

I certify that this is a copy of the authorised version of this Act as at 1 January 2026, 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 1 January 2026.

K Woodward
Chief Parliamentary Counsel
Dated 27 January 2026



TASMANIA

RAIL COMPANY ACT 2009

No. 46 of 2009

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement
3. Purposes of Act
4. Interpretation

PART 2 – COMPANY

Division 1 – Formation and status of Company

5. Formation of Company
6. Principal objectives of Company
7. Constitution of Company
8. Members of Company
9. Shares
10. Consideration for further shares

11. Status of Company

Division 2 – Financial affairs of Company and subsidiary

12. Audit
13. Borrowing
14. Guarantee or indemnity
15. Guarantee fees
16. Tax equivalents
17. Superannuation contributions
18. Effect of *Financial Agreement Act 1994*

Division 3 – Duties of members, Board and Company

19. Directors of Company
20. Members' statement of expectations
- 20A. Directions by members
- 20B. Company may object to direction by members
- 20C. Publication of directions
- 20D. Duty to notify members of compliance with directions
- 20E. Statement of corporate intent
21. Corporate plan of Company
22. Accounts and report of Company
- 22A. Company to report on progress
- 22B. Duty to notify members of adverse circumstances
- 22C. Sponsorship framework

Division 4 – Non-commercial activities

23. Non-commercial activities

**PART 3 – ACQUISITION AND OPERATION OF RAIL BUSINESSES
IN TASMANIA**

24. Company to act as Crown nominee under Business Sale Agreement
25. Company may operate rail business on Emu Bay Railway
26. Exemptions relating to operation of rail business, &c.

PART 4 – TRANSFER OF RAIL INFRASTRUCTURE AND RELATED ASSETS, &C., AND EMPLOYEES TO OR FROM COMPANY

- 27. Transfer of rail infrastructure and related assets, &c., to or from Company
- 28. Transitional provisions on transfer of rail infrastructure and related assets, &c.
- 29. Removing doubt relating to transfer
- 30. Transfer of employees
- 31. Superannuation for certain employees
- 32. Long service leave for certain employees

PART 5 – SALE OF COMPANY AND SUBSIDIARY

- 33. Sale of Company
- 34. Direction to facilitate sale
- 35. Superannuation for certain employees
- 36. Long service leave for certain employees
- 37. Proceeds of sale of Company

PART 6 – MISCELLANEOUS

- 38. Protection for acts done under this Act
- 38A. Treasurer's Instructions
- 39. Application of Corporations Act
- 40. Non-application of certain Acts
- 41. Delegation by Minister
- 42. Regulations
- 43. Administration of Act
- 44. Repeals
- 45.

SCHEDULE 1 –

SCHEDULE 2 – PROVISIONS TO BE INCLUDED IN CONSTITUTION



RAIL COMPANY ACT 2009

No. 46 of 2009

An Act to provide for the establishment of a State-owned company under the Corporations Act for the purpose of acquiring, owning and operating a rail business in Tasmania, to provide for the sale of that company and for related purposes

[Royal Assent 27 October 2009]

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 *Rail Company Act 2009*.

Rail Company Act 2009
Act No. 46 of 2009

s. 2

Part 1 – Preliminary

2. Commencement

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

3. Purposes of Act

The purposes of this Act are to –

- (a) provide for the establishment and registration under the Corporations Act of a State-owned company to acquire, own and operate a rail business in Tasmania; and
- (b) provide for that company to act as the nominee of the Crown under the Business Sale Agreement; and
- (c) provide for the transfer to that company from the Crown, or to the Crown from that company, of rail infrastructure and related assets, liabilities and contracts; and
- (d) provide for the transfer to that company from the Crown of State Service employees and State Service officers; and
- (e) provide for the sale of that company, or part of that company, by the sale of the shares in the company or the assets of the company.

4. Interpretation

In this Act, unless the contrary intention appears –

asset includes any, and any part of any, property, business, operation and right;

Board means the Board of Directors of the Company;

Business Sale Agreement means the agreement, for the sale and purchase of rail infrastructure and related assets and rail businesses, entered into on 4 September 2009 –

- (a) by Pacific National Pty Ltd (ACN 098 060 550), Pacific National (Tasmania) Pty Limited (ACN 079 371 305), PN Tas (Operations) Pty Limited (ACN 078 295 468) and PN Tas (Services) Pty Limited (ACN 078 906 519), together as the seller; and
- (b) by the Crown, as the buyer;

Company means a company formed under section 5;

constitution means the constitution of the Company;

contract means –

Rail Company Act 2009
Act No. 46 of 2009

s. 4

Part 1 – Preliminary

- (a) an agreement, arrangement, undertaking, lease, licence, warranty or other contract; or
- (b) part of an agreement, arrangement, undertaking, lease, licence, warranty or other contract;

director means a director of the Company;

document includes an instrument and part of a document;

legal or other proceeding includes arbitration proceedings and mediation proceedings;

liability includes any, or any part of any, liability, duty and obligation, whether actual, contingent or prospective;

member, in respect of the Company, means a member referred to in section 8;

principal objectives means the principal objectives of the Company specified in section 6;

property means –

- (a) any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property; and
- (b) money, documents and securities; and

Rail Company Act 2009
Act No. 46 of 2009

Part 1 – Preliminary

s. 4

- (c) shares in a subsidiary of the Company; and
- (d) any other rights and property;

rail business means the business of –

- (a) rail haulage on a railway in Tasmania and associated services, including (without limitation) capital works, maintenance, storage, loading, train control and safety functions, carried on in Tasmania; or
- (b) owning a railway in Tasmania; or
- (c) administering, managing, controlling, controlling access to, controlling operations on, maintaining or developing a railway in Tasmania;

rail infrastructure and related assets means –

- (a) rail infrastructure within the meaning of the *Rail Infrastructure Act 2007*; or
- (b) rolling stock within the meaning of the *Rail Safety National Law (Tasmania) Act 2012*; or
- (c) any other asset used, or that is intended for use or has been used, in connection with the operation of rail businesses in Tasmania; or

Rail Company Act 2009
Act No. 46 of 2009

s. 4

Part 1 – Preliminary

(d) any other asset purchased by the Crown or a nominee under the Business Sale Agreement;

railway includes the track of the railway, the land corridor along which the track of the railway is laid and all of the attendant rail infrastructure and related assets, but does not include the railways, or railways of a kind, specified in Part 2 of Schedule 1 to the *Rail Infrastructure Act 2007*;

regulations means regulations made under section 42;

right includes any right, power, privilege and immunity, whether actual, contingent or prospective;

State tax means any of the following if imposed by any Act or law of Tasmania:

