

I certify that this is a copy of the authorised version of this Act as at 14 October 2024, 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 14 October 2024.

K Woodward
Chief Parliamentary Counsel
Dated 23 May 2025



TASMANIA

CORPORATIONS (TASMANIA) ACT 1990

No. 41 of 1990

CONTENTS

PART 1 – PRELIMINARY

1. Short title and purposes
2. Commencement
3. Definitions
4. Australian Capital Territory
5. This Act and applicable provisions of Tasmania not to be affected by later State laws
6. Operation of other Tasmanian laws

PART 2 – THE CORPORATIONS LAW, AND THE CORPORATIONS REGULATIONS, OF TASMANIA

7. Application in Tasmania of the Corporations Law
8. Application of regulations
9. Interpretation of some expressions in the Corporations Law, and the Corporations Regulations, of Tasmania

10. Interpretation law

PART 3 – CITING THE CORPORATIONS LAW AND THE CORPORATIONS REGULATIONS

11. Simpler citation of Corporations Law, and Corporations Regulations, of Tasmania
12. References to Corporations Law, and Corporations Regulations, of other jurisdictions
13. References to Corporations Law and Corporations Regulations

PART 4 – APPLICATION OF THE CORPORATIONS LAW TO THE CROWN

14. Interpretation
15. Corporations Law of Tasmania
16. Corporations Law of other jurisdictions
17. Crown not liable to prosecution
18. This Part overrides the prerogative

PART 5 – APPLICATION ORDERS

19. Commonwealth Minister to obtain consent of State Minister
20. Application orders for ASIC Law

[PART 6 – Repealed

21. *Repealed]*

PART 7 – IMPOSITION OF FEES AND TAXES

22. Fees (including taxes) for chargeable matters
23. Contributions and levies for fidelity funds of securities exchanges
24. Levies for National Guarantee Fund
25. Contributions and levies for fidelity funds of futures organizations

PART 8 – NATIONAL ADMINISTRATION AND ENFORCEMENT OF THE CORPORATIONS LAW

Division 1 – Preliminary

26. Object

27. Effect of Part

Division 2 – Offences against applicable provisions

28. Object

29. Application of Commonwealth laws in relation to offences against applicable provisions

30. Application of Commonwealth laws in relation to offences against applicable provisions of other jurisdictions

31. Functions and powers conferred on Commonwealth authorities

32. Reference in Commonwealth law to a provision of another law

[33. *Repealed*]

Division 3 – Administrative Law

34. Object

35. Application of Commonwealth administrative laws in relation to applicable provisions

36. Application of Commonwealth administrative laws in relation to applicable provisions of other jurisdictions

36A. Construction of references to Part 7 of Commonwealth ART Act

37. Functions and powers conferred on Commonwealth authorities

38. Reference in Commonwealth administrative law to a provision of another law

[39. *Repealed*]

PART 9 – JURISDICTION AND PROCEDURE OF COURTS

Division 1 – Vesting and cross-vesting of civil jurisdiction

40. Operation of Division

41. Interpretation

42. Jurisdiction of Federal Court and State and Territory Supreme Courts

42A. Jurisdiction of Family Court and State Family Courts

42AA. Jurisdiction of Supreme Court in relation to certain decisions made by Commonwealth officers

42B. Jurisdiction of lower courts

43. Appeals

44. Transfer of proceedings

- 44A. Transfer of proceedings by Family Court and State Family Courts
- 44AA. Transfer of proceedings in lower courts
- 44B. Further matters for a court to consider when deciding whether to transfer a proceeding
- 44C. Transfer may be made at any stage
- 44D. Transfer of documents
- 45. Conduct of proceedings
- 46. Courts to act in aid of each other
- 47. Exercise of jurisdiction pursuant to cross-vesting provisions
- 48. Rights of appearance
- 49. Limitation on appeals
- 50. Enforcement of judgments, &c.
- 51. Rules of the Supreme Court
- [52. *Repealed*]
- 52A. Rules of the Family Court or State Family Court

Division 2 – Vesting and cross-vesting of criminal jurisdiction

- 53. Operation of Division
- 54. Interpretation
- 55. Jurisdiction of courts
- 56. Laws to be applied

PART 10 – COMPANIES LIQUIDATION ACCOUNT

- 57. Companies Liquidation Account

PART 11 – THE ASIC LAW, AND THE ASIC REGULATIONS, OF TASMANIA

Division 1 – Application of ASIC Act and ASIC Regulations

- 58. Application in Tasmania of the ASIC Act
- 59. Application of regulations
- 60. Interpretation of some expressions in the ASIC Law, and the ASIC Regulations, of Tasmania
- 61. Giving information

62. Interpretation law

Division 2 – Citing the ASIC Law and the ASIC Regulations

63. Alternative citations of the ASIC Law, and the ASIC Regulations, of Tasmania

64. References to ASIC Law, and ASIC Regulations, of another jurisdiction

65. References to ASIC Law and ASIC Regulations

Division 3 – The Commission

66. Conferral of functions and powers on Commission

[67. *Repealed*]

68. Conferral of other functions and powers for purposes of law in Tasmania

[69. *Repealed*]

Division 4 – The Panel

70. Conferral of functions and powers on the Panel

Division 5 – The Disciplinary Board

71. Conferral of functions and powers on the Disciplinary Board

Division 6 – Miscellaneous

72. Acting appointments

73. Alteration of names and constitutions

74. Application of Commonwealth Crimes Act

75. Application of Commonwealth Evidence Act

PART 12 – GENERAL

Division 1 – Arrangements

76. Definition

77. Arrangements relating to applicable provisions

78. Notice of arrangement

Division 2 – Penalties and fines

79. Application of penalties and fines

80. Regulations

81. Savings and transitional provisions

PART 13 – TRANSITIONAL

Division 1 – Staff

- 82. Information previously acquired
- 83. Transitional provision for retirement benefits

Division 2 – Co-operative scheme laws

- 84. Co-operative scheme laws
- 85. National scheme laws prevail over co-operative scheme laws
- 86. Regulations may exclude residual operation of co-operative scheme laws
- 87. Effect of sections 85 and 86
- 88. Regulations may modify co-operative scheme laws
- 89. Co-operative scheme laws not affected by certain Commonwealth regulations
- 90. References to co-operative scheme laws and regulations
- 91. Conferral of functions and powers in relation to co-operative scheme laws
- 92. Arrangements affecting exercise of investigation powers by State authorities and officers

Division 3 – Exemptions

- [93. *Repealed*]

Division 4 – Australian Stock Exchange Limited

- 94. Saving of provisions about Australian Stock Exchange Limited

Division 5 – Companies Auditors and Liquidators Disciplinary Board

- 95. Board to continue in existence for certain purposes

Division 6 – Administration of this Act

- 96. Administration of this Act

Division 6A – Functions of Commonwealth authorities and officers of the Commonwealth

- 96AAA. Interpretation
- 96AA. Functions of Commonwealth authorities and officers of the Commonwealth

Division 7 – Amending Acts

- 96A. Savings and transitional provisions for amending Acts

PART 14 – PROVISIONS AFFECTING CORPORATIONS LAW

- 97. Certain transfers by companies under *Land Titles Act 1980* not to constitute reduction of share capital

PART 15 – MISCELLANEOUS AMENDMENTS

- 98 - 99.

**SCHEDULE 1 – SAVINGS AND TRANSITIONAL PROVISIONS
(AMENDING ACTS)**



CORPORATIONS (TASMANIA) ACT 1990

No. 41 of 1990

An Act to apply certain provisions of laws of the Commonwealth relating to corporations, the securities industry and the futures industry as laws of Tasmania and for other purposes

[Royal Assent 20 December 1990]

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 and purposes

- (1) This Act may be cited as the *Corporations (Tasmania) Act 1990*.
- (2) The purposes of this Act are –

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 2

Part 1 – Preliminary

- (a) to apply certain provisions of the *Corporations Act 1989* of the Commonwealth and the *Australian Securities and Investments Commission Act 1989* of the Commonwealth and of regulations under those Acts as laws of Tasmania; and
- (b) to apply certain other laws of the Commonwealth as laws of Tasmania for the purpose of the administration and enforcement of the law relating to corporations, the securities industry, the futures industry and some other matters.

2. Commencement

This Act commences on a day or days to be proclaimed.

3. Definitions

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

applicable provision, in relation to a jurisdiction, means a provision of –

- (a) the Corporations Law, or Corporations Regulations, of that jurisdiction; or
- (b) the ASIC Law, or ASIC Regulations, of that jurisdiction; or

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Part 1 – Preliminary

s. 3

(c) in the case of the Capital Territory – a Commonwealth law as applying, of its own force or because of another Commonwealth law, in relation to –

(i) an offence against; or

(ii) an act, matter or thing arising under or in respect of –

a provision that, because of any other application or applications of this definition, is an applicable provision of the Capital Territory or any other jurisdiction; or

(d) in the case of a jurisdiction other than the Capital Territory – a Commonwealth law as applying, because of a law of that jurisdiction, in relation to –

(i) an offence against; or

(ii) an act, matter or thing arising under or in respect of –

a provision that, because of any other application or applications of this definition, is an applicable provision of that or any other jurisdiction;

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 3

Part 1 – Preliminary

ASIC Act means the *Australian Securities and Investments Commission Act 1989* of the Commonwealth;

ASIC Law has the meaning given by Part 11;

ASIC Law of Tasmania means the provisions applying by reason of section 58;

ASIC Regulations has the meaning given by Part 11;

ASIC Regulations of Tasmania means the provisions applying by reason of section 59;

authority, in relation to the Commonwealth, has the same meaning as in Part 8 of the Corporations Act;

Capital Territory means the Australian Capital Territory and the Jervis Bay Territory;

Commission means the Australian Securities and Investments Commission established by the ASIC Act;

Commonwealth administrative laws means the following:

(a) the *Administrative Review Tribunal Act 2024* of the Commonwealth (excluding Part 7);

(b)

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Part 1 – Preliminary

s. 3

- (c) the *Freedom of Information Act 1982* of the Commonwealth;
- (d) the *Ombudsman Act 1976* of the Commonwealth;
- (e) the *Privacy Act 1988* of the Commonwealth –

and the provisions of the regulations in force for the time being under those Acts;

Commonwealth authority means an authority or body (whether incorporated or not) that is established or continued in existence by or under an Act of the Commonwealth;

Commonwealth law means any of the written or unwritten laws of the Commonwealth, including laws about the exercise of prerogative powers, rights and privileges, other than the Corporations Law of the Capital Territory, the ASIC Law of the Capital Territory or provisions prescribed, for the purposes of the definition of “Commonwealth law” in section 4 of the Corporations Act, by regulations under section 73 of the Corporations Act;

Commonwealth Minister has the meaning given to “the Minister” by section 80A(2) of the Corporations Law;

co-operative scheme laws has the meaning given by section 84;

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 3

Part 1 – Preliminary

Corporations Act means the *Corporations Act 1989* of the Commonwealth;

Corporations Law has the meaning given by Part 3;

Corporations Law of Tasmania means the provisions applying by reason of section 7;

Corporations Regulations has the meaning given by Part 3;

Corporations Regulations of Tasmania means the provisions applying by reason of section 8;

corresponding law means –

- (a) an Act of a jurisdiction (other than Tasmania) that corresponds to this Act; or
- (b) regulations made under such an Act; or
- (c) the Corporations Law, Corporations Regulations, ASIC Law, or ASIC Regulations, or any other applicable provision, of such a jurisdiction; or
- (d) rules of court made because of such an Act;

Federal Court means the Federal Court of Australia;

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Part 1 – Preliminary

s. 3

Full Court, in relation to a Supreme Court of a State or Territory, includes any court of the State or Territory to which appeals lie from a single judge of that Supreme Court;

jurisdiction means a State or the Capital Territory;

law, in relation to the Capital Territory, means a law of, or in force in, the Capital Territory;

Minister for this jurisdiction means the Minister;

modifications includes additions, omissions and substitutions;

national scheme law has the meaning given by section 60;

national scheme law of this jurisdiction means –

- (a) this Act; or
- (b) the Corporations Law of Tasmania; or
- (c) the ASIC Law of Tasmania;

NCSC means the National Companies and Securities Commission;

officer, in relation to the Commonwealth, has the same meaning as in Part 8 of the Corporations Act;

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 4

Part 1 – Preliminary

officer of the Commonwealth has the same meaning as in section 75(v) of the Constitution of the Commonwealth;

State includes the Northern Territory;

State Family Court, in relation to a State, means a court of that State to which section 41 of the *Family Law Act 1975* of the Commonwealth applies because of a proclamation made under section 41 (2) of that Act;

Territory does not include the Northern Territory;

this jurisdiction means Tasmania.

- (2) In this Act, a reference to a Commonwealth Act includes a reference to –
- (a) that Commonwealth Act as amended and in force for the time being; and
 - (b) an Act passed in substitution for that Act.

