



Queensland

Government Owned Corporations Amendment Act 2007

Act No. 10 of 2007



Queensland

Government Owned Corporations Amendment Act 2007

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Queensland

Government Owned Corporations Amendment Act 2007

Act No. 10 of 2007

An Act to amend the *Government Owned Corporations Act 1993*, and for other purposes

[Assented to 20 March 2007]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Government Owned Corporations Amendment Act 2007*.

2 Commencement

Part 3 and the schedule commence on a day to be fixed by proclamation.

Part 2 Amendment of Government Owned Corporations Act 1993

3 Act amended in pt 2

This part amends the *Government Owned Corporations Act 1993*.

4 Amendment of s 3 (Definitions)

- (1) Section 3, definitions *articles*, *government entity that is to become a company GOC*, *government entity that is to become a statutory GOC* and *memorandum*—

omit.

- (2) Section 3—

insert—

'board of directors, for chapter 2, part 5A, see section 62A.

dividend, for sections 160B to 160D, see section 160A.

predecessor, for sections 160B to 160D, see section 160A.

statutory GOC closing time means the time at which the *Government Owned Corporations Amendment Act 2007*, section 11¹ commences.’.

- (3) Section 3, definition *government entity that is to become a subsidiary of a GOC*, ‘25(4)’—

omit, insert—

‘25(2)’.

- (4) Section 3, definition *shareholding Ministers*, paragraph (b), ‘80’—

omit, insert—

‘76’.

5 Amendment of s 7 (Types of GOCs)

Section 7(2)—

omit, insert—

- ‘(2) A *statutory GOC* is a GOC that—

(a) was established as a body corporate under an Act before the statutory GOC closing time; and

(b) is not registered under the Corporations Act.

Note—

Each statutory GOC in existence immediately before the statutory GOC closing time is, under section 24(b), a candidate GOC to become a company GOC.’.

6 Amendment of s 21 (How Act will enable management of the corporatisation process)

- (1) Section 21(2)—

omit.

¹ *Government Owned Corporations Amendment Act 2007*, section 11 (Omission of s 27 (Nomination of statutory GOC etc. to become company GOC))

(2) Section 21(3) and (4)—
renumber as section 21(2) and (3).

7 Amendment of s 22 (What this part provides)

Section 22(a) and (c), ‘statutory GOCs and’—
omit.

8 Amendment of s 23 (Government entity becoming a GOC)

Section 23(2)—
omit.

9 Amendment of s 24 (Meaning of *candidate GOC*)

Section 24(b)—
omit, insert—

‘(b) each statutory GOC in existence immediately before the
statutory GOC closing time.’.

**10 Amendment of s 25 (Meaning of certain expressions
about government entities)**

- (1) Section 25(2) and (3)—
omit.
- (2) Section 25(4)—
renumber as section 25(2).

**11 Omission of s 27 (Nomination of statutory GOC etc. to
become company GOC)**

Section 27—
omit.

12 Amendment of s 35 (Matters to be included in draft corporatisation charter)

(1) Section 35(1)(b)—

omit.

(2) Section 35(1)(c) to (i)—

renumber as section 35(1)(b) to (h).

13 Amendment of s 36 (Responsible Ministers may determine other matters relevant to draft corporatisation charter preparation)

Section 36(2), from ‘charter,’—

omit, insert—

‘charter.’.

14 Amendment of s 51 (Unincorporated entities)

(1) Section 51(1)(c)—

omit.

(2) Section 51(1)(d) and (e)—

renumber as section 51(1)(c) and (d).

(3) Section 51—

insert—

‘(1A) An entity provided for under a regulation made under subsection (1) may have a seal.’.

(4) Section 51(1A) and (2)—

renumber as section 51(2) and (3).

15 Amendment of s 54 (Candidate GOC associates and subsidiaries of candidate GOC associates)

(1) Section 54(1)(c)—

omit.

(2) Section 54(1)(d) and (e)—

renumber as section 54(1)(c) and (d).

(3) Section 54—

insert—

‘(1A) A candidate GOC associate or associate subsidiary provided for under a regulation made under subsection (1) may have a seal.’.

(4) Section 54(1A) and (2)—

renumber as section 54(2) and (3).

16 Amendment of s 55 (Memorandum and articles of candidate GOC)

(1) Section 55, heading, ‘Memorandum and articles’—

omit, insert—

‘**Constitution**’.

(2) Section 55(1) and (6)(a), ‘company’—

omit.

(3) Section 55(1) to (5), ‘memorandum and articles’—

omit, insert—

‘constitution’.

(4) Section 55(2), (3) and (5), ‘Corporations Law’—

omit, insert—

‘Corporations Act’.

17 Amendment of s 58 (Share capital and issue of shares)

Section 58(5)—

omit, insert—

‘(5) Chapter 3, part 3 applies to the candidate GOC as if it were a company GOC.’.

18 Amendment of s 60 (Registration under Corporations Act)

(1) Section 60(1)—

omit, insert—

‘(1) A government entity that is to become a GOC is authorised by this section to transfer its incorporation to the Corporations Act and become registered under chapter 5B² of that Act.’

(2) Section 60(2), ‘2A’—

omit, insert—

‘5B’.

(3) Section 60(3)(a), ‘company’—

omit.