- (a) a fee, including an application fee and registration fee;
- (b) a tax, including a duty;
- (c) a charge;

subsidiary has the same meaning as in the Corporations Act;

subsidiary board, in relation to a subsidiary, means the board of directors for the subsidiary;

transfer day means the day on which a transfer notice, or the relevant part of a transfer notice, takes effect;

transfer notice means –

- (a) a notice made under subsection (2) or (3) of section 27, or both of those subsections; or
- (b) a part of such a notice;

transfer recipient, in relation to a transfer notice or transfer day, means –

- (a) the Company if the relevant transfer notice transfers any rail infrastructure and related assets, liabilities or contract to the Company; or
- (b) the Crown if the relevant transfer notice transfers any rail infrastructure and related assets, liabilities or contract to the Crown;

transferor, in relation to a transfer notice or transfer day, means –

- (a) the Crown if the relevant transfer notice transfers any rail infrastructure and related assets, liabilities or contract to the Company; or

Rail Company Act 2009
Act No. 46 of 2009

s. 4

Part 1 – Preliminary

(b) the Company if the relevant transfer notice transfers any rail infrastructure and related assets, liabilities or contract to the Crown;

transferred employee means a person who becomes the employee of the Company on the transfer day by the operation of section 30(4);

Treasurer's Instructions means instructions issued under section 114 of the *Government Business Enterprises Act 1995* and applicable to the Company in accordance with section 38A of this Act;

wholly-owned subsidiary, in relation to the Company, means a subsidiary of the Company that falls within the definition of *wholly-owned subsidiary*, within the meaning of the Corporations Act, in respect of the Company.

PART 2 – COMPANY

Division 1 – Formation and status of Company

5. Formation of Company

- (1) The Minister may form, or participate in the formation of, a company limited by shares that is to be incorporated under the Corporations Act.
- (2) The purpose of the Company is to acquire, own and operate a rail business in Tasmania.

6. Principal objectives of Company

The principal objectives of the Company are –

- (a) to operate a rail business in Tasmania effectively and efficiently; and
- (b) to operate its activities in accordance with sound commercial practice; and
- (c) to maximise its sustainable return to its members.

7. Constitution of Company

- (1) The constitution of the Company is to include the principal objectives of the Company.
- (2) The provisions of the constitution of the Company are to be consistent with this Act.

Rail Company Act 2009
Act No. 46 of 2009

s. 8

Part 2 – Company

- (3) As soon as practicable after the commencement of this subsection, the Company is to amend its constitution to include provisions to the effect of the provisions specified in Schedule 2.

8. Members of Company

- (1) The members of the Company are to be 2 persons of whom –
 - (a) one is the Minister; and
 - (b) one is the Treasurer.
- (2) If, at any one time, one person is both the Minister and Treasurer –
 - (a) the Treasurer must nominate another Minister, being a different person, to be a member of the Company; and
 - (b) a reference in this Act to the Minister is taken to be a reference to the other Minister so nominated; and
 - (c) a reference in this Act, or any other Act, to the members of the Company is taken to include a reference to the other Minister so nominated.
- (3) If the Treasurer nominates another Minister as a member of the Company, the Treasurer is to notify the Company in writing of that fact, as soon as practicable after the Treasurer makes the nomination.

9. Shares

- (1) Shares in the Company issued to its members are held by the members in trust for the Crown.
- (2) A member of the Company who holds shares in trust for the Crown is not to acquire shares in the Company for his or her own benefit.
- (3) Any shares acquired in the Company in contravention of subsection (2) are taken to be held in trust for the Crown but the Crown is not liable to meet the cost of that acquisition.

10. Consideration for further shares

The consideration for any further shares issued to the members of the Company after the commencement of this section is to be any one or more of the following as agreed between the Company and its members:

- (a) any money provided by Parliament for that purpose;
- (b) any rail infrastructure and related assets vested in the Company by the operation of section 27(7);
- (c) any other consideration as so agreed.

11. Status of Company

- (1) Unless this or any other Act expressly provides otherwise, the Company or a subsidiary of the Company –

Rail Company Act 2009
Act No. 46 of 2009

s. 12

Part 2 – Company

- (a) is not, and does not represent, the Crown; and
- (b) is not exempt from any rates, tax, duty or other impost under any law merely because the Crown has beneficial ownership of shares in it.

(2) The Crown is not liable for any liability or obligation of the Company or subsidiary of the Company unless –

- (a) the Treasurer gives a guarantee or indemnity under section 14 in relation to that liability or obligation; or
- (b) a guarantee is given under the *Tasmanian Public Finance Corporation Act 1985* in respect of the Company or subsidiary.

Division 2 – Financial affairs of Company and subsidiary

12. Audit

The Auditor-General is to act as the auditor for the Company and a subsidiary of the Company.

13. Borrowing

The Company, and a subsidiary of the Company, are not to borrow from any person other than the Tasmanian Public Finance Corporation except as otherwise approved by the Treasurer in writing.

14. Guarantee or indemnity

- (1) On the written request of the Company or a subsidiary of the Company, the Treasurer, in writing, may guarantee, give an indemnity in relation to, or guarantee and give an indemnity in relation to –
 - (a)
 - (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)
 - (b) is subject to any conditions determined by the Treasurer and specified in the guarantee or indemnity.
- (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 whether the obligation was undertaken, agreed to be undertaken or required to be performed in Tasmania or elsewhere.

15. Guarantee fees

- (1) Division 1 of Part 11 of the *Government Business Enterprises Act 1995* applies in relation to the Company and a subsidiary of the Company as if –
 - (a) the Company were a Government Business Enterprise specified in Schedule 3 to that Act; and
 - (b) the subsidiary were a subsidiary within the meaning of that Act.
- (2)

16. Tax equivalents

- (1) The provisions of Part 10 of the *Government Business Enterprises Act 1995* apply in relation to the Company and a subsidiary of the Company as if –
 - (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.
- (2)

17. Superannuation contributions

- (1) The Company, or a subsidiary of the Company, is not to establish a superannuation scheme.

- (2) A contribution by the Company or a subsidiary of the Company to a superannuation scheme in respect of any of its employees is not to exceed the rate specified in section 21(3) of the *Public Sector Superannuation Reform Act 2016*.

18. Effect of *Financial Agreement Act 1994*

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

Division 3 – Duties of members, Board and Company

19. Directors of Company

- (1) The members of the Company are to ensure that it has a Board of Directors who have the experience and skills necessary to enable the Company to achieve its objectives.
- (2) The members of the Company are to appoint the Board in accordance with the constitution.

20. Members' statement of expectations

- (1) As soon as practicable after the day on which the Company is incorporated, the members are to provide the Board with a statement of expectations.

