



Queensland

# **Government Owned Corporations (Generator Restructure) Regulation 2011**

**Explanatory Notes for SL 2011 No. 126**

made under the

*Government Owned Corporations Act 1993*

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## **General outline**

### **Short title**

*Government Owned Corporations (Generator Restructure) Regulation 2011.*

### **Authorising law**

Section 161 of the *Government Owned Corporations Act 1993*

### **Policy objectives and the reasons for them**

The objective of the regulation is to give effect to the outcomes of the *Shareholder Review of Queensland Government Owned Corporation Generators* ('the Generator Review'), the recommendations of which were announced by the then Treasurer and Minister for Employment and Economic Development on 25 November 2010.

A key consideration of the Generator Review was to develop a model which would:

- re-position the Government owned generators to respond to challenging market conditions, including competition from large vertically-integrated retailers and an impending carbon pollution reduction scheme;
- enable the Government to best manage its portfolio of generation assets to ensure value for money for all Queenslanders; and
- secure the ongoing viability of the generation assets.

The Generator Review recommended that the current three Government owned generators (CS Energy Limited ('CS Energy'), Stanwell Corporation Limited ('Stanwell') and Tarong Energy Corporation Limited ('Tarong Energy')) be amalgamated into two, and that the existing generation assets be reallocated between the two restructured entities. Following a period of consultation with employees of the three Government owned generators, the final reallocation of generation assets was announced by the Minister for Finance and The Arts on 10 March 2011.

### **Achievement of policy objectives**

The regulation achieves its objectives by effecting the following reallocations of generation assets between the Government owned generators:

1. reallocation of the Interconnection and Power Pooling Agreement and associated businesses of Gladstone Power Station from Stanwell to CS Energy;
2. reallocation of the Wivenhoe Power Station, and the Glen Wilga and Haystack Road coal resources from Tarong Energy to CS Energy;
3. reallocation of the Power Purchase Agreement and associated businesses of Collinsville Power Station from CS Energy to Stanwell;
4. ownership of the Swanbank B, Swanbank E and Mica Creek power stations will transfer from CS Energy to Stanwell; and
5. ownership of the Tarong and Tarong North power stations will transfer from Tarong Energy to Stanwell, together with the Meandu and Kunioon coal resource assets.

In addition, the regulation will revoke the Government Owned Corporation status of Tarong Energy. This will permit shares in Tarong Energy to be

acquired by Stanwell and enable the integration of the operations of these two entities.

### **Consistency with policy objectives of authorising law**

The regulation is consistent with the main objectives of the *Government Owned Corporations Act 1993*, that is to ensure that Government Owned Corporations ('GOCs') will be commercially successful in the conduct of their activities, and to ensure the overall efficiency and effectiveness of GOCs.

### **Inconsistency with policy objectives of other legislation**

The regulation is consistent with the policy objectives of other legislation.

### **Alternative ways of achieving policy objectives**

The Generator Review was undertaken to examine the preparedness of the Government owned generators to respond to challenging market conditions, and to develop a model which would secure the viability of Government owned generation assets.

Accordingly, non-legislative options to implement the outcomes of the Generator Review, such as a negotiated transfer process between the individual Government owned generators, were not considered feasible due to the need to act quickly to address challenging market conditions and ensure the ongoing viability of the Government owned generators.

By contrast, section 161 of the *Government Owned Corporations Act 1993* already provides a mechanism by which assets, liabilities, instruments and employees may be transferred or reallocated by regulation between GOCs and GOC subsidiaries.

### **Benefits and costs of implementation**

The main benefit of the regulation will be to secure the long-term viability of the Government owned generators, through re-positioning the entities to better respond to challenging market conditions.

The reallocation of generation assets is not expected to impact upon electricity prices, or affect reliability of electricity supply.

It is not anticipated that there will be additional costs to Government.

### **Consistency with fundamental legislative principles**

The regulation raises no issues in regard to fundamental legislative principles.

### **Consultation**

Within Government, there has been extensive and ongoing consultation with the Department of Employment, Economic Development and Innovation, the Department of Justice and Attorney-General, and the Department of the Premier and Cabinet.

Key regulatory bodies, including the Australian Competition and Consumer Commission and the Australian Energy Regulator, were consulted regarding the reallocation of assets to be effected by the regulation.

Competition law considerations and insider trading prohibitions meant that consultation could not occur with the Government owned generators prior to the public release of the Generator Review. However, the final reallocation of generation assets was determined following a period of consultation with the three Government owned generators and relevant union organisations.

Ongoing consultation has occurred with the Government owned generators and relevant union organisations regarding the transition principles applying to those employees whose employment will be transferred by the regulation.

Queensland Treasury Corporation and the Queensland Audit Office have been consulted regarding the various financial aspects of the asset reallocation.

The Queensland Office for Regulatory Efficiency has been consulted regarding the need to prepare a Regulatory Assessment Statement (RAS). The regulation is considered to be excluded from the RAS system on the basis that it is unlikely to impose appreciable costs on the community or a segment of the community.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Treasury Department.

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