



TOURISM TASMANIA ACT 1996

No. 57 of 1996

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TOURISM TASMANIA ACT 1996

No. 57 of 1996

An Act to establish Tourism Tasmania and for related purposes

[Royal Assent 16 December 1996]

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

Short title

1. This Act may be cited as the *Tourism Tasmania Act 1996*.

Commencement

2. (1) This Act, other than this section and sections 1 and 57, commences on a day to be proclaimed.

(2) This section and sections 1 and 57 commence on the day after the day on which this Act receives the Royal Assent.

Interpretation

3. In this Act, unless the contrary intention appears –

"amend" includes –

- (a) omit matter; and
- (b) insert or add matter; and
- (c) omit matter and substitute other matter;

"audit committee" means the audit committee established under section 13(1)(a);

"Australian Accounting Standards" means Statements of Accounting Standards issued jointly by the National Councils of the Australian Society of Certified Practising Accountants and The Institute of Chartered Accountants in Australia or their successors;

"Authority" means Tourism Tasmania established under section 4;

"Board" means the Board of Directors of the Authority;

"chairperson" means the chairperson of the Board appointed under section 8;

"chief executive officer" means the chief executive officer of the Authority appointed under section 17;

"commencement day" means the day proclaimed under section 2(1);

"committee" means the audit committee or a committee established under section 13(1)(b);

"contract" includes an agreement or arrangement;

"corporate plan" means the corporate plan approved under section 27;

"director" means –

- (a) the chairperson; and
- (b) the chief executive officer; and
- (c) a person appointed as a director under section 8(1)(c), (d) or (e);

"employee" means a person –

- (a) referred to in section 23(1); and
- (b) whose services are obtained by the Authority under section 23(2) or (4), other than a contractor or a consultant;

"enactment" means an Act, order or other instrument of a legislative character;

"financial statements" means the financial statements prepared in respect of the Authority under section 38;

"functions" includes duties;

"Head of an Agency" has the same meaning as in the *Tasmanian State Service Act 1984*;

"marketing" means the process, and any part of the process, of marketing experiences and services;

"marketing experiences and services" includes product development, pricing, promotion and product distribution;

"ministerial charter" means the charter provided to the Authority under section 24;

"objective" means the objective specified in section 5;

"State charge" means any rate, tax, duty or other impost imposed by or under any enactment of the State;

"statement of corporate intent" has the meaning given by section 29;

"statutory authority" means an incorporated or unincorporated body which is established, constituted or continued by or under an Act or under the royal prerogative, being a body which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister of the Crown or another statutory authority;

"Treasurer's Instructions" means instructions issued under section 114 of the *Government Business Enterprises Act 1995*.

PART 2 – TOURISM TASMANIA

Tourism Tasmania

4. (1) Tourism Tasmania is established.

(2) The Authority –

- (a) is a body corporate with perpetual succession;
and
- (b) has a seal; and
- (c) may sue and be sued in its corporate name;
and
- (d) is an instrumentality of the Crown.

Objective of Authority

5. The objective of the Authority is to maximise the economic and social benefits for Tasmania by fostering a sustainable tourism industry in the State through –

- (a) maximising the number of tourists in Tasmania; and
- (b) maximising the expenditure of tourists in Tasmania; and
- (c) facilitating the investment in, and development of, the tourism industry in Tasmania; and
- (d) contributing to the creation of employment opportunities within the Tasmanian tourism industry.

Functions of Authority

6. (1) The functions of the Authority are as follows:

- (a) to market Tasmania as a desirable tourist destination;
- (b) to facilitate the sustainable growth of the Tasmanian tourism industry;
- (c) to support the Tasmanian tourism industry to achieve the best practice delivery of products and services;
- (d) to undertake, support and interpret research relevant to tourism in Tasmania;
- (e) to undertake strategic planning for the development and growth of a sustainable tourism industry in Tasmania;
- (f) to provide advice and support to the Minister in relation to the Tasmanian tourism industry;
- (g) to establish and maintain a cooperative relationship between the Authority, Government departments, statutory authorities, local government and the tourism industry in Tasmania;
- (h) to perform other functions imposed on the Authority by this or any other Act.

(2) In performing its functions and exercising its powers, the Authority must have regard to –

- (a) the Agreement for the Sustainable Development of Tasmania's Tourism Industry dated 28 February 1996 between the Government and the Tourism Council of Australia (Tasmania Branch) while that agreement is in force; and

- (b) any other agreement between the Government and the Tourism Council of Australia (Tasmania Branch) while that other agreement is in force.

Powers of Authority

7. (1) The Authority has power to do –

- (a) all things necessary or convenient to be done in connection with the performance of its functions; and
- (b) all other things that it is authorised to do by this or any other Act.

(2) Without limiting subsection (1), the Authority has power to –

- (a) undertake destinational and product marketing; and
- (b) carry out investigations and research into tourism in Tasmania and elsewhere; and
- (c) act as a travel agent; and
- (d) establish and maintain travel centres to assist travellers; and
- (e) acquire, hold, dispose of and otherwise deal with property; and
- (f) enter into contracts including a contract with another person for the performance of any of its functions or powers jointly with that other person; and

- (g) set charges, terms and conditions relating to work done, or services, goods or information supplied, by it; and
- (h) appoint agents, attorneys and consultants and act as an agent, attorney or consultant; and
- (i) form, and participate in the formation of, companies and participate in partnerships, trusts, joint ventures and other arrangements for the sharing of profits; and
- (j) carry on any business which may conveniently be carried on in conjunction with the performance of its functions; and
- (k) do all other things necessary or convenient to be done in connection with the exercise of its powers.

(3) The Authority must not exercise its power to form, or participate in the formation of, a company or to participate in a partnership, trust, joint venture or other arrangement for the sharing of profits unless the Minister and Treasurer have approved, in writing, the exercise of that power.

(4) The Authority may use and operate under –

- (a) one or more of the following trading names:
 - (i) "Tourism Tasmania";
 - (ii) "Tasmania's Temptations Holidays";
 - (iii) "Tasmania Direct"; and
- (b) one or more other trading names approved by the Minister.

PART 3 – BOARD OF DIRECTORS

Division 1 – Board

Board

8. (1) The Authority has a Board of Directors consisting of –

- (a) the chairperson who has high-level skills and extensive experience in commerce; and
- (b) the chief executive officer; and
- (c) one person appointed on the nomination of the Tourism Council of Australia (Tasmania Branch); and
- (d) 2 persons who have skills and experience in marketing-related industries or transport-related industries; and
- (e) 2 other persons who have the skills and experience necessary to enable the Authority to achieve its objective.

(2) The chairperson and the directors referred to in subsection (1)(c), (d) and (e) are appointed by the Governor on the recommendation of the Minister.

(3) The Minister may require the Tourism Council of Australia (Tasmania Branch) to submit its nomination under subsection (1)(c) within the period of not less than 2 months specified in the requirement.

