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K Woodward
Chief Parliamentary Counsel
Dated 28 January 2026



TASMANIA

TASMANIAN PORTS CORPORATION ACT 2005

No. 41 of 2005

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SCHEDULE 1 –

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TASMANIAN PORTS CORPORATION ACT 2005

No. 41 of 2005

An Act to provide for the control of, and other matters relating to, the Tasmanian Ports Corporation Pty. Ltd., for the transfer to that Corporation or the Crown of the assets and liabilities of the four port companies formed under the *Port Companies Act 1997*, for the repeal of the *Port Companies Act 1997* and rescission of the *Port Companies Regulations 1999* and for related matters

[Royal Assent 13 October 2005]

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 *Tasmanian Ports Corporation Act 2005*.

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2. Commencement

- (1) This Act, other than section 35 and Schedule 1, commences on the day on which this Act receives the Royal Assent.
- (2) Section 35 and Schedule 1 commence on the transfer day.

3. Purposes of Act

The purposes of this Act are to –

- (a) provide for matters relating to the control of the Tasmanian Ports Corporation Pty. Ltd. (ACN 114 161 938) registered under the Corporations Act; and
- (b) vest the assets and liabilities of the port companies in either the Corporation or the Crown; and
- (c) make provision in respect of the employees of the port companies consequent on the transfer of those assets and liabilities.

4. Interpretation

In this Act, unless the contrary intention appears –

annual general meeting means the annual general meeting of the Corporation held in accordance with its constitution;

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

Board means the Board of Directors of the Corporation;

constitution means the constitution of the Corporation;

Corporation means the Tasmanian Ports Corporation Pty. Ltd. (ACN 114 161 938) registered under the Corporations Act;

Crown asset or liability means an asset or liability that is transferred to the Crown by a notice made under section 25;

director means a director of the Corporation;

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 Corporation, means a member referred to in section 8;

port company means any of the following companies formed under the *Port Companies Act 1997* and registered under the Corporations Act:

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- (a) Hobart Ports Corporation Pty. Ltd. (ACN 078 720 180);
- (b) Port of Launceston Pty. Ltd. (ACN 078 720 108);
- (c) Port of Devonport Corporation Pty. Ltd. (ACN 078 720 224);
- (d) Burnie Port Corporation Pty. Ltd. (ACN 078 720 279);

principal objectives means the objectives of the Corporation 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
- (c) shares in a subsidiary held by a port company; and
- (d) any other rights;

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

subsidiary has the same meaning as in the Corporations Act;

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

transfer day means the day determined by the Minister under section 5 to be the transfer day;

transferred asset or liability means an asset that vests in, or a liability that becomes a liability of, the Corporation by the operation of section 20;

Treasurer's Instructions means instructions issued under section 114 of the *Government Business Enterprises Act 1995* in accordance with section 29 of this Act;

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

5. Transfer day

- (1) The Minister, by notice published in the *Gazette*, may determine a day to be the transfer day.
- (2) A notice under subsection (1) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

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6. Principal objectives of Corporation

The principal objectives of the Corporation are –

- (a) to facilitate trade for the benefit of Tasmania; and
- (b) to operate its activities in accordance with sound commercial practice.

7. Constitution of Corporation

- (1) The constitution of the Corporation is to include the principal objectives of the Corporation.
- (1A) As soon as practicable after the commencement of this subsection, the Corporation is to amend its constitution to include provisions to the effect of the provisions in Schedule 2.
- (2) The provisions of the constitution of the Corporation are to be consistent with this Act.

8. Members of Corporation

- (1) The members of the Corporation are –
 - (a) the Minister; and
 - (b) the Treasurer.

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- (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 Corporation; 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 Corporation is taken to include a reference to the other Minister so nominated.
- (3) If the Treasurer nominates another Minister as a member of the Corporation, the Treasurer is to notify the Corporation in writing of that fact, as soon as practicable after the Treasurer makes the nomination.

9. Shares

Shares issued to the members of the Corporation are held by the members in trust for the Crown.

10. Consideration for further shares

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

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- (a) any money provided by Parliament for that purpose;
- (b) any assets or rights vested in the Corporation under section 20(2);
- (c) any other consideration as so agreed.

