



Queensland

Government Owned Corporations Act 1993

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Reprint No. 9B

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Also see endnotes for information about—

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Queensland

Government Owned Corporations Act 1993

Contents

		Page
Chapter 1	Preliminary	
Part 1	Introduction	
1	Short title	15
Part 2	Interpretation	
2	Definitions	15
3	References to doing of act by GOC	19
Part 3	Basic concepts	
4	Meaning of government entity	19
5	Meaning of GOC	20
6	GOC and portfolio Ministers	20
7	Meaning of statement of corporate intent	21
Part 4	Operation of Act and application of laws	
8	Act binds State	21
9	Extraterritorial operation	21
10	Application of other laws to GOCs	22
11	Application of other laws to candidate GOCs	22
Part 5	Outline of Act and its background and objectives	
12	What Act provides	23
13	Meaning of corporatisation	23
14	Objectives of corporatisation	23
15	How objectives of corporatisation are to be achieved—key principles and their elements	24
16	Meaning of key principles of corporatisation	24
17	Key objectives of GOC under corporatisation	26
18	How Act will enable management of the corporatisation process	26

Contents

Chapter 2	Mechanisms for creating GOCs	
Part 1	Outline of the processes	
19	What this part provides	27
20	Government entity becoming a GOC	27
21	Meaning of candidate GOC	27
22	Meaning of associate of candidate GOC	28
23	Meaning of certain expressions about government entities	28
Part 2	Nomination and declaration of entities	
24	Nomination of government entity to become candidate GOC	28
25	Nomination of GOC Act entity to become candidate GOC associate	29
26	Declaration of GOC Act entity to be subsidiary of candidate GOC associate	29
Part 3	Preparation of corporatisation charter	
Division 1	Preliminary	
27	Meaning of corporatisation charter	29
28	Candidate GOC may become GOC following corporatisation charter	29
Division 2	Responsible Ministers	
29	Responsible Ministers of candidate GOC	30
30	Responsible Ministers of candidate GOC associate	30
31	Responsible Ministers not directors etc.	30
Division 3	Draft corporatisation charter	
32	Responsible Ministers may determine that draft corporatisation charter be prepared and submitted	31
33	Matters to be included in draft corporatisation charter	31
34	Responsible Ministers may determine other matters relevant to draft corporatisation charter preparation	32
35	Responsible Ministers may give directions to candidate GOC about charter preparation	33
Division 4	Charter preparation committee	
36	Charter preparation committee may be appointed	34
37	Conduct of meetings and other business	34
38	Terms of appointment	34
39	Resignation and removal from office	34
40	Draft corporatisation charter to be given to responsible Ministers	34

Division 5	Corporatisation charter	
41	Approval of draft corporatisation charter	35
42	Approval of amendments of corporatisation charter.	35
Part 4	Implementation of corporatisation charter	
43	Charter administration committee may be appointed.	36
44	Conduct of meetings and other business	36
45	Terms of appointment.	36
46	Resignation and removal from office	36
47	Responsible Ministers may give directions to candidate GOC about charter implementation.	37
48	Responsible Ministers may give directions to candidate GOC associate about its functions	37
49	Corporatisation charter stops having effect when candidate GOC becomes GOC	38
Part 5	Corporatisation facilitative mechanisms	
50	Purpose of part.	38
51	Unincorporated entities	38
52	Entities that are parts of bodies corporate	39
53	Candidate GOC associates and subsidiaries of candidate GOC associates	40
54	Transfer of assets, liabilities etc. to government entity to become GOC or GOC subsidiary.	40
55	Debt owned by State	43
56	Constitution of candidate GOC.	43
57	Existing board of directors	43
58	Interim board of directors for entity to become GOC or GOC subsidiary	44
59	Interim board of directors and chief executive officer for candidate GOC associate or associate subsidiary.	44
60	Application of certain provisions about interim board of directors and executives of candidate GOC associates and associate subsidiaries	45
61	Assistance to candidate GOC associates and associate subsidiaries	45
62	Entity must comply with directions	46
63	Share capital and issue of shares	46
64	Variation of share capital	47
65	Registration under Corporations Act	47
66	Part does not affect existing legal relationships	48

Contents

67	Regulations may deal with other matters	49
Part 6	First chief executive officers and senior executives of GOCs	
68	Definition for pt 6	50
69	Application of pt 6	50
70	Appointment of GOC's first chief executive officer	50
71	Appointment of GOC's first senior executives	51
Part 7	Candidate GOCs and candidate GOC associates becoming GOCs	
72	Declaration of entity as GOC	51
73	Declaration of candidate GOC associate as GOC	52
74	Declaration does not affect legal personality etc.	52
Chapter 3	Government owned corporations (GOCs)	
Part 1	Basic requirements	
75	GOC must be public company limited by shares	53
Part 2	Application of Corporations Act	
76	Application of Corporations Act to GOCs	53
77	GOC not exempt public authority	54
Part 3	Shares and shareholding Ministers	
78	Shareholders of a GOC	54
79	Shareholding Ministers must have equal number of voting shares and equal rights	54
80	Shareholders hold shares for State etc.	54
81	Transfer, issue etc. of shares	55
82	Shareholding Ministers must act jointly	55
83	Ministers not directors etc.	55
84	Resolutions without meetings.	56
Part 4	Constitution	
85	Constitution of GOC may be amended by shareholding Ministers	57
86	Shareholding Ministers of GOC may require amendment of subsidiary's constitution	57
87	Constitutions of GOC and its subsidiaries must not be inconsistent with Act or Corporations Act.	57
Part 5	Board of directors	
88	Role of board	58
89	Composition of board	58
90	Public service officers not eligible for appointment as directors	59

91	First board of GOC	59
Part 6	Chief executive officer	
92	Appointment of chief executive officer	59
93	Appointment of chief executive officer—particular subsidiaries . .	60
Part 7	Corporate plan	
Division 1	General	
94	GOC must have corporate plan	60
95	Corporate plan to apply to subsidiaries	60
96	Guidelines in relation to corporate plans	61
Division 2	Preparation, agreement on and modification of corporate plan	
97	Draft corporate plan	61
98	Special procedures in relation to draft corporate plan	61
99	Corporate plan on agreement	62
100	Corporate plan pending agreement	62
101	Modifications of corporate plan	63
Part 8	Statement of corporate intent	
Division 1	General	
102	GOC must have statement of corporate intent	63
103	Statement of corporate intent to apply to subsidiaries	63
104	Statement of corporate intent must be consistent with corporate plan	64
Division 2	Matters to be included in statement of corporate intent	
105	Matters to be included in statement of corporate intent	64
106	Additional matters may be included in statement of corporate intent	64
Division 3	Preparation, agreement on and modification of statement of corporate intent	
107	Draft statement of corporate intent	65
108	Special procedures in relation to draft statement of corporate intent	66
109	Statement of corporate intent on agreement	67
110	Statement of corporate intent pending agreement	67
111	Modifications of statement of corporate intent	67
Part 9	Community service obligations	
112	Meaning of community service obligations	68
113	Community service obligations to be specified in statement of corporate intent	69

Contents

Part 10	General reserve powers of shareholding Ministers	
114	Reserve power of shareholding Ministers to notify board of public sector policies	70
115	Reserve power of shareholding Ministers to give directions in public interest	70
116	Notice of suspected insolvency because of direction or notification	71
117	GOC and board not otherwise subject to government direction . .	72
Part 11	Reports and other accountability matters	
118	Application of Financial Administration and Audit Act	73
119	Quarterly reports	73
120	Matters to be included in annual report	74
121	Deletion of commercially sensitive matters from annual report etc.	75
122	Board to keep shareholding Ministers informed	75
Part 12	Duties and liabilities of directors and other officers	
123	Application of Corporations Act to officers of GOC	76
124	Application of Corporations Act to officers of GOC subsidiaries .	77
125	Notice of suspected insolvency otherwise than because of direction or notification	77
Part 13	Legal capacity and powers	
126	General powers of GOCs	78
127	Doctrine of ultra vires etc. not revived	79
Part 14	Finance	
Division 1	Taxation	
128	Liability to State taxes.	79
129	Liability for Commonwealth tax equivalents	80
Division 2	Guarantees	
130	Guarantees by State.	81
Division 3	Dividends	
131	Payment of dividends	81
132	GOC's financial statements must state dividend payable.	82
133	Interim dividends	82
134	Definitions.	84
135	Dividend payment for financial year of becoming a GOC	84
136	Interim dividend for financial year of becoming a GOC	85
137	Dividend payment for previous financial year	86

Part 15	Acquisition and disposal of assets and subsidiaries	
138	Reserve power of shareholding Ministers to direct that asset not be disposed of	87
139	Disposal of main undertakings	87
140	Acquiring and disposing of subsidiaries	87
Part 16	GOCs and GOC subsidiaries becoming and retiring as trustees	
141	GOCs and subsidiaries becoming trustees	88
142	GOCs and subsidiaries retiring as trustees	88
143	Part applies despite Corporations Act	88
Part 17	Employees	
144	Part applies to subsidiaries	89
145	Employees not employed under Public Service Act	89
146	Appointment of senior executives	89
147	Arrangements relating to staff	89
148	Application of equal opportunity provisions under Public Service Act 2008	90
149	Employment and industrial relations plan	90
150	Superannuation schemes	91
151	Superannuation for officers and employees who were previously officers of the public service	91
152	Preservation of leave entitlements of certain former officers and employees of government entities	92
153	Right of return to public service	93
Part 18	Other matters	
154	Relationship of GOCs with the State	94
155	Application of chapter to certain GOC subsidiaries	94
156	Application of Crime and Misconduct Act	94
157	Application of Ombudsman Act 2001	95
Chapter 4	Miscellaneous	
158	Monitoring and assessment of GOCs	95
159	Giving of documents to board	96
160	Proceedings for offences	96
161	Transfer of assets, liabilities etc. to GOC or GOC subsidiary	98
162	Effect of regulation made under s 161(1) on legal relationships	99
163	Regulation about assets and liabilities not dealt with under s 54	101
164	Debt owned by State	102

Contents

165	Regulation about liability	103
166	Regulation dissolving certain government entities	103
167	Regulations	103
Chapter 5	Transitional provisions for Government Owned Corporations Amendment Act 2007	
168	Company GOCs—transfer of non-voting shares	104
169	References to statutory GOCs and company GOCs	105
Schedule 1	Interim boards of directors	106
Part 1	Interpretation	
1	Definitions for sch 1	106
Part 2	Composition of interim board of relevant entities	
2	Composition of interim board	106
3	Chairperson and deputy chairperson	106
Part 3	Meetings and other business of interim board	
4	Meaning of required minimum number of directors	107
5	Conduct of meetings and other business	107
6	Times and places of meetings	107
7	Presiding at meetings	107
8	Quorum and voting at meetings	108
9	Participation in meetings by telephone etc.	108
10	Resolutions without meetings.	108
11	Minutes	109
Part 4	Provisions relating to directors	
12	Appointment of directors	109
13	Terms of appointment not provided for under Act.	109
14	Appointment of acting director	110
15	Resignation	110
16	Termination of appointment as director	110
Schedule 2	Executives of candidate GOC associates and associate subsidiaries	111
Part 1	Interpretation	
1	Definitions for sch 2	111
Part 2	Chief executive officer	
2	Appointment of chief executive officer	111
3	Appointment of acting chief executive officer	111
4	Terms of appointment not provided for under Act.	112

5	Resignation	112
6	Termination of appointment	112
7	Duties of chief executive officer	112
8	Things done by chief executive officer	112
9	Delegation by chief executive officer	112
Part 3	Senior executives	
10	Appointment of senior executives	113
Schedule 3	Application of FA and A Act to GOCs and prescribed GOC subsidiaries	114
Part 1	Preliminary	
1	Purpose	114
2	Definition	114
Part 2	Application of certain provisions of FA and A Act to GOCs	
3	Definitions for pts 2 and 4	114
4	Application of FA and A Act—Act, s 118	115
Part 3	Application of certain provisions of FA and A Act to GOC subsidiaries	
5	Definitions for pts 3 and 5	115
6	Application of FA and A Act—Act, s 118	116
Part 4	Provisions of FA and A Act applying under section 4 to GOCs	
Part 3	Financial administration—GOCs	117
46F	GOCs to prepare annual financial statements	117
46H	GOCs must consider auditor-general's observations and suggestions	117
46J	Annual report	117
Part 3A	Tabling of annual reports	118
46K	Shareholding Ministers must table reports	118
46KB	Shareholding Ministers to explain late tabling of annual report	119
46KC	Procedure if Legislative Assembly not in session or sitting	119
Part 6	Audit of GOCs	120
Division 1	Scope of auditor-general's mandate	120
75	Shareholding Ministers to give auditor-general information relating to GOCs	120
76	Auditor-general to be appointed auditor of every GOC	120
77	Audits at request of Parliament	121
Division 2	Conduct of audits	121

Contents

79	Way in which audit is to be conducted	121
80	Audit of performance management systems	121
82	Appointment of contract auditors	122
83	Identity cards for contract auditors	122
84	Proof of authority as authorised auditor	123
85	Access to documents and property	123
86	Obtaining information	125
87	Obtaining evidence	125
88	Compensation	127
89	False or misleading information	127
90	Obstruction of authorised auditor	128
91	Impersonation of authorised auditor	128
92	Confidentiality	128
93	Report on audit	129
94	Protection from liability	130
95	Audit fees	130
96	Applied provisions do not limit other powers of auditor-general . .	131
Division 3	Reports to the Legislative Assembly	131
99	Annual reports on audits of GOCs	131
100	Reports on audits requested by Parliament	132
101	Interim, supplementary and combined reports	132
102	Other reports	132
103	Comments on proposed audit reports	133
104	Procedure for reporting certain sensitive information	133
105	Tabling of reports	134
143	Transitional provision for amendment of s 80	134
Part 5	Provisions of FA and A Act applying under section 6 to GOC subsidiaries	
Part 3	Financial administration—GOC subsidiaries	135
46F	GOC subsidiaries to prepare annual financial statements	135
46H	GOC subsidiaries must consider auditor-general's observations and suggestions	135
46J	Annual report	135
Part 3A	Tabling of annual reports	136
46K	Shareholding Ministers must table reports	136
46KB	Shareholding Ministers to explain late tabling of annual report . .	137

46KC	Procedure if Legislative Assembly not in session or sitting	137
Part 6	Audit of GOC subsidiaries	138
Division 1	Scope of auditor-general's mandate.	138
75	Shareholding Ministers to give auditor-general information relating to GOC subsidiaries	138
76	Auditor-general to be appointed auditor of every GOC subsidiary	139
77	Audits at request of Parliament	139
Division 2	Conduct of audits	139
79	Way in which audit is to be conducted	139
80	Audit of performance management systems	140
82	Appointment of contract auditors	140
83	Identity cards for contract auditors	141
84	Proof of authority as authorised auditor	141
85	Access to documents and property	141
86	Obtaining information	143
87	Obtaining evidence.	144
88	Compensation	145
89	False or misleading information	146
90	Obstruction of authorised auditor	146
91	Impersonation of authorised auditor.	146
92	Confidentiality.	147
93	Report on audit.	148
94	Protection from liability	148
95	Audit fees	149
96	Applied provisions do not limit other powers of auditor-general. .	149
Division 3	Reports to the Legislative Assembly	149
99	Annual reports on audits of GOC subsidiaries	149
100	Reports on audits requested by Parliament.	150
101	Interim, supplementary and combined reports.	150
102	Other reports	150
103	Comments on proposed audit reports	151
104	Procedure for reporting certain sensitive information.	152
105	Tabling of reports	152
143	Transitional provision for amendment of s 80.	153
Schedule 4	Application of chapter 3 of Act to GOC subsidiaries	154

Contents

Part 1	Preliminary	
1	Purpose	154
2	Definitions	154
3	Application of ch 3 of the Act to GOC subsidiaries.	154
Part 2	Provisions of chapter 3 of Act as applied to GOC subsidiaries	
Chapter 3	GOC subsidiaries	155
Part 1	Basic requirements.	155
75	GOC subsidiary must be proprietary company limited by shares	155
Part 2	Application of Corporations Act	155
76	Application of Corporations Act to GOC subsidiaries.	155
77	GOC subsidiary not exempt public authority	155
Part 3	Shares and shareholding Ministers	156
78	Shareholders of a GOC subsidiary.	156
79	Shareholding GOCs must have equal number of shares (words omitted)	156
83	Shareholding GOCs not directors	156
84	Resolutions without meetings.	157
Part 4	Constitution (omitted)	158
Part 5	Board of directors	158
88	Role of board	158
89	Composition of board	159
90	Public service officers not eligible for appointment as directors . .	159
Part 6	Chief executive officer	159
92	Appointment of chief executive officer	159
Part 7	Corporate plan (omitted)	160
Part 8	Statement of corporate intent (omitted)	160
Part 9	Community service obligations (omitted)	160
Part 10	General reserve powers of shareholding Ministers	161
114	Exercise of reserve power of shareholding Ministers to notify GOC's board of public sector policies	161
115	Exercise of reserve power of shareholding Ministers to give directions in public interest	161
116	Direction given following notice of suspected insolvency	161
117	Subsidiary and board not otherwise subject to government direction	162
Part 11	Reports and other accountability matters.	163

120	Matters to be included in annual report	163
121	Deletion of commercially sensitive matters from annual report etc.	164
122	Board to keep shareholding Ministers informed	165
Part 12	Duties and liabilities of directors and other officers	166
123	Application of Corporations Act to officers of GOC	166
125	Notice of suspected insolvency otherwise than because of direction or notification	166
Part 13	Legal capacity and powers	167
126	General powers of GOC subsidiaries	167
127	Doctrine of ultra vires etc. not revived	167
Part 14	Finance (omitted)	168
Part 15	Acquisition and disposal of assets and subsidiaries	168
138	Reserve power of shareholding Ministers to direct that asset not be disposed of	168
Part 16	GOCs and GOC subsidiaries becoming and retiring as trustees (omitted)	169
Part 17	Employees (omitted)	169
Part 18	Other matters	169
154	Relationship of GOC subsidiaries with the State	169
156	Application of Crime and Misconduct Act	169
157	Application of Ombudsman Act 2001	170
 Endnotes		
1	Index to endnotes	171
2	Date to which amendments incorporated	171
3	Key	172
4	Table of reprints	172
5	Tables in earlier reprints	173
6	List of legislation	173
7	List of annotations	176
8	Table of renumbered provisions	201

Government Owned Corporations Act 1993

[as amended by all amendments that commenced on or before 28 May 2009]

An Act to provide for the corporatisation of nominated government entities and for related purposes

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Government Owned Corporations Act 1993*.

Part 2 Interpretation

2 Definitions

In this Act—

associate of a candidate GOC has the meaning given by section 22.

associate subsidiary means a GOC Act entity declared by regulation to be a subsidiary of a candidate GOC associate.

board of a GOC means the GOC's board of directors.

board of directors, for chapter 2, part 6, see section 68.

[s 2]

borrow includes—

- (a) raise money or credit; and
- (b) obtain financial accommodation; and
- (c) borrow in a foreign currency.

candidate GOC has the meaning given by section 21.

Commonwealth tax means tax imposed under a Commonwealth Act.

community service obligations has the meaning given by section 112.

corporatisation has the meaning given by section 13.

corporatisation charter of a candidate GOC means—

- (a) the draft corporatisation charter approved by the candidate GOC's responsible Ministers as its corporatisation charter; or
- (b) if the responsible Ministers approve an amendment of the corporatisation charter—the corporatisation charter as amended.

department means department of government.

dividend, for sections 135 to 137, see section 134.

financial accommodation includes a financial benefit, or assistance to obtain a financial benefit, arising from or because of—

- (a) a loan; or
- (b) issuing, endorsing or otherwise dealing in promissory notes; or
- (c) drawing, accepting, endorsing or otherwise dealing in bills of exchange; or
- (d) issuing, purchasing or otherwise dealing in securities; or

- (e) granting or taking a lease of any property for financing purposes; or
- (f) another arrangement prescribed by regulation.

GOC (or **government owned corporation**) has the meaning given by section 5.

GOC Act entity means an entity established by a regulation under this Act.

GOC Minister has the meaning given by section 6.

government company means a corporation incorporated under the Corporations Act all the stock or shares in the capital of which is or are beneficially owned by the State.

government entity has the meaning given by section 4.

government entity that is to become a GOC has the meaning given by section 23(1).

government entity that is to become a subsidiary of a GOC has the meaning given by section 23(2).

instrument means an instrument of any kind, and includes, for example—

- (a) a contract, deed, agreement, arrangement, understanding or undertaking; and
- (b) a mandate, instruction, notice, authority or order; and
- (c) a lease, licence, transfer, conveyance or other assurance; and
- (d) a guarantee, bond, power of attorney, bill of lading, negotiable instrument or order for the payment of money; and
- (e) a mortgage, charge, lien or security;

whether express or implied and whether made or given orally or in writing.

key principles of corporatisation has the meaning given by section 16.

[s 2]

lease includes—

- (a) a lease, licence, charter or hiring arrangement of property; and
- (b) an arrangement under which a right to use, operate or provide services in relation to property is granted by the owner to another person.

portfolio Minister has the meaning given by section 6.

predecessor, for sections 135 to 137, see section 134.

proposed subsidiary of a GOC or candidate GOC means a government entity that is declared by regulation to be a proposed subsidiary of the GOC or candidate GOC.

responsible Ministers—

- (a) of a candidate GOC—see section 29; or
- (b) of a candidate GOC associate—see section 30.

security includes inscribed stock, debenture, bond, debenture stock, note and any other document creating, evidencing or acknowledging indebtedness (whether or not constituting a charge on property).

senior executive, of a GOC, includes the holder of an office in the GOC that reports directly to the GOC's chief executive officer and that is commensurate with an office held by a senior executive under the *Public Service Act 2008*.

share, in relation to a candidate GOC, a GOC or another corporation, means a share in the corporation's share capital.

shareholding Ministers, of a GOC, see section 78.

statement of corporate intent has the meaning given by section 7.

State tax means tax imposed under an Act.

statutory GOC closing time means the time at which the *Government Owned Corporations Amendment Act 2007*, section 11 commences.

subsidiary has the meaning given by the Corporations Act, 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.

tax includes any tax, fee, duty, levy or charge.

terms of appointment or employment include terms relating to—

- (a) remuneration and allowances; and
- (b) duration of appointment or employment; and
- (c) termination of appointment or employment.

3 References to doing of act by GOC

In this Act, a reference to the doing of an act by a GOC includes a reference to—

- (a) the making or giving of an instrument by the GOC; and
- (b) the transfer of property by or to the GOC; and
- (c) the incurring of a liability by the GOC.

Part 3 Basic concepts

4 Meaning of *government entity*

A *government entity* is—

- (a) a government company or part of a government company; or

[s 5]

- (b) a State instrumentality, agency, authority or entity or a division, branch or other part of a State instrumentality, agency, authority or entity; or
- (c) a department or a division, branch or other part of a department; or
- (d) a GOC Act entity; or
- (e) an entity prescribed by regulation.

5 Meaning of *GOC*

A *GOC* (or *government owned corporation*) is a government entity that is—

- (a) established as a body corporate under an Act or the Corporations Act; and
- (b) declared by regulation to be a GOC.

6 GOC and portfolio Ministers

- (1) The Minister is the *GOC Minister* of every GOC.
- (2) The Minister who has the duty to administer the legislation (if any) that established, or provides for the structure or management of, the entity that became a GOC is the *portfolio Minister* of the GOC.
- (3) However, if—
 - (a) there is not a Minister who is the portfolio Minister under subsection (2); or
 - (b) the portfolio Minister under subsection (2) is the GOC Minister; or
 - (c) the Premier is of the opinion that another Minister should be the portfolio Minister;

the *portfolio Minister* of the GOC is the Minister nominated by the Premier by gazette notice.

[s 10]

- (c) land, things, acts and transactions (wherever situated, done, entered into or happening) that would, apart from this Act, be governed or otherwise affected by the law of another jurisdiction (including a foreign country).

10 Application of other laws to GOCs

- (1) This Act applies to a GOC despite anything in an Act that was enacted before the commencement of this Act.
- (2) If there is an inconsistency between this Act and an Act enacted before the commencement of this Act, this Act prevails to the extent of the inconsistency.
- (3) This Act, and any provision of this Act, has effect subject to a provision of an Act enacted after the commencement of this Act that expressly provides that this Act or the provision is subject to it.

11 Application of other laws to candidate GOCs

- (1) Chapter 2 applies to a candidate GOC despite anything in an Act that was enacted before the commencement of this Act.
- (2) If there is an inconsistency between chapter 2 and an Act enacted before the commencement of this Act, chapter 2 prevails to the extent of the inconsistency.
- (3) Chapter 2, and any provision of chapter 2, has effect subject to a provision of an Act enacted after the commencement of this Act that expressly provides that the chapter or provision is subject to it.

[s 15]

15 How objectives of corporatisation are to be achieved—key principles and their elements

The objectives of corporatisation are to be achieved through application of the key principles of corporatisation and their elements.

16 Meaning of *key principles of corporatisation*

The 4 *key principles of corporatisation*, and their elements, are as follows—

(a) Principle 1—Clarity of objectives

The elements of this principle are that—

- each GOC will have clear, non-conflicting objectives;
- each GOC will be set specific financial and non-financial performance targets for its commercial activities;
- any activities of a governmental policy formulation or regulatory nature will be transferred from the GOC to a department, separate regulatory authority or other agency;
- any community service obligations of the GOC will be—
 - clearly identified in the GOC’s statement of corporate intent; and
 - separately costed;
- the GOC will be appropriately compensated for its community service obligations and any funding will be made apparent;
- the GOC will be set performance targets for its community service obligations;

(b) Principle 2—Management autonomy and authority

The elements of this principle are that—

- each GOC will have a board of directors;
- the board will be required to use its best endeavours to ensure that the GOC meets its performance targets;
- the board will be given the autonomy and authority to make commercial decisions within areas of responsibility defined by the corporatisation framework;
- existing detailed controls over management decision making will be replaced with strategic monitoring procedures;
- the role of Ministers in relation to the GOC will be clearly defined;
- Ministerial reserve powers will be required to be exercised in an open way;

(c) Principle 3—Strict accountability for performance

The elements of this principle are that—

- the GOC's board will be accountable to the shareholding Ministers for the GOC's performance;
- the GOC's statement of corporate intent will form the basis for accountability;
- performance will be monitored by the Government against performance targets specified in the statement of corporate intent;
- Government monitoring of the GOC is intended to compensate for the absence of the wide range of monitoring to which listed corporations are subject by, for example, the sharemarket and Commonwealth regulatory agencies;

(d) Principle 4—Competitive neutrality

The elements of this principle are that—

[s 17]

- the efficiency of overall resource use in the State is promoted by ensuring that markets are not unnecessarily distorted;
- in order to ensure, wherever possible, that each GOC competes on equal terms with other entities carrying on business, any special advantages or disadvantages of the GOC because of its public ownership or its market power will be removed, minimised or made apparent;
- in circumstances where a GOC has excessive market power—
 - structural reform may be necessary to increase competition; and
 - special monitoring may be necessary to prevent market abuse.

