

MINISTERIAL DIRECTIONS

FOR THE OPERATION OF THE TASMANIAN FREIGHT EQUALISATION SCHEME

Approved by the Minister for Transport and Regional Services
The Honourable John Anderson
April 2002

Amendments approved by the Acting Minister for Infrastructure, Transport, Regional
Development and Local Government
The Honourable Christopher Bowen
July 2008

1. INTERPRETATION

- 1.1. In these Directions unless inconsistent with the context or subject matter or unless a contrary intention appears:
- (a) words importing the singular include the plural and words importing the plural include the singular;
 - (b) words importing a person include a partnership and a body whether corporate or otherwise.

2. DEFINITIONS

“Agent” means to be appointed to act as an Agent to apply for assistance on behalf of their customers. Companies engaged in supplying goods to the industries described in 12.1 may apply. Companies primarily involved in freight forwarding or freight logistics may not apply to act as an agent;

“BGSF company” is an abbreviation for ‘bulk grain storage facility company’ and means a company that:

- (a) ships grain to Tasmania from mainland Australia; and
- (b) stores the grain in a storage facility that has a storage capacity of 2,000 tonnes or more.

“bulk cargo” means any cargo that is shipped loose in a ship's holds or tanks without any form of unitisation or packaging.

“charitable organisation” means a society or association established for charitable or

benevolent purposes and not for the purposes of profit or gain to the individual members of the society or association.

“Department” means the Department of Transport and Regional Services.

“door to door adjustment” means adjustment to a shipper’s freight bill to convert the freight bill from a door to wharf, wharf to door, or door to door basis to a notional wharf to wharf basis in accordance with clause 18.

“eligible customer” means a person who is eligible to apply for assistance under subclause 12.1.

“Full Container Load (FCL)” means a container utilised at its maximum capacity for the cargo carried.

“fixed intermodal cost (FC)” means an amount of \$100 per TEU attributable to unavoidable intermodal costs incurred by a shipper moving goods by sea between northern Tasmania and Victoria, or between King Island and the main island of Tasmania, or between Flinders Island and the main island of Tasmania.

“heavy weight assistance” means assistance payable in respect of cargo regarded as *high density or heavy cargo* and calculated in accordance with clause 21.

“high density or heavy cargo” means cargo which when efficiently packed has a stowage factor of 1.1 cubic metres or less per tonne.

“Less than a Container Load (LCL)” means container utilised at less than its maximum capacity for the cargo carried.

“Manufacturing Process” for the purposes of subclauses 4.5, 10.1(a), 11.3 and 11.4 a manufacturing process is regarded as a process which is, or would be, carried out by a manufacturer who carries out activities defined in Division C of the *Australian and New Zealand Standard Industrial Classification* prepared by the *Australian Bureau of Statistics*.

“median wharf to wharf freight cost disadvantage (MWW)” means \$671.

“Minister” means the Minister for Transport and Regional Services.

“notional entitlement (NE)” means a shipper’s notional entitlement to assistance (or notional wharf gate to wharf gate freight cost disadvantage), being equivalent to a shipper’s *notional wharf to wharf freight cost (WW)*, plus the *fixed intermodal cost (FC)* element, less the *road freight equivalent cost (RFE)* per TEU, and is represented by the formula:

$$NE = (WW + FC) - RFE$$

“notional wharf to wharf freight cost disadvantage (NWW)” means the difference between the shipper’s *notional wharf to wharf freight cost (WW)* and the *road freight equivalent cost (RFE)* per TEU, and is represented by the formulas:

$$\text{NWW} = \text{WW} - \text{RFE} \text{ or } \text{NWW} = \text{NE} - \text{FC}$$

“notional wharf to wharf freight cost (WW)” means a shipper’s actual freight cost less the applicable GST component and converted, where necessary, to a wharf to wharf rate for a TEU or TEU equivalent consignment in accordance with clauses 17 and 18. In the case of goods moved between the mainland and Tasmania on a route other than Route G or Route S, actual freight rates are also converted in accordance with clause 19.

“road freight equivalent cost (RFE)” means:

- (a) in the case of goods moved between the mainland of Australia and Tasmania - \$281 per TEU for dry freight and \$309 per TEU for reefer freight; and
- (b) in the case of goods moved between King Island and the main island of Tasmania - \$675 per TEU for dry freight and \$742 per TEU for reefer freight; and
- (c) in the case of goods moved between Flinders Island and the main island of Tasmania - \$259 per TEU for dry freight and \$285 per TEU for reefer freight.

“Route G” means northern Tasmania to Victoria.

“Route KIFI” means any of the following routes:

- (a) King Island to the main island of Tasmania;
- (b) the main island of Tasmania to King Island;
- (c) Flinders Island to the main island of Tasmania;
- (d) the main island of Tasmania to Flinders Island.

“Route S” means Victoria to northern Tasmania.