11. Limitation on sale of shares

- (1) The members of the Corporation may not sell or otherwise dispose of the shares in the Corporation held by them unless a motion approving the sale or disposal is approved by at least two-thirds of the members of each House of Parliament.
- (2)
- (3) The members of the Corporation must not vote at a meeting of the shareholders of the Corporation to allow the Corporation to –
 - (a) offer shares in the Corporation for subscription; or
 - (b) grant options over unissued shares in the Corporation; or
 - (c) invite persons to subscribe for shares in the Corporation; or
 - (d) allot or issue shares in the Corporation on a basis other than to existing shareholders pro rata to their existing shareholdings.

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- (4) In subsection (3), a reference to shares includes a reference to shares of a kind specified in section 254A(1) of the Corporations Act.

12. Directors of Corporation

- (1) The members of the Corporation are to ensure that it has a Board of Directors who have the experience and skills necessary to enable the Corporation to achieve its objectives.
- (2) The members of the Corporation are to appoint the Board in accordance with the constitution.
- (3) Whenever a vacancy arises on the Board and at least 3 months before the annual general meeting of the Corporation if practicable or, if not practicable, at such other time as the Minister determines, the Minister is to establish a panel consisting of –
- (a) the chairperson of the Board; and
 - (b) the Secretary of the Department; and
 - (c) the Secretary of the department responsible for the administration of the *State Policies and Projects Act 1993*; and
 - (d) the Secretary of the department responsible for the administration of the *Government Business Enterprises Act 1995*.
- (4) The Board may submit to the panel a list of names of persons suitable for appointment as

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subsequent directors and chairperson of the Board.

- (5) The panel is to submit to the members of the Corporation a list of names of persons suitable for appointment as subsequent directors and chairperson of the Board.
- (6) The panel may regulate its own proceedings as it considers appropriate, including the calling of, and the conduct of business at, its meetings.
- (7) The panel may permit members to participate in a particular meeting or all meetings by telephone, video conference or any other means of communication and a member who participates in a meeting as permitted under this subsection is taken to be present at the meeting.
- (8) If that number of members of the panel that constitutes a quorum signs a document containing a statement that they are in favour of a resolution or proposal set out in the document, a resolution or proposal in those terms is taken to have been passed or agreed to at a meeting of the panel on the day on which the document is signed or, if the members do not sign it on the same day, on the day on which the last of the members signs the document.
- (9) For the purposes of subsection (8), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members, is taken to constitute one document.

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13. Status of Corporation

- (1) Unless this or any other Act expressly provides otherwise, the Corporation or a subsidiary of the Corporation –
 - (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 Corporation or subsidiary of the Corporation unless –
 - (a) the Treasurer gives a guarantee or indemnity under section 16 in relation to that liability or obligation; or
 - (b) a guarantee is given under the *Tasmanian Public Finance Corporation Act 1985* in respect of the Corporation or subsidiary.

13A. Members' statement of expectations

- (1) The members are to provide the Board with a statement of expectations.
- (2) The statement of expectations is to specify –
 - (a) the expectations of the members in relation to the strategic priorities of the Corporation; and

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- (b) the policy expectations of the members for the performance of the Corporation and its subsidiaries.
- (3) The members, at any time, may 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 Corporation.
- (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).

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13B. Directions by members

- (1) The members may give a direction to the Corporation or a wholly-owned subsidiary of the Corporation.
- (2) Before the members give a direction under subsection (1) to the Corporation or a wholly-owned subsidiary of the Corporation, the members are to notify the Corporation 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 Corporation 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 Corporation, or a wholly-owned subsidiary, under subsection (1) –
 - (a) may be given even if the direction is contrary to –
 - (i) the constitution; or
 - (ii) a statement of expectations under section 13A in force in respect of the Corporation or subsidiary; or
 - (iii) the statement of corporate intent under section 13F in force in

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- respect of the Corporation or subsidiary; or
- (iv) Treasurer's Instructions in force in respect of the Corporation or subsidiary; or
- (v) if the direction is given to a wholly-owned subsidiary, the constitution of the subsidiary; or
- (vi) if the Corporation 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 Corporation or its subsidiary at any time, amend or revoke a direction given to the Corporation 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 13C in respect of the direction.
- (5) As soon as practicable after a direction is given under subsection (1), or amended or revoked

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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 Corporation, or a wholly-owned subsidiary, must comply with each direction given to the Corporation 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.