4. Australian Capital Territory

For the purposes of the national scheme laws of this jurisdiction, the Jervis Bay Territory is taken to be part of the Australian Capital Territory.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Part 1 – Preliminary

s. 5

5. This Act and applicable provisions of Tasmania not to be affected by later State laws

- (1) An Act enacted, or an instrument made under an Act, after the commencement of this section is not to be interpreted as amending or repealing, or otherwise altering the effect or operation of, this Act or the applicable provisions of Tasmania.
- (2) Subsection (1) does not affect the interpretation of an Act, or of an instrument made under an Act, so far as that Act provides expressly for that Act or instrument, as the case may be, to have effect despite a specified provision, or despite any provision, of this Act or the applicable provisions of Tasmania.

6. Operation of other Tasmanian laws

Except as otherwise provided in this Act, nothing in this Act or the applicable provisions of Tasmania affects the operation after the commencement of this section of an Act enacted before that commencement or of an instrument made under such an Act.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 7 Part 2 – The Corporations Law, and the Corporations Regulations, of
Tasmania

**PART 2 – THE CORPORATIONS LAW, AND THE
CORPORATIONS REGULATIONS, OF TASMANIA**

7. Application in Tasmania of the Corporations Law

The Corporations Law set out in section 82 of the Corporations Act as in force immediately before the repeal of that section –

- (a) applies as a law of Tasmania; and
- (b) as so applying, may be referred to as the Corporations Law of Tasmania.

8. Application of regulations

- (1) The regulations in force, immediately before the repeal of the Corporations Act, under section 22 of that Act –
 - (a) apply as regulations in force for the purposes of the Corporations Law of Tasmania; and
 - (b) as so applying, may be referred to as the Corporations Regulations of Tasmania.
- (2) Subject to subsection (3) of this section, where regulations under section 22 of the Corporations Act take effect from a specified day that is earlier than the day when they are notified in the Commonwealth of Australia Gazette under section 48(1) of the *Acts Interpretation Act 1901* of the Commonwealth, subsection (1) of this

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Part 2 – The Corporations Law, and the Corporations Regulations, of
Tasmania

s. 8

section has effect, and is taken always to have had effect, as if those regulations had taken effect under the Corporations Act from the specified day.

- (3) To the extent that a provision of the Corporations Regulations of Tasmania is taken because of a particular application of subsection (2) to have effect, or to have had effect, before the day of notification of the regulations referred to in that subsection, the provision does not operate so as to –
- (a) affect a private person’s rights as at that day so as to disadvantage that person; or
 - (b) impose a liability on a private person in respect of anything done or omitted to be done before that day.
- (4) In subsection (3), *private person* means a person other than –
- (a) the Commonwealth, a State or the Capital Territory; or
 - (b) an authority of the Commonwealth, of a State or of the Capital Territory.
- (5) Subsection (3) does not affect any other operation that the provision has because of subsection (2) or otherwise.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 9 Part 2 – The Corporations Law, and the Corporations Regulations, of Tasmania

9. Interpretation of some expressions in the Corporations Law, and the Corporations Regulations, of Tasmania

In the Corporations Law, and the Corporations Regulations, of Tasmania –

the Minister for this jurisdiction means the Minister;

this jurisdiction means Tasmania.

10. Interpretation law

- (1) Subject to Part 1.2 of the Corporations Law of Tasmania, the *Acts Interpretation Act 1901* of the Commonwealth as in force at the commencement of section 8 of the Corporations Act, applies as a law of Tasmania in relation to the Corporations Law, and the Corporations Regulations, of Tasmania and any instrument made, granted or issued under that Law or those Regulations (other than application orders under section 111A of that Law) and so applies as if that Law were an Act of the Commonwealth and those Regulations or instruments were regulations or instruments made under such an Act.
- (2) The *Acts Interpretation Act 1931* and the *Rules Publication Act 1953* do not apply in relation to the Corporations Law, or the Corporations Regulations, of Tasmania or an application order or any other instrument made, granted or issued under that Law or those Regulations.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

**PART 3 – CITING THE CORPORATIONS LAW AND
THE CORPORATIONS REGULATIONS**

**11. Simpler citation of Corporations Law, and
Corporations Regulations, of Tasmania**

- (1) The Corporations Law of Tasmania may be referred to simply as the Corporations Law.
- (2) The Corporations Regulations of Tasmania may be referred to simply as the Corporations Regulations.
- (3) This section has effect subject to section 13.

**12. References to Corporations Law, and Corporations
Regulations, of other jurisdictions**

- (1) This section has effect for the purposes of an Act, a law of Tasmania or an instrument made under an Act or under such a law.
- (2) Where a law of a jurisdiction other than Tasmania that corresponds to section 7 of this Act provides that the Corporations Law set out in section 82 of the Corporations Act applies as law of that jurisdiction, the Corporations Law of that jurisdiction is the Corporations Law so set out, applying as law of that jurisdiction.
- (3) Where a law of a jurisdiction other than Tasmania that corresponds to section 8 of this Act provides that the regulations under section 22 of the Corporations Act apply for the purposes of the Corporations Law of that

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 13

Part 3 – Citing the Corporations Law and the Corporations Regulations

jurisdiction, the Corporations Regulations of that jurisdiction are those regulations as so applying.

13. References to Corporations Law and Corporations Regulations

- (1) The object of this section is to help ensure that the Corporations Law of Tasmania operates, so far as possible, as if that Law, together with the Corporations Law of each jurisdiction other than Tasmania, constituted a single national Corporations Law applying of its own force throughout Australia.
- (2) Subject to this section, a reference in an instrument to the Corporations Law, or to the Corporations Regulations, is to be taken, for the purposes of the laws of Tasmania –
 - (a) to be a reference to the Corporations Law, or to the Corporations Regulations, of Tasmania; and
 - (b) to include a separate reference to the Corporations Law, or to the Corporations Regulations, of each jurisdiction other than Tasmania.
- (3) Subsection (2) has effect except so far as the contrary intention appears in the instrument, or the context of the reference otherwise requires.
- (4) Without limiting subsection (3), subsection (2) does not apply in relation to a reference expressed as a reference to the Corporations

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Law, or to the Corporations Regulations, of a jurisdiction.

- (5) In this section, *instrument* means –
- (a) an Act or an instrument made under an Act; or
 - (b) a law of Tasmania or an instrument made under such a law; or
 - (c) an award or other industrial determination or order, or an industrial agreement; or
 - (d) any other order (whether executive, judicial or otherwise); or
 - (e) a notice, certificate or licence; or
 - (f) an agreement; or
 - (g) an application made, information laid, affidavit sworn, or warrant issued, for any purpose; or
 - (h) an indictment, presentment, summons or writ; or
 - (i) any other pleading in, or process issued in connection with, a legal or other proceeding; or
 - (j) any other document whatever.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 14

Part 4 – Application of the Corporations Law to the Crown

**PART 4 – APPLICATION OF THE CORPORATIONS
LAW TO THE CROWN**

14. Interpretation

To avoid doubt, a reference in this Part to the Crown in a particular right includes a reference to an instrumentality or agency (whether a body corporate or not) of the Crown in that right.

15. Corporations Law of Tasmania

- (1) Chapter 5 (except Part 5.8) of the Corporations Law of Tasmania binds the Crown not only in right of the State of Tasmania but also, so far as the legislative power of the Parliament permits, the Crown in right of the Commonwealth, of each of the other States, of the Capital Territory, of the Northern Territory and of Norfolk Island.
- (1A) Chapters 6, 6A, 6B, 6C and 6D of the Corporations Law of Tasmania –
 - (a) bind the Crown in right of the Commonwealth so far as the legislative power of the Parliament permits; but
 - (b) do not bind the Crown in right of the State of Tasmania, of any other State, of the Capital Territory, of the Northern Territory or of Norfolk Island.
- (2) To avoid doubt, Chapter 7 of the Corporations Law of Tasmania does not bind the Crown in right of the State of Tasmania, of the Commonwealth, of any other State, of the

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Capital Territory, of the Northern Territory or of Norfolk Island.

16. Corporations Law of other jurisdictions

Chapter 5 (except Part 5.8) of the Corporations Law of each jurisdiction other than Tasmania binds the Crown in right of the State of Tasmania.

17. Crown not liable to prosecution

Nothing in this Part, or in the Corporations Law, renders the Crown in any right liable to be prosecuted for an offence.

18. This Part overrides the prerogative

Where, because of this Part, a provision of a law of another jurisdiction binds the Crown in right of the State of Tasmania, the Crown in that right is subject to that provision despite any prerogative right or privilege.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 19

Part 5 – Application Orders

PART 5 – APPLICATION ORDERS

19. Commonwealth Minister to obtain consent of State Minister

Despite Part 1.3 of the Corporations Law of Tasmania and section 20 of this Act, the Commonwealth Minister may only make an order under section 111A of that Law, or that section as applying because of section 20 of this Act, with the consent of the Minister for this jurisdiction.

20. Application orders for ASIC Law

Part 1.3 of the Corporations Law of Tasmania applies for the purposes of the ASIC Law of Tasmania as if the provisions of the ASIC Law of Tasmania were provisions of the Corporations Law of Tasmania.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Part 6 –

s. 21

PART 6 –

21.

PART 7 – IMPOSITION OF FEES AND TAXES

22. Fees (including taxes) for chargeable matters

This section imposes the fees (including fees that are taxes) that the Corporations Regulations of Tasmania prescribe.

23. Contributions and levies for fidelity funds of securities exchanges

(1) This section imposes –

- (a) the contribution payable under section 902(1) of the Corporations Law of Tasmania by a person who wishes to be admitted to membership of a securities exchange, or to a partnership in a member firm recognized by a securities exchange; and
- (b) the annual contribution payable under section 902(2) of that Law by a member of a securities exchange; and
- (c) any levy payable under section 904 of that Law by a member of a securities exchange.

(2) An expression has in subsection (1) the meaning it would have if this section were in Part 7.9 of the Corporations Law of Tasmania.

24. Levies for National Guarantee Fund

This section imposes any levy that is payable under section 938, 940 or 941 of the Corporations Law of Tasmania.

25. Contributions and levies for fidelity funds of futures organizations

- (1) This section imposes –
 - (a) the contribution payable under section 1234(1) of the Corporations Law of Tasmania by a person who wishes to be admitted to membership of a futures organization; and
 - (b) the annual contribution payable under section 1234(2) of that Law by a contributing member of a futures organization; and
 - (c) any levy payable under section 1235 of that Law by a contributing member of a futures organization.
- (2) An expression has in subsection (1) the meaning it would have if this section were in Part 8.6 of the Corporations Law of Tasmania.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 26 Part 8 – National Administration and Enforcement of the Corporations Law

**PART 8 – NATIONAL ADMINISTRATION AND
ENFORCEMENT OF THE CORPORATIONS LAW**

Division 1 – Preliminary

26. Object

The object of this Part is to help ensure that –

- (a) the Corporations Law of Tasmania, and the Corporations Law of each jurisdiction other than Tasmania, are administered and enforced on a national basis, in the same way as if those Laws constituted a single law of the Commonwealth; and
- (b) the ASIC Law of Tasmania, and the ASIC Law of each jurisdiction other than Tasmania, are administered and enforced on a national basis, in the same way as if those Laws constituted a single law of the Commonwealth.

27. Effect of Part

- (1) This Part has effect subject to this Act (in particular Part 9), the Corporations Law of Tasmania and the ASIC Law of Tasmania.
- (2) Nothing in this Part limits the generality of anything else in it.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Division 2 – Offences against applicable provisions

28. Object

- (1) The object of this Division is to further the object of this Part by providing –
 - (a) for an offence against an applicable provision of Tasmania to be treated as if it were an offence against a law of the Commonwealth; and
 - (b) for an offence against an applicable provision of another jurisdiction to be treated in Tasmania as if it were an offence against a law of the Commonwealth.
- (2) The purposes for which an offence is to be treated as mentioned in subsection (1) include, for example (but without limitation) –
 - (a) the investigation and prosecution of offences; and
 - (b) the arrest, custody, bail, trial and conviction of offenders or persons charged with offences; and
 - (c) proceedings relating to a matter referred to in paragraph (a) or (b); and
 - (d) appeals and review relating to criminal proceedings and to proceedings of the kind referred to in paragraph (c); and

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 29 Part 8 – National Administration and Enforcement of the Corporations Law

- (e) the sentencing, punishment and release of persons convicted of offences; and
- (f) fines, penalties and forfeitures; and
- (g) liability to make reparation in connection with offences; and
- (h) proceeds of crime; and
- (i) spent convictions.