(4) If the Tourism Council of Australia (Tasmania Branch) fails to comply with the requirement of the Minister, the Governor, on the recommendation of the Minister, may appoint for the purposes of subsection (1)(c) a person whom the Governor considers represents the

interests of the Tourism Council of Australia (Tasmania Branch).

(5) Schedule 1 has effect with respect to directors.

(6) Schedule 2 has effect with respect to the meetings of the Board.

Role of Board

9. The Board is responsible to the Minister –

- (a) for the performance by the Authority of its functions; and
- (b) for the achievement by the Authority of its objectives as specified in this Act, any other Act and its corporate plan; and
- (c) for ensuring that the business and affairs of the Authority are managed and conducted in a manner that is in accordance with sound commercial practice.

Duty to notify Minister of developments

10. (1) The Board must notify the Minister of any development in the Tasmanian tourism industry which, in the opinion of the Board, is significant within a reasonable time after the Board becomes aware of the development.

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

- (a) prevent or significantly affect the achievement of the financial performance objectives under the corporate plan by the Authority; or

- (b) significantly affect the financial viability or operating ability of the Authority, any subsidiary or any partnership, trust, joint venture or arrangement for the sharing of profits in which the Authority participates.

(3) A notification under subsection (2) is to be given immediately after the Board becomes aware of the development.

Powers of Board

11. The Board has power to do all things necessary or convenient to be done in connection with the performance and exercise of its functions and powers under this or any other Act.

Delegation

12. The Board may, in writing, delegate any of its functions or powers other than this power of delegation to any one or more of the following persons:

- (a) a director;
- (b) a chief executive officer;
- (c) a committee;
- (d) an employee.

Committees

13. (1) The Board –

- (a) must establish an audit committee; and

- (b) may establish such other committees as it considers appropriate.

(2) A committee –

- (a) must provide the Board with advice on any matter referred to it by the Board; and
- (b) must perform any functions, and may exercise any powers, delegated to it by the Board.

(3) In addition to its functions under subsection (2), the audit committee must provide the Board with advice on –

- (a) the internal audit charter of the Authority; and
- (b) monitoring the Authority's systems of financial reporting and internal control; and
- (c) the resources necessary for the performance of the internal audit function of the Authority.

(4) Schedule 3 has effect with respect to –

- (a) the members of a committee; and
- (b) the meetings of a committee.

Acting directors

14. (1) In this section, "**absent**" means –

- (a) absent from duty; or
- (b) absent from Australia; or
- (c) otherwise unable to perform the functions of the office of director.

(2) The Minister may appoint a person to act as a director if the chairperson or another director referred to in section 8(1)(c), (d) or (e) is absent.

(3) The appointment of a person to act as a director if the chairperson is absent is not an appointment to the position of chairperson.

(4) Except as otherwise provided in this section, this Act applies to an appointment under subsection (2) as if it were the appointment of a director.

(5) While a person appointed under subsection (2) is acting as a director that person is taken to be a director.

(6) The appointment of a person to act as a director terminates when the absent chairperson or director resumes the performance of his or her functions as director.

Division 2 – Directors generally

Duties of directors

15. (1) A director must act honestly in the performance and the exercise of the functions and powers of a director.

Penalty: Fine not exceeding 50 penalty units.

(2) In the performance and exercise of the functions and powers of a director, a director must exercise the same degree of care and diligence that a person in a like position in a corporation within the meaning of the Corporations Law is required to exercise.

Penalty: Fine not exceeding 50 penalty units.

(3) A director or former director must not use improperly, whether within Tasmania or elsewhere, information acquired as a director –

- (a) to gain, directly or indirectly, a personal advantage or an advantage for another person; or
- (b) to cause damage to the Authority.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 5 years, or both.

(4) A director or former director must not use improperly, whether within Tasmania or elsewhere, his or her position as a director or the fact that he or she is or was a director –

- (a) to gain, directly or indirectly, a personal advantage or an advantage for another person; or
- (b) to cause damage to the Authority.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 5 years, or both.

Repayment by director of improper profit, &c.

16. If a director or former director is found guilty of an offence under section 15, the Authority may recover in a court of competent jurisdiction as a debt due to it –

- (a) any profit made by the director or another person as a result of the committing of the offence; and
- (b) an amount equal to any loss and damage the Authority suffered as a result of the committing of the offence.

PART 4 – STAFF

Division 1 – Chief executive officer

Chief executive officer

17. (1) The Governor, on the recommendation of the Minister, may appoint a person, other than the chairperson, as chief executive officer of the Authority.

(2) Before recommending a person for appointment as chief executive officer, the Minister must consult with the Board in relation to the recommendation.

(3) The chief executive officer is entitled to be paid the remuneration and allowances specified in the instrument of appointment.

(4) The chief executive officer holds that office, subject to subsection (6), for a term of not more than 5 years and on the conditions specified in the instrument of appointment.

(5) The chief executive officer must not engage in paid employment outside the duties of the office unless the instrument of appointment allows for it.

(6) The appointment of a person as chief executive officer is not invalid merely because of a defect or irregularity in relation to the appointment.

(7) The Governor, on the recommendation of the Minister, may revoke an appointment in accordance with the instrument of appointment.

(8) Before recommending the revocation of an appointment the Minister must consult with the Board in relation to the recommendation.

Role of chief executive officer

18. (1) The chief executive officer is responsible to the Board for the general administration and management of the Authority.

(2) The chief executive officer –

- (a)** must perform any functions, and may exercise any powers, delegated to the chief executive officer by the Board; and
- (b)** must perform any other functions imposed on, and may exercise any other powers granted to, the chief executive officer by this or any other Act.

Performance agreement

19. (1) The Board and chief executive officer may enter into an agreement relating to the Board's expectations of the performance and exercise of the functions and powers of the chief executive officer.

(2) The agreement may not prevent the chief executive officer from performing or exercising any function or power imposed on or given to the chief executive officer by this or any other Act.

Disclosure of interests

20. The chief executive officer must inform the Board, in writing, of any direct or indirect pecuniary interest that he or she has in any business or body corporate that carries on a business as soon as practicable after he or she acquires, or becomes aware of, that interest.

Duties of chief executive officer

21. (1) The chief executive officer must act honestly in the performance and exercise of the functions and powers of the chief executive officer under this or any other Act.

Penalty: Fine not exceeding 50 penalty units.

(2) In the performance and exercise of the functions and powers of the chief executive officer, the chief executive officer must exercise the same degree of care and diligence that a person in a like position in a corporation within the meaning of the Corporations Law is required to exercise.

Penalty: Fine not exceeding 50 penalty units.

(3) The chief executive officer or a former chief executive officer must not use improperly, whether within Tasmania or elsewhere, information acquired as chief executive officer –

- (a) to gain, directly or indirectly, a personal advantage or an advantage for another person;
or
- (b) to cause damage to the Authority.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 5 years, or both.

