



Queensland

# Government Owned Corporations (Pumped Hydro Energy Storage Restructure) Regulation 2022

## Subordinate Legislation 2022 No. 134

made under the

*Government Owned Corporations Act 1993*

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## **1 Short title**

This regulation may be cited as the *Government Owned Corporations (Pumped Hydro Energy Storage Restructure) Regulation 2022*.

## **2 Purpose**

The purpose of this regulation is to make provision for the following matters under section 161 of the Act—

- (a) to transfer particular assets, liabilities, instruments and employees of Powerlink to the pumped hydro entity;
- (b) to make the pumped hydro entity successor in law in relation to particular assets, liabilities and instruments of Powerlink;
- (c) to ensure Powerlink remains liable for particular proceedings and liabilities;
- (d) to provide for matters incidental to the purposes mentioned in paragraphs (a) to (c).

## **3 Dictionary**

The dictionary in schedule 1 defines particular words used in this regulation.

## **4 Transferring assets**

- (1) This section applies if, immediately before the commencement, a transfer schedule identifies an asset of Powerlink.
- (2) The asset is transferred to the pumped hydro entity on the commencement.
- (3) Powerlink and the pumped hydro entity must do all things necessary to enable the transfer of the asset under subsection (2).
- (4) For the purpose of accounting—
  - (a) Powerlink must treat—

- (i) the transfer of the asset to the pumped hydro entity as an acquisition of an ownership interest in the pumped hydro entity; and
  - (ii) the value of the asset as being the value of the asset as recorded in the accounts of Powerlink for the last day before the commencement; and
- (b) the pumped hydro entity must treat—
- (i) the transfer of the asset to the pumped hydro entity as a contribution by an owner that is to be considered as an increase in contributed equity; and
  - (ii) the value of the asset as being the value of the asset as recorded in the accounts of Powerlink for the last day before the commencement.

## **5 Transferring instruments**

- (1) This section applies if, immediately before the commencement—
- (a) a transfer schedule identifies an instrument relating to Powerlink; and
  - (b) the instrument is still in effect.
- (2) The instrument applies to the pumped hydro entity instead of Powerlink on and from the commencement.
- (3) Powerlink, the pumped hydro entity and any other party to the instrument must do all things necessary to enable the instrument to be applied to the pumped hydro entity under subsection (2).
- (4) Without limiting subsection (2), on and from the commencement—
- (a) any right, title or interest arising under or relating to the instrument is taken to be transferred from Powerlink to the pumped hydro entity; and

- (b) a benefit or right provided by the instrument, given to, by or in favour of Powerlink is taken to have been given to, by or in favour of the pumped hydro entity; and
  - (c) the pumped hydro entity is taken to be a party to the instrument instead of Powerlink; and
  - (d) a reference in the instrument to Powerlink is taken to be a reference to the pumped hydro entity; and
  - (e) an amount that is, or may become, payable to or by Powerlink under the instrument is taken to be an amount that is, or may become, payable to or by the pumped hydro entity in the way the amount was, or might have become, payable to or by Powerlink.
- (5) However, nothing in this section imposes a liability on the pumped hydro entity to the extent that—
- (a) the liability is not transferred to the pumped hydro entity under section 7; or
  - (b) Powerlink is liable for the liability under section 9.

## **6 Transferring employees**

- (1) This section applies if, immediately before the commencement, a transfer schedule identifies an employee of Powerlink.
- (2) The employee becomes an employee of the pumped hydro entity, and is no longer an employee of Powerlink, on and from the commencement.
- (3) Powerlink and the pumped hydro entity must do all things necessary to enable the employee to become an employee of the pumped hydro entity under subsection (2).
- (4) The transfer of the employee under subsection (2) does not—
  - (a) affect the employee's benefits, entitlements or remuneration; or
  - (b) prejudice the employee's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or

- (c) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or
- (d) constitute a termination of employment by Powerlink or a retrenchment or redundancy; or
- (e) entitle the employee to a payment or other benefit because he or she is no longer employed by Powerlink; or
- (f) require Powerlink to make any payment in relation to the employee's accrued rights to recreation, sick, long service or other leave regardless of any arrangement between Powerlink and the employee.

## **7 Transferring liabilities**

- (1) This section applies to a liability of Powerlink, in existence immediately before the commencement, to the extent the liability arose as a result of Powerlink—
  - (a) acquiring, owning or maintaining an interest in an asset identified, immediately before the commencement, in a transfer schedule; or
  - (b) being party to an instrument identified, immediately before the commencement, in a transfer schedule; or
  - (c) employing an employee identified, immediately before the commencement, in a transfer schedule.
- (2) This section also applies to a liability of Powerlink if, immediately before the commencement, a transfer schedule identifies the liability.
- (3) However, this section does not apply to a liability mentioned in subsection (1) or (2) to the extent that, immediately before the commencement, the liability—
  - (a) has been discharged or otherwise satisfied; or
  - (b) is mentioned in an exclusion schedule.

*Note—*

See also section 9.

