

Queensland



Government Owned Corporations Act 1993

GOVERNMENT OWNED CORPORATIONS (PORTS) REGULATION 1995

**Reprinted as in force on 22 March 2002
(includes amendments up to SL No. 40 of 2002)**

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NOT FURTHER AMENDED
LAST REPRINT BEFORE REPEAL
See 2004 SL No. 166 s 44

Information about this reprint

This regulation is reprinted as at 22 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.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

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.**

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GOVERNMENT OWNED CORPORATIONS (PORTS) REGULATION 1995

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GOVERNMENT OWNED CORPORATIONS (PORTS) REGULATION 1995

[as amended by all amendments that commenced on or before 22 March 2002]

PART 1—PRELIMINARY

1 Short title

This regulation may be cited as the *Government Owned Corporations (Ports) Regulation 1995*.

3 Purpose of this regulation

The purpose of this regulation is—

- (a) to establish associates of the following candidate GOCs—
 - Bundaberg Port Authority
 - Cairns Port Authority
 - Mackay Port Authority
 - Rockhampton Port Authority
 - Townsville Port Authority; and
- (b) to divest the assets from, and release the liabilities of, the candidate GOCs; and
- (c) to make all appropriate name changes to the candidate GOCs and their associates; and
- (d) to provide for a transition from the candidate GOCs to their associates, including transferring the officers and employees of the candidate GOCs to their associates; and
- (e) to transfer the assets and liabilities of the candidate GOCs to their associates; and

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- (f) to make provision for the associates to assume certain additional liabilities; and
- (g) to make the associates GOCs; and
- (h) to dissolve the candidate GOCs.

4 Definitions

In this regulation—

“associates” means—

- (a) until the changes of name that happen under part 4¹—
 - (i) New BPA; and
 - (ii) New CPA; and
 - (iii) New MPA; and
 - (iv) New RPA; and
 - (v) New TPA; and
- (b) after the changes of name that happen under part 4—
 - (i) Bundaberg Port Authority; and
 - (ii) Cairns Port Authority; and
 - (iii) Mackay Port Authority; and
 - (iv) Rockhampton Port Authority; and
 - (v) Townsville Port Authority.

“candidate GOCs” means—

- (a) until the changes of name that happen under part 4—
 - (i) Bundaberg Port Authority; and
 - (ii) Cairns Port Authority; and
 - (iii) Mackay Port Authority; and
 - (iv) Rockhampton Port Authority; and
 - (v) Townsville Port Authority; and

¹ Part 4 (Changes of name of candidate GOCs and associates)

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- (b) after the changes of name that happen under part 4—
 - (i) Old BPA; and
 - (ii) Old CPA; and
 - (iii) Old MPA; and
 - (iv) Old RPA; and
 - (v) Old TPA.

5 Provisions having continuing effect after associates become GOCs

In a provision of parts 5 to 7² having continuing effect after the associates become GOCs, a reference to an associate (including a reference to a candidate GOC's associate) is taken to include a reference to the GOC the associate becomes.

PART 2—ENTITIES ARE ESTABLISHED AND NOMINATED AS CANDIDATE GOC ASSOCIATES

6 Establishment of 5 GOC Act entities

The following entities are established—

- (a) New BPA;
- (b) New CPA;
- (c) New MPA;
- (d) New RPA;
- (e) New TPA.

² Parts 5 (Transition from candidate GOCs to their associates), 6 (Assets and liabilities transferred to associates) and 7 (Associates become statutory GOCs)

7 Nomination of GOC Act entities to become candidate GOC associates

(1) New BPA is nominated to be the associate of Bundaberg Port Authority.

(2) New CPA is nominated to be the associate of Cairns Port Authority.

(3) New MPA is nominated to be the associate of Mackay Port Authority.

(4) New RPA is nominated to be the associate of Rockhampton Port Authority.

(5) New TPA is nominated to be the associate of Townsville Port Authority.

8 Status of associates

Each associate—

- (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.

9 Share capital

(1) New BPA is taken to have a share capital of \$100 000 000 made up of 100 000 000 ordinary shares of \$1 each.

(2) New CPA is taken to have a share capital of \$1 000 000 000 made up of 1 000 000 000 ordinary shares of \$1 each.

(3) New MPA is taken to have a share capital of \$200 000 000 made up of 200 000 000 ordinary shares of \$1 each.

