



# **Queensland Industry Participation Policy Act 2011**

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Queensland

# Queensland Industry Participation Policy Act 2011

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title .....	3
2	Commencement .....	3
3	Act binds all persons .....	3
4	Contravention of this Act does not create civil cause of action ..	3
5	Definitions .....	4
<b>Part 2</b>	<b>Local industry policy</b>	
6	The local industry policy .....	4
7	Local industry policy objectives .....	4
8	Local industry policy principles .....	5
9	Local industry policy to be consistent with other requirements ..	5
10	Consultation required when developing or reviewing local industry policy 6	
11	Agencies, GOCs and rail government entities to comply with local industry policy .....	6
<b>Part 3</b>	<b>Publication, and reporting on implementation, of local industry policy</b>	
12	Publication and inspection of local industry policy .....	7
13	Annual report to include report on implementation of local industry policy 8	
14	Agencies to provide information to Minister .....	8
15	GOCs to provide information to shareholding Ministers .....	8
<b>Part 4</b>	<b>Transitional and savings provisions</b>	
<b>Division 1</b>	<b>Savings provision for Act No. 5 of 2011</b>	
16	Saving of existing local industry policy .....	9
<b>Division 2</b>	<b>Transitional provisions for Queensland Future Fund (Titles Registry) Act 2021</b>	

Contents

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17	Particular terms have meaning given under repealed Act . . . . .	9
18	Building Queensland and its board . . . . .	10
19	Chief executive officer goes out of office . . . . .	10
20	State is successor in law of Building Queensland . . . . .	10
21	Assets and liabilities . . . . .	11
22	Records and other documents . . . . .	11
23	Contracts, agreements, undertakings, other arrangements and instruments . . . . .	11
24	Registering authority to note transfer or other dealing . . . . .	12
25	Proceedings not yet started . . . . .	12
26	Current proceedings . . . . .	13
27	Matters relating to employment . . . . .	13
28	Effect on legal relationships . . . . .	14
29	Division applies despite other laws and instruments . . . . .	15
30	References to Building Queensland . . . . .	15
<b>Schedule</b>	<b>Dictionary</b> . . . . .	<b>16</b>

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# Queensland Industry Participation Policy Act 2011

**An Act to provide for the development and implementation of a local industry participation policy for the State, and to require reporting to Parliament on the policy's implementation and government agencies', and GOCs', compliance with it**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Queensland Industry Participation Policy Act 2011*.

### **2 Commencement**

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

### **3 Act binds all persons**

- (1) This Act binds all persons, including the State.
- (2) Nothing in this Act makes the State liable to be prosecuted for an offence.

### **4 Contravention of this Act does not create civil cause of action**

No provision of this Act creates a civil cause of action based on a contravention of the provision.

## 5 Definitions

The dictionary in the schedule defines particular words used in this Act.

# Part 2 Local industry policy

## 6 The local industry policy

- (1) The Minister must develop and adopt a policy (the *local industry policy*) about the participation by local industry in projects, developments, procurements and other initiatives undertaken or funded, whether wholly or partially, by the State.
- (2) The policy may include guidelines about its application and procedures to be followed in complying with it.

## 7 Local industry policy objectives

In developing the local industry policy, the Minister must have regard to the following objectives—

- (a) maximising employment and business growth in Queensland by expanding market opportunities for local industry;
- (b) providing agencies and GOCs with access to a wide range of capable local industry in Queensland that can deliver value for money;
- (c) supporting regional and rural development in Queensland;
- (d) developing local industry's long-term international competitiveness, and flexibility in responding to changing global markets, by giving local industry a fair opportunity to compete against foreign suppliers of goods and services;

- (e) promoting local industry's involvement in value-adding activities in Queensland;
- (f) driving technology transfer, research and development, innovation and improved productivity for local industry in Queensland, to enhance value for money.

## **8 Local industry policy principles**

The local industry policy must be consistent with the following principles—

- (a) achieving value for money;
- (b) ensuring probity and accountability for procurement outcomes;
- (c) minimising the compliance burden on agencies and GOCs by avoiding unnecessary and excessive administration.

