

Queensland



TREASURY LEGISLATION AMENDMENT ACT 2002

Act No. 56 of 2002

Queensland



TREASURY LEGISLATION AMENDMENT ACT 2002

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	6
2	Commencement	6
PART 2—AMENDMENT OF DUTIES ACT 2001		
3	Act amended in pt 2.	6
4	Amendment of s 9 (What is a “dutable transaction”).	6
PART 3—AMENDMENT OF ELECTRICITY ACT 1994		
5	Act amended in pt 3.	7
6	Amendment of s 23 (Types of customers).	7
7	Amendment of s 64N (Appointment of panel of energy arbitrators)	7
8	Insertion of new s 254AB	7
	254AB Meaning of particular terms for a relevant body corporate	7
9	Amendment of ch 14 (Transitional)	7
10	Amendment of sch 5 (Dictionary).	8
PART 4—AMENDMENT OF GAS ACT 1965		
11	Act amended in pt 4.	9
12	Amendment of s 5 (Definitions)	9
13	Amendment of s 33A (Meaning of “contestable consumer”)	10
14	Amendment of s 33B (Meaning of “non-contestable consumer”)	10
15	Insertion of new pt 5, divs 2 and 3	10
	<i>Division 2—Contestable consumers</i>	
	33BA New or replacement premises of same registered owner.	11
	33BB Subsequent registered owner	11

33BC	Contestable consumer remains contestable consumer despite consumption or use	12
	<i>Division 3—Contestable consumer certification</i>	
	<i>Subdivision 1—Application for contestable consumer certification</i>	
33BD	Applying for certification.	12
33BE	Deciding application	12
33BF	Issue of certification.	13
33BG	Refusal of application	13
	<i>Subdivision 2—Review of decision to refuse contestable consumer certification</i>	
33BH	Consumer may request review.	14
33BI	Procedure for review	14
33BJ	Reviewer may seek advice or information.	15
33BK	Offence about disclosure of advice or information	15
33BL	Review decision binding	15
16	Insertion of new pt 5, divs 1 and 4 hdgs	16
	PART 5—AMENDMENT OF PAY-ROLL TAX ACT 1971	
17	Act amended in pt 5.	16
18	Amendment of s 5 (Disclosure of information)	16
19	Amendment of s 10 (Exemption from pay-roll tax)	16
	PART 6—AMENDMENT OF QUEENSLAND COMPETITION AUTHORITY ACT 1997	
20	Act amended in pt 6.	18
21	Amendment of s 63 (Decision on application)	18
22	Amendment of s 187B (Constitution of mediator)	18
23	Amendment of s 190 (Constitution of authority)	18
24	Replacement of ss 213 and 214.	19
	<i>Division 1A—Panel of associate members</i>	
213	Panel.	19
214	Appointment of persons to panel.	19
214A	Term of appointment	19
214B	Conditions of appointment.	19
214C	Vacation of office.	19

214D	Choice of 1 or more associate members for a particular investigation, mediation or arbitration	20
25	Amendment of schedule (Dictionary)	20
PART 7—AMENDMENT OF QUEENSLAND TREASURY CORPORATION ACT 1988		
26	Act amended in pt 7	21
27	Amendment of s 24 (Provisions of financial arrangements and other arrangements)	21
PART 8—AMENDMENT OF TAXATION ADMINISTRATION ACT 2001		
28	Act amended in pt 8	23
29	Amendment of s 60 (When commissioner may remit unpaid tax interest and penalty tax)	23

Queensland



Treasury Legislation Amendment Act 2002

Act No. 56 of 2002

**An Act to amend particular Acts administered by the Deputy Premier,
Treasurer and Minister for Sport**

[Assented to 1 November 2002]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Treasury Legislation Amendment Act 2002*.

2 Commencement

(1) Parts 2 to 4 and 6 to 8 commence on assent.

(2) Part 5 commences on 1 December 2002.