“Route scaling factor adjustment” means the conversion of a shipper’s wharf to wharf freight rate to a route G or route S equivalent. The conversion is undertaken in accordance with clause 19 by applying the appropriate scaling factor specified in Schedule 2 to the actual route undertaken.

“sea freight cost disadvantage” means the difference between the freight costs incurred by a shipper transporting eligible goods by sea on Route G, Route S or Route KIFI, and the notional cost incurred by a shipper transporting the same goods by road over an equivalent distance (420 km, 300 km or 115 km, as the case requires).

“Secretary” means the person from time to time occupying the position of Secretary to the Department or his/her delegate.

“standard weight assistance” means assistance payable on cargo not regarded as *high density or heavy weight cargo*. Standard weight assistance is calculated in accordance with clause 20 and Schedule 3.

“The Scheme” means the Tasmanian Freight Equalisation Scheme.

“TEU” means a standard 6.1 metre container or reefer equivalent.

3. AIM OF THE SCHEME

3.1 The aim of the Scheme is to assist in alleviating the sea freight cost disadvantage incurred by the shippers of eligible non-bulk goods moved by sea between:

- (a) the mainland of Australia and Tasmania; and
- (b) King Island and the main island of Tasmania; and
- (c) Flinders Island and the main island of Tasmania.

3.2 The Scheme operates by making payments of assistance to shippers who are responsible for paying the costs of shipment of eligible non-bulk goods.

4. SCOPE OF THE SCHEME

4.1 The Scheme comprises three components:

- (a) the northbound component covering eligible goods produced or manufactured in Tasmania for permanent use or for sale on the mainland of Australia; and
- (b) the southbound component covering eligible non-consumer raw materials, machinery and equipment for use in manufacturing, mining, agriculture, forestry and fishing industries in Tasmania; and
- (c) the intrastate component covering goods specified as eligible under clause 7A.

- 4.2 Goods shipped as air cargo are ineligible for assistance under the Scheme except in special circumstances, as approved by the Minister or the Secretary, such as when a shipping service is not available due to industrial disputation, mechanical failure or vessel maintenance.
- 4.3 Goods shipped as bulk cargo are ineligible for assistance under any component of the Scheme.
- 4.4 Goods, which at the time of shipment from a Tasmanian port, or at the time of the first sale of the goods on the Australian mainland are, to the knowledge of the claimant, intended to be shipped out of Australia are ineligible for assistance under the Scheme.
- 4.5 Goods which undergo a manufacturing process on the mainland prior to export are eligible. For this purpose a manufacturing process is defined as an industrial classification specified in Division C of the *Australian and New Zealand Standard Industrial Classification* prepared by the *Australian Bureau of Statistics*.
- 4.6 Subclauses 4.4 and 4.5 apply to the northbound and southbound components of the Scheme. The definition of “manufacturing process” in subclause 4.5 also applies to the intrastate component of the Scheme (see clause 10A).

5. DATE OF EFFECT

- 5.1 These Directions are to apply to claims for assistance under the northbound and southbound components of the Scheme in respect of eligible goods shipped on or after 1 July 2004.
- 5.2 Claims for assistance in respect of eligible goods shipped before 1 July 2004 shall be assessed in accordance with the Ministerial Directions for the operation of the Scheme issued in August 2003.
- 5.3 These Directions are to apply to claims for assistance under the intrastate component of the Scheme in respect of eligible goods shipped between:
- (a) King Island and the main island of Tasmania on or after 1 July 2008; and
 - (b) Flinders Island and the main island of Tasmania on or after 1 July 2008.

6. ADMINISTRATION OF THE SCHEME

- 6.1 The Scheme shall be administered in accordance with these Directions by the Secretary.

- 6.2 Minor variations to these Directions which enable more efficient delivery of entitlements to claimants while not materially changing the intent or scope of the Scheme may be made by the Secretary. Any changes made by the Secretary are to be properly documented.
- 6.3 The Minister (or the Secretary) may make arrangements with third party organisations (eg Centrelink) to assist in the administration of the Scheme.

7. NORTHBOUND COMPONENT - ELIGIBLE GOODS

- 7.1 The goods listed in Schedule 1 are eligible for assistance under the northbound component of the Scheme.

7A. INTRASTATE COMPONENT - ELIGIBLE GOODS

- 7A.1 Goods are eligible for assistance under the intrastate component of the Scheme if they are not covered by clause 10A and they are:
- (a) listed in Schedule 1 and produced or manufactured on the main island of Tasmania for permanent use or sale on King Island or Flinders Island; or
 - (b) listed in Schedule 1 and produced or manufactured on King Island or Flinders Island for permanent use or sale on the main island of Tasmania; or
 - (c) eligible non-consumer raw materials, machinery or equipment produced or manufactured on the main island of Tasmania for use in the manufacturing, mining, agriculture, forestry or fishing industries on King Island or Flinders Island; or
 - (d) eligible non-consumer raw materials, machinery or equipment produced or manufactured on King Island or Flinders Island for use in the manufacturing, mining, agriculture, forestry or fishing industries on the main island of Tasmania.

