

**TREASURER'S INSTRUCTION  
GOVERNMENT BUSINESS ENTERPRISES ACT 1995**

**GBE 13-114-05**

**DIVIDENDS**

**BACKGROUND**

Under section 114(1)(e) of the *Government Business Enterprises Act 1995* (GBE Act), the Treasurer may issue instructions, in writing, in respect of guidelines, principles, practices and procedures to be observed by a Government Business Enterprise (GBE) in relation to financial obligations of GBEs. Section 115 imposes an obligation on GBE Boards to ensure that all Treasurer's Instructions are complied with.

The purpose of this Instruction is to provide the guidelines for the payment of dividends by GBEs.

Section 39 of the GBE Act requires GBEs to prepare a corporate plan. The corporate plan is to include an estimate of the dividend that is likely to be recommended under section 83 of the GBE Act, in respect of the current financial year.

Section 83 of the GBE Act requires the Board of each GBE, within 60 days after the end of each financial year, to advise the Treasurer and the Portfolio Minister of its recommendation for a dividend payable in respect of that financial year.

Section 86 of the GBE Act allows the Portfolio Minister and Treasurer to determine the payment of a special dividend to the Government under certain circumstances.

**DEFINITIONS**

Terms used in the attached Guidelines have the same meaning as those used in the GBE Act.

**TREASURER'S INSTRUCTION**

The Board of a GBE is to ensure that it establishes a dividend distribution policy consistent with the Dividend Guidelines for Tasmanian Government Businesses, attached to this Instruction.

## **COMMENCEMENT DATE**

This Treasurer's Instruction applies to all GBEs, and takes effect for determination of dividends payable in respect of the 2009-10 financial year and financial years thereafter and replaces Treasurer's Instruction GBE 13-114-03.

## **ATTACHMENT**

Guidelines for Tasmanian Government Businesses- Dividends

# Guidelines for Tasmanian Government Businesses

Dividends

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# Dividends

## Introduction

The purpose of these guidelines is to outline the Shareholding Ministers expectations for the payments of dividends by government businesses to ensure an appropriate return is made to the Government, as owner.

## Application

These guidelines supersede the former *Dividend Policy Guidelines for State-owned Companies* and *Dividend Policy Guidelines for Government Business Enterprises* issued in 2003 and apply to dividends payable in respect of the 2009-10 financial year and financial years thereafter.

## Shareholding Ministers' Expectations

The Government has a significant equity investment in the portfolio of government businesses. This reflects historic direct investment of capital and through indirect investment in the form of retained earnings. Each equity investment in a government business carries an opportunity cost, being the benefit the Government forgoes from an alternative use of the equity. Accordingly, the Government expects its businesses to achieve returns that are comparable to alternative investments of similar risk, and for dividends to be at an appropriate level to reflect these returns.

Government businesses are not subject to share market and capital market scrutiny and thus do not have the incentives provided by share price movements and credit ratings to reflect the preference of the providers of equity and debt capital. These guidelines convey the Government's dividend preferences and expectations to provide government businesses with the framework and discipline for making dividend payments.

Dividends represent a return on the Government's equity investment. In addition to dividends, government businesses are required to pay the Government guarantee fees and income tax equivalents. Unlike dividends, guarantee fees and income tax equivalents are expenses incurred by government businesses, which are paid on the basis of competitive neutrality principles. The payment of these expenses do not represent, nor constitute a return on, the Government's equity investment - dividends are viewed in isolation of these expenses when assessing the annual performance of a government business. The Government only considers total receipts from government businesses for the purposes of State Budget management.

## Dividend Policy

During the corporate planning process each government businesses will agree an appropriate dividend with Shareholding Ministers. The Government preference is to:

- maintain a reasonably stable stream of dividends; and
- for profits to be distributed as cash rather than retained as equity.

A general target dividend payout ratio is not applied; rather case-by-case consideration should be given which takes into account the balance between the funding needs of the business and ensuring that the State's revenue requirements are met.

An appropriate dividend should also have regard to the progression towards, or maintenance of, an appropriate capital structure. It should also consider the cash flow requirements for working capital, funding required for capital expenditure and an appropriate contingency for financial flexibility.

Dividends are to be negotiated with reference to after tax profit. Although it is recognised that sometimes, reported profit may not be supported by cash flows and it may be appropriate for the dividend to include the adoption of a suitable smoothing arrangement or to include on an underlying profit measure rather than accounting net profit after tax.

## Dividend Recommendation

The annual dividend recommendation should be made in accordance with the agreed dividend.

It is recognised that there may be times when the Board's dividend recommendation may be adjusted to better reflect the operating cash flows generated by the business for the reporting period. This may be appropriate when intermittent events, such as a significant asset revaluation or a change in accounting standards, artificially increase or decrease operating profits without a supporting movement in cash flows.

