

Queensland

Government Owned Corporations Act 1993

Government Owned Corporations (Queensland Ports Restructure) Regulation 2009

Current as at 1 September 2016

Reprint note
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Government Owned Corporations (Queensland Ports Restructure) Regulation 2009

Contents

		Page
Part 1	**Preliminary**	
1	Short title	3
2	Commencement	3
3	Purposes	3
4	Dictionary	4
Part 2	**PCQ divested of all LBU and NQBU assets and released from all LBU and NQBU liabilities**	
5	LBU and NQBU assets and liabilities	4
Part 3	**Transition to successor corporations**	
6	Successors in law	4
7	Instruments about PCQ	5
8	PCQ officers and employees	6
9	Pending legal proceedings	6
Part 4	**PCQ assets and liabilities transferred to successor corporations**	
10	Transfer of PCQ assets and liabilities to successor corporations	7
11	PCQ accounting requirements	7
12	PCQ asset and liability schedules	8
Part 5	**Particular instruments applying to MP and PCQ**	
13	Instruments	8
Schedule	**Dictionary**	9

Government Owned Corporations (Queensland Ports Restructure) Regulation 2009

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Government Owned Corporations (Queensland Ports Restructure) Regulation 2009*.

2 Commencement

(1) Sections 14, 15 and 16(1) commence on 19 June 2009.

(2) Parts 3 to 5 commence on 1 July 2009.

(3) Section 16(2) commences on 2 July 2009.

3 Purposes

The purposes of this regulation are—

(a) to divest certain assets from, and release certain liabilities of, PCQ; and

(b) to provide for a transition from PCQ to the successor corporations; and

(c) to transfer the assets and liabilities mentioned in paragraph (a) to the successor corporations; and

(d) to declare NQBPC as a GOC; and

(e) to provide that—

(i) particular instruments applying to MP are to apply to NQBPC in place of MP; and

(ii) particular instruments applying to PCQ are to apply to NQBPC in place of PCQ; and

(f) to revoke the status of MP and PCQ as GOCs.

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4 Dictionary

The dictionary in the schedule defines particular words used in this regulation.

Part 2 PCQ divested of all LBU and NQBU assets and released from all LBU and NQBU liabilities

5 LBU and NQBU assets and liabilities

(1) This section takes effect immediately after 30 June 2009.

(2) PCQ is—

(a) divested of all LBU and NQBU assets; and

(b) released from all LBU and NQBU liabilities.

Part 3 Transition to successor corporations

6 Successors in law

(1) POT is the successor in law of PCQ(LBU).

(2) CPL is the successor in law of PCQ(NQBU).

(3) Subsections (1) and (2) apply subject to the operation of this regulation.

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7 Instruments about PCQ

(1) This section applies to an instrument, other than a relevant statutory instrument, in existence immediately before the transfer day.

(2) An instrument applying to PCQ for the purposes of a business unit is to apply to the corresponding successor of the business unit in place of PCQ to the extent that it applies for the purposes of the business unit.

(3) Without limiting subsection (2)—

(a) an instrument to which, immediately before the transfer day, PCQ was a party for the purposes of a business unit, is taken to be an instrument to which the business unit's corresponding successor is a party in the same way PCQ was a party for the purposes of the business unit; and

(b) an instrument given to, by or in favour of PCQ for the purposes of a business unit is taken to be an instrument given to, by or in favour of the business unit's corresponding successor in the way it was given to, by or in favour of PCQ for the purposes of the business unit; and

(c) an instrument that refers to PCQ for the purposes of a business unit (including, for example, an instrument to which PCQ was a party for the purposes of the business unit) is taken to be an instrument that refers to the business unit's corresponding successor in the way the reference was made to PCQ for the purposes of the business unit; and

(d) an instrument under which money is, or may become, payable to or by PCQ for the purposes of a business unit is taken to be an instrument under which the money is, or may become, payable to or by the business unit's corresponding successor in the way the money was, or might have become, payable to or by PCQ for the purposes of the business unit; and

(e) an instrument under which property, other than money, is to be or may become liable to be transferred,

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conveyed or assigned to or by PCQ for the purposes of a business unit is to be, or may become liable to be, transferred, conveyed or assigned to or by the business unit's corresponding successor in the way the property was to be, or might have become liable to be, transferred, conveyed or assigned to or by PCQ for the purposes of the business unit.

(4) In this section—

relevant statutory instrument means a statutory instrument other than an instrument under the *Transport Infrastructure Act 1994*, chapter 8, part 3A, 3B or 4A.

8 PCQ officers and employees

A person who, immediately before the transfer day, was an officer or employee of PCQ solely for the purposes of a business unit becomes an officer or employee of the business unit's corresponding successor.

