

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 3 October 2023



TASMANIA

TASMANIAN PUBLIC FINANCE CORPORATION ACT 1985

No. 59 of 1985

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SCHEDULE 1 – RELEVANT ORGANISATIONS



**TASMANIAN PUBLIC FINANCE CORPORATION
ACT 1985**

No. 59 of 1985

**An Act relating to the provision of finance for public
purposes**

[Royal Assent 23 May 1985]

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 I – PRELIMINARY

1. Short title

This Act may be cited as the *Tasmanian Public
Finance Corporation Act 1985*.

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2. Commencement

- (1) This section and section 1 shall commence on the day on which this Act receives the Royal Assent.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be fixed by proclamation.

3. Interpretation

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

the Corporation means the Tasmanian Public Finance Corporation established under Part II;

loan means any form of financial accommodation (not being a grant) and “lend” and “borrow” have corresponding meanings;

local government authority means a council;

the Minister responsible, in relation to a State authority, means the Minister having the administration of the Act by or under which the State authority is constituted;

participating authority means –

- (a) a State authority; or
- (b) a local government authority that has made arrangements to borrow

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money from, or to deposit money with, the Corporation; or

- (c) the Tasmanian Ports Corporation Pty. Ltd. (ACN 114 161 938) while all the shares in that corporation are held in trust for the Crown; or
- (d) the Corporation, or a subsidiary of the Corporation, within the meaning of the *Water and Sewerage Corporation Act 2012*; or
- (e) a company formed under section 5 of the *Rail Company Act 2009* while all the shares in that company are held in trust for the Crown, or a subsidiary of that company while all the shares in that subsidiary are held by that company; or
- (f) Tasmanian Irrigation Pty Ltd (ACN 133 148 384) while all the shares in that corporation are held in trust for the Crown;

security includes any document evidencing indebtedness;

State authority means –

- (a) a body corporate which, or of which the governing authority, wholly or partly comprises –

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- (i) a Minister; or
- (ii) a person or persons appointed by the Governor, a Minister, or another State authority or a person or persons holding office by virtue of being a member or members of another State authority; or
- (b) a body corporate which is financed wholly or in part out of public funds.
- (c - e)
- (2)

3A. Application of Act to certain persons

- (1) This Act, except sections 16 and 18, applies to a person who, in the opinion of the Corporation, is directly or indirectly connected with the provision of financial accommodation for a shipping service to and from Tasmania managed or operated, or to be managed or operated, by a company formed and incorporated pursuant to section 5 of the *TT-Line Arrangements Act 1993* as if that person were a State authority.
- (2) The terms and conditions (including, in particular, terms and conditions as to principal, interest, administrative charges, other charges and fees) of a loan provided under this Act to a

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person referred to in subsection (1) are the terms and conditions determined by the Corporation with the approval of the Treasurer.

- (3) The Treasurer must not approve terms and conditions under subsection (2) unless the Treasurer has first consulted with the Minister to whom the administration of the *TT-Line Arrangements Act 1993* is for the time being assigned.

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Part II – Establishment, Composition, &C., of the Corporation

**PART II – ESTABLISHMENT, COMPOSITION, &C.,
OF THE CORPORATION**

4. Establishment of the Corporation

There is established by this Act the Tasmanian
Public Finance Corporation.

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PART III – OPERATIONS OF THE CORPORATION

11. Functions and powers of the Corporation

- (1) The functions of the Corporation are –
 - (a) to develop and implement borrowing and investment programmes for the benefit of participating authorities; and
 - (b) to engage in such other activities relating to the finances of the Government of the State or participating authorities as are contemplated by this Act or approved by the Treasurer.
- (2) For the purposes of this Act, and notwithstanding the *Government Business Enterprises Act 1995*, the Corporation may, but only if it has the approval of the Treasurer –
 - (a) borrow money within or outside Australia;
 - (b) lend money to participating authorities;
 - (c) accept money on deposit or loan from the Treasurer or a participating authority;
 - (d) place on deposit with the Treasurer or an authorised deposit-taking institution money held by the Corporation;
 - (e) invest money held by the Corporation;

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- (f) issue, sell, purchase, pay-off, re-purchase, redeem, convert, or otherwise deal in or with securities;
- (g)
- (h) appoint an authorised deposit-taking institution or other person to act as underwriter, manager, trustee, or agent in connection with any transaction within or outside Australia;
- (i) enter into contracts of guarantee;
- (j)
- (ja) enter into any agreement or arrangement for the purpose of returning a gain, avoiding a loss, or with a view to avoiding a loss by reference to currency obligations, currency exchange rate movement or interest rate movement; or
- (jb) enter into any agreement or arrangement for the purposes of managing or varying financial returns or financial or currency risks (including but not limited to risks arising from currency exchange rates or interest rates); or
- (k) enter into any agreement or arrangement of a kind not previously mentioned in this subsection or acquire or incur any other rights or liabilities; or
- (l)

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(3)

12. Limitation on functions and powers

In performing and exercising its functions and powers, and in meeting its objectives, under this or any other Act, the Corporation must have due regard to the appropriate levels of financial risk.