19 Replacement of s 61 (Part does not affect existing legal relationships)

Section 61—

omit, insert—

‘61 Part does not affect existing legal relationships

‘(1) Nothing done under this part—

(a) makes a relevant entity liable for a civil wrong or a contravention of a law or for a breach of a contract or confidence; or

(b) makes a relevant entity in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or

(c) is taken to fulfil a condition that—

(i) allows a person to terminate an instrument or obligation or modify the operation or effect of an instrument or obligation; or

² Corporations Act, chapter 5B (Bodies corporate registered as companies, and registrable bodies)

- (ii) allows a person to enforce an obligation contained in an instrument or requires a person to perform an obligation contained in an instrument; or
- (iii) requires any money to be paid before its stated maturity; or
- (d) releases a surety or other obligee, wholly or partly, from an obligation.
- ‘(2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under this part, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.
- ‘(3) If, apart from this subsection, giving notice to a person would be necessary to do something under this part, the notice is taken to have been given.
- ‘(4) This section applies despite anything in an instrument.
- ‘(5) In this section—
relevant entity means any of the following—
 - (a) the State;
 - (b) a government entity;
 - (c) an officer, employee or agent of an entity mentioned in paragraph (a) or (b);
 - (d) the responsible Ministers of a government entity.’.

20 Amendment of s 62 (Regulations may deal with other matters)

- (1) Section 62(1)(a)—
omit.
- (2) Section 62(1)(c), ‘statutory GOC or’—
omit.
- (3) Section 62(1)(b) and (c)—
renumber as section 62(1)(a) and (b).

21 Replacement of s 62B (Application of provisions of pt 5A)

Section 62B—

omit, insert—

‘62B Application of pt 5A

‘This part applies if the responsible Ministers of a candidate GOC authorise the candidate GOC’s board of directors to act for the part.’.

22 Omission of ss 62C and 62D

Sections 62C and 62D—

omit.

23 Replacement of s 62E (Appointment of company GOC’s first chief executive officer)

Section 62E—

omit, insert—

‘62E Appointment of GOC’s first chief executive officer

‘(1) The first chief executive officer of a GOC may be appointed under section 102 before the commencement of a regulation declaring the candidate GOC to be a GOC.

‘(2) For acting under the section—

(a) a reference in the section to the GOC’s board is taken to be a reference to the candidate GOC’s board of directors; and

(b) a reference in the section to the shareholding Ministers is taken to be a reference to the responsible Ministers of the candidate GOC.’.

24 Replacement of s 62F (Appointment of company GOC’s first senior executives)

Section 62F—

omit, insert—

‘62F Appointment of GOC’s first senior executives

- ‘(1) The first senior executives of a GOC may be appointed under section 168 before the commencement of a regulation declaring the candidate GOC to be a GOC.
- ‘(2) For acting under the section—
- (a) a reference in the section to the GOC’s board is taken to be a reference to the candidate GOC’s board of directors; and
 - (b) a reference in the section to the shareholding Ministers is taken to be a reference to the responsible Ministers of the candidate GOC.’.

25 Amendment of s 63 (Declaration of entity as GOC)

Section 63(b)—

omit, insert—

- ‘(b) the candidate GOC complies with, or on becoming a GOC will comply with, section 66;’.

26 Amendment of s 63A (Declaration of candidate GOC associate as GOC)

Section 63A(2)(b), ‘65 or’—

omit.

27 Amendment of s 65 (Statutory GOC must be body corporate etc.)

Section 65(1)—

insert—

‘Note—

A statutory GOC can not be established on or after the statutory GOC closing time because of the commencement of the *Government Owned Corporations Amendment Act 2007*, part 2.’.

28 Amendment of s 69 (Application of Corporations Law to company GOCs)

Section 69, 'Corporations Law'—

omit, insert—

'Corporations Act'.

29 Amendment of s 70 (Company GOC not exempt public authority)

Section 70, 'Corporations Law'—

omit, insert—

'Corporations Act'.

30 Replacement of ss 76–80

Sections 76 to 80—

omit, insert—

'76 Shareholders of a company GOC

'The shareholders of a company GOC are the GOC Minister and the portfolio Minister of the GOC (the *shareholding Ministers*).

'77 Shareholding Ministers must have equal number of voting shares and equal rights

- '(1) Each shareholding Minister must at all times have an equal number of voting shares in the company GOC.
- '(2) Each shareholding Minister must also at all times be entitled to voting rights equal to those to which the other shareholding Minister is entitled.
- '(3) However, each shareholding Minister may hold non-voting shares and need not hold an equal number of non-voting shares.'

31 Amendment of s 81 (Resolutions without meetings)

Section 81(2), ‘memorandum or articles’—
omit, insert—
‘constitution’.

32 Amendment of s 85 (Ministers not directors etc.)

Section 85(1), from ‘, and’ to ‘GOC,’—
omit.

33 Replacement of ch 3, pt 4 hdg (Memorandum and articles)

Chapter 3, part 4, heading—
omit, insert—

‘Part 4 Constitution’.

34 Amendment of s 86 (Shareholding Ministers of statutory GOC may require amendment of subsidiary’s memorandum and articles)

- (1) Section 86, heading, ‘memorandum and articles’—
omit, insert—
‘constitution’.
- (2) Section 86(1), ‘memorandum or articles’—
omit, insert—
‘constitution’.

35 Amendment of s 87 (Memorandum and articles of statutory GOC subsidiary must not be inconsistent with Act or Corporations Law)

- (1) Section 87, heading—
omit, insert—

'87 Constitution of statutory GOC subsidiary must not be inconsistent with Act or Corporations Act'.

- (2) Section 87(1) to (4), 'memorandum and articles'—
omit, insert—
'constitution'.
- (3) Section 87(1), (2) and (4), 'Corporations Law'—
omit, insert—
'Corporations Act'.

36 Amendment of s 88 (Memorandum and articles of company GOC may be amended by shareholding Ministers)

- (1) Section 88, heading, 'Memorandum and articles'—
omit, insert—
'**Constitution**'.
- (2) Section 88(1) and (2), 'memorandum or articles'—
omit, insert—
'constitution'.

