

## **Part 8 – Racing (Tasracing Pty Ltd) Act 2009 Amended**

- Clause 42 The Principal Act for the purpose of Part 8 is the *Racing (Tasracing Pty Ltd) Act 2009*.

- Clause 43 Inserts new definitions of **subsidiary board** and **wholly-owned subsidiary** in the Principal Act.

Inserts a definition of **Treasurer's Instructions** as this term is used in the amending legislation to refer to Treasurer's Instructions issued under the *Government Business Enterprises Act 1995*.

- Clause 44 **10 Members of Company**

Repeals section 10 of the Principal Act and substitutes a new section that ensures that there are always two individual members of the Company.

This section specifies that the members of the Company are the Minister to whom the administration of Principal Act is assigned and the Treasurer. If one person is both the Minister and Treasurer, the Treasurer must nominate another Minister to be a member and notify the Company as soon as practicable.

- Clause 45 Amends section 11 of the Principal Act to require that the Company amends its constitution to include new provisions relating to director term limits as set out in Schedule 1, as soon as practicable after the commencement of the Bill.

- Clause 46 Inserts new sections 12A, 12B, 12C, 12D, and 12E into the Principal Act to provide for the issuing of directions and the statement of corporate intent.

### **12A Directions by members**

Section 12A provides a power for the members to jointly give directions to the Company, or a wholly-owned subsidiary of the Company, that must be complied with.

Before issuing a direction, members must issue a notice to the Company or wholly-owned subsidiary advising that they intend to issue a direction on a specified matter. The Company has the period specified in the notice to provide any information to the members considered relevant.

The direction can be contrary to the Company's constitution the Company's, or its subsidiary's, statement of expectations, statement of corporate intent, applicable Treasurer's Instructions or any information provided by the Company in response to the notice of intention to

direct; and, if given to a wholly-owned subsidiary, the subsidiary's constitution.

It cannot be contrary to any provisions in the Principal Act, or any other State or Commonwealth Act.

A direction can be amended or revoked by members at their own discretion, on the written request of the Board or its subsidiary board, or because of an objection.

The section recognises that it can be a defence in proceedings for an offence under any Act, if it is established that the act, or omission, that is the basis of the offence was a result of complying with a direction, or purported direction given under this section.

### **12B Objection to direction**

Section 12B sets out the arrangements by which the Board or subsidiary board can object to the direction, its amendment or revocation. An objection must be in writing and specify the grounds for the objection.

The section also sets out the arrangements for the members to amend or revoke the direction, or make no changes to the direction, in response to an objection to a direction and provides the parliamentary tabling arrangements where change is not made in response to an objection.

### **12C Publication of directions**

Section 12C requires the Minister to table in Parliament a copy of a direction, or a written notice of amendments to, or revocation of, a direction, after it has been given to the Board or a subsidiary board.

The section also sets out the alternative arrangements where members have agreed to a request from the relevant board that a direction should not be tabled as it would disadvantage or cause damage to the Company or its subsidiary, enable another person to gain an advantage, breach confidentiality or prejudice an investigation.

The section also sets out the arrangements for the publication of the details of any direction in the Company's annual report.

### **12D Duty to notify members of compliance with directions**

Section 12D imposes a duty on the Board or subsidiary board to notify the members in writing of the Company or its subsidiary's compliance with the directions at regular intervals, and when the Company or its subsidiary has complied with the direction in full.

### **12E Statement of corporate intent**

Section 12E requires the Board to prepare a statement of corporate intent (SCI) in respect of the Company and its subsidiaries for



provision to the members by 31 March each year and includes the requirements for the content of the SCI.

The section provides that members may approve the SCI if it complies with the requirements of section 12E, and it takes effect on the day it is approved.

The SCI may be amended or substituted at any time and takes effect once approved by members or at later date in the amended or substituted SCI.

The section also requires the Board to publish its approved SCI on its website.

#### Clause 47

Inserts new sections 14A, 14B and 14C to provide for new reporting expectations and expectations in relation to sponsorship.

#### **14A Company to report on progress**

Section 14A requires that the Board prepare a half-yearly progress report on the performance of the Company and its subsidiaries and submit it to members before 28 February each financial year.

The section sets out the requirements for the content and publication of such reports and the notification of any omissions made consistent with the requirements of the section.

#### **14B Duty to notify members of adverse circumstances**

Section 14B requires that the Board must notify the members in writing as soon as possible after becoming aware of any development affecting the Company or its subsidiaries that:

- prevents the achievement of its objectives or significantly affects its financial or operating viability; or
- prevents or significantly affects it complying with a direction; or
- otherwise significantly affects the Company or its subsidiaries.