PART 2—AMENDMENT OF DUTIES ACT 2001

3 Act amended in pt 2

This part amends the *Duties Act 2001*.

4 Amendment of s 9 (What is a “dutiabale transaction”)

Section 9(1)(e)—

omit, insert—

‘(e) a vesting of dutiable property—

- (i) by, or expressly authorised by, statute law of this or another jurisdiction, whether inside or outside Australia; or
- (ii) by a court order, of this or another jurisdiction, whether inside or outside Australia;’.

PART 3—AMENDMENT OF ELECTRICITY ACT 1994

5 Act amended in pt 3

This part amends the *Electricity Act 1994*.

6 Amendment of s 23 (Types of customers)

Section 23—

insert—

‘(1A) A “customer” includes a relevant body corporate.’.

7 Amendment of s 64N (Appointment of panel of energy arbitrators)

Section 64N(1), ‘not more than 7’—

omit.

8 Insertion of new s 254AB

After section 254AA—

insert—

‘254AB Meaning of particular terms for a relevant body corporate

‘For a relevant body corporate, a reference in this Act—

- (a) to a customer’s premises or to premises owned or occupied by a customer, is a reference to the premises for which the relevant body corporate is established; and
- (b) to a customer or person who owns or occupies premises or has the right to use premises, is a reference to the relevant body corporate established for the premises.’.

9 Amendment of ch 14 (Transitional)

(1) Chapter 14, heading, after ‘TRANSITIONAL’—

insert—

‘AND VALIDATION PROVISIONS’.

(2) Chapter 14—

insert—

‘PART 4—VALIDATION PROVISION

‘304 Validation of particular acts by relevant bodies corporate

‘(1) This section applies to a relevant body corporate that, before the commencement of this section, entered into an agreement to supply and sell electricity for use in the premises for which the body corporate was established.

‘(2) The agreement and all acts, matters and things done by the body corporate under the agreement are taken to be, and always to have been, as validly made or done, as if the agreement were entered into after the commencement.’.

10 Amendment of sch 5 (Dictionary)

(1) Schedule 5—

insert—

‘**“relevant body corporate”** means—

(a) a body corporate established under a following Act for premises—

- *Body Corporate and Community Management Act 1997*
- *Integrated Resort Development Act 1987*
- *Mixed Use Development Act 1993*
- *Registration of Plans (H.S.P. (Nominees) Pty. Limited) Enabling Act 1980*
- *Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty. Limited) Enabling Act 1984*
- *Sanctuary Cove Resort Act 1985*; or

(b) a body corporate for a leasehold building units plan established under the *South Bank Corporation Act 1989* for the premises the subject of the plan.’.

(2) Schedule 5, definition **“customer”**, after ‘23(1)’—

insert—
'or (1A)'.

PART 4—AMENDMENT OF GAS ACT 1965

11 Act amended in pt 4

This part amends the *Gas Act 1965*.

12 Amendment of s 5 (Definitions)

(1) Section 5, definitions “**dry basis**”, “**dry type meter**”, “**heating value**”, “**industrial and commercial**”, “**measured gas**”, “**private purposes**”, “**relief device**”, “**specific gravity**”, “**standard cubic metre of gas**”, “**standard cubic metre of gas (saturated)**” and “**tolling arrangement**”—

omit.

(2) Section 5—

insert—

‘ “**contestable consumer certification**”, for premises, means a certification given under section 33BF(1) for the supply of gas to the premises.

“**lot**”, for part 5, division 2, includes a parcel of land.

“**new non-contestable consumer**” see section 33B(2).

“**party to the review**”, for part 5, division 2, see section 33BI(1).

“**registered owner**”, of a lot, for part 5, division 2, means—

- (a) the person recorded in the freehold land register under the *Land Title Act 1994* as the person entitled to the fee simple interest in the lot; or
- (b) a lessee (other than a sublessee), licensee (other than a sublicensee) or permittee of the lot under the *Land Act 1994*.