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13C. Corporation 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 13B(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 13B; 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 –

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- (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.

13D. Publication of directions

- (1) If a copy of a direction, or a copy of a written notice of an amendment or revocation of such a direction, is given to the Board or a subsidiary board under section 13B(5), the Minister must table a copy of the direction, or of 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 13B(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 –

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- (a) disadvantage or cause damage to the Corporation 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 13B.

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- (5) In the report prepared by the Board in respect of the Corporation 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 13B, that was in effect in respect of the Corporation or a subsidiary during the financial year; and
 - (ii) each revocation of a direction that was given to the Board or a subsidiary board, under section 13B, 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 13B in respect of the financial year – a copy of the statement.

13E. Duty to notify members of compliance with directions

If the Board or a subsidiary board is given a direction under section 13B in respect of the Corporation or a subsidiary, the relevant board must notify the members, in writing, of the progress of the Corporation, or subsidiary, in complying with the direction –

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

13F. Statement of corporate intent

- (1) In this section –

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

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

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- (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 Corporation is to –
- (a) relate to the Corporation and its subsidiaries; and
 - (b) be consistent with each of the following:
 - (i) the statement of expectations in respect of the Corporation and its subsidiaries that is in force under section 13A;
 - (ii) each direction under section 13B that is in effect in respect of the Corporation and its subsidiaries;
 - (iii) the Treasurer's Instructions that are in force in respect of the Corporation 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

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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 Corporation –
- (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 Corporation, 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 Corporation at any time.

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- (8) An amendment to a statement of corporate intent, or a substitute statement of corporate intent, for the Corporation 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.

14. Accounts and report of Corporation

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

14A. Corporation to report on progress

- (1) Before 28 February in each financial year, the Board must –
- (a) prepare a report on the performance of the Corporation, and its subsidiaries, for

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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 the members a copy of a report under subsection (1), the Board must publish a copy of the report on a website maintained by, or on behalf of, the Corporation 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 Corporation 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

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- (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.

14B. Duty to notify members of adverse circumstances

- (1) In this section –

governing documents, in relation to the Corporation, includes –

- (a) the statement of expectations in force in respect of the Corporation and its subsidiaries under section 13A; and
- (b) each direction under section 13B in effect in respect of the Corporation and its subsidiaries; and
- (c) the statement of corporate intent in force in respect of the Corporation and its subsidiaries under section 13F; and
- (d) the Treasurer's Instructions in force in respect of the Corporation and its subsidiaries.

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- (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 Corporation or its subsidiaries, as specified in the governing documents of the Corporation; or
 - (b) significantly affect the financial viability or operating ability of –
 - (i) the Corporation and its subsidiaries; or
 - (ii) any partnership, trust, joint venture or arrangement for the sharing of profits in which the Corporation or its subsidiaries participate; or
 - (c) prevent the Corporation or its subsidiaries from complying with a direction given to the Corporation, or a subsidiary, under section 13B; or
 - (d) significantly affect the ability of the Corporation or its subsidiaries to comply with a direction given to the Corporation, or a subsidiary, under section 13B; or
 - (e) otherwise significantly affect the Corporation, or its subsidiaries, in any manner.

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- (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.

14C. 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 Corporation 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
 - (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

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framework in force under this section in respect of the Corporation 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 Corporation; and
 - (b) as far as is reasonably practicable, the framework remains so published while it is in force.

15. Loan from Treasurer

- (1) The Treasurer may lend to the Corporation or any of its subsidiaries, out of money provided by Parliament for the purpose, any money that the Treasurer considers appropriate.
- (2) A loan is subject to any conditions determined by the Treasurer.
- (3) An amount lent under subsection (1) and any interest or other charge payable in respect of the loan is a debt repayable by the Corporation or subsidiary into the Public Account.