13 - 14.

15. Government guarantee

- (1) Liabilities incurred or assumed by the Corporation in pursuance of this Act are guaranteed by the State, and any liability of the Crown arising by virtue of this subsection shall be a charge on the Public Account, and shall be payable out of the Public Account without further appropriation than this section.
- (2) Where an amount is paid by the State under the guarantee created by subsection (1), the Corporation is liable to pay an amount equal to that amount to the Treasurer, for credit of the Public Account, by such instalments, at such times, and with such interest, as the Treasurer determines.

15A. Government guarantee of certain borrowings

- (1) In this section –

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relevant organisation means an organisation or entity referred to in Schedule 1.

- (2) One or more amounts borrowed by a relevant organisation from the Corporation is guaranteed by the State up to, and not in excess of, such amount, in total, as is determined by the Treasurer as the maximum amount guaranteed under this section in respect of the relevant organisation.
- (3) For the purposes of subsection (2), an amount borrowed by a relevant organisation from the Corporation includes each of the following:
 - (a) the amount borrowed by the relevant organisation from the Corporation;
 - (b) the interest payable by the Corporation in respect of the amount borrowed by the relevant organisation;
 - (c) any charges payable to the Corporation, by the relevant organisation, in respect of the amount borrowed;
 - (d) any expenses that are incurred by the Corporation in relation to the amount borrowed by the relevant organisation.
- (4) This section only applies in respect of an amount borrowed by a relevant organisation from the Corporation if the Corporation has exercised all of its rights and remedies under all securities held in respect of the amount borrowed by the relevant organisation.

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-
- (5) A payment by the State to the Corporation under this section –
- (a) is a charge on the Public Account; and
 - (b) is payable out of the Public Account without further appropriation than this section.
- (6) If the State is required to make a payment to the Corporation under this section in respect of an amount borrowed by a relevant organisation –
- (a) the amount so paid by the State under this section is a debt due and owing, by the relevant organisation, to the State; and
 - (b) in addition to any other action that may be taken by the State in respect of that debt, the Treasurer may enter into an agreement with the relevant organisation for the repayment of the debt, on such terms and conditions, and in such manner, as may be determined by the Treasurer.

16. Borrowing of money from, &c., the Corporation by State authorities

- (1) Notwithstanding any other Act, a State authority –
- (a) may borrow money from the Corporation, and, if the Treasurer by notice published in the *Gazette* so

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directs, must, in accordance with the notice, borrow money from the Corporation and not from any other person; and

- (b) may and, if the Treasurer by notice published in the *Gazette* so directs, must deposit with or lend to the Corporation money of the State authority that is not immediately required for the purposes of the State authority; and
 - (c) may allow the Corporation to conduct debt management or any other activity of the type described in section 11(2) on behalf of the State authority.
- (2) The terms and conditions of any transaction or activity undertaken under subsection (1) are to be as agreed between the Corporation and the State authority and in accordance with any guidelines issued by the Treasurer.
- (3) The Treasurer may issue guidelines relating to transactions or activities undertaken under subsection (1).

16A. Transactions with local government authorities

- (1) Notwithstanding any other Act, a local government authority may –
 - (a) borrow money from; and
 - (b) deposit money with; and
 - (c) lend money to –

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the Corporation on such terms and conditions as may be agreed between the Corporation and the local government authority.

- (2) A local government authority is not liable to pay a guarantee fee in respect of monies borrowed from the Corporation for the purposes of discharging or defeasing an existing liability.
- (3) In respect of a borrowing by a local government authority not referred to in subsection (2), the Treasurer may give directions for the purposes of –
 - (a) assessing the amount of a guarantee fee in relation to the assessed value of the benefit to be obtained by the local government authority in respect of the borrowing; and
 - (b) determining the manner in which and the times at which the guarantee fee is to be paid.

17. Treasurer may deposit money with the Corporation

Notwithstanding the *Financial Management Act 2016*, any money under the control of the Treasurer may be deposited with or lent to the Corporation by the Treasurer upon such terms and conditions as the Treasurer may determine.