“**relevant fuel gas supplier**”, for a consumer, means the fuel gas supplier that supplies fuel gas to the consumer—

- (a) under a franchise; and
- (b) through a meter owned by the fuel gas supplier.

“**review decision**”, for part 5, division 2, see section 33BH(2).

“**reviewer**”, for part 5, division 2, see section 33BH(2).’.

13 Amendment of s 33A (Meaning of “contestable consumer”)

Section 33A(4)—

omit, insert—

‘(4) From 1 January 2003, a “**contestable consumer**” for premises is a consumer who—

- (a) under subsections (1) to (3), was a contestable consumer for the premises on 31 December 2002; or
- (b) under division 2, is a contestable consumer for the premises; or
- (c) has contestable consumer certification for the premises; or
- (d) is, under section 33BI(4), taken to have the certification.’.

14 Amendment of s 33B (Meaning of “non-contestable consumer”)

(1) Section 33B, heading, after ‘**consumer**’—

insert—

‘**and “new non-contestable consumer”**’.

(2) Section 33B(1), ‘, until 31 December 2002,’—

omit.

(3) Section 33B(3)—

omit.

15 Insertion of new pt 5, divs 2 and 3

After section 33B—

insert—

*‘Division 2—Contestable consumers***‘33BA New or replacement premises of same registered owner**

‘(1) This section applies if—

- (a) under section 33A, a consumer is a contestable consumer for a premises (the **“original premises”**) of the consumer; and
- (b) the consumer is the registered owner of the lot or lots on which the original premises is situated.

‘(2) The consumer is also a contestable consumer for—

- (a) a premises of the consumer on the lot or lots that replaces, or substantially replaces, the original premises; and
- (b) any other premises of the consumer on the lot or lots, other than a premises—
 - (i) existing before the consumer became a contestable consumer for the original premises; and
 - (ii) for which the consumer did not become a contestable consumer when the consumer became a contestable consumer for the original premises.

‘33BB Subsequent registered owner

‘(1) This section applies if—

- (a) under section 33A, a consumer (the **“original consumer”**) is a contestable consumer for a premises (the **“original premises”**); and
- (b) when the original consumer became a contestable consumer for the original premises, the original consumer was the registered owner of the lot or lots on which the premises is situated; and
- (c) another person (the **“new consumer”**) becomes the registered owner of the lot or lots.

‘(2) The new consumer is a contestable consumer for the supply of gas to each premises on the lot or lots, other than a premises—

- (a) existing before the new consumer became the registered owner of the lot or lots; and

- (b) for which the original consumer did not become a contestable consumer when the original consumer became a contestable consumer for the original premises.

‘33BC Contestable consumer remains contestable consumer despite consumption or use

‘If, under this division, a consumer becomes a contestable consumer for a premises, the consumer continues to be a contestable consumer for the premises despite—

- (a) the actual consumption of gas for the premises; or
- (b) the purpose for which the premises is used.

‘Division 3—Contestable consumer certification

‘Subdivision 1—Application for contestable consumer certification

‘33BD Applying for certification

‘(1) A consumer may apply to the relevant fuel gas supplier for contestable consumer certification for any premises of the consumer.

‘(2) The application must—

- (a) be written; and
- (b) state the applicant’s name and the premises to which the application relates; and
- (c) be supported by other relevant information, reasonably required by the supplier, to enable it to consider the application.

‘33BE Deciding application

‘(1) Within 1 month after receiving the information mentioned in section 33BD(2)(c), the relevant fuel gas supplier must decide whether to grant or refuse the application.

‘(2) The supplier must decide to grant the application if satisfied—

- (a) the consumption of gas, worked out by the supplier, for the premises during a consumption period was the consumption

(the **“prescribed consumption”**) prescribed under a regulation;
or

- (b) the consumption of gas, estimated by the supplier, for the premises in a future consumption period is the prescribed consumption.

‘(3) If the supplier does not make a decision under subsection (1) within the relevant period, the supplier is taken to have decided to refuse the application.