16. Guarantee or indemnity

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

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-
- (a)
 - (b) the performance of an obligation undertaken by the Corporation or subsidiary or which the Corporation 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.

17. Guarantee fees

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

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- (b) the subsidiary were a subsidiary within the meaning of that Act.

(2)

18. Tax equivalents

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

- (a) the Corporation 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)

- (3) The balance of any losses of a port company are available to the Corporation for the purposes of the calculation of an income tax equivalent under the *Government Business Enterprises Act 1995* in respect of the financial year ending on 30 June 2006.

- (4) In subsection (3) –

balance of any losses, in respect of a port company, means the balance of losses of the port company –

- (a) as calculated in accordance with the Treasurer's Instructions issued under the *Government*

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Business Enterprises Act 1995 as
at the day immediately before the
transfer day; and

- (b) that would, if the day before the transfer day were the end of the financial year, be available to be carried forward from one financial year to the next in relation to the calculation of the taxable income of the port company under the *Income Tax Assessment Act 1936* of the Commonwealth and the *Income Tax Assessment Act 1997* of the Commonwealth.

19. Effect of *Financial Agreement Act 1994*

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

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Part 3 – Transfer of Assets, Liabilities and Employees to Corporation

**PART 3 – TRANSFER OF ASSETS, LIABILITIES AND
EMPLOYEES TO CORPORATION**

20. Transfer of assets and liabilities to Corporation

(1) In this section –

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.

(2) On the transfer day –

- (a) the assets of each of the port companies vest in the Corporation; and
- (b) the liabilities of each of the port companies become the liabilities of the Corporation.

(3) For the purposes of the application of subsection (2), a notice made under section 25 is taken to take effect immediately before assets vest in, and liabilities become the liabilities of, the Corporation by reason of subsection (2).

(4) State tax is not payable in respect of any document prepared to give effect to subsection (2).

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21. Construction of instruments

(1) In this section –

document means a document, or part of a document –

- (a) that was in force immediately before the transfer day; and
- (b) in which there is a reference to one or more of the port companies –

but does not include a document, or part of a document, that relates to a Crown asset or liability.

(2) Unless the context or subject matter of a document requires otherwise, on and after the transfer day a reference in the document to a port company is taken, where appropriate, to be or include a reference to the Corporation.

22. Continuation and institution of proceedings, &c.

(1) This section does not apply to any legal or other proceeding, or judgment or order of a court, that relates to a Crown asset or liability.

(2) On and after the transfer day –

- (a) legal or other proceedings instituted by or against a port company before, and pending on, the transfer day may be continued by or against the Corporation; and

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- (b) any legal or other proceedings that, immediately before the transfer day, could have been instituted by or against a port company may be instituted by or against the Corporation; and
- (c) a judgment or order of a court obtained before the transfer day by or against a port company may be enforced by or against the Corporation; and
- (d) a document relating to legal or other proceedings that has been served on or by a port company before the transfer day is taken, where appropriate, to have been served on or by the Corporation.

23. Contracts

- (1) In this section –

contract means a contract, agreement, arrangement, undertaking or part of a contract, agreement, arrangement or undertaking, but does not include –

- (a) a contract of employment; or
 - (b) a contract that relates to a Crown asset or liability.
- (2) A contract made or entered into by a port company, but not performed, executed, discharged or otherwise terminated, before the transfer day is taken to be a contract made or entered into by the Corporation.

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- (3) A party to a contract referred to in subsection (2) is not entitled to terminate that contract, claim that there has been a breach or default of contract or claim any remedy by reason only of the operation of this Act.

24. Arrangements for employees of port company to transfer to Corporation

- (1) In this section –

transferred employee means a person who becomes the employee of the Corporation on the transfer day by the operation of subsection (4).