29. Application of Commonwealth laws in relation to offences against applicable provisions

- (1) The Commonwealth laws apply as laws of Tasmania in relation to an offence against the applicable provisions of Tasmania as if those provisions were laws of the Commonwealth and were not laws of Tasmania.
- (2) For the purposes of a law of Tasmania, an offence against the applicable provisions of Tasmania –
 - (a) is taken to be an offence against the laws of the Commonwealth, in the same way as if those provisions were laws of the Commonwealth; and
 - (b) is taken not to be an offence against the laws of Tasmania.
- (3) Subsection (2) has effect for the purposes of a law of Tasmania except as prescribed by regulations under section 80.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

30. Application of Commonwealth laws in relation to offences against applicable provisions of other jurisdictions

- (1) The Commonwealth laws apply as laws of Tasmania in relation to an offence against the applicable provisions of another jurisdiction as if those provisions were laws of the Commonwealth and were not laws of that other jurisdiction.
- (2) For the purposes of a law of Tasmania, an offence against the applicable provisions of another jurisdiction –
 - (a) is taken to be an offence against the laws of the Commonwealth, in the same way as if those provisions were laws of the Commonwealth; and
 - (b) is taken not to be an offence against the laws of that jurisdiction.
- (3) Subsection (2) has effect for the purposes of a law of Tasmania except as prescribed by regulations under section 80.
- (4) This section does not require, prohibit, empower, authorize or otherwise provide for, the doing of an act outside Tasmania.

31. Functions and powers conferred on Commonwealth authorities

- (1) A Commonwealth law applying because of section 29 that confers on an officer or authority

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 31 Part 8 – National Administration and Enforcement of the Corporations Law

of the Commonwealth a function or power in relation to an offence against the applicable provisions of the Capital Territory also confers on the officer or authority the same function or power in relation to an offence against the corresponding applicable provision of Tasmania.

- (2) A Commonwealth law applying because of section 30 that confers on an officer or authority of the Commonwealth a function or power in relation to an offence against an applicable provision of the Capital Territory also confers on the officer or authority the same function or power in relation to an offence against the corresponding applicable provision of another jurisdiction.
- (3) The function or power referred to in subsection (2) may only be performed or exercised in Tasmania.
- (4) In performing a function or exercising a power conferred by subsection (1) or (2) an officer or authority of the Commonwealth must act as nearly as practicable as the officer or authority would act in performing or exercising the same function or power in relation to an offence against the corresponding applicable provision of the Capital Territory.
- (5) A Commonwealth law applying because of section 29 or 30 applies as if it did not contain any provision empowering a Minister of State for the Commonwealth to give any directions in relation to the performance of a function or the

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

exercise of a power conferred by subsection (1)
or (2).

32. Reference in Commonwealth law to a provision of another law

A reference in a Commonwealth law to a provision of that or another Commonwealth law is taken, for the purposes of section 29 or 30, to be a reference to that provision as applying because of that section.

33.

Division 3 – Administrative Law

34. Object

The object of this Division is to further the object of this Part by providing that the Commonwealth administrative laws –

- (a) apply to the applicable provisions of Tasmania; and
- (b) apply, in Tasmania, to the applicable provisions of another jurisdiction –

as if the applicable provisions were those of the Capital Territory.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 35 Part 8 – National Administration and Enforcement of the Corporations Law

35. Application of Commonwealth administrative laws in relation to applicable provisions

- (1) The Commonwealth administrative laws apply as laws of Tasmania in relation to any act, matter or thing arising under or in respect of the applicable provisions of Tasmania as if those provisions were laws of the Commonwealth and were not laws of Tasmania.
- (2) For the purposes of a law of Tasmania, an act, matter or thing arising under or in respect of the applicable provisions of Tasmania –
 - (a) is taken to be an act, matter or thing arising under or in respect of the laws of the Commonwealth, in the same way as if those provisions were laws of the Commonwealth; and
 - (b) is taken not to be an act, matter or thing arising under or in respect of the laws of Tasmania.
- (3) Subsection (2) has effect for the purposes of a law of Tasmania except as prescribed by regulations under section 80.

36. Application of Commonwealth administrative laws in relation to applicable provisions of other jurisdictions

- (1) The Commonwealth administrative laws apply as laws of Tasmania in relation to any act, matter or thing arising under or in respect of the applicable provisions of another jurisdiction as if

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

those provisions were laws of the Commonwealth and were not laws of that jurisdiction.

- (2) For the purposes of a law of Tasmania, an act, matter or thing arising under or in respect of the applicable provisions of another jurisdiction –
 - (a) is taken to be an act, matter or thing arising under or in respect of the laws of the Commonwealth, in the same way as if those provisions were laws of the Commonwealth; and
 - (b) is taken not to be an act, matter or thing arising under or in respect of the laws of that jurisdiction.
- (3) Subsection (2) has effect for the purposes of a law of Tasmania except as prescribed by regulations under section 80.
- (4) This section does not require, prohibit, empower, authorize or otherwise provide for the doing of an act outside Tasmania.

36A. Construction of references to Part 7 of Commonwealth ART Act

For the purposes of sections 35 and 36, a reference in a provision of the *Administrative Review Tribunal Act 2024* of the Commonwealth (as that provision applies as a law of this jurisdiction) to the whole or any part of Part 7 of that Act is taken to be a reference to the whole or

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 37

Part 8 – National Administration and Enforcement of the Corporations Law

any part of that Part as it has effect as a law of the Commonwealth.

37. Functions and powers conferred on Commonwealth authorities

- (1) A Commonwealth administrative law applying because of section 35 that confers on an officer or authority of the Commonwealth a function or power in relation to an act, matter or thing arising under or in respect of an applicable provision of the Capital Territory also confers on the officer or authority the same function or power in relation to an act, matter or thing arising under or in respect of the corresponding applicable provision of Tasmania.
- (2) A Commonwealth administrative law applying because of section 36 that confers on an officer or authority of the Commonwealth a function or power in relation to an act, matter or thing arising under or in respect of an applicable provision of the Capital Territory also confers on the officer or authority the same function or power in relation to an act, matter or thing arising under or in respect of the corresponding applicable provision of another jurisdiction.
- (3) The function or power referred to in subsection (2) may only be performed or exercised in Tasmania.
- (4) In performing a function or exercising a power conferred by subsection (1) or (2) an officer or authority of the Commonwealth must act as nearly as practicable as the officer or authority

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

would act in performing or exercising the same function or power in relation to an act, matter or thing arising under or in respect of the corresponding applicable provision of the Capital Territory.

- (5) A Commonwealth law applying because of section 35 or 36 applies as if it did not contain any provision empowering a Minister of State for the Commonwealth to give any directions in relation to the performance of a function or the exercise of a power conferred by subsection (1) or (2).

38. Reference in Commonwealth administrative law to a provision of another law

A reference in a Commonwealth administrative law to a provision of that or another Commonwealth administrative law is taken for the purposes of section 35 or 36 to be a reference to that provision as applying because of that section.

39.

**PART 9 – JURISDICTION AND PROCEDURE OF
COURTS**

Division 1 – Vesting and cross-vesting of civil jurisdiction

40. Operation of Division

- (1) This Division provides in relation to –
- (a) the jurisdiction of courts in respect of civil matters arising under the Corporations Law of Tasmania; and
 - (b) the jurisdiction of the courts of Tasmania in respect of civil matters arising under the Corporations Law of another State or the Capital Territory; and
 - (c) the jurisdiction of courts in respect of matters arising under the *Administrative Decisions (Judicial Review) Act 1977* of the Commonwealth involving or related to decisions made under the Corporations Law of a State or the Capital Territory by Commonwealth authorities and officers of the Commonwealth; and
 - (d) the jurisdiction of courts in civil matters in respect of decisions made by officers of the Commonwealth to prosecute persons for offences against the Corporations Law of a State or the Capital Territory and related criminal justice process decisions –

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

and so provides to the exclusion of the
Jurisdiction of Courts (Cross-vesting) Act 1987.

- (2) Nothing in this Division affects any other jurisdiction of any court.

41. Interpretation

- (1) In this Division –

civil matter means a matter other than a criminal matter;

Corporations Law has the extended meaning given by subsection (2);

judgment means a judgment, decree or order, whether final or interlocutory;

lower court means a court of a State or Territory that is not a superior court;

superior court means the Supreme Court of a State or Territory or a State Family Court;

superior court matter means a civil matter that the Corporations Law clearly intends (for example, by use of the expression “the Court”) to be dealt with only by a superior court.

- (2) In this Division –

- (a) a reference to the Corporations Law of Tasmania includes a reference to –

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 41

Part 9 – Jurisdiction and procedure of Courts

- (i) the Corporations Regulations of Tasmania; and
- (ii) the ASIC Law of Tasmania; and
- (iii) the ASIC Regulations of Tasmania; and
- (iv) any other applicable provisions (as defined in section 3) of Tasmania; and
- (v) this Act; and
- (vi) regulations made under this Act; and
- (vii) rules of court made by the Supreme Court of Tasmania because of a provision of this Act; and
- (viii)
- (ix) rules of court applied by the Supreme Court of another State, or of the Capital Territory, or a State Family Court of another State, when exercising jurisdiction conferred by this Division (including jurisdiction conferred by virtue of any previous application or applications of this subparagraph); and

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

- (b) a reference to the Corporations Law of another State or of the Capital Territory is a reference to the Corporations Law of that other State or of the Capital Territory within the meaning of the law of that other State or the Capital Territory corresponding to this Division.

42. Jurisdiction of Federal Court and State and Territory Supreme Courts

- (1) Subject to section 9 of the *Administrative Decisions (Judicial Review) Act 1977* of the Commonwealth, jurisdiction is conferred on the Supreme Court of Tasmania and of each other State and the Capital Territory with respect to civil matters arising under the Corporations Law of Tasmania.
- (1A) Despite section 9 of the *Administrative Decisions (Judicial Review) Act 1977* of the Commonwealth, jurisdiction is conferred on the Supreme Court of Tasmania and of each State and the Capital Territory with respect to matters arising under that Act involving or related to decisions made, or proposed to be made, under the Corporations Law of a State or the Capital Territory by a Commonwealth authority or an officer of the Commonwealth.
- (1B) Subsection (1A) applies to a decision made, or proposed or required to be made –
 - (a) whether or not in the exercise of a discretion; and

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 42A

Part 9 – Jurisdiction and procedure of Courts

- (b) whether before or after the commencement of section 19(b) of the *Federal Courts (Consequential Amendments) Act 2001*.
- (2) The jurisdiction conferred on a Supreme Court by subsection (1) or (1A) is not limited by any limits to which any other jurisdiction of that Supreme Court may be subject.
- (3) This section has effect subject to section 42AA.

42A. Jurisdiction of Family Court and State Family Courts

- (1)
- (2) Subject to section 9 of the *Administrative Decisions (Judicial Review) Act 1977* of the Commonwealth, jurisdiction is conferred on each State Family Court with respect to civil matters arising under the Corporations Law of Tasmania.
- (3) The jurisdiction conferred on a State Family Court by subsection (2) is not limited by any limits to which any other jurisdiction of the State Family Court may be subject.
- (4) This section has effect subject to section 42AA.

42AA. Jurisdiction of Supreme Court in relation to certain decisions made by Commonwealth officers

- (1) If a decision to prosecute a person for an offence against the Corporations Law of Tasmania has

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

been made by an officer or officers of the Commonwealth and the prosecution is proposed to be commenced in a court of Tasmania, jurisdiction is conferred on the Supreme Court with respect to any matter in which a person seeks a writ of mandamus or prohibition or an injunction against the officer or officers in relation to that decision.

- (2) At any time when –
- (a) a prosecution for an offence against the Corporations Law of Tasmania is before a court of Tasmania; or
 - (b) an appeal arising out of such a prosecution is before a court of Tasmania –

jurisdiction is conferred on the Supreme Court with respect to any matter in which the person who is or was the defendant in the prosecution seeks a writ of mandamus or prohibition or an injunction against an officer or officers of the Commonwealth in relation to a related criminal justice process decision.

- (3) Subsections (1) and (2) have effect despite anything in this Act or in any other law.
- (4) In this section –

appeal includes an application for a new trial and a proceeding to review or call in question the proceedings, decision or jurisdiction of a court or judge;

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 42B

Part 9 – Jurisdiction and procedure of Courts

related criminal justice process decision, in relation to an offence, means a decision (other than a decision to prosecute) made in the criminal justice process in relation to the offence, including –

- (a) a decision in connection with the investigation, committal for trial or prosecution of the defendant; and
- (b) a decision in connection with the appointment of investigators or inspectors for the purposes of such an investigation; and
- (c) a decision in connection with the issue of a warrant, including a search warrant or a seizure warrant; and
- (d) a decision requiring the production of documents, the giving of information or the summoning of persons as witnesses; and
- (e) a decision in connection with an appeal arising out of the prosecution.

42B. Jurisdiction of lower courts

- (1) Subject to section 9 of the *Administrative Decisions (Judicial Review) Act 1977* of the Commonwealth, jurisdiction is conferred on the

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

lower courts of Tasmania and of each other State and the Capital Territory with respect to civil matters, other than superior court matters, arising under the Corporations Law of Tasmania.