37 Amendment of s 89 (Shareholding Ministers of company GOC may require amendment of subsidiary's memorandum and articles)

- (1) Section 89, heading, 'memorandum and articles'—
omit, insert—
'**constitution**'.
- (2) Section 89(1), 'memorandum or articles'—
omit, insert—
'constitution'.

38 Amendment of s 90 (Memorandum and articles of company GOC and its subsidiaries must not be inconsistent with Act or Corporations Law)

- (1) Section 90, heading—
omit, insert—

‘90 Constitutions of company GOC and its subsidiaries must not be inconsistent with Act or Corporations Act’.

- (2) Section 90(1), ‘memorandum and articles’—
omit, insert—
‘constitutions’.
- (3) Section 90(2) to (4), ‘memorandum and articles’—
omit, insert—
‘constitution’.
- (4) Section 90(1), (2) and (4), ‘Corporations Law’—
omit, insert—
‘Corporations Act’.

39 Omission of s 94A (First board of statutory GOC)

- Section 94A—
omit.

40 Amendment of s 96 (Composition of board)

- Section 96(3)(a), ‘memorandum and articles’—
omit, insert—
‘constitution’.

41 Amendment of s 96B (First board of company GOC)

- (1) Section 96B(1)—
omit, insert—

- ‘(1) This section applies to candidate GOCs and candidate GOC associates.’.
- (2) Section 96B(2) and (4), ‘company’—
omit.
- (3) Section 96B(4)(a), ‘memorandum and articles’—
omit, insert—
‘constitution’.

42 Insertion of new s 101A

Chapter 3, part 6, division 1—

insert—

‘101A Application of div 1 to statutory GOC subsidiaries

- ‘(1) This division applies to a statutory GOC subsidiary as if it were a statutory GOC.
- ‘(2) For subsection (1), a reference in schedule 2 to the shareholding Ministers is taken to be a reference to the shareholding Ministers of each GOC that is a shareholder of the subsidiary.
- ‘(3) Schedule 2, section 1, as it applies to a statutory GOC subsidiary under subsection (1), does not limit a provision of the subsidiary’s constitution requiring the subsidiary’s board, before appointing the chief executive officer under the section, to consult the board of a GOC that is a shareholder of the subsidiary.’.

43 Amendment of s 102 (Appointment of chief executive officer)

- (1) Section 102(1), from ‘by the Governor’—
omit, insert—
‘by the GOC’s board with the prior written approval of the shareholding Ministers.’.
- (2) Section 102(2)—
omit.

44 Insertion of new s 102A

Chapter 3, part 6, division 2—

insert—

‘102A Appointment of chief executive officer—particular subsidiaries

‘(1) This section applies to a company GOC subsidiary that is not prescribed under a regulation made under section 177(1).

Note—

For a company GOC subsidiary prescribed under a regulation made under section 177(1), schedule 4 provides for the appointment of the subsidiary’s chief executive officer.

‘(2) The subsidiary’s chief executive officer is to be appointed by the subsidiary’s board with the prior written approval of the shareholding Ministers of each GOC that is a shareholder of the subsidiary.

‘(3) Subsection (2) does not limit a provision of the subsidiary’s constitution requiring the subsidiary’s board to consult the board of a GOC that is a shareholder of the subsidiary before appointing the chief executive officer under the subsection.’.

45 Amendment of s 106 (Draft corporate plan)

Section 106(2), ‘1 month before’—

omit.

46 Amendment of s 107 (Special procedures in relation to draft corporate plan)

Section 107(4), ‘by 1 month’—

omit.

47 Amendment of s 131 (Matters to be included in annual report)

(1) Section 131(3)—

omit.

- (2) Section 131(4)—
renumber as section 131(3).

48 Omission of ch 3, pt 13, div 3 (GOC may direct subsidiaries)

Chapter 3, part 13, division 3—
omit.

49 Amendment of s 159 (Payment of dividends)

- (1) Section 159(2)—
omit.

- (2) Section 159(3)—
omit, insert—

- ‘(3) The recommendation must be accompanied by—
- (a) the board’s estimate of the GOC’s profits (the *estimated profits*) for the financial year, after provision has been made for income tax or its equivalent; and
 - (b) if the board has made any adjustment to the estimated profits in making the recommendation—a statement of the amount of, and reason for, each adjustment.

Example of an adjustment to estimated profits—

exclusion of an amount for unrealised capital gains from upwards revaluation of non-current assets’.

50 Amendment of s 160 (Interim dividends)

- (1) Section 160—
insert—

- ‘(2A) The recommendation must be accompanied by—
- (a) the board’s estimate of the GOC’s profits (the *estimated profits*) for the first 6 months of the financial year, after provision has been made for income tax or its equivalent; and

- (b) if the board has made any adjustment to the estimated profits in making the recommendation—a statement of the amount of, and reason for, each adjustment.

Example of an adjustment to estimated profits—

exclusion of an amount for unrealised capital gains from upwards revaluation of non-current assets’.

- (2) Section 160(4)—

omit, insert—

- ‘(4) In deciding the amount the GOC is to be directed to pay under subsection (3)(b), the shareholding Ministers must have regard to any adjustment identified by the board under subsection (2A)(b).
- ‘(4A) A direction under subsection (3)(b) must not direct the payment of an amount that exceeds the GOC’s estimated profits, after making any adjustment identified by the board under subsection (2A)(b) to exclude an amount for unrealised capital gains from upwards revaluation of non-current assets.’.

51 Amendment of s 164 (Part applies to subsidiaries)

Section 164—

insert—

- ‘(2) For subsection (1)—
- (a) a reference in this part to the GOC’s board is taken to be a reference to the subsidiary’s board of directors; and
- (b) a reference in this part to the shareholding Ministers is taken to be a reference to the shareholding Ministers of each GOC that is a shareholder of the subsidiary.
- ‘(3) Section 168, as it applies to a GOC subsidiary under subsection (1), does not limit a provision of the subsidiary’s constitution requiring the subsidiary’s board to consult the board of a GOC that is a shareholder of the subsidiary before appointing senior executives under the section.’.

