

I certify that this is a copy of the authorised version of this Act as at 27 November 2025, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 27 November 2025.

K Woodward
Chief Parliamentary Counsel
Dated 10 December 2025



TASMANIA

GOVERNMENT BUSINESS ENTERPRISES (SALE) ACT 2003

No. 39 of 2003

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement
3. Objects of Act
4. Interpretation
5. Act binds Crown
6. Relationship with *Government Business Enterprises Act 1995*

PART 2 – SALE OF BUSINESS OF PRESCRIBED GOVERNMENT BUSINESS ENTERPRISES

7. Power to sell business
- 7A. Parliamentary approval required before sale
8. Treasurer may direct Board to facilitate sale

9. Transitional provisions if business sold
10. Arrangements for employees affected by sale of business
11. Long service leave
12. Superannuation
13. Exemption from State tax

PART 3 – FORMATION AND SALE OF COMPANIES

Division 1 – Formation of company

14. Formation of companies
15. Membership of company
16. Shares
17. Transfer of business on formation of company
18. Arrangements for employees on formation of company
19. Exemption from State tax

Division 2 – Operation of company

20. Application of Division 2
21. Status of company
22. Guarantee or indemnity
23. Fees in respect of guarantee and indemnity
24. Tax equivalents
- [25. *Repealed*]
26. Treasurer's Instructions
27. Effect of *Financial Agreement Act 1994*
28. Superannuation for employees
29. Long service leave
30. Arrangements with Treasurer

Division 3 – Sale of company

31. Sale of company
32. Long service leave
33. Superannuation
34. Exemption from State tax

PART 4 – TRANSFER OF BUSINESS TO CROWN

- 35. Transfer of business to Crown
- 36. Arrangements for employees on transfer of business
- 37. Exemption from State tax

PART 5 – PROCEEDS OF SALE OF BUSINESS OR SHARES

- 38. Proceeds of sale of business or shares

PART 6 – MISCELLANEOUS

- 39. Repeal of Portfolio Acts
- 40. Regulations
- 41. Administration of Act
- 42.



GOVERNMENT BUSINESS ENTERPRISES (SALE) ACT 2003

No. 39 of 2003

An Act to authorise, enable and facilitate the sale of the businesses or assets of certain Government Business Enterprises, to provide for the repeal of the Portfolio Acts of those Government Business Enterprises and for related purposes

[Royal Assent 4 July 2003]

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:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Government Business Enterprises (Sale) Act 2003*.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 2

Part 1 – Preliminary

2. Commencement

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

3. Objects of Act

The objects of this Act are to enable the Crown to do any one or more of the following:

- (a) sell the whole or part of a prescribed Government Business Enterprise;
- (b) transfer to the Crown any business of a prescribed Government Business Enterprise that remains with the prescribed Government Business Enterprise after its other business is sold;
- (c) form a company under the Corporations Act and transfer to that company the business of a prescribed Government Business Enterprise;
- (d) transfer to the Crown any business of a prescribed Government Business Enterprise that remains with the prescribed Government Business Enterprise after its other business is transferred to such a company;
- (e) sell the shares in such a company that are held on behalf of the Crown.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 1 – Preliminary

s. 4

4. Interpretation

- (1) In this Act, unless the contrary intention appears –

Board has the same meaning as in the *Government Business Enterprises Act 1995*;

business, in relation to a prescribed Government Business Enterprise or relevant prescribed Government Business Enterprise, includes –

- (a) the business conducted by the prescribed Government Business Enterprise or relevant prescribed Government Business Enterprise; and
- (b) the goodwill of that business; and
- (c) the property of the prescribed Government Business Enterprise or relevant prescribed Government Business Enterprise; and
- (d) the liabilities of the prescribed Government Business Enterprise or relevant prescribed Government Business Enterprise in relation to that business; and
- (e) a part of the business of a prescribed Government Business Enterprise or relevant prescribed

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 4

Part 1 – Preliminary

Government
Enterprise –

Business

but does not include a part of the business of a prescribed Government Business Enterprise or relevant prescribed Government Business Enterprise that the regulations exclude from the operation of this Act;

business sale date means the day on which the business of a prescribed Government Business Enterprise is sold under section 7(1);

company means a company formed under section 14;

existing document means –

- (a) in relation to the sale under section 7(1) of the business of a prescribed Government Business Enterprise, a document that was in effect immediately before the business sale date; or
- (b) in relation to the transfer under section 17 of the business of a relevant prescribed Government Business Enterprise to a company, a document that was in effect immediately before the transfer day; or
- (c) in relation to the transfer under section 35 of the business of a

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 1 – Preliminary

s. 4

prescribed Government Business Enterprise or relevant prescribed Government Business Enterprise to the Crown, a document that was in effect immediately before the transfer day;

Government Business Enterprise has the same meaning as in the *Government Business Enterprises Act 1995*;

legal proceeding includes arbitration and mediation;

liability means an actual, contingent or prospective liability, duty or obligation;

Part 3 transfer notice means a notice made under section 17(1);

Part 4 transfer notice means a notice made under section 35(1);

Portfolio Act has the same meaning as in the *Government Business Enterprises Act 1995*;