Rail Company Act 2009
Act No. 46 of 2009

s. 20

Part 2 – Company

- (2) The statement of expectations is to specify –
 - (a) the strategic priorities of the Company; and
 - (b) the policy expectations of the members for the performance of the Company and its subsidiaries.
- (3) The members may at any time at their own discretion, or on the application of the Board –
 - (a) amend the statement of expectations; or
 - (b) revoke the statement of expectations and substitute another statement of expectations.
- (4) Before or while preparing a statement of expectations or an amendment to a statement of expectations, the members are to consult with the Board.
- (5) A statement of expectations and an amendment to a statement of expectations are to be in writing and signed by each member.
- (6) A statement of expectations, or an amendment to a statement of expectations, takes effect on a day specified in it, being a day not earlier than the day on which the statement or amendment is provided to the Company.
- (7) The Minister must cause a copy of the statement of expectations, or of an amendment to a statement of expectations, to be laid before each House of Parliament within 10-sitting days after

the statement or amendment has been signed as required by subsection (5).

20A. Directions by members

- (1) The members may give a direction to the Company or a wholly-owned subsidiary of the Company.
- (2) Before the members give a direction under subsection (1) to the Company or a wholly-owned subsidiary of the Company, the members are to notify the Company or wholly-owned subsidiary in writing that –
 - (a) the members intend to give the direction on the matter specified in the notification; and
 - (b) the Company or wholly-owned subsidiary has the period specified in the notification to provide information to the members in respect of the specified matter.
- (3) A direction given to the Company, or a wholly-owned subsidiary, under subsection (1) –
 - (a) may be given even if the direction is contrary to –
 - (i) the constitution of the Company; or
 - (ii) a statement of expectations under section 20 in force in respect of the Company or subsidiary; or

Rail Company Act 2009
Act No. 46 of 2009

s. 20A

Part 2 – Company

- (iii) the statement of corporate intent under section 20E in force in respect of the Company or subsidiary; or
- (iv) Treasurer's Instructions in force in respect of the Company or subsidiary; or
- (v) if the direction is given to a wholly-owned subsidiary, the constitution of the subsidiary; or
- (vi) if the Company or subsidiary provided information in respect of the direction in accordance with subsection (2), that information; and

(b) may not be given if the direction is contrary to the provisions of this Act or another Act of this State or the Commonwealth.

(4) The members may, by written notice to the Company or its subsidiary at any time, amend or revoke a direction given to the Company or subsidiary under subsection (1) –

- (a) at their own discretion; or
- (b) on the written request of the Board or the subsidiary board; or
- (c) as a result of an objection made under section 20B in respect of the direction.

Rail Company Act 2009
Act No. 46 of 2009

Part 2 – Company

s. 20A

- (5) As soon as practicable after a direction is given under subsection (1), or amended or revoked under subsection (4), the members must ensure that a written copy of the direction so given, or a copy of the written notice given for an amendment or revocation of a direction –
 - (a) is signed, and dated, by each member; and
 - (b) is given to the Board or the subsidiary board.
- (6) A direction given under subsection (1), or an amendment or revocation of such a direction under subsection (4), takes effect –
 - (a) on the day on which a copy of the direction, or a copy of the written notice of the amendment or revocation, is given to the relevant board under subsection (5); or
 - (b) on such later date as is specified in the direction or notice of the amendment or revocation.
- (7) The Company, or a wholly-owned subsidiary, must comply with each direction given to the Company or subsidiary under this section.
- (8) It is a defence in proceedings for an offence under any Act, if the defendant establishes 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.

Rail Company Act 2009
Act No. 46 of 2009

s. 20B

Part 2 – Company

20B. Company may object to direction by members

- (1) Within 21 days after receiving a copy of a direction, or a copy of a written notice of an amendment or revocation of such a direction, under section 20A(5), the Board or a subsidiary board may object to the direction, or its amendment or revocation, on any ground.
- (2) An objection under subsection (1) is to –
 - (a) be made in writing to the members; and
 - (b) specify the grounds of the objection.
- (3) If the members receive an objection under subsection (1) in respect of a direction –
 - (a) the members, within 10 days after receiving the objection, are to notify the relevant board that the members –
 - (i) intend to amend or revoke the direction in accordance with section 20A; or
 - (ii) do not intend to amend or revoke the direction; and
 - (b) if the members notify the relevant board under paragraph (a)(i) that the direction is to be amended or revoked, the direction is of no effect until it is so amended or revoked; and
 - (c) if the members notify the relevant board under paragraph (a)(ii) that the direction is not to be amended or revoked –

- (i) the Minister must cause a copy of the objection to be tabled in each House of Parliament within 5 sitting-days after the members received the objection; and
- (ii) if the Minister fails to table a copy of the objection under this paragraph, the direction is void.

20C. Publication of directions

- (1) If a copy of a direction, or a copy of written notice of an amendment or revocation of such a direction, is given to the Board or a subsidiary board under section 20A(5), the Minister must table a copy of the direction, or the written notice, in each House of Parliament within 7 sitting-days after the direction or notice is so given.
- (2) Despite subsection (1), within 5 days after a board receives a copy of a direction or a copy of a written notice under section 20A(5), the relevant board may make a written request to the members that the direction, or written notice of an amendment or revocation of a direction, should not be tabled under subsection (1).
- (3) A board may only make a request under subsection (2) if the board is of the opinion that the tabling of the direction or written notice may –

Rail Company Act 2009
Act No. 46 of 2009

s. 20C

Part 2 – Company

- (a) disadvantage or cause damage to the Company or a subsidiary, whether directly or indirectly; or
- (b) enable another person, whether directly or indirectly, to gain an unreasonable advantage; or
- (c) constitute a breach of confidentiality; or
- (d) prejudice an investigation into –
 - (i) misconduct or possible misconduct; or
 - (ii) an offence, or possible offence, against this Act.

(4) If the members are satisfied that a direction, or written notice of an amendment or revocation of a direction, should not be tabled under subsection (1) for a reason specified in subsection (3) –

- (a) subsection (1) does not apply in respect of the direction, the amendment or the revocation; and
- (b) the Minister must table a statement that the direction has been given, or that written notice of an amendment or revocation has been given, in each House of Parliament within 7 sitting-days after the direction or notice is given to the relevant board under section 20A.

(5) In the report prepared by the Board in respect of the Company and its subsidiaries for a financial year, the Board must publish –

(a) subject to paragraph (b), a list of –

(i) each direction, given to the Board or a subsidiary board under section 20A, that was in effect in respect of the Company or subsidiary during the financial year; and

(ii) each revocation of a direction that was given to the Board or a subsidiary board, under section 20A, during the financial year; or

(b) if the Minister has tabled a statement under subsection (4) in respect of a direction, or the amendment or revocation of a direction, given to the Board or a subsidiary board under section 20A in respect of the financial year – a copy of the statement.

20D. Duty to notify members of compliance with directions

If the Board or a subsidiary board is given a direction under section 20A in respect of the Company or its subsidiary, the relevant board must notify the members, in writing, of the progress of the Company, or subsidiary, in complying with the direction –

- (a) at the intervals specified in the direction; and
- (b) when, in the opinion of the relevant board, the Company or subsidiary has complied with the direction in full.

20E. Statement of corporate intent

- (1) In this section –

relevant financial year, in relation to a statement of corporate intent of the Company, means the financial year during which the statement is to be in force in respect of the Company.

