

Queensland



# OFFSHORE BANKING UNITS AND REGIONAL HEADQUARTERS BILL 1993

**ISSUE TO MEMBERS ETC.  
and supply stock.**

*Michie Connel*

*Deputy Clerk of the Parliament (Procedure)*

10.11.93

# Queensland



## OFFSHORE BANKING UNITS AND REGIONAL HEADQUARTERS BILL 1993

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**A BILL**

**FOR**

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

*Introduced on leave, 10 November 1993: Hon K. DeLacy*

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The Parliament of Queensland enacts—

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## PART 1—PRELIMINARY

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### Short title

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*Clause* 1. This Act may be cited as the *Offshore Banking Units and Regional Headquarters Act 1993*.

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5

### Commencement

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*Clause* 2. This Act commences on a day to be fixed by proclamation.

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### Definitions

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*Clause* 3. In this Act—

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

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

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12

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

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

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15

“**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;

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

19

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

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

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

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

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- “revenue law”** means— 1
- (a) the *Debits Tax Act 1990*; or 2
  - (b) the *Land Tax Act 1915*; or 3
  - (c) the *Pay-roll Tax Act 1971*; or 4
  - (d) the *Stamp Act 1894*; 5
- “RHQ”** means an entity that is part of a multinational corporate group and provides services to other parts of the group; 6
- “RHQ activity”** means activity undertaken by a QRHQ that is part of a multinational corporate group to provide services to other parts of the group that are outside Australia; 7
- “tax”** includes duty payable under a revenue law; 8
- “transaction”** includes— 9
- (a) an instrument relating to a transaction or arrangement; or 10
  - (b) a transaction or arrangement for which there is no instrument. 11

**Words and phrases used in Part 3 that have meaning in revenue law** 12

- Clause* 4. A word or phrase in Part 3 that is not defined in this Act has the meaning given under the revenue law concerned. 13

**PART 2—ADMINISTRATION** 14

**Who may apply for licence** 15

- Clause* 5. An OBU or RHQ that satisfies the criteria prescribed by regulation may apply for a QOBU or QRHQ licence. 16

**Application for licence** 17

- Clause* 6. An application for a licence must— 18

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|--|--------|
| (a) be made to the Minister; and   | 1      |
| (b) include, or be accompanied by, the particulars prescribed by regulation. | 2<br>3 |

**Basic criteria for licence** 4

*Clause* **7.(1)** In deciding an application, the Minister must have regard to the following matters— 5  
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- |   |                      |
|---|----------------------|
| (a) if the applicant is an individual—whether the applicant is of good repute, having regard to character, honesty and integrity;   | 7<br>8               |
| (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; | 9<br>10<br>11<br>12  |
| (c) whether the applicant has a sound and stable financial background;  | 13<br>14             |
| (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—                         | 15<br>16<br>17<br>18 |
| (i) an individual who is not of good repute having regard to character, honesty and integrity; or   | 19<br>20             |
| (ii) an entity that, in the Minister’s opinion, has undesirable or unsatisfactory financial sources;  | 21<br>22             |
| (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.   | 23<br>24<br>25       |

(2) Subsection (1) does not require the Minister to investigate an applicant. 26  
27

**Minister must consider and decide application** 28

*Clause* **8.(1)** The Minister must consider each application for a licence and may grant or refuse the application. 29  
30

(2) The Minister must— 1

(a) give the applicant written notice of the decision; and 2

(b) if the Minister refuses an application—give the applicant written 3  
reasons for the decision. 4

(3) The Minister may issue a licence only if the Minister is satisfied that 5  
the issuing of the licence is likely to give an economic benefit to 6  
Queensland. 7

(4) If the Minister grants an application, the Minister must issue to the 8  
applicant a— 9

(a) QOBU licence; or 10

(b) QRHQ licence. 11

(5) The licence must be in a form approved by the Minister. 12

### **Notice of issuing of licence** 13

*Clause* 9.(1) The Minister must notify the issue of the licence by Gazette notice. 14

(2) The licence becomes effective only when the notice is notified. 15

### **Register of licences** 16

10.(1) The chief executive of the department must keep a register of 17  
licences. 18