Portfolio Minister has the same meaning as in the *Government Business Enterprises Act 1995*;

prescribed Government Business Enterprise means –

- (a) the Civil Construction Services Corporation established under the

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 4

Part 1 – Preliminary

Civil Construction Services Corporation Act 1994; or

- (b) the Stanley Cool Stores Board established under the *Stanley Cool Stores Act 1945*; or
- (c) the Tasmanian Grain Elevators Board constituted under the *Grain Reserve Act 1950*; or
- (d) the Printing Authority of Tasmania established under the *Printing Authority of Tasmania Act 1994*; or
- (e) the Southern Regional Cemetery Trust established under the *Southern Regional Cemetery Act 1981*;

property means any present or future, vested or contingent, legal or equitable estate or interest in real or personal property and includes money, documents, securities, choses in action and other rights, powers, privileges and immunities (whether actual, contingent or prospective);

purchased business means the business of a prescribed Government Business Enterprise that is sold under section 7(1);

purchaser means a person who purchases the business of a prescribed Government Business Enterprise sold under section 7 or a related body corporate, within the

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 1 – Preliminary

s. 4

meaning of the Corporations Act, of that person;

relevant prescribed Government Business Enterprise means the prescribed Government Business Enterprise whose business is transferred to a company under section 17;

State tax means any tax, duty, charge or application, registration or other fee imposed by an Act or other law of Tasmania;

subsidiary has the same meaning as in the Corporations Act;

transfer day means –

- (a) in Part 3, the day specified in a Part 3 transfer notice as the day on which that transfer notice takes effect; or
- (b) in Part 4, the day specified in a Part 4 transfer notice as the day on which that transfer notice takes effect;

transferred business means –

- (a) in Part 3, the whole, or any part, of the business of a prescribed Government Business Enterprise specified in, and transferred by, a Part 3 transfer notice; or

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 5

Part 1 – Preliminary

- (b) in Part 4, the whole, or any part, of the business of a prescribed Government Business Enterprise specified in, and transferred by, a Part 4 transfer notice;

transferred employee means –

- (a) in Part 2, a person whose employment is transferred under section 10 consequent on the sale of the business of a prescribed Government Business Enterprise under section 7(1); or
 - (b) in Part 3, a person whose employment is transferred under section 18 consequent on the transfer of the business of a relevant prescribed Government Business Enterprise under section 17.
- (2) In this Act, a reference to a person employed by a prescribed Government Business Enterprise or a relevant prescribed Government Business Enterprise is a reference to a person employed by that Government Business Enterprise under section 21(1) of the *Government Business Enterprises Act 1995*.

5. Act binds Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 1 – Preliminary

s. 6

6. Relationship with *Government Business Enterprises Act 1995*

If a provision of this Act is inconsistent with a provision of the *Government Business Enterprises Act 1995* as it applies in respect of a prescribed Government Business Enterprise, the provision of this Act prevails and the provision of the *Government Business Enterprises Act 1995* is invalid to the extent of the inconsistency.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 7

Part 2 – Sale of Business of Prescribed Government Business Enterprises

**PART 2 – SALE OF BUSINESS OF PRESCRIBED
GOVERNMENT BUSINESS ENTERPRISES**

7. Power to sell business

- (1) On behalf of the Crown, the Treasurer may sell the whole or any part of the business of a prescribed Government Business Enterprise to any person on any conditions the Treasurer considers appropriate.
- (2) Without limiting the generality of subsection (1), the Treasurer may sell or grant in conjunction with any sale under that subsection a right to use any name, trade mark, service mark, indicia or other property –
 - (a) that is used for the purposes of the business of the prescribed Government Business Enterprise; or
 - (b) that the purchaser would not otherwise be permitted to use.
- (3) In exercising a power under this section to sell the business of a prescribed Government Business Enterprise or to sell or grant a right or other property, the Treasurer is to have regard to –
 - (a) the achievement of a fair and reasonable price for the business, right or other property sold or granted; and

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 2 – Sale of Business of Prescribed Government Business Enterprises

s. 7A

- (b) the preservation of accrued entitlements of employees of the prescribed Government Business Enterprise.

7A. Parliamentary approval required before sale

A Government Business Enterprise may only be sold under this Act if a motion that approves the proposed sale of the Government Business Enterprise is passed by at least two-thirds of the members of each House of Parliament.

8. Treasurer may direct Board to facilitate sale

- (1) By written notice provided to a prescribed Government Business Enterprise, the Treasurer may direct the prescribed Government Business Enterprise or its Board to do one or more of the following to facilitate the sale of the business of the prescribed Government Business Enterprise under section 7(1):
 - (a) take the action specified in the notice;
 - (b) take all reasonable steps and actions.
- (2) A prescribed Government Business Enterprise and its Board are to comply with a direction provided under subsection (1).
- (3) A prescribed Government Business Enterprise and its Board may do all things necessary or convenient to be done to enable them to comply with a direction provided under subsection (1).

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 9

Part 2 – Sale of Business of Prescribed Government Business Enterprises

9. Transitional provisions if business sold

- (1) If the business of a prescribed Government Business Enterprise is sold under section 7(1), on and after the business sale date the following provisions apply except as otherwise agreed, in writing, by the Treasurer and the purchaser:
- (a) a reference in an existing document to the prescribed Government Business Enterprise or the Board of the prescribed Government Business Enterprise in relation to the business that became the purchased business is taken, where appropriate, to be or to include a reference to the purchaser;
 - (b) legal proceedings that could have been instituted by or against the prescribed Government Business Enterprise immediately before the business sale date and that relate to the business that became the purchased business may be instituted by or against the purchaser;
 - (c) legal proceedings instituted by or against the prescribed Government Business Enterprise that relate to the business that became the purchased business and are pending immediately before the business sale date may be continued by or against the purchaser;
 - (d) a document served on the prescribed Government Business Enterprise in respect of legal proceedings referred to in

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 2 – Sale of Business of Prescribed Government Business Enterprises

s. 9

paragraph (c) is taken to have been served on the purchaser;

(e) a judgment or order of a court obtained by or against the prescribed Government Business Enterprise in relation to the business that became the purchased business may be enforced by or against the purchaser but may not be enforced by or against the prescribed Government Business Enterprise;

(f) a contract made by the prescribed Government Business Enterprise relating to the business that became the purchased business but not performed or discharged before the business sale date is taken to have been made by the purchaser.