‘(4) In this section—

“consumption period” means any period of 1 year beginning on or after 1 July 2001.

“future consumption period” means any period of 1 year, whether beginning before, on or after the commencement of this section, that has not ended.

“relevant period” means the first of the following periods to end—

- (a) 1 month after the supplier receives the information required by the supplier under section 33BD(2)(c);
(b) 3 months after the application was made.

‘33BF Issue of certification

‘(1) As soon as practicable after deciding to grant the application, the relevant fuel gas supplier must give the applicant the contestable consumer certification for which the application was made.

‘(2) The certification must be written and state each of the following—

- (a) the consumer’s name;
(b) the premises of the consumer to which the certification applies;
(c) that the supplier was satisfied as required under section 33BE(2).

‘33BG Refusal of application

‘(1) As soon as practicable after deciding to refuse the application, the relevant fuel gas supplier must give the applicant written notice of the decision.

‘(2) The notice must state each of the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the applicant may, under section 33BH, ask the Minister or a person appointed by the Minister to review the decision.

‘Subdivision 2—Review of decision to refuse contestable consumer certification

‘33BH Consumer may request review

‘(1) This section applies if a relevant fuel gas supplier—

- (a) decides to refuse a consumer’s application for contestable consumer certification; or
- (b) is taken, under section 33BE(3), to have decided to refuse the application.

‘(2) The consumer may ask the Minister, or a person appointed by the Minister, (the “**reviewer**”) to review the decision and make a decision (the “**review decision**”) as to whether the application should have been granted.

‘33BI Procedure for review

‘(1) The reviewer may require the relevant fuel gas supplier or consumer (each a “**party to the review**”) to give the reviewer information reasonably required by the reviewer to make the review decision.

‘(2) The reviewer must give the parties to the review a reasonable opportunity to make representations to the reviewer before making the review decision.

‘(3) After considering any representations made by the parties, the reviewer must—

- (a) make the review decision; and
- (b) give the parties a written notice stating—
 - (i) the review decision; and
 - (ii) the reasons for the review decision.

‘(4) If the review decision is that the application should have been granted, the consumer is taken to have been given, when the review decision was made, the contestable consumer certification for which the application was made.

‘33BJ Reviewer may seek advice or information

‘(1) To help the reviewer make the review decision, the reviewer may seek advice or information from any other person.

‘(2) The matters the reviewer may take into account in making the review decision include any advice or information obtained under subsection (1) for the decision or another review decision the reviewer has been asked to make.

‘(3) If the reviewer obtains advice or information under subsection (1) for the review decision or, in making the decision, takes into account advice or information the reviewer obtained for another review decision, the reviewer must—

- (a) if the advice or information is written, give a copy of it to the parties to the review; or
- (b) if the advice or information is oral, disclose the substance of the advice to the parties.

‘33BK Offence about disclosure of advice or information

‘(1) This section applies if, under section 33BJ, the reviewer gives a copy of advice or information, or discloses the substance of advice or information, to a party to the review.

‘(2) The party must not disclose the advice or information to another person unless the party has a reasonable excuse.

Maximum penalty—20 penalty units.

‘(3) It is a reasonable excuse for the party to make the disclosure if the disclosure is for the review or an appeal against the review decision.

‘33BL Review decision binding

‘(1) The review decision binds each party to the review.

‘(2) A party may not apply for a review of, or appeal against, the decision other than under the *Judicial Review Act 1991*.’.

16 Insertion of new pt 5, divs 1 and 4 hdgs

(1) Part 5, before section 33A, as heading—

insert—

‘Division 1—Preliminary’.

(2) After section 33BL, as heading—

insert—

‘Division 4—Other provisions relating to contestability’.

PART 5—AMENDMENT OF PAY-ROLL TAX ACT 1971

17 Act amended in pt 5

This part amends the *Pay-roll Tax Act 1971*.

18 Amendment of s 5 (Disclosure of information)

Section 5(2)(c) and (d)—

renumber as section 5(2)(b) and (c).

