

STATE SUPPLY COMMISSION AMENDMENT BILL 2007

EXPLANATORY MEMORANDUM

Introduction

The purpose of this Bill is to formally transfer accountability for State fleet activities from the State Supply Commission to the Department of Treasury and Finance.

State Fleet is the government entity responsible for the provision of passenger and light commercial vehicles to the majority of government agencies. State Fleet operates under the powers and functions of the *State Supply Commission Act 1991* but is controlled and managed by the Department of Treasury and Finance under delegation from the State Supply Commission.

However, the *State Supply Commission Act*, as presently structured, requires that accounting for the operations of State Fleet be undertaken through the Commission's statutory account and reported through the Commission's budget and annual report. This is administratively inefficient, tends to swamp the operations of the Commission in the budget and annual report (because of State Fleet's much larger financial flows), and is confusing to readers of both the State Supply Commission and Department of Treasury and Finance annual reports.

The amendments in this Bill will allow State Fleet to be treated, both operationally and in relation to budgeting and financial reporting, as a function of the Department of Treasury and Finance. This will more clearly reflect actual practice, and make it clear that responsibility and accountability for State Fleet rest with that department.

Explanation of Clauses

Clause 1: Short Title

When enacted, the Bill will be cited as the *State Supply Commission Amendment Act 2007*.

Clause 2: Commencement

Describes how the Bill, once passed, will come into operation. Clauses 1 and 2 will come into operation on receiving the Royal Assent and the rest of the Bill on a date to be proclaimed.

Clause 3: The Act amended.

Identifies the *State Supply Commission Act 1991* as the Act being amended by this Bill.

Clause 4: Section 3 amended

Inserts a new defined term – State fleet agreement - into the principal Act.

Clause 5: Part 3 Division 1 heading inserted

Self-explanatory.

Clause 6: Section 19 amended

The new section 19(3) inserted by this clause makes it clear that when State fleet functions are transferred to a Minister, and through that Minister to another agency, under a State fleet agreement, the Commission no longer bears responsibility for those functions.

Clause 7: Part 3 Division 2 Inserted

The new division inserted in the principal Act by this clause provides for the powers and mechanisms required to permit the formal transfer of the State fleet functions from the Commission to a Minister and, through the Minister, to the department that will actually undertake the functions. The new sections are explained below:

New section 26AA – Commission may enter into an agreement relating to supply and disposal of vehicles - provides power for an agreement between the State Supply Commission and a Minister that will formally transfer responsibility for the State fleet functions:

Subsection (1) empowers the Commission to make an agreement – to be called a “State fleet agreement” – with a Minister to transfer to the Minister the powers and functions under the *State Supply Commission Act* relevant to State fleet activities;

Subsection (2) requires that the agreement specify a department that the Minister making the agreement will use to undertake the State fleet functions;

Subsection (3) requires that the department referred to in subsection (2) must be one that is principally accountable to the Minister for functions beyond those relevant to this agreement. The purpose of this is to ensure that the line of accountability is clear and unequivocal;

Subsection (4) provides that anything done under a State fleet agreement by the Minister or the department will have the same legal effect as if it had been done by the Commission.

New section 26AB - Delegation - provides the necessary power for the Minister who is party to a State fleet agreement to delegate the relevant functions and powers to the department, mentioned in the agreement, that will undertake the State fleet functions:

Subsection (1) empowers the Minister to delegate to the chief executive officer (CEO) of the department mentioned in the State fleet agreement any power or function that the Minister may perform under the agreement;

Subsection (2) is self-explanatory;

Subsection (3) provides that the Minister's delegation to the department's CEO under subsection (1) may expressly authorise the CEO to further delegate the functions and powers to one or more officers of the department;

Subsection (4) provides that parties dealing with the Minister, or with officers undertaking activities under a State fleet agreement, are entitled to assume that the powers and functions have been validly exercised in accordance with the agreement and delegations;

Subsection (5) puts beyond doubt the Minister's power to exercise delegated functions through an officer or agent.

Clause 8: Section 30 amended

The amendments to section 30, which deals with the funds and accounts of the Commission, provides that, where a State fleet agreement is in place, the funds of State Fleet will be accounted for separately from the funds of the Commission.

Subclause (1) inserts words into subsection 30(2) that link to the new subsections outlined below;

Subclause (2) inserts three new subsections:

New subsection (4) provides that the funds for activities under a State fleet agreement are to be credited to an agency special purpose account established under the *Financial Management Act 2006* instead of being credited to the Commission's statutory account;

New subsection (5) provides for all costs and expenses incurred by activities under a State fleet agreement to be charged to the special purpose account referred to in subsection (4) rather than to the Commission's account;

The provision in new subsection (6) - that the special purpose account referred to in subsection (4) is to be regarded as a service of the department referred to in the State fleet agreement - ensures that State fleet activities will be accounted for in the books of the department undertaking the activities, and that the accountable authority will be responsible for the financial management of those moneys.

Clause 9: Section 32 amended

The new subsection 32(2) inserted by this clause makes it clear that accountability for activities under a State fleet agreement is separated from the accountability of the Commission for its own activities.

Subsection 32(2)(a) ensures that the accountable authority of the department undertaking the State fleet activities is responsible to the Minister for those activities, while subsection 32(2)(b) requires that department to account for those activities in its annual report. State fleet activities will also appear in that department's budget.

These provisions complement:

- the provision in new subsection 19(3) (inserted by clause 6) that the Commission is no longer responsible for activities transferred under a State fleet agreement; and
- the separation of accounting arrangements provided for in the amendments to section 30 in clause 8 above.