(2) A person who is a party to a contract made by a prescribed Government Business Enterprise is not entitled to –

(a) terminate that contract; or

(b) claim that there has been a breach or default of the contract; or

(c) claim any remedy –

by reason only of the sale under section 7(1) of a business to which that contract, or part of that contract, relates or which arises from that contract or part.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 10

Part 2 – Sale of Business of Prescribed Government Business Enterprises

10. Arrangements for employees affected by sale of business

- (1) If the Treasurer sells the business of a prescribed Government Business Enterprise under section 7(1), the Treasurer may, by order provided to the prescribed Government Business Enterprise –
 - (a) transfer to the purchaser the employment of a person who, immediately before the business sale date, was employed by the prescribed Government Business Enterprise or under the *State Service Act 2000* for the purposes of that business; or
 - (b) terminate on any conditions the Treasurer considers appropriate the employment of a person who, immediately before the business sale date, was employed by the prescribed Government Business Enterprise for the purposes of that business.
- (2) If a person employed under the *State Service Act 2000* for the purposes of a prescribed Government Business Enterprise does not have his or her employment transferred in accordance with subsection (1)(a), that person remains in employment under and subject to the *State Service Act 2000*.
- (3) Before transferring or terminating the employment of a person under subsection (1), the Treasurer is to consult with the person in any manner the Treasurer considers appropriate

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 2 – Sale of Business of Prescribed Government Business Enterprises

s. 10

including, but not limited to, consultation with the representatives of the person or the employee organisation to which the person belongs.

- (4) In terminating the employment of a person under subsection (1)(b), the Treasurer is to do so subject to, and in accordance with, any relevant contract, award or agreement.
- (5) On receipt of an order under subsection (1), the prescribed Government Business Enterprise is to give to each person whose employment is transferred or terminated by the order written notice of that transfer or termination.
- (6) On the sale of the business of the prescribed Government Business Enterprise, or on the day specified in the order under subsection (1) as the day on which the employment of a person is transferred –
 - (a) if the order transfers the employment to the purchaser, that person becomes an employee of the purchaser and the purchaser becomes the employer of that person; and
 - (b) that person ceases –
 - (i) to be an employee of the prescribed Government Business Enterprise; or
 - (ii) to hold office or be an employee under the *State Service Act 2000*.
- (7) A transferred employee –

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 10

Part 2 – Sale of Business of Prescribed Government Business Enterprises

- (a) is taken to have been employed by the purchaser for the same remuneration as he or she was receiving immediately before the transfer; and
 - (b) except where an award, agreement or any other law otherwise provides, retains all accrued entitlements as if employment as an employee of the purchaser were a continuation of employment with the prescribed Government Business Enterprise or as a State Service officer or State Service employee; and
 - (c) is entitled to claim those entitlements against the purchaser; and
 - (d) is not entitled to any compensation or other payment in respect of the change of employer except as provided by or under the *Public Sector Superannuation Reform Act 2016*.
- (8) An award or agreement that had effect in relation to a person immediately before the person became a transferred employee continues to have effect in relation to the person as a transferred employee, except where another award or agreement or any other law provides otherwise.
- (9) The period of service of a person who becomes a transferred employee with the prescribed Government Business Enterprise or as a State Service officer or State Service employee is taken to be service with the purchaser.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 2 – Sale of Business of Prescribed Government Business Enterprises

s. 11

- (10) Nothing in this section prevents any of the terms of employment of a transferred employee being altered by an award, agreement or law after he or she becomes a transferred employee.
- (11) If an order under subsection (1) terminates the employment of a person employed by a prescribed Government Business Enterprise –
 - (a) that employment is terminated immediately before the business of the prescribed Government Business Enterprise is sold or on the day specified in the order; and
 - (b) that person is not entitled to any compensation or other payment in respect of the termination of employment except as provided by or under the *Public Sector Superannuation Reform Act 2016*, any other law, an award, an agreement or the conditions determined by the Treasurer under subsection (1)(b).
- (12) An order under subsection (1) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

11. Long service leave

- (1) The *Long Service Leave (State Employees) Act 1994* does not apply to a transferred employee or a purchaser.
- (2) Except as otherwise agreed, in writing, by the Treasurer and the purchaser, in calculating the

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 11

Part 2 – Sale of Business of Prescribed Government Business Enterprises

period of service a transferred employee has completed with the purchaser for the purposes of calculating his or her entitlement to long service leave under any Act, award or agreement, the transferred employee is taken to have completed, on the day on which he or she becomes the employee of the purchaser, a period of service with the purchaser calculated in accordance with the following formula:

$$\text{Calculated service} = \frac{S \times P}{10}$$

where:

Calculated service is the period of service the transferred employee is taken to have completed with the purchaser on the day on which he or she becomes the employee of the purchaser;

S is the total period of service the transferred employee has completed with the prescribed Government Business Enterprise (including service the transferred employee is taken to have completed with the prescribed Government Business Enterprise) or under the *State Service Act 2000*;

P is the period of service that would have been required to be completed by the transferred employee to be entitled to long service leave under the relevant Act, award or agreement if the transferred employee had always been an employee of the purchaser.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

12. Superannuation

If the Treasurer makes an order under section 10(1) on the sale of the business of a prescribed Government Business Enterprise that transfers to the purchaser the employment of a person employed by the prescribed Government Business Enterprise, the Minister administering the *Public Sector Superannuation Reform Act 2016* is to make a declaration, under regulations under that Act, declaring the agreement for that sale to be a prescribed arrangement for the purposes of those regulations.