19 Amendment of s 10 (Exemption from pay-roll tax)

(1) Section 10(2)(j), before ‘to’—

insert—

‘subject to subsections (3) to (7),’.

(2) Section 10—

insert—

‘(3) The exemption given in subsection (2)(j) does not apply to wages paid or payable to a trainee under a traineeship started with the trainee’s employer after the commencement of this subsection (the “**current**

traineeship”) if, immediately before the current traineeship starts, the trainee had been employed by the employer for a continuous period of at least—

- (a) for a full-time employee—3 months; or
- (b) for a part-time or casual employee—12 months.

‘(4) Despite subsection (3), the exemption given in subsection (2)(j) applies to wages paid or payable to the trainee under the current traineeship if—

- (a) before the commencement of subsection (3), the trainee started, with the employer, a traineeship for a certificate II qualification established under a national program administered under the *Australian National Training Authority Act 1992* (Cwlth) (a “**certificate II traineeship**”); and
- (b) the current traineeship is a traineeship for a certificate III qualification (a “**certificate III traineeship**”) in the same training package or occupational stream as the certificate II traineeship; and
- (c) the trainee starts the current traineeship within 1 year after obtaining the certificate II qualification.

‘(5) Also, despite subsection (3), the exemption given in subsection (2)(j) applies to wages paid or payable to the trainee under the current traineeship if—

- (a) after the commencement of subsection (3), the trainee started, with the employer, a certificate II traineeship and subsection (2)(j) applied to wages paid or payable to the trainee under the certificate II traineeship; and
- (b) the current traineeship is a certificate III traineeship in the same training package as the certificate II traineeship; and
- (c) the trainee starts the current traineeship within 1 year after obtaining the certificate II qualification.

‘(6) For subsection (3), the trainee is taken to have been employed by the employer for a continuous period if, in the period, 1 of the following events is effected for the sole or dominant purpose of obtaining the benefit of Commonwealth or State funding, or an exemption under subsection (2)(j), in relation to the traineeship—

- (a) the trainee’s employment ends, and restarts, with the employer;

(b) the trainee's employer changes.

'(7) For subsections (4)(a) and (5)(a), a reference to the trainee's employer includes a reference to the former owner of the business in which the trainee is employed if—

- (a) ownership of the business changes after the trainee starts the certificate II traineeship; and
- (b) the certificate III traineeship is with the new owner.'

PART 6—AMENDMENT OF QUEENSLAND COMPETITION AUTHORITY ACT 1997

20 Act amended in pt 6

This part amends the *Queensland Competition Authority Act 1997*.

21 Amendment of s 63 (Decision on application)

Section 63(3)—

omit.

22 Amendment of s 187B (Constitution of mediator)

Section 187B(2)—

omit, insert—

'(2) The mediator, as constituted under subsection (1), must include an associate member chosen, under section 214D(2), for the mediation.'

23 Amendment of s 190 (Constitution of authority)

Section 190(2)—

omit, insert—

'(2) The authority, as constituted under subsection (1), must include an associate member chosen, under section 214D(1), for the arbitration.'

24 Replacement of ss 213 and 214

Sections 213 and 214—

omit, insert—

‘Division 1A—Panel of associate members**‘213 Panel**

‘There is to be a panel of associate members.

‘214 Appointment of persons to panel

‘(1) The Governor in Council may, by gazette notice, appoint a person as an associate member.

‘(2) A person is qualified to be recommended by the Minister for appointment as an associate member only if the Minister is satisfied the person is appropriately qualified for appointment because of the person’s knowledge of, or experience in, issues relevant to investigations, mediations or arbitrations under this Act.

‘214A Term of appointment

‘An associate member may be appointed for a term not longer than 5 years.

‘214B Conditions of appointment

‘An associate member holds office on the conditions decided by the Governor in Council.

