

Queensland



TREASURY LEGISLATION AMENDMENT ACT 1994

Act No. 31 of 1994

Queensland



TREASURY LEGISLATION AMENDMENT ACT 1994

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	6
PART 2—AMENDMENT OF QUEENSLAND TREASURY CORPORATION ACT 1988		
2	Act amended in Pt 2 and Sch 1	6
3	Amendment of s 4 (Interpretation)	6
4	Insertion of new ss 19A–19D	6
	19A Performance dividend	7
	19B Attributed amounts	7
	19C Attributed amounts become debts owing or part of outstanding amount	7
	19D Exemption from payment of attributed amount	8
5	Insertion of new s 41 and Pt 6	9
	41 Regulations about performance dividends and attributed amounts	9
PART 6—TRANSITIONAL		
42	Regulation may prescribe a period commencing on 1 July 1993 ..	9
PART 3—AMENDMENT OF STATUTORY BODIES FINANCIAL ARRANGEMENTS ACT 1982		
6	Act amended in Pt 3 and Sch 2	10
7	Insertion of new s 16A	10
	16A Treasurer may charge for a guarantee under s 16	10
8	Amendment of s 32 (Advance by way of overdraft)	11

**PART 4—AMENDMENT OF OFFSHORE BANKING UNITS AND
REGIONAL HEADQUARTERS ACT 1993**

9	Act amended	11
10	Amendment of s 3 (Definitions)	11
11	Insertion of new s 3A	11
	3A Meaning of “RHQ activity”	11
12	Amendment of s 18 (Land tax concession)	12
13	Replacement of s 19 (Pay-roll tax concession)	12
	19 Pay-roll tax concession	12
14	Amendment of s 21 (Operation of concessions and revenue laws)	12
15	Amendment of s 24 (Regulations)	12

**PART 5—AMENDMENT OF GOVERNMENT OWNED
CORPORATIONS ACT 1993**

16	Act amended in Pt 5 and Sch 3	13
17	Amendment of s 3 (Definitions)	13
18	Amendment of s 5 (Meaning of “government entity”)	14
19	Replacement of s 23 (Government entity must first become a candidate GOC)	14
	23 Government entity must first become a candidate GOC or a candidate GOC associate	14
20	Insertion of new s 24A	14
	24A Meaning of “associate” of candidate GOC	14
21	Insertion of new ss 26A and 26B	14
	26A Nomination of GOC Act entity to become candidate GOC associate	15
	26B Declaration of GOC Act entity to be subsidiary of candidate GOC associate	15
22	Insertion of new s 31A	15
23	Insertion of new s 49A	15
	49A Responsible Ministers may give directions to candidate GOC associate about its functions	15
24	Replacement of s 54 (Transfer of assets, liabilities etc. in certain cases)	16
	54 Candidate GOC associates and subsidiaries of candidate GOC associates	16

54A	Transfer of assets, liabilities etc. to government entity to become GOC or GOC subsidiary	16
54B	Debt owned by State	18
25	Insertion of new ss 57A–57D	18
57A	Interim board of directors and chief executive officer for candidate GOC associate or associate subsidiary	18
57B	Application of certain provisions about directors and executives to candidate GOC associates and associate subsidiaries	19
57C	Assistance to candidate GOC associates and associate subsidiaries	20
57D	Entity must comply with directions	20
26	Replacement of s 58 (Share capital and issue of shares)	20
27	Amendment of s 62 (Regulations may deal with other matters)	21
28	Insertion of new Pt 5A	22
62A	Appointment of statutory GOC’s first chief executive officer	22
62B	Appointment of statutory GOC’s first senior executives	22
29	Insertion of new s 63A	23
63A	Declaration of candidate GOC associate as GOC	23
30	Insertion of new s 94A	23
94A	First board of statutory GOC	24
31	Insertion of new Div 3 in Ch 3, Pt 13	24
	<i>Division 3—GOC may direct subsidiaries</i>	
153A	GOC may direct subsidiary	24
153B	Subsidiaries must comply with directions	25
153C	Division not limiting	25
32	Replacement of s 155 (Liability for Commonwealth tax equivalents)	25
155	Liability for Commonwealth tax equivalents	25
33	Insertion of new ss 188–192	26
188	Transfer of assets, liabilities etc. to GOC or GOC subsidiary	26
189	Regulation about assets and liabilities not dealt with under s 54A	27
190	Debt owned by State	29
191	Regulation about liability	29

192	Regulation dissolving certain government entities	29
34	Amendment of s 188 (Regulations)	30
	SCHEDULE 1	31
	MINOR AMENDMENTS OF QUEENSLAND TREASURY CORPORATION ACT 1988	
	SCHEDULE 2	34
	MINOR AMENDMENTS OF STATUTORY BODIES FINANCIAL ARRANGEMENTS ACT 1982	
	SCHEDULE 3	41
	MINOR AMENDMENTS OF GOVERNMENT OWNED CORPORATIONS ACT 1993	

Queensland



Treasury Legislation Amendment Act 1994

Act No. 31 of 1994

An Act to amend certain Acts administered by the Treasurer

[Assented to 28 June 1994]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Treasury Legislation Amendment Act 1994*.

PART 2—AMENDMENT OF QUEENSLAND TREASURY CORPORATION ACT 1988

Act amended in Pt 2 and Sch 1

2. This Part and Schedule 1 amend the *Queensland Treasury Corporation Act 1988*.

Amendment of s 4 (Interpretation)

3. Section 4—

insert—

“**attributed amount**” has the meaning given in section 19B(2);

“**outstanding amount**” has the meaning given in section 19B(1);

“**performance dividend**” has the meaning given in section 19A(1);’.

Insertion of new ss 19A–19D

4. After section 19—

insert—

‘Performance dividend

‘19A.(1) The Corporation must, from time to time, pay the State an amount (the **“performance dividend”**) based on the benefits provided by the State to statutory bodies and other persons through the Corporation on and from 1 July 1993.