13. Exemption from State tax

- (1) The Treasurer may determine that State tax is not payable in respect of any document prepared in relation to, or for the purposes of, the sale of the business of a prescribed Government Business Enterprise under section 7(1) or the sale or grant of a right under section 7(2).
- (2) A determination is to be made by certificate provided to the person who would otherwise be required to pay the State tax.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 14

Part 3 – Formation and Sale of Companies

PART 3 – FORMATION AND SALE OF COMPANIES

Division 1 – Formation of company

14. Formation of companies

- (1) The Treasurer may form, or participate in the formation of, one or more companies limited by shares that is or are to be registered under the Corporations Act, with each company having as its primary purpose the business of, or one or more of the functions performed by, a prescribed Government Business Enterprise.
- (2) By written notice provided to a prescribed Government Business Enterprise, the Treasurer may direct the prescribed Government Business Enterprise or its Board to do one or more of the following for the purpose of facilitating the formation under subsection (1) of a company in respect of the business of, or a function performed by, the prescribed Government Business Enterprise:
 - (a) take the action specified in the notice;
 - (b) take all reasonable steps and actions.
- (3) A prescribed Government Business Enterprise and its Board are to comply with a direction provided under subsection (2).
- (4) A prescribed Government Business Enterprise and its Board may do all things necessary or convenient to be done to enable them to comply with a direction provided under subsection (2).

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 3 – Formation and Sale of Companies

s. 15

15. Membership of company

On the registration of a company formed in respect of the business of, or a function performed by, a prescribed Government Business Enterprise, the company is to have as its only member the Treasurer.

16. Shares

- (1) The consideration for shares in a company that are issued to the Treasurer is the sum of \$1 for each share issued.
- (2) Shares in a company issued to the Treasurer are held in trust for the Crown.
- (3) The Treasurer must not acquire shares in a company for his or her own benefit.
- (4) Any share acquired by the Treasurer in contravention of subsection (3) is taken to be held in trust for the Crown but the Crown is not liable to meet the cost of that acquisition.

17. Transfer of business on formation of company

- (1) If a company is formed in respect of the business of, or a function performed by, a prescribed Government Business Enterprise, the Treasurer, by one or more notices published in the *Gazette*, may –
 - (a) transfer the whole, or any part, of the business of the prescribed Government Business Enterprise to the company

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 17

Part 3 – Formation and Sale of Companies

- (whether or not that transfer is for a consideration); and
 - (b) specify conditions relating to that transfer; and
 - (c) provide for any matter that is incidental to that transfer.
- (2) A Part 3 transfer notice may be made in anticipation of the formation of a company.
- (3) Consideration for the transfer under a Part 3 transfer notice of any transferred business may be by assumption of liabilities or otherwise.
- (4) On the transfer day, a Part 3 transfer notice takes effect and –
- (a) any business of a relevant prescribed Government Business Enterprise, other than a liability, specified in and transferred by a Part 3 transfer notice vests in the company; and
 - (b) any business of a relevant prescribed Government Business Enterprise that is a liability and is specified in and transferred by a Part 3 transfer notice becomes the liability of the company.
- (5) Except as otherwise provided in a Part 3 transfer notice, on and after the transfer day the following provisions apply:
- (a) a reference in an existing document to the relevant prescribed Government

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 3 – Formation and Sale of Companies

s. 17

Business Enterprise, or the Board of the relevant prescribed Government Business Enterprise, in relation to the business that became the transferred business is taken, where appropriate, to be or to include a reference to the company or the Board of the company;

- (b) legal proceedings that could have been instituted by or against the relevant prescribed Government Business Enterprise immediately before the transfer day and that relate to the business that became the transferred business may be instituted by or against the company;
- (c) legal proceedings instituted by or against the relevant prescribed Government Business Enterprise that relate to the business that became the transferred business and are pending immediately before the transfer day may be continued by or against the company;
- (d) a document served on the relevant prescribed Government Business Enterprise in respect of legal proceedings referred to in paragraph (c) is taken to have been served on the company;
- (e) a judgment or order of a court obtained by or against the relevant prescribed Government Business Enterprise in relation to the business that became the transferred business may be enforced by

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 17

Part 3 – Formation and Sale of Companies

or against the company but may not be enforced by or against the relevant prescribed Government Business Enterprise;

- (f) a contract made by the relevant prescribed Government Business Enterprise relating to the business that became the transferred business but not performed or discharged before the transfer day is taken to have been made by the company.

- (6) A person who is a party to a contract made by a relevant prescribed Government Business Enterprise is not entitled to –

- (a) terminate that contract; or
 - (b) claim that there has been a breach or default of the contract; or
 - (c) claim any remedy –

by reason only of the transfer, under this section, of any business to which that contract, or part of that contract, relates or which arises from that contract or a part of that contract.

- (7) If any dispute arises –

- (a) as to whether any business of a relevant prescribed Government Business Enterprise is transferred business; or
 - (b) as to whether any, or any part of any, contract relates to transferred business –

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 3 – Formation and Sale of Companies

s. 18

the Treasurer may determine the matter and is to provide the relevant prescribed Government Business Enterprise and any company interested in the matter with written notice of that determination.