#### **14C Sponsorship framework**

Section 14C creates a requirement for the Board to prepare a framework specifying its sponsorship principles and practices for the Company and its subsidiaries.

The framework must be prepared in accordance with Treasurer's Instructions and include provisions and matters that may be prescribed in regulations. A copy of the current framework for the Company and its subsidiaries must be available on the Company's website.

Clause 48      **Director term limits**

This clause amends Schedule 1 of the Principal Act to establish a two-term limit for directors that can only be extended in exceptional circumstances. It also restricts the circumstances for when a person who previously held the position of chief executive officer of the Company can be appointed as director.

The clause provides that a notice must be tabled in Parliament should the members consider that there are exceptional circumstances that warrant a director being appointed for another term, or for a previous CEO to be appointed as a director.

The clause also sets out arrangements for the treatment of casual vacancy appointments and clarifies the application of section 21(3)(b) of the *Acts Interpretation Act 1931* for the purposes of this clause.

**Part 9 – Rail Company Act 2009 Amended**

Clause 49      The Principal Act for the purpose of Part 9 is the *Rail Company Act 2009*.

Clause 50      Inserts new definitions of **subsidiary board** and **wholly-owned subsidiary** in the Principal Act.

Inserts a definition of **Treasurer's Instructions** as this term is used in the amending legislation to refer to Treasurer's Instructions issued under the *Government Business Enterprises Act 1995*.

Clause 51      Amends section 7 of the Principal Act to require that the Company amend its constitution to include new provisions relating to director term limits as set out in Schedule 2 as soon as practicable after the commencement of the Bill.

Clause 52      **8 Members of Company**

Amends section 8 of the Principal Act to ensure that there are always two individual members of the Company.

This section specifies that the members of the Company are the Minister to whom the administration of Principal Act is assigned and the Treasurer. If one person is both the Minister and Treasurer, the Treasurer must nominate another Minister to be a member and notify the Company as soon as practicable.

Clause 53      Inserts new sections 20A, 20B, 20C, 20D, and 20E into the Principal Act related to directions, statement of corporate intent, reporting and sponsorship.

**20A Directions by members**

Section 20A provides a power for the members to jointly give directions to the Company, or a wholly-owned subsidiary of the Company, that must be complied with.

Before issuing a direction, members must issue a notice to the Company or wholly-owned subsidiary advising that they intend to issue a direction on a specified matter. The Company has the period specified in the notice to provide any information to the members considered relevant.

The direction can be contrary to the Company's constitution; the Company's, or its subsidiary's, statement of expectations, statement of corporate intent, applicable Treasurer's Instructions or any information provided by the Company in response to the notice of intention to direct; and, if given to a wholly-owned subsidiary, the subsidiary's constitution.

It cannot be contrary to any provisions in the Principal Act, or any other State or Commonwealth Act.

A direction can be amended or revoked by members at their own discretion, on the written request of the Board or subsidiary board, or because of an objection.

The section recognises that it can be a defence in proceedings for an offence under any Act, if it is established that the act, or omission, that is the basis of the offence was a result of complying with a direction, or purported direction given under this section.

## **20B Objection to direction**

Section 20B sets out the arrangements by which the Board or subsidiary board can object to the direction, its amendment or revocation. An objection must be in writing and specify the grounds for the objection.

The section also sets out the arrangements for the members to amend or revoke the direction, or make no changes to the direction, in response to an objection to a direction and provides the parliamentary tabling arrangements where change is not made in response to an objection.

## **20C Publication of directions**

Section 20C requires the Minister to table in Parliament a copy of a direction, or a written notice of amendments to, or revocation of, a direction, after it has been given to the Board or a subsidiary board.

The section also sets out the alternative arrangements where members have agreed to a request from the relevant board that a direction should not be tabled as it would disadvantage or cause damage to the Company or its subsidiary, enable another person to gain an advantage, breach confidentiality or prejudice an investigation.

The section also sets out the arrangements for the publication of the details of any direction in the company's annual report.

## **20D Duty to notify members of compliance with directions**

Section 20D imposes a duty on the Board or subsidiary board to notify the members in writing of the Company or its subsidiary's compliance with the directions at regular intervals, and when the Company or its subsidiary has complied with the direction in full.

## **20E Statement of corporate intent**

Section 20E requires the Board to prepare a statement of corporate intent (SCI) in respect of the Company and its subsidiaries for provision to the members by 31 March each year and includes the requirements for the content of the SCI.

The section provides that members may approve the SCI if it complies with the requirements of section 20E, and it takes effect on the day it is approved.