‘(2) The performance dividend is to be calculated, and is payable, under the regulations for periods prescribed by the regulations.

‘(3) The Treasurer may ask the Corporation to provide the Treasurer with information relevant to a performance dividend.

‘(4) The Corporation must comply with a request under subsection (3) within 14 days.

‘Attributed amounts

‘19B.(1) This section applies to a statutory body or other person if an amount is outstanding by the statutory body or other person to the Corporation during a period prescribed under section 19A(2) because of a financial arrangement entered into under section 19(1) (the **“outstanding amount”**).

‘(2) The statutory body or other person must pay the Corporation an amount attributable, under the regulations, to the body or other person (the **“attributed amount”**) because of the financial arrangement.

‘(3) An attributed amount is to be calculated, and is payable, under the regulations for periods prescribed by the regulations.

‘Attributed amounts become debts owing or part of outstanding amount

‘19C.(1) This section applies if a statutory body or other person does not pay to the Corporation an attributed amount for a financial arrangement entered into under section 19(1) when the attributed amount is payable under the regulations.

‘(2) The attributed amount is a debt owing by the statutory body or other person to the Corporation.

‘(3) However, the attributed amount for a financial arrangement is added to the outstanding amount if—

- (a) the outstanding amount is associated with an account of the Corporation prescribed by the regulations; and
- (b) when the attributed amount becomes payable there is an outstanding amount under the financial arrangement.

‘(4) If, under subsection (3), an attributed amount is added to the outstanding amount—

- (a) the attributed amount becomes part of the outstanding amount; and
- (b) there is a new outstanding amount that is subject to the same terms as applied to the previous outstanding amount before the attributed amount was added to it.

‘(5) If subsection (3) does not apply to an attributed amount, interest is payable on the debt at a rate decided by the Treasurer by Gazette notice.

‘(6) The Corporation must notify the statutory body or person about—

- (a) the addition of the attributed amount to the outstanding amount; and
- (b) the amount of the new outstanding amount.

‘(7) An attributed amount is added to an outstanding amount under subsection (3) despite anything contrary in the financial arrangement.

Example—

- Under the financial arrangement that statutory body x has entered into with the Corporation, there is an outstanding amount of \$100 000.
- A term of the arrangement is that interest is payable on the outstanding amount at a variable rate.
- The attributed amount for the arrangement is \$2 000. When the attributed amount is added to the outstanding amount, the new outstanding amount is \$102 000.
- The new outstanding amount of \$102 000 is the amount to which the variable interest rate applies, despite any other term of the financial arrangement.

‘Exemption from payment of attributed amount

‘19D.(1) The Treasurer may exempt a statutory body or other person from the payment of all or part of an attributed amount.

‘(2) If a statutory body or other person is exempted under subsection (1) from the payment of all or part of an attributed amount, the Corporation’s liability for the performance dividend for the period to which the exemption applies is reduced by an amount equal to the amount exempted.’.

Insertion of new s 41 and Pt 6

5. After section 40—

insert—

‘Regulations about performance dividends and attributed amounts

‘41.(1) Without limiting section 40, the Governor in Council may also make regulations under this Act about—

- (a) the performance dividend, including, for example, a formula to calculate the dividend; and
- (b) attributed amounts and amounts that would be attributed amounts if a financial arrangement were entered into by the Corporation under section 19(1).

‘(2) A regulation may authorise any matter about a performance dividend or attributed amount to be applied, calculated or decided by the Corporation.

‘PART 6—TRANSITIONAL

‘Regulation may prescribe a period commencing on 1 July 1993

‘42.(1) A regulation made under section 41 before 31 December 1994 may prescribe a period commencing on 1 July 1993.

‘(2) This Part expires on 31 December 1994.’.

PART 3—AMENDMENT OF STATUTORY BODIES FINANCIAL ARRANGEMENTS ACT 1982

Act amended in Pt 3 and Sch 2

6. This Part and Schedule 2 amend the *Statutory Bodies Financial Arrangements Act 1982*.

Insertion of new s 16A

7. After section 16—

insert—

‘Treasurer may charge for a guarantee under s 16

‘16A.(1) The Treasurer may charge a statutory body for providing a guarantee under section 16, if the guarantee is given other than to the Corporation, by imposing a fee—

- (a) for each prescribed period, or part of a prescribed period, happening during the period of the guarantee; or
- (b) at the end of the guarantee.

‘(2) The amount a statutory body may be charged under subsection (1) for a guarantee must not be more than the attributed amounts for which the statutory body would have been liable if the financial arrangements to which the guarantee relates were entered into with the Corporation under section 19(1) of the *Queensland Treasury Corporation Act 1988*.

‘(3) The Treasurer may ask the Corporation to provide the Treasurer with a certificate about the rate that would have been applied to calculate the attributed amounts mentioned in subsection (2).

‘(4) In this section—

“prescribed period” means a period prescribed by the regulations under the *Queensland Treasury Corporation Act 1988* for calculating the performance dividend as mentioned in section 19A of that Act.’.

Amendment of s 32 (Advance by way of overdraft)

8. Section 32(1), after ‘bank’—

insert—

‘, building society or credit union’.

**PART 4—AMENDMENT OF OFFSHORE BANKING
UNITS AND REGIONAL HEADQUARTERS ACT 1993****Act amended**

9. This Part amends the *Offshore Banking Units and Regional Headquarters Act 1993*.

Amendment of s 3 (Definitions)

10. Section 3, definition “**RHQ activity**”—

omit, insert—

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

Insertion of new s 3A

11. After section 3—

insert—

‘Meaning of “RHQ activity”

‘**3A.(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.’.

Amendment of s 18 (Land tax concession)

12. Section 18(1), ‘for the land’—

omit.

Replacement of s 19 (Pay-roll tax concession)

13. Section 19—

omit, insert

‘Pay-roll tax concession

‘**19.** 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.’.

Amendment of s 21 (Operation of concessions and revenue laws)

14.(1) Section 21(4)—

omit, insert—

‘**(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.’.