- (8) The determination of the Treasurer under subsection (7) is final and is binding on all persons receiving notice of it under that subsection.
- (9) A Part 3 transfer notice is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

18. Arrangements for employees on formation of company

- (1) If the business of a prescribed Government Business Enterprise is transferred to a company under section 17, the Treasurer may, by order provided to that Government Business Enterprise –
 - (a) transfer to the company the employment of a person who, immediately before the transfer day, was employed by that Government Business Enterprise or under the *State Service Act 2000* for the purposes of that business; or
 - (b) terminate on any conditions the Treasurer considers appropriate the employment of a person who, immediately before the transfer day, was employed by that Government Business Enterprise for the purposes of that business.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 18

Part 3 – Formation and Sale of Companies

- (2) If a person employed under the *State Service Act 2000* for the purposes of a relevant prescribed Government Business Enterprise does not have his or her employment transferred in accordance with subsection (1)(a), that person remains in employment under and subject to the *State Service Act 2000*.
- (3) In terminating the employment of a person under subsection (1), the Treasurer is to do so subject to, and in accordance with, any relevant contract, award or agreement.
- (4) On receipt of an order under subsection (1), the relevant prescribed Government Business Enterprise is to give to each person whose employment is transferred or terminated by the order written notice of that transfer or termination.
- (5) On the transfer day, or on the day specified in the order under subsection (1) as the day on which the employment of a person is transferred –
 - (a) if the order transfers the employment to a company, that person becomes an employee of the company and the company becomes the employer of that person; and
 - (b) that person ceases –
 - (i) to be an employee of the relevant prescribed Government Business Enterprise; or

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 3 – Formation and Sale of Companies

s. 18

-
- (ii) to hold office or be an employee under the *State Service Act 2000*.
- (6) If a transfer order transfers the employment of a person to a company, that transferred employee –
- (a) is taken to have been employed by the company for the same remuneration as he or she was receiving immediately before the transfer; and
 - (b) except where an award, agreement or any other law otherwise provides, retains all accrued entitlements as if employment as an employee of the company were a continuation of employment with the relevant prescribed Government Business Enterprise; and
 - (c) is entitled to claim those entitlements against the company; and
 - (d) is not entitled to any compensation or other payment in respect of the change of employer except as provided by or under the *Public Sector Superannuation Reform Act 2016*.
- (7) An award or agreement that had effect in relation to a person immediately before the person became a transferred employee continues to have effect in relation to the person as a transferred employee, except where another award or agreement or any other law provides otherwise.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 19

Part 3 – Formation and Sale of Companies

- (8) The period of service of a person who becomes a transferred employee with the relevant prescribed Government Business Enterprise or as a State Service officer or State Service employee is taken to be service with the company.
- (9) Nothing in this section prevents any of the terms of employment of a transferred employee being altered by an award, agreement or law after he or she becomes a transferred employee.
- (10) If an order under subsection (1) terminates the employment of a person employed by a relevant prescribed Government Business Enterprise –
 - (a) that employment is terminated immediately before the transfer day or on the day specified in the order; and
 - (b) that person is not entitled to any compensation or other payment in respect of the termination of employment except as provided by or under the *Public Sector Superannuation Reform Act 2016*, any other law, an award, an agreement or the conditions determined by the Treasurer under subsection (1)(b).
- (11) An order under subsection (1) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

19. Exemption from State tax

State tax is not payable in respect of –

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 3 – Formation and Sale of Companies

s. 20

-
- (a) any document prepared in relation to, or for the purposes of, the formation of a company under section 14; or
 - (b) a Part 3 transfer notice; or
 - (c) any other document prepared in relation to, or for the purposes of, a Part 3 transfer notice or the transfer of the business of a relevant prescribed Government Business Enterprise to a company.

Division 2 – Operation of company

20. Application of Division 2

This Division only applies to a company while all shares in the company are held by the Treasurer.

21. Status of company

- (1) Unless this or any other Act expressly provides otherwise, a company or a subsidiary of a company –
 - (a) is not, and does not represent, the Crown; and
 - (b) is not exempt from any rate, tax, duty or other impost imposed under any law merely because the Crown has beneficial ownership of shares in it; and

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 22

Part 3 – Formation and Sale of Companies

(c) is not subject or entitled to any prerogative right or privilege of the Crown.

(2) The Crown is not liable for any liability or obligation of a company or subsidiary of a company unless the Treasurer gives a guarantee or indemnity under section 22.

22. Guarantee or indemnity

(1) On the written request of a company or its subsidiary, the Treasurer, in writing, may guarantee or give an indemnity, or guarantee and give an indemnity, in relation to –

(a) the repayment of any money lent or agreed to be lent to the company or subsidiary; or

(b) the performance of an obligation undertaken by the company or subsidiary or which the company or subsidiary has agreed to undertake (whether that obligation is monetary or otherwise).

(2) A guarantee or an indemnity –

(a) may include a guarantee of, or an indemnity relating to, any interest and other charges payable in respect of money lent or agreed to be lent or in respect of, incidental to or arising from an obligation undertaken or agreed to be undertaken; and

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 3 – Formation and Sale of Companies

s. 23

-
- (b) is subject to any conditions the Treasurer determines.
 - (3) The Treasurer is to make any payment required under or arising from a guarantee or indemnity out of money provided by Parliament for the purpose.
 - (4) This section has effect regardless of where the loan or obligation was undertaken, agreed to be undertaken or required to be repaid or performed.

23. Fees in respect of guarantee and indemnity

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

- (a) the company or subsidiary were a Government Business Enterprise specified in Schedule 3 to that Act; and
- (b) a reference to financial accommodation in that Division were a reference to a financial benefit arising from a guarantee given under section 22.

24. Tax equivalents

The provisions of Part 10 of the *Government Business Enterprises Act 1995* apply in relation to a company and a subsidiary of that company as if –

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 25

Part 3 – Formation and Sale of Companies

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

25.

