

Queensland



Government Owned Corporations Act 1993

**GOVERNMENT OWNED
CORPORATIONS
(QUEENSLAND
CORRECTIONS
CORPORATISATION)
REGULATION 1997**

**Reprinted as in force on 21 July 1998
(includes amendments up to SL No. 202 of 1998)**

Reprint No. 1A

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Information about this reprint

This regulation is reprinted as at 21 July 1998. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprint.**

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CORRECTIONS CORPORATISATION)
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GOVERNMENT OWNED CORPORATIONS (QUEENSLAND CORRECTIONS CORPORATISATION) REGULATION 1997

[as amended by all amendments that commenced on or before 21 July 1998]

PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Government Owned Corporations (Queensland Corrections Corporatisation) Regulation 1997*.

Commencement

- 2.(1) Part 3 commences on 31 August 1997.
- (2) Parts 4 to 8 commence on 1 September 1997.

Purpose

3. The purpose of this regulation is—
- (aa) to continue QC in existence; and
 - (a) to divest certain assets from, and release certain liabilities of, QCSC; and
 - (b) to provide for a transition from QCSC(QC) to QC, including transferring certain officers and employees of QCSC to QC; and
 - (c) to transfer the assets and liabilities mentioned in paragraph (a) to QC; and
 - (d) to make QC a GOC.

Definitions

4. In this regulation—

“Administration Act” means the *Corrective Services (Administration) Act 1988*.

“corporatisation day” means 1 September 1997.

“QC” means Queensland Corrections.

“QCSC” means the Queensland Corrective Services Commission established under the Administration Act.

“QCSC(QC)” means the candidate GOC that is the part of QCSC consisting of the following directorates—

- Custodial Corrections
- Community Corrections
- Juvenile Detention.

“QCSC(QC) asset” see section 5.

“QCSC(QC) asset schedule” means a schedule showing assets of QCSC for the purpose of QCSC(QC) immediately before the corporatisation day.

“QCSC(QC) balance sheet” means a balance sheet showing liabilities of QCSC for the purpose of QCSC(QC) immediately before the corporatisation day.

“QCSC(QC) liability” see section 6.

Meaning of “QCSC(QC) asset”

5.(1) A QCSC(QC) asset is an asset shown in the QCSC(QC) asset schedule.

(2) An asset is also a QCSC(QC) asset although not shown in the QCSC(QC) asset schedule if, immediately before the corporatisation day, it is an asset of QCSC for the purposes of QCSC(QC).

Meaning of “QCSC(QC) liability”

6.(1) A QCSC(QC) liability is a liability shown in the QCSC(QC) balance sheet.

(2) A liability is also a QCSC(QC) liability although not shown in the QCSC(QC) balance sheet if, immediately before the corporatisation day, it is a liability to which QCSC is subject for the purposes of QCSC(QC).

PART 1A—CONTINUATION OF QC

QC continued

6A.(1) The entity called Queensland Corrections continues in existence.

(2) Without limiting subsection (1), QC continues—

- (a) to be a body corporate; and
- (b) to have a seal; and
- (c) to be able to sue and be sued in its corporate name.¹

¹ QC was established and incorporated under the *Government Owned Corporations (Queensland Corrections) Regulation 1997*, sections 4 and 6. That regulation has now been repealed.

PART 2—PREPARATORY MATTERS

Share capital

7. On the commencement of this section, QC is taken to have a share capital of \$500 000 000 made up of 500 000 000 ordinary shares of \$1 each.²

PART 3—QCSC IS DIVESTED OF QCSC(QC) ASSETS AND RELEASED FROM QCSC(QC) LIABILITIES

QCSC(QC) assets and liabilities

8.(1) This section takes effect immediately after 31 August 1997.

(2) QCSC is divested of all QCSC(QC) assets and released from all QCSC(QC) liabilities.

PART 4—TRANSITION TO QC

Division 1—Staff

Officers and employees

9.(1) A person who, immediately before the corporatisation day, is an officer or employee of QCSC for the purposes of QCSC(QC) becomes an officer or employee of QC.