(2) Section 21(5), ‘this Part’—

omit, insert—

‘section 20’.

Amendment of s 24 (Regulations)

15. Section 24—

insert—

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

PART 5—AMENDMENT OF GOVERNMENT OWNED CORPORATIONS ACT 1993

Act amended in Pt 5 and Sch 3

16. This Part and Schedule 3 amend the *Government Owned Corporations Act 1993*.

Amendment of s 3 (Definitions)

17.(1) Section 3, definitions “**asset**”, “**responsible Ministers**” and “**subsidiary**”—

omit.

(2) Section 3—

insert—

‘ “**associate**” of a candidate GOC has the meaning given by section 24A;

“**associate subsidiary**” means a GOC Act entity declared by regulation to be a subsidiary of a candidate GOC associate;

“**GOC Act entity**” means an entity established by a regulation under this Act;

“**responsible Ministers**” has the meaning given by—

- (a) for a candidate GOC that is not already a statutory GOC or a part of a statutory GOC—section 31; or
- (b) for a candidate GOC that is already a statutory GOC or a part of a statutory GOC—section 33; or
- (c) for a candidate GOC associate—section 31A;

“**subsidiary**” has the meaning given by the Corporations Law, and includes—

- (a) for a GOC or candidate GOC—a government entity declared by regulation to be a subsidiary of the GOC or candidate GOC; and
- (b) for a candidate GOC associate—a GOC Act entity declared by regulation to be a subsidiary of the associate;’.

Amendment of s 5 (Meaning of “government entity”)

18. Section 5(d)—

omit, insert—

‘(d) a GOC Act entity; or

(e) an entity prescribed by regulation.’.

Replacement of s 23 (Government entity must first become a candidate GOC)

19. Section 23—

omit, insert—

‘Government entity must first become a candidate GOC or a candidate GOC associate

‘**23.(1)** A government entity must become a candidate GOC or a candidate GOC associate before becoming a statutory GOC.

‘**(2)** A government entity must become a candidate GOC before becoming a company GOC.

‘**(3)** A statutory GOC, or part of a statutory GOC, must become, or again become, a candidate GOC before becoming a company GOC.’.

Insertion of new s 24A

20. After section 24—

insert—

‘Meaning of “associate” of candidate GOC

‘**24A.** An “associate” of a candidate GOC is a GOC Act entity nominated under Part 2 to be an associate of the candidate GOC.’.

Insertion of new ss 26A and 26B

21. After section 26—

insert—

‘Nomination of GOC Act entity to become candidate GOC associate

‘**26A.** The Governor in Council may, by regulation, nominate a GOC Act entity to be an associate of a particular candidate GOC.

‘Declaration of GOC Act entity to be subsidiary of candidate GOC associate

‘**26B.** A regulation may declare a GOC Act entity to be a subsidiary of a particular candidate GOC associate.’.

Insertion of new s 31A

22. After section 31—

insert—

‘Responsible Ministers of candidate GOC associate

‘**31A.** The responsible Ministers of a candidate GOC associate are the Ministers who are the responsible Ministers of the associate’s candidate GOC.’.

Insertion of new s 49A

23. Chapter 2, Part 4, after section 49—

insert—

‘Responsible Ministers may give directions to candidate GOC associate about its functions

‘**49A.(1)** The responsible Ministers of a candidate GOC associate may give the associate written directions for the associate and its subsidiaries that appear to them to be necessary or desirable about the performance of the associate’s functions.

‘**(2)** The associate must ensure that a direction given to it under this section is complied with in relation to itself and must, as far as practicable, ensure that it is also complied with in relation to its subsidiaries.’.

Replacement of s 54 (Transfer of assets, liabilities etc. in certain cases)

24. Section 54—

omit, insert—

‘Candidate GOC associates and subsidiaries of candidate GOC associates

‘54.(1) A regulation may provide that, on a specified day, a candidate GOC associate or an associate subsidiary—

- (a) is a body corporate; and
- (b) has the name specified by regulation; and
- (c) has a seal; and
- (d) may sue and be sued in its corporate name; and
- (e) has the functions and powers specified by regulation.

(2) A regulation may make provision with respect to any matter for which it is necessary or convenient to make provision to facilitate the change of the associate or subsidiary from a government entity that is not a body corporate to a body corporate that is to become a GOC or GOC subsidiary.

‘Transfer of assets, liabilities etc. to government entity to become GOC or GOC subsidiary

‘54A.(1) If—

- (a) a government entity is to become a GOC or GOC subsidiary; and
- (b) any of the following subparagraphs applies to the entity—
 - (i) the entity is not a body corporate;
 - (ii) the entity is a part of a body corporate;
 - (iii) the entity is a candidate GOC associate or associate subsidiary;
 - (iv) a regulation declares that this section applies to the entity;

the regulations may make provision with respect to—

- (c) whether, and, if so, the extent to which, the entity is the successor

- in law of a particular person; and
- (d) the assets and liabilities that are, or are not, assets and liabilities of the entity or of someone else; and
 - (e) the consideration for a transfer of assets to the entity, which may include a debt to be owed by the entity to the shareholding Ministers of the GOC that the entity is to become or of which it is to become a subsidiary; and
 - (f) the instruments that are, or are not, to apply to the entity, including whether or not the instruments are taken to be instruments—
 - (i) to which the entity is a party; or
 - (ii) that were given to, by or in favour of the entity; or
 - (iii) in which a reference is made to the entity; or
 - (iv) 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 the entity; and
 - (g) the proceedings to which the entity becomes a party in substitution for someone else; and
 - (h) the existing officers and employees of the entity and their rights; and
 - (i) if the entity is a candidate GOC associate or subsidiary of a candidate GOC associate—the existing officers and employees of the candidate GOC and any subsidiary of the candidate GOC and the officers' and employees' rights.
- ‘(2) Without limiting subsection (1)—
- (a) a regulation under subsection (1)(e) may make provision about—
 - (i) how the consideration is to be decided; and
 - (ii) the changing of the consideration, whether before or after the entity concerned becomes a GOC or subsidiary of a GOC; and
 - (iii) the terms of the debt; and
 - (b) a regulation under subsection (1)(f) may make provision about

whether, and, if so, the extent to which, instruments apply to the entity in substitution for someone else; and

- (c) a regulation under subsection (1)(h) or (i) may provide for the office (including that of chief executive officer or a senior executive) the officer or employee is to hold in the entity when it becomes a GOC or subsidiary of a GOC.