26. Treasurer's Instructions

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

27. Effect of *Financial Agreement Act 1994*

If the Treasurer, under section 5(1) of the *Financial Agreement Act 1994*, requires a company to do or refrain from doing anything for the purposes of implementing the Agreement, within the meaning of that Act, the company is to comply with that requirement.

28. Superannuation for employees

- (1) A company must not make to a superannuation scheme a contribution in respect of an employee

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 3 – Formation and Sale of Companies

s. 29

(excluding a transferred employee) that is in excess of the rate specified in section 21(3) of the *Public Sector Superannuation Reform Act 2016*.

- (2) A company is to comply with any instruction in relation to superannuation given to it by the Minister administering the *Public Sector Superannuation Reform Act 2016*.

(3 - 4)

- (5) A company must not establish a superannuation scheme.

29. Long service leave

If an Act regulating long service leave of employees applied to a person immediately before he or she became a transferred employee, that Act continues to apply to that person as a transferred employee.

30. Arrangements with Treasurer

- (1) The company and the Treasurer may enter into an agreement under which the company or its subsidiary agrees to perform, or to cease to perform, activities.
- (2) The terms of the agreement may provide for compensation or other payment to the company or its subsidiary out of money provided by Parliament for the purpose.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 31

Part 3 – Formation and Sale of Companies

Division 3 – Sale of company

31. Sale of company

- (1) The Treasurer may sell, on any conditions he or she considers appropriate, all the shares he or she holds in a company.
- (2) In exercising the power under this section to sell shares in a company, the Treasurer is to have regard to –
 - (a) the achievement of a fair and reasonable price; and
 - (b) the preservation of accrued entitlements of employees of the company.

32. Long service leave

- (1) On the sale by the Treasurer under section 31 of all the shares he or she holds in a company, the *Long Service Leave (State Employees) Act 1994* ceases to apply to that company and any of its employees in respect of which that Act applied before that sale.
- (2) In calculating, on or after the sale by the Treasurer under section 31 of all the shares he or she holds in a company, the period of service an employee has completed with that company for the purposes of calculating his or her entitlement to long service leave under any Act, award or agreement, the employee is taken to have completed, on the day on which that sale occurred, a period of service with that company

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 3 – Formation and Sale of Companies

s. 33

calculated in accordance with the following formula:

$$\text{Calculated service} = \frac{S \times P}{10}$$

where:

Calculated service is the period of service the employee is taken to have completed with the company on the day on which that sale occurred;

S is the total period of service the employee has completed with that company (including service the employee is taken to have completed with that company immediately before the day on which that sale occurred);

P is the period of service that would have been required to be completed by the employee to be entitled to long service leave under the relevant Act, award or agreement if all the shares in that company had always been owned by the person who purchased them in that sale.

33. Superannuation

If the Treasurer under section 31 agrees to sell all the shares he or she holds in a company, the Minister administering the *Public Sector Superannuation Reform Act 2016* is to make a declaration, under regulations under that Act, declaring the agreement for that sale to be a

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 34

Part 3 – Formation and Sale of Companies

prescribed arrangement for the purposes of those regulations.

34. Exemption from State tax

- (1) The Treasurer may determine that State tax is not payable in respect of any document prepared in relation to, or for the purposes of, the sale of shares in a company under section 31.
- (2) A determination is to be made by certificate provided to the person who would otherwise be required to pay the State tax.

PART 4 – TRANSFER OF BUSINESS TO CROWN

35. Transfer of business to Crown

- (1) If a part of the business of a prescribed Government Business Enterprise is sold under section 7(1) or a company is formed under section 14 in respect of the business of, or a function performed by, a prescribed Government Business Enterprise, the Treasurer, by one or more notices published in the *Gazette*, may –
 - (a) transfer to the Crown the whole or any part of the remaining business of the prescribed Government Business Enterprise or relevant prescribed Government Business Enterprise (whether or not that transfer is for a consideration); and
 - (b) specify conditions relating to that transfer; and
 - (c) provide for any matter that is incidental to that transfer.
- (2) A Part 4 transfer notice may be made in anticipation of the sale under section 7(1) of a part of the business of a prescribed Government Business Enterprise or the formation under section 14 of a company.
- (3) Consideration for the transfer under a Part 4 transfer notice of any transferred business may be by assumption of liabilities or otherwise.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 35

Part 4 – Transfer of business to Crown

- (4) On the transfer day –
- (a) any business of a relevant prescribed Government Business Enterprise, other than a liability, specified in and transferred by the Part 4 transfer notice vests in the Crown; and
 - (b) any business of a relevant prescribed Government Business Enterprise that is a liability and is specified in and transferred by the Part 4 transfer notice becomes the liability of the Crown.
- (5) Except as otherwise provided in a Part 4 transfer notice, on and after the transfer day the following provisions apply:
- (a) a reference in an existing document to the prescribed Government Business Enterprise or relevant prescribed Government Business Enterprise, or the Board of that Government Business Enterprise, in relation to the business that became the transferred business is taken, where appropriate, to be or to include a reference to the Crown;
 - (b) legal proceedings that could have been instituted by or against the prescribed Government Business Enterprise or the relevant prescribed Government Business Enterprise immediately before the transfer day and that relate to the business that became the transferred

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 4 – Transfer of business to Crown

s. 35

business may be instituted by or against the Crown;

- (c) legal proceedings instituted by or against the prescribed Government Business Enterprise or the relevant prescribed Government Business Enterprise that relate to the business that became the transferred business and are pending immediately before the transfer day may be continued by or against the Crown;
- (d) a document served on the prescribed Government Business Enterprise or the relevant Government Business Enterprise in respect of legal proceedings referred to in paragraph (c) is taken to have been served on the Crown;
- (e) a judgment or order of a court obtained by or against the prescribed Government Business Enterprise or the relevant prescribed Government Business Enterprise in relation to the business that became the transferred business may be enforced by or against the Crown but may not be enforced by or against the prescribed Government Business Enterprise or the relevant prescribed Government Business Enterprise;
- (f) a contract made by the prescribed Government Business Enterprise or the relevant prescribed Government Business Enterprise relating to the business that became the transferred

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 35

Part 4 – Transfer of business to Crown

business but not performed or discharged before the transfer day is taken to have been made by the Crown.

