

**TASMANIA**

**TASMANIAN PUBLIC FINANCE CORPORATION
AMENDMENT ACT 1995**

No. 4 of 1995

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**TASMANIAN PUBLIC FINANCE CORPORATION
AMENDMENT ACT 1995**

No. 4 of 1995

AN ACT to amend the *Tasmanian Public Finance Corporation Act 1985*

[Royal Assent 23 May 1995]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title

1—This Act may be cited as the *Tasmanian Public Finance Corporation Amendment Act 1995*.

Commencement

2—This Act commences on the day on which it receives the Royal Assent.

Principal Act

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

Section 3 amended (Interpretation)

4—(1) Section 3 (1) of the Principal Act is amended as follows:—

- (a) by omitting the definitions of “appointed member” and “chairman” and substituting the following definitions:—

“**Board**” means the Board of directors appointed under section 5;

“**chairperson**” means the person acting as chairperson of the Board;

- (b) by inserting after the definition of “the Corporation” the following definition:—

“**director**” means a person appointed as a director of the Board under section 5;

- (c) by omitting the definition of “member”;

- (d) by inserting after the definition of “the Minister responsible” the following definition:—

“**participating authority**” means—

(a) a State Authority; or

(b) a local government authority that has made arrangements to borrow money from, or to deposit money with, the Corporation;

- (e) by inserting “or” after “authority;” in paragraph (a) (ii) of the definition of “State authority”;

- (f) by omitting paragraph (c) of that definition.

(2) Section 3 of the Principal Act is further amended by omitting subsection (2).

* No. 59 of 1985. Amended by No. 50 of 1987, No. 5 of 1990, No. 40 of 1991 and No. 39 of 1993.

Section 5 substituted and section 5A inserted

5—Section 5 of the Principal Act is repealed and the following sections are substituted:—

Board of directors

5—(1) The functions and powers of the Corporation under this or any other Act are to be performed and exercised by a Board of not less than 4 and not more than 7 directors consisting of—

- (a) the Secretary of the Department; and
- (b) the chief executive officer of the Corporation; and
- (c) such other persons as, in the opinion of the Minister, may be necessary or expedient to discharge effectively the duties, functions and powers of the Corporation.

(2) The directors are to be appointed by the Minister having regard to the skills, expertise and knowledge necessary for effective participation in the formulation of policy and the management of a substantial financial institution.

(3) The Minister must appoint one of the directors other than the chief executive officer as chairperson of the Board and another director other than the chief executive officer as deputy chairperson of the Board.

Functions of Board

5A—The functions of the Board are—

- (a) to ensure that the Corporation's functions are performed and its powers exercised in a proper, efficient and economical manner; and
- (b) to determine the strategies and policies to be followed by the Corporation; and
- (c) to perform such other functions as are prescribed.

Section 6 amended (Terms and conditions of office of appointed directors)

6—Section 6 (5) of the Principal Act is amended by omitting “Governor may appoint a person nominated by the Minister” and substituting “Minister may appoint a person”.

Section 7 substituted

7—Section 7 of the Principal Act is repealed and the following section is substituted:—

Alternate directors of Board

7—(1) The Minister may, if he or she thinks it expedient to do so, appoint an alternate director of the Board.

(2) An alternate director must have the qualifications specified in section 5 or, in the case of a director referred to in section 5 (1) (a) or (b), must be acting in, or performing the duties of, the director for whom he or she is an alternate.

(3) An alternate director is to act as a director of the Board only if the director for whom he or she is an alternate dies or only while that director—

- (a) is absent from a meeting of the Board; or
- (b) is incapable of acting as a director.

(4) Where an alternate director acts as a director of the Board—

- (a) he or she may exercise all the powers of the director for whom he or she is an alternate director; and
- (b) all things done or omitted to be done by the alternate director are as valid, and have the same consequences, as if they had been done or omitted to be done by the director for whom he or she is an alternate director.

