

Government Owned Corporations (Energy Consolidation) Regulation 2016

Explanatory notes for SL 2016 No. 100

made under the

Building and Construction Industry (Portable Long Service Leave) Act 1991

Electricity Act 1994

Government Owned Corporations Act 1993

General Outline

Short title

Government Owned Corporations (Energy Consolidation) Regulation 2016

Authorising law

Sections 2, 5, 24, 72 and 161 of the *Government Owned Corporations Act 1993 (Qld)*

Section 259A of the *Electricity Act 1994*

Sections 3, 112 and Schedule 1 of the *Building and Construction Industry (Portable Long Service Leave) Act 1991*

Policy objectives and the reasons for them

In December 2015, the Queensland Government, delivering on an election promise, announced its intention to consolidate the businesses of Energex Limited (Energex) and Ergon Energy Corporation Limited (Ergon) under a new parent company.

To implement the consolidated structure, a new parent company, Energy Queensland Limited (Energy Queensland) was incorporated on 20 May 2016.

The current Government Owned Corporation (GOC) declarations applying to Energex and Ergon will be revoked, and the shares in each of the two entities will be transferred from the shareholding Ministers to Energy Queensland. Energy Queensland will be declared to be a GOC and Energex and Ergon will become GOC subsidiaries.

The establishment of Energy Queensland, and the transfer of shares in Energex and Ergon, will create the opportunity to bring together the corporate and administrative functions of both Energex and Ergon, leading to the elimination of duplication and the adoption of industry best practice across the network. The operational functions of the electricity distribution businesses will continue to be undertaken by Energex and Ergon.

Achievement of policy objectives

The Regulation achieves its objectives by:

- declaring Energy Queensland to be a candidate GOC and GOC;
- revoking the current GOC declarations that apply to Energex and Ergon; and
- transferring shares in Energex and Ergon from the shareholding Ministers to Energy Queensland.

The Regulation also includes a provision to ensure that where Energex and Ergon have a contractual right to disclose information to their shareholding Ministers, the entities may continue to disclose information to the shareholding Ministers of Energy Queensland.

The Regulation will also effect the transfer of existing financial arrangements to Energy Queensland.

The Regulation gives effect to consequential amendments to the *Government Owned Corporations Regulation 2014*, *Electricity Regulation 2006* and *Building and Construction Industry (Portable Long Service Leave) Regulation 2013* to facilitate the implementation of the merger, and ensure that Energex and Ergon continue to be subject to the same level of regulation once they cease to be GOCs.

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 Energy Queensland, Energex and Ergon continue to 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 declaration of Energy Queensland as a GOC, and the revocation of the GOC status of Energex and Ergon, can only occur by regulation.

The use of the regulation-making power in section 161 of the *Government Owned Corporations Act 1993* has been relied upon in implementing a number of Government-initiated restructures. As such, the process offers certainty to affected stakeholders.

The consequential amendments effected by the Regulation can only be achieved by regulation, and not through administrative means.

Benefits and costs of implementation

The main benefit of the Regulation, in implementing a new corporate structure, will be to create the opportunity to bring together the corporate and administrative functions of Energex and Ergon, leading to the elimination of duplication and the adoption of industry best practice across the network. As the merger will drive efficiencies, it is expected to reduce pressure on network costs in the long-run.

The implementation costs of the merger of Energex and Ergon have been factored into the anticipated savings. Implementation costs will be borne by the businesses within their existing budgets, and will not affect electricity prices for Queenslanders.

Consistency with fundamental legislative principles

The Regulation raises no issues and does not breach any fundamental legislative principles.

Consultation

Ongoing consultation has occurred with Energex, Ergon and the relevant union organisations.

Within government, the Department of Energy and Water Supply and the Department of the Premier and Cabinet have been consulted regarding various aspects of the merger.

The Queensland Audit Office has been consulted regarding the content of the Regulation.

Consultation has also been undertaken with the Department of Energy and Water Supply (in relation to consequential amendments to the *Electricity Regulation 2006*); and Q-Leave (in relation to consequential amendments to the *Building and Construction Industry (Portable Long Service Leave) Regulation 2013*).

All parties consulted support the Regulation.

The Office of Best Practice Regulation (OBPR) was consulted regarding the need to prepare a Regulatory Impact Statement (RIS). OBPR has confirmed that as the Regulation relates to the internal management of the public sector or a statutory authority, further analysis under the RIS system guidelines is not required.