17 Key objectives of GOC under corporatisation

- (1) Under corporatisation the key objectives of a GOC are to be commercially successful in the conduct of its activities and efficient in the delivery of its community service obligations.
- (2) The commercial success and efficiency of a GOC are to be measured against its financial and non-financial performance targets.

18 How Act will enable management of the corporatisation process

- (1) This Act is intended to enable the corporatisation process to be applied—
 - (a) progressively as government entities move through various stages of the process; and
 - (b) flexibly to achieve consistent outcomes that are appropriate to the broad range of government entities

and the stage that they have reached in the corporatisation process.

- (2) This Act provides, if required, for a transitional stage of corporatisation through preparation and implementation of a corporatisation charter.
- (3) The Act also imposes accountability and performance monitoring requirements for all GOCs.

Chapter 2 Mechanisms for creating GOCs

Part 1 Outline of the processes

19 What this part provides

This part makes provision for the processes necessary to allow—

- (a) government entities to become GOCs; and
- (b) government entities to become subsidiaries of GOCs.

20 Government entity becoming a GOC

Before becoming a GOC, a government entity must become a candidate GOC or a candidate GOC associate.

21 Meaning of *candidate GOC*

A *candidate GOC* is a government entity nominated under part 2 to be a candidate GOC.

[s 22]

22 Meaning of *associate* of candidate GOC

An *associate* of a candidate GOC is a GOC Act entity nominated under part 2 to be an associate of the candidate GOC.

23 Meaning of certain expressions about government entities

- (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 GOC subsidiary if it is a subsidiary or proposed subsidiary of a candidate GOC or a subsidiary of a candidate GOC associate.

Part 2 Nomination and declaration of entities

24 Nomination of government entity to become candidate GOC

- (1) The Governor in Council may, by regulation, nominate a government entity that is not already a GOC to be a candidate GOC.
- (2) To remove any doubt, it is declared that the Governor in Council may nominate 2 or more government entities that are not already GOCs to be a single candidate GOC.
- (3) This Act applies to entities mentioned in subsection (2) with all necessary modifications.

25 Nomination of GOC Act entity to become candidate GOC associate

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

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

A regulation may declare a GOC Act entity to be a subsidiary of a particular candidate GOC associate.

Part 3 Preparation of corporatisation charter

Division 1 Preliminary

27 Meaning of *corporatisation charter*

The *corporatisation charter* of a candidate GOC sets out the steps by which, and the basis on which—

- (a) a candidate GOC is to become a GOC; and
- (b) the key principles of corporatisation, and their elements, are to be implemented.

28 Candidate GOC may become GOC following corporatisation charter

- (1) A government entity that is a candidate GOC may become a GOC following the preparation and implementation of a corporatisation charter.
- (2) However, in appropriate cases a candidate GOC may become a GOC even if—

[s 29]

- (a) it has not fully prepared a corporatisation charter; or
- (b) it has prepared, but has not fully implemented, a corporatisation charter; or
- (c) it has not prepared or implemented a corporatisation charter.

Division 2 Responsible Ministers

29 Responsible Ministers of candidate GOC

- (1) This section applies to a candidate GOC.
- (2) The GOC Minister and the portfolio Minister of the candidate GOC are its responsible Ministers.

30 Responsible Ministers of candidate GOC associate

The responsible Ministers of a candidate GOC associate are the Ministers who are the responsible Ministers of the associate's candidate GOC.

31 Responsible Ministers not directors etc.

- (1) The responsible Ministers of a candidate GOC are not to be treated as directors of the candidate GOC or any subsidiary or proposed subsidiary of the candidate GOC.
- (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.
- (3) A Minister does not incur civil liability for an act or omission done or omitted to be done honestly and without negligence under, or for the purposes of, this Act in relation to a government entity that is to become a GOC or GOC subsidiary.

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- (4) A liability that would, apart from subsection (3), attach to a Minister attaches instead to the State.
 - (5) This section has effect despite the Corporations Act.

Division 3 Draft corporatisation charter

32 Responsible Ministers may determine that draft corporatisation charter be prepared and submitted

- (1) If the responsible Ministers of a candidate GOC consider that the preparation and implementation of a corporatisation charter would facilitate the corporatisation process for the candidate GOC, the Ministers may determine a draft corporatisation charter should be prepared and submitted to the Ministers.
- (2) If the Ministers determine that a draft corporatisation charter should be prepared and submitted to the Ministers, the following provisions of this division apply.

33 Matters to be included in draft corporatisation charter

- (1) The responsible Ministers may determine that the draft corporatisation charter should contain all or any of the following matters—
 - (a) an outline of how the key principles of corporatisation and their elements are to be applied to the candidate GOC and a timetable for their application;
 - (b) an outline of any legislation under which the candidate GOC is to operate when it becomes a GOC;
 - (c) target dates for the enactment and commencement of any legislation;
 - (d) a timetable for the adoption of appropriate systems of accounting by the candidate GOC;

[s 34]

- (e) a timetable for the adoption of commercial management and performance systems by the candidate GOC;
 - (f) a timetable and method for valuing the assets of the candidate GOC and determining its capital structure;
 - (g) recommendations regarding the activities the candidate GOC should undertake before it becomes a GOC;
 - (h) any other matter specified by the responsible Ministers.
- (2) The responsible Ministers may also determine that the draft corporatisation charter should contain a timetable for—
- (a) identifying any existing activities of the candidate GOC of a policy formulation or regulatory nature; and
 - (b) identifying options for transferring the activities from the candidate GOC to a department, separate regulatory authority or other agency; and
 - (c) identifying any other community service obligations of the candidate GOC; and
 - (d) costing any community service obligations of the candidate GOC.

34 Responsible Ministers may determine other matters relevant to draft corporatisation charter preparation

- (1) The responsible Ministers may determine—
- (a) steps to be taken in preparing the draft corporatisation charter; and
 - (b) any other matter with respect to the preparation of the draft corporatisation charter.
- (2) Without limiting subsection (1), the responsible Ministers may determine that specified assumptions are to be made in preparing the draft corporatisation charter.
- (3) Without limiting subsection (1), the responsible Ministers may determine a timetable or time limit for the preparation of the draft corporatisation charter.

35 Responsible Ministers may give directions to candidate GOC about charter preparation

- (1) The responsible Ministers of the candidate GOC may give the candidate GOC written directions in relation to the candidate GOC and its subsidiaries that appear to them to be necessary or desirable to enable the draft corporatisation charter to be prepared.
- (2) Without limiting subsection (1), if a charter preparation committee has been appointed to prepare the draft corporatisation charter for the candidate GOC, the responsible Ministers may direct the candidate GOC—
 - (a) to give to the committee information about the candidate GOC and its subsidiaries that the committee considers necessary or desirable for the preparation of the draft charter; or
 - (b) to permit the committee to have access to records and other documents about the candidate GOC and its subsidiaries that the committee considers necessary or desirable for the preparation of the draft charter; or
 - (c) to take steps that the committee considers necessary or desirable for the preparation of the draft charter.
- (3) The candidate GOC 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.
- (4) In this section—

subsidiary includes proposed subsidiary.

Division 4 Charter preparation committee

36 Charter preparation committee may be appointed

The responsible Ministers of a candidate GOC may appoint a charter preparation committee to prepare a draft corporatisation charter for the candidate GOC.

37 Conduct of meetings and other business

- (1) The charter preparation committee of a candidate GOC may conduct its business (including its meetings) in the way that it considers appropriate.
- (2) However, the committee must comply with any direction given to it, and any determination made, by the responsible Ministers.

38 Terms of appointment

A member of the charter preparation committee of a candidate GOC holds office on any terms of appointment determined by the responsible Ministers.

39 Resignation and removal from office

- (1) A member of the charter preparation committee of a candidate GOC may resign by signed notice given to the responsible Ministers.
- (2) The responsible Ministers may terminate the appointment of a member of the charter preparation committee for any reason or none.

40 Draft corporatisation charter to be given to responsible Ministers

- (1) When the charter preparation committee of a candidate GOC has prepared the candidate GOC's draft corporatisation

charter, the committee must give a copy of the draft charter to the responsible Ministers.

- (2) The responsible Ministers may return the draft charter to the committee and request it to—
 - (a) consider or further consider any matter and deal with the matter in the draft charter; and
 - (b) revise the draft charter in the light of its consideration or further consideration.
- (3) The committee must comply with the request.

Division 5 Corporatisation charter

41 Approval of draft corporatisation charter

- (1) The responsible Ministers of a candidate GOC may approve a draft corporatisation charter as the candidate GOC's corporatisation charter.
- (2) Subsection (1) applies to a draft corporatisation charter whether or not the draft corporatisation charter was prepared by a charter preparation committee appointed for the candidate GOC.

42 Approval of amendments of corporatisation charter

The responsible Ministers of a candidate GOC may approve an amendment of the candidate GOC's corporatisation charter.

Part 4 **Implementation of corporatisation charter**

43 Charter administration committee may be appointed

The responsible Ministers of a candidate GOC may appoint a charter administration committee to ensure that the candidate GOC's corporatisation charter is implemented in a timely, efficient and effective way.

44 Conduct of meetings and other business

- (1) The charter administration committee of a candidate GOC may conduct its business (including its meetings) in the way that it considers appropriate.
- (2) However, the committee must comply with any direction given to it, and any determination made, by the responsible Ministers.

45 Terms of appointment

A member of the charter administration committee of a candidate GOC holds office on any terms of appointment determined by the responsible Ministers.

46 Resignation and removal from office

- (1) A member of the charter administration committee of a candidate GOC may resign by signed notice given to the responsible Ministers.
- (2) The responsible Ministers may terminate the appointment of a member of the charter administration committee for any reason or none.

47 Responsible Ministers may give directions to candidate GOC about charter implementation

- (1) The responsible Ministers of a candidate GOC may give the candidate GOC written directions in relation to the candidate GOC and its subsidiaries that appear to them to be necessary or desirable to enable the candidate GOC's corporatisation charter to be implemented.
- (2) Without limiting subsection (1), if a charter administration committee has been appointed for the candidate GOC, the responsible Ministers may direct the candidate GOC—
 - (a) to give to the committee information about the candidate GOC and its subsidiaries that the committee considers necessary or desirable for the implementation of the candidate GOC's corporatisation charter; or
 - (b) to permit the committee to have access to records and other documents about the candidate GOC and its subsidiaries that the committee considers necessary or desirable for the implementation of the candidate GOC's corporatisation charter; or
 - (c) to take steps that the committee considers necessary or desirable for the implementation of the candidate GOC's corporatisation charter.
- (3) The candidate GOC 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.
- (4) In this section—

subsidiary includes proposed subsidiary.

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

- (1) The responsible Ministers of a candidate GOC associate may give the associate written directions for the associate and its

[s 49]

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.

49 Corporatisation charter stops having effect when candidate GOC becomes GOC

The corporatisation charter of a candidate GOC stops having effect when the candidate, or an associate of the candidate, becomes a GOC.

Part 5 Corporatisation facilitative mechanisms

50 Purpose of part

This part provides mechanisms to facilitate the corporatisation process by enabling, among other things—

- (a) a government entity that is a candidate GOC, or a candidate GOC associate, to be in a suitable legal form to become a GOC; or
- (b) a government entity, other than a government entity that is to become a GOC, to become a GOC subsidiary.

51 Unincorporated entities

- (1) If a government entity that is not a body corporate is to become a GOC or a GOC subsidiary, a regulation may provide that, on a specified day, the entity—
 - (a) becomes a body corporate; and

- (b) has the name specified by regulation; and
 - (c) may sue and be sued in its corporate name; and
 - (d) has the functions and powers specified by regulation.
- (2) An entity provided for under a regulation made under subsection (1) may have a seal.
- (3) 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 entity from a government entity that is not a body corporate to a body corporate that is to become a GOC or a GOC subsidiary.

52 Entities that are parts of bodies corporate

- (1) This section applies to a government entity that is part of a body corporate and is to become a GOC or a GOC subsidiary.
- (2) The body corporate mentioned in subsection (1) may be a body corporate that is—
- (a) registered under the Corporations Act; or
 - (b) a corporation sole; or
 - (c) a corporation aggregate; or
 - (d) any other form of body corporate.
- (3) If this section applies to a government entity, a regulation may make provision with respect to any matter for which it is necessary or convenient to make provision—
- (a) to facilitate the change of the entity from a government entity that is part of a body corporate to a body corporate in its own right that is to become a GOC or a GOC subsidiary; and
 - (b) to make provision for other parts of the body corporate.
- (4) Without limiting subsection (3), a regulation may make provision with respect to any matter for which provision is made by, or about which a regulation may be made under

[s 53]

section 51, even though the government entity concerned is part of a corporation.

53 Candidate GOC associates and subsidiaries of candidate GOC associates

- (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) may sue and be sued in its corporate name; and
 - (d) has the functions and powers specified by regulation.
- (2) A candidate GOC associate or associate subsidiary provided for under a regulation made under subsection (1) may have a seal.
- (3) 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.

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

- (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)—

[s 54]

- (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 60 (Application of certain provisions about interim board of directors and executives of candidate GOC associates and associate subsidiaries)
 - section 92 (Appointment of chief executive officer)
 - section 146 (Appointment of senior executives)
 - schedule 2 (Executives of candidate GOC associates and associate subsidiaries), section 2 (Appointment of chief executive officer).
 - (4) A regulation mentioned in subsection (2)(c) has effect despite the Corporations Act.
 - (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.

55 Debt owned by State

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

56 Constitution of candidate GOC

- (1) The responsible Ministers of a government entity that is to become a GOC may—
 - (a) adopt a constitution for the entity; and
 - (b) amend the constitution previously adopted.
- (2) The constitution must not be inconsistent with this Act or the Corporations Act.
- (3) However, if there is any inconsistency between this Act and the Corporations Act regarding the constitution, this Act prevails to the extent of the inconsistency.
- (4) If there is any inconsistency between this Act and the constitution, this Act prevails to the extent of the inconsistency.
- (5) If there is any inconsistency between the Corporations Act and the constitution, then, subject to subsection (3), the Corporations Act prevails to the extent of the inconsistency.
- (6) This section applies to a government entity that is to become a GOC subsidiary as if—
 - (a) the entity were a government entity that is to become a GOC; and
 - (b) the responsible Ministers of the government entity of which it is to become a subsidiary were also its responsible Ministers.

57 Existing board of directors

If a candidate GOC has a board of directors or an equivalent body, it is the role of the board or body—

[s 58]

- (a) to take the steps that the responsible Ministers direct regarding the implementation of the candidate GOC's corporatisation charter; and
- (b) to ensure that the candidate GOC otherwise performs its functions in a proper, efficient and effective way.

58 Interim board of directors for entity to become GOC or GOC subsidiary

- (1) If a government entity that is to become a GOC or a GOC subsidiary does not have a board of directors or an equivalent body, a regulation may provide that, on a specified day, the entity is to have an interim board of directors.
- (2) It is the role of the interim board—
 - (a) to take the steps that the responsible Ministers direct regarding the implementation of the entity's corporatisation charter; and
 - (b) to ensure that the entity otherwise performs its functions in a proper, efficient and effective way.
- (3) Schedule 1 applies to the interim board.
- (4) The directors on the interim board go out of office—
 - (a) if the entity is a government entity that is to become a GOC—when the entity becomes a GOC; or
 - (b) if the entity is a government entity that is to become a GOC subsidiary—when the entity of which it is a subsidiary or proposed subsidiary becomes a GOC.
- (5) Subsection (4) does not limit subsection (3).

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

- (1) A regulation may provide—

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- (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.
- (2) The directors on the interim board go out of office—
- (a) for a candidate GOC associate—when the associate becomes a GOC; or
 - (b) for an associate subsidiary—when the candidate GOC associate of which it is a subsidiary becomes a GOC.

60 Application of certain provisions about interim board of directors and executives of candidate GOC associates and associate subsidiaries

- (1) Schedule 1 applies to the interim board of a candidate GOC associate or associate subsidiary.
- (2) Schedule 2 applies to a candidate GOC associate or associate subsidiary.

61 Assistance to candidate GOC associates and associate subsidiaries

- (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

[s 62]

subsidiaries, for the services of officers and employees of the department, candidate GOC or subsidiaries to be made available to it.

62 Entity must comply with directions

An entity must comply with a direction given to it under section 61.

63 Share capital and issue of shares

- (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 as if it were a 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 responsible 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.

64 Variation of share capital

- (1) A regulation may vary the share capital of a candidate GOC.
- (2) Without limiting subsection (1), a regulation may provide for—
 - (a) the issue of further shares in a candidate GOC; or
 - (b) the cancellation of issued shares in a candidate GOC; or
 - (c) the consolidation or division of issued shares in a candidate GOC.
- (3) In this section—
candidate GOC includes—
 - (a) a candidate GOC associate; and
 - (b) a government entity that is to become a GOC subsidiary.

65 Registration under Corporations Act

- (1) A government entity that is to become a GOC is authorised by this section to transfer its incorporation to the Corporations Act and become registered under chapter 5B of that Act.
- (2) The responsible Ministers of the entity are authorised to take, and authorise other persons to take, any action necessary or desirable to enable the entity to become registered under the Corporations Act, chapter 5B.
- (3) This section applies to a government entity that is to become a GOC subsidiary as if—

[s 66]

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

66 Part does not affect existing legal relationships

- (1) Nothing done under this part—
 - (a) makes a relevant entity liable for a civil wrong or a contravention of a law or for a breach of a contract or confidence; or
 - (b) makes a relevant entity in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or
 - (c) is taken to fulfil a condition that—
 - (i) allows a person to terminate an instrument or obligation or modify the operation or effect of an instrument or obligation; or
 - (ii) allows a person to enforce an obligation contained in an instrument or requires a person to perform an obligation contained in an instrument; or
 - (iii) requires any money to be paid before its stated maturity; or
 - (d) releases a surety or other obligee, wholly or partly, from an obligation.
- (2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under this part, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.
- (3) If, apart from this subsection, giving notice to a person would be necessary to do something under this part, the notice is taken to have been given.

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- (4) This section applies despite anything in an instrument.
 - (5) In this section—
 - relevant entity* means any of the following—
 - (a) the State;
 - (b) a government entity;
 - (c) an officer, employee or agent of an entity mentioned in paragraph (a) or (b);
 - (d) the responsible Ministers of a government entity.

67 Regulations may deal with other matters

- (1) A regulation may make provision with respect to any matter for which it is necessary or convenient to make provision to facilitate the transition of a government entity to a GOC or a subsidiary of a GOC.
- (2) Without limiting subsection (1), a regulation may provide that a provision of this chapter or chapter 1 applies to a subsidiary of a candidate GOC, a proposed subsidiary of a GOC or candidate GOC, or a candidate GOC associate, or an associate subsidiary, with all necessary modifications and any modifications prescribed by regulation, as if it were—
 - (a) a candidate GOC; or
 - (b) a subsidiary of a candidate GOC; or
 - (c) a candidate GOC associate; or
 - (d) an associate subsidiary.
- (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 Act; or
 - (b) a candidate GOC associate; or
 - (c) an associate subsidiary.

- (a) a reference in the section to the GOC's board is taken to be a reference to the candidate GOC's board of directors; and
- (b) a reference in the section to the shareholding Ministers is taken to be a reference to the responsible Ministers of the candidate GOC.

71 Appointment of GOC's first senior executives

- (1) The first senior executives of a GOC may be appointed under section 146 before the commencement of a regulation declaring the candidate GOC to be a GOC.
- (2) For acting under the section—
 - (a) a reference in the section to the GOC's board is taken to be a reference to the candidate GOC's board of directors; and
 - (b) a reference in the section to the shareholding Ministers is taken to be a reference to the responsible Ministers of the candidate GOC.

Part 7 Candidate GOCs and candidate GOC associates becoming GOCs

72 Declaration of entity as GOC

If the Governor in Council is satisfied that—

- (a) any corporatisation charter of a candidate GOC has been sufficiently implemented or the candidate GOC is otherwise ready to become a GOC; and
- (b) the candidate GOC complies with, or on becoming a GOC will comply with, section 75;

[s 73]

the Governor in Council may, by regulation, declare that the candidate GOC is a GOC.

73 Declaration of candidate GOC associate as GOC

- (1) This section applies if a regulation under section 54 (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 54, be otherwise ready to become a GOC; and
 - (b) the associate complies with, or on becoming a GOC will comply with, section 75.

74 Declaration does not affect legal personality etc.

- (1) The declaration of an entity as a GOC does not, of itself, affect—
 - (a) the legal personality of the entity; or
 - (b) its functions and powers.
- (2) Also, the declaration of an entity as a GOC—
 - (a) does not place the entity or the State in breach of contract or confidence or otherwise make the entity or the State guilty of a civil wrong; and
 - (b) does not make the entity or the State in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment or transfer of any right or liability or the disclosure of any information; and
 - (c) is not taken to fulfil a condition—

- (i) that allows a person to terminate an instrument or obligation or modify the operation or effect of an instrument or obligation; or
- (ii) that requires any money to be paid before its stated maturity; and
- (d) does not release a surety or other obligee (in whole or part) from an obligation.

Chapter 3 Government owned corporations (GOCs)

Part 1 Basic requirements

75 GOC must be public company limited by shares

A GOC must be a public company, and a company limited by shares, under the Corporations Act.

Part 2 Application of Corporations Act

76 Application of Corporations Act to GOCs

The Corporations Act applies to a GOC except so far as this Act otherwise provides.

[s 77]

77 GOC not exempt public authority

A GOC is not an exempt public authority for the purposes of the Corporations Act.

Part 3 Shares and shareholding Ministers

78 Shareholders of a GOC

The shareholders of a GOC are the GOC Minister and the portfolio Minister of the GOC (the *shareholding Ministers*).

79 Shareholding Ministers must have equal number of voting shares and equal rights

- (1) Each shareholding Minister must at all times have an equal number of voting shares in the GOC.
- (2) Each shareholding Minister must also at all times be entitled to voting rights equal to those to which the other shareholding Minister is entitled.
- (3) However, each shareholding Minister may hold non-voting shares and need not hold an equal number of non-voting shares.

80 Shareholders hold shares for State etc.

- (1) The State is the owner of all shares in a GOC.
- (2) A GOC's shareholders hold their shares in the GOC on behalf of the State.

81 Transfer, issue etc. of shares

- (1) A GOC's shareholder may transfer shares in the GOC only to another Minister.
- (2) The Premier may execute a transfer of shares in a GOC or a GOC subsidiary for the purpose of giving effect to this Act.
- (3) If the Premier executes a transfer of shares in a GOC or a GOC subsidiary, the GOC or subsidiary must register the transfer and take any other action necessary to give effect to the transfer.
- (4) Subject to the other provisions of this part, this Act does not prevent a GOC or a GOC subsidiary from issuing further shares to its shareholders.

82 Shareholding Ministers must act jointly

- (1) If this Act authorises a GOC's shareholding Ministers to do an act, the shareholding Ministers may only do the act jointly.
- (2) If this Act requires the shareholding Ministers to do an act, the shareholding Ministers must do the act jointly.

83 Ministers not directors etc.

- (1) A GOC's shareholding Ministers are not to be treated as directors of the GOC or any subsidiary or proposed subsidiary of the GOC.
- (2) A Minister does not incur civil liability for an act or omission done or omitted to be done honestly and without negligence under, or for the purposes of, this Act in relation to a GOC or a subsidiary or proposed subsidiary of a GOC.
- (3) A liability that would, apart from subsection (2), attach to the Minister attaches instead to the State.
- (4) This section has effect despite the Corporations Act.

84 Resolutions without meetings

- (1) If the shareholding Ministers of the GOC sign a document containing a statement that they are in favour of a resolution set out in the document—
 - (a) a resolution in those terms is taken to have been passed at a general meeting of the GOC held at the time at which, and on the day on which, the document is signed by the last shareholding Minister; and
 - (b) the GOC is taken to have held a general meeting at that time on that day; and
 - (c) the document is taken to be a minute of the meeting; and
 - (d) any document that is attached to the first document, and is signed by the shareholding Ministers, is taken to have been laid before the GOC at the meeting; and
 - (e) if the resolution deals with all matters that are required to be dealt with at an annual general meeting of the GOC—the GOC is taken to have held an annual general meeting.
- (2) Subsection (1) applies to a resolution that is authorised or required by the Corporations Act, or the GOC's constitution, to be passed at a general meeting, including a resolution—
 - (a) appointing an officer or auditor; or
 - (b) approving of, or agreeing to, anything.
- (3) For the purposes of subsection (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by a shareholding Minister, are taken to constitute a single document.
- (4) This section has effect for the purposes of the Corporations Act and has that effect despite anything in that Act.
- (5) Subsection (4) does not limit any other effect that this section may have.
- (6) This section does not affect any rule of law relating to the effectiveness of the assent of members of a company given to

a document or anything else otherwise than at a general meeting of the company.

Part 4 Constitution

85 Constitution of GOC may be amended by shareholding Ministers

- (1) The shareholding Ministers of a GOC may amend the GOC's constitution.
- (2) Subsection (1) does not limit any other power to amend the constitution.

86 Shareholding Ministers of GOC may require amendment of subsidiary's constitution

- (1) The shareholding Ministers of a GOC may, by written notice, direct the board to amend the constitution of a subsidiary of the GOC.
- (2) The board must, as far as practicable, ensure that the direction is complied with.

87 Constitutions of GOC and its subsidiaries must not be inconsistent with Act or Corporations Act

- (1) The constitutions of a GOC and its subsidiaries must not be inconsistent with this Act or the Corporations Act.
- (2) However, if there is any inconsistency between this Act and the Corporations Act regarding the constitution of a GOC or a GOC subsidiary, this Act prevails to the extent of the inconsistency.
- (3) If there is any inconsistency between this Act and the constitution, this Act prevails to the extent of the inconsistency.

[s 88]

- (4) If there is any inconsistency between the Corporations Act and the constitution, then, subject to subsection (2), the Corporations Act prevails to the extent of the inconsistency.

Part 5 Board of directors

88 Role of board

The role of a GOC's board includes the following matters—

- (a) responsibility for the GOC's commercial policy and management;
- (b) ensuring that, as far as possible, the GOC achieves, and acts in accordance with, its statement of corporate intent and carries out the objectives outlined in its statement of corporate intent;
- (c) accounting to the GOC's shareholders for its performance as required by this Act and other laws applying to the GOC;
- (d) ensuring that the GOC otherwise performs its functions in a proper, effective and efficient way.