(4) New RPA is taken to have a share capital of \$100 000 000 made up of 100 000 000 ordinary shares of \$1 each.

(5) New TPA is taken to have a share capital of \$500 000 000 made up of 500 000 000 ordinary shares of \$1 each.

PART 3—CANDIDATE GOCs ARE DIVESTED OF ASSETS AND RELEASED FROM LIABILITIES

10 Assets and liabilities of candidate GOCs

(1) This section takes effect immediately after 30 June 1995.

(2) The candidate GOCs are divested of all their assets and released from all their liabilities.

PART 4—CHANGES OF NAME OF CANDIDATE GOCs AND ASSOCIATES

11 Changes of name of candidate GOCs

(1) Bundaberg Port Authority's name is changed to Old BPA.

(2) Cairns Port Authority's name is changed to Old CPA.

(3) Mackay Port Authority's name is changed to Old MPA.

(4) Rockhampton Port Authority's name is changed to Old RPA.

(5) Townsville Port Authority's name is changed to Old TPA.

12 Changes of name of associates

(1) New BPA's name is changed to Bundaberg Port Authority.

(2) New CPA's name is changed to Cairns Port Authority.

(3) New MPA's name is changed to Mackay Port Authority.

(4) New RPA's name is changed to Rockhampton Port Authority.

(5) New TPA's name is changed to Townsville Port Authority.

13 Identification of entities after name changes

After the changes of name that happen under this part—

- (a) Bundaberg Port Authority is Old BPA's associate, and Old BPA is Bundaberg Port Authority's candidate GOC; and
- (b) Cairns Port Authority is Old CPA's associate, and Old CPA is Cairns Port Authority's candidate GOC; and
- (c) Mackay Port Authority is Old MPA's associate, and Old MPA is Mackay Port Authority's candidate GOC; and
- (d) Rockhampton Port Authority is Old RPA's associate, and Old RPA is Rockhampton Port Authority's candidate GOC; and
- (e) Townsville Port Authority is Old TPA's associate, and Old TPA is Townsville Port Authority's candidate GOC.

PART 5—TRANSITION FROM CANDIDATE GOCs TO THEIR ASSOCIATES

Division 1—Status of associates

14 Status of associates

Under the *Transport Infrastructure (Ports) Regulation 1994*, section 50A, each associate is a port authority.³

3 This section is included for information only. The status of port authority is given under the *Transport Infrastructure (Ports) Regulation 1994*, section 50A (Declaration of port authorities). Accordingly, each associate has the functions and powers set out in the *Transport Infrastructure Act 1994*, chapter 7 (Port infrastructure), part 3 (Functions and powers of port authorities), and on becoming a statutory GOC, each associate also has 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).

Division 2—Staff

15 Officers and employees of candidate GOCs

(1) A person who, immediately before 1 July 1995, was an officer or employee of a candidate GOC becomes an officer or employee of the candidate GOC's associate.

(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 a candidate GOC before 1 July 1995, the suspension continues, and must be dealt with by the candidate GOC's associate.

16 Equivalent positions

A person who under this division becomes an officer or employee of a candidate GOC's associate becomes the holder of a position equivalent to the position the person held in the candidate GOC.

Example—

A person who immediately before 1 July 1995 was the chief executive officer (however called) of a candidate GOC becomes the holder of the office of chief executive officer of the candidate GOC's associate.

Division 3—General

17 Associate is successor of its candidate GOC

(1) Each associate is the successor in law of its candidate GOC.

(2) The other provisions of this division do not limit subsection (1).

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

18 Instruments

(1) This section applies to an instrument (other than a statutory instrument) in existence immediately before 1 July 1995.

(2) An instrument applying to a candidate GOC is to apply to the candidate GOC's associate in place of the candidate GOC.

(3) Without limiting subsection (2)—

- (a) an instrument to which, immediately before 1 July 1995, a candidate GOC was a party is taken to be an instrument to which its associate is a party; and
- (b) an instrument given to, by or in favour of a candidate GOC is taken to be an instrument given to, by or in favour of its associate; and
- (c) an instrument in which a reference is made to a candidate GOC (including, for example, an instrument to which the candidate GOC was a party) is taken to be an instrument in which the reference is made to its associate; 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 a candidate GOC 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 its associate.

19 Pending legal proceedings by or against candidate GOC

A legal proceeding by or against a candidate GOC that is not finished before 1 July 1995 may be continued and finished by or against the candidate GOC's associate.