(4) The chief executive officer or a former chief executive officer must not use improperly, whether within Tasmania or elsewhere, his or her position as chief executive officer or the fact that he or she is or was the chief executive officer –

- (a) to gain, directly or indirectly, a personal advantage or an advantage for another person;
or

- (b) to cause damage to the Authority.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 5 years, or both.

Acting chief executive officer

22. (1) In this section, "**absent**" means –

- (a) absent from duty; or
- (b) absent from Australia; or
- (c) otherwise unable to perform the functions of the office of chief executive officer; or
- (d) has died, resigned or been removed from office and a new chief executive officer has not been appointed.

(2) The Minister may appoint a person, other than the chairperson, to act as chief executive officer during any or every period during which the chief executive officer is absent.

(3) Except as otherwise provided in this section, this Act applies to the appointment of a person under subsection (2) as if it were the appointment of the chief executive officer.

(4) While a person appointed under subsection (2) is acting as chief executive officer that person is taken to be the chief executive officer.

Division 2 – Other staff**Staff**

23. (1) Subject to and in accordance with the *Tasmanian State Service Act 1984*, persons may be employed or appointed for the purposes of this Act.

(2) With the written consent of the Minister, the Authority may employ or engage such other persons as it considers necessary for the performance of its functions.

(3) The terms and conditions of persons employed or engaged under subsection (2) are, subject to any relevant award or industrial agreement, as determined by the Authority and the *Tasmanian State Service Act 1984* does not apply to those persons.

(4) The Authority may arrange with the Head of an Agency for persons employed in that Agency to be made available for the purposes of the Authority.

PART 5 – CHARTERS AND PLANS

Division 1 – Ministerial charter

Ministerial charter

24. (1) Within 3 months after the commencement day, the Minister must provide the Authority with a ministerial charter.

(2) The Minister may at any time at his or her own discretion or on receipt of the application of the Authority –

- (a) amend a ministerial charter; or
- (b) revoke a ministerial charter and substitute another ministerial charter.

(3) Before or while preparing a ministerial charter or an amendment to a ministerial charter, the Minister must consult with the Authority.

(4) A ministerial charter and any amendment to a ministerial charter are to be in writing and signed by the Minister.

(5) The Minister is to provide a copy of the ministerial charter and any amendment to it to the Treasurer.

(6) A ministerial charter or any amendment to a ministerial charter takes effect on a day specified in it, being a day not earlier than the day on which it is provided to the Authority.

(7) The Minister must cause a copy of the ministerial charter and any amendment to it to be laid before each House of Parliament within 10 sitting days after providing a copy of it to the Treasurer.

Contents of ministerial charter

25. (1) A ministerial charter is to specify the policy expectations of the Minister for the Authority.

(2) A ministerial charter may limit the functions and powers of the Authority and the performance and exercise of those functions and powers, but –

- (a) may not prevent the Authority from performing a function it is required to perform or otherwise complying with this or any other Act; and
- (b) may not extend the functions and powers of the Authority.

Compliance with ministerial charter

26. The Board must ensure that the business and affairs of the Authority are conducted in a manner that is consistent with the ministerial charter.

Division 2 – Plans of Authority**Corporate plan**

27. (1) In each financial year, the Board must prepare a corporate plan for the Authority.

(2) The corporate plan –

- (a) is to cover a period of not less than 3 financial years commencing on the day it takes effect; and
- (b) is to contain a summary of the projected financial results of the Authority in respect of

the current financial year and each financial year covered by the plan; and

- (c) is to contain a summary of the financial results of the Authority in respect of the financial year immediately preceding the current financial year; and
- (d) is to contain the statement of corporate intent; and
- (e) is to specify the strategic direction of the Authority during the period covered by the plan; and
- (f) is to be in a form and contain the information specified by the Minister; and
- (g) is to be consistent with the objective and ministerial charter of the Authority.

(3) The Board must provide a draft of the corporate plan to the Minister, Treasurer and Tourism Council of Australia (Tasmania Branch) not later than 60 days before the day on which the corporate plan will take effect.

(4) When a draft corporate plan is approved by the Minister it becomes the corporate plan of the Authority.

(5) The Minister must approve a corporate plan, prepared in accordance with this section and section 28, by not later than 30 days before the day on which the corporate plan will take effect.

(6) The corporate plan takes effect on the first day of the financial year next commencing after its approval by the Minister.

(7) The Board may prepare an amendment of its corporate plan at any time.

(8) An amendment of the corporate plan takes effect when it is approved by the Minister.

(9) The Board must provide a copy of its corporate plan and an amended corporate plan to the Treasurer and the Tourism Council of Australia (Tasmania Branch) within 14 days after the Board has been notified of its approval by the Minister.

(10) Except where the Minister otherwise approves, the Authority must act in accordance with its corporate plan or amended corporate plan.

Consultation when preparing draft corporate plan

28. (1) In the course of preparing the draft corporate plan the Board must consult –

- (a) in relation to the interests of the State as a whole and the long-term objectives of the Authority, with the Minister; and
- (b) in relation to the financial performance objectives of the Authority, with the Minister and Treasurer together; and
- (c) in relation to the interests of the tourism industry in Tasmania as a whole, with the Tourism Council of Australia (Tasmania Branch).

(2) The Minister may give a direction to the Board –

- (a) in relation to a long-term objective of the Authority; or
- (b) if the Minister considers the draft corporate plan to be inconsistent with the ministerial charter, in relation to that inconsistency.

(3) The Minister and the Treasurer jointly may give a direction to the Board in relation to the financial performance objectives of the Authority.

(4) Subject to subsection (5), the Board must comply with a direction if it is in writing and –

- (a) in the case of a direction referred to in subsection (2), signed by the Minister; or
- (b) in the case of a direction referred to in subsection (3), signed by both the Minister and the Treasurer.

(5) A direction has no effect in respect of a contract entered into by the Authority before the direction was given if compliance with the direction would result in the Authority failing to perform the contract.

Statement of corporate intent

29. (1) The statement of corporate intent of the Authority is a summary of its corporate plan.

(2) The statement of corporate intent of the Authority must not disclose any information which the Minister considers may, if disclosed –

- (a) disadvantage or cause damage to the Authority, directly or indirectly; or
- (b) enable another person, directly or indirectly, to gain an advantage.

(3) The statement of corporate intent is to be in a form, and contain the information, specified by the Minister.

Validity of actions, &c.

30. Anything done by or in relation to the Authority is not void or unenforceable only because the Authority has contravened this Part.

PART 6 – FINANCIAL AFFAIRS

Bank and other accounts

31. The Authority may open and maintain bank, credit union and building society accounts as it considers necessary.

Investment

32. Subject to section 16 of the *Tasmanian Public Finance Corporation Act 1985*, the Authority may invest any funds held by it and any interest accumulated in respect of those funds in any manner which is consistent with sound commercial practice.

Borrowing from Treasurer

33. (1) The Treasurer may lend to the Authority, out of money provided by Parliament for the purpose, such money as the Treasurer considers appropriate.

