



New South Wales

State Owned Corporations Legislation Amendment (Staff Directors) Bill 2013

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to remove any requirement under the *State Owned Corporations Act 1989* or other legislation relating to State owned corporations (*SOCs*) for a staff director (including a director nominated by Unions NSW).

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of State Owned Corporations Act 1989

Schedule 1 [1] amends section 20J of the Act which contains the default provisions relating to the board of directors of a statutory SOC (those provisions are displaced by any specific provisions relating to directors in the various Acts that establish particular statutory SOC). The amendment removes the requirement that one of the

directors of a statutory SOC is to be a staff director selected in accordance with the procedure in the foundation charter of the SOC or (in the absence of any such procedure) in accordance with Schedule 8 to the Act. The amendment does not reduce the number of directors that may be appointed to the board of directors.

Schedule 1 [2] amends section 38 of the Act to make a consequential amendment.

Schedule 1 [3] amends Schedule 2 to the Act to remove the requirement that the constitution of a company SOC contain provision for one of the directors to be a staff director.

Schedule 1 [4] amends Schedule 8 to the Act to remove the provision relating to the procedure for the selection of a staff director of a statutory SOC, namely, the selection of a director from among members of staff of the SOC by a selection committee comprising persons nominated by voting shareholders and Unions NSW.

Schedule 1 [5] amends Schedule 11 to the Act to enable regulations of a savings or transitional nature to be made consequent on the enactment of the proposed Act.

Schedule 1 [6] amends Schedule 11 to the Act to remove spent provisions relating to staff directors arising from a 1995 amending Act.

Schedule 1 [7] amends Schedule 11 to the Act to provide that existing staff directors (including directors of SOCs appointed under legislation referred to in Schedule 2 below) continue to hold office until a date determined by the Governor or voting shareholders (unless they sooner cease to hold office).

Schedule 2 Amendment of other State owned corporations legislation

The Schedule amends the various Acts that establish statutory SOCs and that have a requirement for a staff director (including a director nominated by Unions NSW). The amendments remove the requirement without reducing the number of directors that may be appointed to the board of directors. The legislation establishing other statutory SOCs that do not have a requirement for a staff director is not affected (Landcom, Sydney Water Corporation and Forests NSW).

Amendment of Energy Services Corporations Act 1995

Subschedule 2.1 removes the requirement that one of the directors of an energy services statutory SOC is to be a staff director selected from a panel of persons nominated by Unions NSW and recommended for appointment by a selection committee comprising persons nominated by both the portfolio Minister and Unions NSW.

Amendment of Hunter Water Act 1991

Subschedule 2.2 removes the requirement that one of the directors of the Hunter Water Corporation (a statutory SOC) is to be a staff director selected from a panel of persons nominated by Unions NSW and recommended for appointment by a

selection committee comprising persons nominated by both the voting shareholders and Unions NSW.

Amendment of Ports and Maritime Administration Act 1995 and Ports and Maritime Administration Regulation 2012

Subschedule 2.3 removes the requirement that one of the directors of a Port Corporation statutory SOC is to be a staff director elected by employees of the Port Corporation. Subschedule 2.4 repeals provisions of the regulation under that Act relating to the election of staff directors.

Amendment of State Water Corporation Act 2004

Subschedule 2.5 removes the requirement that one of the directors of State Water Corporation (a statutory SOC) is to be a staff director selected from a panel of persons nominated by Unions NSW and recommended for appointment by a selection committee comprising persons nominated by both the voting shareholders and Unions NSW.

Amendment of Superannuation Administration Authority Corporatisation Act 1999

Subschedule 2.6 removes the requirement that one of the directors of the Superannuation Administration Corporation (a statutory SOC called Pillar) is to be a staff director selected from a panel of persons nominated by Unions NSW and recommended for appointment by a selection committee comprising persons nominated by both the portfolio Minister and Unions NSW.

First print



New South Wales

State Owned Corporations Legislation Amendment (Staff Directors) Bill 2013

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of State Owned Corporations Act 1989 No 134	3
Schedule 2 Amendment of other State owned corporations legislation	5



New South Wales

State Owned Corporations Legislation Amendment (Staff Directors) Bill 2013

No. , 2013

A Bill for

An Act to amend the *State Owned Corporations Act 1989* and other legislation relating to State owned corporations to remove any requirement for a staff director.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>State Owned Corporations Legislation Amendment (Staff Directors) Act 2013</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1	Amendment of State Owned Corporations Act 1989 No 134	1
		2
[1] Section 20J Directors		3
	Omit section 20J (3) and (4). Insert instead:	4
	(3) The directors are to be persons who, in the opinion of the voting shareholders, will assist the SOC to achieve its principal objectives.	5 6 7
[2] Section 38 Regulations		8
	Omit section 38 (2).	9
[3] Schedule 2 Provisions to be included in constitution of company SOCs		10
	Omit clause 4 (Staff director).	11
[4] Schedule 8 Constitution and procedure of boards of statutory SOCs		12
	Omit clause 4 (Staff director).	13
[5] Schedule 11 Savings and transitional provisions		14
	Insert at the end of clause 1 (1):	15
	<ul style="list-style-type: none"><i>State Owned Corporations Legislation Amendment (Staff Directors) Act 2013</i>	16 17
[6] Schedule 11, Part 2 Provisions consequent on enactment of State Owned Corporations Amendment Act 1995		18 19
	Omit the Part.	20
[7] Schedule 11, Part 5		21
	Insert at the end of the Schedule:	22
Part 5	Provision consequent on enactment of State Owned Corporations Legislation Amendment (Staff Directors) Act 2013	23 24 25
6	Existing staff directors	26
	(1) In this clause:	27
	<i>amending Act</i> means the <i>State Owned Corporations Legislation Amendment (Staff Directors) Act 2013</i> .	28 29
	<i>existing staff director</i> means a staff director of the board of directors of a statutory SOC referred to in section 20J (as in force	30 31

