

Queensland



QUEENSLAND SMALL BUSINESS CORPORATION ACT 1990

**Reprinted as in force on 20 December 1995
(includes amendments up to Act No. 58 of 1995)**

Reprint No. 2

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 20 December 1995. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use expressions consistent with current drafting practice (s 29)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 37 and 38)
- number and renumber provisions and references (s 43).

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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QUEENSLAND SMALL BUSINESS CORPORATION ACT 1990

[as amended by all amendments that commenced on or before 20 December 1995]

An Act to constitute the Queensland Small Business Corporation; to authorise that corporation to assist and promote small business and for other purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Queensland Small Business Corporation Act 1990*.

Objective

2. The objective of this Act is to assist, encourage and promote the efficiency and expansion of small business activity in Queensland with a view to enhancing economic growth and employment opportunities and for the public benefit.

Interpretation

3. In this Act—

“**appointed member**” means a member of the corporation appointed under section 5(1)(b).

“**chair**” means the presiding officer of the corporation appointed under section 6.

“**corporation**” means the Queensland Small Business Corporation

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constituted by section 4.

“deputy chair” means the deputy presiding officer of the corporation elected pursuant to section 7(1).

“financial year” means the period of 12 months ending on 30 June in any year.

“previous corporation” means the Small Business Development Corporation constituted by the *Small Business Development Corporation Act 1980*, section 4(1).

“small business” means a business undertaking that is wholly owned and operated by a natural person or by natural persons in partnership or by a proprietary company within the meaning of the Companies (Queensland) Code and that—

- (a) has a relatively small share of the market in which it is operated; and
- (b) is managed personally by the owner or, as the case may be, directors; and
- (c) is not a subsidiary of or does not form part of a larger business or enterprise.

“small business sector” means the aggregate of persons, whether incorporated or unincorporated, engaged in owning and operating small businesses and includes any association or group of such persons formed with a view to protecting or furthering the interests of such persons as the owners of small businesses.

PART 2—THE CORPORATION

The corporation

4.(1) The previous corporation is hereby preserved, continued in existence and constituted as a body corporate under the name and style ‘Queensland Small Business Corporation’.

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(2) The corporation, by the name assigned to it by subsection (1), has perpetual succession and a common seal and, subject to this Act, is capable of—

- (a) suing and being sued;
- (b) compounding or proving in any court of competent jurisdiction all debts due to it;
- (c) acquiring, holding, letting, leasing and alienating (by exchange, sale or otherwise) real and personal property or any interest therein, whether situated in or outside Queensland;
- (d) doing and suffering all other acts and things a body corporate may lawfully do and suffer.

(3) All courts and persons acting judicially are to take judicial notice of the common seal of the corporation and, until the contrary is proved, are to presume that the seal was duly affixed to a document on which it appears.

Membership of corporation

5.(1) The corporation is to consist of not less than 5 nor more than 7 members of whom—

- (a) 1 is to be the chief executive of the department; and
- (b) the other members are to be appointed by the Governor in Council on the recommendation of the Minister by notification published in the gazette.

(2) In recommending a person pursuant to subsection (1)(b), the Minister is to have regard to that person's experience in—

- (a) owning or operating a small business; or
- (b) providing services to small business or the small business sector in the fields of (including but not limited to) education, training, management, accounting, research, law and finance.

Chair

6. The Governor in Council on the recommendation of the Minister is to

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appoint, by notification published in the gazette, 1 of the appointed members as chair.

Appointment of deputy chair

7.(1) The members may elect 1 of the appointed members to be deputy chair.

(2) The deputy chair—

- (a) during such time as the chair is prevented by absence, illness or otherwise from performing the duties of that office, is to act in the office of chair; and
- (b) during such time as a vacancy exists in that office and while the deputy chair so acts, is to have and may exercise the powers and is to perform the functions and duties conferred or imposed upon the chair by or under this Act.

Tenure of office

8.(1) An appointed member is to hold office for such term not exceeding 3 years as the Governor in Council determines.

(2) An appointed member, if that member is otherwise qualified, is eligible for reappointment as an appointed member.