89 Composition of board

- (1) A GOC's board is to consist of the number of directors that are appointed by the Governor in Council.
- (2) In appointing a person as a director, the Governor in Council must have regard to the person's ability to make a contribution to the GOC's commercial performance and, if the GOC has a statement of corporate intent, the implementation of the statement.
- (3) Subsection (1) has effect despite—

- (a) the GOC's constitution; and
- (b) the Corporations Act.

90 Public service officers not eligible for appointment as directors

- (1) A public service officer is not eligible for appointment as a director of a GOC.
- (2) Subsection (1) has effect despite the Corporations Act.

91 First board of GOC

- (1) This section applies to candidate GOCs and candidate GOC associates.
- (2) For the appointment of the first board of the GOC, the Governor in Council may act under section 89 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.
- (4) This section has effect despite—
 - (a) the GOC's constitution; and
 - (b) the Corporations Act.

Part 6 Chief executive officer

92 Appointment of chief executive officer

A GOC's chief executive officer is to be appointed by the GOC's board with the prior written approval of the shareholding Ministers.

[s 93]

93 Appointment of chief executive officer—particular subsidiaries

- (1) This section applies to a GOC subsidiary that is not prescribed under a regulation made under section 155(1).

Note—

For a GOC subsidiary prescribed under a regulation made under section 155(1), schedule 4 provides for the appointment of the subsidiary's chief executive officer.

- (2) The subsidiary's chief executive officer is to be appointed by the subsidiary's board with the prior written approval of the shareholding Ministers of each GOC that is a shareholder of the subsidiary.
- (3) Subsection (2) does not limit a provision of the subsidiary's constitution requiring the subsidiary's board to consult the board of a GOC that is a shareholder of the subsidiary before appointing the chief executive officer under the subsection.

Part 7 Corporate plan

Division 1 General

94 GOC must have corporate plan

Each GOC must have a corporate plan.

95 Corporate plan to apply to subsidiaries

If a GOC has subsidiaries, the GOC's corporate plan must apply to the GOC and its subsidiaries.

96 Guidelines in relation to corporate plans

- (1) The GOC Minister may issue guidelines about the form and content of corporate plans.
- (2) Every GOC must comply with the guidelines.
- (3) Guidelines under this section are subordinate legislation.

Division 2 Preparation, agreement on and modification of corporate plan

97 Draft corporate plan

- (1) The board of a GOC must prepare, and submit to the shareholding Ministers for their agreement, a draft corporate plan—
 - (a) within 1 month of becoming a GOC; and
 - (b) not later than 2 months before the start of each subsequent financial year (a *subsequent financial year*).
- (2) The board and the shareholding Ministers must endeavour to reach agreement on the draft plan as soon as possible and, in the case of a draft corporate plan for a subsequent financial year, in any event not later than the start of the financial year.

98 Special procedures in relation to draft corporate plan

- (1) The shareholding Ministers may return the draft corporate plan to the board and request it to—
 - (a) consider or further consider any matter and deal with the matter in the draft plan; and
 - (b) revise the draft plan in the light of its consideration or further consideration.
- (2) The board must comply with the request as a matter of urgency.

[s 99]

- (3) If a draft corporate plan has not been agreed to by the shareholding Ministers within 2 months from the day on which the GOC becomes a GOC, the shareholding Ministers may, by written notice, direct the board—
 - (a) to take specified steps in relation to the draft plan; or
 - (b) to make specified modifications to the draft plan.
- (4) If, in the case of a subsequent financial year, a draft corporate plan has not been agreed to by the shareholding Ministers before the start of the financial year, the shareholding Ministers may, by written notice, direct the board—
 - (a) to take specified steps in relation to the draft plan; or
 - (b) to make specified modifications to the draft plan.
- (5) The board must immediately comply with a direction under subsection (3) or (4).
- (6) The shareholding Ministers must cause a copy of a direction to be published in the gazette within 21 days after it is given.

99 Corporate plan on agreement

When a draft corporate plan of a GOC is agreed to by the shareholding Ministers, it becomes the GOC's corporate plan for the relevant financial year.

100 Corporate plan pending agreement

- (1) If a draft corporate plan has not been agreed to by the shareholding Ministers within 1 month from the day on which the GOC becomes a GOC, the draft corporate plan submitted, or last submitted, by the board to the shareholding Ministers before that time (with any modifications made by the board, whether before or after that time, at the direction of the shareholding Ministers) is taken to be the GOC's corporate plan until a draft corporate plan becomes the GOC's corporate plan under section 99 (Corporate plan on agreement).

- (2) If, in the case of a subsequent financial year, the shareholding Ministers of a GOC have not agreed to a draft corporate plan before the start of the financial year, the draft corporate plan submitted, or last submitted, by the board to the shareholding Ministers before the start of the financial year (with any modifications made by the board, whether before or after that time, at the direction of the shareholding Ministers) is taken to be the GOC's corporate plan until a draft corporate plan becomes the GOC's corporate plan under section 99.

101 Modifications of corporate plan

- (1) A GOC's corporate plan may be modified by its board with the agreement of the shareholding Ministers.
- (2) The shareholding Ministers may, by written notice, direct the board to modify the corporate plan.
- (3) The shareholding Ministers must cause a copy of the direction to be published in the gazette within 21 days after it is given.

Part 8 Statement of corporate intent

Division 1 General

102 GOC must have statement of corporate intent

Each GOC must have a statement of corporate intent for each financial year.

103 Statement of corporate intent to apply to subsidiaries

- (1) If a GOC has subsidiaries, the GOC's statement of corporate intent must apply to the GOC and its subsidiaries.

[s 104]

- (2) Division 2 applies to the GOC as if a reference to the GOC included a reference to its subsidiaries.

104 Statement of corporate intent must be consistent with corporate plan

A GOC's statement of corporate intent must be consistent with its corporate plan.

Division 2 Matters to be included in statement of corporate intent

105 Matters to be included in statement of corporate intent

- (1) A GOC's statement of corporate intent must specify the GOC's financial and non-financial performance targets for its activities for the relevant financial year.
- (2) The statement of corporate intent must also include the matters required by sections 113 and 149.

106 Additional matters may be included in statement of corporate intent

- (1) A GOC's statement of corporate intent may include the following additional matters—
- (a) an outline of the GOC's objectives;
 - (b) an outline of the nature and scope of the activities proposed to be undertaken by the GOC during the relevant financial year;
 - (c) an outline of the GOC's main undertakings during the relevant financial year;
 - (d) the GOC's capital structure and dividend policies;
 - (e) an outline of the major infrastructure investments proposed to be undertaken by the GOC during the relevant financial year;

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- (f) an outline of the borrowings made, and proposed to be made, by the GOC;
 - (g) an outline of the policies adopted by the GOC to minimise and manage any risk of investments and borrowings that may adversely affect its financial stability;
 - (h) an outline of the GOC's policies and procedures relating to the acquisition and disposal of major assets;
 - (i) the GOC's accounting policies that apply to the preparation of its accounts;
 - (j) the type of information to be given to the shareholding Ministers, including information to be given in quarterly and annual reports.
- (2) Subsection (1) does not limit the matters that may be included in a statement of corporate intent.

Division 3 Preparation, agreement on and modification of statement of corporate intent

107 Draft statement of corporate intent

- (1) The board of a GOC must prepare, and submit to the shareholding Ministers for their agreement, a draft statement of corporate intent—
 - (a) within 1 month of becoming a GOC; and
 - (b) not later than 2 months before the start of each subsequent financial year (a *subsequent financial year*).
- (2) The board and the shareholding Ministers must endeavour to reach agreement on the draft statement as soon as possible and, in the case of a draft statement of corporate intent for a subsequent financial year, in any event not later than the start of the financial year.

[s 108]

108 Special procedures in relation to draft statement of corporate intent

- (1) The shareholding Ministers may return the draft statement of corporate intent to the board and request it to—
 - (a) consider or further consider any matter and deal with the matter in the draft statement; and
 - (b) revise the draft statement in the light of its consideration or further consideration.
- (2) The board must comply with the request as a matter of urgency.
- (3) If a draft statement of corporate intent has not been agreed to by the shareholding Ministers within 2 months from the day on which the GOC becomes a GOC, the shareholding Ministers may, by written notice, direct the board—
 - (a) to take specified steps in relation to the draft statement; or
 - (b) to make specified modifications to the draft statement.
- (4) If, in the case of a subsequent financial year, a draft statement of corporate intent of the GOC has not been agreed to by the shareholding Ministers before the start of the financial year, the shareholding Ministers may, by written notice, direct the board—
 - (a) to take specified steps in relation to the draft statement; or
 - (b) to make specified modifications to the draft statement.
- (5) The board must immediately comply with a direction under subsection (3) or (4).
- (6) The shareholding Ministers must cause a copy of the direction to be published in the gazette within 21 days after it is given.

109 Statement of corporate intent on agreement

When a draft statement of corporate intent of a GOC is agreed to by the shareholding Ministers, it becomes the GOC's statement of corporate intent for the relevant financial year.

110 Statement of corporate intent pending agreement

- (1) If a draft statement of corporate intent has not been agreed to by the shareholding Ministers within 2 months from the day on which the GOC becomes a GOC, the draft statement of corporate intent submitted, or last submitted, by the board to the shareholding Ministers before that time (with any modifications made by the board, whether before or after that time, at the direction of the shareholding Ministers) is taken to be the GOC's statement of corporate intent until a draft statement of corporate intent becomes the GOC's statement of corporate intent under section 109 (Statement of corporate intent on agreement).
- (2) If, in the case of a subsequent financial year, the shareholding Ministers of a GOC have not agreed to a draft statement of corporate intent before the start of the financial year, the draft statement of corporate intent submitted, or last submitted, by the board to the shareholding Ministers before the start of the financial year (with any modifications made by the board, whether before or after that time, at the direction of the shareholding Ministers) is taken to be the GOC's statement of corporate intent until a draft statement of corporate intent becomes the GOC's statement of corporate intent under section 109.

111 Modifications of statement of corporate intent

- (1) A GOC's statement of corporate intent may be modified by its board with the agreement of the shareholding Ministers.
- (2) The shareholding Ministers may, by written notice, direct the board to modify the statement of corporate intent.

[s 112]

- (3) Before giving the direction, the shareholding Ministers must consult with the board and take its views into account.
- (4) The shareholding Ministers must cause a copy of the direction to be published in the gazette within 21 days after it is given.

Part 9 Community service obligations

112 Meaning of *community service obligations*

- (1) The *community service obligations* of a GOC are obligations to perform activities that the GOC's board establishes to the satisfaction of the shareholding Ministers—
 - (a) are not in the commercial interests of the GOC to perform; and
 - (b) arise because of a direction, notification or duty to which this section applies; and
 - (c) do not arise because of the application of the following key principles of corporatisation (and their elements)—
 - (i) Principle 3—Strict accountability for performance;
 - (ii) Principle 4—Competitive neutrality.
- (2) This section applies to the following directions, notifications and duties—
 - (a) a direction given to the GOC's board under section 98 (Special procedures in relation to draft corporate plan);
 - (b) a direction given to the GOC's board under section 101 (Modifications of corporate plan);
 - (c) a direction given to the GOC's board under section 108 (Special procedures in relation to draft statement of corporate intent);
 - (d) a direction given to the GOC's board under section 111 (Modifications of statement of corporate intent);

- (e) a notification given to the GOC's board under section 114 (Reserve power of shareholding Ministers to notify board of public sector policies);
- (f) a direction given to the GOC's board under section 115 (Reserve power of shareholding Ministers to give directions in public interest);
- (g) a direction given to the GOC's board under section 138 (Reserve power of shareholding Ministers to direct that asset not be disposed of);
- (h) a statutory duty to perform activities (including any economic development activities or activities of a regulatory or policy formulation nature) that arise under an Act applying specifically to the GOC or GOCs generally.

113 Community service obligations to be specified in statement of corporate intent

- (1) The community service obligations that a GOC is to perform are to be specified in its statement of corporate intent.
- (2) The costings of, funding for, or other arrangements to make adjustments relating to, the GOC's community service obligations are also to be specified in its statement of corporate intent.
- (3) The statement of corporate intent is conclusive, as between the Government and the GOC, of—
 - (a) the nature and extent of the GOC's community service obligations; and
 - (b) the ways in which, and the extent to which, the GOC is to be compensated by the Government for performing its community service obligations.

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- (3) Before giving the direction, the shareholding Ministers must—
 - (a) consult with the board; and
 - (b) request the board to advise them whether, in its opinion, complying with the direction would not be in the commercial interests of the GOC or any of its subsidiaries.
 - (4) The shareholding Ministers must cause a copy of the direction to be published in the gazette within 21 days after it is given.

116 Notice of suspected insolvency because of direction or notification

- (1) If—
 - (a) a GOC's board is given a direction or notification by the shareholding Ministers; and
 - (b) the board suspects that the GOC, or a subsidiary of the GOC, will or may become insolvent; and
 - (c) in the board's opinion, the cause or a substantial cause of the suspected insolvency would be compliance with the direction or notification;the board must immediately give written notice to the shareholding Ministers and the auditor-general of—
 - (d) the suspicion; and
 - (e) its reasons for the opinion.
- (2) The notice must state that it is given under this section.
- (3) The giving of the notice operates to suspend the direction or notification until—
 - (a) the shareholding Ministers advise the board, in writing, that they are not satisfied—
 - (i) that the board's suspicion mentioned in subsection (1)(b) is well-founded; or

[s 117]

- (ii) that the board's opinion mentioned in subsection (1)(c) is justified; or
 - (b) the direction or notification is revoked.
- (4) If the shareholding Ministers are satisfied that the board's suspicion is well-founded, the shareholding Ministers must immediately—
 - (a) if they are also satisfied that the board's opinion is justified—revoke the direction or notification; and
 - (b) in any case—give the board the written directions that the shareholding Ministers consider necessary or desirable, including any directions necessary or desirable to ensure—
 - (i) that the GOC or subsidiary does not incur further debts; or
 - (ii) that the GOC or subsidiary will be able to pay all its debts as and when they become due.
- (5) Without limiting subsection (4), a direction under this section may require the GOC or any of its subsidiaries to cease or limit particular activities.
- (6) The board must ensure that a direction under this section is complied with in relation to the GOC and must, as far as practicable, ensure that it is complied with in relation to its subsidiaries.
- (7) The shareholding Ministers must cause a copy of the direction to be published in the gazette within 21 days after it is given.
- (8) This section is in addition to, and does not limit, another provision of this Act or another law.

117 GOC and board not otherwise subject to government direction

Except as otherwise provided by this or another Act, a GOC and its board are not subject to direction by or on behalf of the Government.

Part 11 Reports and other accountability matters

118 Application of Financial Administration and Audit Act

- (1) The provisions of the *Financial Administration and Audit Act 1977 (the Act)*, relating to audit and the furnishing to the appropriate Minister and tabling of annual reports, that are prescribed by schedule 3 apply to a GOC, or a GOC subsidiary prescribed under a regulation, with the changes prescribed by the schedule.
- (2) Also, section 38C of the Act applies to the following—
 - (a) a GOC;
 - (b) a GOC subsidiary prescribed under a regulation.
- (3) The provisions of the Act, that apply under subsection (1) or (2), apply to a GOC or GOC subsidiary as if—
 - (a) it were a statutory body within the meaning of the Act; and
 - (b) a reference in the Act to the appropriate Minister were a reference—
 - (i) for a GOC—to the GOC’s shareholding Ministers; or
 - (ii) for a GOC subsidiary—to the shareholding Ministers of each GOC that is a shareholder of the subsidiary.
- (4) The provisions of the Act (other than section 38C and those prescribed by schedule 3) do not apply to a GOC.

119 Quarterly reports

- (1) A GOC’s board must give to the shareholding Ministers a report on the operations of the GOC and its subsidiaries for each of the quarters of a financial year.

[s 120]

- (2) A quarterly report must be given to the shareholding Ministers—
 - (a) within 1 month after the end of the quarter; or
 - (b) if another period after the end of the quarter is agreed between the board and the shareholding Ministers—within the agreed period.
- (3) A quarterly report must include the information required to be given in the report by the GOC's statement of corporate intent.

120 Matters to be included in annual report

- (1) Each annual report of a GOC must—
 - (a) contain the information that is required to be included in the report by the shareholding Ministers to enable an informed assessment to be made of the operations of the GOC and its subsidiaries, including a comparison of the performance of the GOC and its subsidiaries with the GOC's statement of corporate intent; and
 - (b) state the GOC's dividend policy for the financial year to which the report relates; and
 - (c) include the statement of corporate intent for the relevant financial year; and
 - (d) include particulars of any modifications made to the statement of corporate intent during the relevant financial year; and
 - (e) include particulars of any directions and notifications given to the GOC's board by the shareholding Ministers that relate to the relevant financial year; and
 - (f) include particulars of the impact on the financial position, profits and losses and prospects of the GOC and its subsidiaries of any modifications to the statement of corporate intent, and any directions and notifications given to the board by the shareholding Ministers, that relate to the relevant financial year.

- (2) This section does not limit the matters that are required to be included in, or to accompany, a GOC's annual report by the Corporations Act or another Act.

121 Deletion of commercially sensitive matters from annual report etc.

- (1) If a GOC's board requests the shareholding Ministers to delete from the copies of an annual report of the GOC (and accompanying documents) that are to be made public a matter that is of a commercially sensitive nature, the shareholding Ministers may delete the matter from the copies of the annual report (and accompanying documents) that are laid before the Legislative Assembly or otherwise made public.
- (2) An annual report of a GOC may include a summary of a matter required to be included in the annual report, rather than a full statement of the matter, if—
- (a) the summary indicates that it is a summary only; and
 - (b) a full statement of the matter is laid before the Legislative Assembly at the same time as a copy of the annual report is laid before the Legislative Assembly.
- (3) Subsections (1) and (2) have effect despite section 120 (Matters to be included in annual report) or another Act.
- (4) Subsection (1) has effect despite subsection (2).

122 Board to keep shareholding Ministers informed

- (1) A GOC's board must—
- (a) keep the shareholding Ministers reasonably informed of the operations, financial performance and financial position of the GOC and its subsidiaries, including the assets and liabilities, profits and losses and prospects of the GOC and its subsidiaries; and
 - (b) give to the shareholding Ministers reports and information that they require to enable them to make

124 Application of Corporations Act to officers of GOC subsidiaries

- (1) In determining for the purposes of the Corporations Act the degree of care and diligence that a reasonable person in a like position in a GOC subsidiary would exercise in the circumstances of the GOC subsidiary concerned, regard must be had to—
- (a) the application of this Act to the GOC and subsidiary; and
 - (b) relevant matters required or permitted to be done under this Act or another Act in relation to the GOC and subsidiary;
- including, for example—
- (c) any relevant community service obligations of the GOC; and
 - (d) any relevant directions, notifications or approvals given to the GOC by the GOC's shareholding Ministers.
- (2) This section has effect despite the Corporations Act.

125 Notice of suspected insolvency otherwise than because of direction or notification

- (1) If—
- (a) a GOC's board suspects that the GOC or a subsidiary of the GOC is, may be, will or may become insolvent; and
 - (b) in the board's opinion, compliance with a direction or notification given by the shareholding Ministers is not or would not be the cause or a substantial cause of the suspected insolvency;
- the board must immediately give written notice to the shareholding Ministers and the auditor-general of—
- (c) the suspicion; and
 - (d) its reasons for the opinion.

[s 126]

- (2) The notice must state that it is given under this section.
- (3) If the shareholding Ministers are satisfied that the board's suspicion is well-founded, the shareholding Ministers must immediately give the board the written directions that the shareholding Ministers consider necessary or desirable, including any directions necessary or desirable to ensure—
 - (a) that the GOC or subsidiary does not incur further debts; or
 - (b) that the GOC or subsidiary will be able to pay all its debts as and when they become due.
- (4) Without limiting subsection (3), a direction under this section may require the GOC or any of its subsidiaries to cease or limit particular activities.
- (5) The board must ensure that a direction under this section is complied with in relation to the GOC and must, as far as practicable, ensure that it is complied with in relation to its subsidiaries.
- (6) The shareholding Ministers must cause a copy of the direction to be published in the gazette within 21 days after it is given.
- (7) This section is in addition to, and does not limit, another provision of this Act or another law.
- (8) This section has effect despite the Corporations Act.

Part 13 Legal capacity and powers

126 General powers of GOCs

- (1) A GOC has, in addition to powers conferred on it by the Corporations Act—
 - (a) the power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions; and

- (b) the powers that are conferred on it by this or another Act.
- (2) Subsection (1) has effect subject to any restrictions on the GOC's powers expressly imposed by this or another Act.

127 Doctrine of ultra vires etc. not revived

- (1) The doctrine of ultra vires is not revived in relation to GOCs by this Act.
- (2) The abolition of the doctrine by the Corporations Act is not affected by this Act.
- (3) This section is enacted for the removal of doubt.

Part 14 Finance

Division 1 Taxation

128 Liability to State taxes

- (1) A GOC is not exempt from State tax merely because it is a GOC.
- (2) A GOC subsidiary is not exempt from State tax merely because it is a GOC subsidiary.
- (3) State tax is not payable in relation to anything done (including, for example, a transaction entered into or an instrument made, executed, lodged or given) because of, or for a purpose connected with or arising out of, chapter 2 or part 3 of this chapter.
- (4) The GOC Minister may certify that a specified matter, instrument, transaction or thing is exempt from State tax under subsection (3), and the matter, instrument, transaction or thing is exempt from State tax.

[s 129]

(5) So far as the legislative power of the Parliament permits, the reference in subsection (3) to State tax includes a reference to tax imposed under an Act of another State.

(6) In this section—

State tax does not include duty under the *Duties Act 2001*.

Editor's note—

For exemption for duty under the *Duties Act 2001*, see section 430 (Exemption—instruments and transactions under other Acts) of that Act.

129 Liability for Commonwealth tax equivalents

(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.

Division 2 Guarantees

130 Guarantees by State

The State is liable for the debts and other liabilities of a GOC or its subsidiaries only if, and to the extent that, the liability is expressly and lawfully undertaken on behalf of the State.

Division 3 Dividends

131 Payment of dividends

- (1) On or after 1 May, but before 16 May, of each financial year, a GOC's board must recommend to the GOC's shareholding Ministers that the GOC and its subsidiaries pay a specified dividend, or not pay a dividend, for the financial year.
- (2) The recommendation must be accompanied by—
 - (a) the board's estimate of the GOC's profits (the *estimated profits*) for the financial year, after provision has been made for income tax or its equivalent; and

[s 132]

- (b) if the board has made any adjustment to the estimated profits in making the recommendation—a statement of the amount of, and reason for, each adjustment.

Example of an adjustment to estimated profits—

exclusion of an amount for unrealised capital gains from upwards revaluation of non-current assets

- (3) Before the end of the financial year, the shareholding Ministers must either—
 - (a) approve the recommendation; or
 - (b) direct the payment of a specified dividend or a different specified dividend, as the case requires.
- (4) The dividend for a financial year must not exceed the amount allowed under the Corporations Act.
- (5) The dividend must be paid within 6 months after the end of the financial year or any further period that the shareholding Ministers allow.
- (6) The shareholding Ministers must cause a copy of a direction given under subsection (3)(b) to be published in the gazette within 21 days after it is given.

132 GOC's financial statements must state dividend payable

- (1) A GOC's financial statements for a financial year given to the auditor-general by it under the *Financial Administration and Audit Act 1977* must state any dividend payable, under section 131(3), for the financial year.
- (2) In this section, a reference to the *Financial Administration and Audit Act 1977* is a reference to that Act as applying to the GOC under section 118.

133 Interim dividends

- (1) The shareholding Ministers of a GOC may, at any time after 1 January in a financial year, require the GOC's board to make a recommendation about the payment of interim amounts to

the State (including the times at which the amounts are to be paid) on account of the dividend that may become payable under section 131 (Payment of dividends) for the financial year.

- (2) Within 1 month after receiving notice of the requirement, the board must make a recommendation to the shareholding Ministers.
- (3) The recommendation must be accompanied by—
 - (a) the board's estimate of the GOC's profits (the *estimated profits*) for the first 6 months of the financial year, after provision has been made for income tax or its equivalent; and
 - (b) if the board has made any adjustment to the estimated profits in making the recommendation—a statement of the amount of, and reason for, each adjustment.

Example of an adjustment to estimated profits—

exclusion of an amount for unrealised capital gains from upwards revaluation of non-current assets

- (4) The shareholding Ministers must, within 1 month after receiving the recommendation, either—
 - (a) approve the recommendation; or
 - (b) direct the payment, at specified times, of specified amounts, or different specified amounts, on account of the dividend that may become payable for the financial year.
- (5) In deciding the amount the GOC is to be directed to pay under subsection (4)(b), the shareholding Ministers must have regard to any adjustment identified by the board under subsection (3)(b).
- (6) A direction under subsection (4)(b) must not direct the payment of an amount that exceeds the GOC's estimated profits, after making any adjustment identified by the board under subsection (3)(b) to exclude an amount for unrealised capital gains from upwards revaluation of non-current assets.

[s 134]

- (7) The shareholding Ministers must cause a copy of a direction under subsection (4)(b) to be published in the gazette within 21 days after it is given.

134 Definitions

In sections 135 to 137—

dividend includes an amount in the nature of a dividend.

predecessor of a GOC means a candidate GOC whose associate became the GOC.

135 Dividend payment for financial year of becoming a GOC

For applying section 131 (Payment of dividends) to a GOC for the financial year when it became a GOC—

- (a) a dividend payable by the GOC is payable for, at the discretion of the shareholding Ministers—
- (i) the entire financial year; or
 - (ii) the part of the financial year for which it was a GOC; and
- (b) if the GOC has a predecessor—the predecessor and the GOC are taken to be the same entity; and
- (c) an interim dividend paid for the financial year by the GOC's predecessor, or by the GOC before it became a GOC, is taken to have been paid on account of the dividend to be paid by the GOC under this Act.

Example for paragraph (a)—

A candidate GOC becomes a GOC on 1 January 1994. Depending on what the shareholding Ministers decide under paragraph (a), the dividend the GOC has to pay for the 1993–94 financial year will relate either to the entire financial year (even though it is a GOC for only half the year), or only to the period 1 January 1994 to 30 June 1994.

Example for paragraph (b)—

A, an entity, is nominated to be a candidate GOC on 8 October 1993. On 31 December 1993, B, a new entity, is established, and nominated to be the associate of A. On 1 January 1994, A's assets and liabilities become B's assets and liabilities, and B is declared to be a GOC. On 2 January 1994, B is dissolved. For applying section 131 to B, A and B are taken to be the same entity rather than 2 separate entities.

Example for paragraph (c)—

In February 1994, a candidate GOC, acting other than under this Act, pays to the State an interim dividend on account of the dividend that may become payable by it for the 1993–94 financial year. On 1 April 1994 the candidate GOC becomes a GOC. The interim dividend is taken to have been paid on account of any dividend for the 1993–94 financial year that becomes payable under this Act.