² This section provides for QC's authorised share capital. Under section 58(2) (Share capital and issue of shares) of the Act, before QC becomes a GOC, it must apply the part of its capital that the responsible Ministers direct in paying up, in full, shares in itself.

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(2) Until the rights of the officer or employee are changed, the officer or employee continues to be entitled to all existing and accruing rights of employment.

(3) To the extent that a right mentioned in subsection (2) is preserved by section 174³ of the Act, subsection (2) has no effect.

(4) If a person mentioned in subsection (1) was suspended by QCSC before the corporatisation day, the suspension continues, and must be dealt with by QC.

Positions of officers and employees

10. A person who, under this division, becomes an officer or employee of QC becomes the holder of a position equivalent to the position the person held for the purposes of QCSC(QC).

Division 2—General

QC is successor of QCSC

11.(1) QC is the successor in law of QCSC.

(2) Subsection (1) applies subject to the operation of this regulation.

(3) In this section—

“QCSC” means the Queensland Corrective Services Commission, but only in relation to QCSC(QC), including to the extent of the responsibilities of QCSC(QC), immediately before the corporatisation day.

Instruments

12.(1) This section applies to an instrument (other than a statutory instrument) in existence immediately before the corporatisation day.

³ Section 174 (Preservation of leave entitlements of certain former officers and employees of government entities)

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(2) An instrument applying to QCSC for the purposes of QCSC(QC) is to apply to QC in place of QCSC to the extent that it applied for the purposes of QCSC(QC).

(3) Without limiting subsection (2)—

- (a) an instrument to which, immediately before the corporatisation day, QCSC was a party for the purposes of QCSC(QC), is taken to be an instrument to which QC is a party in the same way QCSC was a party for the purposes of QCSC(QC); and
- (b) an instrument given to, by or in favour of QCSC for the purposes of QCSC(QC) is taken to be an instrument given to, by or in favour of QC in the way it was given to, by or in favour of QCSC for the purposes of QCSC(QC); and
- (c) an instrument in which a reference is made to QCSC for the purposes of QCSC(QC) (including, for example, an instrument to which QCSC was a party for the purposes of QCSC(QC)) is taken to be an instrument in which the reference is made to QC in the way the reference was made to QCSC for the purposes of QCSC(QC); and
- (d) an instrument under which an amount is or may become payable to or by QCSC for the purposes of QCSC(QC) is taken to be an instrument under which the amount is or may become payable to or by QC in the way the amount was or might have become payable to or by QCSC for the purposes of QCSC(QC); and
- (e) an instrument under which other property is to be, or may become liable to be, transferred, conveyed or assigned to or by QCSC for the purposes of QCSC(QC) is taken to be an instrument under which the other property is to be, or may become liable to be, transferred, conveyed or assigned to or by QC in the way the property was to be, or might have become liable to be, transferred, conveyed or assigned to or by QCSC for the purposes of QCSC(QC).

Pending proceedings

13. A proceeding by or against QCSC arising out of acts or omissions of

QCSC for the purposes of QCSC(QC) that is not finished before the corporatisation day must be continued and finished by or against QCSC.

PART 5—TRANSFER OF ASSETS AND LIABILITIES

Transfer of assets and liabilities to QC

- 14.(1)** The assets mentioned in section 8(2)⁴ become the assets of QC.
- (2)** The liabilities mentioned in section 8(2) are assumed by QC.

Consideration for transfer of assets to QC

15.(1) The assumption of liabilities by QC under section 14(2) is part of the consideration for the transfer of assets to QC under section 14(1).

(2) The remainder of the consideration is the creation of a debt owed by QC to the shareholding Ministers of the GOC that QC becomes under this regulation.

(3) The amount of the debt is the market value, at 1 September 1997, of the assets shown in the QCSC(QC) asset schedule, less—

- (a)** the amount, at 1 September 1997, of the liabilities shown in the QCSC(QC) balance sheet; and
- (b)** any amount that QC's responsible Ministers direct QC, under section 58(2)⁵ of the Act, to apply in paying up shares in itself.