(3) The Governor in Council on the recommendation of the Minister may at any time remove an appointed member from office by notification published in the gazette.

Disqualification from membership

9. A person who—

- (a) is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankruptcy; or
- (b) has been or is convicted in Queensland of an indictable offence or has been or is convicted elsewhere in respect of an act or omission that if done or made by that person in Queensland would have constituted an indictable offence; or

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- (c) is or becomes a patient within the meaning of the *Mental Health Act 1974*;

is not to be capable of being or continuing to be an appointed member.

Vacation of office

10. The office of an appointed member becomes vacant if that member—

- (a) dies;
- (b) becomes incapable of continuing as a member;
- (c) is absent without prior leave of absence granted by the corporation from 3 consecutive meetings of the corporation of which due notice has been given to that member;
- (d) resigns that office by writing signed by that member and furnished to the Minister;
- (e) ceases to be qualified as a member;
- (f) is removed from office pursuant to section 8(3).

Casual vacancies

11.(1) When a casual vacancy occurs in the office of an appointed member the Governor in Council is to appoint in accordance with this Act another person qualified to be an appointed member.

(2) A person appointed to fill a casual vacancy as an appointed member is to be appointed and hold office for the balance of the term of office of that person's predecessor or until that person sooner vacates that office and, if that person is otherwise qualified, is eligible for reappointment as an appointed member.

Remuneration to members

12.(1) An appointed member is to be paid such fees and allowances (if any) in respect of the performance of that member's duties as the Governor in Council may determine from time to time.

(2) Fees and allowances are not to be paid to a member who is an officer

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of the public service for attendance at any meeting of the corporation wholly held during ordinary office working hours of that officer.

(3) Each member is to be paid such expenses as are necessarily incurred by that member in the discharge of that member's duties and as the corporation approves.

Functions of corporation

13. The functions of the corporation are—

- (a) to promote the development and utilisation of private sector business management services to the small business sector; and
- (b) to promote awareness, and disseminate information, on sound business management practices required in the conduct of small business; and
- (c) to provide initial advice and counselling on sound business management practices to persons engaged in, or proposing to establish, a small business; and
- (d) to develop and facilitate the provision of training and educational programs relating to small business management; and
- (e) to consult with the small business sector and maintain liaison between it and the Minister; and
- (f) to advise the Minister on private sector views on policies, programs and issues affecting the small business sector; and
- (g) to undertake such other programs and activities as are approved by the Minister, on such terms and conditions as the Minister determines.

Corporation subject to direction of Minister

14.(1) In the exercise and performance of its powers, functions and duties, the corporation is to be subject to the general control and direction of the Minister.

(2) Any direction given by the Minister pursuant to subsection (1) is to be in writing and—

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- (a) the auditor-general is to be given a copy of each such direction for audit purposes; and
- (b) a copy of each such direction is to be included in the corporation's annual report.

Application of Public Sector Management Commission Act

15. For the purposes of the *Public Sector Management Commission Act 1990*, the corporation is a unit of the public sector within the meaning of that Act.

PART 3—PROCEDURE

Procedure generally

16. Subject to this Act, the corporation is to conduct its business in the manner it considers appropriate.

Meetings

17.(1) Subject to subsection (2), the chair is to convene meetings of the corporation which, in the chair's opinion, are necessary for the efficient conduct of its affairs.

(2) If requested to do so in writing by 2 or more other members, the chair is to convene a meeting of the corporation.

(3) The corporation is to meet at least once in each quarter of each year.

Quorum

18.(1) Business is not to be conducted at a meeting of the corporation unless a quorum is present.

(2) A quorum of the corporation is a majority of the total number of members for the time being.

Presiding officer

19.(1) The chair is to preside at all meetings of the corporation at which the chair is present and, in the absence of the chair, the deputy chair, if present, is to preside.

(2) If both the chair and the deputy chair are absent from a meeting, a member elected by the members present at that meeting (if they constitute a quorum) is to preside.

(3) A member elected to preside at a meeting has and may exercise the powers and is to discharge the functions and perform the duties of the chair.