State Owned Corporations Legislation Amendment (Staff Directors) Bill
2013

Schedule 1 Amendment of State Owned Corporations Act 1989 No 134

- immediately before the commencement of the amending Act),
and includes any of the following directors:
- (a) a director of the board of directors of an energy services corporation referred to in clause 1 (2) (b) of Schedule 2 to the *Energy Services Corporations Act 1995* (as so in force),
 - (b) a director of the board of the Hunter Water Corporation referred to in section 4B (1) (c) of the *Hunter Water Act 1991* (as so in force),
 - (c) a staff director of the board of directors of a Port Corporation referred to in section 18 of the *Ports and Maritime Administration Act 1995* (as so in force),
 - (d) a director of the board of directors of the State Water Corporation referred to in section 7 (3) of the *State Water Corporation Act 2004* (as so in force),
 - (e) a director of the board of directors of the Superannuation Administration Corporation referred to in clause 1 (1) (b) of Schedule 3 to the *Superannuation Administration Authority Corporatisation Act 1999* (as so in force).
- (2) The amendments made by the amending Act do not affect any existing staff director of a SOC holding office on the commencement of the amending Act. Any such person ceases to hold office as a director (subject to this or any other Act under which the person was appointed as director) on a date after the commencement of the amending Act that is determined in relation to that SOC:
- (a) by the Governor if the Governor appoints directors of the board of that SOC, or
 - (b) by the voting shareholders of that SOC if those voting shareholders appoint directors of the board of that SOC.
- (3) Notice of a proposed determination under subclause (2) is not required to be given to the existing staff director or any other person.
- (4) Any existing staff director who ceases to be such a director by the operation of subclause (2) before the end of the term of office of the existing staff director is not entitled to any compensation for loss of office.

Schedule 2	Amendment of other State owned corporations legislation	1
		2
2.1	Energy Services Corporations Act 1995 No 95	3
[1]	Schedule 2 Supplementary provisions concerning constitution and procedure	4
	Omit clause 1 (2) (b).	5
		6
[2]	Schedule 2, clause 1 (2) (c)	7
	Omit “2”. Insert instead “3”.	8
[3]	Schedule 2, clause 1 (2) (c) (i)	9
	Omit “6”. Insert instead “7”.	10
[4]	Schedule 2, clause 1 (2) (c) (ii)	11
	Omit “5”. Insert instead “6”.	12
[5]	Schedule 2, clause 1 (3)	13
	Omit the subclause.	14
2.2	Hunter Water Act 1991 No 53	15
[1]	Section 4B Board of Corporation	16
	Omit “6 directors” from section 4B (1) (b). Insert instead “7 directors”.	17
[2]	Section 4B (1) (c)	18
	Omit the paragraph.	19
[3]	Section 4B (2) and (3)	20
	Omit the subsections.	21

[4] Section 4B (4)	1
Omit the subsection. Insert instead:	2
(4) Subsection (1) has effect despite the provisions of section 20J of, and clause 2 (1) of Schedule 8 to, the <i>State Owned Corporations Act 1989</i> .	3 4 5
2.3 Ports and Maritime Administration Act 1995 No 13	6
Section 18 Special provision for election of staff director	7
Omit the section.	8
2.4 Ports and Maritime Administration Regulation 2012	9
[1] Part 5 Staff director elections	10
Omit the Part.	11
[2] Schedule 2 Forms	12
Omit the Schedule.	13
2.5 State Water Corporation Act 2004 No 40	14
[1] Section 7 Board of directors of Corporation	15
Omit section 7 (3) and (4).	16
[2] Section 7 (5)	17
Omit “(clause 4 excepted) and section 20J (subsections (2)–(5) and (7) excepted)”.	18 19
Insert instead “and section 20J (subsections (2) and (5) excepted)”.	20
2.6 Superannuation Administration Authority Corporatisation Act 1999 No 5	21 22
[1] Schedule 3 Special provisions concerning management of the Corporation	23 24
Omit clause 1 (1) (b).	25
[2] Schedule 3, clause 1 (1) (c)	26
Omit “2”. Insert instead “3”.	27
[3] Schedule 3, clause 1 (1) (c)	28
Omit “5”. Insert instead “6”.	29

State Owned Corporations Legislation Amendment (Staff Directors) Bill
2013

Amendment of other State owned corporations legislation

Schedule 2

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- | | |
|-------------------------------------|---|
| [4] Schedule 3, clause 1 (2) | 1 |
| Omit the subclause. | 2 |
| [5] Schedule 3, clause 2 (2) | 3 |
| Omit “, 4”. | 4 |