

Queensland



Subordinate Legislation 1995 No. 162

Government Owned Corporations Act 1993

**GOVERNMENT OWNED CORPORATIONS
(QUEENSLAND RAIL) REGULATION 1995**

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PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Government Owned Corporations (Queensland Rail) Regulation 1995*.

Commencement

2.(1) Sections 3, 4 and 5 and part 2 (other than section 9) commence on 8 June 1995.

(2) Section 9 and part 3 commence on 30 June 1995.

(3) Parts 4 to 6 commence on 1 July 1995.

(4) Part 7 commences on 2 July 1995.

Purpose of this regulation

3. The purpose of this regulation is—

- (a) to establish an associate of the candidate GOC Queensland Railways; and
- (b) to divest the assets from, and release the liabilities of, the candidate GOC; and
- (c) to provide for a transition from the candidate GOC to its associate, including transferring the officers and employees of the candidate GOC to its associate; and
- (d) to transfer the assets (other than existing rail corridor land dealt with under the transport infrastructure transitional provision) and liabilities of the candidate GOC to its associate; and
- (e) to make provision for the associate to assume certain additional liabilities; and
- (f) to make the associate a GOC; and
- (g) to dissolve the candidate GOC.

Operation of this regulation is subject to transport infrastructure transitional provision

4. The operation of parts 3 and 5 is limited to the extent necessary to allow the transport infrastructure transitional provision to have full effect when it commences.

Example—

Under this regulation assets of Queensland Railways are divested from it and become the assets of Queensland Rail. However, the transport infrastructure transitional provision, which commences on the day Queensland Rail becomes a GOC, makes specific provision about certain land held by Queensland Railways, described as existing rail corridor land. The operation of this regulation is not intended to interfere with the operation of that provision.

Definitions

5. In this regulation—

“**transport infrastructure transitional provision**” means the new section 126A to be inserted in the Transport Infrastructure Act 1994 by the *Transport Infrastructure Amendment (Rail) Act 1995*.

PART 2—QUEENSLAND RAIL IS ESTABLISHED AND NOMINATED AS A CANDIDATE GOC ASSOCIATE

Establishment of GOC Act entity

6. The entity Queensland Rail is established.

Nomination of Queensland Rail to become candidate GOC associate

7. Queensland Rail is nominated to be the associate of Queensland Railways.

Status of Queensland Rail

8. Queensland Rail—

- (a) is a body corporate; and
- (b) has the name under which it is established; and
- (c) has a seal; and
- (d) may sue and be sued in its corporate name; and
- (e) before 1 July 1995, has no powers or functions.

Share capital

9. Queensland Rail is taken to have a share capital of \$10 000 000 000 made up of 10 000 000 000 ordinary shares of \$1 each.

PART 3—QUEENSLAND RAILWAYS IS DIVESTED OF ASSETS AND RELEASED FROM LIABILITIES

Assets and liabilities of Queensland Railways

10.(1) This section takes effect immediately after 30 June 1995.

(2) Queensland Railways is divested of all its assets and released from all its liabilities.

PART 4—TRANSITION FROM QUEENSLAND RAILWAYS TO QUEENSLAND RAIL

Division 1—Status of Queensland Rail

Status of Queensland Rail¹

11. Queensland Rail has the functions given under the *Transport Infrastructure Act 1994*, section 71C.²

Division 2—Staff

Officers and employees of Queensland Railways

12.(1) A person who, immediately before 1 July 1995, was an officer or employee of Queensland Railways becomes an officer or employee of Queensland Rail.

(2) Until the rights of the officer or employee are changed, the officer or employee continues to be entitled to all existing and accruing rights of employment.

(3) To the extent that a right mentioned in subsection (2) is preserved by section 174³ of the Act, subsection (2) has no effect.

(4) If an officer or employee was suspended by Queensland Railways before 1 July 1995, the suspension continues, and must be dealt with by Queensland Rail.

¹ This section is included for information only. On becoming a statutory GOC Queensland Rail will also have the general powers set out in the *Government Owned Corporations Act 1993*, section 149 (General powers of statutory GOCs). However, a statutory GOC's powers are subject to the restrictions mentioned in the *Government Owned Corporations Act 1993*, section 150 (Restrictions on powers of statutory GOCs).

² *Transport Infrastructure Act 1994*, section 71C (Functions)

³ Section 174 (Preservation of leave entitlements of certain former officers and employees of government entities)

(5) An officer or employee who is liable to disciplinary action by Queensland Railways immediately before 1 July 1995 continues to be liable to disciplinary action by Queensland Rail.

(6) A discipline imposed on an officer or employee of Queensland Railways that is not finished before 1 July 1995 may continue to be imposed by Queensland Rail.

Equivalent positions

13. A person who under this division becomes an officer or employee of Queensland Rail becomes the holder of a position equivalent to the position the person held in Queensland Railways.