(2) If the Authority applies for a loan in respect of a loss incurred by it, in determining whether to make the loan the Treasurer must consider –

- (a) the amount of the loss; and
- (b) the reasons for the loss; and
- (c) the consequences of the loss; and
- (d) any other matter the Treasurer considers relevant.

(3) In determining the consequences of a loss, the Treasurer must consider –

- (a) the impact of the loss on the liquidity position of the Authority; and
- (b) the availability of reserves to meet the loss; and
- (c) the impact of the loss on the viability of the Authority.

(4) A loan is subject to the conditions determined by the Treasurer.

(5) An amount lent under subsection (1) and any interest or other charge payable in respect of the loan is a debt repayable into the Consolidated Fund by the Authority.

Borrowing from person other than Treasurer

34. (1) Subject to section 16 of the *Tasmanian Public Finance Corporation Act 1985*, the Authority may borrow, or otherwise obtain financial accommodation, from a person other than the Treasurer for the purposes of performing its functions and achieving its objectives if the Minister and Treasurer approve that borrowing or other obtaining of financial accommodation.

(2) The Authority may use all or part of its assets as security for a borrowing or financial accommodation obtained by it under subsection (1) and any interest or charges payable in respect of that financial accommodation.

(3) On the request of the Minister, the Treasurer may guarantee the payment or repayment to a person from which the Authority borrows or obtains financial accommodation under subsection (1) of any one or more of the following:

- (a) the amount borrowed or credit obtained;
- (b) any interest payable in respect of the amount borrowed or financial accommodation;
- (c) any charges relating to the borrowing or financial accommodation;
- (d) any expenses of that person incurred in relation to the borrowing or financial accommodation and which are payable by the Authority.

(4) A guarantee is subject to the conditions determined by the Treasurer.

(5) A payment or repayment which is required to be made under a guarantee is payable out of the Consolidated Fund without further appropriation than this section.

(6) If the Treasurer makes any payment or repayment under a guarantee, an amount equal to the amount so paid or repaid, and any interest or other charge payable by the Authority in accordance with the conditions to which the guarantee is subject, is a debt repayable by the Authority into the Consolidated Fund on the conditions and in the manner determined by the Treasurer.

(7) A creditor may not enforce a guarantee against the Treasurer until the creditor has exercised all his, her or its rights and remedies under all securities held in respect of the payment or repayment guaranteed.

Effect of *Financial Agreement Act 1994*

35. Where the Treasurer, under section 5(1) of the *Financial Agreement Act 1994*, requires the Authority to do or refrain from doing anything for the purpose of

implementing the Agreement, within the meaning of that Act, the Authority must comply with that requirement.

Authority not exempt from State charges

36. The Authority is not exempt from a State charge merely because it is an instrumentality of the Crown.

PART 7 – ACCOUNTING RECORDS, FINANCIAL STATEMENTS AND REPORTS

Accounting records

37. The Authority must –

- (a) keep such accounting records as correctly record and explain its transactions (including any transactions as trustee) and financial position; and
- (b) keep those records in a manner that –
 - (i) allows true and fair accounts of the Authority to be prepared from time to time; and
 - (ii) allows its accounts to be conveniently and properly audited or reviewed; and
 - (iii) subject to any contrary written direction given by the Minister to the Authority, complies with Australian Accounting Standards; and
 - (iv) complies with any written directions given by the Minister to the Authority.

Financial statements

38. (1) Within 60 days after the end of the financial year, the Board must –

- (a) prepare the financial statements of the Authority relating to that financial year; and
- (b) provide the Auditor-General with the Authority's financial statements.

(2) Financial statements in respect of a financial year are to consist of –

- (a) a profit and loss account or other operating statement for that financial year; and
- (b) a balance sheet or other statement of financial position as at the end of that financial year; and
- (c) a statement of the cash flows for that financial year; and
- (d) any other financial information required to be included by a direction given under subsection (4); and
- (e) statements, reports and notes, other than a directors' report or an auditor's report, attached to, or intended to be read with, the profit and loss account, other operating statement, balance sheet or other statement of financial position.

(3) The financial statements must –

- (a) comply with any directions given under subsection (4); and
- (b) subject to such a direction, comply with Australian Accounting Standards; and
- (c) be signed or certified as specified in such a direction.

(4) The Treasurer may give written directions to the Board in respect to the form and contents of the financial statements as he or she considers appropriate.

Extension of time for preparing financial statements

39. (1) Within 45 days after the end of the financial year, the Board may apply to the Treasurer for an extension of the period within which it must prepare, and provide to the Auditor-General, the financial statements of the Authority.

(2) An application is to –

- (a) include the reasons, in detail, for the need for an extension of time; and
- (b) specify the day by which the Board estimates that it can provide the financial statements.

(3) The Treasurer may –

- (a) refuse to grant an extension of the period in which the Board is required to prepare and provide financial statements; or
- (b) grant such an extension for such period as the Treasurer considers appropriate.

(4) The Treasurer must not grant an extension of time that would prevent the Minister from tabling an annual report in accordance with section 42(1).

(5) Within 7 days after being notified of an extension of time, the Board must notify the Minister of the details of the extension.

Opinion of Auditor-General

40. The Auditor-General must provide the Board, the Minister and the Treasurer with a copy of his or her opinion in respect of the financial statements of the Authority given under section 40 of the *Financial Management and Audit Act 1990*.

Annual report

41. (1) The Board must prepare for the Authority an annual report for each financial year.

(2) The annual report is to include the following information and documents:

- (a) the statement of corporate intent which relates to the corporate plan that takes effect at the beginning of the next financial year;
- (b) the financial statements of the Authority for the financial year to which the annual report relates;
- (c) a copy of the opinion of the Auditor-General in respect of the financial statements received under section 40;
- (d) a report on the performance of the Authority during that financial year compared with the performance indicators specified in the corporate plan;
- (e) a report on the operations of the Authority during that financial year;
- (f) the details of any extension of the time within which the financial statements must be prepared and provided to the Auditor-General;
- (g) any information relating to the directors, chief executive officer and employees required by the Minister by written notice provided to the Board to be included;
- (h) any other information that the Minister by written notice provided to the Board requires to be included;

- (i) any other information that the Board considers is appropriate or necessary to properly inform the Minister and Parliament as to the performance and progress of the Authority during that financial year.

(3) For the purposes of subsection (2)(a), "**next financial year**" means the financial year immediately following the financial year in respect of which the annual report is prepared.

(4) The Board must provide the annual report to the Minister, the Treasurer and the Auditor-General.

(5) Section 33AB of the *Tasmanian State Service Act 1984* does not apply in respect of the Authority.

Tabling of annual report

42. (1) The Minister must lay a copy of the annual report before each House of Parliament within 5 months after the end of the financial year to which the annual report relates.