‘(3) A regulation under subsection (1)(h) or (i) has effect despite the following provisions—

- section 57B (Application of certain provisions about directors and executives to candidate GOC associates and associate subsidiaries)
- section 102 (Appointment of chief executive officer)
- section 168 (Appointment of senior executives)
- Schedule 2 (Additional provisions relating to chief executive officer of statutory GOC), clause 1 (Appointment of chief executive officer).

‘(4) A regulation mentioned in subsection (2)(c) has effect despite the Corporations Law.

‘(5) A regulation under this section may be stated to commence on the entity’s becoming a GOC or subsidiary of a GOC or at a later time.

‘Debt owned by State

‘54B. A debt mentioned in section 54A(1)(e) is owned by the State and held by the shareholding Ministers for the State.’.

Insertion of new ss 57A–57D

25. After section 57—

insert—

‘Interim board of directors and chief executive officer for candidate GOC associate or associate subsidiary

‘57A. A regulation may provide—

- (a) that a candidate GOC associate or associate subsidiary is to have an interim board of directors and chief executive officer; and
- (b) for the role of the interim board of directors.

‘Application of certain provisions about directors and executives to candidate GOC associates and associate subsidiaries

‘**57B.(1)** Sections 98 to 100 apply to a candidate GOC associate or associate subsidiary, with all necessary changes and any changes prescribed by regulation, as if it were a statutory GOC.

‘**(2)** Section 168 applies to a candidate GOC associate or associate subsidiary, with all necessary changes and any changes prescribed by regulation, as if it were a GOC and its interim board of directors were its board of directors.

‘**(3)** Schedule 1 applies to a candidate GOC associate or associate subsidiary, with all necessary changes and any changes prescribed by regulation, as if it were a statutory GOC and its interim board of directors were its board of directors.

‘**(4)** Schedule 2 applies to a candidate GOC associate, with all necessary changes and any changes prescribed by regulation, as if it were a statutory GOC and its interim board of directors were its board of directors.

‘**(5)** Schedule 2 applies to an associate subsidiary, with all necessary changes, and any changes prescribed by regulation and the change set out in subsection (6), as if it were a statutory GOC and its interim board of directors were its board of directors.

‘**(6)** For an associate subsidiary, Schedule 2, clause 1 (Appointment of chief executive officer) is changed as follows—

‘Appointment of associate subsidiary’s chief executive officer

‘**1.(1)** An associate subsidiary’s chief executive officer is to be appointed by the Governor in Council on the recommendation of its interim board of directors.

‘**(2)** However, before the interim board of directors makes the recommendation, it must consult with the interim board of directors of its parent corporation.

‘**(3)** In this clause—

“parent corporation” of an associate subsidiary means the candidate GOC associate of which the associate subsidiary is a subsidiary.

‘Assistance to candidate GOC associates and associate subsidiaries

‘57C.(1) The responsible Ministers of a candidate GOC may direct the entities mentioned in subsection (2) to assist an associate, or a subsidiary of an associate, of the candidate GOC.

‘(2) The entities are—

- (a) the chief executive of a government entity of which the candidate GOC, or a subsidiary of the candidate GOC, is part; and
- (b) the candidate GOC or a subsidiary of the candidate GOC.

‘(3) Without limiting by implication the matters about which directions may be given under subsection (1), a candidate GOC associate or its subsidiary may arrange with the chief executive of a department, or with the candidate GOC or its subsidiaries, for the services of officers and employees of the department, candidate GOC or subsidiaries to be made available to it.

‘Entity must comply with directions

‘57D. An entity must comply with a direction given to it under section 57C.’.

Replacement of s 58 (Share capital and issue of shares)

26. Section 58—

omit, insert—

‘Share capital and issue of shares

‘58.(1) If a candidate GOC does not have a share capital, a regulation may provide that, on a specified day, the candidate GOC is taken to have a share capital of a specified amount.

‘(2) Before becoming a GOC, the candidate GOC must apply the part of its capital that the responsible Ministers direct in paying up, in full, shares in itself.

‘(3) As soon as practicable after complying with subsection (2), the candidate GOC must issue the shares paid up under the subsection.

‘(4) If a candidate GOC does not have a board of directors (including an

interim board of directors), the responsible Ministers may apply the part of the capital and issue the shares on the candidate GOC's behalf.

‘(5) Chapter 3, Part 3 applies to the candidate GOC—

- (a) if it is to become a statutory GOC—as if it were a statutory GOC; and
- (b) if it is to become a company GOC—as if it were a company GOC.

‘(6) Subsections (1) to (4) apply to a government entity (the “**intended subsidiary**”) that is to become a GOC subsidiary as if—

- (a) the intended subsidiary were a candidate GOC; and
- (b) the responsible Ministers of the government entity of which it is to become a subsidiary were also its responsible Ministers.

‘(7) The shareholding Ministers may, by written notice to the intended subsidiary, give directions about the issue, holding and transfer of shares paid up under subsection (2).

‘(8) The intended subsidiary must ensure that the directions are complied with.

‘(9) In subsections (1) to (4)—

“**candidate GOC**” includes a candidate GOC associate.’.

Amendment of s 62 (Regulations may deal with other matters)

27. Section 62—

insert—

‘(3) Also, a regulation may change the name of—

- (a) a candidate GOC, or a subsidiary or proposed subsidiary of a candidate GOC, if the entity or proposed entity is not registered as a corporation under the Corporations Law; or
- (b) a candidate GOC associate; or
- (c) an associate subsidiary.