- (2) Before the commencement of each financial year, the Board is to prepare a statement of corporate intent, in respect of the Company and its subsidiaries, that is to be in force for that financial year.
- (3) A statement of corporate intent of the Company must not disclose any information that the Board considers –
 - (a) may, if disclosed –
 - (i) disadvantage or cause damage to the Company or its subsidiaries, either directly or indirectly; or
 - (ii) enable another person, either directly or indirectly, to gain an advantage; or

Rail Company Act 2009
Act No. 46 of 2009

Part 2 – Company

s. 20E

(b) may otherwise be unlawful, or inappropriate, to disclose publicly.

(4) A draft of a statement of corporate intent prepared under this section in respect of the Company is to –

(a) relate to the Company and its subsidiaries; and

(b) be consistent with each of the following:

(i) the statement of expectations in respect of the Company and its subsidiaries that is in force under section 20;

(ii) each direction under section 20A that is in effect in respect of the Company and its subsidiaries;

(iii) the Treasurer's Instructions that are in force in respect of the Company and its subsidiaries; and

(c) be in a form, and contain the information, specified in the Treasurer's Instructions; and

(d) be provided to the members before –

(i) 31 March in the financial year immediately preceding the relevant financial year; or

(ii) such later day, being a day before the commencement of the

Rail Company Act 2009
Act No. 46 of 2009

s. 20E

Part 2 – Company

relevant financial year, as approved by the members.

- (5) After receiving a draft statement of corporate intent under subsection (4)(d), the members may –
 - (a) request that the Board make changes to the draft statement of corporate intent before it is approved under this section; or
 - (b) approve the draft statement of corporate intent if satisfied that –
 - (i) the statement complies with this section; and
 - (ii) the statement does not disclose information in contravention of subsection (3).
- (6) A statement of corporate intent approved under this section in respect of the Company –
 - (a) takes effect on the day on which it is approved by the members under subsection (5)(b); and
 - (b) while it remains in force, is to be published on a website operated by, or on behalf of, the Company, so that it is freely available to members of the public.
- (7) The Board may amend, or substitute, the statement of corporate intent for the Company at any time.

- (8) An amendment to a statement of corporate intent, or a substitute statement of corporate intent, for the Company takes effect –
 - (a) on the day on which it is approved by the members; or
 - (b) on such later day as is specified in the amended or substituted statement of corporate intent.

21. Corporate plan of Company

- (1) The Board is to prepare a corporate plan each financial year and submit it to the members.
- (2) The corporate plan is to be prepared in the context of the statement of expectations provided to the Board under section 20.
- (3) The Company is to comply with the corporate plan.

22. Accounts and report of Company

- (1) The Board is to provide the members with a copy of each of the following documents:
 - (a) the constitution of the Company, the constitution of each of the Company's subsidiaries and any amendments to any of those constitutions;
 - (b) the annual financial report, directors' report and auditor's report for the Company.

Rail Company Act 2009
Act No. 46 of 2009

s. 22A

Part 2 – Company

- (2) The Minister is to cause to be laid before each House of Parliament each copy provided to him or her under subsection (1) within 7 sitting-days after receiving it.

22A. Company to report on progress

- (1) Before 28 February in each financial year, the Board must –
 - (a) prepare a report on the performance of the Company, and its subsidiaries, for the first 6 months of the financial year; and
 - (b) give a copy of the report to the members.
- (2) A report prepared under subsection (1) is to be in a form, and contain the information, specified in the Treasurer's Instructions.
- (3) Within 7 days after giving a copy of a report to the members under subsection (1), the Board must publish a copy of the report on a website maintained by, or on behalf of, the Company so that it is freely available to members of the public.
- (4) Despite subsection (3), the Board may omit a part of a report prepared under subsection (1) before publishing the report under subsection (3), if the Board is of the opinion that publishing the report, without omitting that part, may –

- (a) disadvantage or cause damage to the Company or its subsidiaries, whether directly or indirectly; or
- (b) enable another person, whether directly or indirectly, to gain an unreasonable advantage; or
- (c) constitute a breach of confidentiality; or
- (d) prejudice an investigation into –
 - (i) misconduct or possible misconduct; or
 - (ii) an offence, or possible offence, against this Act.

(5) If the Board does not publish part of a report under subsection (3), for a reason specified in subsection (4), the Board must include, with the report published in accordance with subsection (3), a statement that part of the report has been omitted under this section before being so published.

22B. Duty to notify members of adverse circumstances

(1) In this section –

governing documents, in relation to the Company, includes –

- (a) the statement of expectations in force in respect of the Company and its subsidiaries under section 20; and

Rail Company Act 2009
Act No. 46 of 2009

s. 22B

Part 2 – Company

- (b) each direction under section 20A in effect in respect of the Company and its subsidiaries; and
- (c) the statement of corporate intent in force in respect of the Company and its subsidiaries under section 20E; and
- (d) the corporate plan in force in respect of the Company under section 21; and
- (e) the Treasurer's Instructions in force in respect of the Company and its subsidiaries.

(2) The Board must notify the members, in writing, of any development which, in the opinion of the Board, may –

- (a) prevent or significantly affect the achievement of the objectives, for the Company or its subsidiaries, as specified in the governing documents of the Company; or
- (b) significantly affect the financial viability or operating ability of –
 - (i) the Company and its subsidiaries; or
 - (ii) any partnership, trust, joint venture or arrangement for the sharing of profits in which the

Company or its subsidiaries participates; or

- (c) prevent the Company or its subsidiaries from complying with a direction given to the Company, or a subsidiary, under section 20A; or
- (d) significantly affect the ability of the Company or its subsidiaries to comply with a direction given to the Company, or a subsidiary, under section 20A; or
- (e) otherwise significantly affect the Company, or its subsidiaries, in any manner.

(3) A notification under subsection (2) in respect of a development is to be made as soon as possible after the Board becomes aware of the development.

22C. Sponsorship framework

- (1) As soon as practicable after the commencement of this section, the Board is to prepare a framework that specifies the principles and practices that are to be applied in respect of the provision of sponsorship by the Company and its subsidiaries.
- (2) A framework prepared under subsection (1) –
 - (a) must be prepared in accordance with, and must reflect, any Treasurer's Instructions issued in respect of sponsorship; and

Rail Company Act 2009
Act No. 46 of 2009

s. 23

Part 2 – Company

(b) must include –

- (i) the prescribed provisions; and
- (ii) provisions that relate to prescribed matters; and

(c) is to reflect contemporary standards, and best-practice principles, that apply in relation to sponsorship; and

(d) may include such other matters as the Board considers relevant.

(3) The Board is to ensure that, as far as is reasonably practicable, there is always a framework in force under this section in respect of the Company and its subsidiaries.