Conduct of affairs

20.(1) The corporation is to discharge its functions, exercise its powers and perform its duties by the majority vote of its members present at a meeting and voting on the business in question.

(2) Where a member, being present at a meeting, abstains from voting that member is to be taken to have voted in the negative.

(3) The person who is duly presiding at a meeting has a deliberative vote and, in the event of an equality of votes, a casting vote.

(4) If all the members sign a document containing a statement that they are in favour of a resolution in terms set out in the document, that resolution is to be taken to have been passed at a meeting of the members held on the day on which the document was signed and at the time at which the document was last signed by a member or, if the members signed the document on different days, on the day on which, and at the time at which, the document was last signed by a member.

(5) For the purposes of subsection (4), 2 or more separate documents containing statements in identical terms each of which is signed by 1 or more members are together to be taken to constitute 1 document containing a statement in those terms signed by those members on the respective days on which they signed the separate documents.

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Disclosure of interest

21.(1) If a member of the corporation has a pecuniary interest in a matter that is, or is to be, the subject of a contract, agreement or other arrangement to which the corporation is, or is to be, party and is present at a meeting of the corporation at which the matter is the subject of consideration, the member—

- (a) is to disclose the fact of the member's interest at the meeting and before the matter is considered; and
- (b) is not to participate in the consideration of, or vote on, any question with respect to the matter; and
- (c) is to be disregarded for the purposes of constituting a quorum in respect of the consideration of the matter.

(2) A disclosure made by a member of the corporation in compliance with subsection (1) is to be recorded in the minute book of the corporation.

(3) The corporation may by resolution exclude any member from a meeting whilst any matter in relation to which that member is required to disclose an interest under subsection (1) is being considered.

(4) In subsection (1)—

“pecuniary interest”—

- (a) does not include an interest that a member of the corporation may have in a matter in common with members of the public;
- (b) does include a pecuniary interest known to a member as had by the member's spouse or family member ordinarily resident with the member.

(5) Notwithstanding that a member of the corporation contravenes a provision of this section, that contravention does not invalidate any decision of the corporation or the discharge of a function, exercise of a power or the performance of a duty by it.

(6) A member who fails to comply with this section commits an offence against this Act and is liable to a penalty not exceeding 50 penalty units.

Minutes

22.(1) The chair is to cause to be kept a record of all decisions of the corporation whether made at a duly constituted meeting or by reference in writing and that record is to be presented to the next meeting of the corporation for confirmation as to its correctness and is to be signed by the person who is presiding at that subsequent meeting and thereupon that record forms part of the minutes of that meeting.

(2) Every entry in the minute book purporting to be signed as prescribed and every writing purporting to be a copy of or extract from such an entry and to be certified by the chair, upon its production in any proceeding, is evidence, and in the absence of evidence to the contrary, conclusive evidence, of the matters contained therein.

Custody and affixing of seal

23.(1) The common seal of the corporation is to be kept in the custody of the chair or such other person as may be authorised by resolution of the corporation.

(2) The common seal is to be affixed to a document only in pursuance of a resolution of the corporation and by the person having the custody of the seal in accordance with subsection (1).

Authentication of documents

24. A document purporting to be made by or on behalf of the corporation, other than a document that requires the common seal of the corporation to be affixed, is duly made if it bears the signature of the chair or of a person authorised by resolution of the corporation in that behalf.

Validity of proceedings

25. Any act, proceeding or decision of the corporation is not invalid by reason only of any defect in the qualification, membership or appointment of any member thereof or a vacancy in the membership of the corporation at the time of that act, proceeding or decision.

PART 4—STAFF

Staff of corporation

26.(1) The corporation may appoint and employ on salary or wages or engage and employ pursuant to contracts such persons as are necessary for the effectual administration of this Act.

(2) Subject to any applicable award of an industrial court, tribunal or authority or any industrial agreement, persons employed by the corporation are to be paid salaries, wages and allowances at such rates and are to be employed under such conditions of employment (including conditions as to leave entitlements) as the corporation, after consultation with the Public Sector Management Commission, determines.