- (2) The jurisdiction conferred on a lower court by subsection (1) –
- (a) is subject to the court’s general jurisdictional limits, so far as they relate to the amounts, or the value of property, with which the court may deal; but
 - (b) is not subject to the court’s other jurisdictional limits.

43. Appeals

- (1) An appeal may not be instituted from a decision of a court of Tasmania to a court of another State or of the Capital Territory.
- (2 - 3)
- (4) An appeal may not be instituted from a decision of a court (not being a State Family Court) of another State to a State Family Court of that State or to a court of a different State or of the Capital Territory.
- (5) An appeal may not be instituted from a decision of a court of the Capital Territory to a court of a State.
- (6) An appeal may not be instituted from a decision of a State Family Court of a State to a court of the Capital Territory or of another State, or

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 44

Part 9 – Jurisdiction and procedure of Courts

(except in accordance with the law of the State under which the State Family Court is constituted) to the Supreme Court of that State.

44. Transfer of proceedings

- (1) This section applies to the following:
 - (a) a proceeding with respect to a civil matter arising under the Corporations Law of Tasmania that is in a court having jurisdiction under section 42(1) or (2);
 - (b) a proceeding with respect to a matter referred to in subsection (1A) of section 42 that is in a court having jurisdiction under that subsection or in the Federal Court.
- (2) Subject to subsections (3), (4) and (5), if it appears to the court that, having regard to the interests of justice, it is more appropriate for the proceeding, or an application in the proceeding, to be determined by another court having jurisdiction in the matters for determination in the proceeding or application, the first-mentioned court may transfer the proceeding or application to that other court.
- (3) If a proceeding with respect to a matter referred to in section 42(1A) is pending in the Supreme Court of a State or the Capital Territory (the “relevant jurisdiction”), the court must transfer the proceeding to the Federal Court unless the matter for determination in it arises out of, or

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

relates to, another proceeding pending in any court of the relevant jurisdiction –

- (a) that arises, or a substantial part of which arises, under the Corporations Law of a State or the Capital Territory; and
- (b) that is not a proceeding with respect to a matter referred to in section 42(1A) –

regardless of which proceeding was commenced first.

- (4) Even if the Supreme Court of a State or the Capital Territory is not required by subsection (3) to transfer a proceeding with respect to a matter referred to in section 42(1A) to the Federal Court, it may nevertheless do so if it considers that to be appropriate, having regard to the interests of justice, including the desirability of related proceedings being heard in the same jurisdiction.
- (5) If a proceeding with respect to a matter referred to in section 42(1A) is pending in the Federal Court, the Federal Court may only transfer the proceeding, or an application in the proceeding, to the Supreme Court of a State or the Capital Territory (the “relevant jurisdiction”) if –
 - (a) the matter arises out of, or relates to, another proceeding pending in any court of the relevant jurisdiction –
 - (i) that arises, or a substantial part of which arises, under the

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 44A

Part 9 – Jurisdiction and procedure of Courts

Corporations Law of a State or
the Capital Territory; and

- (ii) that is not a proceeding with respect to a matter referred to in section 42(1A) –

regardless of which proceeding was commenced first; and

- (b) the Federal Court considers the transfer to be appropriate, having regard to the interests of justice, including the desirability of related proceedings being heard in the same jurisdiction.
- (6) Nothing in this section confers on a court jurisdiction that the court would not otherwise have.
- (7) The fact that some references in this section to the interests of justice include the desirability of related proceedings being heard in the same jurisdiction does not of itself mean that other references to the interests of justice, in this section or elsewhere in this Act, do not include that matter.

44A. Transfer of proceedings by Family Court and State Family Courts

- (1) This section applies to a proceeding with respect to a civil matter arising under the Corporations Law of Tasmania in a State Family Court (in this section called the “first court”) having jurisdiction under section 42A.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

- (2) If it appears to the first court that –
- (a) the proceeding arises out of, or is related to, another proceeding pending in another court of a State or of the Capital Territory, and that the court in which the other proceeding is pending is the most appropriate court to determine the first-mentioned proceeding; or
 - (b) having regard to –
 - (i) whether, in the first court’s opinion, apart from this Division or a law of another State or of the Capital Territory corresponding to this Division, the proceeding, or a substantial part of it, would have been incapable of being instituted in the first court; and
 - (ii) the extent to which, in the first court’s opinion, the matters for determination in the proceeding are matters not within the first court’s jurisdiction apart from this Division or such a law; and
 - (iii) the interests of justice –
another court of a State or of the Capital Territory, is the most appropriate court to determine the proceeding; or
 - (c) it is otherwise in the interests of justice that another court of a State or of the

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 44A

Part 9 – Jurisdiction and procedure of Courts

Capital Territory, determine the proceeding –

the first court must transfer that proceeding to that other court.

- (3) Subject to subsection (2), if it appears to the first court that –
- (a) the proceeding arises out of, or is related to, another proceeding pending in another State Family Court having jurisdiction under section 42A in the matters for determination in the first-mentioned proceeding, and that the other court is the most appropriate court to determine the first-mentioned proceeding; or
 - (b) it is otherwise in the interests of justice that the proceeding be determined by another State Family Court having jurisdiction under section 42A in the matters for determination in the proceeding –

the first court must transfer the proceeding to the other court.

- (4) If –
- (a) the first court transfers the proceeding to another court; and
 - (b) it appears to the first court that –

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

- (i) there is another proceeding pending in the first court that arises out of, or is related to, the first-mentioned proceeding; and
- (ii) it is in the interests of justice that the other court also determine the other proceeding –

the first court must also transfer the other proceeding to the other court.

- (5) Nothing in this section confers on a court jurisdiction that the court would not otherwise have.

44AA. Transfer of proceedings in lower courts

- (1) This section applies to a proceeding with respect to a civil matter arising under the Corporations Law of Tasmania in a lower court (the “first court”) having jurisdiction under section 42B.
- (2) If it appears to the first court that, having regard to the interests of justice, it is more appropriate for the proceeding, or an application in the proceeding, to be determined by another court (the “second court”) having jurisdiction in the matters for determination in the proceeding or application, the first court may take action under whichever of subsections (3) and (4) applies.
- (3) If the second court is also a lower court, the first court may transfer the proceeding or application to the second court.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 44AA

Part 9 – Jurisdiction and procedure of Courts

- (4) If the second court is a superior court, the first court may transfer the proceeding or application to the relevant Supreme Court and recommend that the proceeding or application be transferred by the Supreme Court to the second court.
- (5) The relevant Supreme Court is not bound to comply with a recommendation under subsection (4) and it may instead decide –
 - (a) to deal with the proceeding or application itself; or
 - (b) to transfer the proceeding or application to some other court (which could be the first court).
- (6) Nothing in this section allows the relevant Supreme Court to transfer the proceeding or application to another court otherwise than in accordance with section 44 and the other requirements of this Division.
- (6A) Nothing in this section confers on a court jurisdiction that the court would not otherwise have.
- (7) In this section,

relevant Supreme Court means the Supreme Court of the State or Territory of which the first court is a court.

44B. Further matters for a court to consider when deciding whether to transfer a proceeding

In deciding whether to transfer under section 44, 44A or 44AA a proceeding or application, a court must have regard to –

- (a) the principal place of business of any body corporate concerned in the proceeding or application; and
- (b) the place or places where the events that are the subject of the proceeding or application took place; and
- (c) the other courts that have jurisdiction to deal with the proceeding or application.

44C. Transfer may be made at any stage

A court may transfer under section 44, 44A or 44AA a proceeding or application –

- (a) on the application of a party made at any stage; or
- (b) of the court's own motion.

44D. Transfer of documents

Where, under section 44, 44A or 44AA a court transfers a proceeding, or an application in a proceeding, to another court –

- (a) the Registrar or other proper officer of the first-mentioned court must transmit

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 45

Part 9 – Jurisdiction and procedure of Courts

to the Registrar or other proper officer of the other court all documents filed in the first-mentioned court in respect of the proceeding or application, as the case may be; and

- (b) the other court must proceed as if –
 - (i) the proceeding had been originally instituted in the other court; and
 - (ii) the same proceedings had been taken in the other court as were taken in the first-mentioned court; and
 - (iii) in a case where an application is transferred – the application had been made in the other court.

45. Conduct of proceedings

- (1) Subject to sections 51, 52 and 52A, where it appears to a court that, in determining a matter for determination in a proceeding, the court will, or will be likely to, be exercising relevant jurisdiction the rules of evidence and procedure to be applied in dealing with the matter are to be such as the court considers appropriate in the circumstances, being rules that are applied in a superior court in Australia or in an external Territory.
- (2) Where a proceeding is transferred or removed to a court (in this subsection called the “transferee

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

court”) from another court (in this subsection called the “transferor court”), the transferee court must deal with the proceeding as if, subject to any order of the transferee court, the steps that had been taken for the purposes of the proceeding in the transferor court (including the making of an order), or similar steps, had been taken in the transferee court.

(3) In this section,

relevant jurisdiction means –

(a - b)

(c) jurisdiction conferred on a court of Tasmania with respect to civil matters arising under the Corporations Law of another State or the Capital Territory; or

(d) jurisdiction conferred on a court of another State or the Capital Territory with respect to civil matters arising under the Corporations Law of Tasmania; or

(e) jurisdiction conferred on a court of a State or the Capital Territory with respect to matters referred to in section 42(1A).

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 46

Part 9 – Jurisdiction and procedure of Courts

46. Courts to act in aid of each other

All courts having jurisdiction in civil matters arising under the Corporations Law of Tasmania, or in matters referred to in section 42(1A), and the officers of, or under the control of, those courts must severally act in aid of, and be auxiliary to, each other in all such matters.

47. Exercise of jurisdiction pursuant to cross-vesting provisions

A court of Tasmania may –

- (a) exercise jurisdiction (whether original or appellate) conferred on it by a law of another State or the Capital Territory corresponding to this Division with respect to matters arising under the Corporations Law of that State or Territory; and
- (b) hear and determine a proceeding transferred to it under such a provision.

48. Rights of appearance

A person who is entitled to practise as an Australian legal practitioner in a court has, if a proceeding (in this subsection referred to as the “transferred proceeding”) in that court is transferred to another court under this Division or a law of another State or the Capital Territory that corresponds to this Division, the same entitlements to practise in relation to –

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

- (a) the transferred proceeding; and
- (b) any other proceeding out of which the transferred proceeding arises or to which the transferred proceeding is related, being another proceeding that is to be determined together with the transferred proceeding –

in the other court that the person would have if the other court were a federal court exercising federal jurisdiction.

49. Limitation on appeals

An appeal does not lie from a decision of a court –

- (a) in relation to the transfer of a proceeding under this Division; or
- (b) as to which rules of evidence and procedure are to be applied pursuant to section 45(1).

50. Enforcement of judgments, &c.

- (1) A judgment of a court of Tasmania that is entirely or partly given in the exercise of jurisdiction conferred by this Division, or by a law of another State that corresponds to this Division, is enforceable in Tasmania as if the judgment had been given by that court entirely in the exercise of the jurisdiction of that court apart from this Division or any such law.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 51

Part 9 – Jurisdiction and procedure of Courts

(2) Where –

- (a) a provision of a law of Tasmania (not being a law in relation to the enforcement of judgments) refers to a thing done by the Supreme Court of Tasmania or of another State or of the Capital Territory, a State Family Court or a particular lower court of Tasmania or of another State or of the Capital Territory; and
- (b) that thing is done by another court in the exercise of jurisdiction conferred by this Division or a law of another State or the Capital Territory corresponding to this Division –

the reference in that provision to the Supreme Court of Tasmania or of the other State or Territory, that State Family Court or that lower court, as the case may be, is taken as a reference to that other court.

51. Rules of the Supreme Court

- (1) The Judges of the Supreme Court of Tasmania or a majority of them may make rules of court, not inconsistent with the Corporations Law of Tasmania –
 - (a) with respect to proceedings, and the practice and procedure, of that Court under that Law; and
 - (b) with respect to any matter or thing that is –

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

- (i) required or permitted by that Law to be prescribed by rules within the meaning of that Law; or
 - (ii) necessary or convenient to be prescribed by such rules for carrying out or giving effect to that Law; and
 - (c) without limitation, with respect to costs, and with respect to rules as to meetings ordered by that Court.
- (1A) When a lower court of Tasmania is exercising jurisdiction with respect to matters arising under the Corporations Law of Tasmania, the court must apply the rules of court made under subsection (1), with such alterations as are necessary.
- (2) When a court of Tasmania is exercising jurisdiction with respect to matters arising under the Corporations Law of another State or the Capital Territory, being jurisdiction conferred by a law of another State or the Capital Territory that corresponds to this Division, that court must apply the rules of court made under subsection (1) with such alterations as are necessary.
- (3) When a court of another State or the Capital Territory is exercising jurisdiction with respect to matters arising under the Corporations Law of Tasmania, being jurisdiction conferred by this Division, that court must apply the rules of court made under the law of the State or Territory

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 52.