(4) As soon as practicable after a framework under this section comes into force, the Board is to ensure that –

- (a) a copy of the framework is published on a website maintained by, or on behalf of, the Company; and
- (b) as far as is reasonably practicable, the framework remains so published while it is in force.

Division 4 – Non-commercial activities

23. Non-commercial activities

(1) The members may direct the Company to do one or more of the following:

- (a) to perform an activity that the members consider to be in the public interest but that may cause the Company to suffer financial detriment;
- (b) to cease to perform such an activity;
- (c) to cease to perform an activity that the Company is otherwise entitled to perform if the members consider that the activity is not in the public interest.

(2) A direction is to be in writing provided to the Company.

(3) The Company is to comply with a direction.

(4) If the Company satisfies the members that it has, or will, suffer financial detriment as a result of complying with a direction, the Company is entitled to compensation or payment for compliance with the direction in the amount determined by the Treasurer.

(5) A reference in this section to suffering financial detriment includes a reference to incurring net costs that are greater than would have been incurred if the Company had not complied with the direction.

PART 3 – ACQUISITION AND OPERATION OF RAIL BUSINESSES IN TASMANIA

24. Company to act as Crown nominee under Business Sale Agreement

- (1) If the Crown appoints the Company as its nominee under the Business Sale Agreement, the Company is to act as that nominee under that Agreement.
- (2) State tax is not payable in respect of the Business Sale Agreement or any document prepared to give effect to a purchase by the Company under the Business Sale Agreement.

25. Company may operate rail business on Emu Bay Railway

- (1) In this section –

Agreement day means 4 September 2009, being the day on which the Business Sale Agreement was made;

authorised rail operator means a subsidiary of the Company or another person authorised by the Company to operate a rail business on the Emu Bay Railway;

Emu Bay Railway means –

- (a) the railway in Tasmania known as the Emu Bay Railway, and also known as the Melba Line, extending from the port at Emu

Rail Company Act 2009
Act No. 46 of 2009

Bay in the City of Burnie to Melba Flats, including the Handling Facilities within the meaning of the Business Sale Agreement; and

- (b) the railway known as the Hellyer Spur which runs from the Hellyer Mine site to the eastern boundary of the railway referred to in paragraph (a) at Moory Junction;

railway access contract means a contract entered into by the owner or occupier of the relevant rail corridor in respect of the use of, or access to, the relevant rail corridor;

relevant rail corridor means a part of the rail corridor of the Emu Bay Railway that is not owned by the Company, an authorised rail operator or the Crown.

- (2) The Company and an authorised rail operator are authorised to operate a rail business on a relevant rail corridor.
- (3) Subsection (2) operates to extinguish any right of an owner or occupier of the relevant rail corridor to require the Company or an authorised rail operator to pay or provide any fee or other consideration in respect of its use of, or access to, the rail corridor if PN Tas (Operations) Pty Limited (ACN 078 295 468) was not paying or providing such a fee or other consideration on

Rail Company Act 2009
Act No. 46 of 2009

s. 26

Part 3 – Acquisition and Operation of Rail Businesses in Tasmania

the Agreement day in accordance with a railway access contract.

- (4) If on the Agreement day the owner or occupier of a relevant rail corridor, in accordance with a railway access contract, was entitled to receive a fee or other consideration in respect of the use of or access to the relevant rail corridor, that owner or occupier is entitled after that day to require the payment or provision of a reasonable fee or other reasonable consideration in respect of the use of, or access to, the relevant rail corridor by the Company or an authorised rail operator.
- (5) Nothing in subsection (3) or (4) authorises the owner or occupier of a relevant rail corridor to prevent the use of, or access to, the relevant rail corridor by the Company or an authorised rail operator.

26. Exemptions relating to operation of rail business, &c.

- (1) The regulations may exempt the Company, in relation to its operation of a rail business in Tasmania, from an Act, or a provision of an Act, that relates to railways or the ownership or operation of railways.
- (2) An exemption in the regulations prescribed under subsection (1) is subject to any prescribed conditions.
- (3) A regulation referred to in subsection (1) may take effect on the day on which this Act commences or a later day as specified in the

Rail Company Act 2009
Act No. 46 of 2009

Part 3 – Acquisition and Operation of Rail Businesses in Tasmania

s. 26

regulations, whether the day so specified is before, on or after the day on which the regulations are made.

Rail Company Act 2009
Act No. 46 of 2009

s. 27 Part 4 – Transfer of Rail Infrastructure and Related Assets, &c., and Employees to or from Company

PART 4 – TRANSFER OF RAIL INFRASTRUCTURE AND RELATED ASSETS, &C., AND EMPLOYEES TO OR FROM COMPANY

27. Transfer of rail infrastructure and related assets, &c., to or from Company

(1) In this section –

specified means specified in a transfer notice.

(2) The Minister, by notice published in the *Gazette*, may transfer to the Company such –

- (a) rail infrastructure and related assets owned by the Crown; and
- (b) liabilities of the Crown; and
- (c) contracts to which the Crown is a party, other than contracts of employment –

as are specified in the notice.

(3) The Minister, by notice published in the *Gazette*, may transfer to the Crown such –

- (a) rail infrastructure and related assets owned by the Company; and
- (b) liabilities of the Company; and
- (c) contracts to which the Company is a party, other than contracts of employment –

as are specified in the notice.

Rail Company Act 2009
Act No. 46 of 2009

Part 4 – Transfer of Rail Infrastructure and Related Assets, &c., and
Employees to or from Company

s. 27

- (4) A transfer notice under subsection (2) may be combined with a transfer notice under subsection (3).
- (5) A transfer notice may –
 - (a) specify conditions including, without limitation –
 - (i) conditions relating to the transfer of the rail infrastructure and related assets, liabilities and contracts; and
 - (ii) conditions relating to the payment of consideration, if any is payable; and
 - (b) provide for any matter that is incidental to the transfer of the rail infrastructure and related assets, liabilities and contracts.
- (6) A transfer notice takes effect on the specified day or days, whether that day is before, on or after the day on which the transfer notice is published in the *Gazette*.
- (7) On the transfer day –
 - (a) the specified rail infrastructure and related assets vest in the transfer recipient, in accordance with the transfer notice, without the need for any further conveyance, transfer, assignment or

Rail Company Act 2009
Act No. 46 of 2009

s. 27

Part 4 – Transfer of Rail Infrastructure and Related Assets, &c., and Employees to or from Company

assurance but subject to any conditions specified in the transfer notice; and

- (b) the specified liabilities become the liabilities of the transfer recipient, in accordance with the transfer notice, without the need for any further conveyance, transfer, assignment or assurance but subject to any conditions specified in the transfer notice; and
- (c) the transferor ceases to be a party to the specified contracts unless the transfer notice provides otherwise or except to the extent specified in the transfer notice.

(8) On and after the transfer day –

- (a) a specified contract is taken to have been made by the transfer recipient; and
- (b) a reference to the transferor in a specified contract is taken to be or include, as appropriate, a reference to the transfer recipient.