(2) Where the Minister is unable to comply with subsection (1) for any reason other than that a House of Parliament is not sitting at the expiration of the period specified in that subsection, he or she must, before the expiration of that period, lay before each House of Parliament a statement specifying the reasons for the failure to comply with that subsection and an estimate of the day by which a copy of the annual report will be ready to lay before each House of Parliament.

(3) Where the Minister is unable to lay a copy of the annual report before a House of Parliament within the period specified in subsection (1) or by the day specified in a statement referred to in subsection (2) because either

House of Parliament is not sitting at the expiration of that period or on that day, the Minister must –

- (a) immediately after the expiration of that period or that day, forward a copy of the annual report to the Clerk of that House of Parliament; and
- (b) within the next 7 sitting days of that House, lay a copy of the annual report before that House.

Minister may require information

43. (1) The Minister, at his or her discretion or on the request of the Treasurer, may require the Authority to provide to the Minister specified in the requirement information relating to the affairs, or the performance and exercise of the functions and powers, of the Authority.

(2) The Authority must comply with a requirement made under subsection (1).

PART 8 - MISCELLANEOUS

Offences

44. (1) Except with the written permission of the Authority, a person other than the Authority must not trade or carry on a business under, or use in connection with any trade, business or premises, a name containing any one or more of the expressions specified in Schedule 4.

Penalty: Fine not exceeding 1 000 penalty units.

(2) Except with the written permission of the Authority, a person other than the Authority must not trade or carry on a business under, or use in connection with any trade, business or premises, a name that is likely to mislead or deceive the public into believing that the trade, business or premises is or are part of or connected with the Authority.

Penalty: Fine not exceeding 1 000 penalty units.

Directions, &c., by Minister or Treasurer

45. Any direction, requirement, determination or specification made, given or issued by the Minister or Treasurer under Part 5, 6 or 7 may adopt, either wholly or partly, with or without modification and either specifically or by reference, any Treasurer's Instruction, whenever issued.

Land Acquisition Act 1993 does not apply

46. The Authority is not a public authority for the purposes of the *Land Acquisition Act 1993*.

Protection of chief executive officer and staff

47. (1) The chief executive officer does not incur any personal liability in respect of any act done, or omitted to be done, in good faith in the performance or exercise, or the purported performance or exercise, of any function or power under this or any other Act.

(2) An employee does not incur any personal liability in respect of any act done, or omitted to be done, in good faith in the course of his or her employment.

(3) A liability that would, but for this section or the *Statutory Authorities (Protection from Liability of Members) Act 1993*, attach to a director, the chief executive officer or an employee attaches to the Authority.

Seal of Authority

48. (1) The seal of the Authority is to be kept and used as authorised by the Board.

(2) All courts and persons acting judicially must take judicial notice of the imprint of the seal on a document and presume that it was duly sealed by the Authority.

Judicial notice of certain signatures

49. All courts and persons acting judicially must take judicial notice of –

- (a) the official signature of a person who is or has been the chairperson, a director or the chief executive officer; and
- (b) the fact that the person holds or has held the office concerned.

Presumptions

50. In any proceedings by or against the Authority, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the Board; or
- (b) any resolution of the Board; or
- (c) the appointment of any director; or
- (d) the presence of a quorum at any meeting of the Board; or
- (e) the appointment of the chief executive officer, a member of a committee or an employee.

Service of documents

51. A document may be served on the Authority by –

- (a) leaving it at, or sending it by post to, the address of the Authority; or
- (b) sending it by way of facsimile transmission to the Authority's facsimile number.

Amendment of Act

52. (1) The Governor, by order, may amend sections 6(2), 8(1)(c), (3) and (4), 27(3) and (9) and 28(1)(c) and this section –

- (a) if the Tourism Council of Australia (Tasmania Branch) changes its name, by substituting the body's new name; and
- (b) if the Tourism Council of Australia (Tasmania Branch) ceases to exist, by substituting the

name of a body which the Governor is satisfied represents the interests of the Tasmanian tourism industry; and

- (c) if the Governor is satisfied that the Tourism Council of Australia (Tasmania Branch) has ceased to represent the interests of the Tasmanian tourism industry generally, by substituting the name of a body that the Governor is satisfied does represent those interests.

(2) The Governor, by order, may –

- (a) repeal Schedule 4 and substitute another Schedule for the Schedule repealed; or
- (b) amend Schedule 4.

Regulations

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

(2) Regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.

(3) The regulations may –

- (a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and
- (b) in respect of such an offence, provide for the imposition of a fine not exceeding 5 penalty units and, in the case of a continuing offence, a further fine not exceeding 0.5 penalty units for each day during which the offence continues.

(4) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Board or chief executive officer.

(5) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(6) A provision referred to in subsection (5) may take effect on and from the day on which this Act commences or a later day.

Repeals

54. The following Acts and Statutory Rules are repealed:

- (a) *Tourism Act 1977* (Act No. 15 of 1977);
- (b) Proclamation under section 1(2) of the *Tourism Act 1977*, being Statutory Rules 1977, No. 113;
- (c) *Tourism Order 1986*, being Statutory Rules 1986, No. 47.

Consequential amendments

55. The Acts and Statutory Rules specified in Schedule 5 are amended as specified in that Schedule.

Transitional provisions

56. The transitional provisions set out in Schedule 6 have effect.

Administration of Act

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

- (a) the administration of this Act is assigned to the Minister for Tourism; and
- (b) the Department responsible to the Minister for Tourism in relation to the administration of this Act –
 - (i) before the commencement day, is the Department of Tourism; and
 - (ii) on and after that day, is the Authority.

SCHEDULE 1 – DIRECTORS

Section 8(5)

Interpretation

1. In this Schedule, "**director**" –

- (a) includes director and acting director; but
- (b) does not include chief executive officer or acting chief executive officer.

Term of office

2. (1) A director holds office for such term, not exceeding 3 years, as is specified in the instrument of appointment.

(2) A person is not eligible to be appointed as a director if the person has attained the age of 72 years.

Conditions of appointment

3. (1) A director is entitled to be paid the remuneration and allowances determined by the Governor from time to time.

(2) A director holds office on such conditions in relation to matters not provided for by this Act as are specified in the instrument of appointment.

(3) In subclause (2), "**matters**" includes superannuation.

Devotion of whole time to duties

4. (1) Where the holder of an office under an Act is required, by or under any Act, to devote the whole of his or her time to the duties of that office, that requirement does not operate to disqualify the holder from holding that office in conjunction with the office of director.

(2) A director may hold the office of director in conjunction with a position or office held under the *Tasmanian State Service Act 1984*.

