

I certify that this is a copy of the authorised version of this Act as at 1 July 2023, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 July 2023.

K Woodward  
Chief Parliamentary Counsel  
Dated 12 October 2023



TASMANIA

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## **METRO TASMANIA ACT 1997**

**No. 78 of 1997**

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## **METRO TASMANIA ACT 1997**

**No. 78 of 1997**

**An Act to establish Metro Tasmania to provide for passenger transport services and for related purposes**

**[Royal Assent 14 January 1998]**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### **PART 1 – PRELIMINARY**

#### **1. Short title**

This Act may be cited as the *Metro Tasmania Act 1997*.

#### **2. Commencement**

This Act commences on a day to be proclaimed.

### **3. Interpretation**

In this Act –

***Board*** means the board of directors of the Company referred to in section 9;

***Company*** means the company referred to in section 4;

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

***member of the Company*** means a member referred to in section 7;

***principal objective*** means the objective of the Company specified in section 5;

***property*** means –

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

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

## **PART 2 – METRO TASMANIA**

### **4. Formation of Company**

The Minister may form, or participate in the formation of, a company limited by shares that is to be incorporated under the Corporations Law to perform functions relating to the operation of one or more public transport systems.

### **5. Principal objective of Company**

The principal objective of the Company is to provide passenger transport services in Tasmania, whether those services are by road, rail, ferry or otherwise, and to operate those services in a manner consistent with sound commercial practice.

### **6. Memorandum and articles of Company**

- (1) The memorandum of association of the Company on its incorporation is to include the principal objective of the Company.
- (2) The provisions of the memorandum and articles of association of the Company on its incorporation are to be consistent with this Act.

### **7. Members of Company**

The members of the Company on its incorporation are the Minister and the Treasurer.

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**8. Shares**

- (1) The consideration for shares issued to the members of the Company on its incorporation is to be the property and rights vested in the Company under the *Metro Tasmania (Transitional and Consequential Provisions) Act 1997*.
- (2) Shares issued to the members of the Company are held by the members in trust for the Crown.

**9. Directors of Company**

The Company is to have a board of directors who must have the experience and skills necessary to enable the Company to achieve its objectives.

**10. Status of Company**

- (1) Unless this or any other Act expressly provides otherwise, the Company –
  - (a) is not, and does not represent, the Crown in right of Tasmania; and
  - (b) is not exempt from any rate, tax, duty or other impost imposed under any law merely because the Crown in right of Tasmania has beneficial ownership of shares in it; and
  - (c) is not subject to any prerogative right or privilege of the Crown in right of Tasmania.

- (2) The Crown in right of Tasmania is not liable for any liability or obligation of the Company unless –
- (a) the Treasurer gives a guarantee or indemnity under section 13 in relation to that liability or obligation; or
  - (b) a guarantee is given under the *Tasmanian Public Finance Corporation Act 1985* in respect of the Company.

**10A. Members’ statement of expectations**

- (1) The members are to provide the Board with a statement of expectations.
- (2) The statement of expectations is to specify –
- (a) the expectations of the members in relation to the strategic priorities of the Company; and
  - (b) the policy expectations of the members for the performance of the Company and its subsidiaries.
- (3) The members, at any time, may at their own discretion or on the application of the Board –
- (a) amend the statement of expectations; or
  - (b) revoke the statement of expectations and substitute another statement of expectations.

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- (4) Before or while preparing a statement of expectations or an amendment to a statement of expectations, the members are to consult with the Board.
- (5) A statement of expectations and an amendment to a statement of expectations are to be in writing and signed by each member.
- (6) A statement of expectations, or an amendment to a statement of expectations, takes effect on a day specified in it, being a day not earlier than the day on which the statement or amendment is provided to the Company.
- (7) The Minister must cause a copy of the statement of expectations, or of an amendment to a statement of expectations, to be laid before each House of Parliament within 10 sitting-days after the statement or amendment has been signed as required by subsection (5).

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## **PART 3 – FINANCIAL PROVISIONS**

### **11. Accounts and report of Company**

- (1) The Board is to provide the Minister with copies of the following:
  - (a) the memorandum and articles of association of the Company and any amendments to the memorandum or articles;
  - (b) any financial statement, directors' report or auditor's report and the annual return for the Company as required by the Corporations Act.
- (2) The Minister must cause to be laid before each House of Parliament the copies referred to in subsection (1) within 7 sitting days after receiving them.