52 Amendment of s 168 (Appointment of senior executives)

(1) Section 168(1), from ‘by the Governor’—

omit, insert—

‘by the GOC’s board with the prior written approval of the shareholding Ministers.’.

(2) Section 168(2)—

omit.

53 Insertion of new s 176

Chapter 3, part 17, division 1—

insert—

‘176 Relationship of GOCs with the State

‘(1) A GOC does not represent, and has never represented, the State.

‘(2) Subsection (1) does not apply to the extent an Act expressly provides, or did provide, otherwise.’.

54 Amendment of s 182 (Application of Ombudsman Act 2001)

(1) Section 182(1)(a)—

omit.

(2) Section 182(1)(b) to (d)—

renumber as section 182(1)(a) to (c).

(3) Section 182—

insert—

‘(1A) A statutory GOC prescribed by regulation for this subsection is not a public authority under the *Ombudsman Act 2001*.’.

(4) Section 182(1A) and (2)—

renumber as section 182(2) and (3).

55 Replacement of s 184 (Application of Ombudsman Act 2001)

Section 184—

omit, insert—

‘184 Application of Ombudsman Act 2001

‘A company GOC is not a public authority under the *Ombudsman Act 2001*.’.

56 Insertion of new s 188A

After section 188—

insert—

‘188A Effect of regulation made under s 188(1) on legal relationships

- ‘(1) Nothing done under a regulation made under section 188(1)—
- (a) makes a relevant entity liable for a civil wrong or a contravention of a law or for a breach of a contract or confidence; or
 - (b) makes a relevant entity in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or
 - (c) is taken to fulfil a condition that—
 - (i) allows a person to terminate an instrument or obligation or modify the operation or effect of an instrument or obligation; or
 - (ii) allows a person to enforce an obligation contained in an instrument or requires a person to perform an obligation contained in an instrument; or
 - (iii) requires any money to be paid before its stated maturity; or
 - (d) releases a surety or other obligee, wholly or partly, from an obligation.
- ‘(2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under a

regulation made under section 188(1), the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.

‘(3) If, apart from this subsection, giving notice to a person would be necessary to do something under a regulation made under section 188(1), the notice is taken to have been given.

‘(4) This section applies despite anything in an instrument.

‘(5) In this section—

relevant entity means any of the following—

- (a) the State;
- (b) a GOC or GOC subsidiary;
- (c) an officer, employee or agent of an entity mentioned in paragraph (a) or (b);
- (d) the shareholding Ministers of a GOC.’

57 Insertion of new ch 5

After section 193—

insert—

‘Chapter 5 Transitional provisions for Government Owned Corporations Amendment Act 2007

‘194 Company GOCs—transfer of non-voting shares

‘(1) Shares in a company GOC that are held by non-voting shareholders immediately before the commencement are, on the commencement, transferred to the GOC Minister by force of this section.

‘(2) In this section—

commencement means the commencement of the *Government Owned Corporations Amendment Act 2007*, section 30.³.

58 Amendment of sch 1 (Additional provisions relating to board of statutory GOC)

Schedule 1, section 15(2)—

omit.

59 Amendment of sch 2 (Additional provisions relating to chief executive officer of statutory GOC)

Schedule 2, section 1, from ‘by the Governor’—

omit, insert—

‘by the GOC’s board with the prior written approval of the shareholding Ministers.’.

60 Amendment of sch 3 (Application of FA and A Act to company GOCs and prescribed company GOC subsidiaries)

(1) Schedule 3, part 2, section 4(3) and part 3, section 6(3)—

insert—

‘Note—

Changes are shown in italics. Definitions are also shown in italics.’.

(2) Schedule 3, parts 4 and 5, section 82(1), after ‘staff of the’—

insert—

‘Queensland’.

(3) Schedule 3, part 5, sections 46F(1) and 46J(3)(b), ‘*Corporations Law*’—

omit, insert—

³ *Government Owned Corporations Amendment Act 2007*, section 30 (Replacement of ss 76–80)

‘Corporations Act’.

- (4) Schedule 3, part 5, section 79(4), ‘Corporations Law’—
omit, insert—
‘Corporations Act’.

61 Amendment of sch 4 (Application of chapter 3 of Act to company GOC subsidiaries)

- (1) Schedule 4, part 1, section 3(1)—

insert—

‘Note—

Changes, other than changes in definitions, are shown in italics. Citations of Acts and definitions are also shown in italics. Changes in definitions are shown in roman type. Provisions not applied are indicated by “(omitted)”.

- (2) Schedule 4, part 1, section 3(2), from ‘before’—

omit, insert—

‘after the commencement of the *Government Owned Corporations Amendment Act 2007*, part 2.’.

- (3) Schedule 4, part 2, chapter 3, sections 69 and 70, ‘Corporations Law’—

omit, insert—

‘Corporations Act’.

- (4) Schedule 4, part 2, chapter 3, sections 76 to 80—

omit, insert—

‘76 Shareholders of a company GOC subsidiary

- ‘(1) *A company GOC subsidiary may have any number of shareholders.*
- ‘(2) *Each shareholder must be a company GOC.*
- ‘(3) *Each GOC that is a shareholder of the subsidiary is its **shareholding GOC.***

**'77 Shareholding GOCs must have equal number of shares
(words omitted)**

- '(1) Each *shareholding GOC* need not have an equal number of shares.
- '(2) (*omitted*)
- '(3) (*omitted*)'.
- (5) Schedule 4, part 2, chapter 3, section 81(2), 'memorandum or articles'—
omit, insert—
'constitution'.
- (6) Schedule 4, part 2, chapter 3, section 83—
insert—
'Note—
Section 83 is not applied. The section applies to subsidiaries under its own force.'
- (7) Schedule 4, part 2, chapter 3, part 4 heading—
omit, insert—

'Part 4 Constitution (*omitted*)

Note—

Part 4 is not applied. Sections 89 (Shareholding Ministers of company GOC may require amendment of subsidiary's constitution) and 90 (Constitutions of company GOC and its subsidiaries must not be inconsistent with Act or Corporations Act) apply to subsidiaries under their own force.'