Tasmanian State Service Act 1984 inapplicable

5. The *Tasmanian State Service Act 1984* does not apply in relation to a director.

Leave of absence

6. The Board may grant leave of absence to a director on such conditions as the Board considers appropriate.

Resignation

7. A director may resign by signed notice given to the Minister.

Removal of director or acting director

8. (1) The Minister may recommend to the Governor that a director be removed from office –

- (a) if the director has benefited from, or claimed to be entitled to benefit from, a contract made by or on behalf of the Authority, other than a

contract for a good or service supplied by the Authority if that good or service is ordinarily supplied by the Authority and is supplied on the same terms as it is ordinarily supplied to other persons in the same situation; or

- (b) if the director fails to disclose a pecuniary interest as required under clause 7 of Schedule 2; or
- (c) if the director has been convicted of an offence under this Act; or
- (d) if the director has been convicted of an indictable offence or an offence which, if committed in Tasmania, would be an indictable offence; or
- (e) if the Minister considers that the director is physically or mentally incapable of continuing as a director; or
- (f) if the Minister considers that the director is unable to perform adequately or competently the functions of the director's office; or
- (g) if the director has been absent from 4 consecutive meetings of the Board without the permission of the Board; or
- (h) for any other just cause or excuse.

(2) The Governor may remove a director from office on the recommendation of the Minister under subclause (1).

(3) The Minister may remove an acting director from office for a reason specified in subclause (1).

(4) The Governor, on the recommendation of the Minister, may remove all directors (not including acting

directors) from office if the Governor is satisfied that the Authority has wilfully disregarded its ministerial charter.

Filling of vacancy

9. (1) In this clause, "**director**" does not include acting director.

(2) A director vacates office if he or she –

- (a) dies; or
- (b) resigns; or
- (c) is removed from office under clause 8.

(3) The Minister may appoint a person to a vacant office of director for the remainder of the predecessor's term of office if –

- (a) in the case of a vacancy in the office of the director appointed under section 8(1)(c), the person has been nominated in accordance with section 8; or
- (b) in the case of a vacancy in the office of the chairperson or a director appointed under section 8(1)(d) or (e), the Minister is satisfied that the person has the skills and experience necessary to enable the Authority to achieve its objective.

Defect does not invalidate appointment

10. An appointment of a person as a director is not invalid merely because of a defect or irregularity in relation to the appointment.

SCHEDULE 2 – MEETINGS OF BOARD

Section 8(6)

Convening of meetings

1. (1) Subject to subclause (2), meetings of the Board are to be held at the times and places determined by the Board.

(2) The chairperson, after giving each director reasonable notice of a meeting –

- (a)** may convene a meeting at any time; and
- (b)** must convene a meeting when requested to do so by 2 or more other directors.

(3) If the chairperson is absent from duty or otherwise unable to perform the duties of the office, a meeting may be convened, after reasonable notice of the meeting has been given of the meeting, by –

- (a)** 2 or more other directors; or
- (b)** a person authorised by the Board to do so.

(4) For the purposes of subclauses (2) and (3), what constitutes reasonable notice is to be determined by the Board.

Presiding at meetings

2. (1) The chairperson must preside at all meetings of the Board at which he or she is present.

(2) If the chairperson is not present at a meeting of the Board, a director chosen by the directors present at the meeting must preside.

Quorum and voting at meetings

3. (1) At a meeting of the Board, a quorum is constituted by a majority of the total number of directors appointed.

(2) At a meeting of the Board –

- (a) the director presiding has a deliberative vote only; and
- (b) a question is decided –
 - (i) by a majority of votes of the directors present and voting; or
 - (ii) in the negative if there is an equality of votes of the directors present and voting.

(3) At a meeting of the Board where a director is excluded from being present and taking part in the consideration and decision of the Board in relation to the matter being considered, a quorum for the purposes of considering and making a decision in relation to that matter is constituted by the number of directors specified as constituting a quorum in subclause (1) less the number of directors so excluded.

Conduct of meetings

4. (1) Subject to this Act, the Board may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.

(2) The Board may permit directors to participate in a particular meeting or all meetings by –

- (a) telephone; or
- (b) television conference; or

- (c) any other means of communication approved by the Board.

(3) A director who participates in a meeting under a permission granted under subclause (2) is taken to be present at the meeting.

(4) Without limiting subclause (1), the Board may allow a person to attend a meeting for the purpose of advising or informing it on any matter.

Resolutions without meetings

5. (1) If all directors appointed sign a document containing a statement that they are in favour of a resolution in the terms set out in the document, a resolution in those terms is taken to have been passed at a meeting of the Board held on the day on which the document is signed or, if the directors do not sign it on the same day, on the day on which the last of the directors signed the document.

(2) If a resolution is taken to have been passed under subclause (1), each director is to be –

- (a) advised immediately of the matter; and
- (b) given a copy of the terms of the resolution.

(3) For the purposes of subclause (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more directors, is taken to constitute one document.

Minutes

6. The Board must keep minutes of its proceedings.

Disclosure of interests**7. (1) If –**

- (a) a director has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Board; and
- (b) the interest could conflict with the proper performance of the director's duties in relation to consideration of the matter –

the director, as soon as practicable after the relevant facts come to the director's knowledge, must disclose the nature of the interest to the Board.

Penalty: Fine not exceeding 10 penalty units or a term of imprisonment not exceeding 3 months, or both.

(2) A disclosure under subclause (1) is to be recorded in the minutes of the meeting and, unless the Board otherwise determines, the director must not –

- (a) be present during any deliberation of the Board in relation to the matter; or
- (b) take part in any decision of the Board in relation to the matter.

(3) For the purpose of making a determination under subclause (2), the director to whom the determination relates must not –

- (a) be present during any deliberation of the Board for the purpose of making the determination; or
- (b) take part in making the determination.

(4) Subclause (1) does not apply –

- (a) in respect of a contract for a good or service supplied by the Authority if that good or service is ordinarily supplied by the Authority and is supplied on the same terms as it is ordinarily supplied to other persons in the same situation; or
- (b) in respect of an interest that arises only because the director also holds another office under the *Tasmanian State Service Act 1984*; or
- (c) in respect of a director who has a direct or indirect pecuniary interest in any matter if the benefit or detriment likely to be received is one that will be received in common with all or a substantial proportion of the tourism industry in Tasmania.

SCHEDULE 3 – COMMITTEES

Section 13(4)

Membership of committees

1. (1) A committee consists of such number of persons as the Board determines.

(2) The chief executive officer may not be a member of the audit committee.

(3) The chairperson of the audit committee must be a director.

Conditions of appointment

2. (1) A member of a committee is entitled to be paid such remuneration and allowances as are determined by the Minister.

(2) A member of a committee holds that office for the term, and on the conditions, determined by the Board.

Meetings

3. (1) Meetings of a committee are to be held in accordance with any directions given by the Board.

(2) A committee may obtain assistance, information and advice from any person.

(3) Except as provided by this Schedule, a committee may regulate the calling of, and the conduct of business at, its meetings.

Disclosure of interests**4. (1) If –**

- (a) a member of a committee has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the committee; and
- (b) the interest could conflict with the proper performance of the member's duties in relation to consideration of the matter –

the member, as soon as practicable after the relevant facts come to the member's knowledge, must disclose the nature of the interest to a meeting of the committee.