‘(4) A regulation under subsection (3)—

- (a) does not affect the legal personality of the entity whose name is changed; and
- (b) is effective even if the name being changed was given to the entity under another Act.

‘(5) Unless a contrary intention appears, a reference in an Act or document to the entity by its former name is taken to be a reference to the entity by its new name.’.

Insertion of new Pt 5A

28. Chapter 2, after Part 5—

insert—

‘PART 5A—FIRST CHIEF EXECUTIVE OFFICERS AND SENIOR EXECUTIVES OF STATUTORY GOCs

‘Appointment of statutory GOC’s first chief executive officer

‘**62A.(1)** This section applies if the responsible Ministers of a candidate GOC that is to become a statutory GOC authorise its board of directors to act under this section.

‘(2) For the appointment of the first chief executive officer of the statutory GOC, the Governor in Council may act under Schedule 2, clause 1 before the commencement of a regulation declaring the candidate GOC to be a GOC.

‘(3) For the purpose of acting under the clause, a reference in the clause to the GOC’s board is taken to be a reference to the candidate GOC’s board of directors.

‘(4) In this section—

“**board of directors**” of a candidate GOC includes an interim board of directors of the candidate GOC.

‘Appointment of statutory GOC’s first senior executives

‘**62B.(1)** This section applies if the responsible Ministers of a candidate GOC that is to become a statutory GOC authorise its board of directors to

act under this section.

‘(2) For the appointment of the first senior executives of the statutory GOC, the Governor in Council may act under section 168 (Appointment of senior executives) before the commencement of a regulation declaring the candidate GOC to be a GOC.

‘(3) For the purpose of acting under the section, a reference in the section to the GOC’s board is taken to be a reference to the candidate GOC’s board of directors.

‘(4) In this section—

“**board of directors**” of a candidate GOC includes an interim board of directors of the candidate GOC.’.

Insertion of new s 63A

29. After section 63—

insert—

‘Declaration of candidate GOC associate as GOC

‘**63A.(1)** This section applies if a regulation under section 54A (Transfer of assets, liabilities etc. to government entity to become GOC or GOC subsidiary) makes provision for the transfer of assets and liabilities from a candidate GOC to its associate.

‘(2) The Governor in Council may, by regulation, declare that the associate is a GOC if satisfied that—

- (a) any corporatisation charter of the candidate GOC has been sufficiently implemented or the candidate GOC would, apart from the regulation under section 54A, be otherwise ready to become a GOC; and
- (b) the associate complies with, or on becoming a GOC will comply with, section 65 (Statutory GOC must be body corporate etc.).’.

Insertion of new s 94A

30. Chapter 3, Part 5, Division 1—

insert—

‘First board of statutory GOC

‘94A.(1) This section applies to a government entity that is to become a statutory GOC if the government entity is a candidate GOC or candidate GOC associate.

‘(2) For the appointment of the first board of the statutory GOC, the Governor in Council may act under Schedule 1, clauses 1 and 2 before the commencement of a regulation declaring the candidate GOC, or the candidate GOC associate, to be a GOC.

‘(3) The appointment takes effect when the regulation commences.’.

Insertion of new Div 3 in Ch 3, Pt 13

31. Chapter 3, Part 13—

insert—

‘Division 3—GOC may direct subsidiaries**‘GOC may direct subsidiary**

‘153A.(1) A GOC may give written directions to a subsidiary of the GOC—

- (a) to ensure that the subsidiary complies with, and gives effect to the purposes of, this Act; and
- (b) about the payment of amounts to allow the GOC to make payments under sections 159 (Payment of dividends) and 160 (Interim dividends).

‘(2) A regulation may provide for a GOC to give directions to a subsidiary about anything else.

‘(3) In this section—

“subsidiary” does not include a subsidiary registered as a corporation under the Corporations Law.

‘Subsidiaries must comply with directions

‘153B. A subsidiary must comply with a direction given to it under section 153A.

‘Division not limiting

‘153C. This Division does not, by implication, limit the powers that a GOC otherwise has to direct a subsidiary.’.

Replacement of s 155 (Liability for Commonwealth tax equivalents)

32. Section 155—

omit, insert—

‘Liability for Commonwealth tax equivalents

‘155.(1) The Treasurer may issue a manual (the **“tax equivalents manual”**) about deciding the amounts (**“tax equivalents”**) to be paid by a GOC to its GOC Minister for payment into the Consolidated Fund as the value of benefits derived by the GOC because it is not liable to pay Commonwealth tax that would be payable by it if it were neither a GOC nor a government entity.

‘(2) Without limiting subsection (1), the tax equivalents manual may provide for—

- (a) rulings by the tax assessor appointed under subsection (3) on issues about tax equivalents, including the application of rulings under a Commonwealth Act about Commonwealth tax; and
- (b) the lodging of returns by GOCs; and
- (c) assessing returns; and
- (d) the functions and powers of the tax assessor appointed under subsection (3); and
- (e) objections and appeals against assessments and rulings.

‘(3) The Treasurer may appoint a person to be the tax assessor under the tax equivalents manual.

‘(4) A GOC must, as required under the tax equivalents manual, pay tax

equivalents to the GOC Minister for payment into the Consolidated Fund.

‘(5) The Treasurer must table a copy of the tax equivalents manual, and each amendment of the manual, in the Legislative Assembly within 14 sitting days after the manual is issued or the amendment made.

‘(6) For applying this section to a subsidiary of a GOC, the GOC Minister of the GOC is taken to be the GOC Minister of the subsidiary.

‘(7) In this section—
“GOC” includes a subsidiary of the GOC.’.