8. NORTHBOUND AND INTRASTATE COMPONENTS - VARIATION TO LIST OF ELIGIBLE GOODS

- 8.1 An application for the inclusion of any other goods as eligible goods under Schedule 1 should be made in writing to the Secretary and should include the following information:
- (a) a description of the goods;

- (b) details of the origin and destination of the goods;
- (c) details of the volumes of cargo moved and the average quantity and size of each shipment indicating the types of cargo units normally utilised; and
- (d) the wharf to wharf freight charges for the goods.

8.2 Such applications will be considered as quickly as practicable.

8.3 Where the Minister or Secretary decides that an application for inclusion of goods in Schedule 1 should be approved, he or she will also specify the date of effect of that decision. Assistance will be paid only for shipments on, or after, the date of effect specified by the Minister or Secretary.

9. SOUTHBOUND AND INTRASTATE COMPONENTS - ELIGIBLE CLAIMANTS

9.1 The southbound and intrastate components of the Scheme apply to persons engaged in manufacturing, mining, agriculture, forestry and fishing industries in Tasmania as those industrial classifications are specified in Divisions A, B and C of the *Australian and New Zealand Standard Industrial Classification* prepared by the *Australian Bureau of Statistics*.

10. SOUTHBOUND COMPONENT – INELIGIBLE GOODS

10.1 The following goods are not eligible for assistance under the southbound component of the Scheme:

- (a) goods imported into the mainland of Australia from overseas which have not undergone a manufacturing process on the mainland prior to their shipment to Tasmania;
- (b) fuels and lubricants;
- (c) goods of Tasmanian origin;
- (d) building and construction materials and equipment; and
- (e) motor vehicles for manufacturing and mining industries to be registered for use on public roads.

10A. INTRASTATE COMPONENT - INELIGIBLE GOODS

10A.1 The following goods are not eligible for assistance under the intrastate component of the Scheme:

- (a) goods brought into the main island of Tasmania from the mainland of Australia or from overseas which have not undergone a manufacturing process on the main island of Tasmania prior to their shipment to King Island or Flinders Island;
- (b) goods brought into King Island or Flinders Island from the mainland of Australia or from overseas which have not undergone a manufacturing process on that island prior to their shipment to the main island of Tasmania;
- (c) goods shipped from King Island to Flinders Island which have not undergone a manufacturing process on the main island of Tasmania prior to their shipment to Flinders Island, and vice versa;
- (d) fuels and lubricants;
- (e) building and construction materials and equipment; and
- (f) motor vehicles for manufacturing and mining industries to be registered for use on public roads.

Note: for definition of “manufacturing process”, see subclause 4.5.

11. SOUTHBOUND AND INTRASTATE COMPONENTS - MANUFACTURING AND MINING INDUSTRIES

- 11.1 A person engaged in manufacturing and mining industries may apply to be registered as a claimant under the southbound or intrastate component of the Scheme. Persons already registered need not reapply as their registration will continue.
- 11.2 Assistance shall be paid to registered claimants for shipments of approved items on the basis of a written application to the Department.
- 11.3 Registered claimants may at any time apply to have further raw materials and equipment used in their manufacturing and production processes approved as eligible items for assistance payments.
- 11.4 To be approved as eligible items, raw materials and equipment must be used in a manufacturing or production process and not be classed as ineligible goods under clause 10 or 10A.
- 11.5 No assistance will be payable for claims in respect of manufacturing and mining industries under the southbound or intrastate component unless the assistance payable on that claim exceeds in value an amount of \$100 over a 12 month period.

12. SOUTHBOUND AND INTRASTATE COMPONENTS - AGRICULTURE, FORESTRY AND FISHING INDUSTRIES

- 12.1 Persons engaged in the agriculture, forestry and fishing industries are eligible to apply for assistance in respect of the following classes of goods, provided they are primarily and substantially used in the production processes of those industries:
- (a) material inputs to the agriculture, forestry, and fishing industries;
 - (b) machinery, implements and equipment for the agriculture, forestry and fishing industries.
- 12.2 Companies engaged in supplying goods to the industries described in 12.1 may apply to be appointed to act as an agent to apply for assistance on behalf of their customers. Companies primarily involved in freight forwarding or freight logistics may not apply to act as an agent.
- 12.2A For the avoidance of doubt, a BGSF company may apply to be appointed to act as an agent under subclause 12.2.
Note: *BGSF company* is defined in clause 2.
- 12.3 The Minister (or the Secretary) may establish criteria for the appointment and termination of agents.

13. PROFESSIONAL ENTERTAINERS AND SPORTSPERSONS

- 13.1 Notwithstanding the provisions of clauses 7, 7A and 9, persons competing for prize money, or other financial reward in sporting events and professional entertainers are eligible for assistance for the transport of equipment used in the practice of that entertainment or sport, as the case may be. Individual claimants will be required to provide evidence supporting their professional status.
- 13.2 Such assistance is limited to that applicable to the return leg of a round trip, where that round trip consists of the outward and return sea transport of the same cargo within a six-month period.