9 Pending legal proceedings

Despite anything else in this part, a proceeding by or against PCQ relating to a business unit that is not finished before the transfer day must be continued and finished by or against the business unit's corresponding successor.

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Part 4 PCQ assets and liabilities transferred to successor corporations

10 Transfer of PCQ assets and liabilities to successor corporations

(1) This section takes effect immediately after PCQ is divested of all LBU and NQBU assets, and released from all LBU and NQBU liabilities, under section 5.

(2) The assets mentioned in section 5(2) become—

(a) if they are LBU assets—the assets of POT; or

(b) if they are NQBU assets—the assets of CPL.

(3) The liabilities mentioned in section 5(2) are assumed—

(a) if they are LBU liabilities—by POT; or

(b) if they are NQBU liabilities—by CPL.

11 PCQ accounting requirements

(1) An asset mentioned in section 10(2) is to be transferred at the value shown for the asset in the PCQ asset schedule for the day immediately before the transfer day.

(2) A liability mentioned in section 10(3) is to be assumed at the value shown for the liability in the PCQ liability schedule for the day immediately before the transfer day.

(3) The shareholding Ministers of PCQ may change—

(a) the PCQ asset schedule, within 1 year after the transfer day, to correct the value of an asset as at the day immediately before the transfer day; or

(b) the PCQ liability schedule, within 1 year after the transfer day, to correct the value of a liability as at the day immediately before the transfer day.

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12 PCQ asset and liability schedules

(1) As soon as practicable after the commencement of this section, PCQ must complete the PCQ asset schedule and PCQ liability schedule.

(2) The successor corporations must—

(a) give PCQ access to information and documents reasonably required by PCQ for the completion of the PCQ asset schedule and PCQ liability schedule; and

(b) cooperate with PCQ in PCQ's completion of the PCQ asset schedule and PCQ liability schedule.

Part 5 Particular instruments applying to MP and PCQ

13 Instruments

(1) An instrument under the *Transport Infrastructure Act 1994*, chapter 8, part 3A, 3B or 4A applying to MP applies to NQBPC in place of MP.

(2) An instrument under the *Transport Infrastructure Act 1994*, chapter 8, part 3A, 3B or 4A applying to PCQ in relation to the ports of Abbot Point, Hay Point, Maryborough and Weipa applies to NQBPC in place of PCQ.

Note—

The *Transport and Other Legislation Amendment Regulation (No. 1) 2009* deals with the transfer of the management of various ports from MP and PCQ to NQBPC under the repealed *Transport Infrastructure (Ports) Regulation 2005.*

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Schedule Dictionary

section 4

business unit means LBU or NQBU.

corresponding successor, for a business unit, means—

(a) for LBU—POT; or

(b) for NQBU—CPL.

CPL means Cairns Ports Limited ACN 131 836 014.

LBU means the part of PCQ known as the Lucinda business unit.

LBU asset means an asset that—

(a) is shown in the PCQ asset schedule as an asset of LBU; or

(b) an asset that is not otherwise shown in the PCQ asset schedule, but immediately before the transfer day is an asset of PCQ held for the purposes of LBU.

LBU liability means a liability that—

(a) is shown in the PCQ liability schedule as a liability of LBU; or

(b) a liability not otherwise shown in the PCQ liability schedule, but immediately before the transfer day is a liability to which PCQ is subject for the purposes of LBU.

MP means Mackay Ports Limited ACN 131 965 707.

NQBPC means North Queensland Bulk Ports Corporation Limited ACN 136 880 218.

NQBU means the part of PCQ known as the North Queensland business unit.

NQBU asset means an asset that—

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(a) is shown in the PCQ asset schedule as an asset of NQBU; or

(b) an asset that is not otherwise shown in the PCQ asset schedule, but immediately before the transfer day is an asset held by PCQ for the purposes of NQBU.

NQBU liability means a liability that—

(a) is shown in the PCQ liability schedule as a liability of NQBU; or

(b) is a liability that is not otherwise shown in the PCQ liability schedule, but immediately before the transfer day is a liability to which PCQ is subject for the purposes of NQBU.

PCQ means Ports Corporation of Queensland Limited ACN 126 302 994.

PCQ asset schedule means a schedule prepared under this regulation showing the assets of PCQ immediately before the transfer day.

PCQ(LBU) means PCQ only in relation to LBU, including to the extent of the responsibilities of LBU immediately before the transfer day.

PCQ liability schedule means a schedule prepared under this regulation showing the liabilities of PCQ immediately before the transfer day.

PCQ(NQBU) means PCQ only in relation to NQBU, including to the extent of the responsibilities of NQBU immediately before the transfer day.

POT means Port of Townsville Limited ACN 130 077 673.

successor corporation means CPL or POT.

transfer day means 1 July 2009.

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