Insertion of new ss 188–192

33. After section 187—

insert—

‘Transfer of assets, liabilities etc. to GOC or GOC subsidiary

‘**188.(1)** A regulation may make provision about a GOC or GOC subsidiary with respect to—

- (a) whether, and, if so, the extent to which, the GOC or subsidiary is the successor in law of a GOC or GOC subsidiary (the “**other GOC or subsidiary**”); and
- (b) the assets and liabilities that are, or are not, assets and liabilities of the GOC or subsidiary or of someone else; and
- (c) the consideration for a transfer of assets to the GOC or subsidiary, which may include—
 - (i) for the GOC—a debt to be owed by the GOC to its shareholding Ministers; or
 - (ii) for the subsidiary—a debt to be owed by the subsidiary to its GOC’s shareholding Ministers; and
- (d) the instruments that are, or are not, to apply to the GOC or subsidiary, including whether or not the instruments are taken to be instruments—
 - (i) to which the GOC or subsidiary is a party; or
 - (ii) that were given to, by or in favour of the GOC or subsidiary;

or

- (iii) in which a reference is made to the GOC or subsidiary; or
- (iv) 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 the GOC or subsidiary; and
- (e) the proceedings to which the GOC or subsidiary becomes a party in substitution for the other GOC or subsidiary or for someone else; and
- (f) the existing officers and employees of the other GOC or subsidiary and their rights.

‘(2) Without limiting subsection (1)—

- (a) a regulation under subsection (1)(c) may make provision about—
 - (i) how the consideration is to be decided; and
 - (ii) the changing of the consideration; and
 - (iii) the terms of the debt; and
- (b) a regulation under subsection (1)(d) may make provision about whether, and, if so, the extent to which, instruments apply to the GOC or subsidiary or the other GOC or subsidiary.

‘Regulation about assets and liabilities not dealt with under s 54A

‘189.(1) To the extent that anything about a candidate GOC or subsidiary of a candidate GOC could have been dealt with under section 54A (Transfer of assets, liabilities etc. to government entity to become GOC or GOC subsidiary) but was not dealt with under the section through inadvertence or otherwise, the thing may be dealt with under this section.

‘(2) For the purpose of dealing with the thing, a regulation may make provision with respect to—

- (a) whether and, if so, the extent to which a GOC or GOC subsidiary is the successor in law of the candidate GOC or candidate GOC subsidiary; and
- (b) the assets and liabilities that are, or are not, assets and liabilities of the GOC or subsidiary or of someone else; and

- (c) the consideration for a transfer of assets to the GOC or subsidiary, which may include—
 - (i) for the GOC—a debt to be owed by the GOC to its shareholding Ministers; or
 - (ii) for the subsidiary—a debt to be owed by the subsidiary to its GOC’s shareholding Ministers; and
- (d) the instruments that are, or are not, to apply to the GOC or subsidiary, including whether or not the instruments are taken to be instruments—
 - (i) to which the GOC or subsidiary is a party; or
 - (ii) that were given to, by or in favour of the GOC or subsidiary; or
 - (iii) in which a reference is made to the GOC or subsidiary; or
 - (iv) 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 the GOC or subsidiary; and
- (e) the proceedings to which the GOC or subsidiary becomes a party in substitution for the candidate GOC or candidate GOC subsidiary or for someone else.

‘(3) Without limiting subsection (2)—

- (a) a regulation under subsection (2)(c) may make provision about—
 - (i) how the consideration is to be decided; and
 - (ii) the changing of the consideration; and
 - (iii) the terms of the debt; and
- (b) a regulation under subsection (2)(d) may make provision about whether, and if so, the extent to which, instruments apply to the GOC or subsidiary in substitution for the candidate GOC or candidate GOC subsidiary or for someone else.

‘(4) In this section—

“**candidate GOC**” includes a government entity, including an entity that has ceased to exist, of which the candidate GOC formed part;

“**subsidiary**” of a candidate GOC includes a government entity, including an entity that has ceased to exist, of which the subsidiary formed part.

‘Debt owned by State

‘**190.** A debt mentioned in section 188(1)(c) (Transfer of assets, liabilities etc. to GOC or GOC subsidiary) or 189(2)(c) (Regulation about assets and liabilities not dealt with under s 54A) is owned by the State and held by the shareholding Ministers for the State.

‘Regulation about liability

‘**191.(1)** This section applies if—

- (a) a government entity affected by the operation of this Act may have incurred a liability; and
- (b) the liability may no longer exist because the government entity has ceased to exist.

‘**(2)** A regulation may allocate the liability to a GOC or GOC subsidiary for the purpose of enabling a person to bring a proceeding to enforce the liability against the GOC or subsidiary.

‘Regulation dissolving certain government entities

‘**192.(1)** This section applies if all the assets and liabilities of a government entity (the “**first entity**”) have become the assets and liabilities of another government entity or have been otherwise disposed of by the first entity.

‘**(2)** A regulation may dissolve the first entity and make provision with respect to any matter for which it is necessary or convenient to make provision about the first entity’s dissolution and the preparation of its final accounts.

‘**(3)** Without limiting subsection (2), the regulation may make provision about—

- (a) access to information and documents for preparing final accounts; and

(b) the entity who is to prepare the accounts.

‘(4) A regulation under this section is effective even if the first entity is established under another Act.

‘(5) This section does not apply if the first entity is a government company or company GOC.’.

Amendment of s 188 (Regulations)

34.(1) Section 188—

insert—

‘(2) Regulations under this Act—

- (a) about a government entity’s functions or powers may express them by reference to the requirements or directions of another entity; and
- (b) about a government entity’s assets or liabilities (including the consideration for them) may identify, or otherwise provide for, them by reference to a document held, or to be held, by an entity; and
- (c) about a government entity’s employees and officers may identify them, and things about them, by reference to a document held by an entity.

‘(3) A document mentioned in subsection (2)(b) need not exist when the regulations are made.

‘(4) A regulation making power in this Act does not by implication limit section 26 (Statutory instrument may authorise determination etc. by specified person etc.) of the *Statutory Instruments Act 1992*.’.

(2) Section 188—

renumber as section 193.