14. BROOD MARES

- 14.1 Notwithstanding the provisions of clause 7 and 9, Tasmanian-based brood mares moved to or from Tasmania for stud purposes are eligible for assistance under the northbound and southbound components of the Scheme.
- 14.2 Foals, the progeny of Tasmanian-based brood mares shipped to the mainland for stud purposes, are eligible for assistance under the southbound component of the

Scheme, provided they are less than six months old at the time of shipment to Tasmania.

- 14.3 Notwithstanding the provisions of clauses 7A and 9, brood mares based on King Island or Flinders Island moved to or from that island from or to the main island of Tasmania for stud purposes are eligible for assistance under the intrastate component of the Scheme.
- 14.4 Foals, the progeny of King Island or Flinders Island based brood mares shipped to the main island of Tasmania for stud purposes, are eligible for assistance under the intrastate component of the Scheme, provided they are less than six months old at the time of shipment to King Island or Flinders Island (as the case requires).
- 14.5 Notwithstanding the provisions of subclauses 14.3 and 14.4, brood mares and foals that are moved between the main island of Tasmania and King Island or Flinders Island as one leg of a trip between Tasmania and the mainland of Australia for stud purposes are not eligible for assistance under the intrastate component of the Scheme.

15 ASSISTANCE PAYABLE

- 15.1 Assistance is payable to a shipper on a per TEU or TEU equivalent basis.
- 15.2 Subject to clause 20 the assistance payable to an individual shipper is equivalent to the shipper's *notional entitlement*.
Note: *notional entitlement* is defined, for most shippers, in clause 2. The term is defined differently for BGSF companies - see clause 22A.
- 15.3 Clause 20 does not apply in respect of claims by *charitable organisations*, which will be eligible for the full *notional entitlement*.
- 15.4 In no case will the amount of assistance paid exceed the wharf to wharf freight bill paid by the shipper, or, if this is not supplied the *notional wharf to wharf* freight bill.
- 15.5 All amounts incorrectly determined and paid are repayable to the Commonwealth on demand or in accordance with arrangements with claimants or BGSF companies, as the case requires, for the repayment of those incorrect payments.

16. NOTIONAL WHARF TO WHARF FREIGHT COST

- 16.1 Where a freight bill is presented on terms other than:
- (a) a wharf to wharf basis; or

- (b) for the shipment of a consignment of TEUs (on a FCL basis); or
- (c) for the shipment of cargo on Route G, Route S or Route KIFI;

then, subject to subclauses 16.2 and 16.3, that freight bill will be adjusted, as appropriate, in accordance with clauses 17, 18, and 19, thereby converting the freight bill to a *notional wharf to wharf freight cost* basis.

- 16.2 Where the freight carried, or part thereof, represents less than a full container load (LCL), then prior to any adjustment in accordance with clauses 18 and 19, the freight bill, or part thereof, will be adjusted to a notional TEU equivalent freight bill in accordance with clause 17.
- 16.3 Where the freight carried represents a full container load (FCL), then prior to any adjustment in accordance with clauses 17 and 19, the freight bill will be adjusted to a wharf to wharf basis in accordance with clause 18. For the purposes of this clause, the freight bill deduction per TEU or transport unit specified under clause 18 shall mean a deduction per transport unit.

17. TEU ADJUSTMENT

- 17.1 Where a shipper presents a freight bill which includes transport units of a different size to a 6.1m container (or TEU) and/or represents less than a full container load (LCL), the freight bill will be adjusted by converting the transport unit or load to a TEU equivalent size and/or a FCL basis.

18. DOOR TO DOOR ADJUSTMENT

- 18.1 Subject to clause 16.3, where a shipper presents a freight bill on terms other than a wharf to wharf basis the freight bill will be reduced by:
 - (a) \$230 per TEU or transport unit in respect of a door to wharf task;
 - (b) \$230 per TEU or transport unit in respect of a wharf to door task; and
 - (c) \$460 per TEU or transport unit in respect of a door to door task.

19. SCALING FACTOR ADJUSTMENT

- 19.1 Where a shipper presents a freight bill for a route other than Route G, Route S or Route KIFI:

- (a) if the freight bill is a wharf to wharf freight bill - the freight bill will be adjusted in accordance with subclause 19.3, by applying the scaling factor specified in Schedule 2; and
- (b) if the freight bill is not a wharf to wharf freight bill - the freight bill will be adjusted first in accordance with clause 18, and then in accordance with subclause 19.3, by applying the scaling factor specified in Schedule 2.