(3) The *Public Service Management and Employment Act 1988* does not apply to any employee of the corporation.

(4) All employees of the corporation are public sector employees within the meaning of the *Public Sector Management Commission Act 1990*.

Employment of staff of previous corporation

27.(1) In this section—

“employee of the previous corporation” means a person who immediately prior to the commencement of this Act held paid employment with the previous corporation.

(2) On the commencement of this Act, every employee of the previous corporation becomes an employee of the corporation on such terms and conditions, subject to any applicable award or industrial agreement, as the corporation may determine, but no less favourable than the terms and conditions upon which that person was employed by the previous corporation immediately before that commencement.

(3) A person who becomes an employee of the corporation pursuant to subsection (2)—

- (a) retains all rights accrued or accruing as an employee of the previous corporation; and

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- (b) is entitled to receive annual, sick and long service leave and any similar entitlement accrued or accruing to that person as an employee of the previous corporation;

and that person's service as an employee of the previous corporation is to be taken to be service as an employee of the corporation for the purposes of any law under which those rights accrued or were accruing or by which that entitlement is conferred.

(4) A person who becomes an employee of the corporation pursuant to subsection (2) is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

Superannuation schemes

28.(1) The corporation may—

- (a) establish or amend superannuation schemes; or
- (b) join in establishing or amending superannuation schemes; or
- (c) take part in superannuation schemes.

(2) The Auditor-General must audit the schemes.

(3) Subsection (2) is subject to the *Financial Administration and Audit Act 1977*, part 6.¹

Superannuation entitlements

29. A person who, pursuant to section 27, becomes an employee of the corporation—

- (a) retains all entitlements accrued or accruing to that person as a contributor to or member of the superannuation scheme referred to in section 28(1)(a); and
- (b) is to continue to contribute to that scheme; and
- (c) is entitled to payments and other benefits therefrom in respect of that person.

¹ Part 6 (Audit of public accounts and public sector entities)

PART 5—FINANCIAL

Budget

30.(1) The corporation—

- (a) within the financial constraints the Minister specifies, is to frame a budget for each financial year showing—
 - (i) estimates of the receipts and disbursements of the corporation for the financial year to which the budget relates;
 - (ii) the purposes for which disbursements will be made by the corporation in the financial year to which the budget relates;
 - (iii) estimates of receipts and disbursements adopted by the corporation in respect of the previous financial year and the actual receipts and disbursements for that financial year; and
- (b) within the time the Minister specifies, is to present that budget to the Minister for approval.

(2) The Minister is to approve—

- (a) each budget presented under subsection (1); or
- (b) each such budget, as varied in the manner the Minister considers appropriate.

(3) The Minister may specify terms and conditions pursuant to which a budget may be amended.

(4) A budget amended in accordance with the terms and conditions the Minister specifies pursuant to subsection (3) is to be the budget of the corporation for the financial year for which it was prepared.

(5) The corporation is to observe its budget as approved by the Minister.

Application of Financial Administration and Audit Act

31. For the purposes of the *Financial Administration and Audit Act 1977*, the corporation is a statutory body within the meaning of that Act.

Investments

32. The corporation is empowered to invest its moneys which are not immediately required for the discharge of its functions or the exercise of its powers in any investment prescribed by the *Statutory Bodies Financial Arrangements Act 1982*, section 48, as a permissible investment for a statutory body within the meaning of that Act.

PART 6—GENERAL

Indemnity

33. The corporation is to indemnify every member, employee and agent of the corporation against all actions, proceedings and claims in relation to—

- (a) acts done, or omitted to be done, by the person without negligence under this Act; or
- (b) acts done, or omitted to be done, by the person in good faith and without negligence for the purposes of this Act.

Termination of Act

34.(1) This Act expires on 30 June 2001.

(2) Before 30 June 1995 the Minister is to commence a review of the operation of the Act and in the course of that review the Minister is to consider and have regard to—

- (a) the effectiveness of the operations of the corporation; and
- (b) the need for the continuation of the corporation; and
- (c) such other matters as the Minister considers are relevant to the operation and effectiveness of this Act.