136 Interim dividend for financial year of becoming a GOC

- (1) For applying section 133 (Interim dividends) to a GOC for the financial year when it becomes a GOC—
 - (a) the period (the *applicable period*) in relation to which an interim dividend is payable is, at the discretion of the shareholding Ministers—
 - (i) the first 6 months of the financial year; or
 - (ii) the part of the 6 months for which it was a GOC; and
 - (b) the shareholding Ministers must, when acting under section 133(1) to require the GOC's board to make a recommendation, also notify the board of the applicable period.
- (2) However, when a GOC's shareholding Ministers exercise their discretion under section 135(a) (Dividend payment for financial year of becoming a GOC), they are not bound by an applicable period previously decided and notified under subsection (1).

[s 137]

Example for subsection (1)—

A candidate GOC becomes a GOC on 1 October 1994. Depending on what period the shareholding Ministers decide under subsection (1)(a), and notify to the GOC's board under subsection (1)(b), the payment subsequently directed under section 133(4) will relate to the GOC's profit for either the first 6 months of the 1994–95 financial year or only the period from 1 October 1994 to 31 December 1994.

137 Dividend payment for previous financial year

(1) In this section—

previous financial year for a GOC means the financial year immediately before the financial year when the GOC became a GOC.

(2) This section applies to a GOC if—

- (a) it has not paid a dividend (other than an interim dividend) to the State for the previous financial year; or
- (b) if the GOC has a predecessor—the predecessor has not paid a dividend (other than an interim dividend) to the State for the previous financial year.

(3) The shareholding Ministers may give a direction that—

- (a) section 131 (Payment of dividends) applies to the GOC for the previous financial year; and
- (b) if it is necessary for the operation of this section—the periods mentioned in section 131 are to be extended as stated in the direction.

(4) For applying this section and section 131—

- (a) to a GOC that has a predecessor—the predecessor and the GOC are taken to be the same entity; and
- (b) to a GOC that has paid to the State, or whose predecessor has paid to the State, an interim dividend for the previous financial year—the interim dividend is taken to have been paid on account of the dividend to be paid by the GOC under this Act for the previous financial year.

Part 15 Acquisition and disposal of assets and subsidiaries

138 Reserve power of shareholding Ministers to direct that asset not be disposed of

- (1) The shareholding Ministers of a GOC may, after consultation with the board of a GOC, give the board a written direction requiring the GOC or a subsidiary of the GOC not to dispose of a specified asset.
- (2) The board must ensure that the direction is complied with in relation to the GOC and must, as far as practicable, ensure that it is complied with in relation to any relevant subsidiary.
- (3) The shareholding Ministers must cause a copy of the direction to be published in the gazette within 21 days after it is given.

139 Disposal of main undertakings

- (1) A GOC or a GOC subsidiary may dispose of any of its main undertakings only with the prior written approval of the shareholding Ministers.
- (2) In subsection (1)—
main undertakings means the undertakings specified in the GOC's most recent statement of corporate intent as the GOC's or subsidiary's main undertakings.

140 Acquiring and disposing of subsidiaries

A GOC or a GOC subsidiary may—

- (a) form, or participate in the formation of, a company that will become a subsidiary; or
- (b) acquire shares or participate in any other transaction that will result in a body corporate becoming or ceasing to be a subsidiary;

[s 141]

only with the prior written approval of the shareholding Ministers.

Part 16 GOCs and GOC subsidiaries becoming and retiring as trustees

141 GOCs and subsidiaries becoming trustees

- (1) A GOC may accept appointment as a trustee of a trust only with the prior written approval of the GOC's shareholding Ministers.
- (2) A GOC subsidiary may accept appointment as a trustee of a trust only with the prior written approval of the shareholding Ministers of the GOC of which it is a subsidiary.

142 GOCs and subsidiaries retiring as trustees

- (1) This section applies if a GOC or a GOC subsidiary is the trustee of a trust.
- (2) The GOC may retire from its trusteeship only with the prior written approval of the GOC's shareholding Ministers.
- (3) The GOC subsidiary may retire from its trusteeship only with the prior written approval of the shareholding Ministers of the GOC of which it is a subsidiary.

143 Part applies despite Corporations Act

This part applies despite the Corporations Act.

Part 17 **Employees**

144 Part applies to subsidiaries

- (1) This part applies to a GOC subsidiary and its employees in the same way as it applies to the GOC and its employees.
- (2) For subsection (1)—
 - (a) a reference in this part to the GOC's board is taken to be a reference to the subsidiary's board of directors; and
 - (b) a reference in this part to the shareholding Ministers is taken to be a reference to the shareholding Ministers of each GOC that is a shareholder of the subsidiary.
- (3) Section 146, as it applies to a GOC subsidiary under subsection (1), does not limit a provision of the subsidiary's constitution requiring the subsidiary's board to consult the board of a GOC that is a shareholder of the subsidiary before appointing senior executives under the section.

145 Employees not employed under Public Service Act

The employees of a GOC are not to be employed under the *Public Service Act 2008*.

146 Appointment of senior executives

The senior executives of a GOC are to be appointed by the GOC's board.

147 Arrangements relating to staff

- (1) A GOC may arrange with the chief executive of a department, or with an authority of the State, for the services of officers or employees of the department or authority to be made available to it.
- (2) A GOC may arrange with the appropriate authority of the Commonwealth or another State, or with an authority of the

[s 148]

Commonwealth or another State, for the services of officers or employees of the public service of the Commonwealth or State, or of the authority, to be made available to it.

- (3) A GOC may arrange for the service of an employee of the GOC to be made available to—
 - (a) the Commonwealth or another State; or
 - (b) an authority of the Commonwealth or another State.

148 Application of equal opportunity provisions under Public Service Act 2008

A GOC is a relevant EEO agency for the *Public Service Act 2008*, chapter 2.

149 Employment and industrial relations plan

- (1) A GOC's board must prepare an employment and industrial relations plan.
- (2) The plan must specify the arrangements for all major employment and industrial relations issues for the GOC.
- (3) The plan must include the following matters—
 - (a) the GOC's remuneration arrangements, including—
 - (i) the remuneration payable to its chief executive officer and other senior executives; and
 - (ii) any gain sharing schemes;
 - (b) other employment conditions applicable to its employees;
 - (c) the approximate number of its employees that are covered by an award or industrial agreement;
 - (d) the approximate number of its employees that are employed under an employment contract;
 - (e) its redundancy policies;
 - (f) the superannuation arrangements for its employees;

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- (g) a summary of the outcome of consultations in relation to the plan.
- (4) The plan may specify measures to ensure adherence to it.
- (5) The employment and industrial relations plan must be included in the GOC's statement of corporate intent.
- (6) The shareholding Ministers may, by written notice, direct the board to take specified steps in relation to the preparation or review of the employment and industrial relations plan.
- (7) In preparing or reviewing the plan, the board must consult with—
- (a) the office of the public service; and
 - (b) the department that deals with industrial relations; and
 - (c) interested industrial organisations and employees.
- (8) A direction under subsection (6) may specify the extent to which consultations are required either generally or in relation to a particular person or body.
- (9) The board must provide the shareholding Ministers with information about the outcome of the consultations.

150 Superannuation schemes

A GOC may—

- (a) establish or amend superannuation schemes; or
- (b) join in establishing or amending superannuation schemes; or
- (c) take part in superannuation schemes.

151 Superannuation for officers and employees who were previously officers of the public service

- (1) In this section—

person to whom this section applies means a person employed by a GOC in a permanent or full-time capacity

[s 152]

who, immediately before becoming employed, was a member of the State Public Sector Superannuation Scheme.

- (2) If, at the time a person to whom this section applies becomes employed by a GOC, the GOC does not take part in a superannuation scheme, the person is to continue to be a member of the State Public Sector Superannuation Scheme and, for that purpose, is taken to be eligible for membership of the scheme under the *Superannuation (State Public Sector) Act 1990*.
- (3) Subsection (4) applies if—
 - (a) the GOC establishes, joins in establishing or takes part in establishing a superannuation scheme (the ***GOC scheme***); and
 - (b) a person continued to be a member of the State Public Sector Superannuation Scheme under subsection (2).
- (4) The person may, under arrangements prescribed under a regulation, stop being a member of the State Public Sector Superannuation Scheme and become a member of the GOC scheme.

152 Preservation of leave entitlements of certain former officers and employees of government entities

- (1) If—
 - (a) a person becomes employed by a GOC in a permanent or full-time capacity within 1 year after the GOC becomes a GOC; and
 - (b) the person was an officer or employee of a government entity, who was employed in a permanent or full-time capacity, immediately before becoming employed by the GOC; and
 - (c) the person had leave entitlement at that time that had been accrued as an officer or employee of a government entity;

the person must be treated as having accrued the entitlements as an employee of the GOC.

- (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—
 - (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.

153 Right of return to public service

- (1) If—
 - (a) a person becomes employed by a GOC in a permanent or full-time capacity within 1 year after the GOC becomes a GOC; and
 - (b) the person was an officer of the public service, who was employed in a permanent or full-time capacity, immediately before becoming employed by the GOC; and
 - (c) the person elects to re-become an officer of the public service within that period of 1 year or any further period that the shareholding Ministers allow;the person is entitled to re-become an officer of the public service.
- (2) If the person re-becomes an officer of the public service under subsection (1)—
 - (a) the person's initial terms of employment must not be less favourable than the terms of employment that applied to the person before the person became employed by the GOC; and

[s 154]

- (b) for the purpose of calculating and providing the person's superannuation and leave entitlements, the person is to be treated as—
 - (i) not having left the public service when the person became employed by the GOC; and
 - (ii) having been an officer of the public service while the person was employed by the GOC.

Part 18 Other matters

154 Relationship of GOCs with the State

- (1) A GOC does not represent, and has never represented, the State.
- (2) Subsection (1) does not apply to the extent an Act expressly provides, or did provide, otherwise.

155 Application of chapter to certain GOC subsidiaries

- (1) This section applies to a GOC subsidiary prescribed under a regulation.
- (2) The provisions of this chapter prescribed by schedule 4 apply to the GOC subsidiary with the changes prescribed by the schedule as if it were a GOC.

156 Application of Crime and Misconduct Act

A GOC is not a unit of public administration under the *Crime and Misconduct Act 2001*.

157 Application of Ombudsman Act 2001

A GOC is not a public authority under the *Ombudsman Act 2001*.

Chapter 4 Miscellaneous

158 Monitoring and assessment of GOCs

- (1) The shareholding Ministers of a GOC may delegate their powers under section 122 (Board to keep shareholding Ministers informed) to any person.
- (2) The shareholding Ministers of a GOC may request the chief executive of the department (the *chief executive*) to investigate, and report to them on, any matter relating to the GOC or a subsidiary or proposed subsidiary of the GOC.
- (3) The responsible Ministers of a candidate GOC may request the chief executive to investigate, and report to them on, any matter relating to the candidate GOC or a subsidiary or proposed subsidiary of the candidate GOC.
- (4) For the purposes of an investigation under this section of a matter relating to a GOC or candidate GOC (the *entity*) or a subsidiary or proposed subsidiary of the entity, the chief executive may give the entity written directions.
- (5) Without limiting subsection (4), the chief executive may direct the entity—
 - (a) to give to the chief executive any information about the entity and its subsidiaries and proposed subsidiaries that the chief executive considers necessary or desirable in connection with the investigation; and
 - (b) to permit persons authorised by the chief executive to have access to specified records and other documents about the entity and its subsidiaries and proposed

[s 159]

subsidiaries that the chief executive considers necessary or desirable in connection with the investigation; and

- (c) to take steps that the chief executive considers necessary or desirable for the purposes of the investigation.
- (6) The entity must ensure that any 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 and proposed subsidiaries.
- (7) The chief executive may delegate to an officer of the department, an officer of the relevant portfolio Minister's department or another person the chief executive's powers under this section (including powers delegated to the chief executive under subsection (1)).

159 Giving of documents to board

If this Act authorises or requires a document to be given to the board of a GOC or a candidate GOC, it may be given to the chairperson of the board.

160 Proceedings for offences

- (1) In this section—

prescribed offence means an offence against this Act for which the maximum penalty of imprisonment is 2 years or more.
- (2) A proceeding for a prescribed offence may, at the election of the prosecution, be taken—
 - (a) by way of summary proceedings under the *Justices Act 1886*; or
 - (b) on indictment.
- (3) Any other offence against this Act is a summary offence.
- (4) A proceeding must be before a magistrate if it is a proceeding—

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- (a) with a view to the summary conviction of a person on a charge of a prescribed offence; or
- (b) for an examination of witnesses in relation to a charge for a prescribed offence.
- (5) However, if a proceeding for a prescribed offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.
- (6) A proceeding for an offence by way of a summary proceeding under the *Justices Act 1886* must start—
- (a) within 1 year after the commission of the offence; or
- (b) within 1 year after the offence comes to the complainant's knowledge, but not later than 2 years after the commission of the offence;
- whichever is the later.
- (7) If—
- (a) a person charged with a prescribed offence, in relation to which a proceeding is taken by way of a summary proceeding, requests, at the start of the proceeding, that the charge be prosecuted on indictment; or
- (b) the magistrate hearing and determining a charge of a prescribed offence is of the opinion that the charge ought to be prosecuted on indictment;
- the magistrate—
- (c) must not hear and determine the charge as a summary offence; but
- (d) must proceed by way of an examination of witnesses in relation to an indictable offence.
- (8) If a magistrate acts under subsection (7)—
- (a) any plea of the person charged, made at the start of the proceeding, must be disregarded; and

[s 161]

- (b) any evidence brought in the proceeding before the magistrate decided to act under subsection (7) is taken to be evidence in the proceeding with a view to the committal of the person for trial or sentence; and
 - (c) before committing the person for trial or sentence the magistrate must make a statement to the person in accordance with the *Justices Act 1886*, section 104(2)(b).
- (9) The maximum penalty that may be imposed on a summary conviction of a prescribed offence is 100 penalty units or imprisonment for 1 year.
- (10) In a complaint starting a proceeding for a prescribed offence, a statement that the matter of the complaint came to the complainant's knowledge on a specified day is evidence of the matter of the statement.

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

- (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

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- (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.

162 Effect of regulation made under s 161(1) on legal relationships

- (1) Nothing done under a regulation made under section 161(1)—

[s 162]

- (a) makes a relevant entity liable for a civil wrong or a contravention of a law or for a breach of a contract or confidence; or
 - (b) makes a relevant entity in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or
 - (c) is taken to fulfil a condition that—
 - (i) allows a person to terminate an instrument or obligation or modify the operation or effect of an instrument or obligation; or
 - (ii) allows a person to enforce an obligation contained in an instrument or requires a person to perform an obligation contained in an instrument; or
 - (iii) requires any money to be paid before its stated maturity; or
 - (d) releases a surety or other obligee, wholly or partly, from an obligation.
- (2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under a regulation made under section 161(1), the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.
- (3) If, apart from this subsection, giving notice to a person would be necessary to do something under a regulation made under section 161(1), the notice is taken to have been given.
- (4) This section applies despite anything in an instrument.
- (5) In this section—
- relevant entity*** means any of the following—
- (a) the State;
 - (b) a GOC or GOC subsidiary;

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- (c) an officer, employee or agent of an entity mentioned in paragraph (a) or (b);
 - (d) the shareholding Ministers of a GOC.

163 Regulation about assets and liabilities not dealt with under s 54

- (1) To the extent that anything about a candidate GOC or subsidiary of a candidate GOC could have been dealt with under section 54 (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

[s 164]

- (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.

164 Debt owned by State

A debt mentioned in section 161(1)(c) (Transfer of assets, liabilities etc. to GOC or GOC subsidiary) or 163(2)(c) (Regulation about assets and liabilities not dealt with under s 54) is owned by the State and held by the shareholding Ministers for the State.

165 Regulation about liability

- (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.

166 Regulation dissolving certain government entities

- (1) This section applies if all the assets and liabilities of a government entity established under this Act (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) This section does not apply if the first entity is a government company or GOC.

167 Regulations

- (1) The Governor in Council may make regulations for the purposes of this Act.
- (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 the *Statutory Instruments Act 1992*, section 26 (Statutory instrument may authorise determination etc. by specified person etc.).

Chapter 5 **Transitional provisions for Government Owned Corporations Amendment Act 2007**

168 Company GOCs—transfer of non-voting shares

- (1) Shares in a company GOC that are held by non-voting shareholders immediately before the commencement are, on the commencement, transferred to the GOC Minister by force of this section.
- (2) In this section—
commencement means the commencement of the *Government Owned Corporations Amendment Act 2007*, section 30.

169 References to statutory GOCs and company GOCs

A reference in an Act or document to a statutory GOC or company GOC may, if the context permits, be taken to be a reference to a GOC.

Schedule 1 Interim boards of directors

sections 58(3) and 60(1)

Part 1 Interpretation

1 Definitions for sch 1

In this schedule—

interim board means the interim board of directors of a relevant entity.

relevant entity means—

- (a) a government entity that is to become a GOC or a GOC subsidiary that has an interim board of directors under a regulation made under section 58(1); or
- (b) a candidate GOC associate or associate subsidiary.

Part 2 Composition of interim board of relevant entities

2 Composition of interim board

A relevant entity's interim board consists of the number of directors appointed by the Governor in Council.

3 Chairperson and deputy chairperson

- (1) The Governor in Council may appoint a director to be the interim board's chairperson and another director to be the interim board's deputy chairperson.
- (2) The deputy chairperson is to act as chairperson—
 - (a) during a vacancy in the office of chairperson; and

-
- (b) during all periods when the chairperson is absent from duty or is, for another reason, unable to perform the functions of the office.

Part 3 Meetings and other business of interim board

4 Meaning of *required minimum number* of directors

In this part—

required minimum number of directors means the number that is half the number of directors of which the interim board for the time being consists or, if that number is not a whole number, the next higher whole number.

5 Conduct of meetings and other business

Subject to this part, the interim board may conduct its business (including its meetings) in the way it considers appropriate.

6 Times and places of meetings

- (1) Meetings of the interim board are to be held at the times and places that the interim board determines.
- (2) However, the chairperson—
 - (a) may at any time convene a meeting; and
 - (b) must convene a meeting when requested by at least the required minimum number of directors.

7 Presiding at meetings

- (1) The chairperson is to preside at all meetings at which the chairperson is present.

- (2) If the chairperson is not present at a meeting, the deputy chairperson is to preside.
- (3) If both the chairperson and deputy chairperson are not present at a meeting, the director chosen by the directors present at the meeting is to preside.

8 Quorum and voting at meetings

At a meeting of the interim board—

- (a) the required minimum number of directors constitute a quorum; and
- (b) a question is to be decided by a majority of the votes of the directors present and voting; and
- (c) each director present has a vote on each question arising for decision and, if the votes are equal, the director presiding also has a casting vote.

9 Participation in meetings by telephone etc.

- (1) The interim board may permit directors to participate in a particular meeting, or all meetings, by—
 - (a) telephone; or
 - (b) closed circuit television; or
 - (c) another means of communication.
- (2) A director who participates in a meeting of the interim board under a permission under subsection (1) is taken to be present at the meeting.

10 Resolutions without meetings

- (1) If at least a majority of directors sign a document containing a statement that they are in favour of a resolution set out in the document, a resolution in those terms is taken to have been passed at a meeting of the interim board held on the day on which the document is signed or, if the directors do not sign it on the same day, the day on which the last of the directors constituting the majority signs the document.

- (2) If a resolution is, under subsection (1), taken to have been passed at a meeting of the interim board, each director must immediately be advised of the matter and given a copy of the terms of the resolution.
- (3) For the purposes of subsection (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by 1 or more directors, are taken to constitute a single document.

11 Minutes

The interim board must keep minutes of its proceedings.

Part 4 Provisions relating to directors

12 Appointment of directors

- (1) A director is to be appointed by the Governor in Council for a term of not more than 5 years.
- (2) In appointing a person as a director, the Governor in Council must have regard to the person's ability to make a contribution to the relevant entity's commercial performance and, if the entity has a statement of corporate intent, the implementation of the statement.
- (3) A person is not eligible for appointment if the person—
 - (a) is a public service officer; or
 - (b) is not able to manage a corporation because of the Corporations Act, part 2D.6.

13 Terms of appointment not provided for under Act

- (1) In relation to matters not provided for under this Act, a director holds office on the terms of appointment determined by the Governor in Council.

- (2) Except as determined by the Governor in Council, a director is not entitled to receive any payment, any interest in property or other valuable consideration or benefit—
- (a) by way of remuneration as a director; or
 - (b) in connection with retirement from office, or other termination of office, as a director.

14 Appointment of acting director

The Governor in Council may appoint a person to act as a director during any period, or all periods, when a director is absent from duty or is, for another reason, unable to perform the functions of the office.

15 Resignation

- (1) A director, or person appointed under section 3 (Chairperson and deputy chairperson), may resign by signed notice given to the Governor.
- (2) The chairperson or deputy chairperson may resign as chairperson or deputy chairperson and remain a director.

16 Termination of appointment as director

The Governor in Council may, at any time, terminate the appointment of all or any directors of the interim board for any reason or none.

Schedule 2 Executives of candidate GOC associates and associate subsidiaries

section 60(2)

Part 1 Interpretation

1 Definitions for sch 2

In this schedule—

interim board means the interim board of directors of a relevant entity.

relevant entity means a candidate GOC associate or associate subsidiary.

responsible Ministers, for an associate subsidiary, means the responsible Ministers for the candidate GOC associate of which the associate subsidiary is a subsidiary.

Part 2 Chief executive officer

2 Appointment of chief executive officer

The chief executive officer of a relevant entity is to be appointed by the entity's interim board with the prior written approval of the responsible Ministers.

3 Appointment of acting chief executive officer

The interim board may appoint a person to act as chief executive officer—

- (a) during a vacancy in the office; or

- (b) during any period, or all periods, when the chief executive officer is absent from duty or is, for another reason, unable to perform the functions of the office.

4 Terms of appointment not provided for under Act

In relation to matters not provided for under this Act, the chief executive officer holds office on the terms of appointment determined by the interim board.

5 Resignation

The chief executive officer may resign by signed notice given to the chairperson of the interim board.

6 Termination of appointment

- (1) The interim board may, at any time, terminate the appointment of the chief executive officer for any reason or none.
- (2) The termination of the appointment of the chief executive officer under subsection (1) does not affect any rights to compensation to which the chief executive officer is entitled under the terms of the chief executive officer's appointment.

7 Duties of chief executive officer

A relevant entity's chief executive officer, under its interim board, manages the entity.

8 Things done by chief executive officer

Anything done in the name of, or for, a relevant entity by its chief executive officer is taken to have been done by the entity.

9 Delegation by chief executive officer

- (1) The chief executive officer of a relevant entity may delegate the chief executive officer's functions, including a function

delegated to the chief executive officer, to an appropriately qualified employee of the entity.

(2) Subsection (1) has effect subject to any directions of the relevant entity's interim board.

(3) In this section—

appropriately qualified includes having qualifications, experience or standing appropriate for the function.

Example of standing—

an employee's classification level in the relevant entity

function includes power.

Part 3 Senior executives

10 Appointment of senior executives

The senior executives of a relevant entity are to be appointed by the entity's interim board with the prior written approval of the responsible Ministers.

Schedule 3 Application of FA and A Act to GOCs and prescribed GOC subsidiaries

section 118

Part 1 Preliminary

1 Purpose

The purpose of this schedule is to apply certain provisions of the FA and A Act to GOCs, and to GOC subsidiaries prescribed under a regulation under section 118 of the Act.

2 Definition

In this schedule—

FA and A Act means the *Financial Administration and Audit Act 1977*.

Part 2 Application of certain provisions of FA and A Act to GOCs

3 Definitions for pts 2 and 4

In this part and part 4—

applied provisions mean the provisions of the FA and A Act as applying under this part.

authorised auditor means—

- (a) the auditor-general or deputy auditor-general; or
- (b) a member of the staff of the Queensland Audit Office; or
- (c) a contract auditor.

chairperson, of a GOC, means the chairperson of the GOC's board of directors.

contract auditor means a person appointed as a contract auditor under section 82 of the applied provisions.

4 Application of FA and A Act—Act, s 118

- (1) The provisions of the FA and A Act set out in part 4 are applied to each GOC.
- (2) Subject to subsection (3), the provisions are applied as in force immediately before the commencement of this section.
- (3) As applying, some provisions are changed to read as set out in part 4.

Note—

Changes are shown in italics. Definitions are also shown in italics.

- (4) For the applied provisions, definitions and other interpretative provisions of the FA and A Act as in force immediately before the commencement of this section apply.
- (5) Subsection (4) is subject to section 3.

Part 3 Application of certain provisions of FA and A Act to GOC subsidiaries

5 Definitions for pts 3 and 5

In this part and part 5—

applied provisions mean the provisions of the FA and A Act as applying under section 6.

authorised auditor means—

- (a) the auditor-general or deputy auditor-general; or
- (b) a member of the staff of the Queensland Audit Office; or
- (c) a contract auditor.

chairperson, of a GOC subsidiary, means the chairperson of the subsidiary's board of directors.

contract auditor means a person appointed as a contract auditor under section 82 of the applied provisions.

GOC subsidiary means a GOC subsidiary prescribed under a regulation under section 118 of the Act.

shareholding GOC, of a GOC subsidiary, means a GOC that is a shareholder of the subsidiary.

6 Application of FA and A Act—Act, s 118

- (1) The provisions of the FA and A Act set out in part 5 are applied to each GOC subsidiary.
- (2) Subject to subsection (3), the provisions are applied as in force immediately before the commencement of this section.
- (3) As applying, some provisions are changed to read as set out in part 5.

Note—

Changes are shown in italics. Definitions are also shown in italics.

- (4) For the applied provisions, definitions and other interpretative provisions of the FA and A Act as in force immediately before the commencement of this section apply.
- (5) Subsection (4) is subject to section 5.

Part 4 Provisions of FA and A Act applying under section 4 to GOCs

Part 3 Financial administration—GOCs

46C *Not applied.*

46F GOCs to prepare annual financial statements

- (1) *A GOC must give the financial statements prepared by it under the Corporations Act to the auditor-general by a date agreed between the GOC and the auditor-general.*
- (2) *The date agreed under subsection (1) must allow audit of the statements, and a report for the audit, to be completed by the auditor-general no later than 2 months after the end of the financial year the statements relate to.*
- (3) to (9) *Not applied.*

46G *Not applied.*

46H GOCs must consider auditor-general's observations and suggestions

If a chairperson of a *GOC* is given observations or suggestions (together with any comments on them) under section 93(4), the chairperson must ensure they are considered at the *GOC's* next ordinary meeting.