## **9 Local industry policy to be consistent with other requirements**

The local industry policy must be consistent with the following—

- (a) the obligations of the State under any conventions, treaties or other international agreements to which the Commonwealth is a party;
- (b) any policies, standards, notifications, directions or other requirements relevant to the procurement activities of an agency or GOC, including under the following—
  - (i) the *Financial Accountability Act 2009*;
  - (ii) the *Government Owned Corporations Act 1993*;
  - (iii) the *Public Service Ethics Act 1994*.

## **10 Consultation required when developing or reviewing local industry policy**

- (1) Before adopting the local industry policy, or reviewing the policy after its adoption, the Minister must consult with—
  - (a) agencies; and
  - (b) GOCs; and
  - (c) industry organisations and trade unions; and
  - (d) any other entities the Minister considers appropriate.
- (2) For subsection (1)(a) and (b), the Minister must consult with the following—
  - (a) for an agency—the Minister of the agency;
  - (b) for a GOC—the shareholding Ministers of the GOC.

## **11 Agencies, GOCs and rail government entities to comply with local industry policy**

- (1) An agency must comply with the local industry policy.
- (2) A GOC must comply with the local industry policy only if the shareholding Ministers of the GOC notify the board of the GOC under the *Government Owned Corporations Act 1993*, section 114 that the local industry policy applies to the GOC.
- (3) If the responsible Ministers give a rail government entity's board written notice that the local industry policy applies to the rail government entity or a subsidiary of the entity, the rail government entity or subsidiary must comply with the local industry policy.
- (4) If the local industry policy applies to a rail government entity, its board must ensure the entity complies with the local industry policy.
- (5) If the local industry policy applies to a subsidiary of a rail government entity, the entity's board must, as far as practicable, ensure the subsidiary complies with the local industry policy.



(6) Before giving a notice under subsection (3) to a rail government entity, the responsible Ministers must consult with the entity's board.

(7) In this section—

***rail government entity*** means a government entity under the *Public Service Act 2008*, section 24(1)(c) whose principal business is doing either or both of the following directly, or indirectly through its subsidiaries—

- (a) managing a railway;
- (b) operating rolling stock on a railway.

***responsible Ministers*** means—

- (a) the Treasurer; and
- (b) the Minister administering the *Queensland Rail Transit Authority Act 2013*.

## Part 3 **Publication, and reporting on implementation, of local industry policy**

### 12 **Publication and inspection of local industry policy**

The Minister must ensure that the local industry policy, including any guidelines mentioned in section 6(2), as in force from time to time, is—

- (a) published on the department's website; and
- (b) available for public inspection, free of charge, at the offices of the department during ordinary office hours.

### **13 Annual report to include report on implementation of local industry policy**

- (1) The department's annual report for a financial year must include a report on the implementation of the local industry policy for that financial year.
- (2) In this section—  
*annual report* see the *Financial Accountability Act 2009*, schedule 3.

### **14 Agencies to provide information to Minister**

- (1) The Minister may, by written notice, ask an agency to provide any information required for the purposes of reporting on the implementation of the local industry policy under section 13.
- (2) The notice must state a reasonable period to comply with the request.
- (3) The agency must comply with the request within the stated period, unless complying with the request would place the agency in contravention of a law.

### **15 GOCs to provide information to shareholding Ministers**

- (1) The Minister may, by written notice (the *Minister's notice*), ask the shareholding Ministers for a GOC to obtain from the GOC any information required for the purposes of reporting on the implementation of the local industry policy under section 13.
- (2) The Minister's notice must state a reasonable period to comply with the request.
- (3) When asked by the Minister under subsection (1), the shareholding Ministers must, by written notice (the *shareholding Ministers' notice*), ask the GOC to provide the information requested by the Minister to the shareholding Ministers.
- (4) The shareholding Ministers' notice must state a reasonable period to comply with the request.