- (2) As soon as practicable after the transfer day is notified in the *Gazette* under section 5, the Corporation is to give to each port company written notice of the date of the transfer day.
- (3) As soon as practicable after receiving notice of the date of the transfer day, each port company is to give to each of its employees written notice that his or her employment is to be transferred on that date to the Corporation by the operation of subsection (4).
- (4) On the transfer day, a person who is an employee of a port company –
 - (a) becomes an employee of the Corporation and the Corporation becomes the employer of that person; and

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- (b) that person ceases to be an employee of the port company.
- (5) A transferred employee –
 - (a) is to be employed by the Corporation 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 or any other law otherwise provides, retains all accrued entitlements as if employment as an employee of the Corporation were a continuation of employment with the port company; and
 - (c) is entitled to claim those entitlements against the Corporation; and
 - (d) 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 in his or her employment from a port company to the Corporation.
- (6) Subject to subsections (8) and (9), 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.
- (7) The period of service with a port company of a person who becomes a transferred employee is taken to be service with the Corporation.

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- (8) A chief executive officer of a port company whose employment is transferred to the Corporation by the operation of subsection (4) is not transferred to the position of chief executive officer of the Corporation unless the Board has appointed him or her to that position.
- (9) Before, or as soon as practicable after, the employment of a person is transferred to the Corporation by the operation of subsection (4), the Corporation 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 Corporation that is different from his or her position description, title, role or duties in the port company.
- (10) 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.

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Part 4 – Transfer of Assets and Liabilities to Crown

**PART 4 – TRANSFER OF ASSETS AND LIABILITIES
TO CROWN**

25. Transfer of assets and liabilities to Crown

(1) In this section –

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.

(2) The Minister, by one or more notices published in the *Gazette* on or before the transfer day, may –

- (a) transfer an asset or a liability of a port company to the Crown (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.

(3) Consideration for a transfer under subsection (2) of an asset or liability may be by assumption of liabilities or otherwise.

(4) If the Corporation is of the opinion that the transfer of a particular asset or liability of a port

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company to the Crown by a notice under subsection (2) would result in the Corporation becoming insolvent, within the meaning of the Corporations Act, on the transfer day, the Corporation is to advise the Minister of that opinion.

- (5) The Minister is to table a copy of the advice under subsection (4) in each House of Parliament within 5 sitting-days after receiving it.
- (6) On the transfer day –
 - (a) a notice under subsection (2) takes effect; and
 - (b) the assets specified in a notice under subsection (2) vest in the Crown subject to any relevant conditions specified in the notice; and
 - (c) any liability specified in a notice under subsection (2) becomes a liability of the Crown subject to any relevant conditions specified in the notice.
- (7) If any dispute arises –
 - (a) as to whether an asset or liability is transferred to the Crown under subsection (2); or
 - (b) as to whether any, or any part of any, contract relates to an asset or liability that is transferred under subsection (2) –

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Part 4 – Transfer of Assets and Liabilities to Crown

the Minister may determine the matter and is to provide the port company concerned, the Corporation and any relevant Head of Agency, within the meaning of the *State Service Act 2000*, with written notice of that determination.

- (8) The determination of the Minister under subsection (7) is final and binding on the port company concerned, the Corporation and the Crown.
- (9) A notice under subsection (2) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.
- (10) State tax is not payable in respect of a notice under subsection (2) or any document prepared to give effect to subsection (6).

26. Construction of documents

- (1) In this section –

document means a document, or part of a document –

- (a) that was in force immediately before the transfer day; and
- (b) in which there is a reference to one or more of the port companies; and
- (c) that relates to a Crown asset or liability.

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Part 4 – Transfer of Assets and Liabilities to Crown

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- (2) Unless the context or subject matter of a document requires otherwise, on and after the transfer day a reference in the document to a port company is taken, where appropriate, to be or include a reference to the Crown.

27. Continuation and institution of proceedings, &c.

- (1) This section applies to any legal or other proceeding, or judgment or order of a court, that relates to a Crown asset or liability.
- (2) On and after the transfer day –
- (a) any legal or other proceedings instituted by or against a port company before, and pending on, the transfer day may be continued by or against the Crown; and
 - (b) any legal or other proceedings in respect of a Crown asset or liability that, immediately before the transfer day, could have been instituted by or against a port company may be instituted by or against the Crown; and
 - (c) a judgment or order of a court obtained before the transfer day by or against a port company may be enforced by or against the Crown; and
 - (d) a document relating to legal or other proceedings that has been served on or by a port company before the transfer day is taken, where appropriate, to have been served on or by the Crown.