19.2 *****

19.3 In applying the scaling factor specified in Schedule 2, the following conditions apply:

- (a) where a wharf to wharf freight bill is provided in support of a claim for assistance the points of origin and destination shall be the State/Territory in which the ports of shipment and discharge are located; and
- (b) where a wharf to wharf freight bill is not provided in support of a claim for assistance the points of origin and destination will, as appropriate, be either:
 - (i) the portion of Tasmania where the shipment commences and the State or Territory in which the destination is located, irrespective of the actual port of shipment or unloading; or
 - (ii) the State or Territory in which the shipment commences and the portion of Tasmania where the destination is located, irrespective of the actual port of shipment or unloading.

20. STANDARD WEIGHT ASSISTANCE

20.1 In accordance with subclauses 20.2 and 20.3 the *notional wharf to wharf freight cost disadvantage* and the *standard weight assistance* shall be calculated separately in respect of dry freight and reefer freight.

20.2 The *notional wharf to wharf freight cost disadvantage* shall be calculated by deducting from the *notional wharf to wharf freight cost* of the relevant consignment, or part thereof:

- (a) *****
- (b) *****

- (c) in case of goods moved between the mainland and Tasmania –a *road freight equivalent cost* of \$281 per TEU for dry freight and \$309 per TEU for reefer freight; and
- (d) in the case of goods moved between King Island and the main island of Tasmania –a *road freight equivalent cost* of \$675 per TEU for dry freight and \$742 per TEU for reefer freight; and
- (e) in the case of goods moved between Flinders Island and the main island of Tasmania –a *road freight equivalent cost* of \$259 per TEU for dry freight and \$285 per TEU for reefer freight.

20.3 Where the *notional wharf to wharf freight cost disadvantage* calculated in accordance with subclause 20.2 is:

- (a) less than \$335.51, *standard weight assistance* per TEU for that consignment, or part thereof, shall be calculated in accordance with the dry freight or reefer freight formula (whichever is appropriate) specified for Class 1 shippers under Schedule 3, that is, shippers will receive their full notional entitlement per TEU;
- (b) between \$335.51 and \$671, *standard weight assistance* per TEU for that consignment, or part thereof, shall be calculated in accordance with the dry freight or reefer freight formula (whichever is appropriate) specified for Class 2 shippers under Schedule 3;
- (c) between \$671.01 and \$1,006.50, *standard weight assistance* per TEU for that consignment, or part thereof, shall be calculated in accordance with the dry freight or reefer freight formula (whichever is appropriate) specified for Class 3 shippers under Schedule 3;
- (d) over \$1,006.50, *standard weight assistance* per TEU for that consignment, or part thereof, shall be the assistance specified for all Class 4 shippers under Schedule 3, that is, \$855 per TEU.

21. HEAVY WEIGHT ASSISTANCE

21.1 Where a shipper's freight bill includes cargo that is considered to be *high density or heavy cargo* in accordance with these Directions, the assistance payable to the shipper will be reduced in accordance with subclause 21.2.

21.2 Assistance payable to a shipper of a *high density or heavy cargo* shall be calculated on the basis of 60 per cent of the *standard weight assistance* calculated for the consignment in accordance with clause 20, but in respect of only that part of the *standard weight assistance* that is applicable to the *high density or heavy cargo* component of the consignments.

22. CLAIMS FOR ASSISTANCE

- 22.1 Only persons who actually incur the costs of shipping eligible goods are eligible to claim assistance under the Scheme.
- 22.2 The Claim for Assistance, and other forms used in the administration of the Scheme, shall be in a form approved by the Secretary.
- 22.3 Claims must be lodged within two years of the date of shipment otherwise the claim shall be rejected.
- 22.3A Where a decision has been made in relation to a claim, and the claimant seeks a reassessment of that decision, the request must be made within six months of the date of the original assessment.
- 22.4 Where a claim is made by a Company, the claim shall be signed by a senior officer of the Company authorised for that purpose by the Company.
- 22.5 A claim for assistance, other than a claim submitted by a BGSF company, will be accepted for payment only if it is accompanied by evidence of shipment and evidence of payment of the freight charges incurred by the claimant in such form as required by the Department.
- 22.5A A claim for assistance submitted by a BGSF company will be accepted for payment only if the claim is accompanied by the following:
- (a) evidence of:
 - (i) each shipment of grain shipped to Tasmania by the BGSF company in the period specified by the Department as the relevant period for that claim, and details of the type and quantity of grain in each such shipment;
 - (ii) the State or Territory in which each such shipment commenced;
 - (iii) the freight charges incurred by the company in relation to each such shipment;
 - (b) evidence that the grain in respect of which the claim is made has been despatched to eligible customers;
 - (c) evidence that the amount of assistance claimed by the BGSF company in respect of the grain so despatched has been passed on to those eligible customers in the form of a reduction in the purchase price;
 - (d) any other information requested by the Department for the purpose of determining the company's notional entitlement.

The evidence and information must be in such form as is required by the Department.

Note: *eligible customer* is defined in clause 2.