(9) Subsection (7)(c) and subsection (8) have effect despite any contrary provision in the specified contract.

(10) The Minister may amend or revoke a transfer notice.

(11) A transfer notice is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

Rail Company Act 2009
Act No. 46 of 2009

Part 4 – Transfer of Rail Infrastructure and Related Assets, &c., and
Employees to or from Company

s. 28

(12) State tax is not payable in respect of any document prepared to give effect to a transfer notice.

28. Transitional provisions on transfer of rail infrastructure and related assets, &c.

(1) In this section –

transferring asset means any rail infrastructure and related assets specified in a transfer notice;

transferring contract means a contract specified in a transfer notice;

transferring liability means a liability specified in a transfer notice.

(2) On and after the transfer day, the following provisions apply unless the transfer notice provides otherwise:

(a) a reference to the transferor in a document in relation to a transferring asset, transferring liability or transferring contract is taken where appropriate to be or to include a reference to the transfer recipient;

(b) a legal proceeding that could have been instituted by or against the transferor immediately before the transfer day and that relates to a transferring asset, transferring liability or transferring

Rail Company Act 2009
Act No. 46 of 2009

s. 28

Part 4 – Transfer of Rail Infrastructure and Related Assets, &c., and Employees to or from Company

contract may be instituted by or against the transfer recipient but not by or against the transferor;

- (c) a legal proceeding instituted by or against the transferor that relates to a transferring asset, transferring liability or transferring contract and is pending immediately before the transfer day may be continued by or against the transfer recipient but not by or against the transferor;
- (d) a document relating to a legal proceeding referred to in paragraph (c) served on or by the transferor before the transfer day is taken to have been served on or by the transfer recipient;
- (e) a judgment or order of a court obtained by or against the transferor before the transfer day in relation to a transferring asset, transferring liability or transferring contract may be enforced by or against the transfer recipient but not by or against the transferor;
- (f) a contract made by the transferor relating to a transferring asset, transferring liability or transferring contract but not performed or discharged before the transfer day is taken to have been made by the transferor or transfer recipient, as appropriate;

Rail Company Act 2009
Act No. 46 of 2009

Part 4 – Transfer of Rail Infrastructure and Related Assets, &c., and
Employees to or from Company

s. 29

- (g) any act done or omitted to be done in relation to a transferring asset, transferring liability or transferring contract by the transferor before the transfer day is taken, where appropriate, to have been done or omitted by the transfer recipient.
- (3) On the transfer day, the obligations of the transferor in relation to a transferring liability are discharged.
- (4) A transfer notice may limit the extent to which the provisions of subsections (2) and (3) apply.

29. Removing doubt relating to transfer

- (1) If there is any doubt –
 - (a) as to whether any rail infrastructure and related assets, liability or contract, or any part of any rail infrastructure and related assets, liability or contract, is transferred to the transfer recipient by the operation of section 27(7); or
 - (b) as to whether any contract or other document relates to any rail infrastructure and related assets, liability or contract that is transferred to the transfer recipient by the operation of section 27(7) –

the Minister is to determine the matter and is to provide written notice of that determination to

Rail Company Act 2009
Act No. 46 of 2009

s. 30 Part 4 – Transfer of Rail Infrastructure and Related Assets, &c., and Employees to or from Company

the transfer recipient and, if the Minister considers it appropriate, a party to a contract that is relevant to the determination of the matter.

(2) The determination of the Minister under subsection (1) is final and binding.

30. Transfer of employees

(1) A transfer notice under section 27(2) may specify the State Service employees and State Service officers whose employment is to be transferred to the Company.

(2) Before the transfer day, the Minister is to give to each State Service employee and State Service officer who is to become a transferred employee written notice that his or her employment is to be transferred to the Company and the date, or approximate date, on which that transfer will take effect.

(3) A State Service employee or State Service officer may not be specified in a transfer notice unless that person has agreed, in writing, to the transfer of his or her employment to the Company.

(4) On the transfer day, each State Service employee and State Service officer who is specified in a transfer notice –

(a) becomes an employee of the Company and the Company becomes the employer of that person; and

Rail Company Act 2009
Act No. 46 of 2009

Part 4 – Transfer of Rail Infrastructure and Related Assets, &c., and
Employees to or from Company

s. 30

- (b) ceases to be a State Service employee or State Service officer.
- (5) A transferred employee –
 - (a) is to be employed by the Company for not less than the same remuneration as he or she was receiving immediately before becoming a transferred employee; and
 - (b) except where an award, industrial agreement, any other law or the transfer notice otherwise provides, retains all accrued entitlements as if employment as an employee of the Company were a continuation of employment with the Crown; and
 - (c) is entitled to claim those entitlements against the Company; and
 - (d) except where the transfer notice provides otherwise, is not entitled to any compensation or other payment in respect of the change of employer or any change in his or her position description, title, role or duties that results from the change of employer.
- (6) Subject to subsection (8), a contract of employment 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 and for that purpose –

Rail Company Act 2009
Act No. 46 of 2009

s. 31

Part 4 – Transfer of Rail Infrastructure and Related Assets, &c., and Employees to or from Company

- (a) a reference in that contract to the Crown is taken where appropriate to be or to include a reference to the Company; and
- (b) that contract is taken where appropriate to be or to include a reference to the Company.

(7) The period of service with the Crown of a person who becomes a transferred employee is taken to be service with the Company.

(8) Before, or as soon as practicable after, the employment of a person is transferred to the Company by the operation of subsection (4), the Company by written notice provided to the person may determine position description, title, role or duties for the position to be occupied, or occupied, by the person in the Company that is different from his or her position description, title, role or duties with the Crown.

(9) Nothing in this section prevents any of the terms of employment of a transferred employee being altered by an award, industrial agreement or law after he or she becomes a transferred employee.

31. Superannuation for certain employees

The Company, and any subsidiary of the Company, must comply with any instruction in relation to superannuation given to it by the Minister administering the *Public Sector Superannuation Reform Act 2016*.

Rail Company Act 2009
Act No. 46 of 2009

Part 4 – Transfer of Rail Infrastructure and Related Assets, &c., and
Employees to or from Company

s. 32

32. Long service leave for certain employees

If immediately before the transfer day a transferred employee was an employee within the meaning of the *Long Service Leave (State Employees) Act 1994*, the transferred employee continues to be such an employee while employed by the Company or a subsidiary of the Company and, for that purpose, the Company or subsidiary is taken to be a prescribed authority within the meaning of that Act.