### **12. Loan from Treasurer**

- (1) The Treasurer may lend to the Company, out of money provided by Parliament for the purpose, any money the Treasurer considers appropriate.
- (2) A loan is subject to any conditions the Treasurer determines.
- (3) An amount lent under subsection (1) and any interest or other charge payable in respect of the loan is a debt repayable by the Company to the Crown.

**13. Guarantee or indemnity**

- (1) On the written request of the Company, the Treasurer, in writing, may guarantee or give an indemnity relating to –
  - (a) . . . . .
  - (b) the performance of an obligation undertaken by the Company, or which the Company has agreed to undertake, whether that obligation is monetary or otherwise.
- (2) A guarantee or an indemnity –
  - (a) . . . . .
  - (b) is subject to any conditions the Treasurer determines and specifies in the guarantee or indemnity.
- (3) The Treasurer must make any required payment out of money provided by Parliament for the purpose.
- (4) This section has effect regardless of where the obligation was undertaken or agreed to be undertaken or where it is required to be performed.

**14. Guarantee fees**

Division 1 of Part 11 of the *Government Business Enterprises Act 1995* applies in respect of the Company as if the Company were a

Government Business Enterprise specified in Schedule 3 to that Act.

**15. Tax equivalents**

The provisions of Part 10 of the *Government Business Enterprises Act 1995* apply in respect of the Company as if the Company were a Government Business Enterprise specified in Schedule 2 to that Act.

16. . . . .

**17. Effect of *Financial Agreement Act 1994***

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

**18. Superannuation**

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

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Part 3A – . . . . .



**PART 3A – . . . . .**

18A - 18K. . . . .

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**PART 4 – MISCELLANEOUS AND SUPPLEMENTAL**

**19. Limitation on sale, &c., of assets**

- (1) The Company may not sell or otherwise dispose of the whole or a substantial part of its assets unless the sale or disposal is approved by each House of Parliament.
- (2) For the purposes of subsection (1), a sale or disposal is approved by a House of Parliament –
  - (a) when the House passes a motion approving the sale or disposal; or
  - (b) at the end of 5 sitting days after notice of the sale or disposal was laid before the House if no notice of a motion to disapprove the sale or disposal is before the House; or
  - (c) if any such notice is before the House at the end of that period, when the first of the following occurs:
    - (i) the notice is withdrawn;
    - (ii) the motion is negatived;
    - (iii) a further period of 5 sitting days ends.

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**19A. Limitations on members of Company**

- (1) A member of the Company must not sell or otherwise dispose of the shares held by that member.
- (2) A member of the Company must not vote at a meeting of the shareholders of the Company to allow the Company to –
  - (a) offer shares in the Company for subscription; or
  - (b) invite persons to subscribe for shares in the Company; or
  - (c) allot or issue shares in the Company on a basis other than to existing shareholders pro rata to their existing shareholding.

**19B. Treasurer's Instructions**

- (1) In this section –

*Treasurer's Instruction* means a Treasurer's Instruction issued under section 114 of the *Government Business Enterprises Act 1995*.
- (2) A Treasurer's Instruction applies to the Company, and each subsidiary of the Company, as if they were Government Business Enterprises specified in Schedules 1, 2 and 3 of the *Government Business Enterprises Act 1995*.
- (3) The Treasurer may issue Treasurer's Instructions specifically in relation to the Company, and each

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subsidiary of the Company, as if they were Government Business Enterprises specified in Schedules 1, 2 and 3 of the *Government Business Enterprises Act 1995*.

- (4) The Company and each subsidiary of the Company are to comply with all relevant Treasurer's Instructions.
- (5) The Treasurer may exempt the Company or a subsidiary of the Company, or both, from the obligation to comply with all or part of a Treasurer's Instruction.

**19C. Application of Corporations Act**

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

**20. *Land Acquisition Act 1993* does not apply**

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

**21. Arrangements with Minister**

- (1) The Minister may enter into an agreement with the Company consistent with its principal objective under which it agrees to perform, or to cease to perform, functions.