(6) A person who is a party to a contract made by a prescribed Government Business Enterprise or a relevant prescribed Government Business Enterprise is not entitled to –

- (a) terminate that contract; or
- (b) claim that there has been a breach or default of the contract; or
- (c) claim any remedy –

by reason only of the transfer, under this section, of any business to which that contract, or part of that contract, relates or which arises from that contract or a part of that contract.

(7) If any dispute arises –

- (a) as to whether any business of a prescribed Government Business Enterprise or a relevant prescribed Government Business Enterprise is transferred business; or
- (b) as to whether any, or any part of any, contract relates to transferred business –

the Treasurer may determine the matter and is to provide the prescribed Government Business Enterprise or the relevant prescribed Government Business Enterprise and any relevant Head of Agency, within the meaning of

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 4 – Transfer of business to Crown

s. 36

the *State Service Act 2000*, with written notice of that determination.

- (8) The determination of the Treasurer under subsection (7) is final and binding on the prescribed Government Business Enterprise or relevant prescribed Government Business Enterprise and the Crown.
- (9) A Part 4 transfer notice is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

36. Arrangements for employees on transfer of business

- (1) If the business of a prescribed Government Business Enterprise or a relevant prescribed Government Business Enterprise is transferred to the Crown under section 35, the Treasurer may, by order provided to that Government Business Enterprise, terminate on any conditions the Treasurer considers appropriate the employment of a person who, immediately before the transfer day, was employed by that Government Business Enterprise for the purpose of that business.
- (2) If the business of a prescribed Government Business Enterprise or a relevant prescribed Government Business Enterprise is transferred to the Crown under section 35, a person employed under the *State Service Act 2000* for the purposes of that business immediately before that transfer remains in employment under and subject to the *State Service Act 2000*.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 36

Part 4 – Transfer of business to Crown

- (3) In terminating the employment of a person under subsection (1), the Treasurer is to do so subject to, and in accordance with, any relevant contract, award or agreement.
- (4) On receipt of an order under subsection (1), the prescribed Government Business Enterprise or relevant prescribed Government Business Enterprise is to give to each person whose employment is terminated by the order written notice of that termination.
- (5) If an order under subsection (1) terminates the employment of a person employed by a prescribed Government Business Enterprise or a relevant prescribed Government Business Enterprise –
 - (a) that employment is terminated immediately before the transfer day or on the day specified in the order; and
 - (b) that person is not entitled to any compensation or other payment in respect of the termination of employment except as provided by or under the *Public Sector Superannuation Reform Act 2016*, any other law, an award, an agreement or any conditions determined by the Treasurer under subsection (1).
- (6) An order under subsection (1) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 4 – Transfer of business to Crown

s. 37

37. Exemption from State tax

State tax is not payable in respect of a Part 4 transfer notice or any other document prepared in relation to, or for the purposes of, the transfer of the business of a prescribed Government Business Enterprise or a relevant prescribed Government Business Enterprise under section 35(1).

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 38

Part 5 – Proceeds of sale of business or shares

**PART 5 – PROCEEDS OF SALE OF BUSINESS OR
SHARES**

38. Proceeds of sale of business or shares

- (1) The proceeds of each of the following sales are to be paid into the Public Account:
 - (a) the sale under section 7(1) of the business of a prescribed Government Business Enterprise;
 - (b) the sale or grant under section 7(2) of a right;
 - (c) the sale under section 31 of any shares in a company held by the Treasurer;
 - (d) the sale of any property of the Crown or any business conducted by the Crown if that property or business is business that was transferred to the Crown under section 35.
- (2) Without further appropriation than this section, the Treasurer at his or her discretion may pay from the Public Account the amounts approved by the Treasurer to meet –
 - (a) the expenses reasonably incurred in connection with the sale, including expenses incurred in connection with the formation of a company; and
 - (b) the liabilities that remain with a prescribed Government Business Enterprise after other business of that

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 5 – Proceeds of sale of business or shares

s. 38

Government Business Enterprise has been sold under section 7, or transferred to a company or the Crown under section 17 or 35; and

- (c) the liabilities transferred to the Crown under section 35; and
- (d) the expenses reasonably incurred in connection with the performance of the reporting, financial and other requirements of a prescribed Government Business Enterprise under its Portfolio Act, the *Government Business Enterprises Act 1995* or any other Act that must be completed before the Treasurer can make under section 39(1) a recommendation that its Portfolio Act be repealed.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 39

Part 6 – Miscellaneous

PART 6 – MISCELLANEOUS

39. Repeal of Portfolio Acts

- (1) On the recommendation of the Treasurer, the Governor may, by proclamation, repeal the Portfolio Act of a prescribed Government Business Enterprise.
- (2) Before making for the purposes of subsection (1) a recommendation that a Portfolio Act in respect of a prescribed Government Business Enterprise be repealed, the Treasurer is to be satisfied that –
 - (a) all the business of the prescribed Government Business Enterprise has been sold under section 7(1) or transferred under section 17 or 35; and
 - (b) all reporting, financial and other requirements under the Portfolio Act, the *Government Business Enterprises Act 1995* or any other Act have been completed, as so required, by the prescribed Government Business Enterprise or its Board.
- (3) On the repeal of a Portfolio Act, the appointments of each member of the Board of the Government Business Enterprise and the chief executive officer of the Government Business Enterprise are terminated.
- (4) A member of a Board of a Government Business Enterprise whose appointment is terminated under subsection (3) is not entitled to any

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 6 – Miscellaneous

s. 40

compensation or other payment in respect of that termination, except as determined by the Treasurer.