46J Annual report

- (1) *As soon as possible after the close of each financial year but, subject to subsection (2), in no case later than 4 months after that close a GOC shall prepare and furnish to its shareholding Ministers a report in writing on the operations of the GOC during that financial year.*

- (2) The *shareholding Ministers* may, in a particular case, extend or further extend the period of 4 months referred to in subsection (1) by written notice given to the *GOC*.
- (2A) If the *shareholding Ministers extend* the period referred to in subsection (1) to a period of more than 6 months, *the Ministers* must, within 14 days of granting that extension, give to the Legislative Assembly an explanation for the granting of that extension.
- (3) The report—
 - (a) shall contain such information as the *shareholding Ministers direct* to enable the *Ministers* to assess the efficiency, effectiveness and economy of the *GOC* and the need for its continuance; and
 - (b) shall contain a copy of the annual financial statements of the *GOC* relating to that financial year *prepared under the Corporations Act; and*
 - (c) *shall contain the information required, under the Government Owned Corporations Act 1993, to be included in the annual report of a GOC.*
- (4) *Subsection (3) is subject to the Government Owned Corporations Act 1993, section 121.*

Part 3A Tabling of annual reports

46K *Shareholding Ministers* must table reports

Within 14 days after receiving the annual report of a *GOC*, the *GOC's shareholding Ministers* must table a copy of it in the Legislative Assembly.

46KA Not applied.

46KB *Shareholding Ministers to explain late tabling of annual report*

- (1) This section applies if the *shareholding Ministers table*, in the Legislative Assembly—
 - (a) the annual report of a *GOC* later than 4 months and 14 days after the end of a financial year; or
 - (b) *Not applied*.
- (2) The *shareholding Ministers* must also give the Legislative Assembly a written statement—
 - (a) stating the report is being tabled late; and
 - (b) stating the length of the delay; and
 - (c) explaining the reasons for the delay.

46KC *Procedure if Legislative Assembly not in session or sitting*

- (1) This section applies if the Legislative Assembly is not in session or is not actually sitting when the *shareholding Ministers are* required to do any of the following things—
 - (a) table a copy of an annual report in the Legislative Assembly;
 - (b) give the Legislative Assembly a written statement about the late tabling of an annual report;
 - (c) if the *shareholding Ministers have* given a *GOC* an extension of time for giving the *Ministers* a copy of its annual report—give the Legislative Assembly an explanation for giving the extension.
- (2) The *shareholding Ministers* must give a copy of the report, the written statement or the explanation to the clerk of the Parliament.
- (3) The clerk must table the report, statement or explanation before the Legislative Assembly on its next sitting day.
- (4) The report, statement or explanation is taken to have been tabled in the Legislative Assembly on the day it is given to the clerk.

- (5) The day of receipt of the report, statement or explanation must be recorded in the votes and proceedings on the next sitting day.
- (6) If the Legislative Assembly orders the report, statement or explanation to be published, the report, statement or explanation is taken to have been ordered to be published by the Legislative Assembly on the day the clerk receives it.

Part 6 Audit of GOCs

Division 1 Scope of auditor-general's mandate

73 *Not applied.*

74 *Not applied.*

75 *Shareholding Ministers to give auditor-general information relating to GOCs*

- (1) If a GOC acts under the Government Owned Corporations Act 1993, section 140, its shareholding Ministers must give the auditor-general any information about the matter that the auditor-general requires.
- (2) *Not applied.*

76 Auditor-general to be appointed auditor of every GOC

- (1) The *shareholding Ministers of a GOC* must—
 - (a) appoint the auditor-general to be the auditor of the GOC; and
 - (b) ensure that the auditor-general remains, at all times, the auditor of the GOC while the GOC remains a GOC.
- (2) *Not applied.*

77 Audits at request of Parliament

- (1) If the Legislative Assembly, by resolution, requests the auditor-general to conduct an audit of a matter relating to the financial administration of a *GOC*, the auditor-general must conduct the audit.
- (2) *Not applied.*

78 *Not applied.*

Division 2 Conduct of audits**79 Way in which audit is to be conducted**

- (1) The auditor-general may conduct an audit in the way the auditor-general considers appropriate.
- (2) In determining the appropriate way to conduct an audit, the auditor-general may have regard to—
 - (a) the character of the relevant internal control system (including internal audit); and
 - (b) recognised standards and practices.
- (3) Subsection (2) does not limit the matters to which the auditor-general may have regard.
- (4) *The auditor-general is not limited to conducting the audit in accordance with the Corporations Act, and may do anything else that the auditor-general considers appropriate.*

80 Audit of performance management systems

- (1) The auditor-general may conduct an audit of performance management systems of a *GOC*.
- (2) The audit may be conducted as a separate audit or as part of another audit (including an audit of another *GOC* under this section).
- (3) The object of the audit includes determining whether the performance management systems enable the *GOC* to assess

whether its objectives are being achieved economically, efficiently and effectively.

- (4) *Not applied.*
- (5) *The audit may include a review of the GOC's performance measures.*
- (6) *In a report prepared for the audit, the auditor-general may state whether, in the auditor-general's opinion, the performance measures—*
 - (a) *are relevant and otherwise appropriate, having regard to their purpose; and*
 - (b) *fairly represent the GOC's performance.*

81 *Not applied.*

82 **Appointment of contract auditors**

- (1) *For auditing GOCs the auditor-general may appoint an appropriately qualified individual who is not a member of the staff of the Queensland Audit Office to be a contract auditor.*
- (2) The appointment of a person to be a contract auditor may be general or limited to a particular audit.
- (3) The contract auditor—
 - (a) is appointed on the terms specified in the instrument of appointment; and
 - (b) may resign the appointment by signed notice given to the auditor-general.

83 **Identity cards for *contract* auditors**

- (1) The auditor-general may issue an identity card to *a contract* auditor.
- (2) The identity card must—
 - (a) contain a recent photograph of the *contract* auditor; and

-
- (b) be signed by the *contract* auditor and the auditor-general.
- (3) A person who ceases to be a *contract* auditor must not, without reasonable excuse, fail to return the person's identity card to the auditor-general as soon as practicable after ceasing to be a *contract* auditor.

Maximum penalty for subsection (3)—10 penalty units.

84 Proof of authority as authorised auditor

- (1) An authorised auditor may exercise a power *under the applied provisions* in relation to a person only if the authorised auditor produces his or her identity card for inspection by the person.
- (2) *In this section—*
- identity card*** means—
- (a) *for a contract auditor, the identity card issued to the auditor under section 83; or*
- (b) *for another authorised auditor, the identity card issued to the auditor under section 83 of the FA and A Act.*

85 Access to documents and property

- (1) *Not applied.*
- (2) For the purpose of conducting an audit of a *GOC under the applied provisions*, an authorised auditor is entitled, at all reasonable times, to full and free access to all documents and property belonging to, in the custody of, or under the control of, the *GOC*.
- (3) For the purpose of conducting an audit under *the applied provisions*, an authorised auditor may—
- (a) enter, at any reasonable time—
- (i) a place occupied by a *GOC*; or
- (ii) a place occupied by a financial institution with which a *GOC* maintains an account; or

- (iii) another place if the occupier of the place consents to the entry; and
 - (b) inspect, examine, photograph or film anything in the place; and
 - (c) take extracts from, and make copies of, any documents in the place; and
 - (d) take into the place persons, equipment and materials that the authorised auditor reasonably requires; and
 - (e) require any person in the place to give to the authorised auditor reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (d).
- (4) A person must not, without reasonable excuse, fail to comply with a requirement made under subsection (3)(e).
Maximum penalty—40 penalty units.
- (5) It is not a reasonable excuse for a person to fail to comply with a requirement made under subsection (3)(e) that complying with the requirement might tend to incriminate the person.
- (6) Neither an answer by a person under a requirement made under subsection (3)(e), nor any information, document or other thing obtained as a direct or indirect consequence of the person giving the answer, is admissible against the person in a criminal proceeding (other than a proceeding relating to the falsity of the answer) if—
 - (a) the person, before giving the answer, claimed that giving the answer might tend to incriminate the person; and
 - (b) the answer might in fact tend to incriminate the person.
- (7) The fact that a document was produced by a person under a requirement made under subsection (3)(e) is not admissible in evidence against the person in a criminal proceeding (other than a proceeding relating to the falsity of the document) if—
 - (a) the person, before producing the document, claimed that producing the document might tend to incriminate the person; and

-
- (b) producing the document might in fact tend to incriminate the person.

86 Obtaining information

- (1) If it is reasonably necessary for the purposes of an audit under *the applied provisions*, an authorised auditor may, by written notice given to a person, require the person to give to the authorised auditor specified information, within a reasonable period and in a reasonable way specified in the notice.

- (2) A person must not, without reasonable excuse, fail to comply with a requirement made under subsection (1).

Maximum penalty—40 penalty units.

- (3) It is not a reasonable excuse for a person to fail to comply with a requirement under subsection (1) that complying with the requirement might tend to incriminate the person.

- (4) Neither information given by a person under a requirement under subsection (1), nor any other information or a document or other thing obtained as a direct or indirect consequence of the person giving the information, is admissible against the person in a criminal proceeding (other than a proceeding relating to the falsity of the information) if—

- (a) the person, before giving the information, claimed that giving the information might tend to incriminate the person; and
- (b) giving the information might in fact tend to incriminate the person.

87 Obtaining evidence

- (1) If it is reasonably necessary for the purposes of an audit under *the applied provisions*, an authorised auditor may, by written notice given to a person, require the person—

- (a) to attend before an authorised auditor, at a reasonable time and place specified in the notice, and then and there answer questions; and

- (b) to produce to an authorised auditor, at a reasonable time and place specified in the notice, documents belonging to, in the custody of, or under the control of, the person.
- (2) The authorised auditor before whom the person attends may require answers to be verified or given on oath or affirmation, and either orally or in writing, and for that purpose the authorised auditor may administer an oath or affirmation.
- (3) The oath to be taken, or affirmation to be made, by a person for the purposes of this section is an oath or affirmation that the answers the person will give will be true.
- (4) An authorised auditor to whom a document is produced under a notice under subsection (1)—
 - (a) may keep the document for a reasonable period for the purposes of conducting the relevant audit; and
 - (b) may take extracts from and make copies of the document.
- (5) While the authorised auditor has possession of the document, the authorised auditor must allow the document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the authorised auditor's possession.
- (6) *Not applied.*
- (7) A person must not, without reasonable excuse, fail to comply with a notice under subsection (1).

Maximum penalty—40 penalty units.
- (8) It is not a reasonable excuse for a person to fail to comply with a notice under subsection (1) that complying with the notice might tend to incriminate the person.
- (9) Neither an answer given by a person under this section, nor any information, document or other thing obtained as a direct or indirect consequence of the person giving the answer, is admissible against the person in a criminal proceeding (other than a proceeding relating to the falsity of the answer) if—
 - (a) the person, before giving the answer, claimed that giving the answer might tend to incriminate the person; and

-
- (b) the answer might in fact tend to incriminate the person.
- (10) The fact that a document was produced by a person under this section is not admissible in evidence against the person in a criminal proceeding (other than a proceeding relating to the falsity of the document) if—
- (a) the person, before producing the document, claimed that producing the document might tend to incriminate the person; and
- (b) producing the document might in fact tend to incriminate the person.

88 Compensation

- (1) A person (other than a *GOC*) who incurs any loss or expense—
- (a) because of the exercise or purported exercise of a power under this division; or
- (b) in complying with a requirement made of the person under this division;
- may claim compensation from the State.
- (2) A payment of compensation may be claimed and ordered—
- (a) in a proceeding for compensation brought in a court of competent jurisdiction for the recovery of compensation; or
- (b) during a proceeding for an offence against *the applied provisions* brought against the person by whom the claim is made.
- (3) A court may order the payment of compensation for the loss or expense only if it is satisfied that it is just to do so in the circumstances of the particular case.

89 False or misleading information

- (1) A person must not—

- (a) make a statement to an authorised auditor that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to an authorised auditor anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—80 penalty units.

- (2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states that the information given was false or misleading to the person's knowledge.

90 Obstruction of authorised auditor

A person must not, without reasonable excuse—

- (a) obstruct, hinder or resist; or
- (b) attempt to obstruct, hinder or resist;

an authorised auditor in the exercise of a power under *the applied provisions*.

Maximum penalty—80 penalty units.

91 Impersonation of authorised auditor

A person must not pretend to be an authorised auditor.

Maximum penalty—80 penalty units.

92 Confidentiality

- (1) In this section—

person to whom this section applies means a person who is or has been—

- (a) an authorised auditor; or
- (b) a person engaged or employed by a contract auditor.

protected information means information that is obtained under *the applied provisions*.

- (2) A person to whom this section applies must not—
- (a) make a record of protected information; or
 - (b) whether directly or indirectly, divulge or communicate protected information;

unless the record is made, or the information *is* divulged or communicated—

- (c) under or for the purposes of *the applied provisions*; or
- (d) in the performance of duties, as a person to whom this section applies, under or for the purposes of *the applied provisions*.

Maximum penalty—200 penalty units or imprisonment for 1 year.

- (3) Subsection (2) does not prevent the disclosure of information to—

- (a) the *parliamentary committee*; or

Note—

FA and A Act, schedule 3—

parliamentary committee means the Public Accounts and Public Works Committee of the Legislative Assembly.

- (c) the *Crime and Misconduct Commission*; or
- (d) a police officer, or a person or body responsible for the investigation or prosecution of offences, if the information relates to the investigation or prosecution of an offence; or
- (e) a court for the purposes of the prosecution of a person for an offence.

93 Report on audit

- (1) The auditor-general may prepare a report on any audit conducted under *the applied provisions*.
- (2) An authorised auditor (other than the auditor-general) must give the auditor-general a report on every audit conducted under *the applied provisions* by the authorised auditor.

- (3) A report under subsection (1) or (2) may contain observations and suggestions about anything arising out of the audit.
- (4) If the auditor-general is of the opinion that observations or suggestions made under subsection (3) require attention or further consideration, the auditor-general must give them (together with any comments on them)—
 - (a) *not applied*;
 - (b) *not applied*;
 - (c) *to the chairperson of the GOC concerned* and the person responsible for the financial administration of the *GOC*.
- (5) If the auditor-general is of the opinion that the observations or suggestions made under subsection (3) are of significance, the auditor-general must also give them (together with any comments on them) to the *shareholding Ministers of the GOC concerned*.

94 Protection from liability

- (1) An authorised auditor does not incur civil liability for an act or omission done or omitted to be done honestly and without negligence under or for the purposes of *the applied provisions*.
- (2) A liability that would, but for subsection (1), attach to an authorised auditor attaches instead to the State.

95 Audit fees

- (1) The auditor-general may charge fees for an audit conducted by the auditor-general *under the applied provisions*.
- (2) The auditor-general may, with the Treasurer's approval, determine the basic rates of fees.
- (3) The auditor-general must assess the fees for an audit having regard to the basic rates of fees determined under subsection (2).
- (4) Unpaid fees may be recovered by the auditor-general as a debt due to the auditor-general.

96 *Applied provisions do not limit other powers of auditor-general*

The applied provisions do not limit any power that the auditor-general has apart from those provisions.

Division 3 Reports to the Legislative Assembly

97 *Not applied.*

98 *Not applied.*

99 Annual reports on audits of GOCs

- (1) The auditor-general must prepare a report to the Legislative Assembly on each audit conducted of a *GOC* by an authorised auditor.
- (2) The report must—
 - (a) state whether or not—
 - (i) the audit of the *GOC* has been completed; and
 - (ii) the statements relating to the accounts of the *GOC* have been audited; and
 - (b) draw attention to any case in which the functions relating to the financial management of the *GOC* were not adequately and properly performed if, in the auditor-general's opinion, the matter is of sufficient significance to require inclusion in the report; and
 - (c) set out—
 - (i) the results of audits conducted, in relation to the relevant financial year, of *subsidiaries of a GOC* by an authorised auditor; and
 - (ii) if audits were not conducted in relation to particular *subsidiaries*—the reasons why they were not conducted; and

- (d) deal with the action (if any) taken to remedy significant deficiencies reported in previous reports on audits of the *GOC*.
- (3) *Subsection (2)(c) does not apply if section 99 of the FA and A Act applies to the subsidiaries concerned under the Government Owned Corporations Act 1993, section 118.*

100 Reports on audits requested by Parliament

The auditor-general must prepare a report to the Legislative Assembly on each audit conducted at the request of the Legislative Assembly.

101 Interim, supplementary and combined reports

- (1) The auditor-general may prepare interim and supplementary reports to the Legislative Assembly on any matter on which the auditor-general is to report or has reported.
- (2) The auditor-general may combine reports on any 2 or more audits.

102 Other reports

The auditor-general may prepare any of the following reports to the Legislative Assembly—

- (a) if the auditor-general considers it desirable to do so at any particular time for reasons of urgency—a report on any significant matter arising out of an audit *under the applied provisions*;
- (b) if the auditor-general considers it to be in the public interest to do so—a full report on, or a report on any specific matters arising out of, a particular audit *under the applied provisions*;
- (c) if the auditor-general considers it otherwise appropriate to do so at any time—a report on any matter arising out

of an audit *under the applied provisions* to which attention should be drawn;

(d) *not applied*.

103 Comments on proposed audit reports

- (1) If the auditor-general proposes to include in a report to the Legislative Assembly under this division a matter that, in the auditor-general's opinion, is a matter of significance, the auditor-general must give written advice of the matter that is proposed to be included to—
 - (a) *not applied*;
 - (b) *not applied*;
 - (c) *the chairperson of the GOC concerned* and the person responsible for the financial administration of the *GOC*;
and—
 - (d) *not applied*;
 - (e) *(words omitted) to the GOC's shareholding Ministers*.
- (2) The advice must include a statement to the effect that comments on the proposed matter may be made in writing given to the auditor-general—
 - (a) within 21 days after the advice is received; or
 - (b) within such longer period as is specified in the advice.
- (3) If comments are received within the 21 days or longer period, the auditor-general must include them in the report.

104 Procedure for reporting certain sensitive information

- (1) If the auditor-general considers that it would be against the public interest to disclose in a report under this division information that could—
 - (a) have a serious adverse effect on the commercial interests of a *GOC*; or
 - (b) reveal trade secrets of a *GOC*; or

- (c) prejudice the investigation of a contravention or possible contravention of the law; or
- (d) prejudice the fair trial of a person; or
- (e) cause damage to the relations between the Government of the State and another Government;

the auditor-general must not disclose the information in the report but must instead include it in a report prepared and given to the Parliamentary Committee.

- (2) This section has effect despite anything in *the applied provisions or any Act*.

105 Tabling of reports

- (1) A report prepared under this division must be given to the speaker or, if there is no speaker or the speaker is unavailable, to the clerk of the Parliament.
- (2) The speaker or clerk must cause a copy of the report to be laid before the Legislative Assembly on its next sitting day.
- (3) For the purposes of its publication, a report given to the Speaker or the clerk under subsection (2) is taken to have been laid before the Legislative Assembly, and to have been ordered to be published by the Legislative Assembly, when it is given to the Speaker or the clerk.

143 Transitional provision for amendment of s 80

- (1) *A review under section 80(5) of a GOC's performance measures may include a consideration of matters, relevant to the review, that happened before the commencement day or relate to a time before that day.*
- (2) *In this section—*
commencement day *means the day of commencement of the Revenue and Other Legislation Amendment Act 2006, part 6.*

Part 5 **Provisions of FA and A Act
applying under section 6 to
GOC subsidiaries**

Part 3 **Financial administration—GOC
subsidiaries**

46C *Not applied.*

46F **GOC subsidiaries to prepare annual financial statements**

- (1) *A GOC subsidiary must give the financial statements prepared by it under the Corporations Act to the auditor-general by a date agreed between the subsidiary and the auditor-general.*
- (2) *The date agreed under subsection (1) must allow audit of the statements, and a report for the audit, to be completed by the auditor-general no later than 2 months after the end of the financial year the statements relate to.*
- (3) to (9) *Not applied.*

46G *Not applied.*

46H **GOC subsidiaries must consider auditor-general's
observations and suggestions**

If a chairperson of a *GOC subsidiary* is given observations or suggestions (together with any comments on them) under section 93(4), the chairperson must ensure they are considered at the *subsidiary's* next ordinary meeting.

46J **Annual report**

- (1) As soon as possible after the close of each financial year but, subject to subsection (2), in no case later than 4 months after that close a *GOC subsidiary* shall prepare and furnish to *the*

shareholding Ministers of each shareholding GOC of the subsidiary a report in writing on the operations of the *subsidiary* during that financial year.

- (2) The *shareholding Ministers* may, in a particular case, extend or further extend the period of 4 months referred to in subsection (1) by written notice given to the *GOC subsidiary*.
- (2A) If the *shareholding Ministers extend* the period referred to in subsection (1) to a period of more than 6 months, *the Ministers* must, within 14 days of granting that extension, give to the Legislative Assembly an explanation for the granting of that extension.
- (3) The report—
 - (a) shall contain such information as the *shareholding Ministers direct* to enable the *Ministers* to assess the efficiency, effectiveness and economy of the *GOC subsidiary* and the need for its continuance; and
 - (b) shall contain a copy of the annual financial statements of the *GOC subsidiary* relating to that financial year *prepared under the Corporations Act; and*
 - (c) *shall contain the information required, under the Government Owned Corporations Act 1993 as applied to the GOC subsidiary, to be included in the annual report of the subsidiary.*
- (4) *Subsection (3) is subject to the Government Owned Corporations Act 1993, section 121, as applied to a GOC subsidiary.*

Part 3A Tabling of annual reports

46K *Shareholding Ministers* must table reports

Within 14 days after receiving the annual report of a *GOC subsidiary*, the *shareholding Ministers of a shareholding GOC of the subsidiary* must table a copy of it in the Legislative Assembly.

46KA *Not applied.*

46KB *Shareholding Ministers to explain late tabling of annual report*

- (1) This section applies if the *shareholding Ministers of a shareholding GOC of a GOC subsidiary table*, in the Legislative Assembly—
 - (a) the annual report of *the subsidiary* later than 4 months and 14 days after the end of a financial year; or
 - (b) *not applied.*
- (2) The *shareholding Ministers* must also give the Legislative Assembly a written statement—
 - (a) stating the report is being tabled late; and
 - (b) stating the length of the delay; and
 - (c) explaining the reasons for the delay.

46KC *Procedure if Legislative Assembly not in session or sitting*

- (1) This section applies if the Legislative Assembly is not in session or is not actually sitting when the *shareholding Ministers of a shareholding GOC of a GOC subsidiary are* required to do any of the following things—
 - (a) table a copy of an annual report in the Legislative Assembly;
 - (b) give the Legislative Assembly a written statement about the late tabling of an annual report;
 - (c) if the *shareholding Ministers have* given a *GOC subsidiary* an extension of time for giving the *Ministers* a copy of its annual report—give the Legislative Assembly an explanation for giving the extension.
- (2) The *shareholding Ministers* must give a copy of the report, the written statement or the explanation to the clerk of the Parliament.

- (3) The clerk must table the report, statement or explanation before the Legislative Assembly on its next sitting day.
- (4) The report, statement or explanation is taken to have been tabled in the Legislative Assembly on the day it is given to the clerk.
- (5) The day of receipt of the report, statement or explanation must be recorded in the votes and proceedings on the next sitting day.
- (6) If the Legislative Assembly orders the report, statement or explanation to be published, the report, statement or explanation is taken to have been ordered to be published by the Legislative Assembly on the day the clerk receives it.

Part 6 Audit of *GOC subsidiaries*

Division 1 Scope of auditor-general's mandate

73 *Not applied.*

74 *Not applied.*

75 *Shareholding Ministers to give auditor-general information relating to GOC subsidiaries*

- (1) If a *GOC subsidiary* acts under the *Government Owned Corporations Act 1993, section 140*, the *shareholding Ministers of each shareholding GOC of the subsidiary* must give the auditor-general any information about the matter that the auditor-general requires.
- (2) *Not applied.*

76 Auditor-general to be appointed auditor of every GOC subsidiary

- (1) The shareholders *of a GOC subsidiary* must—
 - (a) appoint the auditor-general to be the auditor of the *subsidiary*; and
 - (b) ensure that the auditor-general remains, at all times, the auditor of the *subsidiary* while the *subsidiary* remains a *GOC subsidiary*.
- (2) *Not applied.*

77 Audits at request of Parliament

- (1) If the Legislative Assembly, by resolution, requests the auditor-general to conduct an audit of a matter relating to the financial administration of a *GOC subsidiary*, the auditor-general must conduct the audit.
- (2) *Not applied.*

78 *Not applied.*

Division 2 Conduct of audits**79 Way in which audit is to be conducted**

- (1) The auditor-general may conduct an audit in the way the auditor-general considers appropriate.
- (2) In determining the appropriate way to conduct an audit, the auditor-general may have regard to—
 - (a) the character of the relevant internal control system (including internal audit); and
 - (b) recognised standards and practices.
- (3) Subsection (2) does not limit the matters to which the auditor-general may have regard.

- (4) *The auditor-general is not limited to conducting the audit in accordance with the Corporations Act, and may do anything else that the auditor-general considers appropriate.*

80 Audit of performance management systems

- (1) The auditor-general may conduct an audit of performance management systems of a *GOC subsidiary*.
- (2) The audit may be conducted as a separate audit or as part of another audit (including an audit of another *GOC subsidiary* under this section).
- (3) The object of the audit includes determining whether the performance management systems enable the *GOC subsidiary* to assess whether its objectives are being achieved economically, efficiently and effectively.
- (4) *Not applied.*
- (5) *The audit may include a review of the GOC subsidiary's performance measures.*
- (6) *In a report prepared for the audit, the auditor-general may state whether, in the auditor-general's opinion, the performance measures—*
- (a) are relevant and otherwise appropriate, having regard to their purpose; and*
 - (b) fairly represent the GOC subsidiary's performance.*

81 *Not applied.*

82 Appointment of contract auditors

- (1) *For auditing GOC subsidiaries the auditor-general may appoint an appropriately qualified individual who is not a member of the staff of the Queensland Audit Office to be a contract auditor.*
- (2) The appointment of a person to be a contract auditor may be general or limited to a particular audit.
- (3) The contract auditor—

- (a) is appointed on the terms specified in the instrument of appointment; and
- (b) may resign the appointment by signed notice given to the auditor-general.

83 Identity cards for *contract* auditors

- (1) The auditor-general may issue an identity card to *a contract* auditor.
- (2) The identity card must—
 - (a) contain a recent photograph of the *contract* auditor; and
 - (b) be signed by the *contract* auditor and the auditor-general.
- (3) A person who ceases to be *a contract* auditor must not, without reasonable excuse, fail to return the person's identity card to the auditor-general as soon as practicable after ceasing to be *a contract* auditor.

Maximum penalty for subsection (3)—10 penalty units.