PART 6—ASSETS AND LIABILITIES TRANSFERRED TO ASSOCIATES

20 Transfer of assets to associates

The assets mentioned in section 10⁵—

- (a) if, immediately before section 10 takes effect, they were the assets of the candidate GOC then known as Bundaberg Port Authority—become the assets of the associate whose name is changed under this regulation to Bundaberg Port Authority; and
- (b) if, immediately before section 10 takes effect, they were the assets of the candidate GOC then known as Cairns Port Authority—become the assets of the associate whose name is changed under this regulation to Cairns Port Authority; and
- (c) if, immediately before section 10 takes effect, they were the assets of the candidate GOC then known as Mackay Port Authority—become the assets of the associate whose name is changed under this regulation to Mackay Port Authority; and
- (d) if, immediately before section 10 takes effect, they were the assets of the candidate GOC then known as Rockhampton Port Authority—become the assets of the associate whose name is changed under this regulation to Rockhampton Port Authority; and
- (e) if, immediately before section 10 takes effect, they were the assets of the candidate GOC then known as Townsville Port Authority—become the assets of the associate whose name is changed under this regulation to Townsville Port Authority.

21 Consideration for transfer of assets to associates

(1) The liabilities mentioned in section 10—

- (a) if, immediately before section 10 takes effect, they were the liabilities of the candidate GOC then known as Bundaberg Port Authority—are assumed by the associate whose name is changed under this regulation to Bundaberg Port Authority; and

5 Section 10 (Assets and liabilities of candidate GOCs)

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- (b) if, immediately before section 10 takes effect, they were the liabilities of the candidate GOC then known as Cairns Port Authority—are assumed by the associate whose name is changed under this regulation to Cairns Port Authority; and
- (c) if, immediately before section 10 takes effect, they were the liabilities of the candidate GOC then known as Mackay Port Authority—are assumed by the associate whose name is changed under this regulation to Mackay Port Authority; and
- (d) if, immediately before section 10 takes effect, they were the liabilities of the candidate GOC then known as Rockhampton Port Authority—are assumed by the associate whose name is changed under this regulation to Rockhampton Port Authority; and
- (e) if, immediately before section 10 takes effect, they were the liabilities of the candidate GOC then known as Townsville Port Authority—are assumed by the associate whose name is changed under this regulation to Townsville Port Authority.

(2) The assumption by an associate of the liabilities of its candidate GOC is part of the consideration for the transfer of the assets of the candidate GOC to the associate.

(3) The remainder of the consideration is the creation of a debt owed by the associate to the shareholding Ministers of the GOC that the associate becomes under this regulation.

(4) The amount of the debt is the market value, at 1 July 1995, of the assets transferred to the associate, less the amount, at 1 July 1995, of the liabilities assumed by the associate.

Example of calculation of debt owed to shareholding Ministers—

If the market value of the assets vested in an associate is \$1 000 000, and the liabilities assumed by it amount to \$400 000, the shareholding Ministers are owed a debt of \$600 000.

(5) For subsection (4)—

- (a) the market value, at 1 July 1995, of an asset transferred to an associate is, unless another valuation is decided under subsection (7), taken to be the market value specified for the asset in the asset schedule of the associate for 1 July 1995; and
- (b) the amount, at 1 July 1995, of the liabilities assumed by an associate is, unless another amount is decided under

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subsection (7), taken to be the amount of the liabilities listed in the balance sheet of the associate for 1 July 1995.

(6) As soon as practicable after the commencement of this section, each associate must complete the asset schedule mentioned in subsection 5(a) and the balance sheet mentioned in subsection (5)(b).

(7) The shareholding Ministers of a GOC that an associate 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 11 October 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 7—ASSOCIATES BECOME STATUTORY GOCs

22 Declaration of associates as GOCs

(1) Subsection (2) takes effect as soon as the assets and liabilities of the candidate GOCs become the assets and liabilities of their associates under sections 20 and 21.⁶

(2) Each associate is a GOC.

PART 8—CANDIDATE GOCs ARE DISSOLVED

23 Dissolution of candidate GOCs

(1) The candidate GOCs are dissolved and their members go out of office.

⁶ Sections 20 (Transfer of assets to associates) and 21 (Consideration for transfer of assets to associates)

(2) The final accounts of each candidate GOC must be prepared by the GOC the candidate's associate becomes.