- (8) Schedule 4, part 2, chapter 3, section 95(c), 'shareholders'—
omit, insert—
'*shareholding GOCs*'.
- (9) Schedule 4, part 2, chapter 3, section 96(3)(a), 'memorandum and articles'—
omit, insert—
'constitution'.

- (10) Schedule 4, part 2, chapter 3, section 102(1), from ‘by the Governor’—
omit, insert—
‘by the *subsidiary’s* board with the prior written approval of the shareholding Ministers *of each shareholding GOC of the subsidiary.*’.
- (11) Schedule 4, part 2, chapter 3, section 102(2)—
omit, insert—
‘(2) *Subsection (1) does not limit a provision of the subsidiary’s constitution requiring the subsidiary’s board to consult the board of a GOC that is a shareholder of the subsidiary before appointing the chief executive officer under the subsection.*’.
- (12) Schedule 4, part 2, chapter 3, part 6, division 2—
insert—

‘102A Appointment of chief executive officer—particular subsidiaries

‘(omitted)

Note—

Section 102A is not applied. The section applies to subsidiaries not prescribed under a regulation made under section 177(1).’.

- (13) Schedule 4, part 2, chapter 3, after part 7 heading—
insert—
Note—
Part 7 is not applied. Under section 104, a GOC’s corporate plan must apply to the GOC and its subsidiaries.’.
- (14) Schedule 4, part 2, chapter 3, after part 8 heading—
insert—
Note—
Part 8 is not applied. Under section 112, a GOC’s statement of corporate intent must apply to the GOC and its subsidiaries.’.
- (15) Schedule 4, part 2, chapter 3, section 129—
omit.
- (16) Schedule 4, part 2, chapter 3, section 130—

insert—

Note—

Section 130 is not applied. The section applies to subsidiaries under its own force.’.

- (17) Schedule 4, part 2, chapter 3, section 131(3)—

omit.

- (18) Schedule 4, part 2, chapter 3, section 131(4)—

renumber as schedule 4, part 2, chapter 3, section 131(3).

- (19) Schedule 4, part 2, chapter 3, section 146—

insert—

Note—

Section 146 is not applied. The section applies to subsidiaries under its own force.’.

- (20) Schedule 4, part 2, chapter 3, part 13, division 3, heading—

omit.

- (21) Schedule 4, part 2, chapter 3, after part 14 heading—

insert—

Note—

Part 14 is not applied. The part applies to subsidiaries under its own force.’.

- (22) Schedule 4, part 2, chapter 3, section 162—

insert—

Note—

Section 162 is not applied. The section applies to subsidiaries under its own force.’.

- (23) Schedule 4, part 2, chapter 3, section 163—

insert—

Note—

Section 163 is not applied. The section applies to subsidiaries under its own force.’.

- (24) Schedule 4, part 2, chapter 3, after part 15A heading—

insert—

Note—

Part 15A is not applied. The part applies to subsidiaries under its own force.’.

- (25) Schedule 4, part 2, chapter 3, after part 16 heading—

insert—

Note—

Part 16 is not applied. The part applies to subsidiaries under section 164.’.

- (26) Schedule 4, part 2, chapter 3, part 17, division 1, heading—

omit, insert—

‘Division 1 GOCs generally

‘176 Relationship of company *GOC subsidiaries* with the State

- ‘(1) A company *GOC subsidiary* does not represent, and has never represented, the State.
- ‘(2) Subsection (1) does not apply to the extent an Act expressly provides, or did provide, otherwise.

‘177 Application of chapter to certain company *GOC subsidiaries*

‘(omitted)

Note—

Section 177 provides for the application of chapter 3 of the Act with the changes in this schedule to certain company *GOC subsidiaries*.’.

- (27) Schedule 4, part 2, chapter 3, section 184—

omit, insert—

‘184 Application of Ombudsman Act 2001

‘A company *GOC subsidiary* is not a public authority under the *Ombudsman Act 2001*.’.

Part 3 Other amendments of Acts

62 Acts amended in schedule

The schedule amends the Acts mentioned in it.

Schedule Amendments of Acts commencing by proclamation

section 62

Acts Interpretation Act 1954

- 1 Section 36, definitions *company GOC* and *statutory GOC*—**
omit.

Electricity Act 1994

- 1 Schedule 5, definitions *GOC* and *statutory GOC*—**
omit.

Government Owned Corporations Act 1993

- 1 Section 3, definitions *company GOC* and *statutory GOC*—**
omit.
- 2 Section 3, definition *responsible Ministers*—**
omit, insert—
‘responsible Ministers—
(a) of a candidate GOC—see section 31; or
(b) of a candidate GOC associate—see section 31A.’.

Schedule (continued)

- 3 Section 3, definition *shareholding Ministers*—**
omit, insert—
‘*shareholding Ministers*, of a GOC, see section 76.’.
- 4 Section 5(e)—**
omit.
- 5 Section 5(f)—**
renumber as section 5(e).
- 6 Section 7—**
omit.
- 7 Section 19(a), third dot point, from ‘will, or,’ to ‘possible,’—**
omit, insert—
‘will’.
- 8 Chapter 2, heading, ‘and altering types of’—**
omit.
- 9 Section 22(a), ‘company’—**
omit.
- 10 Section 22(b) and (c)—**
omit, insert—
‘(b) government entities to become subsidiaries of GOCs.’.