PART 5 – SALE OF COMPANY AND SUBSIDIARY

33. Sale of Company

- (1) While all the shares in the Company are held in trust for the Crown, the members, jointly, may do one or more of the following:
 - (a) sell their shares in the Company;
 - (b) direct the Company to sell its shares in a subsidiary of the Company;
 - (c) direct the Company to sell all or any of its assets;
 - (d) require the Company to direct a subsidiary of the Company to sell all or any of its assets.
- (2) A direction or requirement is to be in writing.
- (3) The Company, and a subsidiary of the Company, are to comply with a direction or requirement.
- (4) Despite subsection (1), the members may not –
 - (a) sell their shares in the Company; or
 - (b) direct the Company to sell its shares in a subsidiary of the Company; or
 - (c) direct the Company to sell all its assets or substantial assets; or
 - (d) require the Company to direct a subsidiary of the Company to sell all its assets or substantial assets –

unless at least two-thirds of the members of each House of Parliament have passed a motion that approves that sale of shares, that direction to sell shares or substantial assets or that requirement.

(5) In subsection (4) –

substantial assets, in relation to the Company, or a subsidiary of the Company, means an asset or 2 or more assets which, if sold, would affect the operation of the Company or of the subsidiary.

(6)

34. Direction to facilitate sale

- (1) The members may direct the Company, or require the Company to direct a subsidiary of the Company, to do one or more of the following to facilitate a sale under section 33:
 - (a) take the action specified in the notice;
 - (b) take all reasonable steps and actions to facilitate the sale.
- (2) A direction or requirement is to be in writing provided to the Company or the subsidiary of the Company.
- (3) The Company, and the subsidiary of the Company, are to comply with a direction or requirement.
- (4) The Board and the chief executive officer of the Company, and the board of directors and chief

executive officer of the subsidiary of the Company, may do all things necessary or convenient to be done to enable compliance with a direction or requirement.

35. Superannuation for certain employees

If –

- (a) any employees of the Company or a subsidiary of the Company are subject to a superannuation scheme provided in accordance with the *Public Sector Superannuation Reform Act 2016*; and
- (b) either –
 - (i) an agreement for the sale of shares in the Company or in a subsidiary of the Company has been made; or
 - (ii) an agreement for the sale of any assets of the Company or of a subsidiary of the Company has been made and provides for the purchaser under that agreement to employ an employee referred to in paragraph (a) –

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.

36. Long service leave for certain employees

(1) In this section –

prescribed employee means –

- (a) in the case of a sale of the shares in a Company or in a subsidiary of the Company, an employee of the Company or subsidiary to whom, immediately before the sale day, the *Long Service Leave (State Employees) Act 1994* applies; or
- (b) in the case of a sale of any asset of the Company or of a subsidiary of the Company, an employee of the Company or subsidiary to whom, immediately before the sale day, the *Long Service Leave (State Employees) Act 1994* applies if the agreement for the sale of the assets provides for the purchaser under the agreement to become the employer of that employee;

sale day means –

- (a) the day on which the shares in the Company, or in the subsidiary of the Company, are acquired by the purchaser in the sale under section 33; or

Rail Company Act 2009
Act No. 46 of 2009

s. 36

Part 5 – Sale of Company and Subsidiary

- (b) the day on which any assets of the Company, or of the subsidiary of the Company, vest in the purchaser of those assets under an agreement for their sale under section 33.
- (2) On the sale day, the *Long Service Leave (State Employees) Act 1994* ceases to apply to the Company and its prescribed employees or the subsidiary of the Company and its prescribed employees.
- (3) In calculating, on or after the sale day, the period of service an employee has completed with the Company or a subsidiary of the 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, immediately before the sale day, a period of service with the Company, or the subsidiary, 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, or the subsidiary of the Company, immediately before the sale day;

S is the total period of service the employee has completed with the Company, or

with the subsidiary and the Company, (including service the employee is taken to have completed with the Company) immediately before the sale day;

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 the shares in the Company, or the subsidiary, had always been owned by the person who purchased them in the sale under section 33.

37. Proceeds of sale of Company

The proceeds of a sale referred to in section 33(1) are to be paid into the Public Account.

PART 6 – MISCELLANEOUS

38. Protection for acts done under this Act

Any thing done or omitted in good faith that is done or omitted under, or authorised by, this Act does not, except as otherwise expressly provided by or under this Act or as provided or agreed by the person doing or omitting the thing –

- (a) terminate a contract, other instrument or obligation; or
- (b) give rise to a right to terminate a contract, other instrument or obligation by fulfilling a condition or in any other manner; or
- (c) release a surety or other obligee wholly or in part from an obligation; or
- (d) give rise to any right or remedy by a party to a contract or other instrument; or
- (e) constitute a breach of a contract or other instrument; or
- (f) constitute a civil or criminal wrong; or
- (g) constitute a breach of confidence.

38A. Treasurer’s Instructions

- (1) In this section –

Treasurer’s Instruction means a Treasurer’s Instruction issued under section 114 of

the *Government Business Enterprises Act 1995*.

- (2) A Treasurer's Instruction applies to the Company, and each subsidiary of the Company, as if they were Government Business Enterprises specified in Schedules 1, 2 and 3 of the *Government Business Enterprises Act 1995*.
- (3) The Treasurer may issue Treasurer's Instructions specifically in relation to the Company, and each subsidiary of the Company, as if they were Government Business Enterprises specified in Schedules 1, 2 and 3 of the *Government Business Enterprises Act 1995*.
- (4) The Company and each subsidiary of the Company are to comply with all relevant Treasurer's Instructions.
- (5) The Treasurer may exempt the Company or a subsidiary of the Company, or both, from the obligation to comply with all or part of a Treasurer's Instruction.

39. Application of Corporations Act

To the extent that a provision of this Act is incapable of concurrent operation with the Corporations Act, that provision is declared to be a displacement provision for the purposes of section 5G of the Corporations Act.

40. Non-application of certain Acts

- (1) Entering into and giving effect to a contract, or a contract of a class, approved under subsection (2) is authorised by this Act for the purposes of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Policy Reform (Tasmania) Act 1996*.
- (2) The Minister, by order published in the *Gazette*, may approve for the purposes of this section a contract, or a class of contracts, that relates to a sale under section 33.
- (3) An order under subsection (2) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

41. Delegation by Minister

The Minister, in writing, may delegate to any person any of his or her powers or functions under this Act, other than this power of delegation.

42. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may –
 - (a) provide, or provide for, a process for the resolution of a dispute as to what is a reasonable fee or other reasonable

consideration for the purposes of section 25(4); and

- (b) provide for such a process by reference to another Act or in any other manner; and
- (c) authorise the Valuer-General, or another person specified in the regulations, to determine such a dispute; and
- (d) provide that the determination of such a dispute in accordance with the process provided in, or provided for by, the regulations is binding on the parties to the dispute; and
- (e) provide for arrangements for employees affected by a transfer of employment by virtue of this Act or a sale under section 33; and
- (f) provide for the deregistration of the Company or a subsidiary of the Company under the Corporations Act.