Part 9 – Jurisdiction and procedure of Courts

corresponding to subsection (1) with such alterations as are necessary.

(4) In this section –

Corporations Law of another State or the Capital Territory does not include rules of court;

Corporations Law of Tasmania does not include rules of court.

52.

52A. Rules of the Family Court or State Family Court

(1)

(2) When a State Family Court of another State is exercising jurisdiction with respect to matters arising under the Corporations Law of Tasmania, being jurisdiction conferred by this Division, that Court must apply the rules of court made under the law of the State corresponding to section 61A(1) of the Corporations Act, with such alterations as are necessary.

(3) In this section, *Corporations Law of Tasmania* does not include rules of court.

Division 2 – Vesting and cross-vesting of criminal jurisdiction

53. Operation of Division

This Division provides in relation to –

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

- (a) the jurisdiction of courts in respect of criminal matters arising under the Corporations Law of Tasmania; and
- (b) the jurisdiction of the courts of Tasmania in respect of criminal matters arising under the Corporations Law of any jurisdiction.

54. Interpretation

- (1) In this Division,

magistrate means a magistrate who is remunerated by salary or otherwise.

- (2) In this Division –

- (a) a reference to the Corporations Law of Tasmania includes a reference to –
 - (i) the Corporations Regulations of Tasmania; and
 - (ii) the ASIC Law of Tasmania; and
 - (iii) the ASIC Regulations of Tasmania; and
 - (iv) any other applicable provisions (as defined in section 3) of Tasmania; and
 - (v) this Act; and
 - (vi) regulations made under this Act; and

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 55

Part 9 – Jurisdiction and procedure of Courts

- (vii) rules of court applied by the Supreme Court of Tasmania and rules of court applied by the Supreme Court of another State, or of the Capital Territory, when exercising jurisdiction conferred by this Division (including jurisdiction conferred by virtue of any previous application or applications of this subparagraph); and
- (b) a reference to the Corporations Law of another State or of the Capital Territory is a reference to the Corporations Law of that other State or of the Capital Territory within the meaning of the law of that other State or the Capital Territory corresponding to this Division.

55. Jurisdiction of courts

- (1) Subject to this section, the several courts of each State and the Capital Territory exercising jurisdiction –
 - (a) with respect to –
 - (i) the summary conviction; or
 - (ii) the examination and commitment for trial on indictment; or
 - (iii) the trial and conviction on indictment –

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

of offenders or persons charged with offences against the laws of the State or Capital Territory, and with respect to –

- (iv) their sentencing, punishment and release; or
 - (v) their liability to make reparation in connection with their offences; or
 - (vi) the forfeiture of property in connection with their offences; or
 - (vii) the proceeds of their crimes; and
- (b) with respect to the hearing and determination of –
- (i) proceedings connected with; or
 - (ii) appeals arising out of; or
 - (iii) appeals arising out of proceedings connected with –

any such trial or conviction or any matter of a kind referred to in paragraph (a)(iv), (v), (vi) or (vii) –

have the equivalent jurisdiction with respect to offenders or persons charged with offences against the Corporations Law of Tasmania.

- (2) Where a provision of a law of another State or the Capital Territory corresponding to subsection (1) is expressed to confer jurisdiction with respect to offenders or persons who are charged

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 55

Part 9 – Jurisdiction and procedure of Courts

with offences against the Corporations Law of that State or the Capital Territory upon a court of Tasmania, the court may exercise that jurisdiction.

- (3) The jurisdiction conferred by subsection (1) is not to be exercised with respect to the summary conviction, or examination and commitment for trial, of any person except by a magistrate.
- (4) The jurisdiction conferred by subsection (1) includes jurisdiction in accordance with provisions of a relevant law of another State or the Capital Territory, and –
 - (a) the reference in subsection (1)(b) to “any such trial or conviction” includes a reference to any conviction or sentencing in accordance with the provisions of a relevant law; and
 - (b) unless the contrary intention appears, a reference to jurisdiction conferred by subsection (1) includes a reference to such included jurisdiction.
- (5) A person may be dealt with in accordance with a relevant law even if, apart from this section, the offence concerned –
 - (a) would be required to be prosecuted on indictment; or
 - (b) would be required to be prosecuted either summarily or on indictment.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

- (6) For the purposes of the application of a relevant law as provided by subsection (4) –
- (a) a reference in that law to an indictable offence is taken to include a reference to an offence that may be prosecuted on indictment; and
 - (b) in order to determine the sentence that may be imposed on a person by a court pursuant to the relevant law, the person is taken to have been prosecuted and convicted on indictment in that court.
- (7) Subject to subsections (9) and (10), the jurisdiction conferred on a court of a State or the Capital Territory by subsection (1) is conferred despite any limits as to locality of the jurisdiction of that court under the law of that State or of the Capital Territory.
- (8) Subject to subsection (9), the jurisdiction conferred on a court of Tasmania by a law of another State or the Capital Territory corresponding to subsection (1) may be exercised despite any limits as to locality of the jurisdiction of that court under the law of Tasmania.
- (9) Where –
- (a) jurisdiction is conferred on a court of Tasmania in relation to the summary conviction of persons charged with offences against the Corporations Law of this or another jurisdiction by subsection (1) or a corresponding provision of a law

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 55

Part 9 – Jurisdiction and procedure of Courts

of another State or of the Capital Territory; and

- (b) the court is satisfied that it is appropriate to do so, having regard to all the circumstances including the public interest –

the court may decline to exercise that jurisdiction in relation to an offence committed in another State or the Capital Territory.

- (10) The jurisdiction conferred on a court of another State or the Capital Territory by subsection (1) in relation to –

- (a) the examination and commitment for trial on indictment; and
- (b) the trial and conviction on indictment –

of offenders or persons charged with offences against the Corporations Law of Tasmania is conferred only in relation to –

- (c) offences committed outside Australia; and
- (d) offences committed, begun or completed within the State or Territory concerned.

- (11) In this section –

Australia does not include the coastal sea;

relevant law means a law providing that where, in proceedings before a court, a person pleads guilty to a charge for

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

which he or she could be prosecuted on indictment, the person may be committed, to a court having jurisdiction to try offences on indictment, to be sentenced or otherwise dealt with without being tried in that last-mentioned court.

56. Laws to be applied

- (1) Subject to this Division, the laws of Tasmania respecting –
 - (a) the arrest and custody in Tasmania of offenders or persons charged with offences; and
 - (b) criminal procedure in Tasmania in relation to such persons –

apply in Tasmania, so far as they are applicable, to persons who are charged with offences against the Corporations Law of Tasmania or of another State or the Capital Territory in respect of whom jurisdiction is conferred on a court of Tasmania by this Division or a corresponding law of another State or the Capital Territory.

- (2) Subject to this Division, the laws of each other State and the Capital Territory respecting –
 - (a) the arrest and custody in that State or Territory of offenders or persons charged with offences; and
 - (b) criminal procedure in that State or Territory in relation to such persons –

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 56

Part 9 – Jurisdiction and procedure of Courts

apply in that State or Territory, so far as they are applicable, to persons who are charged with offences against the Corporations Law of Tasmania in respect of whom jurisdiction is conferred on a court of that State or Territory by this Division.

(3) The application of laws by subsections (1) and (2) is in addition to, and not in derogation from, the application of laws effected by Part 8 or the corresponding law of another State or the Capital Territory.

(4) In this section –

criminal procedure means the procedure for –

- (a) the summary conviction; and
- (b) the examination and commitment for trial and indictment; and
- (c) the trial and conviction on indictment; and
- (d) the hearing and determination of appeals arising out of any such trial or conviction or out of any related proceedings –

of offenders or persons charged with offences, and includes the procedure for holding accused persons to bail;

laws of each other State and the Capital Territory means the laws that apply in relation to offenders, or persons charged

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Part 9 – Jurisdiction and procedure of Courts

s. 56

with offences, against the Corporations
Law of the State or Territory concerned.

PART 10 – COMPANIES LIQUIDATION ACCOUNT

57. Companies Liquidation Account

(1) In this section,

relevant money means –

- (a) money that, immediately before the commencement of this section, stood to the credit of the Companies Liquidation Account established by section 428 of the *Companies (Tasmania) Code*; and
 - (b) money that, after the commencement of this section, is paid into the Companies Liquidation Account under provisions of the *Companies (Tasmania) Code* that are taken to continue in force after the commencement of Chapter 5 of the Corporations Law for the purposes of windings up started before the commencement of that Chapter.
- (2) Relevant money is to be dealt with in accordance with section 427 of the *Companies (Tasmania) Code*.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Part 11 – The ASIC Law, and the ASIC Regulations, of Tasmania

s. 58

**PART 11 – THE ASIC LAW, AND THE ASIC
REGULATIONS, OF TASMANIA**

Division 1 – Application of ASIC Act and ASIC Regulations

58. Application in Tasmania of the ASIC Act

- (1) The ASIC Act as in force immediately before its repeal, other than the excluded provisions –
 - (a) applies as a law of Tasmania; and
 - (b) as so applying, may be referred to as the ASIC Law of Tasmania.

- (2) The excluded provisions of the ASIC Act are –

Part 1, except section 6A

Part 2

Section 88

Divisions 1 and 4 of Part 4

Part 5

Part 6

Division 1 of Part 7

Part 8

Part 9

Division 1 of Part 10

Division 1 of Part 11

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 59

Part 11 – The ASIC Law, and the ASIC Regulations, of Tasmania

Part 12

Part 14

Sections 251 and 252.

59. Application of regulations

The regulations in force, immediately before the repeal of the ASIC Act, under section 251 of that Act –

- (a) apply as regulations in force for the purposes of the ASIC Law of Tasmania; and
- (b) as so applying, may be referred to as the ASIC Regulations of Tasmania.

60. Interpretation of some expressions in the ASIC Law, and the ASIC Regulations, of Tasmania

- (1) In this Part, and in the ASIC Law, and the ASIC Regulations, of Tasmania –

Advisory Committee means the Companies and Securities Advisory Committee established by section 145 of the ASIC Act;

affairs, in relation to a body corporate, has the same meaning as in section 246AA of the Corporations Law;

assist, in relation to a Commission delegate, means –

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

- (a) to perform functions –
 - (i) as a member, officer or employee of the Commission delegate; and
 - (ii) in connection with the Commission delegate's performance or exercise of a function or power delegated under section 102 of the ASIC Law; or
- (b) to perform services for the Commission delegate in connection with the Commission delegate's performance or exercise of a function or power delegated under section 102 of the ASIC Law;

Australia includes any external Territory to which the ASIC Act extends;

books includes –

- (a) a register; and
- (b) financial reports or financial records, however compiled, recorded or stored; and
- (c) a document; and
- (d) banker's books; and
- (e) any other record of information;

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 60

Part 11 – The ASIC Law, and the ASIC Regulations, of Tasmania

Chairperson means –

- (a) except in Part 11 of the ASIC Law or in relation to the Disciplinary Board – the Chairperson of the Commission; and
- (b) in Part 11 of that Law or in relation to the Disciplinary Board – the Chairperson of the Disciplinary Board;

Commission means the Australian Securities and Investments Commission established by section 7 of the ASIC Act;

Commission delegate means a person to whom, or a body to which, a function or power is delegated under section 102 of the ASIC Law;

contravention, in relation to a law, includes an ancillary offence relating to an offence against that law;

court, except in section 248 of the ASIC Law, includes a tribunal having power to require the production of documents or the answering of questions;

Deputy Chairperson means the Deputy Chairperson of the Commission;

Disciplinary Board means the Companies Auditors and Liquidators Disciplinary

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Board established by section 202 of the ASIC Act;

eligible person, in relation to a person, means a person who –

- (a) if the first-mentioned person is a body corporate – is or has been an officer of the body within the meaning of a national scheme law or a corresponding previous law; or
- (b) in any case –
 - (i) is or has been an employee, agent, banker, Australian legal practitioner or auditor of; or
 - (ii) is acting, or has acted, in any other capacity on behalf of –

the first-mentioned person;

examination means –

- (a) in this section and Part 3 (other than section 27(2) and Division 9) of the ASIC Law – an examination of a person pursuant to a requirement made under section 19 of that Law; or

