

Queensland



OFFSHORE BANKING UNITS AND REGIONAL HEADQUARTERS ACT 1993

**Reprinted as in force on 1 March 2002
(includes amendments up to Act No. 71 of 2001)**

Reprint No. 1A

**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 1 March 2002. 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 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 reprint.**

Queensland



OFFSHORE BANKING UNITS AND REGIONAL HEADQUARTERS ACT 1993

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	3
2	Commencement	3
3	Definitions	3
3A	Meaning of “RHQ activity”	4
4	Words and phrases used in Pt 3 that have meaning in revenue law.	4
PART 2—ADMINISTRATION		
5	Who may apply for licence	5
6	Application for licence	5
7	Basic criteria for licence	5
8	Minister must consider and decide application	6
9	Notice of issuing of licence	6
10	Register of licences	6
11	Duration of licence	7
12	Notice of change of circumstances	7
13	Surrender of licence	7
14	Cancellation of licence	7
15	Returns	8
16	Information may be required about entries	8
PART 3—TAX CONCESSIONS		
17	Debits tax concession	8
18	Land tax concession	9
19	Pay-roll tax concession	9

*Offshore Banking Units and Regional Headquarters
Act 1993*

20	Duty concessions	9
21	Operation of concessions and revenue laws	10

PART 4—GENERAL

22	Recovery of unpaid taxes	10
23	Review of Act	11
24	Regulations	11
25	Expiry of this Act	11

ENDNOTES

1	Index to endnotes	12
2	Date to which amendments incorporated.	12
3	Key	12
4	Table of earlier reprints	13
5	List of legislation	13
6	List of annotations	13

OFFSHORE BANKING UNITS AND REGIONAL HEADQUARTERS ACT 1993

[as amended by all amendments that commenced on or before 1 March 2002]

An Act to provide taxation concessions for certain activities to Offshore Banking Units and Regional Headquarters that establish in Queensland, and for related purposes

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Offshore Banking Units and Regional Headquarters Act 1993*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Definitions

In this Act—

“**applicant**” means an entity who has applied for a licence.

“**associate**” has the meaning given under section 318 of the *Income Tax Assessment Act 1936* (Cwlth).

“**licence**” includes a QOBU and a QRHQ licence.

“**OBU**” means an offshore banking unit within the meaning of Division 11A of Part III of the *Income Tax Assessment Act 1936* (Cwlth).

“**OBU activity**” means OB activity, within the meaning of section 121D of the *Income Tax Assessment Act 1936* (Cwlth), that is performed by a QOBU.

*Offshore Banking Units and Regional Headquarters
Act 1993*

“**QOBU**” means an OBU that holds a QOBU licence.

“**QOBU licence**” means a licence in force under section 8(4)(a).

“**QRHQ**” means an RHQ that holds a QRHQ licence.

“**QRHQ licence**” means a licence in force under section 8(4)(b).

“**qualifying factors**” has the meaning given under section 12 (Notice of change of circumstances).

“**revenue law**” means—

- (a) the *Debits Tax Act 1990*; or
- (b) the *Land Tax Act 1915*; or
- (c) the *Pay-roll Tax Act 1971*; or
- (d) the *Duties Act 2001*.

“**RHQ**” means an entity that is part of a multinational corporate group and provides services to other parts of the group.

“**RHQ activity**” has the meaning given by section 3A.

“**tax**” includes duty payable under a revenue law.

“**transaction**” includes—

- (a) an instrument relating to a transaction or arrangement; or
- (b) a transaction or arrangement for which there is no instrument.

3A Meaning of “RHQ activity”

(1) An “**RHQ activity**” is an activity prescribed by regulation and performed by a QRHQ that is part of a multinational corporate group to supply services to parts of the group outside Australia.

(2) To remove doubt, an “**RHQ activity**” does not include an activity performed by a QRHQ to supply services, directly or indirectly, to parts of the group in Australia.

4 Words and phrases used in Pt 3 that have meaning in revenue law

A word or phrase in Part 3 that is not defined in this Act has the meaning given under the revenue law concerned.

PART 2—ADMINISTRATION

5 Who may apply for licence

An OBU or RHQ that satisfies the criteria prescribed by regulation may apply for a QOBU or QRHQ licence.

6 Application for licence

An application for a licence must—

- (a) be made to the Minister; and
- (b) include, or be accompanied by, the particulars prescribed by regulation.