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Part III – Operations of the Corporation

18. Treasurer may re-arrange finances of State authorities

- (1) The Treasurer may, if he thinks fit, after consultation with the Minister responsible for a State authority that has borrowed money from a source other than the Treasurer or the Government of the State, by notice published in the *Gazette* –
 - (a) transfer to the Corporation the liabilities of the State authority in respect of the loan; and
 - (b) direct that the money outstanding under the loan shall be regarded for all purposes as having been borrowed by the State authority from the Corporation upon terms and conditions specified in the notice.
- (2) The Treasurer may, after consultation with the Minister responsible for a State authority, vary any terms and conditions applying in relation to the State authority by virtue of a notice under subsection (1).

**PART IIIA – MERSEY COMMUNITY HOSPITAL
FUND**

18A. Interpretation of Part

In this Part –

dividend means a dividend payable, or paid,
into the Public Account from the Fund in
accordance with this Part;

Fund means the Mersey Community Hospital
Fund referred to in section 18D(1).

18B. When Part takes effect

This Part takes effect on the day on which the
State receives \$730.4 million from the
Commonwealth in relation to the transfer of
ownership of the Mersey Community Hospital
from the Commonwealth to the State.

18C. Equity contribution

- (1) No later than 30 days after the day on which this
Part takes effect, the Treasurer must make an
equity contribution to the Corporation.
- (2) The equity contribution –
 - (a) is to be the amount of \$730.4 million;
and
 - (b) may be made before or after the
commencement of this Part.

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Part IIIA – Mersey Community Hospital Fund

18D. Mersey Community Hospital Fund

- (1) The equity contribution referred to in section 18C(1), and any returns, and capital gains or losses, that accrue in relation to the equity contribution, comprise the Mersey Community Hospital Fund (*the Fund*).
- (2) The Corporation is to invest, in accordance with the guidelines, in relation to investment, comprised in Treasurer's Instructions for the purposes of the *Government Business Enterprises Act 1995*, so much of the amount standing from time to time in the Fund as is not required, at the time of the investment, to be paid out of the Fund as a dividend under this Part.
- (3) For the purposes of this Part, the Treasurer may issue under section 114 of the *Government Business Enterprises Act 1995* Treasurer's instructions so as to –
 - (a) provide guidelines relating to the determination, calculation and payment of dividends, within the meaning of this Part, and any other matter connected with such dividends; or
 - (b) apply, to dividends, within the meaning of this Part, guidelines made under that section in relation to dividends, or special dividends, within the meaning of that Act.

18E. Dividends from Mersey Community Hospital Fund

- (1) The Corporation is to pay into the Public Account, no later than 15 June in each financial year in which this Part is, for all or part of the year, in effect, a dividend for the financial year.
- (2) The amount of the dividend for a financial year is the amount of the dividend, for the financial year, determined in accordance with section 18F.
- (3) Subsection (1) does not apply in relation to the 2016-2017 financial year.
- (4) The purpose of the payment of a dividend under subsection (1) is to ensure the ongoing funding of the Mersey Community Hospital.
- (5) The dividend is to be paid out of the Fund.
- (6) Division 2 of Part 11 of the *Government Business Enterprises Act 1995* does not apply in relation to a dividend under this Part.
- (7) Subject to subsection (6), nothing in this Part is to be taken to affect the application to the Corporation of Division 2 of Part 11 of the *Government Business Enterprises Act 1995*.

18F. Determination of amount of dividend

- (1) For the 2017-2018 financial year, the amount of the dividend is \$78 142 500.
- (2) The amount of the dividend for each financial year after the 2017-2018 financial year is the

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Part IIIA – Mersey Community Hospital Fund

amount of the dividend for the immediately previous financial year, as increased by 3.5%.

- (3) Despite subsections (1) and (2), if the amount in the Fund is insufficient to pay all of the amount of the dividend calculated in accordance with subsection (2) in relation to a financial year, the amount of the dividend for that financial year is the amount equal to all of the remaining amount in the Fund.
- (4) This Part ceases to be in effect when the amount of the dividend for a financial year is the amount calculated in accordance with subsection (3).

18G. Amount of dividend is to be appropriated for Mersey Community Hospital

- (1) In this section –

Appropriation Bill means a Bill for an Act which authorises the issue and application of any money from the Public Account to meet –

- (a) the cost of the ordinary annual services of the Government; or
- (b) expenditure on public works or the acquisition of any property required for public purposes;

relevant Appropriation Bill means an Appropriation Bill which includes an amount to be appropriated in relation to the funding of the Mersey Community

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Part IIIA – Mersey Community Hospital Fund

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Hospital, whether or not the amount is specifically identified in that Bill to be for that purpose.