(5) A person is not concerned to inquire whether any occasion has arisen requiring or authorizing an alternate director to act as a director of the Board and all things done or omitted to be done by the alternate director while so acting are as valid, and have the same consequences, as if they had been done or omitted to be done by the director for whom he or she is an alternate director.

Section 8 amended (Meetings)

8—Section 8 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:—

(1) A majority of the directors constitute a quorum of the Board and no business is to be transacted at a meeting of the Board unless a quorum is present.

(2) The chairperson must act as chairperson at a meeting of directors or, if he or she is not present at a meeting, the deputy chairperson must act as chairperson.

Section 9 amended (Validity of acts of Board and immunity of directors)

9—Section 9 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:—

(1) An act or proceeding of the Board is not invalid by reason only of a vacancy in the Board or a defect in the appointment of a director.

(2) No personal liability attaches to a director for an act or omission by that director or to the Board in the exercise or discharge in good faith of the powers, duties or functions conferred or imposed by this Act.

Section 11 amended (Functions and powers of the Corporation)

10—Section 11 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “State” (firstly and lastly occurring) and substituting “participating”;
- (b) by omitting from subsection (2) “State” (wherever occurring) and substituting “participating”;
- (c) by inserting after paragraph (j) of subsection (2) the following paragraphs:—
 - (ja) enter into any agreement or arrangement for the purpose of returning a gain, avoiding a loss, or with a view to avoiding a loss by reference to currency obligations, currency exchange rate movement or interest rate movement; or
 - (jb) enter into any agreement or arrangement for the purposes of managing or varying financial returns or financial or currency risks (including but not limited to risks arising from currency exchange rates or interest rates); or
- (d) by omitting subsection (3).

Section 12 amended (Financial management)

11—Section 12 of the Principal Act is amended by omitting “act in accordance with proper principles of financial management and with a view to avoiding a loss” and substituting “seek to achieve annually an operating profit sufficient to ensure a reasonable return on the net assets of the Corporation and in so doing operate with due regard to appropriate levels of financial risk”.

Section 16 substituted and section 16A inserted

12—Section 16 of the Principal Act is repealed and the following sections are substituted:—

Borrowing of money from, &c., the Corporation by State authorities

16—(1) Notwithstanding any other Act, a State authority—

- (a) may borrow money from the Corporation, and, if the Treasurer by notice published in the *Gazette* so directs, must, in accordance with the notice, borrow money from the Corporation and not from any other person; and
- (b) may and, if the Treasurer by notice published in the *Gazette* so directs, must deposit with or lend to the Corporation money of the State authority that is not immediately required for the purposes of the State authority; and
- (c) may allow the Corporation to conduct debt management or any other activity of the type described in section 11 (2) on behalf of the State authority.

(2) The terms and conditions of any transaction or activity undertaken under subsection (1) are to be as agreed between the Corporation and the State Authority and in accordance with any guidelines issued by the Treasurer.

(3) The Treasurer may issue guidelines relating to transactions or activities undertaken under subsection (1).

Transactions with local government authorities

16A—(1) Notwithstanding any other Act, a local government authority may—

- (a) borrow money from; and
- (b) deposit money with; and
- (c) lend money to—

the Corporation on such terms and conditions as may be agreed between the Corporation and the local government authority.

(2) A local government authority is not liable to pay a guarantee fee in respect of monies borrowed from the Corporation for the purposes of discharging or defeasing an existing liability.

(3) In respect of a borrowing by a local government authority not referred to in subsection (2), the Treasurer may give directions for the purposes of—

- (a) assessing the amount of a guarantee fee in relation to the assessed value of the benefit to be obtained by the local government authority in respect of the borrowing; and
- (b) determining the manner in which and the times at which the guarantee fee is to be paid.

Section 20 amended (Staff)

13—Section 20 of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:—

(2) The Corporation may appoint and employ officers and employees, in addition to any employees made available to it under subsection (1), as it thinks necessary for the performance of its functions, or the exercise of its powers, under this Act.

