

Queensland



Government Owned Corporations Act 1993

**GOVERNMENT OWNED
CORPORATIONS (STATE
WATER PROJECTS
CORPORATISATION)
REGULATION 2000**

**Reprinted as in force on 22 March 2002
(includes amendments up to SL No. 40 of 2002)**

Reprint No. 1A

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NOT FURTHER AMENDED
LAST REPRINT BEFORE REPEAL
See 2004 SL No. 166 s 44

Information about this reprint

This regulation is reprinted as at 22 March 2002. 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.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints 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 reprints.**

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**GOVERNMENT OWNED CORPORATIONS
(STATE WATER PROJECTS
CORPORATISATION) REGULATION 2000**

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GOVERNMENT OWNED CORPORATIONS (STATE WATER PROJECTS CORPORATISATION) REGULATION 2000

[as amended by all amendments that commenced on or before 22 March 2002]

PART 1—PRELIMINARY

1 Short title

This regulation may be cited as the *Government Owned Corporations (State Water Projects Corporatisation) Regulation 2000*.

2 Commencement

Parts 5 to 7 commence on the corporatisation day.

3 Purposes of this regulation

The purposes of this regulation are—

- (a) to establish an associate of the candidate GOC State Water Projects; and
- (b) to provide for—
 - (i) the associate to have an interim board of directors; and
 - (ii) the role of the board; and
- (c) to divest the State of all State Water Projects assets and release the State from all State Water Projects liabilities; and
- (d) to provide for a transition from the candidate GOC to the associate, including transferring persons who are public service employees for the purposes of State Water Projects to the associate; and
- (e) to transfer all State Water Projects assets and State Water Projects liabilities to the associate; and

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- (f) to make provision for the associate to assume certain additional liabilities; and
- (g) to make the associate a GOC; and
- (h) to prescribe the pipeline companies to be government entities; and
- (i) to declare the pipeline companies to be proposed subsidiaries of the associate after it becomes a GOC.

4 Definitions

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

PART 2—ESTABLISHMENT OF SUNWATER AND ITS NOMINATION AS CANDIDATE GOC ASSOCIATE

5 Establishment of GOC Act entity

SunWater is established.

6 Nomination of SunWater to become candidate GOC associate

SunWater is nominated to be the associate of State Water Projects.

7 Status of SunWater

SunWater—

- (a) is a body corporate; and
- (b) has the name under which it is established; and
- (c) has a seal; and
- (d) may sue and be sued in its corporate name; and
- (e) before the corporatisation day, has no powers or functions.

8 Share capital

SunWater is taken to have a share capital of \$1 000 000 000 made up of 1 000 000 000 ordinary shares of \$1 each.

PART 3—INTERIM BOARD OF DIRECTORS OF SUNWATER

9 Requirement for interim board of directors

SunWater is to have an interim board of directors.

10 Role of interim board of directors

(1) The role of the interim board of directors is to consider, and make recommendations for the consideration of the first board about, the following—

- (a) what should be included in SunWater's first statement of corporate intent after it becomes a GOC;
- (b) what should be included in SunWater's first corporate plan after it becomes a GOC;
- (c) what should be SunWater's corporate governance policies immediately after it becomes a GOC.

(2) To remove doubt, it is declared that the first board is not bound by recommendations made under subsection (1).

(3) In this section—

“first board” means the first board of SunWater after it becomes a GOC.

PART 4—STATE WATER PROJECTS IS DIVESTED OF ASSETS AND RELEASED FROM LIABILITIES

11 State Water Projects assets and liabilities

(1) This section takes effect immediately after the day before the corporatisation day.

(2) The State is divested of all State Water Projects assets and released from all State Water Projects liabilities.

PART 5—TRANSITION FROM STATE WATER PROJECTS TO SUNWATER

Division 1—Functions of SunWater

12 Functions

(1) The main function¹ of SunWater is to provide water services and services ancillary to those services, whether in or outside Queensland.

(2) Without limiting subsection (1), the main function includes the following—

- (a) the carrying on of activities relating to the following—
 - (i) bulk water storage;
 - (ii) water distribution;
 - (iii) retail water reticulation, drainage and storage;
 - (iv) water infrastructure development;

¹ On becoming a statutory GOC, SunWater will also have the general powers set out in the *Government Owned Corporations Act 1993*, section 149 (General powers of statutory GOCs). However, a statutory GOC's powers are subject to the restrictions mentioned in the *Government Owned Corporations Act 1993*, section 150 (Restrictions on powers of statutory GOCs).

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- (b) the provision of water industry related services, including the following—
 - (i) engineering services;
 - (ii) operation, and maintenance, services;
 - (iii) business management services;
 - (c) doing anything likely to complement or enhance the function or something mentioned in paragraphs (a) and (b).
- (3) Also, SunWater has the function of performing other functions given to it under the Act or another Act.

Division 2—Staff

13 Public service employees for the purposes of State Water Projects

(1) This section applies to a person who, immediately before the corporatisation day, was a public service employee for the purposes of State Water Projects.

(2) The person becomes an officer or employee of SunWater.

(3) Until the rights of the person are changed, the person continues to be entitled to all existing and accruing rights of employment.

(4) To the extent a right mentioned in subsection (3) is preserved by section 174² of the Act, subsection (3) has no effect.

(5) If, immediately before the corporatisation day, the person was suspended from duty by the State Water Projects department's chief executive, the suspension continues and must be dealt with by SunWater.

(6) If the person is liable to disciplinary action by the State Water Projects department's chief executive immediately before the corporatisation day, the person continues to be liable to disciplinary action by SunWater.