The SCI may be amended or substituted at any time and takes effect once approved by members or at later date in the amended or substituted SCI.

The section also requires the Board to publish its approved SCI on its website.

Clause 54

Inserts new sections 22A, 22B, and 22C into the Principal Act.

## **22A Company to report on progress**

Section 22A requires the Board to prepare a half-yearly progress report on the performance of the Company and its subsidiaries and submit it to members before 28 February each financial year.

The section sets out the requirements for the content and publication of such reports and the notification of any omissions made consistent with the requirements of the section.

## **22B Duty to notify members of adverse circumstances**

Section 22B requires that the Board must notify the members in writing as soon as possible after becoming aware of any development affecting the Company or its subsidiaries that:

- prevents the achievement of its objectives or significantly affects its financial or operating viability; or
- prevents or significantly affects it complying with a direction; or otherwise significantly affects the Company or its subsidiaries.

## **22C Sponsorship framework**

Section 22C creates a requirement for the Board to prepare a framework specifying its sponsorship principles and practices for the Company and its subsidiaries.

The framework must be prepared in accordance with Treasurer's Instructions and include provisions and matters that may be prescribed in regulations. A copy of the current framework for the Company and its subsidiaries must be available on the Company's website.

Clause 55

#### **Director term limits**

This clause inserts Schedule 2 of the Principal Act to establish a two-term limit for directors that can only be extended in exceptional circumstances. It also restricts the circumstances for when a person who previously held the position of chief executive officer of the Company can be appointed as director.

The clause provides that a notice must be tabled in Parliament should the members consider that there are exceptional circumstances that warrant a director being appointed for another term, or for a previous CEO to be appointed as a director.

The clause also sets out arrangements for the treatment of casual vacancy appointments and clarifies the application of section 21(3)(b) of the *Acts Interpretation Act 1931* for the purposes of this clause.

### **Part 10 – TT-Line Arrangements Act 1993 Amended**

Clause 56

The Principal Act for the purpose of Part 10 is the *TT-Line Arrangements Act 1993*.

Clause 57

Inserts a definition of **board of directors** as this term is used in the amendments and the Principal Act.

Substitutes the current definition of **member of a company** with a definition of **member**. The term **member** is used in the amending legislation to refer to members of a company defined in section 8 of the Principal Act.

Inserts new definitions of **subsidiary board** and **wholly-owned subsidiary** in the Principal Act.

Inserts a definition of **Treasurer's Instructions** as this term is used in the amending legislation to refer to Treasurer's Instructions issued under the *Government Business Enterprises Act 1995*.

Clause 58

Amends section 7 of the Principal Act to require that the Company amend its articles of association to include new provisions relating to director term limits as set out in Schedule 1, as soon as practicable after the commencement of the Bill.

Clause 59

#### **8 Members of Company**

Amends section 8 of the Principal Act to ensure that there are always at least two individual members of the Company.

This section specifies that the members of the Company are the Minister to whom the administration of Principal Act is assigned, the Treasurer, and such other person, if any, as determined by the

Minister. If one person is both the Minister and Treasurer, the Treasurer must nominate another Minister to be a member and notify the Company as soon as practicable.

Clause 60

Inserts new sections 13A, 13B, 13C, 13D, 13E, 13F, 13G and 13H into the Principal Act related to directions, statement of corporate intent, reporting and sponsorship.

### **13A Directions by members**

Section 13A provides a power for the members to jointly give directions to the Company, or a wholly-owned subsidiary of the Company, that must be complied with.

Before issuing a direction, members must issue a notice to the Company or wholly-owned subsidiary advising that they intend to issue a direction on a specified matter. The Company has the period specified in the notice to provide any information to the members considered relevant.

The direction can be contrary to the Company's memorandum and articles of association; the Company's, or its subsidiary's, statement of expectations, statement of corporate intent, applicable Treasurer's Instructions or any information provided by the Company in response to the notice of intention to direct; and, if given to a wholly-owned subsidiary, the subsidiary's constitution.

It cannot be contrary to any provisions in the Principal Act, or any other State or Commonwealth Act.

A direction can be amended or revoked by members at their own discretion, on the written request of the board of directors or subsidiary board, or because of an objection.

The section recognises that it can be a defence in proceedings for an offence under any Act, if it is established that the act, or omission, that is the basis of the offence was a result of complying with a direction, or purported direction given under this section.

### **13B Objection to direction**

Section 13B sets out the arrangements by which the board of directors or subsidiary board can object to the direction, its amendment or revocation. An objection must be in writing and specify the grounds for the objection.