- (4) Powerlink is released from the liability, and the liability is assumed by the pumped hydro entity, on the commencement.
- (5) Powerlink and the pumped hydro entity must do all things necessary to enable the liability to be assumed by the pumped hydro entity under subsection (4).
- (6) For the purpose of accounting—
  - (a) Powerlink must treat—
    - (i) the assumption of the liability by the pumped hydro entity as a redemption of an ownership interest in the pumped hydro entity; and
    - (ii) the value of the liability as being the value of the liability as recorded in the accounts of Powerlink for the last day before the commencement; and
  - (b) the pumped hydro entity must treat—
    - (i) the assumption of the liability by the pumped hydro entity as a component of a contribution by an owner that is considered to be a reduction of contributed equity; and
    - (ii) the value of the liability as being the value of the liability as recorded in the accounts of Powerlink for the last day before the commencement.

## **8 Successor in law and new liability**

- (1) The pumped hydro entity is the successor in law of Powerlink in relation to an asset, liability or instrument transferred under this regulation.
- (2) However, nothing in subsection (1) imposes a liability on the pumped hydro entity to the extent that—
  - (a) the liability has not been transferred to the pumped hydro entity under section 7; or
  - (b) Powerlink is liable for the liability under section 9.

- (3) The pumped hydro entity is liable for a liability, relating to an asset, liability or instrument transferred under this regulation, that arises on or after the transfer.

*Note—*

However, see section 9.

## 9 Current proceedings

- (1) If a proceeding by or against Powerlink, relating to an asset, liability, instrument or employee transferred under this regulation, has not been concluded before the commencement—
  - (a) the proceeding must be continued and concluded by or against Powerlink; and
  - (b) Powerlink is liable for any liability of Powerlink that arose before the commencement, or arises after the commencement, as a result of—
    - (i) the proceeding; or  
*Examples of liabilities for subparagraph (i)—*
      - a judgment debt
      - a liability incurred as a result of discontinuing the proceeding
      - costs of the proceeding
    - (ii) an act or omission that is the subject of the proceeding.
- (2) This section applies despite any other provision of this regulation.

## 10 Transfer schedules and exclusion schedules

- (1) A *transfer schedule* is a schedule jointly prepared, before the commencement, by Powerlink and the pumped hydro entity identifying the following matters—
  - (a) assets to be transferred under this regulation;
  - (b) liabilities to be transferred under this regulation;

- (c) instruments to be applied under this regulation;
  - (d) employees to be transferred under this regulation.
- (2) An ***exclusion schedule*** is a schedule jointly prepared, before the commencement, by Powerlink and the pumped hydro entity—
- (a) identifying liabilities, or classes of liabilities, that are excluded from transfer under this regulation; and
  - (b) stating the extent to which the liabilities, or classes of liabilities, are excluded from transfer.
- (3) Powerlink and the pumped hydro entity must—
- (a) hold copies of the final version of each transfer schedule and exclusion schedule; and
  - (b) ensure the relevant departments have copies of the final version of each transfer schedule and exclusion schedule.
- (4) A transfer schedule, or an exclusion schedule, may be prepared and held as 1 or more documents.
- (5) In this section—
- relevant departments*** means the departments of government administered by the shareholding Ministers for Powerlink.

## 11 Correction of errors

- (1) At any time within 1 year after the commencement, the shareholding Ministers of Powerlink may—
- (a) correct a minor error in a transfer schedule or an exclusion schedule; or
  - (b) correct the misidentification of an asset, liability, instrument or employee identified in a transfer schedule; or
- Example—*
- correction of the real property description of an asset
- (c) correct the misidentification of a liability, or a class of liabilities, identified in an exclusion schedule; or



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- (d) correct an error in the accounts of Powerlink or the pumped hydro entity relating to the value of—
    - (i) an asset, liability or instrument identified in a transfer schedule; or
    - (ii) an associated liability for an asset, instrument or employee identified in a transfer schedule.
  - (2) The correction or change is taken to have been made immediately before the commencement.
  - (3) In this section—

*associated liability*, for an asset, instrument or employee identified in a transfer schedule, means a liability to which section 7(1) applies as result of the asset, instrument or employee being identified in the transfer schedule.

## 12 Registering authority to note transfers

- (1) This section applies to an asset, liability or instrument transferred, under this regulation, to the pumped hydro entity.
- (2) A registering authority—
  - (a) may, without formal application, register or record the transfer in an appropriate way; and
  - (b) must, on written application by the pumped hydro entity, register or record the transfer in an appropriate way.
- (3) The pumped hydro entity must comply with the procedures required by the registering authority for the purpose of registering or recording the transfer.

*Example—*

The registering authority may require the pumped hydro entity to complete and submit a particular form.

- (4) In this section—

*registering authority* means the registrar of titles or another entity required or authorised by law to register or record transactions affecting assets, liabilities or instruments.

*registrar of titles* means—

- (a) the registrar of titles under the *Land Title Act 1994*; or
- (b) another person who is responsible for keeping, under another Act, a register of interests in land.

## Schedule 1 Dictionary

### section 3

*exclusion schedule* see section 10(2).

*instrument* includes a part of an instrument.

*Powerlink* means Queensland Electricity Transmission Corporation Limited ACN 078 849 233.

*pumped hydro entity* means 239 George Pty Ltd ACN 661 444 515.

*transfer schedule* see section 10(1).

ENDNOTES

- 1 Made by the Governor in Council on 28 September 2022.
- 2 Notified on the Queensland legislation website on 30 September 2022.
- 3 The administering agency is Queensland Treasury.

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