The recommendation by the Board must be made in accordance with:

- section 254T of the *Corporations Act 2001*, for a State-owned Company; or
- section 83 of the *Government Business Enterprises Act 1995*, for a Government Business Enterprise.

The recommendation should be made in writing to Shareholding Ministers by 29 August for Government Business Enterprises and no later than 31 October for State-owned Companies.

## Dividend Determination

In the case of a Government Business Enterprise, the Treasurer and Portfolio Minister, within 60 days of receiving a recommendation for a dividend payable, must either:

- approve the recommendation;
- direct that no dividend be paid; or
- direct that an amount of dividend different from that recommended by the Board be paid.

The amount of any dividend to be paid by a State-owned Company is the amount determined by special resolution of the Treasurer and Portfolio Minister after they have consulted with the Board and considered the written recommendations of the Board. Under the Constitution of the State-owned Companies, the Shareholding Ministers can not determine an amount exceeding that recommended by the Board. The special resolution of the Treasurer and Portfolio Minister will generally be provided at the Annual General Meetings.

## Key Dates

April - June	Dividend agreed in corporate planning process
By 29 August	GBE Board to provide dividend recommendation in writing to Shareholding Ministers
By 28 October	Shareholding Ministers to provide GBE with dividend determination
By 31 October	SOC Board to provide dividend recommendation in writing to Shareholding Ministers
By 30 November	SOC dividend determined by special resolution
By 31 December	Dividend Payment

## Special Dividends

The Government may seek special dividends payable from accumulated profits and/or capital reserves, as provided by the GBE Act. The special dividend is unrelated to current year profits, and is in the nature of a return of excess reserves, capital or provisions to the Government, as owner.

In order for a special dividend to be paid under the GBE Act, the Treasurer and the Portfolio Minister must direct the Board to pay a special dividend (section 86(1)). Before making such a direction, both Ministers must consult with the GBE and be satisfied that the GBE has sufficient liquid assets to meet its contingent and financial needs after it pays the special dividend. A direction to pay a special dividend takes effect only when it is approved by both Houses of Parliament (section 86(6) of the GBE Act).

A special dividend determined in accordance with section 86 of the GBE Act shall be paid by the GBE after the financial year to which it relates on or before 15 June, or as otherwise determined by the Treasurer.

## Interim Dividend

Section 85 of the GBE Act provides that the Government may seek an interim dividend payable from the estimated profits of a GBE for the first six months of a financial year, after provision is made for any tax equivalents payable in respect of that period.

At any time after the completion of the first six months of the financial year, the Treasurer and Portfolio Minister, jointly, may require a Board by notice provided to it, to make a recommendation for the payment of an interim dividend on account of the dividend that may become payable for that financial year. Within 30 days after receiving notice, the Board must make a recommendation for the payment of an interim dividend to the Treasurer.

Within 30 days after receiving a recommendation from the Board, the Treasurer and Portfolio Minister, jointly, must:

- approve the recommendation;
- direct that no interim dividend be paid; or
- direct that an amount of interim dividend different from that recommended by the Board be paid.

An interim dividend determined in accordance with section 85 of the GBE Act shall be paid by the GBE in the financial year to which it relates on or before 15 June, or as otherwise determined by the Treasurer.

## Guidelines

### Dividends

#### *Policy*

- (a) All government businesses must agree a dividend with the Shareholding Ministers during the annual corporate planning process.
- (b) Boards should have regard to the Government's preference for government businesses profits to be distributed as cash, rather than retained as equity.
- (c) The Board should have regard to the progression towards, or maintenance of, an appropriate capital structure for the government business.
- (d) Government businesses should manage transitory changes in earnings such that a reasonably stable stream of dividends is achieved.
- (e) For government businesses subject to large volatility in the annual operating result, the adoption of a suitable dividend smoothing arrangement or a policy based on underlying profit may be appropriate.
- (f) An agreed dividend policy will be applied consistently from year to year.

#### *Recommendation*

- (a) The Board must recommend a dividend in accordance with the agreed dividend.
- (b) The recommendation by the Board of a State-owned Company must be made in accordance with section 254T of the Corporations Act.
- (c) The dividend recommendation must be made in writing to Shareholding Ministers by 29 August for Government Business Enterprises and no later than 31 October for State-owned Companies.

#### *Determination*

- (a) For a Government Business Enterprise, within 60 days of receiving a recommendation for a dividend payable Shareholding Minister will determine the dividend payable.
- (b) For a State-owned Company, the dividend payable will be determined by special resolution normally at the Annual General Meeting.

#### *Payment*

- (a) Payment of an ordinary dividend shall be no later than 31 December.



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