84 Proof of authority as authorised auditor

- (1) An authorised auditor may exercise a power *under the applied provisions* in relation to a person only if the authorised auditor produces his or her identity card for inspection by the person.
- (2) *In this section—*
 - identity card means—*
 - (a) *for a contract auditor, the identity card issued to the auditor under section 83; or*
 - (b) *for another authorised auditor, the identity card issued to the auditor under section 83 of the FA and A Act.*

85 Access to documents and property

- (1) *Not applied.*

- (2) For the purpose of conducting an audit of a *GOC subsidiary under the applied provisions*, an authorised auditor is entitled, at all reasonable times, to full and free access to all documents and property belonging to, in the custody of, or under the control of, the *subsidiary*.
- (3) For the purpose of conducting an audit under *the applied provisions*, an authorised auditor may—
 - (a) enter, at any reasonable time—
 - (i) a place occupied by a *GOC subsidiary*; or
 - (ii) a place occupied by a financial institution with which a *GOC subsidiary* maintains an account; or
 - (iii) another place if the occupier of the place consents to the entry; and
 - (b) inspect, examine, photograph or film anything in the place; and
 - (c) take extracts from, and make copies of, any documents in the place; and
 - (d) take into the place persons, equipment and materials that the authorised auditor reasonably requires; and
 - (e) require any person in the place to give to the authorised auditor reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (d).
- (4) A person must not, without reasonable excuse, fail to comply with a requirement made under subsection (3)(e).

Maximum penalty—40 penalty units.
- (5) It is not a reasonable excuse for a person to fail to comply with a requirement made under subsection (3)(e) that complying with the requirement might tend to incriminate the person.
- (6) Neither an answer by a person under a requirement made under subsection (3)(e), nor any information, document or other thing obtained as a direct or indirect consequence of the person giving the answer, is admissible against the person in a criminal proceeding (other than a proceeding relating to the falsity of the answer) if—

-
- (a) the person, before giving the answer, claimed that giving the answer might tend to incriminate the person; and
 - (b) the answer might in fact tend to incriminate the person.
- (7) The fact that a document was produced by a person under a requirement made under subsection (3)(e) is not admissible in evidence against the person in a criminal proceeding (other than a proceeding relating to the falsity of the document) if—
- (a) the person, before producing the document, claimed that producing the document might tend to incriminate the person; and
 - (b) producing the document might in fact tend to incriminate the person.

86 Obtaining information

- (1) If it is reasonably necessary for the purposes of an audit under *the applied provisions*, an authorised auditor may, by written notice given to a person, require the person to give to the authorised auditor specified information, within a reasonable period and in a reasonable way specified in the notice.
- (2) A person must not, without reasonable excuse, fail to comply with a requirement made under subsection (1).
Maximum penalty—40 penalty units.
- (3) It is not a reasonable excuse for a person to fail to comply with a requirement under subsection (1) that complying with the requirement might tend to incriminate the person.
- (4) Neither information given by a person under a requirement under subsection (1), nor any other information or a document or other thing obtained as a direct or indirect consequence of the person giving the information, is admissible against the person in a criminal proceeding (other than a proceeding relating to the falsity of the information) if—
 - (a) the person, before giving the information, claimed that giving the information might tend to incriminate the person; and

- (b) giving the information might in fact tend to incriminate the person.

87 Obtaining evidence

- (1) If it is reasonably necessary for the purposes of an audit under *the applied provisions*, an authorised auditor may, by written notice given to a person, require the person—
 - (a) to attend before an authorised auditor, at a reasonable time and place specified in the notice, and then and there answer questions; and
 - (b) to produce to an authorised auditor, at a reasonable time and place specified in the notice, documents belonging to, in the custody of, or under the control of, the person.
- (2) The authorised auditor before whom the person attends may require answers to be verified or given on oath or affirmation, and either orally or in writing, and for that purpose the authorised auditor may administer an oath or affirmation.
- (3) The oath to be taken, or affirmation to be made, by a person for the purposes of this section is an oath or affirmation that the answers the person will give will be true.
- (4) An authorised auditor to whom a document is produced under a notice under subsection (1)—
 - (a) may keep the document for a reasonable period for the purposes of conducting the relevant audit; and
 - (b) may take extracts from and make copies of the document.
- (5) While the authorised auditor has possession of the document, the authorised auditor must allow the document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the authorised auditor's possession.
- (6) *Not applied.*
- (7) A person must not, without reasonable excuse, fail to comply with a notice under subsection (1).

Maximum penalty—40 penalty units.

- (8) It is not a reasonable excuse for a person to fail to comply with a notice under subsection (1) that complying with the notice might tend to incriminate the person.
- (9) Neither an answer given by a person under this section, nor any information, document or other thing obtained as a direct or indirect consequence of the person giving the answer, is admissible against the person in a criminal proceeding (other than a proceeding relating to the falsity of the answer) if—
 - (a) the person, before giving the answer, claimed that giving the answer might tend to incriminate the person; and
 - (b) the answer might in fact tend to incriminate the person.
- (10) The fact that a document was produced by a person under this section is not admissible in evidence against the person in a criminal proceeding (other than a proceeding relating to the falsity of the document) if—
 - (a) the person, before producing the document, claimed that producing the document might tend to incriminate the person; and
 - (b) producing the document might in fact tend to incriminate the person.

88 Compensation

- (1) A person (other than a *GOC subsidiary*) who incurs any loss or expense—
 - (a) because of the exercise or purported exercise of a power under this division; or
 - (b) in complying with a requirement made of the person under this division;may claim compensation from the State.
- (2) A payment of compensation may be claimed and ordered—
 - (a) in a proceeding for compensation brought in a court of competent jurisdiction for the recovery of compensation; or

- (b) during a proceeding for an offence against *the applied provisions* brought against the person by whom the claim is made.
- (3) A court may order the payment of compensation for the loss or expense only if it is satisfied that it is just to do so in the circumstances of the particular case.

89 False or misleading information

- (1) A person must not—
 - (a) make a statement to an authorised auditor that the person knows is false or misleading in a material particular; or
 - (b) omit from a statement made to an authorised auditor anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—80 penalty units.

- (2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states that the information given was false or misleading to the person's knowledge.

90 Obstruction of authorised auditor

A person must not, without reasonable excuse—

- (a) obstruct, hinder or resist; or
- (b) attempt to obstruct, hinder or resist;

an authorised auditor in the exercise of a power under *the applied provisions*.

Maximum penalty—80 penalty units.

91 Impersonation of authorised auditor

A person must not pretend to be an authorised auditor.

Maximum penalty—80 penalty units.

92 Confidentiality

(1) In this section—

person to whom this section applies means a person who is or has been—

- (a) an authorised auditor; or
- (b) a person engaged or employed by a contract auditor.

protected information means information that is obtained under *the applied provisions*.

(2) A person to whom this section applies must not—

- (a) make a record of protected information; or
- (b) whether directly or indirectly, divulge or communicate protected information;

unless the record is made, or the information *is* divulged or communicated—

- (c) under or for the purposes of *the applied provisions*; or
- (d) in the performance of duties, as a person to whom this section applies, under or for the purposes of *the applied provisions*.

Maximum penalty—200 penalty units or imprisonment for 1 year.

(3) Subsection (2) does not prevent the disclosure of information to—

- (a) the *parliamentary committee*; or

Note—

FA and A Act, schedule 3—

parliamentary committee means the Public Accounts and Public Works Committee of the Legislative Assembly.

- (c) the *Crime and Misconduct Commission*; or
- (d) a police officer, or a person or body responsible for the investigation or prosecution of offences, if the information relates to the investigation or prosecution of an offence; or

- (e) a court for the purposes of the prosecution of a person for an offence.

93 Report on audit

- (1) The auditor-general may prepare a report on any audit conducted under *the applied provisions*.
- (2) An authorised auditor (other than the auditor-general) must give the auditor-general a report on every audit conducted under *the applied provisions* by the authorised auditor.
- (3) A report under subsection (1) or (2) may contain observations and suggestions about anything arising out of the audit.
- (4) If the auditor-general is of the opinion that observations or suggestions made under subsection (3) require attention or further consideration, the auditor-general must give them (together with any comments on them)—
 - (a) *not applied*;
 - (b) *not applied*;
 - (c) *to the chairperson of the GOC subsidiary concerned and the person responsible for the financial administration of the subsidiary.*
- (5) If the auditor-general is of the opinion that the observations or suggestions made under subsection (3) are of significance, the auditor-general must also give them (together with any comments on them) to the *shareholding Ministers of each shareholding GOC, and each shareholding GOC, of the subsidiary concerned.*

94 Protection from liability

- (1) An authorised auditor does not incur civil liability for an act or omission done or omitted to be done honestly and without negligence under or for the purposes of *the applied provisions*.
- (2) A liability that would, but for subsection (1), attach to an authorised auditor attaches instead to the State.

95 Audit fees

- (1) The auditor-general may charge fees for an audit conducted by the auditor-general *under the applied provisions*.
- (2) The auditor-general may, with the Treasurer's approval, determine the basic rates of fees.
- (3) The auditor-general must assess the fees for an audit having regard to the basic rates of fees determined under subsection (2).
- (4) Unpaid fees may be recovered by the auditor-general as a debt due to the auditor-general.

96 *Applied provisions do not limit other powers of auditor-general*

The applied provisions do not limit any power that the auditor-general has apart from those provisions.

Division 3**Reports to the Legislative Assembly**

97 *Not applied.*

98 *Not applied.*

99 Annual reports on audits of *GOC subsidiaries*

- (1) The auditor-general must prepare a report to the Legislative Assembly on each audit conducted of a *GOC subsidiary* by an authorised auditor.
- (2) The report must—
 - (a) state whether or not—
 - (i) the audit of the *GOC subsidiary* has been completed; and
 - (ii) the statements relating to the accounts of the *GOC subsidiary* have been audited; and

- (b) draw attention to any case in which the functions relating to the financial management of the *GOC subsidiary* were not adequately and properly performed if, in the auditor-general's opinion, the matter is of sufficient significance to require inclusion in the report; and
- (c) set out—
 - (i) the results of audits conducted, in relation to the relevant financial year, of *subsidiaries of a GOC subsidiary* by an authorised auditor; and
 - (ii) if audits were not conducted in relation to particular *subsidiaries*—the reasons why they were not conducted; and
- (d) deal with the action (if any) taken to remedy significant deficiencies reported in previous reports on audits of the *GOC subsidiary*.

100 Reports on audits requested by Parliament

The auditor-general must prepare a report to the Legislative Assembly on each audit conducted at the request of the Legislative Assembly.

101 Interim, supplementary and combined reports

- (1) The auditor-general may prepare interim and supplementary reports to the Legislative Assembly on any matter on which the auditor-general is to report or has reported.
- (2) The auditor-general may combine reports on any 2 or more audits.

102 Other reports

The auditor-general may prepare any of the following reports to the Legislative Assembly—

- (a) if the auditor-general considers it desirable to do so at any particular time for reasons of urgency—a report on

any significant matter arising out of an audit *under the applied provisions*;

- (b) if the auditor-general considers it to be in the public interest to do so—a full report on, or a report on any specific matters arising out of, a particular audit *under the applied provisions*;
- (c) if the auditor-general considers it otherwise appropriate to do so at any time—a report on any matter arising out of an audit *under the applied provisions* to which attention should be drawn;
- (d) *not applied*.

103 Comments on proposed audit reports

- (1) If the auditor-general proposes to include in a report to the Legislative Assembly under this division a matter that, in the auditor-general's opinion, is a matter of significance, the auditor-general must give written advice of the matter that is proposed to be included to—
 - (a) *not applied*;
 - (b) *not applied*;
 - (c) *the chairperson of the GOC subsidiary concerned and the person responsible for the financial administration of the subsidiary*;and—
 - (d) *not applied*;
 - (e) *(words omitted) to the shareholding Ministers of each shareholding GOC, and each shareholding GOC, of the GOC subsidiary*.
- (2) The advice must include a statement to the effect that comments on the proposed matter may be made in writing given to the auditor-general—
 - (a) within 21 days after the advice is received; or
 - (b) within such longer period as is specified in the advice.

- (3) If comments are received within the 21 days or longer period, the auditor-general must include them in the report.

104 Procedure for reporting certain sensitive information

- (1) If the auditor-general considers that it would be against the public interest to disclose in a report under this division information that could—
 - (a) have a serious adverse effect on the commercial interests of a *GOC subsidiary*; or
 - (b) reveal trade secrets of a *GOC subsidiary*; or
 - (c) prejudice the investigation of a contravention or possible contravention of the law; or
 - (d) prejudice the fair trial of a person; or
 - (e) cause damage to the relations between the Government of the State and another Government;the auditor-general must not disclose the information in the report but must instead include it in a report prepared and given to the Parliamentary Committee.
- (2) This section has effect despite anything in *the applied provisions or any Act*.

105 Tabling of reports

- (1) A report prepared under this division must be given to the speaker or, if there is no speaker or the speaker is unavailable, to the clerk of the Parliament.
- (2) The speaker or clerk must cause a copy of the report to be laid before the Legislative Assembly on its next sitting day.
- (3) For the purposes of its publication, a report given to the Speaker or the clerk under subsection (2) is taken to have been laid before the Legislative Assembly, and to have been ordered to be published by the Legislative Assembly, when it is given to the Speaker or the clerk.

143 Transitional provision for amendment of s 80

(1) *A review under section 80(5) of a GOC subsidiary's performance measures may include a consideration of matters, relevant to the review, that happened before the commencement day or relate to a time before that day.*

(2) *In this section—*

***commencement day** means the day of commencement of the Revenue and Other Legislation Amendment Act 2006, part 6.*

Schedule 4 Application of chapter 3 of Act to GOC subsidiaries

section 155

Part 1 Preliminary

1 Purpose

This schedule provides for—

- (a) the application of provisions of chapter 3 of the Act to GOC subsidiaries as if they were GOCs; and
- (b) the modification of the provisions for their application to the subsidiaries.

2 Definitions

In this schedule—

applied provisions means the provisions of chapter 3 of the Act as applying under section 3.

GOC subsidiary means a GOC subsidiary prescribed under a regulation under section 155 of the Act.

3 Application of ch 3 of the Act to GOC subsidiaries

- (1) Chapter 3 of the Act applies to each GOC subsidiary with the changes shown in part 2.

Note—

Changes, other than changes in definitions, are shown in italics. Citations of Acts and definitions are also shown in italics. Changes in definitions are shown in roman type. Provisions not applied are indicated by “(omitted)”.

- (2) Subject to the changes mentioned in subsection (1), the provisions are applied as in force immediately after the commencement of amendment 1 of the Act under the

Government Owned Corporations Amendment Act 2007,
schedule.

Part 2 **Provisions of chapter 3 of Act as applied to GOC subsidiaries**

section 3 of this schedule

Chapter 3 ***GOC subsidiaries***

Part 1 **Basic requirements**

75 ***GOC subsidiary must be proprietary company limited by shares***

A *GOC subsidiary* must be a *proprietary* company, and a company limited by shares, within the meaning of the Corporations Act.

Part 2 **Application of Corporations Act**

76 **Application of Corporations Act to *GOC subsidiaries***

The Corporations Act applies to a *GOC subsidiary* except so far as *the applied provisions* otherwise provide.

77 ***GOC subsidiary not exempt public authority***

A *GOC subsidiary* is not an exempt public authority for the purposes of the Corporations Act.

Part 3 **Shares and shareholding Ministers**

78 Shareholders of a GOC *subsidiary*

- (1) *A GOC subsidiary may have any number of shareholders.*
- (2) *Each shareholder must be a GOC.*
- (3) *Each GOC that is a shareholder of the subsidiary is its **shareholding GOC**.*

79 Shareholding GOCs must have equal number of *shares* (words omitted)

- (1) *Each shareholding GOC need not have an equal number of shares.*
- (2) *(omitted)*
- (3) *(omitted)*

80 Shareholders hold shares for State etc.

(omitted)

81 Transfer, issue etc. of shares

(omitted)

Note—

Section 81 is not applied. The section applies to subsidiaries under its own force.

82 Shareholding Ministers must act jointly

(omitted)

83 Shareholding GOCs not directors

- (1) *A shareholding GOC of a GOC subsidiary is not to be treated as a director of the subsidiary or any subsidiary or proposed subsidiary of the subsidiary.*

- (2) *(omitted)*
- (3) *(omitted)*
- (4) *(omitted)*

84 Resolutions without meetings

- (1) If *each shareholding GOC of a GOC subsidiary signs* a document containing a statement that *it is* in favour of a resolution set out in the document—
 - (a) a resolution in those terms is taken to have been passed at a general meeting of the *subsidiary* held at the time at which, and on the day on which, the document is signed by the last *GOC*; and
 - (b) the *subsidiary* is taken to have held a general meeting at that time on that day; and
 - (c) the document is taken to be a minute of the meeting; and
 - (d) any document that is attached to the first document, and is signed by *each shareholding GOC*, is taken to have been laid before the *subsidiary* at the meeting; and
 - (e) if the resolution deals with all matters that are required to be dealt with at an annual general meeting of the *subsidiary*—the *subsidiary* is taken to have held an annual general meeting.
- (2) Subsection (1) applies to a resolution that is authorised or required by the Corporations Act, or the *subsidiary's* constitution, to be passed at a general meeting, including a resolution—
 - (a) appointing an officer or auditor; or
 - (b) approving of, or agreeing to, anything.
- (3) For the purposes of subsection (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by a shareholding *GOC*, are taken to constitute a single document.
- (4) This section has effect for the purposes of the Corporations Act and has that effect despite anything in that Act.

89 Composition of board

- (1) A *GOC subsidiary's* board is to consist of the number of directors that are appointed by the Governor in Council.
- (2) In appointing a person as a director, the Governor in council must have regard to the person's ability to make a contribution to the *subsidiary's* commercial performance and *the implementation of the statement of corporate intent (if any) of each shareholding GOC of the subsidiary to the extent the statement relates to the subsidiary.*
- (3) Subsection (1) has effect despite—
 - (a) the subsidiary's constitution; and
 - (b) the Corporations Act.

90 Public service officers not eligible for appointment as directors

- (1) A public service officer is not eligible for appointment as a director of a *GOC subsidiary.*
- (2) Subsection (1) has effect despite the Corporations Act.

91 *(omitted)*

Part 6 Chief executive officer**92 Appointment of chief executive officer**

- (1) A *GOC subsidiary's* chief executive officer is to be appointed by the *subsidiary's* board with the prior written approval of the shareholding Ministers *of each shareholding GOC of the subsidiary.*
- (2) *Subsection (1) does not limit a provision of the subsidiary's constitution requiring the subsidiary's board to consult the board of a GOC that is a shareholder of the subsidiary before appointing the chief executive officer under the subsection.*

93 Appointment of chief executive officer—particular subsidiaries

(omitted)

Note—

Section 93 is not applied. The section applies to subsidiaries not prescribed under a regulation made under section 155(1).

Part 7 Corporate plan (*omitted*)

Note—

Part 7 is not applied. Under section 95, a GOC's corporate plan must apply to the GOC and its subsidiaries.

Part 8 Statement of corporate intent (*omitted*)

Note—

Part 8 is not applied. Under section 103, a GOC's statement of corporate intent must apply to the GOC and its subsidiaries.

Part 9 Community service obligations (*omitted*)

Part 10 **General reserve powers of shareholding Ministers**

114 *Exercise of reserve power of shareholding Ministers to notify GOC's board of public sector policies*

- (1) *This section applies if, under section 114 (as it applies to GOCs), the shareholding Ministers of a shareholding GOC of a GOC subsidiary notify the GOC's board, in writing, of a public sector policy that is to apply to the GOC and its subsidiaries.*
- (1A) *The GOC must notify the subsidiary of the policy at least to the extent that the policy concerns the subsidiary.*
- (2) *The subsidiary's board must ensure that the policy is carried out in relation to the subsidiary to the extent that the policy concerns the subsidiary.*
- (3) *(omitted)*
- (4) *(omitted)*

115 *Exercise of reserve power of shareholding Ministers to give directions in public interest*

- (1) *This section applies if, under section 115 (as it applies to GOCs), the shareholding Ministers of a shareholding GOC of a GOC subsidiary give the GOC's board a written direction in relation to the GOC and its subsidiaries.*
- (1A) *The GOC must notify the subsidiary of the direction at least to the extent that the direction concerns the subsidiary.*
- (2) *The subsidiary's board must ensure that the direction is complied with in relation to the subsidiary to the extent that the direction concerns the subsidiary.*
- (3) *(omitted)*
- (4) *(omitted)*

116 *Direction given following notice of suspected insolvency*

- (1) *This section applies if—*

- (a) *the shareholding Ministers of a shareholding GOC of a GOC subsidiary give the GOC's board a notification under section 114 (as it applies to GOCs) or a direction under section 115 (as it applies to GOCs); and*
 - (b) *the GOC gives written notice to the shareholding Ministers and the Auditor-General of—*
 - (i) *its suspicion that the subsidiary will or may become insolvent; and*
 - (ii) *the reasons for its opinion that the cause or a substantial cause of the suspected insolvency would be compliance with the notification or direction; and*
 - (c) *the shareholding Ministers give the GOC's board written directions under section 116(4) (as it applies to GOCs).*
- (1A) *The GOC must notify the subsidiary of the written directions mentioned in subsection (1)(c).*
- (2) *(omitted)*
 - (3) *(omitted)*
 - (4) *(omitted)*
 - (5) *(omitted)*
 - (6) *The subsidiary's board must ensure that a direction under this section is complied with in relation to the subsidiary.*
 - (7) *(omitted)*
 - (8) *(omitted)*

117 *Subsidiary and board not otherwise subject to government direction*

Except as otherwise provided by *the applied provisions or any Act*, a *GOC subsidiary* and its board are not subject to direction by or on behalf of the Government.

Part 11 Reports and other accountability matters

118 Application of Financial Administration and Audit Act

(omitted)

119 Quarterly reports

(omitted)

Note—

Section 119 is not applied. The section applies to subsidiaries under its own force.

120 Matters to be included in annual report

- (1) Each annual report of a *GOC subsidiary (the first subsidiary)* must—
 - (a) contain the information that is required to be included in the report by the shareholding Ministers of each shareholding *GOC of the first subsidiary* to enable an informed assessment to be made of the operations of the *first subsidiary* and its subsidiaries, including a comparison of the performance of the *first subsidiary* and its subsidiaries with each shareholding *GOC's* statement of corporate intent to the extent it relates to the *first subsidiary or its subsidiaries*; and
 - (b) state the *first subsidiary's* dividend policy for the financial year to which the report relates; and
 - (c) include the statement of corporate intent of each shareholding *GOC of the first subsidiary* for the relevant financial year to the extent the statement relates to the *first subsidiary or its subsidiaries*; and
 - (d) include particulars of any modifications made to the statement of corporate intent during the relevant financial year to the extent the modifications relate to the *first subsidiary or its subsidiaries*; and

- (e) include particulars of any directions and notifications given to *the board of a shareholding GOC of the first subsidiary* by the *shareholding GOC's* shareholding Ministers that relate to the relevant financial year *to the extent the directions or notifications concern the first subsidiary or its subsidiaries*; and
 - (f) include particulars of the impact on the financial position, profits and losses and prospects of the *first subsidiary* and its subsidiaries of any modifications to a statement of corporate intent, and any directions and notifications given to the board, *of a shareholding GOC of the first subsidiary by the shareholding GOC's* shareholding Ministers, that relate to the relevant financial year *to the extent the modifications, directions or notifications relate to or concern the first subsidiary or its subsidiaries*.
- (2) This section does not limit the matters that are required to be included in, or to accompany, a *GOC subsidiary's* annual report by the Corporations Act or another Act.

121 Deletion of commercially sensitive matters from annual report etc.

- (1) If a *GOC subsidiary's* board requests the shareholding Ministers *of each shareholding GOC of the subsidiary* to delete from the copies of an annual report of the *subsidiary* (and accompanying documents) that are to be made public a matter that is of a commercially sensitive nature, the shareholding Ministers may delete the matter from the copies of the annual report (and accompanying documents) that are laid before the Legislative Assembly or otherwise made public.
- (2) An annual report of a *GOC subsidiary* may include a summary of a matter required to be included in the annual report, rather than a full statement of the matter, if—
 - (a) the summary indicates that it is a summary only; and

-
- (b) a full statement of the matter is laid before the Legislative Assembly at the same time as a copy of the annual report is laid before the Legislative Assembly.
 - (3) Subsections (1) and (2) have effect despite section 120 or another Act.
 - (4) Subsection (1) has effect despite subsection (2).

122 Board to keep shareholding Ministers informed

- (1) *The board of a GOC subsidiary (the **first subsidiary**) must—*
 - (a) keep *each of the first subsidiary's shareholding GOCs* reasonably informed of the operations, financial performance and financial position of the *first subsidiary* and its subsidiaries, including the assets and liabilities, profits and losses and prospects of the *first subsidiary* and its subsidiaries; and
 - (b) give to *each shareholding GOC of the first subsidiary* reports and information that *the GOC requires* to enable *it* to make informed assessments of matters mentioned in paragraph (a); and
 - (c) if matters arise that in the board's opinion may prevent, or significantly affect, achievement of *the* objectives outlined in *the* statement of corporate intent or targets under *the* corporate plan of a *shareholding GOC of the first subsidiary*—immediately inform the shareholding *GOC* of the matters and its opinion in relation to them.
- (2) Subsection (1) does not limit the matters of which the board is required to keep a *shareholding GOC of a GOC subsidiary* informed, or limit the reports or information that the board is required, or may be required, to give to a *shareholding GOC of a GOC subsidiary*, by the Corporations Act or another Act.

-
- (5) The *subsidiary's* board must ensure that a direction under this section is complied with in relation to the *subsidiary*.
 - (6) *(omitted)*
 - (7) *(omitted)*
 - (8) *(omitted)*

Part 13 Legal capacity and powers

126 General powers of *GOC subsidiaries*

- (1) A *GOC subsidiary* has, in addition to powers conferred on it by the Corporations Act—
 - (a) the power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions; and
 - (b) the powers that are conferred on it by *the applied provisions or any Act*.
- (2) Subsection (1) has effect subject to any restrictions on the *subsidiary's* powers expressly imposed by *the applied provisions or any Act*.

127 Doctrine of ultra vires etc. not revived

- (1) The doctrine of ultra vires is not revived in relation to *a GOC subsidiary by the applied provisions*.
- (2) The abolition of the doctrine by the Corporations Act is not affected by *applied provisions*.
- (3) This section is *included* for the removal of doubt.

Part 14 **Finance (*omitted*)**

Note—

Part 14 is not applied. The part applies to subsidiaries under its own force.