SCHEDULE 1**MINOR AMENDMENTS OF QUEENSLAND
TREASURY CORPORATION ACT 1988**

section 2

1. Section 4, heading—*omit, insert—***‘Definitions’.****2. Section 4, definition “the Treasurer”—***omit.***3. Section 12, ‘Treasury Department’—***omit, insert—***‘department’.****4. Section 14—***omit, insert—***‘Delegation**

‘14.(1) The Corporation may delegate its powers, including this power of delegation, to—

- (a) an advisory board, or a member of an advisory board, mentioned in section 10; or
- (b) an officer or employee of the Corporation; or
- (c) an officer or employee of the department who is assigned under section 12; or
- (d) an officer or employee of a statutory body who is assigned under

 SCHEDULE 1 (continued)

section 13.

‘(2) If the Corporation enters into financial or other arrangements under this Act, it may delegate its powers for and incidental to the financial or other arrangements to anyone.

‘(3) A delegation under subsection (2) may state that, to the extent stated, the delegation is irrevocable despite any Act or rule of law.

‘(4) A delegation under this section may state—

- (a) that the Corporation will not exercise the delegated powers while the delegation is in force; and
- (b) that the Corporation will not supervise the delegate in the delegate’s carrying out the delegation.

‘(5) For applying section 27A of the *Acts Interpretation Act 1954* to a delegation under subsection (2), “power” has the same meaning in the section as it has in the subsection.

‘(6) In subsection (2)—

“powers” includes rights, exemptions and remedies.’.

5. Section 23(6), ‘Order in Council’—

omit, insert—

‘regulation’.

6. Section 38, ‘on the recommendation of the Treasurer’—

omit.

7. After section 39—

insert—

‘Orders in council not subordinate legislation

‘39A. An order in council made under this Act is not subordinate legislation.’.

SCHEDULE 1 (continued)

8. Section 40(1), ‘The Governor in Council’ to ‘with respect to—’—

omit, insert—

‘40.(1) The Governor in Council may make regulations under this Act.

‘(1A) A regulation may make provision with respect to—’.

9. Section 40(1), ‘or any of these matters’—

omit.

10. Section 40(2), ‘Without limiting’ to ‘subsection (1)’—

omit, insert—

‘Also’.

11. Section 40(3)—

omit, insert—

‘(3) A regulation may apply to the Corporation, affiliates and other parties to financial arrangements or investments.’.

SCHEDULE 2**MINOR AMENDMENTS OF STATUTORY BODIES
FINANCIAL ARRANGEMENTS ACT 1982**

section 6

1. Section 3, heading—*omit, insert—***‘Definitions’.****2. Section 3, definition “the Treasurer”—***omit.***3. Section 3, definition “statutory body”, paragraph (a)(iii)(B)—***omit, insert—*

‘(B) a regulation under this Act states that it is necessary or convenient for it to enter into any financial arrangements with the Treasurer, the Corporation or anyone else;’.

4. Section 15—*omit.***5. Section 20(1)(a), ‘notification in the Gazette’—***omit, insert—***‘Gazette notice’.**

SCHEDULE 2 (continued)

6. Section 20(1)(a), ‘Treasury Department’—*omit, insert—*

‘department’.

7. Section 20(1)(a), ‘such notification’—*omit, insert—*

‘the notice’.

8. Section 20(1)(a), ‘the notification’—*omit, insert—*

‘the notice’.

9. Section 20(1)(b), ‘notified by the Treasurer in the Gazette’—*omit, insert—*

‘declared by regulation’.

10. Section 26(2)—*omit.***11. Section 27(1), ‘on the recommendation of the Treasurer’—***omit.***12. Section 32(3)(a), ‘a statutory body specified in the order’—***omit, insert—*

‘a specified statutory body’.

SCHEDULE 2 (continued)

13. Section 34—

omit, insert—

‘Delegation of powers

‘**34.(1)** If a statutory body enters into financial arrangements under this Act, it may delegate its powers under this or another Act to anyone, whether or not the powers relate to the financial arrangements.

‘**(2)** A statutory body may delegate a power under subsection (1) only with the approval of the Governor in Council.

‘**(3)** A delegation may state that, to the extent stated, the delegation is irrevocable despite any Act or rule of law.

‘**(4)** For applying section 27A of the *Acts Interpretation Act 1954* to a delegation under this section, the word power has the same meaning in that section 27A as it has in this section.

‘**(5)** In this section—

“**powers**” includes rights, exemptions and remedies.’.

14. Section 35(3C), ‘order in council’—

omit, insert—

‘regulation’.

15. Section 36, ‘order in council’—

omit, insert—

‘regulation’.

16. Section 37, ‘on the recommendation of the Minister responsible for such statutory body’—

omit.

SCHEDULE 2 (continued)

17. Section 38, ‘on the recommendation of the Treasurer’—

omit.

18. Section 44(1), ‘or any of these matters’—

omit.

19. Section 44(2), ‘Without limiting’ to ‘subsection (1)’—

omit, insert—

‘Also’.

20. Section 44(3)—

omit, insert—

‘(3) A regulation may apply to statutory bodies, affiliates and other parties to financial arrangements.’.

21. Section 47(3)—

omit, insert—

‘(3) The Governor in Council may, by regulation made for statutory bodies other than the Corporation—

- (a) declare that all or any of the provisions of this Part (other than the provisions specified in subsection (2)) apply—
 - (i) for specified statutory bodies; and
 - (ii) for specified financial arrangements; and
 - (iii) for a specific time or without limit of time; and
- (b) prescribe the terms on which declared provisions apply.’.

SCHEDULE 2 (continued)

22. Section 47(4), ‘Where an’ to ‘this section’—*omit, insert—*

‘If a regulation is made under this section’.

23. Section 47(4), ‘the order’—*omit, insert—*

‘the regulation’.

24. Section 47(5), ‘ an order in council made pursuant to’—*omit, insert—*

‘a regulation under’.