(3) The Minister is to prepare a report based on the review made under subsection (2) and is to cause that report to be laid before Parliament—

- (a) before 30 September 1995; or

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- (b) if Parliament does not sit in September 1995—on or before the third sitting day thereafter.

(4) Upon the termination of this Act the corporation ceases to exist and its members cease to hold office.

Dissolution of the corporation

35.(1) Prior to the corporation ceasing to exist under this Act, the Governor in Council, by order in council, on the recommendation of the Minister—

- (a) may—
 - (i) declare that upon the corporation ceasing to exist, its assets and liabilities are to vest in the manner and in the person or body as the Governor in Council considers appropriate; and
 - (ii) make such ancillary provisions as are necessary or desirable to secure that vesting; and
- (b) is to make such provision as is necessary or desirable in respect of—
 - (i) the superannuation schemes referred to in section 28(2); and
 - (ii) the persons then employed by the corporation;

and the order in council is to have effect according to its tenor.

(2) If the Governor in Council does not exercise the power conferred by subsection (1)(a), the assets and liabilities of the corporation, upon its ceasing to exist, are to be assets and liabilities of the Crown.

Offences

36. Proceedings in respect of an offence against this Act are to be taken in a summary way under the *Justices Act 1886* within 1 year after the offence is committed or within 6 months after the commission of the offence comes

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to the knowledge of the complainant, whichever period is the later to expire, upon the complaint of a person authorised by the Minister either generally or in a particular case.

Regulations

37. The Governor in Council may make regulations, consistent with this Act, with respect to all matters that in the opinion of the Governor in Council are necessary or convenient for the proper administration of this Act or to achieve the objects and purposes of this Act.

Transfer of assets and liabilities

38. Unless a contrary intention appears, a reference in any Act, document or writing to the previous corporation is to be construed as a reference to the corporation.

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 20 December 1995. Future amendments of the Queensland Small Business Corporation Act 1990 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

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3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

Reprint No.	Amendments included	Reprint date
1	none	27 September 1994

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	1
Changed citations and remade laws	1
Obsolete and redundant provisions	1
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6 List of legislation

Queensland Small Business Corporation Act 1990 No. 81

date of assent 14 November 1990

ss 1.1–1.2 commenced on date of assent

remaining provisions commenced 8 December 1990 (proc pubd gaz
8 December 1990 p 1655)

as amended by—

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 s 3 sch 2

date of assent 1 December 1994

commenced on date of assent

Statutory Authorities Superannuation Legislation Amendment Act 1995 No. 36 ss 1–2, 9 sch 2

date of assent 16 June 1995

commenced on date of assent

Statute Law (Minor Amendments) Act (No. 2) 1995 No. 51 ss 1, 4 sch

date of assent 22 November 1995

commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 2

date of assent 28 November 1995

commenced on date of assent

7 List of annotations

Long title amd R1 (see RA s 37)

Commencement

s 1.2 amd R1 (see RA s 39)

om R2 (see RA s 37)

Interpretation

s 3 def “**department**” om R1 (see RA s 39)

def “**Director-General**” om R1 (see RA s 39)

def “**Minister**” om R1 (see RA s 39)

Membership of corporation

s 5 amd R1 (see RA s 38); 1995 No. 58 s 4 sch 2

Superannuation schemes

s 28 sub 1995 No. 36 s 9 sch 2

Budget

s 30 amd R1 (see RA s 38)

Termination of Act

s 34 amd 1995 No. 51 s 4 sch

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Transfer of assets and liabilities
s 38 amd R1 (see RA s 38)

Duty to facilitate transfer of property etc.
s 6.7 amd R1 (see RA s 38)
 om R2 (see RA s 38)

Repeals
s 6.8 om R1 (see RA s 40)

Numbering and renumbering of Act
s 6.9 ins 1994 No. 87 s 3 sch 2
 om R2 (see RA s 37)

8 **Table of renumbered provisions**

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under the Reprints Act 1992 s 43

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