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- (5) The GOC must comply with the request within the stated period, unless complying with the request would place the GOC in contravention of a law.
  - (6) The shareholding Ministers must give the information provided under subsection (5) to the Minister within the period stated in subsection (2).

## **Part 4                      Transitional and savings provisions**

### **Division 1                      Savings provision for Act No. 5 of 2011**

#### **16              Saving of existing local industry policy**

The document titled ‘Local industry policy—fair go for local industry’ in force immediately before the commencement of this section was taken to be the local industry policy for this Act from 1 July 2011 to 3 April 2014.

### **Division 2                      Transitional provisions for Queensland Future Fund (Titles Registry) Act 2021**

#### **17              Particular terms have meaning given under repealed Act**

- (1) In this division, a term defined under the repealed Act but not under this Act has the meaning it had under the repealed Act.
- (2) In this section—  
*repealed Act* means the repealed *Building Queensland Act 2015*.

## **18 Building Queensland and its board**

- (1) On the commencement—
  - (a) Building Queensland and its board are abolished; and
  - (b) each member of the board goes out of office.
- (2) No compensation is payable to a person because of subsection (1)(b).
- (3) To remove any doubt, it is declared that subsection (2) does not limit or otherwise affect a person's right to a benefit or entitlement that had accrued before the commencement.

## **19 Chief executive officer goes out of office**

- (1) On the commencement, the person who, immediately before the commencement, held office as Building Queensland's chief executive officer goes out of office and the person's contract of employment ends.
- (2) No compensation is payable to the person because of subsection (1), other than as expressly provided for under the person's contract of employment.
- (3) To remove any doubt, it is declared that subsection (2) does not limit or otherwise affect a person's right to a benefit or entitlement that had accrued or was accruing before the commencement.
- (4) A benefit or entitlement mentioned in subsection (3) stops accruing and becomes payable on the commencement as if the person's contract of employment had been terminated on that day according to its terms and other than by the person.

## **20 State is successor in law of Building Queensland**

- (1) The State is the successor in law of Building Queensland.
- (2) Subsection (1) is not limited by another provision of this division.

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## **21 Assets and liabilities**

On the commencement, the assets and liabilities of Building Queensland immediately before the commencement become assets and liabilities of the State held in the department.

## **22 Records and other documents**

On the commencement, the records and other documents of Building Queensland immediately before the commencement become records and documents of the department.

## **23 Contracts, agreements, undertakings, other arrangements and instruments**

- (1) This section applies to a contract, agreement, undertaking or other arrangement to which Building Queensland was a party, or an instrument that applied to Building Queensland, immediately before the commencement.
- (2) The State is a party to the contract, agreement, undertaking or arrangement, or the instrument applies to the State, in place of Building Queensland.
- (3) Without limiting subsection (2)—
  - (a) any right, title, interest or liability of Building Queensland arising under or relating to the contract, agreement, undertaking, arrangement or instrument is a right, title, interest or liability of the State; and
  - (b) a current instrument, including a benefit or right provided by the contract, agreement, undertaking, arrangement or instrument, given to, by or in favour of Building Queensland before the commencement is taken to have been given to, by or in favour of the State; and
  - (c) an application relating to the contract, agreement, undertaking, arrangement or instrument made in the name of Building Queensland before the commencement is taken to have been made in the name of the State; and

[s 24]

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- (d) a current instrument under which an amount is, or may become, payable to or by Building Queensland is taken to be an instrument under which the amount is, or may become, payable to or by the State in the way the amount was, or might have become, payable to or by Building Queensland; and
  - (e) a current instrument under which property, other than money, is or may become liable to be transferred, conveyed or assigned to or by Building Queensland is taken to be an instrument under which property is, or may become liable to be, transferred, conveyed or assigned to or by the State in the way the property was, or might have become, liable to be transferred, conveyed or assigned to or by Building Queensland.
- (4) This section applies subject to section 27.