‘214C Vacation of office

‘An associate member vacates the member’s office if—

- (a) the member resigns by signed notice of resignation given to the Minister; or
- (b) the Governor in Council, by written notice given to the member, removes the member from the panel of associate members.

‘214D Choice of 1 or more associate members for a particular investigation, mediation or arbitration

‘(1) For a particular investigation or arbitration, the chairperson may choose 1 or more associate members to be a member, or members, of the authority for the investigation or arbitration.

‘(2) An associate member chosen to be a member of the authority for a particular investigation is taken to be a member of the authority for the exercise of the authority’s powers under this Act for the investigation.

‘(3) For a particular mediation, the chairperson may choose 1 or more associate members to be 1 or more of the persons who constitute the mediator for the mediation.’.

25 Amendment of schedule (Dictionary)

(1) Schedule, definition “associate member”—

omit.

(2) Schedule—

insert—

‘**“associate member”** means a member of the panel of associate members.

“panel of associate members” means the panel of associate members mentioned in section 213.’.

(3) Schedule, definition “government agency”, ‘part 3’—

omit, insert—

‘parts 3 and 5A’.

(4) Schedule, definition “government company”, after ‘State’—

insert—

‘or a government agency’.

(5) Schedule, definition “member”, paragraphs (b) to (c)—

omit, insert—

‘(b) for a particular investigation or arbitration—an associate member chosen, under section 214D(1), for the investigation or arbitration.’.

(6) Schedule, definition “public facility”, from ‘State’ to ‘water’—

omit, insert—

‘State or a government agency, and includes a facility owned by a water’.

(7) Schedule, definition “water supplier”, after ‘than the State’—

insert—

‘or a government agency’.

(8) Schedule, definition “water supplier”, ‘local government’—

omit, insert—

‘government agency’.

PART 7—AMENDMENT OF QUEENSLAND TREASURY CORPORATION ACT 1988

26 Act amended in pt 7

This part amends the *Queensland Treasury Corporation Act 1988*.

27 Amendment of s 24 (Provisions of financial arrangements and other arrangements)

(1) Section 24(3), from ‘Corporation’ to ‘other arrangement’—

omit, insert—

‘Corporation or an affiliate, in financial arrangements or other arrangements’.

(2) Section 24(4) and (6), after ‘other arrangements’, first mention—

insert—

‘entered into by the Corporation or an affiliate, or related arrangements,’.

(3) Section 24(4), ‘the financial arrangements or other arrangements’—

omit, insert—

‘the arrangements’.

(4) Section 24(4), before ‘so provide’—

insert—

‘, or related arrangements.’.

(5) Section 24(5), after ‘other arrangements’—

insert—

‘entered into by the Corporation or an affiliate’.

(6) Section 24(5), after ‘waiver by the Corporation’—

insert—

‘or affiliate’.

(7) Section 24(6), ‘, that those’—

omit, insert—

‘and that the’.

(8) Section 24(6), after ‘output are’—

insert—

‘chattels and’.

(9) Section 24(6), from ‘that or any’—

omit, insert—

‘the arrangements to someone else.’.

(10) Section 24—

insert—

‘(7) If financial arrangements or other arrangements entered into by the Corporation or an affiliate, or related arrangements, make provision for a matter mentioned in subsection (6), the provision has effect despite any other law.

‘(8) In this section—

“related arrangements” means arrangements, entered into by the Corporation, an affiliate or someone else, that give effect to, or are a part of, financial arrangements or other arrangements entered into by the Corporation or an affiliate.’.

PART 8—AMENDMENT OF TAXATION ADMINISTRATION ACT 2001

28 Act amended in pt 8

This part amends the *Taxation Administration Act 2001*.

29 Amendment of s 60 (When commissioner may remit unpaid tax interest and penalty tax)

Section 60—

insert—

‘**(3)** Despite section 26(1), the commissioner is not required to give an assessment notice for the assessment if, after the remission and the application of payments received by the commissioner for the taxpayer’s assessment liability, the taxpayer has no assessment liability.’.