7 Basic criteria for licence

(1) In deciding an application, the Minister must have regard to the following matters—

- (a) if the applicant is an individual—whether the applicant is of good repute, having regard to character, honesty and integrity;
- (b) if the applicant is not an individual—whether the applicant's officers who will be involved in its management or will perform functions for the holding of the licence are of good repute, having regard to character, honesty and integrity;
- (c) whether the applicant has a sound and stable financial background;
- (d) whether the applicant has, or if the applicant is not an individual, the applicant's officers who will be involved in its management or will perform functions for the holding of the licence have, association with—
 - (i) an individual who is not of good repute having regard to character, honesty and integrity; or
 - (ii) an entity that, in the Minister's opinion, has undesirable or unsatisfactory financial sources;

- (e) whether each person associated with the ownership, administration or management of the applicant's business is a person who is suitable to be associated in that way.

(2) Subsection (1) does not require the Minister to investigate an applicant.

8 Minister must consider and decide application

(1) The Minister must consider each application for a licence and may grant or refuse the application.

(2) The Minister must—

- (a) give the applicant written notice of the decision; and
- (b) if the Minister refuses an application—give the applicant written reasons for the decision.

(3) The Minister may issue a licence only if the Minister is satisfied that the issuing of the licence is likely to give an economic benefit to Queensland.

(4) If the Minister grants an application, the Minister must issue to the applicant a—

- (a) QOBU licence; or
- (b) QRHQ licence.

(5) The licence must be in a form approved by the Minister.

9 Notice of issuing of licence

(1) The Minister must notify the issue of the licence by Gazette notice.

(2) The licence becomes effective only when the notice is notified.

10 Register of licences

(1) The chief executive of the department must keep a register of licences.

(2) The register must be available in the department in Brisbane for inspection by the public during normal office hours.

(3) A person may inspect the register without fee.

11 Duration of licence

A licence remains in force until it is cancelled or surrendered.

12 Notice of change of circumstances

(1) If a licensee ceases to satisfy the criteria or matters mentioned in section 5 or 7(1) (the “**qualifying factors**”), the licensee must give the Minister written notice within 14 days of ceasing to satisfy the qualifying factors.

(2) The notice must give full details of the way in which the licensee has ceased to satisfy the qualifying factors.

Maximum penalty—5 penalty units and twice the tax that was not paid by the licensee by claiming a concession under this Act after the licensee ceased to satisfy the qualifying factors.

13 Surrender of licence

(1) A licensee may surrender a licence by returning it to the Minister.

(2) The surrender takes effect when the Minister notifies the surrender by Gazette notice.

14 Cancellation of licence

(1) The Minister may cancel a licence by Gazette notice if—

- (a) the licensee ceases to satisfy the qualifying factors; or
- (b) the Minister is satisfied that Queensland has not received, or is not likely to receive, an economic benefit as a result of the licensee holding the licence; or
- (c) the licensee contravenes any of the following sections—
 - (i) section 12 (Notice of change of circumstances);
 - (ii) section 15 (Returns);
 - (iii) section 16 (Information may be required about entries).

(2) If a QOBUS ceases to be an OBU, its QOBUS licence is taken to be cancelled on the day notice of the cancellation of its OBU status is given in the Commonwealth Gazette.

15 Returns

(1) Each licensee must file a return with the Minister for each financial year.

(2) A return for a financial year must be filed before 31 July in the next financial year.

(3) The Minister may, by written notice given to a licensee, require the licensee to file additional returns with the Minister.

(4) The notice must specify the time by which the additional returns must be filed.

(5) The time specified must be a reasonable time.

(6) The licensee must comply with the notice.

(7) Returns under this section must contain the information and be in the form required by the Minister.

16 Information may be required about entries

(1) The Minister may, by written notice given to a licensee, require the licensee to give to the Minister information about an entry in a return.

(2) The notice must specify the time by which the information must be given.

(3) The time specified must be a reasonable time.

(4) The licensee must comply with the notice.

PART 3—TAX CONCESSIONS

17 Debits tax concession

(1) A QOBU or QRHQ does not have to pay tax under the *Debits Tax Act 1990* for debits made to an account if the debits are made, and the account is used, wholly for its OBU or RHQ activities and on the conditions prescribed by regulation.

(2) The account must be kept with a financial institution in the name of the QOBU or QRHQ.

18 Land tax concession

(1) If a QOBU or QRHQ owns land and uses it for carrying out its OBU or RHQ activities, it only has to pay tax under the *Land Tax Act 1915* to the extent, and on the conditions, prescribed by regulation.

(2) Subsection (1) does not apply if the QOBU or QRHQ holds the land in a name other than the name in which its licence was issued.

19 Pay-roll tax concession

If a QOBU or QRHQ employs people to perform its OBU or RHQ activities, it only has to pay tax under the *Pay-roll Tax Act 1971* to the extent, and on the conditions, prescribed by regulation.

20 Duty concessions

(1) A transaction entered into by a QOBU or QRHQ for its OBU or RHQ activities is only liable for duty under the *Duties Act 2001* to the extent, and on the conditions, prescribed by regulation.