The section also sets out the arrangements for the members to amend or revoke the direction, or make no changes to the direction, in response to an objection to a direction and provides the parliamentary tabling arrangements where change is not made in response to an objection.

### **13C Publication of directions**

Section 13C requires the Minister to table in Parliament a copy of a direction, or a written notice of amendments to, or revocation of, a direction, after it has been given to the board of directors or a subsidiary board.

The section also sets out the alternative arrangements where members have agreed to a request from the relevant board that a direction should not be tabled as it would disadvantage or cause damage to the Company or its subsidiary, enable another person to gain an advantage, breach confidentiality or prejudice an investigation.

The section also sets out the arrangements for the publication of the details of any direction in the Company's annual report.

### **13D Duty to notify members of compliance with directions**

Section 13D imposes a duty on the board of directors or subsidiary board to notify the members in writing of the Company or its subsidiary's compliance with the directions at regular intervals, and when the Company or its subsidiary has complied with the direction in full.

### **13E Statement of corporate intent**

Section 13E requires a board of directors to prepare a statement of corporate intent (SCI) in respect of the Company and its subsidiaries for provision to the members by 31 March each year and includes the requirements for the content of the SCI.

The section provides that members may approve the SCI if it complies with the requirements of section 13E, and it takes effect on the day it is approved.

The SCI may be amended or substituted at any time and takes effect once approved by members or at later date in the amended or substituted SCI.

The section also requires the board of directors to publish its approved SCI on its website

### **13F Company to report on progress**

Section 13F requires the board of directors to prepare a half-yearly progress report on the performance of the company and its subsidiaries and submit it to members before 28 February each financial year.

The section sets out the requirements for the content and publication of such reports and the notification of any omissions made consistent with the requirements of the section.

### 13G Duty to notify members of adverse events

Section 13G requires the board of directors must notify the members in writing as soon as possible after becoming aware of any development affecting the Company or its subsidiaries that:

- prevents the achievement of its objectives or significantly affects its financial or operating viability; or
- prevents or significantly affects it complying with a direction; or
- otherwise significantly affects the Company or its subsidiaries.

### 13H Sponsorship framework

Section 13H creates a requirement for the board of directors to prepare a framework specifying its sponsorship principles and practices for the Company and its subsidiaries.

The framework must be prepared in accordance with Treasurer's Instructions and include provisions and matters that may be prescribed in regulations. A copy of the current framework for the Company and its subsidiaries must be available on the Company's website.

Clause 61

#### Director term limits

This clause amends Schedule 1 of the Principal Act to establish a two-term limit for directors that can only be extended in exceptional circumstances. It also restricts the circumstances for when a person who previously held the position of chief executive officer of the Company can be appointed as director.

The clause provides that a notice must be tabled in Parliament should the members consider that there are exceptional circumstances that warrant a director being appointed for another term, or for a previous CEO to be appointed as a director.

The clause also sets out arrangements for the treatment of casual vacancy appointments and clarifies the application of section 21(3)(b) of the *Acts Interpretation Act 1931* for the purposes of this clause.

### Part 11 – Tasmanian Ports Corporation Act 2005 Amended

Clause 62 The Principal Act for the purpose of Part 11 is the *Tasmanian Ports Corporation Act 2005*.

Clause 63 Inserts definitions of **subsidiary board** and **wholly-owned subsidiary** in the Principal Act.

Inserts a definition of **Treasurer's Instructions** as this term is used in the amending legislation to refer to Treasurer's Instructions issued under the *Government Business Enterprises Act 1995*.



Clause 64 Amends section 7 of the Principal Act to require that the Corporation amend its constitution to include new provisions relating to director term limits as set out in Schedule 2, as soon as practicable after the commencement of the Bill.

Clause 65 **8 Members of Corporation**

Repeals section 8 of the Principal Act and substitutes a new section that ensures that there are always two individual members of the Corporation.

This section specifies that the members of the Corporation are the Minister to whom the administration of Principal Act is assigned and the Treasurer. If one person is both the Minister and Treasurer, the Treasurer must nominate another Minister to be a member and notify the Corporation as soon as practicable.

Clause 66 Inserts new sections 13B, 13C, 13D, 13E, and 13F into the Principal Act to provide for the issuing directions and the statement of corporate intent.

**13B Directions by members**

Section 13B provides a power for the members to jointly give directions to the Corporation, or a wholly-owned subsidiary of the Corporation, that must be complied with.

Before issuing a direction, members must issue a notice to the Corporation or wholly-owned subsidiary advising that they intend to issue a direction on a specified matter. The Corporation has the period specified in the notice to provide any information to the members considered relevant.