Part 15 **Acquisition and disposal of assets and subsidiaries**

138 **Reserve power of shareholding Ministers to direct that asset not be disposed of**

- (1) *This section applies if, under section 138 (as it applies to GOCs), the shareholding Ministers of a shareholding GOC of a company GOC subsidiary give the GOC's board a written direction requiring the subsidiary not to dispose of a specified asset.*
- (1A) *The GOC must notify the subsidiary of the direction.*
- (2) *The subsidiary's board must ensure the direction is complied with in relation to the subsidiary.*
- (3) *(omitted)*

139 **Disposal of main undertakings**

(omitted)

Note—

Section 139 is not applied. The section applies to subsidiaries under its own force.

140 **Acquiring and disposing of subsidiaries**

(omitted)

Note—

Section 140 is not applied. The section applies to subsidiaries under its own force.

157 Application of Ombudsman Act 2001

A GOC *subsidiary* is not a public authority under the *Ombudsman Act 2001*.

Endnotes

1 Index to endnotes

	Page
2 Date to which amendments incorporated	171
3 Key	172
4 Table of reprints	172
5 Tables in earlier reprints	173
6 List of legislation	173
7 List of annotations	176
8 Table of renumbered provisions	201

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 28 May 2009. Future amendments of the Government Owned Corporations 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)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	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 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	19 July 1993	26 July 1993
2	1994 Act No. 31	28 June 1994	21 July 1994
3	1995 Act No. 36	16 June 1995	4 August 1995
3A	1996 Act No. 54	1 December 1996	11 February 1997
3B	1996 Act No. 54	1 June 1997	14 July 1997
4	1997 Act No. 81	5 December 1997	5 December 1997
5	1998 Act No. 21	20 July 1998	7 August 1998
5A	1999 Act No. 19	30 April 1999	1 June 1999
5B	2000 Act No. 52	17 November 2000	1 December 2000
5C	2001 Act No. 31	7 June 2001	21 June 2001
5D	2001 Act No. 45	15 July 2001	17 August 2001
5E	2001 Act No. 73	3 December 2001	10 December 2001
5F	2001 Act No. 73	1 January 2002	8 January 2002
6	2001 Act No. 73	1 March 2002	1 March 2002

Reprint No.	Amendments to	Effective	Reprint date
6A	2002 Act No. 17	17 May 2002	31 May 2002
Reprint No.	Amendments included	Effective	Notes
6B	2002 Act No. 17 2002 Act No. 68	1 January 2003	
6C	2003 Act No. 8	28 March 2003	R6C withdrawn, see R7
7	—	28 March 2003	
7A	2006 Act No. 42	13 October 2006	
7B	2006 Act No. 44	1 January 2007	
7C	2007 Act No. 10	20 March 2007	
7D rv	2007 Act No. 36	29 August 2007	
7E rv	2008 Act No. 6	1 April 2008	R7E rv withdrawn, see R8
8	—	1 April 2008	
8A	2008 Act No. 38	1 July 2008	
9	2007 Act No. 10	1 October 2008	Act renumbered
9A	2008 Act No. 75	11 December 2008	
9B	2009 Act No. 7	28 May 2009	

5 Tables in earlier reprints

Name of table	Reprint No.
Changed names and titles	2
Corrected minor errors	2, 3, 5, 6, 9
Obsolete and redundant provisions	3

6 List of legislation

Government Owned Corporations Act 1993 No. 28

date of assent 2 June 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 19 July 1993 (1993 SL No. 256)

amending legislation—

Treasury Legislation Amendment Act 1994 No. 31 pts 1, 5 sch 3

date of assent 28 June 1994

commenced on date of assent

Electricity Act 1994 No. 64 ss 1–2, 293 sch 4

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 1995 (1994 SL No. 467)

Statutory Authorities Superannuation Legislation Amendment Act 1995 No. 36 ss 1–2, 9 sch 2

date of assent 16 June 1995
commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch

date of assent 20 November 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 1 June 1997 (1997 SL No. 128)

Statute Law (Miscellaneous Provisions) Act 1997 No. 81 ss 1–3 sch

date of assent 5 December 1997
commenced on date of assent

Government Owned Corporations and Other Legislation Amendment Act 1998 No. 21 ss 1, 2(3) pt 2 s 3 sch 1

date of assent 1 May 1998
ss 1–2 commenced on date of assent
remaining provisions commenced 20 July 1998 (1998 SL No. 200)

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch

date of assent 30 April 1999
commenced on date of assent

Superannuation and Other Legislation Amendment Act 2000 No. 52 ss 1, 48 sch

date of assent 17 November 2000
commenced on date of assent

Financial Administration and Other Legislation Amendment Act 2001 No. 31 pts 1, 3

date of assent 7 June 2001
commenced on date of assent

Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3

date of assent 28 June 2001
ss 1–2 commenced on date of assent
sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)
remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

Crime and Misconduct Act 2001 No. 69 ss 1–2, 378 sch 1

date of assent 8 November 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2002 (2001 SL No. 221)

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)

Ombudsman Act 2001 No. 73 ss 1–2, 96 sch 1

date of assent 13 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 3 December 2001 (2001 SL No. 224)

Revenue and Other Legislation Amendment Act 2002 No. 17 ss 1, 2(7)–(8), pt 7

date of assent 17 May 2002

s 46 commenced 1 January 2003 (see s 2(7))

remaining provisions commenced on date of assent (see s 2(8))

Criminal Proceeds Confiscation Act 2002 No. 68 ss 1–2(1), 339 sch 4

date of assent 29 November 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2003 (see s 2(1))

Parliament of Queensland Amendment Act 2003 No. 8 ss 1, 17 sch

date of assent 28 March 2003

commenced on date of assent

Energy Assets (Restructuring and Disposal) Act 2006 No. 42 s 1, pt 8 div 3

date of assent 13 October 2006

commenced on date of assent

Revenue and Other Legislation Amendment Act 2006 No. 44 ss 1, 2(8), pt 6

date of assent 10 November 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2007 (see s 2(8))

Government Owned Corporations Amendment Act 2007 No. 10 pts 1–2, s 62 sch

date of assent 20 March 2007

ss 1–2, pt 2 commenced on date of assent

remaining provisions commenced 1 October 2008 (2008 SL No. 316)

Statute Law (Miscellaneous Provisions) Act 2007 No. 36

date of assent 29 August 2007

commenced on date of assent

Financial Administration and Audit and Another Act Amendment Act 2008 No. 6 pts 1, 3

date of assent 6 March 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 April 2008 (2008 SL No. 80)

Public Service Act 2008 No. 38 ss 1–2, 252 sch 3

date of assent 11 June 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2008 (2008 SL No. 208)

Revenue and Other Legislation Amendment Act (No. 2) 2008 No. 75 s 1, pt 6

date of assent 11 December 2008

commenced on date of assent

Parliament of Queensland Amendment Act 2009 No. 7 ss 1, 16 sch

date of assent 28 May 2009

commenced on date of assent

Financial Accountability Act 2009 No. 9 ss 1, 2(2), pt 8

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2(2))

7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 9.

Definitions

- s 2** prev s 2 om R3 (see RA s 37)
pres s 2
def “**articles**” om 2007 No. 10 s 4(1)
def “**asset**” om 1994 No. 31 s 17(1)
def “**associate**” ins 1994 No. 31 s 17(2)
def “**associate subsidiary**” ins 1994 No. 31 s 17(2)
def “**board of directors**” ins 2007 No. 10 s 4(2)
def “**company GOC**” om 2007 No. 10 s 62 sch
def “**dividend**” ins 2007 No. 10 s 4(2)
def “**GOC Act entity**” ins 1994 No. 31 s 17(2)
def “**government company**” amd 2001 No. 45 s 29 sch 3
def “**government entity that is to become a company GOC**” om 2007 No. 10 s 4(1)
def “**government entity that is to become a statutory GOC**” om 2007 No. 10 s 4(1)
def “**government entity that is to become a subsidiary of a GOC**” amd 2007 No. 10 s 4(3)
def “**memorandum**” om 2007 No. 10 s 4(1)
def “**predecessor**” ins 2007 No. 10 s 4(2)
def “**responsible Ministers**” sub 1994 No. 31 s 17; 2007 No. 10 s 62 sch
def “**senior executive**” ins 1998 No. 21 s 4
amd 2008 No. 38 s 252 sch 3
def “**shareholding Ministers**” amd 2007 No. 10 s 4(4)
sub 2007 No. 10 s 62 sch
def “**statutory GOC**” om 2007 No. 10 s 62 sch
def “**statutory GOC closing time**” ins 2007 No. 10 s 4(2)
def “**subsidiary**” sub 1994 No. 31 s 17
amd 2001 No. 45 s 29 sch 3

Meaning of “government entity”

s 4 amd 1994 No. 31 s 18; 1998 No. 21 s 5; 2007 No. 10 s 62 sch

Meaning of “GOC”

s 5 amd 2001 No. 45 s 29 sch 3

Types of GOCs

s 7 prev s 7 amd 1998 No. 21 s 3 sch 1; 2001 No. 45 s 29 sch 3; 2007 No. 10 s 5
om 2007 No. 10 s 62 sch

Application of other laws to GOCs

s 10 amd 1998 No. 21 s 3 sch 1

Application of other laws to candidate GOCs

s 11 amd 1998 No. 21 s 3 sch 1

How Corporations Law is to be applied to GOCs

s 14 prev s 14 amd 1994 No. 31 s 16 sch 3
om 1998 No. 21 s 3 sch 1

Meaning of “key principles of corporatisation”

s 16 amd 1994 No. 31 s 16 sch 3; 1998 No. 21 s 6; 2007 No. 10 s 62 sch

How Act will enable management of the corporatisation process

s 18 amd 2007 No. 10 s 6

CHAPTER 2—MECHANISMS FOR CREATING GOCs

ch hdg amd 2007 No. 10 s 62 sch

What this part provides

s 19 amd 2007 No. 10 ss 7, 62 sch

Government entity becoming a GOC

s 20 sub 1994 No. 31 s 19; 1998 No. 21 s 7
amd 2007 No. 10 s 8

Meaning of “candidate GOC”

s 21 amd 2007 No. 10 s 9
sub 2007 No. 10 s 62 sch

Meaning of “associate” of candidate GOC

s 22 ins 1994 No. 31 s 20

Meaning of certain expressions about government entities

s 23 sub 1994 No. 31 s 16 sch 3
amd 2007 No. 10 s 10

PART 2—NOMINATION AND DECLARATION OF ENTITIES

pt hdg sub 1994 No. 31 s 16 sch 3

Nomination of government entity to become candidate GOC

s 24 amd 1994 No. 31 s 16 sch 3; 1998 No. 21 s 3 sch 1

Nomination of GOC Act entity to become candidate GOC associate

s 25 ins 1994 No. 31 s 21

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

s 26 ins 1994 No. 31 s 21

Meaning of “corporatisation charter”

s 27 prev s 27 om 2007 No. 10 s 11
pres s 27 amd 2007 No. 10 s 62 sch

Responsible Ministers of candidate GOC

prov hdg amd 2007 No. 10 s 62 sch

s 29 amd 2007 No. 10 s 62 sch

Responsible Ministers of candidate GOC associate

s 30 prev s 30 om 2007 No. 10 s 62 sch
pres s 30 ins 1994 No. 31 s 22

Responsible Ministers not directors etc.

s 31 amd 1994 No. 31 s 16 sch 3; 2001 No. 45 s 29 sch 3

Matters to be included in draft corporatisation charter

s 33 prev s 33 om 2007 No. 10 s 62 sch
pres s 33 amd 1994 No. 31 s 16 sch 3; 2007 No. 10 s 12

Responsible Ministers may determine other matters relevant to draft corporatisation charter preparation

s 34 amd 2007 No. 10 s 13

Draft corporatisation charter to be given to responsible Ministers

s 40 amd 1998 No. 21 s 8

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

s 48 ins 1994 No. 31 s 23

Corporatisation charter stops having effect when candidate GOC becomes GOC

s 49 ins 1998 No. 21 s 9

Purpose of part

s 50 amd 1994 No. 31 s 16 sch 3; 2007 No. 10 s 62 sch

Unincorporated entities

s 51 amd 1994 No. 31 s 16 sch 3; 2007 No. 10 s 14

Entities that are parts of bodies corporate

s 52 prev s 52 amd 1994 No. 31 s 16 sch 3
om 1998 No. 21 s 3 sch 1
pres s 52 amd 1994 No. 31 s 16 sch 3; 1998 No. 21 s 3 sch 1; 2001 No. 45 s 29
sch 3; 2007 No. 10 s 62 sch

Candidate GOC associates and subsidiaries of candidate GOC associates

s 53 sub 1994 No. 31 s 24
amd 2007 No. 10 s 15

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

s 54 ins 1994 No. 31 s 24
amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 62 sch

Debt owned by State

s 55 ins 1994 No. 31 s 24

Constitution of candidate GOC

prov hdg amd 2007 No. 10 s 16(1)

s 56 amd 1994 No. 31 s 16 sch 3; 2007 No. 10 s 16(2)–(4)

Interim board of directors for entity to become GOC or GOC subsidiary

prov hdg amd 1994 No. 31 s 16 sch 3

s 58 amd 1994 No. 31 s 16 sch 3; 1998 No. 21 ss 10, s 3 sch 1; 2007 No. 10 s 62 sch

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

s 59 ins 1994 No. 31 s 25
amd 1998 No. 21 s 11

Application of certain provisions about interim board of directors and executives of candidate GOC associates and associate subsidiaries

s 60 ins 1994 No. 31 s 25
amd 1998 No. 21 s 3 sch 1
sub 2007 No. 10 s 62 sch

Assistance to candidate GOC associates and associate subsidiaries

s 61 ins 1994 No. 31 s 25

Entity must comply with directions

s 62 ins 1994 No. 31 s 25

Appointment of statutory GOC's first chief executive officer

s 62C ins 1998 No. 21 s 13
om 2007 No. 10 s 22

Appointment of statutory GOC's first senior executives

s 62D ins 1998 No. 21 s 13
om 2007 No. 10 s 22

Share capital and issue of shares

s 63 sub 1994 No. 31 s 26
amd 1998 No. 21 s 12; 2007 No. 10 ss 17, 62 sch

Variation of share capital

s 64 amd 1994 No. 31 s 16 sch 3

Registration under Corporations Act

prov hdg amd 2001 No. 45 s 29 sch 3

s 65 prev s 65 amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 27

Endnotes

om 2007 No. 10 s 62 sch
pres s 65 amd 1994 No. 31 s 16 sch 3; 2001 No. 45 s 29 sch 3; 2007 No. 10 s
18

Part does not affect existing legal relationships

s 66 sub 2007 No. 10 s 19

Regulations may deal with other matters

prov hdg prev s 67 prov hdg amd 2001 No. 45 s 29 sch 3

s 67 prev s 67 sub 1998 No. 21 s 3 sch 1
amd 2001 No. 45 s 29 sch 3
om 2007 No. 10 s 62 sch
pres s 67 amd 1994 No. 31 ss 27, 16 sch 3; 2001 No. 45 s 29 sch 3; 2007 No.
10 ss 20, 62 sch

**PART 6—FIRST CHIEF EXECUTIVE OFFICERS AND SENIOR EXECUTIVES
OF GOCs**

pt hdg ins 1994 No. 31 s 28
sub 1998 No. 21 s 13

Definition for pt 6

s 68 prev s 68 om 2001 No. 45 s 29 sch 3
pres s 68 ins 1994 No. 31 s 28
sub 1998 No. 21 s 13

Application of pt 6

s 69 ins 1994 No. 31 s 28
sub 1998 No. 21 s 13; 2007 No. 10 s 21

Appointment of GOC's first chief executive officer

s 70 ins 1998 No. 21 s 13
amd 2001 No. 45 s 29 sch 3
sub 2007 No. 10 s 23

Appointment of GOC's first senior executives

s 71 prev s 71 om 2007 No. 10 s 62 sch
pres s 71 ins 1998 No. 21 s 13
amd 2001 No. 45 s 29 sch 3
sub 2007 No. 10 s 24

**PART 7—CANDIDATE GOCs AND CANDIDATE GOC ASSOCIATES
BECOMING GOCs**

pt hdg sub 1994 No. 31 s 16 sch 3

Declaration of entity as GOC

s 72 prev s 72 om 2007 No. 10 s 62 sch
pres s 72 amd 2007 No. 10 s 25

Declaration of candidate GOC associate as GOC

s 73 prev s 73 om 2007 No. 10 s 62 sch
pres s 73 ins 1994 No. 31 s 29
amd 1998 No. 21 s 14; 2007 No. 10 s 26

Declaration does not affect legal personality etc.

s 74 prev s 74 om 2007 No. 10 s 62 sch
pres s 74 amd 1998 No. 21 s 15

CHAPTER 3—GOVERNMENT OWNED CORPORATIONS (GOCs)**PART 1—BASIC REQUIREMENTS****GOC must be public company limited by shares**

s 75 prev s 75 om 2007 No. 10 s 62 sch
pres s 75 amd 2001 No. 45 s 29 sch 3
sub 2007 No. 10 s 62 sch

Division 1—Statutory GOCs

div hdg om 2007 No. 10 s 62 sch

Division 2—Company GOCs

div hdg om 2007 No. 10 s 62 sch

PART 2—APPLICATION OF CORPORATIONS ACT

pt hdg amd 2001 No. 45 s 29 sch 3

Application of Corporations Act to GOCs

prov hdg amd 2007 No. 10 ss 28, 62 sch
s 76 amd 2007 No. 10 ss 28, 62 sch

GOC not exempt public authority

prov hdg amd 2007 No. 10 s 62 sch
s 77 amd 2007 No. 10 ss 29, 62 sch

Division 1—Statutory GOCs

div hdg om 2007 No. 10 s 62 sch

Division 2—Company GOCs

div hdg om 2007 No. 10 s 62 sch

PART 3—SHARES AND SHAREHOLDING MINISTERS**Shareholders of a GOC**

prov hdg amd 2007 No. 10 s 62 sch
s 78 prev s 78 om 2007 No. 10 s 30
pres s 78 sub 2007 No. 10 s 30
amd 2007 No. 10 s 62 sch

Shareholding Ministers must have equal number of voting shares and equal rights

s 79 prev s 79 om 2007 No. 10 s 30
pres s 79 sub 2007 No. 10 s 30
amd 2007 No. 10 s 62 sch

Meaning of “shareholding Ministers”

s 80 prev s 80 om 2007 No. 10 s 30

Transfer, issue etc. of shares

s 81 amd 1994 No. 31 s 16 sch 3

Ministers not directors etc.

s 83 amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 32

Resolutions without meetings

s 84 (prev s 85A) amd 2001 No. 45 s 29 sch 3; 2007 No. 10 ss 31, 62 sch
renum and reloc 2007 No. 10 s 62 sch

Division 1—Statutory GOCs

div hdg om 2007 No. 10 s 62 sch

Division 2—Company GOCs

div hdg om 2007 No. 10 s 62 sch

Division 3—GOCs generally

div hdg om 2007 No. 10 s 62 sch

PART 4—CONSTITUTION

pt hdg sub 2007 No. 10 s 33

Constitution of GOC may be amended by shareholding Ministers

prov hdg amd 2007 No. 10 ss 36(1), 62 sch

s 85 amd 2007 No. 10 ss 36(2), 62 sch

Shareholding Ministers of GOC may require amendment of subsidiary's constitution

prov hdg prev s 86 prov hdg amd 2007 No. 10 s 34(1)

pres s 86 prov hdg amd 2007 No. 10 ss 37(1), 62 sch

s 86 prev s 86 amd 2007 No. 10 s 34(2)

om 2007 No. 10 s 62 sch

pres s 86 amd 2007 No. 10 ss 37(2), 62 sch

Constitutions of GOC and its subsidiaries must not be inconsistent with Act or Corporations Act

prov hdg prev s 87 prov hdg amd 1994 No. 31 s 16 sch 3

sub 2007 No. 10 s 35(1)

pres s 87 prov hdg sub 2007 No. 10 s 38(1)

amd 2007 No. 10 s 62 sch

s 87 prev s 87 amd 1994 No. 31 s 16 sch 3; 2007 No. 10 s 35(2)–(3)

om 2007 No. 10 s 62 sch

pres s 87 amd 1994 No. 31 s 16 sch 3; 2007 No. 10 ss 38(2)–(4), 62 sch

Division 1—Statutory GOCs

div hdg om 2007 No. 10 s 62 sch

Division 2—Company GOCs

div hdg om 2007 No. 10 s 62 sch

PART 5—BOARD OF DIRECTORS

Role of board

s 88 amd 2007 No. 10 s 62 sch

Composition of board

s 89 amd 1998 No. 21 s 17; 2001 No. 45 s 29 sch 3; 2007 No. 10 ss 40, 62 sch

Public service officers not eligible for appointment as directors

s 90 ins 1998 No. 21 s 18

amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 62 sch

First board of GOC

prov hdg amd 2007 No. 10 s 62 sch
s 91 prev s 91 om 2007 No. 10 s 62 sch
pres s 91 ins 1998 No. 21 s 18
amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 41

Division 1—Statutory GOCs

div hdg om 2007 No. 10 s 62 sch

Division 2—Company GOCs

div hdg om 2007 No. 10 s 62 sch

PART 6—CHIEF EXECUTIVE OFFICER**Appointment of chief executive officer**

s 92 prev s 92 om 2007 No. 10 s 62 sch
pres s 92 amd 2001 No. 45 s 29 sch 3; 2007 No. 10 ss 43, 62 sch

Appointment of chief executive officer—particular subsidiaries

s 93 prev s 93 amd 1998 No. 21 s 16
om 2007 No. 10 s 62 sch
pres s 93 ins 2007 No. 10 s 44
amd 2007 No. 10 s 62 sch

Division 1—Statutory GOCs

div hdg om 2007 No. 10 s 62 sch

Division 2—Company GOCs

div hdg om 2007 No. 10 s 62 sch

PART 7—CORPORATE PLAN**Additional provisions relating to board—sch 1**

s 94 prev s 94 om 2007 No. 10 s 62 sch

First board of statutory GOC

s 94A prev s 94A ins 1994 No. 31 s 30
om 2007 No. 10 s 39

Draft corporate plan

s 97 prev s 97 om 2007 No. 10 s 62 sch
pres s 97 amd 2007 No. 10 s 45

Special procedures in relation to draft corporate plan

s 98 prev s 98 om 2007 No. 10 s 62 sch
pres s 98 amd 2007 No. 10 s 46

Things done by chief executive officer

s 99 prev s 99 om 2007 No. 10 s 62 sch

Delegation by chief executive officer

s 100 prev s 100 amd 1998 No. 21 s 19
om 2007 No. 10 s 62 sch

Additional provisions relating to chief executive officer—sch 2

s 101 prev s 101 om 2007 No. 10 s 62 sch

Application of div 1 to statutory GOC subsidiaries

s 101A prev s 101A ins 2007 No. 10 s 42
om 2007 No. 10 s 62 sch

Matters to be included in statement of corporate intent

s 105 amd 1998 No. 21 s 20

Additional matters may be included in statement of corporate intent

prov hdg amd 1998 No. 21 s 21(1)
s 106 amd 1998 No. 21 s 21(2)–(4)

PART 11—REPORTS AND OTHER ACCOUNTABILITY MATTERS

Application of Financial Administration and Audit Act

s 118 amd 1998 No. 21 s 3 sch 1; 2001 No. 31 s 47; 2007 No. 10 s 62 sch

Quarterly reports

s 119 amd 1998 No. 21 s 23

Matters to be included in annual report

s 120 amd 2001 No. 45 s 29 sch 3; 2007 No. 10 ss 47, 62 sch

Board to keep shareholding Ministers informed

s 122 amd 2001 No. 45 s 29 sch 3

Division 1—Statutory GOCs

div hdg om 2007 No. 10 s 62 sch

Division 2—Company GOCs

div hdg om 2007 No. 10 s 62 sch

Division 3—GOCs generally

div hdg om 2007 No. 10 s 62 sch

PART 12—DUTIES AND LIABILITIES OF DIRECTORS AND OTHER OFFICERS

Application of Corporations Act to officers of GOC

prov hdg amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 62 sch
s 123 amd 2001 No. 45 s 29 sch 3; 2006 No. 42 s 71; 2007 No. 10 s 62 sch

Application of Corporations Act to officers of GOC subsidiaries

prov hdg amd 1994 No. 31 s 16 sch 3; 2001 No. 45 s 29 sch 3
s 124 amd 1994 No. 31 s 16 sch 3; 2001 No. 45 s 29 sch 3; 2006 No. 42 s 72

Notice of suspected insolvency otherwise than because of direction or notification

s 125 amd 2001 No. 45 s 29 sch 3

Division 1—Statutory GOCs

div hdg om 2007 No. 10 s 62 sch

Division 2—Company GOCs

div hdg om 2007 No. 10 s 62 sch

Division 3—GOCs generally

div hdg om 2007 No. 10 s 62 sch

PART 13—LEGAL CAPACITY AND POWERS**General powers of GOCs**

prov hdg amd 2007 No. 10 s 62 sch
s 126 amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 62 sch

Doctrine of ultra vires etc. not revived

s 127 prev s 127 amd 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch
pres s 127 amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 62 sch

Division 1—Statutory GOCs

div hdg om 2007 No. 10 s 62 sch

Division 2—Company GOCs

div hdg om 2007 No. 10 s 62 sch

Division 3—GOC may direct subsidiaries

div hdg ins 1994 No. 31 s 31
om 2007 No. 10 s 48

PART 14—FINANCE**Liability to State taxes**

s 128 amd 1994 No. 31 s 16 sch 3; 1998 No. 21 s 3 sch 1; 2001 No. 71 s 551 sch 1

Liability for Commonwealth tax equivalents

s 129 prev s 129 om 1998 No. 21 s 22
pres s 129 sub 1994 No. 31 s 32

Division 2—Guarantees

div hdg sub 1996 No. 54 s 9 sch

Payment of dividends

s 131 amd 1998 No. 21 s 24; 2001 No. 45 s 29 sch 3; 2002 No. 17 s 45; 2002 No. 17 s 46; 2007 No. 10 ss 49, 62 sch

GOC's financial statements must state dividend payable

s 132 ins 2002 No. 17 s 47
amd 2007 No. 10 s 62 sch

Interim dividends

s 133 amd 2007 No. 10 s 50

Definitions

s 134 prev s 134 om 2007 No. 10 s 62 sch
pres s 134 ins 1994 No. 64 s 293 sch 4

Dividend payment for financial year of becoming a GOC

s 135 prev s 135 om 2007 No. 10 s 62 sch
pres s 135 ins 1994 No. 64 s 293 sch 4

Interim dividend for financial year of becoming a GOC

s 136 prev s 136 amd 1997 No. 81 s 3 sch; 2002 No. 68 s 339 sch 4
om 2007 No. 10 s 62 sch
pres s 136 ins 1994 No. 64 s 293 sch 4