Penalty: Fine not exceeding 10 penalty units or a term of imprisonment not exceeding 3 months, or both.

(2) A disclosure under subclause (1) is to be recorded in the minutes of the meeting and, unless the committee otherwise determines, the member of the committee must not –

- (a) be present during any deliberation of the committee in relation to the matter; or
- (b) take part in any decision of the committee in relation to the matter.

(3) For the purpose of making a determination under subclause (2), the member of the committee to whom the determination relates must not –

- (a) be present during any deliberation of the committee for the purpose of making the determination; or
- (b) take part in making the determination.

(4) Subclause (1) does not apply –

- (a) in respect of a contract for a good or service supplied by the Authority if that good or service is ordinarily supplied by the Authority and is supplied on the same terms as it is ordinarily supplied to other persons in the same situation; or
- (b) in respect of an interest that arises only because the member of a committee also holds another office under the *Tasmanian State Service Act 1984*; or
- (c) in respect of a member of a committee who has a direct or indirect pecuniary interest in any matter if the benefit or detriment likely to be received is one that will be received in common with all or a substantial proportion of the tourism industry in Tasmania.

**SCHEDULE 4 – EXPRESSIONS ONLY AUTHORITY
MAY USE**

Section 44

1. Government Tourist Bureau
2. Government Tourist Department
3. State Tourist Bureau
4. Tasbureau
5. Tasmania Direct
6. Tasmanian Government Tourist Bureau
7. Tasmanian Government Tourist Department
8. Tasmanian Tourist Bureau
9. Tasmanian Tourist Department
10. Tasmanian Travel Centre
11. Tasmanian Travelways
12. Tasmanian Government Travel Information Service
13. Tasmanian Visitor Information Network
14. Tasmania's Temptations Holidays
15. Tastour
16. Tourism Tasmania
17. TVIN

**SCHEDULE 5 – CONSEQUENTIAL AMENDMENTS
OF ENACTMENTS**

Section 55

PART 1 – ACTS AMENDED***Defacement of Property Act 1898***
(62 Vict. No. 5)

1. Section 4(1) is amended as follows:

- (a) by omitting the definition of "Director";
- (b) by inserting after the definition of "pleasure resort" the following definition:

"Secretary" means the Secretary of the
Department;

2. Section 4A is repealed and the following section is substituted:

Employees

4A. For the purposes of this Act, the Secretary may employ the services of employees, within the meaning of the *Tasmanian State Service Act 1984*.

3. Section 8 is amended by omitting "Director" (wherever occurring) and substituting "Secretary".

4. Section 8AA is amended by omitting "Director" (wherever occurring) and substituting "Secretary".

Evidence Act 1910

(1 Geo. V No. 20)

1. Part II of Schedule 4 is amended as follows:

- (a) by inserting "Chief executive officer of Tourism Tasmania" in the item "Departmental" after "Chief Executive Officer of the Forestry corporation";
- (b) by omitting "Director of Tourism" from the item "Departmental".

Liquor and Accommodation Act 1990

(Act No. 44 of 1990)

1. Section 109(1) is amended by omitting "Director of Tourism" and substituting "chief executive officer of Tourism Tasmania".

Local Government (Highways) Act 1982

(Act No. 57 of 1982)

1. Section 48 is amended as follows:

- (a) by omitting paragraph (b) from subsection (1);
- (b) by omitting from subsection (9) "by the Director of Tourism".

National Parks and Wildlife Act 1970
(Act No. 47 of 1970)

1. Section 30(2) is amended by omitting "Secretary of the responsible Department in relation to the *Tourism Act 1977*" and substituting "chief executive officer of Tourism Tasmania".

Survey Co-ordination Act 1944
(7 and 8 Geo. VI No. 86)

1. Section 20J(1)(b) is amended by omitting subparagraph (iv) and substituting the following subparagraph:

(iv) Tourism Tasmania;

Tasmanian State Service Act 1984
(Act No. 25 of 1984)

1. Schedule 1 to the *Tasmanian State Service Act 1984* is amended as follows:

- (a) by omitting from Part 1 the item relating to the Department of Tourism;
- (b) by inserting in Part 2 after the item relating to "The Public Trustee" the following item:

Tourism Tasmania	Chief executive officer of Tourism Tasmania
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Wellington Park Act 1993

(Act No. 59 of 1993)

1. Section 10 is amended by omitting paragraph (d) from subsection (1) and substituting the following paragraph:

- (d) the chief executive officer of Tourism Tasmania or a person nominated by that chief executive officer; and

2. Schedule 3 is amended by omitting from clause 5(2)(c) "Director of Tourism" and substituting "chief executive officer of Tourism Tasmania".

PART 2 - STATUTORY RULES AMENDED

Defacement of Property Regulations 1978

(Statutory Rules 1978, No. 18)

1. Regulation 2(1) is amended by omitting the definition of "Director" and substituting the following definition:

"Secretary" means the Secretary of the Department;

2. Regulation 4 is amended by omitting "Director" (wherever occurring) and substituting "Secretary".

3. Regulation 6 is amended by omitting "Director" (wherever occurring) and substituting "Secretary".

4. Schedule II is amended as follows:

- (a) by omitting from Form 1 "To the Director of Tourism, Department of Tourism, Hobart." and substituting the following:

To the Secretary,
Department of Environment and Land
Management,
Hobart

- (b) by omitting from Form 2 "Department of Tourism" and substituting "Department of Environment and Land Management";
- (c) by omitting from Form 2 "Director of Tourism" and substituting "Secretary";
- (d) by omitting from Form 3 "Department of Tourism" and substituting "Department of Environment and Land Management";
- (e) by omitting from Form 3 "Director of Tourism" and substituting "Secretary";
- (f) by omitting from Form 4 "Department of Tourism" and substituting "Department of Environment and Land Management";
- (g) by omitting from Form 4 "Director of Tourism" and substituting "Secretary".

Tasmanian State Service (Department of Tourism)
Order 1987

(Statutory Rules 1987, No. 255)

1. Clause 1 is amended by omitting "*(Department of Tourism)*" and substituting "*(Tourism Tasmania)*".
2. Clause 3 is amended by omitting "the Department of Tourism" and substituting "Tourism Tasmania".

Tasmanian State Service Regulations 1985

(Statutory Rules 1985, No. 216)

1. Regulation 19(1), (2), (3), (6), (9)(a) and (b), (10) and (11) is amended by omitting "the Department of Tourism" (wherever occurring) and substituting "Tourism Tasmania".

SCHEDULE 6 – TRANSITIONAL PROVISIONS

Section 56

Interpretation**1.** In this Schedule –

"Department" means the Department responsible, immediately before the commencement day, to the Minister for Tourism in relation to the Repealed Act;

"Director" means the Director of Tourism appointed under the Repealed Act;

"Repealed Act" means the *Tourism Act 1977*.