Schedule (continued)

11 Section 24—*omit, insert—***'24 Meaning of *candidate GOC***

'A *candidate GOC* is a government entity nominated under part 2 to be a candidate GOC.'

12 Section 28(a)—*omit, insert—*

'(a) a candidate GOC is to become a GOC; and'.

13 Section 30—*omit.***14 Section 31, heading, 'that is not existing GOC'—***omit.***15 Section 31(1)—***omit, insert—*

'(1) This section applies to a candidate GOC.'

16 Section 33—*omit.***17 Section 50(b)—***omit.***18 Section 50(c)—***renumber as section 50(b).*

Schedule (continued)

- 19 Section 53(2)(b)—**
omit.
- 20 Section 53(2)(c) to (e)—**
renumber as section 53(2)(b) to (d).
- 21 Section 54A(3), first dot point, from ‘directors’—**
omit, insert—
‘interim board of directors and executives of candidate GOC associates and associate subsidiaries’.
- 22 Section 54A(3), last dot point, from ‘schedule’ to ‘GOC’—**
omit, insert—
‘schedule 2 (Executives of candidate GOC associates and associate subsidiaries)’.
- 23 Section 57(3)—**
omit, insert—
‘(3) Schedule 1 applies to the interim board.’.
- 24 Section 57B—**
omit, insert—
- ‘57B Application of certain provisions about interim board of directors and executives of candidate GOC associates and associate subsidiaries**
- ‘(1) Schedule 1 applies to the interim board of a candidate GOC associate or associate subsidiary.
- ‘(2) Schedule 2 applies to a candidate GOC associate or associate subsidiary.’.

Schedule (continued)

- 25 Section 58(5), ‘company’—**
omit.
- 26 Section 62(1), from ‘to—’—**
omit, insert—
‘to a GOC or a subsidiary of a GOC.’.
- 27 Section 62(2)(b) and (d)—**
omit.
- 28 Section 62(2)(c) to (f)—**
renumber as section 62(2)(b) to (d).
- 29 Chapter 3, part 1, division 1—**
omit.
- 30 Chapter 3, part 1, division 2, heading—**
omit.
- 31 Section 66—**
omit, insert—
- ‘66 GOC must be public company limited by shares**
‘A GOC must be a public company, and a company limited by shares, under the Corporations Act.’.
- 32 Chapter 3, part 2, division 1—**
omit.

Schedule (continued)

- 33 Chapter 3, part 2, division 2, heading—**
omit.
- 34 Sections 69 and 70, ‘company’—**
omit.
- 35 Section 70, heading, ‘Company’—**
omit.
- 36 Chapter 3, part 3, division 1—**
omit.
- 37 Chapter 3, part 3, divisions 2 and 3, headings—**
omit.
- 38 Sections 76, 77(1) and 81(1), ‘company’—**
omit.
- 39 Section 81—**
relocate and renumber; in chapter 3, part 3, as section 85A.
- 40 Chapter 3, part 4, division 1—**
omit.
- 41 Chapter 3, part 4, division 2, heading—**
omit.
- 42 Sections 88 to 90, ‘company’—**
omit.

Schedule (continued)

- 43 Chapter 3, part 5, division 1—**
omit.
- 44 Chapter 3, part 5, division 2, heading—**
omit.
- 45 Sections 95 to 96A, and 96B heading, ‘company’—**
omit.
- 46 Chapter 3, part 6, division 1—**
omit.
- 47 Chapter 3, part 6, division 2, heading—**
omit.
- 48 Sections 102 and 102A, ‘company’—**
omit.
- 49 Chapter 3, part 11, division 1—**
omit.
- 50 Chapter 3, part 11, divisions 2 and 3, headings—**
omit.
- 51 Section 128, ‘company’—**
omit.
- 52 Section 131(2)—**
omit.

Schedule (continued)

- 53 Section 131(3)—**
renumber as section 131(2).
- 54 Chapter 3, part 12, division 1—**
omit.
- 55 Chapter 3, part 12, divisions 2 and 3, headings—**
omit.
- 56 Section 145, ‘company’—**
omit.
- 57 Chapter 3, part 13, division 1—**
omit.
- 58 Chapter 3, part 13, division 2, heading—**
omit.
- 59 Sections 152 and 153, ‘company’—**
omit.
- 60 Section 159(5)—**
omit.
- 61 Section 159(6), from ‘If’ to ‘GOC, the’—**
omit, insert—
‘The’.

Schedule (continued)

- 62 Section 159(8), '(4)(b)'—**
omit, insert—
'(3)(b)'.
- 63 Section 159(3) to (8)—**
renumber as section 159(2) to (6).
- 64 Section 159A(1), '159(4)'—**
omit, insert—
'159(3)'.
- 65 Section 159A(2), '127 or'—**
omit.
- 66 Chapter 3, part 16, division 1, heading—**
omit.
- 67 Chapter 3, part 16, division 2—**
omit.
- 68 Chapter 3, part 16, divisions 3 and 4, headings—**
omit.
- 69 Section 167, 'company'—**
omit.
- 70 Chapter 3, part 17, divisions 1 and 3, headings—**
omit.

Schedule (continued)

71 Section 177, ‘company’—*omit.***72 Chapter 3, part 17, division 2—***omit.***73 Sections 183 and 184, ‘company’—***omit.***74 Section 192(4), ‘company GOC’—***omit, insert—*

‘GOC’.

75 Chapter 4—*insert—***‘193A Numbering and renumbering of Act**

‘In the next reprint of this Act produced under the *Reprints Act 1992*, the provisions of this Act must be numbered and renumbered as permitted by the *Reprints Act 1992*, section 43.’.