Endnotes

Dividend payment for previous financial year

s 137 prev s 137 om 2007 No. 10 s 62 sch
pres s 137 ins 1994 No. 64 s 293 sch 4

Statutory GOC not to indemnify officers

s 138 prev s 138 om 2007 No. 10 s 62 sch

Disposal of main undertakings

s 139 prev s 139 om 2007 No. 10 s 62 sch
pres s 139 amd 1994 No. 31 s 16 sch 3

Acquiring and disposing of subsidiaries

s 140 prev s 140 om 2007 No. 10 s 62 sch
pres s 140 amd 1994 No. 31 s 16 sch 3

PART 16—GOCs AND GOC SUBSIDIARIES BECOMING AND RETIRING AS TRUSTEES

pt hdg ins 1998 No. 21 s 25

GOCs and subsidiaries becoming trustees

s 141 prev s 141 amd 1999 No. 19 s 3 sch
om 2007 No. 10 s 62 sch
pres s 141 ins 1998 No. 21 s 25

GOCs and subsidiaries retiring as trustees

s 142 prev s 142 amd 1999 No. 19 s 3 sch
om 2007 No. 10 s 62 sch
pres s 142 ins 1998 No. 21 s 25

Part applies despite Corporations Act

prov hdg amd 2001 No. 45 s 29 sch 3
s 143 prev s 143 amd 1999 No. 19 s 3 sch
om 2007 No. 10 s 62 sch
pres s 143 ins 1998 No. 21 s 25
amd 2001 No. 45 s 29 sch 3

PART 17—EMPLOYEES

Part applies to subsidiaries

s 144 prev s 144 om 2007 No. 10 s 62 sch
pres s 144 amd 1994 No. 31 s 16 sch 3; 2007 No. 10 s 51

Employees not employed under Public Service Act

s 145 sub 1996 No. 37 s 147 sch 2
amd 2008 No. 38 s 252 sch 3; 2007 No. 10 s 62 sch

Appointment of senior executives

s 146 amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 52
sub 2008 No. 75 s 60

Application of equal opportunity provisions under Public Service Act 2008

s 148 prev s 148 om 2007 No. 10 s 62 sch
pres s 148 amd 1996 No. 37 s 147 sch 2
sub 2008 No. 38 s 252 sch 3

Employment and industrial relations plan

s 149 prev s 149 om 2007 No. 10 s 62 sch
pres s 149 amd 1996 No. 37 s 147 sch 2

Superannuation schemes

s 150 prev s 150 om 2007 No. 10 s 62 sch
pres s 150 sub 1995 No. 36 s 9 sch 2

Superannuation for officers and employees who were previously officers of the public service

s 151 prev s 151 om 2007 No. 10 s 62 sch
pres s 151 amd 1995 No. 36 s 9 sch 2; 2000 No. 52 s 48 sch

Preservation of leave entitlements of certain former officers and employees of government entities

s 152 amd 1994 No. 31 s 16 sch 3

GOC may direct subsidiary

s 153A ins 1994 No. 31 s 31
amd 2001 No. 45 s 29 sch 3
om 2007 No. 10 s 48

Subsidiaries must comply with directions

s 153B ins 1994 No. 31 s 31
om 2007 No. 10 s 48

Division not limiting

s 153C ins 1994 No. 31 s 31
om 2007 No. 10 s 48

Division 1—Application of part to GOC subsidiaries

div hdg om 2007 No. 10 s 62 sch

Division 2—Statutory GOCs

div hdg om 2007 No. 10 s 62 sch

Division 3—Company GOCs

div hdg om 2007 No. 10 s 62 sch

Division 4—GOCs generally

div hdg om 2007 No. 10 s 62 sch

PART 18—OTHER MATTERS**Relationship of GOCs with the State**

s 154 ins 2007 No. 10 s 53

Application of chapter to certain GOC subsidiaries

prov hdg amd 1994 No. 31 s 16 sch 3; 2007 No. 10 s 62 sch
s 155 amd 1994 No. 31 s 16 sch 3
sub 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Application of Crime and Misconduct Act

s 156 prev s 156 om 1996 No. 54 s 9 sch

Endnotes

pres s 156 sub 2001 No. 69 s 378 sch 1
amd 2007 No. 10 s 62 sch

Application of Ombudsman Act 2001

prov hdg amd 2001 No. 73 s 96 sch 1
s 157 prev s 157 om 1996 No. 54 s 9 sch
pres s 157 amd 2001 No. 73 s 96 sch 1
sub 2007 No. 10 s 55
amd 2007 No. 10 s 62 sch

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

s 161 ins 1994 No. 31 s 33

Effect of regulation made under s 161(1) on legal relationships

s 162 ins 2007 No. 10 s 56

Regulation about assets and liabilities not dealt with under s 54

s 163 ins 1994 No. 31 s 33

Debt owned by State

s 164 ins 1994 No. 31 s 33

Regulation about liability

s 165 prev s 165 om 2007 No. 10 s 62 sch
pres s 165 ins 1994 No. 31 s 33

Regulation dissolving certain government entities

s 166 prev s 166 amd 1996 No. 37 s 147 sch 2; 2008 No. 38 s 252 sch 3
om 2007 No. 10 s 62 sch
pres s 166 ins 1994 No. 31 s 33
amd 1998 No. 21 s 3 sch 1; 2007 No. 10 s 62 sch

Regulations

s 167 (prev s 188) amd 1994 No. 31 s 34(1)
renum 1994 No. 31 s 34(2)

Division 1—GOCs generally

div hdg om 2007 No. 10 s 62 sch

Division 2—Statutory GOCs

div hdg om 2007 No. 10 s 62 sch

Division 3—Company GOCs

div hdg om 2007 No. 10 s 62 sch

**CHAPTER 5—TRANSITIONAL PROVISIONS FOR GOVERNMENT OWNED
CORPORATIONS AMENDMENT ACT 2007**

ch hdg ins 2007 No. 10 s 57

Company GOCs—transfer of non-voting shares

s 168 ins 2007 No. 10 s 57

References to statutory GOCs and company GOCs

s 169 ins 2007 No. 10 s 62 sch

Application of Electoral and Administrative Review Act

s 176 prev s 176 om 1998 No. 21 s 26

Statutory GOC's seal

s 178 prev s 178 om 2007 No. 10 s 62 sch

Authentication of documents

s 179 prev s 179 om 2007 No. 10 s 62 sch

Judicial notice of certain signatures

s 180 prev s 180 om 2007 No. 10 s 62 sch

Application of Crime and Misconduct Act

s 181 prev s 181 sub 2001 No. 69 s 378 sch 1
om 2007 No. 10 s 62 sch

Application of Ombudsman Act 2001

prov hdg prev s 182 prov hdg amd 2001 No. 73 s 96 sch 1

s 182 prev s 182 amd 1998 No. 21 s 27; 2001 No. 73 s 96 sch 1; 2007 No. 10 s 54
om 2007 No. 10 s 62 sch

Numbering and renumbering of Act

s 193A ins 2007 No. 10 s 62 sch
om R9 (see RA s 37)

SCHEDULE 1—INTERIM BOARDS OF DIRECTORS

sch hdg sub 2007 No. 10 s 62 sch

PART 1—INTERPRETATION

pt 1 (s 1) ins 2007 No. 10 s 62 sch

PART 2—COMPOSITION OF INTERIM BOARD OF RELEVANT ENTITIES

pt hdg amd 2007 No. 10 s 62 sch

Composition of interim board

s 2 sub 2007 No. 10 s 62 sch

Chairperson and deputy chairperson

s 3 amd 2007 No. 10 s 62 sch

PART 3—MEETINGS AND OTHER BUSINESS OF INTERIM BOARD

pt hdg amd 2007 No. 10 s 62 sch

Meaning of “required minimum number” of directors

s 4 amd 2007 No. 10 s 62 sch

Conduct of meetings and other business

s 5 amd 2007 No. 10 s 62 sch

Times and places of meetings

s 6 amd 2007 No. 10 s 62 sch

Quorum and voting at meetings

s 8 amd 2007 No. 10 s 62 sch

Endnotes

Participation in meetings by telephone etc.

s 9 amd 2007 No. 10 s 62 sch

Resolutions without meetings

s 10 amd 2007 No. 10 s 62 sch

Minutes

s 11 amd 2007 No. 10 s 62 sch

Appointment of directors

s 12 amd 1998 No. 21 s 28; 2001 No. 45 s 29 sch 3; 2007 No. 10 s 62 sch

Termination of appointment as director

s 16 amd 2007 No. 10 ss 58, 62 sch

**SCHEDULE 2—EXECUTIVES OF CANDIDATE GOC ASSOCIATES AND
ASSOCIATE SUBSIDIARIES**

sch hdg sub 2007 No. 10 s 62 sch

PART 1—INTERPRETATION

pt 1 (s 1) ins 2007 No. 10 s 62 sch

PART 2—CHIEF EXECUTIVE OFFICER

pt hdg ins 2007 No. 10 s 62 sch

Appointment of chief executive officer

s 2 amd 2007 No. 10 s 59
 sub 2007 No. 10 s 62 sch

Appointment of acting chief executive officer

s 3 amd 2007 No. 10 s 62 sch

Terms of appointment not provided for under Act

s 4 amd 2007 No. 10 s 62 sch

Resignation

s 5 amd 2007 No. 10 s 62 sch

Termination of appointment

s 6 amd 2007 No. 10 s 62 sch

Duties of chief executive officer

s 7 ins 2007 No. 10 s 62 sch

Things done by chief executive officer

s 8 ins 2007 No. 10 s 62 sch

Delegation by chief executive officer

s 9 ins 2007 No. 10 s 62 sch

PART 3—SENIOR EXECUTIVES

pt 3 (s 10) ins 2007 No. 10 s 62 sch

**SCHEDULE 3—APPLICATION OF FA AND A ACT TO GOCS AND
PRESCRIBED GOC SUBSIDIARIES**

sch hdg ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

PART 1—PRELIMINARY

Purpose

s 1 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

**PART 2—APPLICATION OF CERTAIN PROVISIONS OF FA AND A ACT TO
GOCS**

pt hdg ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Definitions for pts 2 and 4

s 3 ins 1998 No. 21 s 3 sch 1
def “**chairperson**” amd 2007 No. 10 s 62 sch

Application of FA and A Act—Act, s 118

s 4 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 ss 60(1), 62 sch

**PART 3—APPLICATION OF CERTAIN PROVISIONS OF FA AND A ACT TO
GOC SUBSIDIARIES**

pt hdg ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Definitions for pts 3 and 5

s 5 ins 1998 No. 21 s 3 sch 1
def “**chairperson**” amd 2007 No. 10 s 62 sch
def “**GOC subsidiary**” amd 2007 No. 10 s 62 sch
def “**shareholding GOC**” amd 2007 No. 10 s 62 sch

Application of FA and A Act—Act, s 118

s 6 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 ss 60(1), 62 sch

**PART 4—PROVISIONS OF FA AND A ACT APPLYING UNDER SECTION 4 TO
GOCS**

pt hdg ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

PART 3—FINANCIAL ADMINISTRATION—GOCS

pt hdg ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

GOCs to prepare annual financial statements

prov hdg amd 2007 No. 10 s 62 sch
s 46F ins 1998 No. 21 s 3 sch 1
amd 2001 No. 45 s 29 sch 3; 2008 No. 6 s 10(1); 2007 No. 10 s 62 sch

GOCs must consider auditor-general's observations and suggestions

prov hdg amd 2007 No. 10 s 62 sch
s 46H ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Annual report

s 46J ins 1998 No. 21 s 3 sch 1
amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 62 sch

Shareholding Ministers must table reports

s 46K ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Shareholding Ministers to explain late tabling of annual report

s 46KB ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Procedure if Legislative Assembly not in session or sitting

s 46KC ins 1998 No. 21 s 3 sch 1
amd 2003 No. 8 s 17 sch; 2007 No. 10 s 62 sch

Shareholding Ministers to give auditor-general information relating to GOCs

prov hdg amd 2007 No. 10 s 62 sch
s 75 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Auditor-general to be appointed auditor of every GOC

prov hdg amd 2007 No. 10 s 62 sch
s 76 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Audits at request of Parliament

s 77 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Way in which audit is to be conducted

s 79 ins 1998 No. 21 s 3 sch 1
amd 2001 No. 45 s 29 sch 3

Audit of performance management systems

s 80 ins 1998 No. 21 s 3 sch 1
amd 2006 No. 44 s 88(1); 2007 No. 10 s 62 sch

Appointment of contract auditors

s 82 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 ss 60(2), 62 sch

Access to documents and property

s 85 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Compensation

s 88 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Confidentiality

s 92 ins 1998 No. 21 s 3 sch 1
amd 2001 No. 69 s 378 sch 1; 2009 No. 7 s 16 sch

Report on audit

s 93 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Annual reports on audits of GOCs

prov hdg amd 2007 No. 10 s 62 sch
s 99 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Comments on proposed audit reports

s 103 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Procedure for reporting certain sensitive information

s 104 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Tabling of reports

s 105 ins 1998 No. 21 s 3 sch 1
amd 2003 No. 8 s 17 sch

Transitional provision for amendment of s 80

s 143 ins 2006 No. 44 s 88(2)
amd 2007 No. 10 s 62 sch

PART 5—PROVISIONS OF FA AND A ACT APPLYING UNDER SECTION 6 TO GOC SUBSIDIARIES

pt hdg ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

PART 3—FINANCIAL ADMINISTRATION—GOC SUBSIDIARIES

pt hdg ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

GOC subsidiaries to prepare annual financial statements

prov hdg amd 2007 No. 10 s 62 sch
s 46F ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 60(3); 2008 No. 6 s 10(2); 2007 No. 10 s 62 sch

GOC subsidiaries must consider auditor-general's observations and suggestions

prov hdg amd 2007 No. 10 s 62 sch
s 46H ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Annual report

s 46J ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 ss 60(3), 62 sch

Endnotes

Shareholding Ministers must table reports

s 46K ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Shareholding Ministers to explain late tabling of annual report

s 46KB ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Procedure if Legislative Assembly not in session or sitting

s 46KC ins 1998 No. 21 s 3 sch 1
amd 2003 No. 8 s 17 sch

PART 6—AUDIT OF GOC SUBSIDIARIES

pt hdg ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Shareholding Ministers to give auditor-general information relating to GOC subsidiaries

prov hdg amd 2007 No. 10 s 62 sch
s 75 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Auditor-general to be appointed auditor of every GOC subsidiary

prov hdg amd 2007 No. 10 s 62 sch
s 76 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Audits at request of Parliament

s 77 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Way in which audit is to be conducted

s 79 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 60(4)

Audit of performance management systems

s 80 ins 1998 No. 21 s 3 sch 1
amd 2006 No. 44 s 88(3); 2007 No. 10 s 62 sch

Appointment of contract auditors

s 82 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 ss 60(2), 62 sch

Access to documents and property

s 85 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Compensation

s 88 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Confidentiality

s 92 amd 2009 No. 7 s 16 sch

Report on audit

s 93 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Annual reports on audits of GOC subsidiaries

prov hdg amd 2007 No. 10 s 62 sch
s 99 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Comments on proposed audit reports

s 103 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Procedure for reporting certain sensitive information

s 104 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Tabling of reports

s 105 ins 1998 No. 21 s 3 sch 1
amd 2003 No. 8 s 17 sch

Transitional provision for amendment of s 80

s 143 ins 2006 No. 44 s 88(4)
amd 2007 No. 10 s 62 sch

SCHEDULE 4—APPLICATION OF CHAPTER 3 OF ACT TO GOC SUBSIDIARIES

sch hdg ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Purpose

s 1 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Definitions

s 2 ins 1998 No. 21 s 3 sch 1
def “**GOC subsidiary**” amd 2007 No. 10 s 62 sch

Application of ch 3 of the Act to GOC subsidiaries

prov hdg amd 2007 No. 10 s 62 sch
s 3 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 ss 61(1)–(2), 62 sch

PART 2—PROVISIONS OF CHAPTER 3 OF ACT AS APPLIED TO GOC SUBSIDIARIES

pt hdg ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

CHAPTER 3—GOC SUBSIDIARIES

ch hdg ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

PART 1—BASIC REQUIREMENTS

GOC subsidiary must be proprietary company limited by shares

prov hdg amd 2007 No. 10 s 62 sch
s 75 ins 1998 No. 21 s 3 sch 1
amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 62 sch

Division 1—Statutory GOCs (omitted)

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

Division 2—Company GOCs subsidiaries

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

PART 2—APPLICATION OF CORPORATIONS ACT

pt hdg ins 1998 No. 21 s 3 sch 1
amd 2001 No. 45 s 29 sch 3

Application of Corporations Act to GOC subsidiaries

prov hdg amd 2007 No. 10 ss 61(3), 62 sch
s 76 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 ss 61(3), 62 sch

GOC subsidiary not exempt public authority

prov hdg amd 2007 No. 10 s 62 sch
s 77 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 ss 61(3), 62 sch

Division 1—Statutory GOCs (omitted)

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

Division 2—Company GOC subsidiaries

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

PART 3—SHARES AND SHAREHOLDING MINISTERS

Shareholders of a GOC subsidiary

prov hdg amd 2007 No. 10 s 62 sch
s 78 prev s 78 ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 61(4)
pres s 78 ins 1998 No. 21 s 3 sch 1
sub 2007 No. 10 s 61(4)
amd 2007 No. 10 s 62 sch

Shareholding GOCs must have equal number of shares (words omitted)

s 79 prev s 79 om 2007 No. 10 s 61(4)
pres s 79 ins 1998 No. 21 s 3 sch 1
sub 2007 No. 10 s 61(4)

Meaning of “shareholding GOC”

s 80 prev s 80 ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 61(4)

Transfer, issue etc. of shares

s 81 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 61(6)

Shareholding GOCs not directors

s 83 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Resolutions without meetings

s 84 (prev s 85A) ins 1998 No. 21 s 3 sch 1
amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 61(5); 2007 No. 10 s 62 sch
renum and reloc 2007 No. 10 s 62 sch

Division 1—Statutory GOCs (omitted)

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

Division 2—Company GOC subsidiaries

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

Division 3—GOCs generally

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

PART 4—CONSTITUTION (omitted)

pt hdg sub 2007 No. 10 s 61(7)
pt 4 note ins 2007 No. 10 s 61(7)
amd 2007 No. 10 s 62 sch

PART 5—BOARD OF DIRECTORS**Role of board**

s 88 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 ss 61(8), 62 sch

Composition of board

s 89 ins 1998 No. 21 s 3 sch 1
amd 2001 No. 45 s 29 sch 3; 2007 No. 10 ss 61(9), 62 sch

Public service officers not eligible for appointment as directors

s 90 ins 1998 No. 21 s 3 sch 1
amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 62 sch

Division 1—Statutory GOCs (omitted)

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

Division 2—Company GOC subsidiaries

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

PART 6—CHIEF EXECUTIVE OFFICER

Appointment of chief executive officer

s 92 ins 1998 No. 21 s 3 sch 1
amd 2001 No. 45 s 29 sch 3; 2007 No. 10 ss 61(10)–(11), 62 sch

Appointment of chief executive officer—particular subsidiaries

s 93 ins 2007 No. 10 s 61(12)

Division 1—Statutory GOCs (omitted)

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

Division 2—Company GOC subsidiaries

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

PART 7—CORPORATE PLAN (omitted)

pt 7 note ins 2007 No. 10 s 61(13)

PART 8—STATEMENT OF CORPORATE INTENT (omitted)

pt 8 note ins 2007 No. 10 s 61(14)

PART 10—GENERAL RESERVE POWERS OF SHAREHOLDING MINISTERS

Exercise of reserve power of shareholding Ministers to notify GOC’s board of public sector policies

s 114 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Exercise of reserve power of shareholding Ministers to give directions in public interest

s 115 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Direction given following notice of suspected insolvency

s 116 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Subsidiary and board not otherwise subject to government direction

s 117 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

PART 11—REPORTS AND OTHER ACCOUNTABILITY MATTERS

Application of Public Accounts Committee Act

s 129 prev s 129 om 2007 No. 10 s 61(15)

Quarterly reports

s 119 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 61(16)

Matters to be included in annual report

s 120 ins 1998 No. 21 s 3 sch 1
amd 2001 No. 45 s 29 sch 3; 2007 No. 10 ss 61(17)–(18), 62 sch

Deletion of commercially sensitive matters from annual report etc.

s 121 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Board to keep shareholding Ministers informed

s 122 ins 1998 No. 21 s 3 sch 1
amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 62 sch

Division 1—Statutory GOCs (omitted)

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

Division 2—Company GOCs subsidiaries

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

Division 3—GOCs generally

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

PART 12—DUTIES AND LIABILITIES OF DIRECTORS AND OTHER OFFICERS**Application of Corporations Act to officers of GOC**

s 123 ins 2007 No. 10 s 62 sch

Application of Corporations Act to officers of GOC subsidiaries

prov hdg amd 2001 No. 45 s 29 sch 3
s 124 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 61(19)

Notice of suspected insolvency otherwise than because of direction or notification

s 125 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 62 sch

Division 1—Statutory GOCs (omitted)

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

Division 2—Company GOCs (omitted)

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

Division 3—GOCs generally

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

PART 13—LEGAL CAPACITY AND POWERS**General powers of GOC subsidiaries**

prov hdg amd 2007 No. 10 s 62 sch
s 126 ins 1998 No. 21 s 3 sch 1
amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 62 sch

Doctrine of ultra vires etc. not revived

s 127 ins 1998 No. 21 s 3 sch 1
amd 2001 No. 45 s 29 sch 3; 2007 No. 10 s 62 sch

Division 1—Statutory GOCs (omitted)

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

Division 2—Company GOC subsidiaries

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

Division 3—GOC may direct subsidiaries (omitted)

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 61(20)

PART 14—FINANCE (omitted)

pt 14 note ins 2007 No. 10 s 61(21)

Disposal of main undertakings

s 139 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 61(22)

Acquiring and disposing of subsidiaries

s 140 ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 61(23)

PART 16—GOCs AND GOC SUBSIDIARIES BECOMING AND RETIRING AS TRUSTEES (omitted)

pt 16 note ins 2007 No. 10 s 61(24)

PART 17—EMPLOYEES (omitted)

pt hdg ins 1998 No. 21 s 3 sch 1
amd 2007 No. 10 s 61(25)

PART 18—OTHER MATTERS

Relationship of GOC subsidiaries with the State

prov hdg amd 2007 No. 10 s 62 sch
s 154 ins 2007 No. 10 s 61(26)
amd 2007 No. 10 s 62 sch

Application of chapter to certain GOC subsidiaries

prov hdg amd 2007 No. 10 s 62 sch
s 155 ins 2007 No. 10 s 61(26)

Application of Crime and Misconduct Act

s 156 sub 2001 No. 69 s 378 sch 1
amd 2007 No. 36 s 2 sch; 2007 No. 10 s 62 sch

Application of Ombudsman Act 2001

prov hdg amd 2001 No. 73 s 96 sch 1
s 157 amd 2001 No. 73 s 96 sch 1
sub 2007 No. 10 s 61(27)
amd 2007 No. 10 s 62 sch

Division 1—GOCs generally

div hdg ins 1998 No. 21 s 3 sch 1
sub 2007 No. 10 s 61(26)
om 2007 No. 10 s 62 sch

Division 2—Statutory GOCs (omitted)

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

Division 3—Company GOC subsidiaries

div hdg ins 1998 No. 21 s 3 sch 1
om 2007 No. 10 s 62 sch

8 Table of renumbered provisions

under the Reprints Act 1992 s 43 as required by the Government Owned Corporations Act 1993, s 193A [Reprint No. 9]

Previous	Renumbered as
3	2
4	3
5	4
6	5
8	6
9	7
10	8
11	9
12	10
13	11
15	12
16	13
17	14
18	15
19	16
20	17
21	18
22	19
23	20
24	21
24A	22
25	23
26	24
26A	25
26B	26
28	27
29	28
31	29

Endnotes

Previous	Renumbered as
31A	30
32	31
34	32
35	33
36	34
37	35
38	36
39	37
40	38
41	39
42	40
43	41
44	42
45	43
46	44
47	45
48	46
49	47
49A	48
49B	49
53	52
54	53
54A	54
54B	55
55	56
56	57
57	58
57A	59
57B	60
57C	61
57D	62
58	63
59	64
60	65
61	66
62	67
pt 5A	pt 6
62A	68
62B	69
62E	70
62F	71
pt 6	pt 7
63	72
63A	73
64	74
66	75
69	76

Previous	Renumbered as
70.....	77
76.....	78
77.....	79
82.....	80
83.....	81
84.....	82
85.....	83
85A.....	84
88.....	85
89.....	86
90.....	87
95.....	88
96.....	89
96A.....	90
96B.....	91
102.....	92
102A.....	93
103.....	94
104.....	95
105.....	96
106.....	97
107.....	98
108.....	99
109.....	100
110.....	101
111.....	102
112.....	103
113.....	104
114.....	105
115.....	106
116.....	107
117.....	108
118.....	109
119.....	110
120.....	111
121.....	112
122.....	113
123.....	114
124.....	115
125.....	116
126.....	117
128.....	118
128(1A).....	118(2)
128(2).....	118(3)
128(3).....	118(4)
130.....	119
131.....	120

Endnotes

Previous	Renumbered as
132.....	121
133.....	122
145.....	123
146.....	124
147.....	125
152.....	126
153.....	127
154.....	128
155.....	129
158.....	130
159.....	131
159A.....	132
160.....	133
160(2A).....	133(3)
160(3).....	133(4)
160(4).....	133(5)
160(4A).....	133(6)
160(5).....	133(7)
160A.....	134
160B.....	135
160C.....	136
160D.....	137
161.....	138
162.....	139
163.....	140
pt 15A.....	pt 16
163A.....	141
163B.....	142
163C.....	143
pt 16.....	pt 17
164.....	144
167.....	145
168.....	146
169.....	147
170.....	148
171.....	149
172.....	150
173.....	151
174.....	152
175.....	153
pt 17.....	pt 18
176.....	154
177.....	155
183.....	156
184.....	157
185.....	158
186.....	159

Previous	Renumbered as
187.....	160
188.....	161
188A.....	162
189.....	163
190.....	164
191.....	165
192.....	166
193.....	167
194.....	168
195.....	169
schedule 1	
pt 1AA.....	pt 1
1AA.....	1
pt 1.....	pt 2
1.....	2
2.....	3
pt 2.....	pt 3
3.....	4
4.....	5
5.....	6
6.....	7
7.....	8
8.....	9
9.....	10
10.....	11
pt 3.....	pt 4
11.....	12
12.....	13
13.....	14
14.....	15
15.....	16
schedule 2	
1AA.....	1
1.....	2
2.....	3
3.....	4
4.....	5
5.....	6
6.....	7
7.....	8
8.....	9
9.....	10