- (5) A chief executive officer of a Government Business Enterprise whose appointment is terminated under subsection (3) is not entitled to any compensation or other payment in respect of that termination if, consequent on the sale of the business of the Government Business Enterprise under section 7(1) or the transfer of the business of the Government Business Enterprise to a company under section 17 –
- (a) the chief executive officer is offered employment by the purchaser or company to which the business is sold or transferred on terms no less favourable than his or her terms of employment as chief executive officer; or
 - (b) the chief executive officer takes up employment with the purchaser or company to which the business is sold or transferred regardless of whether the terms of that employment are the same, more favourable or less favourable than his or her terms of employment as chief executive officer.

40. Regulations

- (1) The Governor may make regulations for the purposes of this Act.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 40

Part 6 – Miscellaneous

- (2) Without limiting the generality of subsection (1), the regulations may provide for all matters related to, arising from or otherwise necessary or convenient to be provided for in connection with any one or more of the following:
- (a) the sale under section 7(1) of the business of a prescribed Government Business Enterprise;
 - (b) the sale or grant under section 7(2) of a right;
 - (c) the formation under section 14(1) of a company;
 - (d) the transfer under section 17 or 35 of the business of a relevant prescribed Government Business Enterprise or other prescribed Government Business Enterprise;
 - (e) the sale under section 31 of shares held by the Treasurer in a company;
 - (f) the arrangements relating to persons employed by, or under the *State Service Act 2000* for the purposes of, a prescribed Government Business Enterprise, a relevant prescribed Government Business Enterprise or a company who are affected by –
 - (i) the sale under section 7(1) of the business of a prescribed Government Business Enterprise; or

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 6 – Miscellaneous

s. 40

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- (ii) the transfer under section 17 or 35 of the business of a relevant prescribed Government Business Enterprise or other prescribed Government Business Enterprise; or
 - (iii) the sale under section 31 of shares held by the Treasurer in a company.
 - (3) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
 - (4) The regulations may –
 - (a) provide that a contravention of any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 50 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.
 - (5) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Treasurer or a Portfolio Minister, or by the Treasurer and a Portfolio Minister acting jointly.
 - (6) The regulations may contain provisions of a savings or transitional nature consequent on –

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

s. 40

Part 6 – Miscellaneous

- (a) the sale under section 7(1) of the business of a prescribed Government Business Enterprise; or
 - (b) the sale or grant under section 7(2) of a right; or
 - (c) the formation under section 14(1) of a company; or
 - (d) the transfer under section 17 or 35 of the business of a prescribed Government Business Enterprise or relevant prescribed Government Business Enterprise; or
 - (e) the sale under section 31 of shares held by the Treasurer in a company; or
 - (f) the transfer or termination under section 10, 18 or 36 of the employment of a person; or
 - (g) the repeal of a Portfolio Act; or
 - (h) the amendment of this Act.
- (7) Regulations of a kind referred to in subsection (6) may take effect on the day on which the event referred to in that subsection that gave rise to the regulation occurred or on a later day.

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

Part 6 – Miscellaneous

s. 41

41. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Treasurer; and
- (b) the department responsible to the Treasurer in relation to the administration of this Act is the Department of Treasury and Finance.

42. *The amendment effected by this section has been incorporated into the authorised version of the Freedom of Information Act 1991.*

Government Business Enterprises (Sale) Act 2003
Act No. 39 of 2003

NOTES

The foregoing text of the *Government Business Enterprises (Sale) Act 2003* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 27 November 2025 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Government Business Enterprises (Sale) Act 2003</i>	No. 39 of 2003	4.7.2003
<i>Government Business Enterprises (Sale) Amendment Act 2007</i>	No. 17 of 2007	1.8.2007
<i>Audit (Consequential Amendments) Act 2008</i>	No. 50 of 2008	1.7.2010
<i>Public Sector Superannuation Reform (Consequential and Transitional Provisions) Act 2016</i>	No. 54 of 2016	31.3.2017
<i>Financial Management (Consequential and Transitional Provisions) Act 2017</i>	No. 4 of 2017	1.7.2019
<i>Government Business (Sale Reforms) Act 2025</i>	No. 20 of 2025	27.11.2025

TABLE OF AMENDMENTS

Provision affected	How affected
The long title	Amended by No. 17 of 2007, s. 4
Section 4	Amended by No. 17 of 2007, s. 5
Section 7A	Inserted by No. 20 of 2025, s. 10
Section 10	Amended by No. 54 of 2016, s. 25
Section 12	Amended by No. 17 of 2007, s. 6 and No. 54 of 2016, s. 26
Section 18	Amended by No. 54 of 2016, s. 27
Section 25	Repealed by No. 50 of 2008, Sched. 2
Section 28	Amended by No. 54 of 2016, s. 28
Section 33	Amended by No. 17 of 2007, s. 7 and No. 54 of 2016, s. 29
Section 36	Amended by No. 54 of 2016, s. 30
Section 38	Amended by No. 4 of 2017, Sched. 1