(2) However, the concession under subsection (1) does not apply to the following transactions—

- (a) a transfer of real property or a chattel in Queensland;
- (b) a relevant acquisition under the *Duties Act 2001*, chapter 3, part 1;¹
- (c) a transfer of a Queensland marketable security;
- (d) a transaction prescribed by regulation.

(3) In subsection (2)—

“**real property**” does not include real property the QOBU or QRHQ will hold in the name in which its licence was issued and will use or occupy for its OBU or RHQ activities.

¹ *Duties Act 2001*, chapter 3 (Land rich duty and corporate trustee duty), part 1 (Land rich duty)

*Offshore Banking Units and Regional Headquarters
Act 1993*

21 Operation of concessions and revenue laws

(1) A reduction under sections 18 to 20 of the amount of tax payable for a matter mentioned in the sections does not operate to reduce the amount or value on which the tax is calculated.

(2) Sections 18 to 20 operate to reduce the liability for the payment of tax by the percentage that the concessional part bears to the total amount or value.

(3) If, at a particular time, a licensee ceases to satisfy the qualifying factors, the concessions under this Part are taken to have ceased to apply from the particular time.

(4) If a condition subsequent prescribed under section 20 has not been satisfied in relation to a transaction, the concession under section 20 is taken to have never applied to the transaction.

(5) A concession under section 20 does not apply to a transaction if—

- (a) there is no reason, other than to avoid or reduce tax, for a QOBU or QRHQ to enter into the transaction as part of its OBU or RHQ activities; or
- (b) a substantial reason for the QOBU or QRHQ to enter into the transaction as part of its OBU or RHQ activities is to avoid or reduce tax.

(6) In this section—

“**transaction**” includes a series of transactions of which the transaction is a part.

PART 4—GENERAL

22 Recovery of unpaid taxes

(1) The State may recover under the revenue law concerned, from the licensee only, all or part of the unpaid tax that would have been payable—

- (a) if section 21(3) applies—had the licensee not held the licence from the particular time; or
- (b) if section 21(4) applies—if the concession had never applied.

*Offshore Banking Units and Regional Headquarters
Act 1993*

(2) To remove any doubt, to the extent that the State chooses not to recover unpaid tax under subsection (1), the matter concerned is taken to be exempt from tax under the revenue law concerned.

23 Review of Act

(1) The Minister must review this Act 5 years after it commences.

(2) The review must have regard to—

- (a) the effectiveness of the concessions given to QOBUs and QRHQs; and
- (b) the need for the continuation of the concessions; and
- (c) matters the Minister considers relevant to the operation and effectiveness of the Act.

24 Regulations

(1) The Governor in Council may make regulations for the purposes of this Act.

(2) A regulation may create offences and prescribe penalties of not more than 100 penalty units for the offences.

25 Expiry of this Act

This Act expires on 31 December 2003.

ENDNOTES

1 Index to endnotes

		Page
2	Date to which amendments incorporated	12
3	Key	12
4	Table of earlier reprints	13
5	List of legislation	13
6	List of annotations	13

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 March 2002. Future amendments of the Offshore Banking Units and Regional Headquarters Act 1993 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

Key	Explanation	Key	Explanation
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
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

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	to Act No. 31 of 1994	2 September 1994

5 List of legislation

Offshore Banking Units and Regional Headquarters Act 1993 No. 78

date of assent 17 December 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 1 September 1994 (1994 SL No. 302)

Note—This Act expires 31 December 2003 (see s 25)

amending legislation—

Treasury Legislation Amendment Act 1994 No. 31 Pts 1, 4

date of assent 28 June 1994

commenced on date of assent

Duties Act 2001 No. 71 ss 1-2(1), 551 sch 1

date of assent 13 November 2001

ss 1-2 commenced on date of assent

remaining provisions commenced 1 March 2002 (2002 SL No. 10)

6 List of annotations

Definitions

- s 3** def “**revenue law**” amd 2001 No. 71 s 551 sch 1
def “**RHQ activity**” sub 1994 No. 31 s 10

Meaning of “RHQ activity”

- s 3A** ins 1994 No. 31 s 11

Land tax concession

- s 18** amd 1994 No. 31 s 12

Pay-roll tax concession

- s 19** sub 1994 No. 31 s 13

Duty concessions

- prov hdg** sub 2001 No. 71 s 551 sch 1
s 20 amd 2001 No. 71 s 551 sch 1

*Offshore Banking Units and Regional Headquarters
Act 1993*

Operation of concessions and revenue laws

s 21 amd 1994 No. 31 s 14

Regulations

s 24 amd 1994 No. 31 s 15