- 22.6 Documents supplied in support of a claim shall be retained by the Department unless the claimant specifically requests their return and may be disposed of at the Department's discretion.
- 22.7 Payments of assistance under the Scheme will be made directly to the claimant's bank or other financial institution account.
- 22.8 Upon receipt of a written application, the Secretary may, if appropriate, extend the time limits specified in subclauses 11.5, 13.2, 14.2, 22.3 and 22.3A.
- 22.9 The Commonwealth reserves the right to withhold further assistance, reject a claim for assistance or reduce any payment of assistance, if:
- (a) the claimant has acted unreasonably or unconscionably in making a claim for assistance;
 - (b) the documents submitted in support of the claim for assistance do not state the true facts in relation to the cargo shipped; or
 - (c) the claimant fails to allow an authorised officer to undertake his or her duties pursuant to clause 23; or
- 22.10 No claimant is entitled as a right to assistance, nor to sue the Commonwealth in respect thereof.
- 22.11 Where a claim for assistance is submitted by a BGSF company, each reference in subclauses 22.3A, 22.6, 22.7, 22.9 and 22.10 to "claimant" is taken to be a reference to the BGSF company.

22A. CALCULATION OF ASSISTANCE FOR BGSF COMPANIES

- 22A.1 For the purposes of calculating the amount of assistance in relation to a claim submitted by a BGSF company in a particular period:

notional entitlement (NE) means a shipper's notional entitlement to assistance, being the amount determined by the Department, in accordance with the Department's BGSF Rate Calculator, as that shipper's notional entitlement for that period.

23. AUDIT

- 23.1 Authorised officers of the Department and authorised officers from any third party organisation empowered in accordance with clause 6.3 of these Directions to assist in the administration of the Scheme, may, with the claimants' consent, and at all reasonable times, enter claimants' premises and may inspect, make and retain copies of, and extracts from, the accounts, books, documents and other

records relating to the transportation of goods for which assistance has been claimed. Where a TFES recipient fails to allow access to premises or records, the Department (or third party organisation) can refuse to make further payments to the applicant until such time as the applicant permits access.

- 23.2 The Secretary may require the claimant to provide a statement certified by an Auditor, which states whether, in the Auditor's opinion, certain criteria specified by the Secretary in relation to claims lodged during the audit period are satisfied. Where a TFES recipient fails to conduct an audit, the Department (or third party organisation) can refuse to make further payments to the applicant until such time as the applicant arranges for the conduct of an audit.
- 23.3 For the purposes of clause 23.2, "Auditor" means a person who is registered as an auditor in accordance with section 1280 of the *Corporations Act 2001* and who is not an employee, a member, or employed by a member, or a public officer of, the claimant company.
- 23.4 Where a claim for assistance is submitted by a BGSF company, each reference in this clause to "claimant" is taken to be a reference to the BGSF company.

24. SUBSIDIES, REBATES AND DISCOUNTS PROVIDED TO SHIPPERS

- 24.1 A claimant who has received assistance under the Scheme shall, when required by the Department, submit a statutory declaration relating to any subsidies, rebates or discounts received in respect of shipping costs which have been the subject of the payment of assistance under the Scheme in the previous financial year. The statutory declaration shall contain the information, and be substantially in the form of Schedule 4. The statutory declaration in respect of a company shall be made by a senior officer of the company authorised for that purpose by the company.
- 24.2 No payment of assistance under the Scheme shall be made to a claimant who has not submitted a statutory declaration when required by the Department unless and until the statutory declaration is submitted by the claimant.
- 24.3 If a claimant has received a subsidy, rebate or discount in respect of shipping costs which are, or have been the subject of payment of assistance under the Scheme, the assistance rates will be recalculated by reducing the total wharf to wharf freight paid by the claimant, by the amount of the subsidy, rebate or discount. The amount of any overpayment of assistance under the Scheme shall be paid to the Department or deducted from other amounts of assistance due to the claimant under the Scheme.
- 24.4 Where a claim for assistance is submitted by a BGSF company, each reference in this clause to "claimant" is taken to be a reference to the BGSF company.

25. REVIEW AUTHORITY

- 25.1 The Tasmanian Freight Equalisation Scheme Review Authority (the Authority), shall consist of a Chairperson and two other members appointed by the Minister, one of whom shall have appropriate legal qualifications and experience as determined by the Minister.
- 25.2 The Chairperson shall be a nominee of the Minister.
- 25.3 The other two members shall include:
- (a) one nominee of the Minister; and
 - (b) one nominee of the Tasmanian Government.
- 25.4 An application may be made to the Authority for a review of a decision made by the Secretary pursuant to these Directions by or on behalf of any person whose interests are affected by the decision.
- 25.5 An application to the Authority for a review of a decision:
- (a) shall be in writing;
 - (b) need not be made in any special form;
 - (c) shall contain a statement of the reasons for the application;
 - (d) shall be supported by appropriate documentary evidence; and,
 - (e) shall be lodged with the Authority not later than twenty-one days after the applicant has been informed of the decision.
- 25.6 The time for making an application for a review of a decision may, upon application in writing by a person, be extended by the Authority, although that time has expired, if in all the circumstances the Authority considers it just to do so.
- 25.7 If it is necessary for the purposes of the review of a decision to decide whether the interests of a person are affected by the decision, that matter shall be decided by the Authority and such determination shall be final and conclusive.
- 25.8 In a proceeding before the Authority:

- (a) the procedure is within the discretion of the Authority;
- (b) the proceeding shall be conducted with as little formality and technicality, and with as much expedition, as a proper consideration of the matter before the Authority permits;
- (c) the Authority is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks appropriate; and,
- (d) the Authority is not obliged to conduct an oral hearing but, should it decide to do so, the hearing shall be in accordance with subclauses 25.9, 25.10, and 25.11.

25.9 Subject to subclause 25.10, an oral hearing of a proceeding before the Authority shall be in public.

25.10 Where the Authority is satisfied that it is desirable to do so by reason of the confidential nature of any evidence or matter or for any other reason, the Authority may:

- (a) direct that a hearing or part of a hearing shall take place in private (including argument on the question of whether any part of the hearing should take place in private) and give directions as to the persons who may be present;
- (b) give directions prohibiting or restricting the publication of evidence given before the Authority, whether in public or in private, or of matters contained in documents lodged with the Authority or received in evidence by the Authority;
- (c) give directions prohibiting or restricting the disclosure of evidence given before the Authority, or of the contents of a document lodged with the Authority, or received in evidence by the Authority in relation to the proceeding.

25.11 In considering whether:

- (a) a hearing of a proceeding should be held in private;
- (b) a publication or disclosure of evidence given before the Authority should be prohibited or restricted; or
- (c) a matter contained in a document lodged with the Authority or received in evidence by the Authority, should be prohibited or restricted

the Authority shall, subject to subclause 25.12, take as the basis of its consideration the principle that it is desirable that hearings of proceedings before the Authority should be held in public and that evidence given before the Authority and the contents of documents lodged with the Authority or received in evidence by the Authority be made available to the public.

- 25.12 In giving consideration to matters raised under subclause 25.11 the Authority shall pay due regard to any reasons given to the Authority why the hearing should be held in private or why the publication or disclosure of the evidence or the matter contained in the document should be prohibited or restricted.
- 25.13 In any proceeding (including a review of a decision) before the Authority, the Chairperson and one member of the Authority shall constitute a quorum.
- 25.14 When the members constituting the Authority for the purposes of a particular proceeding are divided in opinion as to the decision to be made on any question:
- (a) if there is a majority of the one opinion, the question shall be decided according to the opinion of the majority; or
 - (b) in any other case the question shall be decided according to the opinion of the Chairperson.
- 25.15 The Authority shall make a decision in writing:
- (a) affirming the decision under review;
 - (b) varying the decision under review; or
 - (c) setting aside the decision under review and,
 - (i) making a decision in substitution for the decision so set aside; or
 - (ii) remitting the matter for reconsideration in accordance with any directions or recommendations of the Authority.
- 25.16 The Authority shall give reasons either orally or in writing for its decision.
- 25.17 The Authority shall cause a copy of its decision to be given to the Secretary and the applicant for a review of a decision.
- 25.18 The Secretary shall give effect to the decision of the Authority.
- 25.19 If it is requested to do so by the Minister or the Secretary, the Authority shall give to him/her an advisory opinion on any matter or question relating to the

administration of the Tasmanian Freight Equalisation Scheme or the interpretation of the Directions and, for the purpose of giving such an opinion, the Authority may make such investigations and inform itself in such manner as it thinks appropriate.

- 25.20 In carrying out such investigations as the Authority determines to be appropriate under subclause 25.19, the Authority may recommend to the Minister that a consultant be appointed to undertake an investigation where the Authority considers that the investigation involves complex research or analysis, and the research and analysis are required in order to provide the Authority with such information as it thinks appropriate for the proper formulation of the advisory opinion.
- 25.21 A consultancy shall be offered for public tender in accordance with the Department's guidelines on arranging and managing a consultancy, except that the successful tenderer shall be determined by a panel consisting of the Authority, a senior officer of the Department, and a senior officer of the Tasmanian Department of Infrastructure, Energy and Resources.

26. REVIEW OF KEY ASSISTANCE PARAMETERS

- 26.1 The key assistance parameters specified in paragraphs (a) to (e) will be reviewed on an annual basis and changes may be made to the Directions where those parameters are considered to have materially changed, the key assistance parameters being:
- (a) Road freight equivalent cost;
 - (b) Door to door adjustment;
 - (c) Fixed intermodal cost;
 - (d) Route Scaling factor adjustment; and
 - (e) Median notional wharf to wharf freight cost disadvantage.