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- (2) The terms of the agreement may provide for reimbursement to the Company out of money provided by Parliament for the purpose.

**22. Transitional and savings provisions consequent on *Metro Tasmania Amendment Act 2018***

- (1) In this section –

*amended order* means the *Metro Tasmania Fares Order 2016* as amended by the *Metro Tasmania Amendment Act 2018*;

*commencement day* means the day on which the *Metro Tasmania Amendment Act 2018* commenced.

- (2) Despite the repeal, by the *Metro Tasmania Amendment Act 2018*, of Part 3A of this Act as in force immediately before the commencement day, the amended order remains in force until revoked by the Minister by order.
- (3) An order under subsection (2) is a statutory rule within the meaning of the *Rules Publication Act 1953*.

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**NOTES**

The foregoing text of the *Metro Tasmania Act 1997* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 July 2023 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Metro Tasmania Act 1997</i>	No. 78 of 1997	2.2.1998
<i>National Taxation Reform (Commonwealth-State Relations) Act 1999</i>	No. 84 of 1999	1.7.2000
<i>Metro Tasmania Amendment Act 2001 Corporations (Consequential Amendments) Act 2001</i>	No. 6 of 2001	12.4.2001
<i>Government Business Enterprises and State-owned Companies Legislation Amendment Act 2009</i>	No. 42 of 2001	15.7.2001
<i>Economic Regulator Amendment Act 2015</i>	No. 1 of 2009	27.4.2009
<i>Public Sector Superannuation Reform (Consequential and Transitional Provisions) Act 2016</i>	No. 13 of 2015	1.7.2015
<i>Metro Tasmania Amendment Act 2018</i>	No. 54 of 2016	31.3.2017
<i>Tasmanian Public Finance Corporation Amendment Act 2023</i>	No. 9 of 2018	10.9.2018
	No. 22 of 2023	1.7.2023

**TABLE OF AMENDMENTS**

Provision affected	How affected
The long title	Amended by No. 9 of 2018, s. 4
Section 4	Amended by No. 9 of 2018, s. 5
Section 5	Amended by No. 9 of 2018, s. 6
Section 10	Amended by No. 22 of 2023, s. 25
Section 10A	Inserted by No. 9 of 2018, s. 7
Section 11	Amended by No. 42 of 2001, Sched. 1
Section 13	Amended by No. 22 of 2023, s. 26
Section 14	Substituted by No. 1 of 2009, Sched. 1
Section 16	Amended by No. 84 of 1999, s. 16, No. 1 of 2009, Sched. 1

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Provision affected	How affected
	Repealed by No. 9 of 2018, s. 8
Section 18	Amended by No. 54 of 2016, s. 74
Part 3A	Repealed by No. 9 of 2018, s. 9
Section 18A	Inserted by No. 13 of 2015, s. 83
	Repealed by No. 9 of 2018, s. 9
Section 18B	Inserted by No. 13 of 2015, s. 83
	Repealed by No. 9 of 2018, s. 9
Section 18C	Inserted by No. 13 of 2015, s. 83
	Repealed by No. 9 of 2018, s. 9
Section 18D	Inserted by No. 13 of 2015, s. 83
	Repealed by No. 9 of 2018, s. 9
Section 18E	Inserted by No. 13 of 2015, s. 83
	Repealed by No. 9 of 2018, s. 9
Section 18F	Inserted by No. 13 of 2015, s. 83
	Repealed by No. 9 of 2018, s. 9
Section 18G	Inserted by No. 13 of 2015, s. 83
	Repealed by No. 9 of 2018, s. 9
Section 18H	Inserted by No. 13 of 2015, s. 83
	Repealed by No. 9 of 2018, s. 9
Section 18I	Inserted by No. 13 of 2015, s. 83
	Repealed by No. 9 of 2018, s. 9
Section 18J	Inserted by No. 13 of 2015, s. 83
	Repealed by No. 9 of 2018, s. 9
Section 18K	Inserted by No. 13 of 2015, s. 83
	Repealed by No. 9 of 2018, s. 9
Section 19A	Inserted by No. 6 of 2001, s. 4
Section 19B	Inserted by No. 9 of 2018, s. 10
Section 19C	Inserted by No. 9 of 2018, s. 10
Section 22	Substituted by No. 9 of 2018, s. 11

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