76 Chapter 5—*insert—***‘195 References to statutory GOCs and company GOCs**

‘A reference in an Act or document to a statutory GOC or company GOC may, if the context permits, be taken to be a reference to a GOC.’.

Schedule (continued)

77 Schedule 1, heading and authorising provision—

omit, insert—

‘Schedule 1 Interim boards of directors

sections 57(3) and 57B(1)’.

78 Schedule 1, before part 1—

insert—

‘Part 1AA Interpretation

‘1AA Definitions for sch 1

‘In this schedule—

interim board means the interim board of directors of a relevant entity.

relevant entity means—

- (a) a government entity that is to become a GOC or a GOC subsidiary that has an interim board of directors under a regulation made under section 57(1); or
- (b) a candidate GOC associate or associate subsidiary.’.

79 Schedule 1, part 1, heading, ‘board’—

omit, insert—

‘interim board of relevant entities’.

80 Schedule 1, section 1—

omit, insert—

‘1 Composition of interim board

‘A relevant entity’s interim board consists of the number of directors appointed by the Governor in Council.’.

Schedule (continued)

- 81** **Schedule 1, section 2(1), ‘board’s’—**
omit, insert—
‘interim board’s’.
- 82** **Schedule 1, part 2, heading, ‘board’—**
omit, insert—
‘interim board’.
- 83** **Schedule 1, sections 3 to 5, 7 to 10 and 15, ‘board’—**
omit, insert—
‘interim board’.
- 84** **Schedule 1, section 7(2)—**
omit.
- 85** **Schedule 1, section 11(2), from ‘statutory GOC’s’ to ‘the GOC’—**
omit, insert—
‘relevant entity’s commercial performance and, if the entity’.
- 86** **Schedule 2, heading and authorising provision—**
omit, insert—
**‘Schedule 2 Executives of candidate GOC
 associates and associate
 subsidiaries**

section 57B(2)’.

Schedule (continued)

87 Schedule 2, before section 1—*insert—***‘Part 1 Interpretation****‘1AA Definitions for sch 2**

‘In this schedule—

interim board means the interim board of directors of a relevant entity.*relevant entity* means a candidate GOC associate or associate subsidiary.*responsible Ministers*, for an associate subsidiary, means the responsible Ministers for the candidate GOC associate of which the associate subsidiary is a subsidiary.**‘Part 2 Chief executive officer’.****88 Schedule 2, section 1—***omit, insert—***‘1 Appointment of chief executive officer**

‘The chief executive officer of a relevant entity is to be appointed by the entity’s interim board with the prior written approval of the responsible Ministers.’.

89 Schedule 2, sections 2, 3 and 5(1), ‘board’—*omit, insert—*

‘interim board’.

Schedule (continued)

90 Schedule 2, section 4, after ‘chairperson’—

insert—

‘of the interim board’.

91 Schedule 2—

insert—

‘6 Duties of chief executive officer

‘A relevant entity’s chief executive officer, under its interim board, manages the entity.

‘7 Things done by chief executive officer

‘Anything done in the name of, or for, a relevant entity by its chief executive officer is taken to have been done by the entity.

‘8 Delegation by chief executive officer

‘(1) The chief executive officer of a relevant entity may delegate the chief executive officer’s functions, including a function delegated to the chief executive officer, to an appropriately qualified employee of the entity.

‘(2) Subsection (1) has effect subject to any directions of the relevant entity’s interim board.

‘(3) In this section—

appropriately qualified includes having qualifications, experience or standing appropriate for the function.

Example of standing—

an employee’s classification level in the relevant entity

function includes power.

Schedule (continued)

‘Part 3 Senior executives**‘9 Appointment of senior executives**

‘The senior executives of a relevant entity are to be appointed by the entity’s interim board with the prior written approval of the responsible Ministers.’.

92 Schedule 3, heading, parts 1 to 3, and parts 4 and 5 headings, ‘company’—

omit.

93 Schedule 3, part 3, section 5, definition *company GOC subsidiary*, and parts 4 and 5, ‘*company*’—

omit.

94 Schedule 3, parts 4 and 5, ‘*Company*’—

omit.

95 Schedule 4, heading, part 1 and part 2 heading, ‘*company*’—

omit.

96 Schedule 4, part 1, section 2, definition *company GOC subsidiary*, ‘*company*’—

omit.

97 Schedule 4, part 1, section 3(2), from ‘*after*’—

omit, insert—

‘after the commencement of amendment 1 of the Act under the *Government Owned Corporations Amendment Act 2007*, schedule.’.

Schedule (continued)

- 98** **Schedule 4, part 2, chapter 3, heading, ‘Company’—**
omit.
- 99** **Schedule 4, part 2, chapter 3, parts 1, 2, 5, 6 and 13,**
divisions 1 and 2, headings, and parts 3, 11, 12 and 17,
divisions 1 to 3, headings—
omit.
- 100** **Schedule 4, part 2, chapter 3, section 66, heading,**
‘Company’—
omit.
- 101** **Schedule 4, part 2, chapter 3, section 66, ‘company**
GOC’—
omit, insert—
‘GOC’.
- 102** **Schedule 4, part 2, chapter 3, sections 69, 76, 81(1), 85**
and 153, and parts 10 to 12, ‘company’—
omit.
- 103** **Schedule 4, part 2, chapter 3, sections 69, 70 and 76 and**
parts 4 to 17, ‘company’—
omit.
- 104** **Schedule 4, part 2, chapter 3, section 70, ‘Company’—**
omit.
- 105** **Schedule 4, part 2, chapter 3, section 81—**
relocate and renumber, in schedule 4, part 2, chapter 3, part 3, as
section 85A.