25. Section 48(1)(d), ‘recommended by the Treasurer and’—*omit.***26. Section 50(3)—***omit, insert—*

‘(3) The Governor in Council may, by regulation made for statutory bodies other than the Corporation—

- (a) declare that all or any of the provisions of this Part (other than the provisions specified in subsection (2)) apply—
 - (i) for specified statutory bodies; and
 - (ii) for specified securities, investments or other financial arrangements; and
 - (iii) for a specific time or without limit of time; and
- (b) prescribe the terms on which declared provisions apply.’.

SCHEDULE 2 (continued)

27. Section 50(4), ‘Where an’ to ‘this section’—*omit, insert—*

‘If a regulation is made under this section’.

28. Section 50(4), ‘the order’—*omit, insert—*

‘the regulation’.

29. Section 50(5), ‘ an order in council made pursuant to’—*omit, insert—*

‘a regulation under’.

30. Section 51, heading—*omit, insert—***‘Regulations about the investment of certain moneys’.****31. Section 51(2)—***omit.***32. Section 52—***omit, insert—***‘PART 6—MISCELLANEOUS****‘Orders in council not subordinate legislation****‘52. An order in council under this Act is not subordinate legislation.**

SCHEDULE 2 (continued)

‘Regulations

‘53. The Governor in Council may make regulations under this Act.’.

SCHEDULE 3**MINOR AMENDMENTS OF GOVERNMENT OWNED
CORPORATIONS ACT 1993**

section 16

1. Section 14, ‘any necessary’—*omit, insert—*

‘all necessary’.

2. Section 19(d), 2nd dot point, ‘and’—*omit, insert—*

‘,’.

3. Section 25—*omit, insert—***‘Meaning of certain expressions about government entities**

‘**25.(1)** A government entity is taken to be a government entity that is to become a GOC if it is a candidate GOC or a candidate GOC associate.

‘**(2)** A government entity is taken to be a government entity that is to become a statutory GOC if a regulation has declared that it is to become a statutory GOC.

‘**(3)** A government entity is taken to be a government entity that is to become a company GOC if a regulation has declared that it is to become a company GOC.

‘**(4)** A government entity is taken to be a government entity that is to become a GOC subsidiary if it is a subsidiary or proposed subsidiary of a candidate GOC or a subsidiary of a candidate GOC associate.’

SCHEDULE 3 (continued)

4. Chapter 2, Pt 2, heading—*omit, insert—***‘PART 2—NOMINATION AND DECLARATION OF ENTITIES’.****5. Section 26(3), ‘any necessary’—***omit, insert—*

‘all necessary’.

6. Section 32, after subsection (1)—*insert—*

‘(2) The responsible Ministers of a candidate GOC associate are not to be treated as directors of the associate or any subsidiary of the associate.’.

7. Section 32(2), ‘a subsidiary of a GOC’—*omit, insert—*

‘GOC subsidiary’.

8. Section 32(3), ‘(2)’—*omit, insert—*

‘(3)’.

9. Section 32(2), (3) and (4)—*renumber* as section 32(3), (4) and (5).**10. Section 35(2)(d), ‘a timetable for’—***omit.*

SCHEDULE 3 (continued)

11. Section 50(a), after ‘candidate GOC’—*insert—*

‘, or a candidate GOC associate.’

12. Sections 50–53 and 55, ‘subsidiary of a GOC’—*omit, insert—*

‘GOC subsidiary’.

13. Section 57, heading, at the end—*insert—*

‘for entity to become GOC or GOC subsidiary’.

14. Section 57(1), ‘subsidiary of a GOC’—*omit, insert—*

‘GOC subsidiary’.

15. Section 57(3), ‘any necessary’—*omit, insert—*

‘all necessary’.

16. Section 59(3)—*omit, insert—*

‘(3) In this section—

“candidate GOC” includes—

- (a) a candidate GOC associate; and
- (b) a government entity that is to become a GOC subsidiary.’.

SCHEDULE 3 (continued)

17. Section 60(3), ‘subsidiary of a GOC’—*omit, insert—*

‘GOC subsidiary’.

18. Section 62(2), ‘or a proposed subsidiary of a GOC or candidate GOC, with any’—*omit, insert—*

‘, a proposed subsidiary of a GOC or candidate GOC, or a candidate GOC associate, or an associate subsidiary, with all’.

19. Section 62(2)—*insert—*

(e) a candidate GOC associate; or

(f) an associate subsidiary.’.

20. Chapter 2, Pt 6, heading—*omit, insert—***‘PART 6—CANDIDATE GOCs AND CANDIDATE
GOC ASSOCIATES BECOMING GOCs’.****21. Section 83, ‘subsidiary of a GOC’—***omit, insert—*

‘GOC subsidiary’.

22. Section 87, heading, ‘subsidiary of statutory GOC’—*omit, insert—*

‘statutory GOC subsidiary’.

SCHEDULE 3 (continued)

23. Section 87, ‘subsidiary of a statutory GOC’—*omit, insert—*

‘statutory GOC subsidiary’.

24. Section 90(2), ‘subsidiary of a company GOC’—*omit, insert—*

‘company GOC subsidiary’.

25. Section 146, heading, ‘subsidiaries of GOCs’—*omit, insert—*

‘GOC subsidiaries’.

26. Section 146(1), ‘subsidiary of a GOC’—*omit, insert—*

‘GOC subsidiary’.

27. Sections 154 and 162–164, ‘subsidiary of a GOC’—*omit, insert—*

‘GOC subsidiary’.

28. Section 174—*insert—*

‘(2) For accruing leave entitlements that have not accrued when a person mentioned in subsection (1)(a) and (b) becomes employed by the GOC, the person’s employment mentioned in subsection (3) is taken to be employment by the GOC.

‘(3) For subsection (2), the person’s employment is—

SCHEDULE 3 (continued)

- (a) employment by the government entity; and
- (b) employment by another entity that under a law is taken to be employment of the person by the government entity.’.

29. Section 177, heading, ‘subsidiaries of GOCs’—

omit, insert—

‘GOC subsidiaries’.

30. Section 177, ‘subsidiary of a GOC, with any’—

omit, insert—

‘GOC subsidiary, with all’.