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Part 4 – Transfer of Assets and Liabilities to Crown

28. Contracts

(1) In this section –

contract means a contract, agreement, arrangement or undertaking, or part of a contract, agreement, arrangement or undertaking, that relates to a Crown asset or liability but does not include a contract of employment.

(2) A contract made or entered into by a port company, but not performed, executed, discharged or otherwise terminated, before the transfer day is taken to be a contract made or entered into by the Crown.

(3) A party to a contract referred to in subsection (2) is not entitled, by reason only of the operation of this Act –

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

PART 5 – MISCELLANEOUS

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

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Part 5 – Miscellaneous

29A. 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 Corporations legislation displacement provision for the purposes of section 5G of the Corporations Act.

30. 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.

31. Repeal of *Port Companies Act 1997* and *Port Companies Regulations 1999*

The Governor, by proclamation, may –

- (a) repeal the *Port Companies Act 1997*; and
- (b) rescind the *Port Companies Regulations 1999*.

32. Directors of port companies

- (1) The appointment of a person as a director of a port company is revoked on the day the company is deregistered under the Corporations Act.
- (2) A person is not entitled to any compensation or other payment in respect of the revocation of an appointment under subsection (1) despite

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Part 5 – Miscellaneous

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anything to the contrary in his or her instrument of appointment.

33. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (3) A provision referred to in subsection (2) may take effect on the day on which this section commences or a later day.

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

35. See Schedule 1.

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SCHEDULE 1

The amendments effected by Section 35 and this Schedule have been incorporated into authorised versions of the following Acts:

- (a) *Crown Lands Act 1976;*
- (b) *Homes Act 1935;*
- (c) *Inland Fisheries Act 1995;*
- (d) *Police Offences Act 1935;*
- (e) *Self's Point Land Act 1951;*
- (f) *Tasmanian Public Finance Corporation Act 1985;*
- (g) *Waterworks Clauses Act 1952.*

**SCHEDULE 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 Corporation.
- (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 –

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- (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:

- (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 Corporation 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 Corporation 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;

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

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NOTES

The foregoing text of the *Tasmanian Ports Corporation Act 2005* 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
¹ <i>Tasmanian Ports Corporation Act 2005</i>	No. 41 of 2005	13.10.2005 (the Act, other than s. 35 and Sched. 1) 31.12.2005 (s. 35, Sched. 1)
<i>Government Business Enterprises and State-owned Companies Legislation Amendment Act 2009</i>	No. 1 of 2009	27.4.2009
<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

¹The transfer day was determined to be 31.12.2005, see notice published in the Gazette 23.11.2005 p.2024

TABLE OF AMENDMENTS

Provision affected	How affected
Section 4	Amended by No. 18 of 2025, s. 63
Section 7	Amended by No. 18 of 2025, s. 64
Section 8	Substituted by No. 18 of 2025, s. 65
Section 11	Amended by No. 20 of 2025, s. 24

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Provision affected	How affected
Section 13	Amended by No. 22 of 2023, s. 43
Section 13A	Inserted by No. 9 of 2018, s. 38
Section 13B	Inserted by No. 18 of 2025, s. 66
Section 13C	Inserted by No. 18 of 2025, s. 66
Section 13D	Inserted by No. 18 of 2025, s. 66
Section 13E	Inserted by No. 18 of 2025, s. 66
Section 13F	Inserted by No. 18 of 2025, s. 66
Section 14A	Inserted by No. 18 of 2025, s. 67
Section 14B	Inserted by No. 18 of 2025, s. 67
Section 14C	Inserted by No. 18 of 2025, s. 67
Section 15	Amended by No. 4 of 2017, Sched. 1
Section 16	Amended by No. 22 of 2023, s. 44
Section 17	Substituted by No. 1 of 2009, Sched. 1
	Amended by No. 9 of 2018, s. 39
Section 18	Amended by No. 9 of 2018, s. 40
Section 29	Substituted by No. 9 of 2018, s. 41
Section 29A	Inserted by No. 9 of 2018, s. 41
Schedule 2	Inserted by No. 18 of 2025, s. 68