(3) An officer or employee appointed or employed under subsection (2) holds office on such terms and conditions, including terms and conditions as to remuneration, as are determined by the Corporation.

Miscellaneous amendments to Principal Act

14—(1) The provisions of the Principal Act as specified in the first column of Schedule 1 are amended as respectively specified in the second column of that Schedule.

(2) Each of the provisions of the Principal Act specified in column 1 of Schedule 2 is amended by omitting “Governor”, as indicated in column 2 of that Schedule, and substituting “Minister”.

(3) Each of the provisions of the Principal Act specified in column 1 of Schedule 3 is amended by omitting “Corporation”, as indicated in column 2 of that Schedule, and substituting “Board”.

(4) Each of the provisions of the Principal Act specified in column 1 of Schedule 4 is amended by omitting “member”, as indicated in column 2 of that Schedule, and substituting “director”.

Transitional provision

15—A person holding office as a member of the Corporation immediately before the commencement of this Act is taken to hold office as a director of the Board for the balance of his or her term of office as if appointed as such under the Principal Act as amended by this Act.

SCHEDULE 1

Section 14 (1)

FORMAL AMENDMENTS TO PRINCIPAL ACT

COLUMN 1 Provision amended	COLUMN 2 How amended
Section 4 (3)	(a) Omit "Corporation" (lastly occurring), substitute "Board". (b) Omit "members.", substitute "directors."
Section 6 (1) and (3)	Omit "An appointed member", substitute "A director".
Section 6 (2)	Omit "member and an appointed member", substitute "director and a director".
Section 6 (4)	Omit "an appointed member", substitute "a director".
Section 8 (3)	Omit "members", substitute "directors".
Section 10 (3) (a)	Omit "member's", substitute "director's".
Section 13A (4)	Omit "Corporation" (firstly occurring), substitute "Board".
Section 13A (5)	Omit "Corporation" (firstly occurring), substitute "Board".
Section 15	Omit "Revenue" (wherever occurring), substitute "Fund".
Section 17	Omit "1957", substitute "1986".
Section 19 (1)	Omit "chairman", substitute "chairperson".
Section 24	Omit "Corporation" (lastly occurring), substitute "Board".

SCHEDULE 2

Section 14 (2)

**AMENDMENT OF REFERENCES IN PRINCIPAL ACT TO THE
GOVERNOR**

COLUMN 1 Provisions of Principal Act amended	COLUMN 2 Number of times word omitted occurs in provision
Section 6 (3) (e)	2
Section 6 (4)	2
Section 7	1

SCHEDULE 3

Section 14 (3)

AMENDMENT OF REFERENCES IN PRINCIPAL ACT TO THE
CORPORATION

COLUMN 1 Provisions of Principal Act amended	COLUMN 2 Number of times word omitted occurs in provision
Section 6 (3) (c)	3
Section 6 (4) (a)	1
Section 8 (3)	2
Section 8 (4)	1
Section 8 (5)	2
Section 8 (6)	2
Section 9 (3)	1
Section 10 (1)	1
Section 10 (1) (a)	1
Section 10 (1) (b)	1
Section 10 (2)	1
Section 10 (3) (b)	1
Section 12	1
Section 13 (2)	1
Section 13A (3) (d)	1
Section 19 (1)	3
Section 19 (2)	1
Section 20 (1)	3
Section 21	1
Section 23 (1)	1

SCHEDULE 4

Section 14 (4)

AMENDMENT OF REFERENCES IN PRINCIPAL ACT TO MEMBERS
OF THE CORPORATION

COLUMN 1 Provisions of Principal Act amended	COLUMN 2 Number of times word omitted occurs in provision
Section 6 (1)	1
Section 6 (3)	1
Section 6 (5)	1
Section 8 (4)	1
Section 9 (3)	1
Section 10 (1)	1
Section 10 (3)	1
Section 10 (3) (b)	1
Section 19 (1)	1

[Second reading presentation speech made in:—
House of Assembly on 29 November 1994
Legislative Council on 12 April 1995]