- (2) The Minister who introduces into the House of Assembly a relevant Appropriation Bill for a financial year in which a dividend is to be paid into the Public Account in accordance with section 18E(1) is to specify, in the papers that are tabled in the House of Assembly in connection with the Bill, the amount, included in an appropriation in the Bill, that is for the purpose of funding the Mersey Community Hospital, which amount is to be not less than the amount of the dividend.

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Part IV – Miscellaneous

PART IV – MISCELLANEOUS

19 - 20.

21. State authorities to provide certain information

A State authority shall, if so required by the Treasurer, furnish the Board with information relating to the financial affairs of the State authority.

22.

23. Certificates of compliance with this Act

- (1) The Treasurer may, if he is so satisfied, certify that anything done by the Board has been done in pursuance of this Act.
- (2) In any legal proceedings, an apparently genuine document purporting to be a certificate under subsection (1) shall be accepted as proof of the matters stated in the certificate in the absence of proof to the contrary.

24. Amendment of Schedule 1

- (1) The Treasurer, by order, may amend Schedule 1 by doing any one or more of the following:
 - (a) inserting a new organisation or entity;
 - (b) omitting an organisation or entity;

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Part IV – Miscellaneous

- (c) omitting an organisation, or entity, and substituting another organisation or entity.
- (2) The provisions of section 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order under this section as if the order were regulations within the meaning of that Act.
- (3) For the avoidance of doubt, an order under this section –
 - (a) is a statutory rule within the meaning of the *Rules Publication Act 1953*; and
 - (b) is not subordinate legislation within the meaning of the *Subordinate Legislation Act 1992*.

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SCHEDULE 1 – RELEVANT ORGANISATIONS

Section 15A(1)

1. A Government Business Enterprise within the meaning of the *Government Business Enterprises Act 1995*.
2. A company formed under the *Electricity Companies Act 1997*.
3. The Company as defined in the *Irrigation Company Act 2011*.
4. The Company as defined in the *Metro Tasmania Act 1997*.
5. The Company as defined in the *Racing (Tasracing Pty Ltd) Act 2009*.
6. The Company formed under the *Rail Company Act 2009*.
7. The Company formed under the *TT-Line Arrangements Act 1993*.
8. The Corporation as defined in the *Tasmanian Ports Corporation Act 2005*.
9. A subsidiary, within the meaning of the Corporations Act, that is wholly owned by one

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of the entities specified in item 1, 2, 3, 4, 5, 6, 7 or 8.

- 10.** The Forest Practices Authority continued under the *Forest Practices Act 1985*.
- 11.** Homes Tasmania, as established by the *Homes Tasmania Act 2022*.
- 12.** Macquarie Point Development Corporation, as established by the *Macquarie Point Development Corporation Act 2012*.
- 13.** Private Forests Tasmania, as established by the *Private Forests Act 1994*.
- 14.** Stadiums Tasmania, as established by the *Stadiums Tasmania Act 2022*.
- 15.** The State Fire Commission, as established by the *Fire Service Act 1979*.
- 16.** Tasmania Development and Resources, as continued by the *Tasmanian Development Act 1983*.
- 17.** TasTAFE, as continued under the *TasTAFE (Skills and Training Business) Act 2021*.

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NOTES

The foregoing text of the *Tasmanian Public Finance Corporation Act 1985* 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>Tasmanian Public Finance Corporation Act 1985</i>	No. 59 of 1985	14.6.1985
<i>Hydro-Electric Commission Amendment Act 1987</i>	No. 50 of 1987	17.8.1987
<i>Administrative Arrangements (Miscellaneous Amendments) Act 1990</i>	No. 5 of 1990	1.7.1990
<i>State Authorities Financial Management (Consequential Amendments) Act 1991</i>	No. 40 of 1991	1.7.1991
<i>TT-Line Arrangements Act 1993</i>	No. 39 of 1993	1.11.1993
<i>Tasmanian Public Finance Corporation Amendment Act 1995</i>	No. 4 of 1995	23.5.1995
<i>Government Business Enterprises (Consequential Amendments) Act (No. 2) 1995</i>	No. 52 of 1995	1.7.1995
<i>Local Government (Consequential Amendments) Act 1995</i>	No. 30 of 1995	1.9.1995
<i>Marine (Consequential Amendments) Act 1997</i>	No. 16 of 1997	30.7.1997
<i>Financial Sector Reform (Tasmania) (Miscellaneous Amendments) Act 1999</i>	No. 74 of 1999	1.1.2000
<i>Duties Act 2001</i>	No. 15 of 2001	1.7.2001
<i>Tasmanian Ports Corporation Act 2005</i>	No. 41 of 2005	31.12.2005
<i>Water and Sewerage Industry (Consequential and Transitional) Act 2008</i>	No. 52 of 2008	16.6.2009
<i>Rail Company Act 2009</i>	No. 46 of 2009	27.10.2009
<i>Irrigation Company (Consequential Amendments) Act 2011</i>	No. 8 of 2011	1.7.2011
<i>Water and Sewerage Corporation Act</i>	No. 51 of 2012	1.7.2013