## **24 Registering authority to note transfer or other dealing**

- (1) A registering authority must, on written application by the chief executive and without charge, register or record in the appropriate way a transfer of, or other dealing affecting, an asset, liability or instrument under this division.
- (2) The chief executive must comply with any relevant procedures required by the registering authority for the purpose of registering or recording the transfer or other dealing.
- (3) 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.

## **25 Proceedings not yet started**

- (1) This section applies if, immediately before the commencement, a proceeding could have been started by or against Building Queensland within a particular period.

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- (2) The proceeding may be started by or against the State within the period.

## **26 Current proceedings**

- (1) This section applies to a proceeding that, immediately before the commencement, had not ended and to which Building Queensland was a party.
- (2) On the commencement, the State becomes a party to the proceeding in place of Building Queensland.

## **27 Matters relating to employment**

- (1) This section applies to each person who was an employee of Building Queensland immediately before the commencement, other than the chief executive officer.
- (2) On the commencement—
- (a) the person becomes a public service employee of the department; and
  - (b) the person stops being an employee of Building Queensland; and
  - (c) Building Queensland's liability for recreation, sick or long service leave accrued but not taken by the person before the commencement is transferred to the State held in the department; and
  - (d) Building Queensland's records, to the extent they relate to the person's employment, become records of the State held in the department.
- (3) Without limiting subsection (2)(a), if the person is employed under a contract of employment, the person's contract of employment with Building Queensland is taken to be a contract of employment between the person and the chief executive and applies with any necessary changes to give effect to the contract.
- (4) The change under subsection (2) has effect despite any contract, instrument or other law and does not—

[s 28]

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- (a) reduce the person's total remuneration; or
- (b) prejudice the person's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
- (c) interrupt the person's continuity of service, except that the person 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 Building Queensland, retrenchment or redundancy; or
- (e) entitle the person to a payment or other benefit merely because the person is no longer employed by Building Queensland; or
- (f) require a payment to be made in relation to the person's accrued rights to recreation, sick, long service or other leave irrespective of any arrangement between Building Queensland and the person; or
- (g) terminate or otherwise end a contract.

## **28 Effect on legal relationships**

- (1) Anything done under this division—
  - (a) does not make the State liable for a civil wrong or a contravention of a law or for a breach of contract or confidence; and
  - (b) does not make the State 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; and
  - (c) does not fulfil a condition that—
    - (i) terminates, or allows a person to terminate, an instrument or obligation; or



- (ii) modifies, or allows a person to modify, the operation or effect of an instrument or obligation; or
  - (iii) allows a person to avoid or enforce an obligation or liability contained in an instrument; or
  - (iv) requires a person to perform an obligation contained in an instrument; or
  - (v) requires any money to be paid before its stated maturity; and
- (d) does not release a surety or other obligee, wholly or partly, from an obligation.
- (2) If, apart from this section, the advice, consent or approval of a person would be necessary to do something under this division, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.
- (3) If giving notice to a person would be necessary to do something under this division, the notice is taken to have been given.
- (4) A reference in this section to the State includes a reference to an employee or agent of the State.

## **29 Division applies despite other laws and instruments**

A thing may be done under this division despite any other law or instrument.

## **30 References to Building Queensland**

In an Act or document, a reference to Building Queensland is, if the context permits, taken to be a reference to the State.

## Schedule Dictionary

### section 5

**agency** means—

- (a) a department; or
- (b) a statutory body within the meaning of the *Financial Accountability Act 2009*; or
- (c) a special purpose vehicle.

**GOC** includes a subsidiary of a GOC.

**local industry** means suppliers of goods produced, or services provided, wholly or partly in Australia or New Zealand.

**local industry policy** see section 6(1).

**shareholding Ministers**, of a GOC, see the *Government Owned Corporations Act 1993*, section 78.

**special purpose vehicle**—

- (a) means a corporation incorporated under the Corporations Act and—
  - (i) established by the State to undertake a specific project; and
  - (ii) to which the State provides financial support, under a funding arrangement, for the corporation to undertake the project; and
  - (iii) in which the State is a shareholder;
- (b) but does not include a GOC.