PART 9—AFTER ASSOCIATES ARE DECLARED TO BE GOCs

24 Bundaberg Port Authority shares

(1) Under section 9(1),⁷ Bundaberg Port Authority is taken to have a share capital of \$100 000 000, made up of 100 000 000 ordinary shares of \$1 each.

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

(3) Bundaberg Port Authority must issue a further 50 074 592 of the shares on 1 November 1995.

(4) 29 325 450 of the shares issued under subsection (3) are taken to have been cancelled immediately after they were issued.

(5) Of the shares issued under subsection (3), a further 321 288 are cancelled.

(6) The cancellation of shares under subsection (5) is taken to have happened on 1 July 1996.

7 Section 9 (Share capital). The subsection refers to New BPA. New BPA's name was changed to Bundaberg Port Authority under section 12(1).

8 Section 58 (Share capital and issue of shares) of the Act

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

25 Cairns Port Authority shares

(1) Under section 9(2),¹⁰ Cairns Port Authority is taken to have a share capital of \$1 000 000 000, made up of 1 000 000 000 ordinary shares of \$1 each.

(2) Under section 58¹¹ of the Act, 2 of the shares have been issued.¹²

(3) Cairns Port Authority must issue a further 282 850 968 of the shares on 1 November 1995.

(4) 2 531 000 of the shares issued under subsection (3) are taken to have been cancelled immediately after they were issued.

(5) Of the shares issued under subsection (3), a further 30 000 000 are cancelled on the commencement of this subsection.

26 Mackay Port Authority shares

(1) Under section 9(3),¹³ Mackay Port Authority is taken to have a share capital of \$200 000 000, made up of 200 000 000 ordinary shares of \$1 each.

(2) Under section 58¹⁴ of the Act, 2 of the shares have been issued.¹⁵

(3) Mackay Port Authority must issue a further 125 134 926 of the shares on 1 November 1995.

(4) Mackay Port Authority must issue another 4 923 878 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 when the shares mentioned in subsection (3) were issued.

10 Section 9 (Share capital). The subsection refers to New CPA. New CPA's name was changed to Cairns Port Authority under section 12(2).

11 Section 58 (Share capital and issue of shares) of the Act

12 Under the Act, each of Cairns Port Authority's 2 shareholding Ministers holds an equal number of the issued shares (see sections 71 to 74 of the Act).

13 Section 9 (Share capital). The subsection refers to New MPA. New MPA's name was changed to Mackay Port Authority under section 12(3).

14 Section 58 (Share capital and issue of shares) of the Act

15 Under the Act, each of Mackay Port Authority's 2 shareholding Ministers holds an equal number of the issued shares (see sections 71 to 74 of the Act).

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(6) Of the shares issued under subsections (3) and (4), 850 000 are cancelled.

(7) The cancellation of shares under subsection (6) is taken to have happened on 30 June 1997.

(8) As soon as it is practicable to do so, Mackay Port Authority must—

- (a) issue another 3 258 306 of the shares; and
- (b) issue another 2 227 180 of the shares; and
- (c) issue another 2 514 512 of the shares.

(9) Shares issued—

- (a) under subsection (8)(a) are taken to have been issued on 20 August 1998; and
- (b) under subsection (8)(b) are taken to have been issued on 22 September 1998; and
- (c) under subsection (8)(c) are taken to have been issued on 24 November 1998.

(10) Mackay Port Authority must issue another 2 000 000 of the shares on the day notified by the shareholding Ministers by gazette notice as the day for the shares to be issued.

27 Rockhampton Port Authority shares

(1) Under section 9(4),¹⁶ Rockhampton Port Authority is taken to have a share capital of \$100 000 000, made up of 100 000 000 ordinary shares of \$1 each.

(2) Under section 58¹⁷ of the Act, 2 of the shares have been issued.¹⁸

(3) Rockhampton Port Authority must issue a further 14 009 404 of the shares on 1 November 1995.

(4) 11 278 806 of the shares issued under subsection (3) are taken to have been cancelled immediately after they were issued.

16 Section 9 (Share capital). The subsection refers to New RPA. New RPA's name was changed to Rockhampton Port Authority under section 12(4).

17 Section 58 (Share capital and issue of shares) of the Act

18 Under the Act, each of Rockhampton Port Authority's 2 shareholding Ministers holds an equal number of the issued shares (see sections 71 to 74 of the Act).