(2) The register must be available in the department in Brisbane for 19  
inspection by the public during normal office hours. 20

(3) A person may inspect the register without fee. 21

### **Duration of licence** 22

*Clause* 11. A licence remains in force until it is cancelled or surrendered. 23

### **Notice of change of circumstances** 24

12.(1) If a licensee ceases to satisfy the criteria or matters mentioned in 25



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. 1  
2  
3

(2) The notice must give full details of the way in which the licensee has ceased to satisfy the qualifying factors. 4  
5

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. 6  
7  
8

### **Surrender of licence** 9

13.(1) A licensee may surrender a licence by returning it to the Minister. 10

(2) The surrender takes effect when the Minister notifies the surrender by Gazette notice. 11  
12

### **Cancellation of licence** 13

14.(1) The Minister may cancel a licence by Gazette notice if— 14

(a) the licensee ceases to satisfy the qualifying factors; or 15

(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 16  
17  
18

(c) the licensee contravenes any of the following sections— 19

(i) section 12 (Notice of change of circumstances); 20

(ii) section 15 (Returns); 21

(iii) section 16 (Information may be required about entries). 22

(2) If a QOBUE ceases to be an OBU, its QOBUE licence is taken to be cancelled on the day notice of the cancellation of its OBU status is given in the Commonwealth Gazette. 23  
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### **Returns** 26

15.(1) Each licensee must file a return with the Minister for each 27

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- financial year. 1
- (2) A return for a financial year must be filed before 31 July in the next financial year. 2  
3
- (3) The Minister may, by written notice given to a licensee, require the licensee to file additional returns with the Minister. 4  
5
- (4) The notice must specify the time by which the additional returns must be filed. 6  
7
- (5) The time specified must be a reasonable time. 8
- (6) The licensee must comply with the notice. 9
- (7) Returns under this section must contain the information and be in the form required by the Minister. 10  
11

**Information may be required about entries** 12

- 16.(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. 13  
14
- (2) The notice must specify the time by which the information must be given. 15  
16
- (3) The time specified must be a reasonable time. 17
- (4) The licensee must comply with the notice. 18

**PART 3—TAX CONCESSIONS** 19

**Debits tax concession** 20

- 17.(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. 21  
22  
23  
24
- (2) The account must be kept with a financial institution in the name of the QOBU or QRHQ. 25  
26

### **Land tax concession**

**18.(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 for the land 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.

### **Pay-roll tax concession**

**19.** Tax under the *Pay-roll Tax Act 1971* is payable only to the extent, and on the conditions, prescribed by regulation for wages paid or payable to persons employed by a QOBU or QRHQ and engaged in the performance of its OBU or RHQ activities.

### **Stamp duty concessions**

**20.(1)** A transaction entered into by a QOBU or QRHQ for its OBU or RHQ activities is only liable for duty under the *Stamp Act 1894* 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 conveyance or transfer of real property in Queensland (and moveable chattels taken to be included in the transaction to which the conveyance or transfer relates);
- (b) a relevant acquisition, within the meaning of section 56FM of the *Stamp Act 1894*;
- (c) a conveyance or transfer of shares or a right in respect of shares;
- (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.

## **Operation of concessions and revenue laws**

**21.(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 17, 18, 19 or 20 has not been satisfied, the concessions under this Part are taken to have never applied.

**(5)** A concession under this Part 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**

### **Recovery of unpaid taxes**

**22.(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

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(b) if section 21(4) applies—if the concession had never applied.	1
(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.	2 3 4
<b>Review of Act</b>	5
23.(1) The Minister must review this Act 5 years after it commences.	6
(2) The review must have regard to—	7
(a) the effectiveness of the concessions given to QOBUs and QRHQs; and	8 9
(b) the need for the continuation of the concessions; and	10
(c) matters the Minister considers relevant to the operation and effectiveness of the Act.	11 12
<b>Regulations</b>	13
24. The Governor in Council may make regulations for the purposes of this Act.	14 15
<b>Expiry of this Act</b>	16
25. This Act expires on 31 December 2003.	17