Schedule (continued)

- 106** Schedule 4, part 2, chapter 3, section 131(2)—
omit.
- 107** Schedule 4, part 2, chapter 3, section 131(3)—
renumber as section 131(2).
- 108** Schedule 4, part 2, chapter 3, part 12, before section 146—
insert—
- ‘145** Application of Corporations Act to officers of GOC
‘(omitted)’.

Queensland Investment Corporation Act 1991

- 1** Long title, from ‘the constitution’—
omit, insert—
‘matters relating to the Queensland Investment Corporation as a government owned corporation, and for various other matters’.
- 2** Section 3, definitions *GOC, holding company, minor interest, public company, related body corporate, relevant interest, relevant particulars, statutory body, statutory GOC and subsidiary—*
omit.
- 3** Section 3, definition *Corporation—*
insert—

Schedule (continued)

Note—

The Corporation is a government owned corporation.’.

4 Sections 5 and 12—

omit.

5 Part 3—

omit.

6 Section 28—

relocate and renumber, in part 7, as section 37A.

7 Part 4—

omit.

8 Section 36(a)—

omit, insert—

‘(a) the GOC Act, section 174 (Preservation of leave entitlements of certain former officers and employees of government entities) does not apply to the Corporation as a GOC; and’.

9 Section 36(b), first and second dot points—

omit.

10 Section 42(2), from ‘the Corporation’—

omit, insert—

‘1 October 1994.’.

Schedule (continued)

**State Financial Institutions and Metway Merger
Facilitation Act 1996****1 Schedule 3—**

insert—

‘company GOC has the meaning given under the *Government Owned Corporations Act 1993* before the commencement of amendment 1 of that Act under the *Government Owned Corporations Amendment Act 2007*, schedule.

statutory GOC has the meaning given under the *Government Owned Corporations Act 1993* before the commencement of amendment 1 of that Act under the *Government Owned Corporations Amendment Act 2007*, schedule.’.

Transport Infrastructure Act 1994**1 Section 2(2)(d)(vi)—**

omit.

2 Section 2(2)(e), from ‘by GOCs’ to ‘1993’—

omit.

3 Section 271(4)(a), from ‘bodies’—

omit, insert—

‘GOC Act entities; and’.

4 Section 271(4)(b), ‘that Act’—

omit, insert—

‘the *Government Owned Corporations Act 1993*’.

Schedule (continued)

5 Section 272(3)—

omit, insert—

- ‘(3) This section does not apply if the transfer of the management of a port is from a port authority that is a GOC Act entity to another port authority that is also a GOC Act entity.’.

6 Section 274A—

omit, insert—

‘274A Regulation may declare GOC Act entity to be port authority

‘For a GOC Act entity, a regulation may do 1 or more of the following—

- (a) declare the entity to be a port authority;
- (b) prescribe the port the entity is to manage;
- (c) revoke the declaration of the entity as a port authority.’.

7 Section 278(1), ‘or the Government Owned Corporations Act 1993’—

omit.

8 Chapter 8, part 3—

insert—

‘278A Functions and powers of port authority that is a GOC not limited

‘This chapter does not limit the functions or powers a port authority that is a GOC may have.’.

9 Section 290(4)—

omit.

Schedule (continued)

10 Section 294(3), dot points—*omit, insert—*

- chapter 3 (Government Owned Corporations (GOCs)), part 10 (General reserve powers of shareholding Ministers)
- sections 146 and 147
- sections 168 to 175
- schedule 1 (Interim boards of directors)
- schedule 2 (Executives of candidate GOC associates and associate subsidiaries).’.

11 Section 438—*insert—*

‘(4) This section does not limit the functions of Queensland Rail.’.

12 Section 463(a), ‘or the *Government Owned Corporations Act 1993*—*omit.***13 Section 463—***insert—*

‘(2) This section does not limit the functions, powers or obligations of a port authority that is a GOC.’.

14 Section 486(4), definition *transport GOC*—*omit, insert—*

‘*transport GOC* means a GOC on which functions are conferred under this Act.’.

Schedule (continued)

15 Schedule 6—

insert—

‘GOC Act entity means—

- (a) a GOC; or
- (b) an entity established under the *Government Owned Corporations Act 1993*.’.

Transport Planning and Coordination Act 1994

1 Section 3, definition *transport GOC*, from ‘whose’—

omit, insert—

‘on which functions are conferred under the *Transport Infrastructure Act 1994*.’.

Water Act 2000

1 Section 1122(1)—

insert—

Note—

SunWater is a government owned corporation.’.

2 Section 1122(5)—

omit.

Schedule (continued)

Whistleblowers Protection Act 1994

- 1 **Section 7(2)(e), ‘GOCs or’—**
omit.
- 2 **Section 10(6)—**
omit.
- 3 **Section 10(7)—**
renumber as section 10(6).
- 4 **Section 25(1), footnote, from ‘and division 5’ to ‘GOCs’—**
omit.
- 5 **Section 26(2), ‘division 4, 5 or 6.’—**
omit, insert—
‘division 4 or 6.’.
- 6 **Section 27(6), ‘4 to 6.’—**
omit, insert—
‘4 and 6.’.
- 7 **Part 4, division 5—**
omit.

4 Division 4 (Limitation on disclosure process for courts, tribunals and judicial officers) or 6 (Limitation on disclosure process for corporatised corporations)

Schedule (continued)

8 Schedule 1, entry for statutory GOC—

omit.

9 Schedule 5, section 2(1)(j)—

omit.

10 Schedule 5, section 2(1)(k) and (l)—

renumber as schedule 5, section 2(1)(j) and (k).

11 Schedule 5, section 2(2)(a)—

omit, insert—

‘(a) a GOC;’.