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 60

Part 11 – The ASIC Law, and the ASIC Regulations, of Tasmania

- (b) in section 27(2) and Division 9 of Part 3 of the ASIC Law – an examination of a person pursuant to a requirement made under section 19 of the ASIC Law or a corresponding provision of the ASIC Law of another jurisdiction;

expenses, in relation to an investigation under Division 1 of Part 3 of the ASIC Law, includes costs and expenses incurred in relation to a proceeding begun under section 50 of the ASIC Law as a result of the investigation;

fail means refuse or fail;

foreign country means –

- (a) an external Territory to which the ASIC Act does not extend; or
- (b) a country outside Australia and the external Territories; or
- (c) a part of such a country;

give has –

- (a) in relation to a document – a meaning affected by section 86 of the ASIC Law; and
- (b) in relation to information – a meaning affected by section 61 of this Act;

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

hearing, in this section and Part 3 of the ASIC Law, means a hearing before the Commission and, in sections 52, 54, 55 and 56 of that Law, includes a part of such a hearing;

information has a meaning affected by section 61 of this Act;

investigate, in relation to the Commission, means investigate in the course of performing or exercising any of the Commission's functions and powers;

meeting means –

- (a) in Part 4 of the ASIC Law, a meeting of the Commission; and
- (b) in Part 11 of that Law – a meeting of the Disciplinary Board;

member means –

- (a) except in Division 2 of Part 4, or in Part 10, 11, or 14, of the ASIC Law, or in relation to a Division of the Commission, or in relation to the Panel or the Disciplinary Board – a member of the Commission;
- (b) in Part 10 of that Law or in relation to the Panel – a member of the Panel;

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 60

Part 11 – The ASIC Law, and the ASIC Regulations, of Tasmania

- (c) in Part 11 of that Law or in relation to the Disciplinary Board – the Chairperson or any other member of the Disciplinary Board;

national scheme law means –

- (a) the following:
 - (i) the Corporations Law of this jurisdiction;
 - (ii) the ASIC Law of this jurisdiction;
 - (iii) this Act; or
- (b) the following:
 - (i) the Corporations Act;
 - (ii) the Corporations Law of the Capital Territory;
 - (iii) the ASIC Act; or
- (c) a law of a jurisdiction (other than this jurisdiction or the Capital Territory) that corresponds to an Act or Law referred to in paragraph (a);

national scheme law of this jurisdiction
means –

- (a) this Act;

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

- (b) the Corporations Law of Tasmania; or
- (c) the ASIC Law of Tasmania;

officer, in relation to a body corporate, includes –

- (a) a director, secretary, executive officer or employee of the body;
- (b) a receiver, or a receiver and manager, of property of the body;
- (c) an administrator of the body or an administrator of a deed of company arrangement executed by the body;
- (d) a liquidator, or a provisional liquidator, of the body; and
- (e) a trustee or other person administering a compromise or arrangement made between the body and any other person or persons;

Panel means the Corporations and Securities Panel established by section 171 of the ASIC Act;

Panel proceedings means proceedings before the Panel on –

- (a) an application made to the Panel under the Corporations Law; or

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 60

Part 11 – The ASIC Law, and the ASIC Regulations, of Tasmania

- (b) a reference of a decision to the Panel for review under the Corporations Law;

power includes an authority;

prescribed means prescribed by the ASIC Law or the regulations;

President means the President of the Panel;

proceeding means –

- (a) a proceeding in a court; or
- (b) a proceeding or hearing before, or an examination by or before, a tribunal –

whether the proceeding, hearing or examination is of a civil, administrative, criminal, disciplinary or other nature;

produce, except in Part 3 of the ASIC Law, includes permit access to;

property means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description and includes a thing in action and money;

record, in relation to an examination, means the whole or a part of a record made under section 24 of the ASIC Law of statements made at the examination;

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

regulations means the ASIC Regulations of this jurisdiction;

report includes an interim report;

staff member means –

- (a) a member of the staff referred to in section 120(1) of the ASIC Act or a person employed under section 120(3) of that Act; or
- (b) a person engaged under section 121(1) of that Act; or
- (c) any of the officers, employees and persons who under section 122 of that Act are to assist the Commission;

statement, in relation to an examination, includes a question asked, an answer given, and any other comment or remark made, at the examination;

Territory means –

- (a) the Capital Territory; or
- (b) an external Territory to which the ASIC Act extends;

this Act, except in this Part, means the ASIC Law, and includes the regulations;

this jurisdiction means Tasmania;

this Law includes the regulations;

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 60

Part 11 – The ASIC Law, and the ASIC Regulations, of Tasmania

tribunal means –

- (a) a tribunal in Australia; or
- (b) any other body, authority or person in Australia having power, by law or by consent of parties, to hear, receive or examine evidence;

witness means –

- (a) in relation to a hearing before the Commission, a person appearing at the hearing to give evidence; or
- (b) in relation to Panel proceedings, a person appearing in the proceedings to give evidence;

written record, in relation to an examination, means –

- (a) a record of the examination –
 - (i) that is made in writing; or
 - (ii) as reduced to writing; or
 - (b) a part of such a record.
- (2) Subject to the ASIC Law of this jurisdiction, an expression has the same meaning in that Law and in the ASIC Regulations of this jurisdiction as in the Corporations Law of this jurisdiction.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

61. Giving information

A reference in the ASIC Law, and the ASIC Regulations, of Tasmania to giving information includes a reference to –

- (a) explaining or stating a matter; or
- (b) identifying a person, matter or thing; or
- (c) disclosing information; or
- (d) answering a question.

62. Interpretation law

(1) Except so far as the contrary intention appears in the ASIC Law of Tasmania –

- (a) Part 1.2 (except section 8) of the Corporations Law of Tasmania applies; and
- (b) subject to paragraph (a), the *Acts Interpretation Act 1901* of the Commonwealth as in force at the commencement of section 5(5) of the ASIC Act applies as law of Tasmania –

in relation to the ASIC Law, and the ASIC Regulations, of Tasmania and any instrument made, granted or issued under that Law or those Regulations (other than application orders made for the purposes of that Law under section 111A of the Corporations Law of this jurisdiction) and so apply as if that Law were an Act of the Commonwealth and those Regulations or

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 63

Part 11 – The ASIC Law, and the ASIC Regulations, of Tasmania

instruments were regulations or instruments made under such an Act.

- (2) The *Acts Interpretation Act 1931* and the *Rules Publication Act 1953* do not apply in relation to the ASIC Law, or the ASIC Regulations, of Tasmania or an application order or any other instrument made, granted or issued under that Law or those Regulations.

Division 2 – Citing the ASIC Law and the ASIC Regulations

63. Alternative citations of the ASIC Law, and the ASIC Regulations, of Tasmania

- (1) The ASIC Law of Tasmania may be referred to simply as the ASIC Law.
- (2) The ASIC Regulations of Tasmania may be referred to simply as the ASIC Regulations.
- (3) This section has effect subject to section 65.

64. References to ASIC Law, and ASIC Regulations, of another jurisdiction

- (1) This section has effect for the purposes of an Act, a law of Tasmania or an instrument made under an Act or under such a law.
- (2) Where a law of a jurisdiction other than Tasmania contains provisions corresponding to sections 5 and 6 of the Corporations Act and also provides for provisions of the ASIC Act to apply as law of that jurisdiction, those provisions of

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

the ASIC Act, as so applying, are the ASIC Law of that jurisdiction.

- (3) Where a law of a jurisdiction other than Tasmania provides for the regulations under section 251 of the ASIC Act to apply for the purposes of the ASIC Law of that jurisdiction, those regulations as so applying are the ASIC Regulations of that jurisdiction.

65. References to ASIC Law and ASIC Regulations

- (1) The object of this section is to help ensure that, so far as possible –
- (a) the bodies established by the ASIC Act and the staff of those bodies can perform functions and exercise powers; and
 - (b) persons can have dealings with those bodies –

as if the ASIC Act, the ASIC Law of Tasmania and the ASIC Law of each other State, constituted a single national ASIC Law applying of its own force throughout Australia.

- (2) Subject to this section, a reference in an instrument to the ASIC Law, or to the ASIC Regulations, is to be taken, for the purposes of the laws of Tasmania –
- (a) to be a reference to the ASIC Law, or to the ASIC Regulations, of Tasmania; and

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 65

Part 11 – The ASIC Law, and the ASIC Regulations, of Tasmania

- (b) to include a separate reference to the ASIC Law, or to the ASIC Regulations, of each jurisdiction other than Tasmania.
- (3) Subsection (2) has effect so far as the contrary intention appears in the instrument, or the context of the reference otherwise requires.
- (4) Without limiting subsection (3), subsection (2) does not apply in relation to a reference expressed as a reference to the ASIC Law, or to the ASIC Regulations, of a jurisdiction.
- (5) In this section,

instrument means –

- (a) an Act or an instrument made under an Act; or
- (b) a law of Tasmania or an instrument made under such a law; or
- (c) an award or other industrial determination or order, or an industrial agreement; or
- (d) any other order (whether executive, judicial or otherwise); or
- (e) a notice, certificate or licence; or
- (f) an agreement; or

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

- (g) an application made, information laid, affidavit sworn, or warrant issued, for any purpose; or
- (h) an indictment, presentment, summons or writ; or
- (i) any other pleading in, or process issued in connection with, a legal or other proceeding; or
- (j) any other document whatever.

Division 3 – The Commission

66. Conferral of functions and powers on Commission

- (1) The Commission has the functions and powers conferred or expressed to be conferred on it under a national scheme law of this jurisdiction.
- (2) The Commission also has the functions and powers conferred or expressed to be conferred upon the NCSC by or under a Code that is a relevant Code for the purposes of the *Companies and Securities (Interpretation and Miscellaneous Provisions) (Tasmania) Code*.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 67. Part 11 – The ASIC Law, and the ASIC Regulations, of Tasmania

67.

68. Conferral of other functions and powers for purposes of law in Tasmania

The Commission has power to do acts in Tasmania in the performance or exercise of any function or power –

- (a) expressed to be conferred on the Commission by a national scheme law of another jurisdiction; or
- (b)

69.

Division 4 – The Panel

70. Conferral of functions and powers on the Panel

- (1) The Panel has the functions and powers conferred on it by or under a national scheme law of this jurisdiction.
- (2) The Panel has power to do acts in Tasmania in the performance or exercise of any function or power expressed to be conferred on the Panel by a national scheme law of another jurisdiction.

Division 5 – The Disciplinary Board

71. Conferral of functions and powers on the Disciplinary Board

- (1) The Disciplinary Board has the functions and powers conferred on it by or under a national scheme law of this jurisdiction.
- (2) The Disciplinary Board has power to do acts in this jurisdiction in the performance or exercise of any function or power expressed to be conferred on it by a national scheme law of another jurisdiction.

Division 6 – Miscellaneous

72. Acting appointments

Where a person is appointed under the ASIC Act to act in a particular office, the law of this jurisdiction applies in relation to that person while acting in that office as if the person were the holder of the office.

73. Alteration of names and constitutions

- (1) Where –
 - (a) the name of a body established by the ASIC Act is changed by law (whether or not the body is incorporated); or
 - (b) the name of an office established by that Act is changed by law –

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 73

Part 11 – The ASIC Law, and the ASIC Regulations, of Tasmania

then, unless the contrary intention appears, a reference in –

- (c) any Act of this jurisdiction; or
- (d) any instrument under such an Act; or
- (e) any award or other industrial determination or order or any industrial agreement; or
- (f) any other order (whether executive, judicial or otherwise); or
- (g) any contract; or
- (h) any pleading in, or process issued in connection with, any legal or other proceeding; or
- (i) any other instrument –

to the body or the office under the former name, except in relation to matters that occurred before that change took place, is taken as a reference to the body or the office under the new name.

- (2) Where the constitution of a body established by the ASIC Act is changed by law (whether or not the body is incorporated), then, unless the contrary intention appears, the alteration does not affect any functions or powers conferred or expressed to be conferred on that body by a national scheme law of this jurisdiction.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

74. Application of Commonwealth Crimes Act

- (1) For the purposes of Part 3 of the ASIC Law of Tasmania, Part III of the *Crimes Act 1914* of the Commonwealth applies as a law of Tasmania.
- (2) For the purposes of Part III of the *Crimes Act 1914* of the Commonwealth as applying because of subsection (1) an examination or a hearing is a judicial proceeding.
- (3) For the purposes of a national scheme law of Tasmania –
 - (a) an offence under Part III of the *Crimes Act 1914* of the Commonwealth as applying because of subsection (1) in relation to an examination or hearing, is taken to be an offence against Part 3 of the ASIC Law of Tasmania; and
 - (b) an offence under Part III of the *Crimes Act 1914* of the Commonwealth as applying, in relation to an examination or hearing held under the ASIC Law of another jurisdiction, as a law of that jurisdiction is taken to be an offence against Part 3 of the ASIC Law of that jurisdiction.

75. Application of Commonwealth Evidence Act

- (1) For the purposes of Part 3 of the ASIC Law of Tasmania, the following provisions of the *Evidence Act 1995* of the Commonwealth apply as a law of Tasmania:

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 75

Part 11 – The ASIC Law, and the ASIC Regulations, of Tasmania

Part 2.2 (Documents)

section 69 (Exception: business records)

section 70 (Exception: contents of tags, labels and writing)

section 71 (Exception: telecommunications)

section 147 (Documents produced by processes, machines and other devices in the course of business)

Division 2 (Proof of certain matters by affidavits or written statements) of Part 4.6.