(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

Rail Company Act 2009
Act No. 46 of 2009

s. 42

Part 6 – Miscellaneous

- (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 approved, determined, applied or regulated by the Minister or the Treasurer.
- (6) The regulations may –
 - (a) provide for savings or transitional matters necessary or expedient for bringing this Act into operation; and
 - (b) provide for savings or transitional matters consequent on –
 - (i) a sale under section 33; or
 - (ii) a transfer of any rail infrastructure and related assets, liabilities and contracts to a transfer recipient under a transfer notice.
- (7) Regulations made under subsection (6) may –
 - (a) include, without limitation, provisions providing for the transfer of employees to a transfer recipient and for related matters; and
 - (b) provide for any of the savings or transitional matters to take effect when

this Act commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.

43. 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 Minister for Infrastructure; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Infrastructure, Energy and Resources.

44. Repeals

- (1) In this section –

prescribed legislation means this Act and the regulations.

- (2) The prescribed legislation is repealed and rescinded –

- (a) if the shares in the Company are sold under section 33, on the day on which those shares in the Company are acquired by the purchaser in the sale; or

Rail Company Act 2009
Act No. 46 of 2009

s. 45

Part 6 – Miscellaneous

- (b) if the Company has been deregistered, on the day fixed by proclamation under subsection (3).
- (3) On the recommendation of the Minister, the Governor, by proclamation, may repeal and rescind the prescribed legislation.

45. *See Schedule 1.*

SCHEDULE 1

The amendments effected by Section 45 and this Schedule have been incorporated into authorised versions of the following Acts:

- (a) *Tasmanian Public Finance Corporation Act 1985;*
- (b) *Water and Sewerage Corporations Act 2008.*

SCHEDEULE 2 – PROVISIONS TO BE INCLUDED IN CONSTITUTION

Section 7

1. Terms of directors

- (1) Except as approved under clauses 2 and 3, a person may not be appointed to serve as director on the Board if the person –
 - (a) has previously served 2 full terms as director on the Board, whether consecutive or not; or
 - (b) has previously held the position of chief executive officer of the Company.
- (2) For the avoidance of doubt, subclause (1) does not apply to a term as director if –
 - (a) the person –
 - (i) holds the office of director to fill a vacancy in the office of director; and
 - (ii) only holds that office for the remainder of the vacating director's term; and
 - (b) the person has not previously been appointed as director for a full term.
- (3) For the purposes of this clause, a person has served a full term as director –

- (a) if the person has held the office of director for the amount of time for which the person was appointed to that office, before being required to be reappointed to the office; and
- (b) regardless of whether that person served the full term as director before, or after, the commencement of the *Government Business Governance Reforms Act 2025*.

(4) For the purposes of this clause, the operation of section 21(3)(b) of the *Acts Interpretation Act 1931* in respect of a person's appointment to the office of director is taken to be an extension of the person's full term as director and not a reappointment of the person to the office of director.

2. Members may appoint directors for subsequent terms

- (1) A person may be appointed for a third or subsequent term as director if the members are satisfied that exceptional circumstances exist that require the person to serve a third, or subsequent, term.
- (2) If a person is appointed for a third or subsequent term as director, the Minister is to table a notice in each House of Parliament, within 7 sitting-days after the appointment, that includes –
 - (a) a statement that includes the following information:

Rail Company Act 2009
Act No. 46 of 2009

sch. 2

- (i) the fact that the appointment has been made;
- (ii) the duration of the term of the appointment so made;
- (iii) how many times the person, so appointed, has been appointed to the office of director; and

(b) if appropriate, the exceptional circumstances relied upon by the members when making the appointment.

3. Members may appoint former chief executive officers as directors

- (1) A former chief executive officer of the Company may be appointed as director if the members are satisfied that exceptional circumstances exist that require the person to be appointed as director.
- (2) If a former chief executive officer of the Company is appointed as director under subclause (1), the Minister is to table a notice in each House of Parliament, within 7 sitting-days after the appointment, that includes –
 - (a) a statement that includes the following information:
 - (i) the fact that the appointment has been made;
 - (ii) the duration of the term of the appointment so made;

Rail Company Act 2009
Act No. 46 of 2009

sch. 2

- (iii) that the person was previously the chief executive officer of the Company; and
- (b) if appropriate, the exceptional circumstances relied upon by the members when making the appointment.

Rail Company Act 2009
Act No. 46 of 2009

NOTES

The foregoing text of the *Rail Company Act 2009* 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 1 January 2026 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Rail Company Act 2009</i>	No. 46 of 2009	27.10.2009
<i>Rail Safety Act 2009</i>	No. 64 of 2009	24.11.2010
<i>Rail Safety National Law (Tasmania) Act 2012</i>	No. 38 of 2012	20.1.2013
<i>Public Sector Superannuation Reform (Consequential and Transitional Provisions) Act 2016</i>	No. 54 of 2016	31.3.2017
<i>Metro Tasmania Amendment Act 2018</i>	No. 9 of 2018	10.9.2018
<i>Financial Management (Consequential and Transitional Provisions) Act 2017</i>	No. 4 of 2017	1.7.2019
<i>Tasmanian Public Finance Corporation Amendment Act 2023</i>	No. 22 of 2023	1.7.2023
<i>Government Business (Sale Reforms) Act 2025</i>	No. 20 of 2025	27.11.2025
<i>Government Business Governance Reforms Act 2025</i>	No. 18 of 2025	1.1.2026

TABLE OF AMENDMENTS

Provision affected	How affected
Section 4	Amended by No. 64 of 2009, s. 189, No. 38 of 2012, Sched. 1 and No. 18 of 2025, s. 50
Section 7	Amended by No. 18 of 2025, s. 51
Section 8	Amended by No. 18 of 2025, s. 52
Section 11	Amended by No. 22 of 2023, s. 33
Section 14	Amended by No. 22 of 2023, s. 34
Section 15	Amended by No. 9 of 2018, s. 29
Section 16	Amended by No. 9 of 2018, s. 30
Section 17	Amended by No. 54 of 2016, s. 95
Section 20	Amended by No. 9 of 2018, s. 31
Section 20A	Inserted by No. 18 of 2025, s. 53

Rail Company Act 2009
Act No. 46 of 2009

Provision affected	How affected
Section 20B	Inserted by No. 18 of 2025, s. 53
Section 20C	Inserted by No. 18 of 2025, s. 53
Section 20D	Inserted by No. 18 of 2025, s. 53
Section 20E	Inserted by No. 18 of 2025, s. 53
Section 22A	Inserted by No. 18 of 2025, s. 54
Section 22B	Inserted by No. 18 of 2025, s. 54
Section 22C	Inserted by No. 18 of 2025, s. 54
Section 31	Substituted by No. 54 of 2016, s. 96
Section 33	Amended by No. 20 of 2025, s. 20
Section 35	Amended by No. 54 of 2016, s. 97
Section 37	Amended by No. 4 of 2017, Sched. 1
Section 38A	Inserted by No. 9 of 2018, s. 32
Schedule 2	Inserted by No. 18 of 2025, s. 55