27. VARIATIONS TO THE DIRECTIONS

- 27.2 The Minister or Secretary, subject to subclause 6.2 may from time to time vary these Directions.
- 27.3 Where the Minister or Secretary:
- (a) varies these Directions pursuant to subclause 26.1; or

- (b) approves the inclusion of new goods in Schedule 1 pursuant to subclause 8.3;

such matters will be publicised appropriately and be advised to any person who is known to be directly or specially affected by the variation or approval as the case may be.

SCHEDULE 1

GOODS ELIGIBLE FOR ASSISTANCE UNDER THE NORTHBOUND AND INTRASTATE COMPONENTS OF THE SCHEME

Aluminium powder metal, paste and ingot
Asbestos cement articles

Bakery products
Beer
Beverages
Blankets
Bottled/ mineral water
Bricks

Calcium Carbide
Carbon, activated
Carbon, black
Casein
Cement, bagged
Cereals and cereal preparations
Cheese
Cleansing and stripping products, liquid or powder
Coal
Colouring materials
Concrete products
Confectionery and chocolate products

Eggs and egg pulp

Feeding stuffs - animal
Ferric and Ferrous Sulphate
Fibreglass and plastic materials and products
Fish and Fish products
Fertilizers, manufactured
Floor coverings
Flour
Footwear
Fruit and Fruit preparations
Furniture

Glassware
Gravel aggregate

Grinding ball millstones

SCHEDULE 1

Hardboard

Hides and Skins

Honey and beeswax

Hops

Livestock

Machine and hand tools

Machinery and transport equipment

Malt

Margarine

Meat and meat products

Metals and Metal products

Milk and Milk Products

Newsprint

Ores and concentrates

Paint and coatings

Paper and paper products

Particle board

Pesticides

Plastaid

Plywood

Sand

Sausage Casings

Sedge

Seeds

Seedlings, rootstocks etc

Silica Fume

Soil conditioners

Stone, quarried

Tallow

Textile yarns and articles of clothing

Timber

Tree ferns

Turf

Vegetables and vegetable products

Waste oil
Waste rag

SCHEDULE 1

Whiting (carbonate of lime)
Wine
Wood and Cork products
Wood pulp, baled and pellets
Wool
Wool grease

Yeast

Zinc

SCHEDULE 2

SCALING FACTORS FOR ROUTE G AND S EQUIVALENTS

NORTHERN TASMANIA TO/FROM	SCALING FACTOR
<i>Victoria</i>	<i>1.0</i>
<i>New South Wales</i>	<i>1.8</i>
<i>South Australia</i>	<i>1.45</i>
<i>Queensland</i>	<i>2.4</i>
<i>Western Australia</i>	<i>2.5</i>
<i>Northern Territory</i>	<i>6.8</i>

SOUTHERN TASMANIA TO/FROM	SCALING FACTOR
<i>Victoria</i>	<i>1.3</i>
<i>New South Wales</i>	<i>1.9</i>
<i>South Australia</i>	<i>1.3</i>
<i>Queensland</i>	<i>2.2</i>
<i>Western Australia</i>	<i>2.4</i>
<i>Northern Territory</i>	<i>4.6</i>

For the purposes of this Schedule:

- (a) *Southern Tasmania is the area in Tasmania south of latitude 42 degrees South; and*
- (b) *Northern Tasmania is the area in Tasmania north of latitude 42 degrees South.*

SCHEDULE 3

ASSISTANCE PAYABLE PER TEU OR TEU EQUIVALENT

DRY FREIGHT	<i>ASSISTANCE FORMULA</i>
<i>Class 1 Shipper</i> (NWW: \$0 to \$335.50)	$FC + NWW$
<i>Class 2 Shipper</i> (NWW: \$335.51 to \$671)	$FC + MWW/2 + 0.75(NWW - MWW/2)$
<i>Class 3 Shipper</i> (NWW: \$671.01 to \$1006.50)	$FC + MWW/2 + 0.75(MWW/2) + 0.5(NWW - MWW)$
<i>Class 4 Shipper</i> (NWW: \$1006.51 +)	$FC + MWW/2 + 0.75(MWW/2) + 0.5(MWW/2)$

REEFER FREIGHT	<i>ASSISTANCE FORMULA</i>
<i>Class 1 Shipper</i> (NWW: \$0 to \$335.50)	$FC + NWW$
<i>Class 2 Shipper</i> (NWW: \$335.51 to \$671)	$FC + MWW/2 + 0.75(NWW - MWW/2)$
<i>Class 3 Shipper</i> (NWW: \$671.01 to \$1006.50)	$FC + MWW/2 + 0.75(MWW/2) + 0.5(NWW - MWW)$
<i>Class 4 Shipper</i> (NWW: \$1006.51 +)	$FC + MWW/2 + 0.75(MWW/2) + 0.5(MWW/2)$

Where:

FC – means fixed intermodal cost, as defined in clause 2;

MWW – means the median wharf to wharf disadvantage, as defined in clause 2, that being \$671;

NWW – means a shipper's notional wharf to wharf disadvantage, as defined in clause 2.