The direction can be contrary to the Corporation's constitution the Corporation's, or its subsidiary's, statement of expectations, statement of corporate intent, applicable Treasurer's Instructions or any information provided by the Corporation in response to the notice of intention to direct; and, if given to a wholly-owned subsidiary, the subsidiary's constitution.

It cannot be contrary to any provisions in the Principal Act, or any other State or Commonwealth Act.

A direction can be amended or revoked by members at their own discretion, on the written request of the Board or its subsidiary board, or because of an objection.

The section recognises that it can be a defence in proceedings for an offence under any Act, if it is established that the act, or omission, that is the basis of the offence was a result of complying with a direction, or purported direction given under this section.

### **13C Objection to direction**

Section 13C sets out the arrangements by which the Board or subsidiary board can object to the direction, its amendment or revocation. An objection must be in writing and specify the grounds for the objection.

The section also sets out the arrangements for the members to amend or revoke the direction, or make no changes to the direction, in response to an objection to a direction and provides the parliamentary tabling arrangements where change is not made in response to an objection.

### **13D Publication of directions**

Section 13D requires the Minister to table in the Parliament a copy of a direction, or a written notice of amendments to, or revocation of a direction, after it has been given to the Board or a subsidiary board.

The section also sets out the alternative arrangements where members have agreed to a request from the relevant board that a direction should not be tabled as it would disadvantage or cause damage to the Corporation or its subsidiary, enable another person to gain an advantage, breach confidentiality or prejudice an investigation.

The section also sets out the arrangements for the publication of the details of any direction in the Corporation's annual report.

### **13E Duty to notify members of compliance with directions**

Section 13E imposes a duty on the Board or subsidiary board to notify the members in writing of the Corporation's or its subsidiary's compliance with the directions at regular intervals, and when the Corporation or its subsidiary has complied with the direction in full.

### **13F Statement of corporate intent**

Section 13F requires the Board to prepare a statement of corporate intent (SCI) in respect of the Corporation and its subsidiaries for provision to the members by 31 March each year and includes the requirements for the content of the SCI.

The section provides that members may approve the SCI if it complies with the requirements of section 13F, and it takes effect on the day it is approved.

The SCI may be amended or substituted at any time and takes effect once approved by members or at later date in the amended or substituted SCI.

The section also requires the Board to publish its approved SCI on its website.

Clause 67 Inserts new sections 14A, 14B and 14C into the Principal Act.

#### **14A Corporation to report on progress**

Section 14A, requires the Board to prepare a half-yearly progress report on the performance of the Corporation and its subsidiaries and submit it to members before 28 February each financial year.

The section sets out the requirements for the content and publication of such reports and the notification of any omissions made consistent with the requirements of the section.

#### **14B Duty to notify members of adverse circumstances**

Section 14B, requires that the Board must notify the members in writing as soon as possible after becoming aware of any development affecting the Corporation or its subsidiaries that:

- prevents the achievement of its objectives or significantly affects its financial or operating viability; or
- prevents or significantly affects it complying with a direction; or
- otherwise significantly affects the Corporation or its subsidiaries.

#### **14C Sponsorship framework**

Section 14C creates a requirement for the Board to prepare a framework specifying its sponsorship principles and practices for the Corporation and its subsidiaries.

The framework must be prepared in accordance with Treasurer's Instructions and include provisions and matters that may be prescribed in regulations. A copy of the current framework for the Corporation and its subsidiaries must be available on the Corporation's website.

Clause 68

#### **Director term limits**

This clause inserts Schedule 2 in the Principal Act to establish a two-term limit for directors that can only be extended in exceptional circumstances. It also restricts the circumstances for when a person who previously held the position of chief executive officer of the Corporation can be appointed as director.

The clause provides that notice must be tabled in Parliament should the members consider that there are exceptional circumstances that warrant a director being appointed for another term, or for a previous CEO to be appointed as a director.

The clause also sets out arrangements for the treatment of casual vacancy appointments and clarifies the application of section 21(3)(b) of the *Acts Interpretation Act 1931* for the purposes of this clause.

**Part 12 – Transitional Provisions**

Clause 69        Inserts definitions of ***Amending Act***, ***Government Business Enterprise*** and ***State-owned Company*** for the purpose of the transitional provisions.

Clause 70        Sets out transitional provisions so that the amendments limiting the term of office do not apply to current Government Business Enterprise and State-owned Company directors while they hold office under their existing terms and conditions.

This is to ensure that a director that has already served two or more terms can remain in office until their current term expires.