Example—

A person who immediately before 1 July 1995 was the chief executive of Queensland Railways becomes the holder of the office of chief executive officer of Queensland Rail.

Division 3—General

Queensland Rail is successor of Queensland Railways

14.(1) Queensland Rail is the successor in law of Queensland Railways.

(2) The other provisions of this division do not limit subsection (1).

Instruments

15.(1) This section applies to an instrument (other than a statutory instrument) in existence immediately before 1 July 1995.

(2) An instrument applying to Queensland Railways is to apply to Queensland Rail in place of Queensland Railways.

(3) Without limiting subsection (2)—

- (a) an instrument to which, immediately before 1 July 1995, Queensland Railways was a party is taken to be an instrument to which Queensland Rail is a party; and

- (b) an instrument given to, by or in favour of Queensland Railways is taken to be an instrument given to, by or in favour of Queensland Rail; and
- (c) an instrument in which a reference is made to Queensland Railways (including, for example, an instrument to which Queensland Railways was a party) is taken to be an instrument in which the reference is made to Queensland Rail; and
- (d) an instrument under which money is or may become payable, or other property is to be, or may become liable to be, transferred, conveyed or assigned to or by Queensland Railways is taken to be an instrument under which the money is or may become payable, or the other property is to be, or may become liable to be, transferred, conveyed or assigned to or by Queensland Rail.

Pending legal proceedings by or against Queensland Railways

16. A legal proceeding by or against Queensland Railways that is not finished before 1 July 1995 may be continued and finished by or against Queensland Rail.

PART 5—ASSETS AND LIABILITIES TRANSFERRED TO QUEENSLAND RAIL

Transfer of assets to Queensland Rail

17. The assets mentioned in section 10⁴ become the assets of Queensland Rail.

⁴ Section 10 (Assets and liabilities of Queensland Railways)

Consideration for transfer of assets to Queensland Rail

18.(1) The liabilities mentioned in section 10⁵ are assumed by Queensland Rail.

(2) The assumption by Queensland Rail of the liabilities of Queensland Railways is part of the consideration for the transfer of the assets of Queensland Railways to Queensland Rail.

(3) The remainder of the consideration is the creation of a debt owed by Queensland Rail to the shareholding Ministers of the GOC that Queensland Rail becomes under this regulation.

(4) The amount of the debt is the market value, at 1 July 1995, of the assets transferred to Queensland Rail, less the amount, at 1 July 1995, of the liabilities assumed by Queensland Rail.

Example of calculation of debt owed to shareholding Ministers—

If the market value of the assets vested in Queensland Rail is \$1 000 000 000, and the liabilities assumed by it amount to \$400 000 000, the shareholding Ministers are owed a debt of \$600 000 000.

(5) For subsection (4)—

- (a) the market value, at 1 July 1995, of an asset transferred to Queensland Rail is, unless another valuation is decided under subsection (7), taken to be the market value specified for the asset in the asset schedule of Queensland Rail for 1 July 1995; and
- (b) the amount, at 1 July 1995, of the liabilities assumed by Queensland Rail is, unless another amount is decided under subsection (7), taken to be the amount of the liabilities listed in the balance sheet of Queensland Rail for 1 July 1995.

(6) As soon as practicable after the commencement of this section, Queensland Rail must complete the asset schedule mentioned in subsection (5)(a) and the balance sheet mentioned in subsection (5)(b).

(7) The shareholding Ministers of the GOC that Queensland Rail becomes under this regulation may change the asset schedule mentioned in subsection (5)(a) or the balance sheet mentioned in subsection (5)(b) at any time before 1 July 1996 to correct the market value of an asset or the

⁵ Section 10 (Assets and liabilities of Queensland Railways)

amount of a liability as at 1 July 1995.

(8) A change mentioned in subsection (7) must be taken into account for calculating the debt amount under subsection (4).

PART 6—QUEENSLAND RAIL BECOMES STATUTORY GOC

Declaration of Queensland Rail as GOC

19.(1) Subsection (2) takes effect as soon as the assets and liabilities of Queensland Railways become the assets and liabilities of Queensland Rail under sections 17 and 18.⁶

(2) Queensland Rail is a GOC.

PART 7—QUEENSLAND RAILWAYS IS DISSOLVED

Dissolution of Queensland Railways

20.(1) Queensland Railways is dissolved and the directors constituting the Queensland Railways Board go out of office.

(2) Queensland Rail must prepare—

- (a) the final accounts of Queensland Railways; and
- (b) all reports about Queensland Railways for the period 1 July 1994 to the commencement of this section that are required under any Act.

⁶ Sections 17 (Transfer of assets to Queensland Rail) and 18 (Consideration for transfer of assets to Queensland Rail)

ENDNOTES

1. Made by the Governor in Council on 8 June 1995.
2. Notified in the Gazette on 8 June 1995.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Treasury Department.