Initial chief executive officer

2. On the commencement day the Director becomes the chief executive officer of the Authority and, on and after that day –

- (a) the Director is taken to have been appointed under section 17 as chief executive officer; and
- (b) the Director's contracts of employment, appointment or employment and appointment under the *Tasmanian State Service Act 1984* and the Repealed Act to the positions of Secretary of the Department and Director are taken to be an appointment made under section 17.

Initial employees

3. (1) On the commencement day a person, other than the Director, who was appointed or employed immediately before that day under section 29, 34 or 38 of the *Tasmanian State Service Act 1984* for the purposes of the Repealed Act continues to be appointed or employed under that section of that Act and, on and after that day that person is taken to have been appointed or employed under that section for the purposes of this Act.

(2) On the commencement day the services of persons which were obtained under section 11 of the Repealed Act and which are being used for the purposes of that Act immediately before that day continue to be used –

- (a) where the person is not an employee within the meaning of the *Tasmanian State Service Act 1984*, as if the person had been employed or engaged under section 23(2) of this Act; or
- (b) where the person is an employee within the meaning of that Act, the person had been made available to the Authority pursuant to section 23(4) of this Act.

Funds

4. Funds standing to the credit of the Department or the Director immediately before the commencement day are taken to stand to the credit of the Authority.

Bank, credit union and building society accounts

5. A bank, credit union or building society account maintained in the name of the Department or the Director immediately before the commencement day is taken to be maintained in the name of the Authority.

Money claims

6. (1) All money, debts and claims, liquidated or unliquidated, that are payable by, due from or recoverable against the Department or the Director immediately before the commencement day are payable by, due from or recoverable against the Authority.

(2) All money, debts and claims, liquidated or unliquidated, that are payable to, due to or recoverable by the Department or the Director immediately before the commencement day are payable to, due to or recoverable by the Authority.

Transfer of Crown land

7. (1) Within 2 years after the commencement day, the Governor may declare, by proclamation, that the Crown land specified in the proclamation vests in the Authority if –

- (a) the Minister and the Treasurer have jointly recommended the transfer of the Crown land to the Authority; and
- (b) the Authority has agreed to the transfer.

(2) The Minister and Treasurer must not make a recommendation under subclause (1) unless they have consulted with the Minister administering the *Crown Lands Act 1976*.

(3) On the notification in the *Gazette* of the making of a proclamation under subclause (1), the Crown land specified in the proclamation vests in the Authority either absolutely and free from all encumbrances or subject to an estate or interest in land of a person, as specified in the proclamation.

(4) A proclamation under subclause (1) may specify that the Authority is liable to make compensation (whether by assumption of liabilities or otherwise) in respect of the transfer of the Crown land.

(5) The Authority must pay compensation to a person if –

- (a) that person had an estate or interest in Crown land immediately before that Crown land is vested in the Authority by reason of subclause (3); and
- (b) that Crown land is so vested in the Authority free from the encumbrance of that estate or interest.

(6) Compensation is to be determined in the same manner as a disputed claim for compensation under the *Land Acquisition Act 1993*.

(7) On the recommendation of the Minister, the Treasurer may, by order, exempt the Authority from any liability to pay all or any State charges as specified in the order in respect of the vesting of land in it under this clause.

Transfer of property other than Crown land

8. (1) In this clause –

"transfer day" means the day specified in an order made under subclause (2) on which any property, right, liability or obligation vests in or is transferred to the Authority;

"transferred property" means any property, right, liability or obligation specified in an order

made under subclause (2) and vested in or transferred to the Authority.

(2) Within 2 years after the commencement day and with the agreement of the Minister, the Treasurer and the Authority, a Minister to whom a Government department that is responsible for the property, rights, liabilities and obligations of the Crown is responsible may, by order –

- (a) transfer any of that property (other than Crown land) or those rights, liabilities and obligations to the Authority; and
- (b) provide for any matter that is incidental to that transfer.

(3) A transfer referred to in subclause (2) may be made for valuable consideration or otherwise.

(4) On the day specified in an order made under subclause (2) –

- (a) the property (other than Crown land) and rights specified in, and transferred by, the order vest in the Authority; and
- (b) the liabilities and obligations specified in, and transferred by, the order become the liabilities and obligations of the Authority.

(5) Except as otherwise provided in an order made under subclause (2), on and after the transfer day –

- (a) any legal proceedings pending immediately before the transfer day and which were instituted by or against the Crown or a statutory authority in respect of the transferred property may be continued by or against the Authority; and

- (b) any legal proceedings by or against the Crown or a statutory authority in respect of the transferred property to enforce a right that had accrued, and was in existence, immediately before the transfer day may be commenced by or against the Authority; and
 - (c) a judgment or order of a court obtained before the transfer day by or against the Crown or a statutory authority in respect of the transferred property may be enforced by or against the Authority; and
 - (d) a document addressed to the Crown or a statutory authority in respect of the transferred property may be served on the Authority; and
 - (e) a contract made or entered into by the Crown or a statutory authority in respect of the transferred property before the transfer day but not performed or discharged before that day is taken to have been made or entered into by the Authority.
- (6) If a Minister transfers any property, right, liability or obligation of a statutory authority to the Authority under subclause (2), that property, right, liability or obligation is to be taken to have been vested in, or to have belonged to, the Crown immediately before the transfer day.
- (7) A person who is a party to a contract is not entitled to terminate that contract by reason only of the transfer, under an order made under subclause (2), of any property, right, liability or obligation to which that contract relates.
- (8) On the recommendation of the Minister, the Treasurer may, by order, exempt the Authority from any

liability to pay all or any State charges, as specified in the order, in respect of the transfer of any property, right, liability or obligation under this clause.

Legal matters

9. (1) Any legal proceedings instituted by or against the Crown in respect of anything done or omitted by the Department, or the Director, which are pending immediately before the commencement day may be continued by or against the Authority.

(2) Legal proceedings by or against the Crown in respect of anything done or omitted by the Department, or the Director, to enforce a right that had accrued, and was in existence, immediately before the commencement day may be commenced by or against the Authority.

(3) A judgment or order of a court obtained by or against the Crown in respect of anything done or omitted by the Department, or the Director, may be enforced by or against the Authority.

(4) A document addressed to the Department, the Crown in respect of the Department or the Director may be served on the Authority.

(5) A contract made or entered into by the Crown in respect of anything done or omitted by the Department, or the Director, but not performed or discharged before the commencement day is taken, on and after that day, to have been made or entered into by the Authority.

Authorisation to use prohibited expression

10. An authorisation given under section 23(1) of the Repealed Act to trade, or carry on business, under, or in any way use in connection with any trade or business or on

any business premises, a name containing an expression specified in that section is taken to be a permission given under section 44(1) of this Act.

References to Department and Director

11. (1) A reference in any Act or other document to the Department or the Department of Tourism is taken to be a reference to Tourism Tasmania.

(2) A reference in any Act or other document to the Director is taken to be a reference to the chief executive officer.

*[Second reading presentation speech made in:-
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