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Act	Number and year	Date of commencement
<i>2012</i>		
<i>Tasmanian Public Finance Corporation Amendment (Mersey Community Hospital) Act 2017</i>	No. 25 of 2017	30.6.2017
<i>Financial Management (Consequential and Transitional Provisions) Act 2017</i>	No. 4 of 2017	1.7.2019
<i>Tasmanian Public Finance Corporation Amendment Act 2023</i>	No. 22 of 2023	1.7.2023

TABLE OF AMENDMENTS

Provision affected	How affected
Section 3	Amended by No. 50 of 1987, s. 37, No. 40 of 1991, s. 22, No. 4 of 1995, s. 4, No. 30 of 1995, s. 3 and Sched. 1, No. 52 of 1995, s. 3 and Sched. 1, No. 16 of 1997, Sched. 1, No. 41 of 2005, Sched. 1, No. 52 of 2008, Sched. 1, No. 46 of 2009, Sched. 1, No. 8 of 2011, Sched. 1 and No. 51 of 2012, Sched. 2
Section 3A	Inserted by No. 39 of 1993, s. 24 and Sched. 2
Section 4	Amended by No. 52 of 1995, s. 3 and Sched. 1
Section 5	Repealed by No. 52 of 1995, s. 3 and Sched. 1
Section 5A	Repealed by No. 52 of 1995, s. 3 and Sched. 1
Section 6	Repealed by No. 52 of 1995, s. 3 and Sched. 1
Section 7	Repealed by No. 52 of 1995, s. 3 and Sched. 1
Section 8	Repealed by No. 52 of 1995, s. 3 and Sched. 1
Section 9	Repealed by No. 52 of 1995, s. 3 and Sched. 1
Section 10	Repealed by No. 52 of 1995, s. 3 and Sched. 1
Section 11	Amended by No. 4 of 1995, s. 10, No. 52 of 1995, s. 3 and Sched. 1 and No. 74 of 1999, Sched. 2
Section 12	Substituted by No. 52 of 1995, s. 3 and Sched. 1
Section 13	Substituted by No. 52 of 1995, s. 3 and Sched. 1 Repealed by No. 15 of 2001, Sched. 2
Section 13A	Repealed by No. 52 of 1995, s. 3 and Sched. 1
Section 14	Repealed by No. 52 of 1995, s. 3 and Sched. 1
Section 15	Amended by No. 4 of 1995, s. 14 and Sched. 1 and No. 4 of 2017, Sched. 1
Section 15A	Inserted by No. 22 of 2023, s. 5
Section 16	Substituted by No. 4 of 1995, s. 12
Section 16A	Inserted by No. 4 of 1995, s. 12
Section 17	Amended by No. 4 of 1995, s. 14 and Sched. 1 and No. 4 of 2017, Sched. 1
Section 18A	Inserted by No. 25 of 2017, s. 4
Section 18B	Inserted by No. 25 of 2017, s. 4
Section 18C	Inserted by No. 25 of 2017, s. 4

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Provision affected	How affected
Section 18D	Inserted by No. 25 of 2017, s. 4
Section 18E	Inserted by No. 25 of 2017, s. 4
Section 18F	Inserted by No. 25 of 2017, s. 4
Section 18G	Inserted by No. 25 of 2017, s. 4
Section 19	Repealed by No. 52 of 1995, s. 3 and Sched. 1
Section 20	Repealed by No. 52 of 1995, s. 3 and Sched. 1
Section 21	Amended by No. 4 of 1995, s. 14 and Sched. 3
Section 22	Repealed by No. 52 of 1995, s. 3 and Sched. 1
Section 23	Amended by No. 4 of 1995, s. 14 and Sched. 3
Section 24	Repealed by No. 52 of 1995, s. 3 and Sched. 1 Inserted by No. 22 of 2023, s. 6
Section 25	Repealed by No. 40 of 1991, s. 24
Section 26	Repealed by No. 52 of 1995, s. 3 and Sched. 1
Schedule 1	Inserted by No. 22 of 2023, s. 6