- (2) Those provisions of the *Evidence Act 1995* of the Commonwealth apply to an examination in the same way as they apply to a proceeding to which that Act applies under section 4 of that Act.

PART 12 – GENERAL

Division 1 – Arrangements

76. Definition

In this Division,

relevant State law means –

- (a) a law of the State concerning the management or affairs of a body corporate; or
- (b) a law of the State concerning fraud or dishonesty; or
- (c) any other law of the State –

other than a co-operative scheme law.

77. Arrangements relating to applicable provisions

- (1) Where an arrangement between the Minister and the Commonwealth Minister provides –
 - (a) that an authority or officer of the Commonwealth has certain functions or powers under a relevant State law; or
 - (b) that, despite section 33 or 39, an authority or officer of the State has certain functions or powers under an applicable provision of this jurisdiction –

those functions or powers are conferred on that authority or officer.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 78

Part 12 – General

- (2) Functions and powers conferred under an arrangement under subsection (1) are to be performed and exercised in accordance with the arrangement but are to be taken to have been validly performed or exercised despite any failure to comply with any condition or restriction under the arrangement.

78. Notice of arrangement

Notice of each arrangement under section 77 must be published in the *Government Gazette* and in the Commonwealth of Australia Gazette within 21 days after it is made.

Division 2 – Penalties and fines

79. Application of penalties and fines

All fines, penalties and other money (other than fees and taxes) which, under and by virtue of the applicable provisions of Tasmania, are authorized or directed to be imposed on any person must be paid to the Commonwealth.

80. Regulations

The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

81. Savings and transitional provisions

- (1) Regulations under section 80 may contain provisions of a savings or transitional nature consequent on the enactment of this Act, being provisions not inconsistent with the national scheme laws of this jurisdiction.
- (2) Any such provision may, if the regulations so provide, take effect on the date of commencement of this section or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the *Government Gazette*, the provision does not operate so as –
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of that publication; or
 - (b) to impose a liability on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of that publication.
- (4) Regulations containing provisions of a kind referred to in subsection (1), except regulations made under section 83, cease to have effect on the first anniversary of the day on which this section comes into operation.

PART 13 – TRANSITIONAL

Division 1 – Staff

82. Information previously acquired

A staff member who, before the commencement of this section, was an employee, within the meaning of the *Tasmanian State Service Act 1984*, engaged in the administration of a co-operative scheme law may disclose to the Commission information acquired while so engaged.

83. Transitional provision for retirement benefits

- (1) Regulations of a kind referred to in section 81(1) may provide for continuing entitlements under the *Retirement Benefits Act 1982* of a person who –
 - (a) has been appointed as a member of the Commission’s staff under section 81B of the *Public Service Act 1922* of the Commonwealth; and
 - (b) immediately before that appointment was an employee within the meaning of the *Retirement Benefits Act 1982* –

and for the continuing application, as may be prescribed, of the *Retirement Benefits Act 1982* to that person.

- (2) Regulations in force because of subsection (1) have effect accordingly.

Division 2 – Co-operative scheme laws

84. Co-operative scheme laws

For the purposes of this Act, the following are the co-operative scheme laws:

Companies (Application of Laws) Act 1982

Companies (Tasmania) Code

Companies (Acquisition of Shares) (Application of Laws) Act 1981

Companies (Acquisition of Shares) (Tasmania) Code

Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981

Companies and Securities (Interpretation and Miscellaneous Provisions) (Tasmania) Code

Securities Industry (Application of Laws) Act 1981

Securities Industry (Tasmania) Code

Futures Industry (Application of Laws) Act 1986

Futures Industry (Tasmania) Code.

85. National scheme laws prevail over co-operative scheme laws

- (1) This section provides for the national scheme laws of this jurisdiction to supersede the co-

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 85

Part 13 – Transitional

operative scheme laws, which are to continue to operate of their own force only in relation to –

- (a) matters arising before the commencement of this section; and
- (b) matters arising, directly or indirectly, out of such matters –

in so far as the national scheme laws or the Corporations legislation do not deal with those matters.

- (2) Where a co-operative scheme law is inconsistent with a national scheme law of this jurisdiction, the national scheme law prevails and, to the extent of the inconsistency, the co-operative scheme law does not operate.
- (3) For the purposes of subsection (2), a co-operative scheme law is inconsistent with a national scheme law if it would be inconsistent within the meaning of section 109 of the Constitution of the Commonwealth of Australia if the national scheme law were an Act of the Commonwealth.
- (4) In this section,

Corporations legislation means the Corporations legislation to which Part 1.1A of the *Corporations Act 2001* of the Commonwealth applies.

86. Regulations may exclude residual operation of co-operative scheme laws

- (1) Regulations under section 80 may provide that prescribed provisions of co-operative scheme laws do not operate, either generally or as otherwise prescribed by the regulations.
- (2) Regulations in force because of subsection (1) have effect accordingly.

87. Effect of sections 85 and 86

To the extent that a co-operative scheme law ceases to operate because of section 85 or 86, the law is taken for the purposes of the *Acts Interpretation Act 1931* to have been repealed by this Act.

88. Regulations may modify co-operative scheme laws

- (1) Regulations under section 80 may provide that a specified co-operative scheme law, or specified provisions of a co-operative scheme law, has or have effect with such modifications as the regulations prescribe.
- (2) Regulations in force because of subsection (1) have effect accordingly, even if, because of section 85 or 86, the specified law does not operate of its own force, or the specified provisions do not operate of their own force, as the case requires.
- (3) However, a reference in section 85(2) to a co-operative scheme law includes a reference to

such a law as it has effect, or to provisions of such a law as they have effect, because of this section.

89. Co-operative scheme laws not affected by certain Commonwealth regulations

The operation or effect of a co-operative scheme law is not modified or otherwise affected because regulations of a kind referred to in section 77 or 79 of the Corporations Act modify or otherwise affect the operation of a Co-operative Scheme Act within the meaning of Part 12 of the Corporations Act.

90. References to co-operative scheme laws and regulations

(1) In this section –

Code regulations means provisions applying as regulations made under a Code by reason of a provision of an Act that is a co-operative scheme law;

instrument has the same meaning as in section 13, but does not include –

- (a) a co-operative scheme law; or
- (b) regulations under an Act that is such a law, or under this Act; or
- (c) Code regulations; or

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Part 13 – Transitional

s. 90

- (d) a national scheme law of this jurisdiction, or the Corporations Regulations, or ASIC Regulations, of Tasmania.
- (2) Subject to subsection (4) and to any regulations in force under subsection (7), a reference in an instrument to a co-operative scheme law is to be taken to include a reference to such provisions of the national scheme laws of this jurisdiction as correspond to provisions of the co-operative scheme law.
- (3) Subject to subsection (4) and to any regulations in force under subsection (7), a reference in an instrument to Code regulations is to be taken to include a reference to such provisions of the Corporations Regulations, or ASIC Regulations, of Tasmania as correspond to provisions of the Code regulations.
- (4) Subject to any regulations in force under subsection (7), a reference in an instrument to a provision of a co-operative scheme law or of Code regulations is to be taken to include a reference to the corresponding provision of a national scheme law of this jurisdiction or of the Corporations Regulations, or ASIC Regulations, of Tasmania, as the case may be.
- (5) Subject to any regulations in force under subsection (7), a reference in an instrument to the NCSC is to be taken to include a reference to the Commission.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 91

Part 13 – Transitional

- (6) Regulations under section 80 may declare that, for the purposes of this section –
 - (a) prescribed provisions of national scheme laws of this jurisdiction correspond to prescribed provisions of co-operative scheme laws; and
 - (b) prescribed provisions of the Corporations Regulations, or ASIC Regulations, correspond to prescribed provisions of Code regulations.
- (7) Regulations under section 80 –
 - (a) may declare that subsection (2), (3), (4) or (5) of this section does not apply in relation to prescribed references in prescribed instruments; or
 - (b) may declare that subsection (2), (3), (4) or (5) of this section has effect in relation to prescribed references in prescribed instruments as if, in the subsection, the words “be taken to be” were substituted for the words “be taken to include”.
- (8) Regulations in force because of subsection (6) or (7) have effect accordingly.

91. Conferral of functions and powers in relation to co-operative scheme laws

- (1) The Commonwealth Director of Public Prosecutions –

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Part 13 – Transitional

s. 91

- (a) has the same enforcement powers in relation to the co-operative scheme laws as has the Director of Public Prosecutions of Tasmania; and
 - (b) may, in relation to an offence against a co-operative scheme law, perform the functions and exercise the powers conferred on the Director of Public Prosecutions by the *Director of Public Prosecutions Act 1983* of the Commonwealth in relation to offences against the laws of the Commonwealth as if the offence against the co-operative scheme law were an offence against a national scheme law of this jurisdiction.
- (2) The Australian Federal Police –
- (a) have the same enforcement powers in relation to the co-operative scheme laws as has the Police Service; and
 - (b) may, in relation to an offence against a co-operative scheme law, perform the functions and exercise the powers conferred on the Australian Federal Police in relation to offences against the laws of the Commonwealth as if the offence against the co-operative scheme law were an offence against a national scheme law of this jurisdiction.
- (3) The Commonwealth Minister has, in respect of the prosecution of offences against the co-operative scheme laws, the same functions and

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 92

Part 13 – Transitional

powers as he or she has in respect of the prosecution of offences against a national scheme law of this jurisdiction.

- (4) For the purposes of the exercise of enforcement powers, and other functions and powers conferred by this section, including the obtaining of warrants to arrest, an offence against a co-operative scheme law is taken to be an offence against a national scheme law of this jurisdiction.
- (5) In this section, *enforcement power* means a function or power relating to –
 - (a) the investigation of an offence; or
 - (b) the arrest and custody of persons charged with an offence; or
 - (c) the institution and carrying on of a prosecution of an offence; or
 - (d) matters relating to such an investigation, arrest, custody or prosecution.

92. Arrangements affecting exercise of investigation powers by State authorities and officers

- (1) Where an arrangement between the Minister and the Commonwealth Minister makes provision in relation to the exercise by a State authority or officer of enforcement powers within the meaning of section 91 in relation to the co-operative scheme laws –

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Part 13 – Transitional

s. 93.

-
- (a) the State authority or officer is authorised to act in accordance with that arrangement; and
 - (b) the State authority or officer must not exercise an enforcement power except in accordance with that arrangement; and
 - (c) the exercise of, or failure to exercise, an enforcement power by a State authority or officer is to be taken to have been validly performed or withheld, despite any failure to comply with any conditions in the arrangement.
- (2) Notice of each arrangement under subsection (1) must be published in the *Government Gazette* and in the *Commonwealth of Australia Gazette* within 21 days after it is made.

Division 3 – Exemptions

93.

Division 4 – Australian Stock Exchange Limited

94. Saving of provisions about Australian Stock Exchange Limited

- (1) Section 85 does not apply in relation to Part IIA of the *Securities Industry (Tasmania) Code*.
- (2) Part IIA has effect, as provided in this section, despite the national scheme laws of this jurisdiction.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 95

Part 13 – Transitional

- (3) A reference in Part IIA to a relevant Code, except in relation to a time before the commencement of this section, is taken to be a reference to a national scheme law of this jurisdiction.
- (4) Subject to subsection (5), a reference in Part IIA to a particular Co-operative Scheme Law, except in relation to a time before that commencement, is taken to be a reference to such provisions of the national scheme laws of this jurisdiction as correspond to provisions of that law.
- (5) A reference in Part IIA to a provision of a Co-operative Scheme Law (other than a provision of Part IIA itself), except in relation to a time before that commencement, is taken to be a reference to the corresponding provision of a national scheme law of this jurisdiction.
- (6) Regulations in force because of section 90(6) also have effect for the purposes of this section.

***Division 5 – Companies Auditors and Liquidators
Disciplinary Board***

95. Board to continue in existence for certain purposes

The Companies Auditors and Liquidators Disciplinary Board established under section 4(1) of the *Companies Auditors and Liquidators Disciplinary Board Act 1982* may perform the functions and exercise the powers conferred on it under Division 2 of Part II of the *Companies (Tasmania) Code* in respect of applications made

to it under Subdivision B of that Division before the commencement of this section.

Division 6 – Administration of this Act

96. Administration of this Act

Notwithstanding section 4 of the *Administrative Arrangements Act 1990* –

- (a) this Act is administered by the Minister for Justice; and
- (b) the department responsible to the Minister in relation to the administration of this Act is the Department of Justice –

until an order is made under that section assigning to another Minister the administration of this Act.

