

Queensland



Government Owned Corporations Act 1993

GOVERNMENT OWNED CORPORATIONS (QUEENSLAND RAIL) REGULATION 1995

**Reprinted as in force on 1 April 1999
(includes amendments up to SL No. 32 of 1999)**

Reprint No. 2

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Information about this reprint

This regulation is reprinted as at 1 April 1999. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

This page is specific to this reprint. See previous reprints 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.**

Queensland



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

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GOVERNMENT OWNED CORPORATIONS (QUEENSLAND RAIL) REGULATION 1995

[as amended by all amendments that commenced on or before 1 April 1999]

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

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- 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.

Definition

5. In this regulation—

“transport infrastructure transitional provision” means the *Transport Infrastructure Act 1994*, section 214.¹

¹ *Transport Infrastructure Act 1994*, section 214 (Existing rail corridor land)

**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 Rail

11. Queensland Rail² has the functions given under the *Transport Infrastructure Act 1994*, section 187A.³

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

² 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).

³ *Transport Infrastructure Act 1994*, section 187A (Function)

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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 174⁴ 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.

(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.

⁴ Section 174 (Preservation of leave entitlements of certain former officers and employees of government entities)

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 10⁵ become the assets of Queensland Rail.

Consideration for transfer of assets to Queensland Rail

18.(1) The liabilities mentioned in section 10 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

⁵ Section 10 (Assets and liabilities of Queensland Railways)

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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 4 September 1996 to correct the market value of an asset or the 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.

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

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.

PART 8—STATE TAX EXEMPTION

Exemption from payment of land tax

21. Queensland Rail is exempted from liability to pay land tax under the *Land Tax Act 1915* for the financial years 1996/1997, 1997/1998, 1998/1999, 1999/2000 and 2000/2001.

PART 9—ISSUE OF FURTHER SHARES

Queensland Rail must issue further shares

22.(1) Under section 9,⁷ 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.

⁷ Section 9 (Share capital)

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(2) Under section 58⁸ of the Act, 2 of the shares have been issued.⁹

(3) Queensland Rail must issue a further 40 220 000 of the shares on 30 June 1996.

(4) Queensland Rail must issue another 2 164 039 784 of the shares as soon as it is practicable to issue the shares.

(4A) Queensland Rail must issue another 12 800 000 of the shares as soon as it is practicable to issue the shares.

(5) Shares issued under subsection (4) are taken to have been issued on 30 June 1996.

(5A) Shares issued under subsection (4A) are taken to have been issued on 30 June 1997.

⁸ Section 58 (Share capital and issue of shares)

⁹ Under the Act, each of Queensland Rail's 2 shareholding Ministers holds an equal number of the issued shares (see sections 71 to 74 of the Act).

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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 1 April 1999. Future amendments of the Government Owned Corporations (Queensland Rail) Regulation 1995 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	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
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

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4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only]

Reprint No.	Amendments included	Reprint date
1	none	7 July 1995
1A	to SL No. 250 of 1996	30 September 1996
1B	to SL No. 339 of 1997	16 July 1998

5 List of legislation

Government Owned Corporations (Queensland Rail) Regulation 1995 SL No. 162

made by the Governor in Council on 8 June 1995
notfd gaz 8 June 1995 pp 1085–6
ss 1–2 commenced on date of notification
ss 3–8 commenced 8 June 1995 (see s 2(1))
ss 9–10 commenced 30 June 1995 (see s 2(2))
ss 11–19 commenced 1 July 1995 (see s 2(3))
s 20 commenced 2 July 1995 (see s 2(4))
remaining provisions commenced on date of notification
exp 1 September 2005 (see SIA s 54)

as amended by—

Government Owned Corporations (Queensland Rail) Amendment Regulation (No. 1) 1996 SL No. 147

notfd gaz 28 June 1996 pp 1164–70
commenced on date of notification

Government Owned Corporations (Queensland Rail) Amendment Regulation (No. 2) 1996 SL No. 250

notfd gaz 27 September 1996 pp 347–9
commenced on date of notification

Government Owned Corporations (Queensland Rail) Amendment Regulation (No. 1) 1997 SL No. 339

notfd gaz 17 October 1997 pp 671–3
commenced on date of notification

Government Owned Corporations Legislation Amendment Regulation (No. 1) 1999 SL No. 32 ss 1–2(1) pt 4

notfd gaz 26 March 1999 pp 1450–3
ss 1–2 commenced on date of notification
remaining provisions commenced 31 March 1999 (see s 2(1))

6 List of annotations

Definition

s 5 sub 1999 SL No. 32 s 11

Status of Queensland Rail

s 11 amd 1999 SL No. 32 s 12

Consideration for transfer of assets to Queensland Rail

s 18 amd 1996 SL No. 147 s 3

PART 8—STATE TAX EXEMPTION

pt 8 (s 21) ins 1996 SL No. 147 s 4

PART 9—ISSUE OF FURTHER SHARES

pt hdg ins 1996 SL No. 147 s 4

Queensland Rail must issue further shares

s 22 ins 1996 SL No. 147 s 4
amd 1996 SL No. 250 s 3; 1997 SL No. 339 s 3