(4) For subsection (3)—

- (a)** the market value, at 1 September 1997, of an asset is, unless another valuation is decided under subsection (6), taken to be the market value shown for the asset in the QCSC(QC) asset schedule for 31 August 1997; and

⁴ Section 8 (QCSC(QC) assets and liabilities)

⁵ Section 58 (Share capital and issue of shares)

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(b) the amount, at 1 September 1997, of a liability is, unless another amount is decided under subsection (6), taken to be the amount of the liability shown in the QCSC(QC) balance sheet for 31 August 1997.

(5) As soon as practicable after the commencement of this section, QCSC must complete the QCSC(QC) asset schedule and QCSC(QC) balance sheet.

(6) The shareholding Ministers of the GOC that QC becomes under this regulation may change the QCSC(QC) asset schedule or the QCSC(QC) balance sheet at any time not later than 1 December 1997 to correct the market value of an asset or the amount of a liability as at 31 August 1997.

(7) A change mentioned in subsection (6) must be taken into account for calculating the debt amount under subsection (3).

PART 6—QC BECOMES STATUTORY GOC

Declaration of QC as GOC

16.(1) Subsection (2) takes effect as soon as the assets and liabilities mentioned in section 8(2) become, under section 14,⁶ the assets and liabilities of QC.

(2) QC is a GOC.

PART 7—FUNCTIONS OF QC

When part takes effect

17. This part takes effect when QC becomes a GOC under section 16(2).

⁶ Section 14 (Transfer of assets and liabilities to QC)

Functions of QC

18. QC's functions are to contract to provide, and to provide, correctional and associated services, including to be engaged under section 19(2)(f)⁷ of the Administration Act to conduct operations on QCSC's behalf.

⁷ Section 19 (Powers of Commission)

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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 21 July 1998. Future amendments of the Government Owned Corporations (Queensland Corrections Corporatisation) Regulation 1997 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

| | | | | | |
|--------|---|------------------------------|--------|---|--------------------------------|
| AIA | = | Acts Interpretation Act 1954 | prev | = | previous |
| amd | = | amended | (prev) | = | previously |
| amdt | = | amendment | proc | = | proclamation |
| ch | = | chapter | prov | = | provision |
| def | = | definition | pt | = | part |
| div | = | division | pubd | = | published |
| exp | = | expires/expired | R[X] | = | Reprint No.[X] |
| gaz | = | gazette | RA | = | Reprints Act 1992 |
| hdg | = | heading | reloc | = | relocated |
| ins | = | inserted | renum | = | renumbered |
| lap | = | lapsed | rep | = | repealed |
| notfd | = | notified | s | = | section |
| o in c | = | order in council | sch | = | schedule |
| om | = | omitted | sdiv | = | subdivision |
| p | = | page | SIA | = | Statutory Instruments Act 1992 |
| para | = | paragraph | SL | = | subordinate legislation |
| prec | = | preceding | sub | = | substituted |
| pres | = | present | unnum | = | unnumbered |

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

| Reprint No. | Amendments included | Reprint date |
|-------------|---------------------|------------------|
| 1 | none | 1 September 1997 |

5 List of legislation

Government Owned Corporations (Queensland Corrections Corporatisation) Regulation 1997 SL No. 264

made by the Governor in Council on 28 August 1997
notfd gaz 29 August 1997 pp 1987–9
pt 3 commenced 31 August 1997 (see s 2(1))
pts 4–8 commenced 1 September 1997 (see s 2(2))
remaining provisions commenced on date of notification
exp 28 August 2007 (see SIA s 54)

as amended by—

Government Owned Corporations Legislation Amendment Regulation (No. 1) 1998 SL No. 202 pts 1, 3

notfd gaz 17 July 1998 pp 1404–6
ss 1–2 commenced on date of notification
remaining provisions commenced 20 July 1998 (see s 2)

6 List of annotations

Purpose

s 3 amd 1998 SL No. 202 s 11

PART 1A—CONTINUATION OF QC

pt 1A (s 6A) ins 1998 SL No. 202 s 12

PART 8—AMENDMENT OF REGULATION

pt 8 (ss 19–21) om R1 (see RA s 40)