Division 6A – Functions of Commonwealth authorities and officers of the Commonwealth

96AAA. Interpretation

In this Division –

function includes a power;

old corporations legislation has the same meaning as in the *Corporations (Ancillary Provisions) Act 2001*;

perform includes exercise.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

s. 96AA

Part 13 – Transitional

96AA. Functions of Commonwealth authorities and officers of the Commonwealth

If a Commonwealth authority or an officer of the Commonwealth has a function expressed to be conferred on the authority or officer by or under the old corporations legislation, the authority or officer is not under a duty to perform that function.

Division 7 – Amending Acts

96A. Savings and transitional provisions for amending Acts

Schedule 1 has effect.

**PART 14 – PROVISIONS AFFECTING
CORPORATIONS LAW**

97. Certain transfers by companies under *Land Titles Act 1980* not to constitute reduction of share capital

(1) Where –

- (a) land under the *Land Titles Act 1980* is comprised in a strata plan registered under the *Strata Titles Act 1998*; and
- (b) at the time of registration of the plan, the proprietor of that land was a company which had previously granted a right of a kind referred to in section 195(13) of the Corporations Law –

the transfer by the company of any lot described on the strata plan in exchange for, or in satisfaction of, a right of the kind referred to in section 195(13) of the Corporations Law does not of itself constitute, and is to be taken never to have constituted, a reduction of the share capital of the company.

- (2) Subsection (1) does not apply to a transfer made on or after the commencement of section 6 of the *Corporations (Tasmania) Amendment Act 2000*.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Part 15 – Miscellaneous amendments

PART 15 – MISCELLANEOUS AMENDMENTS

- 98.** *The amendments effected by this section have been incorporated into the authorised version of the Acts Interpretation Act 1931.*
- 99.** *The amendments effected by this section have been incorporated into the authorised version of the Business Names Act 1962.*

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

sch. 1

**SCHEDULE 1 – SAVINGS AND TRANSITIONAL
PROVISIONS (AMENDING ACTS)**

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

sch. 1

Section 96A

Corporations (Tasmania) Amendment Act 1995

Interpretation

1—In this Schedule—

“Court” means the Federal Court of Australia or the Supreme Court of a State or Territory;

“jurisdiction amendments” means the amendments made by sections 4 to 17 to the *Corporations (Tasmania) Amendment Act 1995*;

“jurisdiction commencement” means the commencement of the jurisdiction amendments.

Application of jurisdiction amendments—general

2—The jurisdiction amendments apply to proceedings commenced, or recommenced, after the jurisdiction commencement, whether the cause of action arose before or after that commencement.

Effect of decision that court did not have jurisdiction

3—(1) This clause applies if—

- (a) before the jurisdiction commencement, proceedings in respect of a civil matter under the Corporations Law of Tasmania were commenced in a court (the “first court”) other than the Court; and
- (b) the first court, or another court on appeal from a decision of the first court, decided before the jurisdiction commencement that the first court did not have jurisdiction in respect of the matter; and
- (c) the decision that the first court did not have jurisdiction still stands at the jurisdiction commencement; and
- (d) the first court would have had jurisdiction in respect of the matter if the jurisdiction amendments had commenced before the cause of action arose.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

sch. 1

(2) The validity of the decision that the first court did not have jurisdiction is not affected by the jurisdiction amendments.

(3) That decision does not affect a recommencement of the proceedings after the jurisdiction commencement.

Effect of absence of decision that court did not have jurisdiction

4—(1) This clause applies if—

(a) before the jurisdiction commencement, proceedings in respect of a civil matter under the Corporations Law of Tasmania were commenced in a court (the “first court”) other than the Court; and

(b) either—

(i) no court expressly decided, before the jurisdiction commencement, whether the first court had jurisdiction in respect of the matter; or

(ii) a decision of the first court, or of another court on appeal from a decision of the first court, that the first court did have jurisdiction in respect of the matter still stands at the jurisdiction commencement.

(2) For the purposes of any consideration by a court, after the jurisdiction commencement, of whether the first court had jurisdiction in respect of the matter, the first court is taken to have had jurisdiction in respect of the matter if it would have had that jurisdiction if the jurisdiction amendments had commenced before the cause of action arose.

Application of section 42AA

5. (1) In this clause —

"commencement" means the commencement of section 20 of the *Federal Courts (Consequential Amendments) Act 2001*;

"related criminal justice process decision", in relation to an offence, has the same meaning as in section 42AA.

(2) The amendments made by section 20 of the *Federal Courts (Consequential Amendments) Act 2001* apply in relation to —

- (a) a decision made on or after the commencement to prosecute a person for an offence, even if the conduct alleged to give rise to the offence occurred before that commencement; or
- (b) a related criminal justice process decision made on or after the commencement in relation to an offence, even if either or both of the following apply:
 - (i) the conduct alleged to give rise to the offence occurred before the commencement;
 - (ii) the prosecution of the offence, or an appeal arising out of the prosecution, was commenced before the commencement.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

sch. 1

(3) The amendments made by section 20 of the *Federal Courts (Consequential Amendments) Act 2001* also apply in relation to —

- (a)** a decision made before the commencement to prosecute a person for an offence, even if that decision is the subject of an application that is before a court at the commencement; or
- (b)** a related criminal process decision made before the commencement in relation to an offence, even if either or both of the following apply:
 - (i)** the decision is the subject of an application that is before a court at the commencement;
 - (ii)** the prosecution of the offence, or an appeal arising out of that prosecution, was commenced before the commencement.

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

NOTES

The foregoing text of the *Corporations (Tasmania) Act 1990* 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 14 October 2024 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Corporations (Tasmania) Act 1990</i>	No. 41 of 1990	1.1.1991
<i>Corporations (Tasmania) Amendment Act 1992</i>	No. 5 of 1992	1.1.1991 (sections 4(1), 5, 15, 16)
	No. 5 of 1992	31.7.1992 (sections 4(2), 6-14)
<i>Corporations (Tasmania) Amendment Act 1995</i>	No. 33 of 1995	16.10.1995
<i>Financial Sector Reform (Tasmania) (Miscellaneous Amendments) Act 1999</i>	No. 74 of 1999	1.1.2000
<i>Corporations (Tasmania) Amendment Act 2000</i>	No. 66 of 2000	14.11.2000
<i>Federal Courts (Consequential Amendments) Act 2001</i>	No. 11 of 2001	1.6.2001
<i>Corporations (Ancillary Provisions) Act 2001</i>	No. 41 of 2001	15.7.2001
<i>Police Service (Consequential Amendments) Act 2003</i>	No. 76 of 2003	1.1.2004
<i>Legal Profession (Miscellaneous and Consequential Amendments) Act 2007</i>	No. 66 of 2007	31.12.2008
<i>Justice Miscellaneous (Administrative Review Tribunal) Act 2025</i>	No. 8 of 2025	14.10.2024

TABLE OF AMENDMENTS

Provision affected	How affected
Section 1	Amended by No. 74 of 1999, Sched. 1
Section 3	Amended by No. 5 of 1992, s. 4, No. 74 of 1999, Sched. 1,

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Provision affected	How affected
	No. 11 of 2001, s. 14 and No. 8 of 2025, s. 11
Section 7	Amended by No. 41 of 2001, s. 31
Section 8	Amended by No. 41 of 2001, s. 31
Section 12	Amended by No. 41 of 2001, s. 31
Section 15	Amended by No. 66 of 2000, s. 4
Section 20	Amended by No. 74 of 1999, Sched. 1
Part 6	Repealed by No. 74 of 1999, Sched. 1
Section 21	Repealed by No. 74 of 1999, Sched. 1
Section 26	Amended by No. 74 of 1999, Sched. 1
Section 27	Amended by No. 74 of 1999, Sched. 1
Section 30	Amended by No. 5 of 1992, s. 5
Section 31	Amended by No. 41 of 2001, s. 31
Section 33	Repealed by No. 41 of 2001, s. 31
Section 36A	Inserted by No. 11 of 2001, s. 15
	Amended by No. 8 of 2025, s. 12
Section 37	Amended by No. 41 of 2001, s. 31
Section 39	Repealed by No. 41 of 2001, s. 31
Section 40	Amended by No. 33 of 1995, s. 4 and No. 11 of 2001, s. 16
Section 41	Amended by No. 5 of 1992, s. 6, No. 33 of 1995, s. 5, No. 74 of 1999, Sched. 1 and No. 11 of 2001, s. 17
Section 42	Amended by No. 5 of 1992, s. 7 and No. 11 of 2001, s. 18
Section 42A	Inserted by No. 5 of 1992, s. 8
	Amended by No. 11 of 2001, s. 19
Section 42AA	Inserted by No. 11 of 2001, s. 20
Section 42B	Inserted by No. 33 of 1995, s. 6
	Amended by No. 11 of 2001, s. 21
Section 43	Substituted by No. 5 of 1992, s. 9
	Amended by No. 33 of 1995, s. 7 and No. 11 of 2001, s. 22
Section 44	Amended by No. 5 of 1992, s. 10 and No. 11 of 2001, s. 23
Section 44A	Inserted by No. 5 of 1992, s. 11
	Amended by No. 33 of 1995, s. 8 and No. 11 of 2001, s. 24
Section 44AA	Inserted by No. 33 of 1995, s. 9
	Amended by No. 11 of 2001, s. 25
Section 44B	Inserted by No. 5 of 1992, s. 11
	Amended by No. 33 of 1995, s. 10
Section 44C	Inserted by No. 5 of 1992, s. 11
	Amended by No. 33 of 1995, s. 11
Section 44D	Inserted by No. 5 of 1992, s. 11
	Amended by No. 33 of 1995, s. 12
Section 45	Amended by No. 5 of 1992, s. 12, No. 33 of 1995, s. 13 and No. 11 of 2001, s. 26
Section 46	Amended by No. 33 of 1995, s. 14 and No. 11 of 2001, s. 27
Section 47	Amended by No. 33 of 1995, s. 15
Section 48	Amended by No. 66 of 2007, Sched. 1
Section 50	Amended by No. 5 of 1992, s. 13, No. 33 of 1995, s. 16 and No. 11 of 2001, s. 28
Section 51	Amended by No. 33 of 1995, s. 17

Corporations (Tasmania) Act 1990
Act No. 41 of 1990

Provision affected	How affected
Section 52	Repealed by No. 11 of 2001, s. 29
Section 52A	Inserted by No. 5 of 1992, s. 14
	Amended by No. 11 of 2001, s. 30
Section 54	Amended by No. 74 of 1999, Sched. 1 and No. 11 of 2001, s. 31
Part 11	Heading amended by No. 74 of 1999, Sched. 1
Division 1 of Part 11	Heading amended by No. 74 of 1999, Sched. 1
Section 58	Amended by No. 74 of 1999, Sched. 1 and No. 41 of 2001, s. 31
Section 59	Amended by No. 74 of 1999, Sched. 1 and No. 41 of 2001, s. 31
Section 60	Amended by No. 33 of 1995, s. 18, No. 74 of 1999, Sched. 1, No. 66 of 2000, s. 5, No. 41 of 2001, s. 31 and No. 66 of 2007, Sched. 1
Section 61	Amended by No. 74 of 1999, Sched. 1
Section 62	Amended by No. 74 of 1999, Sched. 1
Division 2 of Part 11	Heading amended by No. 74 of 1999, Sched. 1
Section 63	Amended by No. 74 of 1999, Sched. 1
Section 64	Amended by No. 74 of 1999, Sched. 1 and No. 41 of 2001, s. 31
Section 65	Amended by No. 74 of 1999, Sched. 1
Section 67	Repealed by No. 41 of 2001, s. 31
Section 68	Amended by No. 41 of 2001, s. 31
Section 69	Repealed by No. 41 of 2001, s. 31
Section 72	Amended by No. 74 of 1999, Sched. 1
Section 73	Amended by No. 74 of 1999, Sched. 1
Section 74	Amended by No. 5 of 1992, s. 15 and No. 74 of 1999, Sched. 1
Section 71	Substituted by No. 33 of 1995, s. 19
Section 75	Amended by No. 74 of 1999, Sched. 1
Section 85	Amended by No. 41 of 2001, s. 31
Section 90	Amended by No. 5 of 1992, s. 16 and No. 74 of 1999, Sched. 1
Section 91	Amended by No. 33 of 1995, s. 20 and No. 76 of 2003, Sched. 1
Section 93	Repealed by No. 74 of 1999, Sched. 1
Section 96AAA of Part 13	Inserted by No. 41 of 2001, s. 31
Section 96AA of Part 13	Inserted by No. 41 of 2001, s. 31
Pt. 13, Div. 7	Inserted by No. 33 of 1995, s. 21
Section 96A	Inserted by No. 33 of 1995, s. 21
Section 97	Substituted by No. 66 of 2000, s. 6
Sched. 1	Inserted by No. 33 of 1995, s. 22
Schedule 1	Substituted by No. 11 of 2001, s. 32