28 Townsville Port Authority shares

(1) Under section 9(5),¹⁹ Townsville Port Authority is taken to have a share capital of \$500 000 000, made up of 500 000 000 ordinary shares of \$1 each.

(2) Under section 58²⁰ of the Act, 2 of the shares have been issued.²¹

(3) Townsville Port Authority must issue a further 121 935 026 of the shares on 1 November 1995.

(4) Of the shares issued under subsection (3), 23 000 000 are cancelled on the commencement of this subsection.

19 Section 9 (Share capital). The subsection refers to New TPA. New TPA's name was changed to Townsville Port Authority under section 12(5).

20 Section 58 (Share capital and issue of shares) of the Act

21 Under the Act, each of Townsville Port Authority's 2 shareholding Ministers holds an equal number of the issued shares (see sections 71 to 74 of the Act).

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 22 March 2002. Future amendments of the Government Owned Corporations (Ports) 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

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	none	2 July 1995
2	to SL No. 294 of 1995	8 November 1995
2A	to SL No. 267 of 1996	6 November 1996
2B	to SL No. 321 of 1997	10 November 1997
3	to SL No. 321 of 1997	6 August 1998
3A	to SL No. 215 of 1999	29 September 1999

5 List of legislation

Government Owned Corporations (Ports) Regulation 1995 SL No. 161

made by the Governor in Council on 8 June 1995
 notfd gaz 8 June 1995 pp 1085–6
 ss 3–8 commenced 8 June 1995 (see s 2(1))
 ss 9–10 commenced 30 June 1995 (see s 2(2))
 ss 11–22 commenced 1 July 1995 (see s 2(3))
 s 23 commenced 2 July 1995 (see s 2(4))
 remaining provisions commenced on date of notification
exp 1 September 2005 (see SIA s 54)

amending legislation—

Government Owned Corporations (Ports) Amendment Regulation (No. 1) 1995 SL No. 294

notfd gaz 27 October 1995 pp 863–4
 commenced on date of notification

Government Owned Corporations (Ports) Amendment Regulation (No. 1) 1996 SL No. 267

notfd gaz 11 October 1996 pp 543–4
 commenced on date of notification

Government Owned Corporations (Ports) Amendment Regulation (No. 2) 1997 SL No. 290

notfd gaz 5 September 1997 pp 63–4
 commenced on date of notification

Government Owned Corporations (Ports) Amendment Regulation (No. 3) 1997 SL No. 321

notfd gaz 3 October 1997 pp 481–2
 commenced on date of notification

**Government Owned Corporations Legislation Amendment Regulation (No. 2) 1999
SL No. 215 pts 1, 3**

notfd gaz 17 September 1999 pp 250–1
commenced on date of notification

**Government Owned Corporations Legislation Amendment Regulation (No. 1) 2002
SL No. 40 pts 1, 3**

notfd gaz 15 March 2002 pp 1033–4
commenced on date of notification

6 List of annotations

Commencement

s 2 om R2 (see RA s 37)

Consideration for transfer of assets to associates

s 21 amd 1996 SL No. 267 s 3

PART 9—AFTER ASSOCIATES ARE DECLARED TO BE GOCs

pt hdg ins 1995 SL No. 294 s 3

Bundaberg Port Authority shares

prov hdg amd 1996 SL No. 267 s 4(1)

s 24 ins 1995 SL No. 294 s 3

amd 1996 SL No. 267 s 4(2); 1997 SL No. 290 s 3

Cairns Port Authority shares

prov hdg amd 1996 SL No. 267 s 5(1)

s 25 ins 1995 SL No. 294 s 3

amd 1996 SL No. 267 s 5(2); 2002 SL No. 40 s 6

Mackay Port Authority shares

prov hdg amd 1996 SL No. 267 s 6(1)

s 26 ins 1995 SL No. 294 s 3

amd 1996 SL No. 267 s 6(2); 1997 SL No. 321 s 3; 1999 SL No. 215 s 5

Rockhampton Port Authority shares

prov hdg amd 1996 SL No. 267 s 7(1)

s 27 ins 1995 SL No. 294 s 3

amd 1996 SL No. 267 s 7(2)

Townsville Port Authority shares

prov hdg amd 1996 SL No. 267 s 8

s 28 ins 1995 SL No. 294 s 3

amd 2002 SL No. 40 s 7