(7) A discipline imposed on the person that is not finished immediately before the corporatisation day may continue to be imposed by SunWater.

2 Section 174 (Preservation of leave entitlements of certain former officers and employees of government entities) of the Act

14 Equivalent positions

A person who under this division becomes an officer or employee of SunWater, becomes the holder of a position equivalent to the position the person held in the State Water Projects department for the purposes of State Water Projects.

Example—

A person who immediately before the corporatisation day was the executive director of State Water Projects becomes the holder of the office of chief executive officer of SunWater.

Division 3—General

15 SunWater is successor of State (SWP)

- (1) SunWater is the successor in law of State (SWP).
- (2) The other provisions of this division do not limit subsection (1).

16 Instruments

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

(2) An instrument applying to the State for the purposes of State Water Projects is to apply to SunWater in place of the State.

- (3) Without limiting subsection (2)—
- (a) an instrument to which, immediately before the corporatisation day, the State was a party for the purposes of State Water Projects is taken to be an instrument to which SunWater is a party; and
 - (b) an instrument given to, by or in favour of the State for the purposes of State Water Projects is taken to be an instrument given to, by or in favour of SunWater; and
 - (c) an instrument in which a reference is made to the State for the purposes of State Water Projects (including, for example, an instrument to which the State was a party for the purposes of State Water Projects) is taken to be an instrument in which the reference is made to SunWater; and

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- (d) an instrument under which money is or may become payable, or other property is to be, or may become liable to be, transferred, conveyed or assigned to or by the State for the purposes of State Water Projects is taken to be an instrument under which the money is or may become payable, or the other property is to be, or may become liable to be, transferred, conveyed or assigned to or by SunWater.

17 Pending legal proceedings

A legal proceeding by or against the State for the purposes of State Water Projects that is not finished before the corporatisation day may be continued and finished by or against SunWater.

PART 6—ASSETS AND LIABILITIES TRANSFERRED TO SUNWATER

18 Transfer of assets to SunWater

The assets mentioned in section 11(2)³ become the assets of SunWater.

19 Consideration for transfer of assets to SunWater

(1) The liabilities mentioned in section 11(2) are assumed by SunWater.

(2) The assumption by SunWater of liabilities under subsection (1) is part of the consideration for the transfer of assets to SunWater under section 18.

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

(4) The amount of the debt is the market value, at the corporatisation day, of the assets transferred to SunWater, less the amount, at the corporatisation day, of the liabilities assumed by SunWater.

3 Section 11 (State Water Projects assets and liabilities)

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Example of calculation of debt owed to shareholding Ministers—

If the market value of the assets vested in SunWater is \$1 000 000 000, and the liabilities assumed by it amount to \$400 000 000, the shareholding Ministers are owed a debt of \$600 000 000.

(5) For subsection (4)—

- (a) the market value, at the corporatisation day, of an asset transferred to SunWater is, unless another valuation is decided under subsection (7), taken to be the market value specified for the asset in the asset schedule of SunWater for the corporatisation day; and
- (b) the amount, at the corporatisation day, of the liabilities assumed by SunWater is, unless another amount is decided under subsection (7), taken to be the amount of the liabilities listed in the balance sheet of SunWater for the corporatisation day.

(6) As soon as practicable after the commencement of this section, SunWater must complete the asset schedule mentioned in subsection (5)(a) and the balance sheet mentioned in subsection (5)(b).

(7) The shareholding Ministers of the GOC that SunWater becomes under this regulation may change the asset schedule mentioned in subsection (5)(a), or the balance sheet mentioned in subsection (5)(b), at any time before the corporatisation day anniversary to correct the market value of an asset, or the amount of a liability, as at the corporatisation day.

(8) A change mentioned in subsection (7) must be taken into account for calculating the debt amount under subsection (4).

(9) In this section—

“corporatisation day anniversary” means the day that is 1 year after the corporatisation day.⁴

⁴ The corporatisation day anniversary is 1 October 2001. See definition “corporatisation day”.

PART 7—SUNWATER BECOMES STATUTORY GOC

20 Declaration of SunWater as GOC

(1) Subsection (2) takes effect as soon as—

- (a) the assets mentioned in section 11(2) become the assets of SunWater; and
- (b) the liabilities mentioned in section 11(2) are assumed by SunWater.

(2) SunWater is a GOC.

PART 8—PROPOSED SUBSIDIARIES OF SUNWATER

21 Pipeline companies are government entities

For section 5(f)⁵ of the Act, the pipeline companies are government entities.

22 Pipeline companies declared to be proposed subsidiaries of SunWater

(1) This section takes effect immediately after SunWater becomes a GOC.

(2) For section 3⁶ of the Act, definition “proposed subsidiary”, each of the pipeline companies is declared to be a proposed subsidiary of SunWater.

5 Section 5 (Meaning of “government entity”) of the Act

6 Section 3 (Definitions) of the Act

PART 9—AMENDMENT OF GOVERNMENT OWNED CORPORATIONS REGULATION 1995

23 Regulation amended in pt 9

This part amends the *Government Owned Corporations Regulation 1995*.

24 Amendment of sch 1 (Candidate GOCs)

(1) This section takes effect immediately after SunWater becomes a GOC.

(2) Schedule 1, 'State Water Projects'—
omit.

SCHEDULE

DICTIONARY

section 4

“corporatisation day” means the day the *Water Resources Act 1989*, section 79⁷ is repealed.

“pipeline companies” means both of the following—

- (a) North West Queensland Water Pipeline Pty Ltd
ACN 070 999 218;
- (b) Eungella Water Pipeline Pty Ltd ACN 070 999 236.

“State (SWP)” means the State, but only in relation to State Water Projects, including to the extent of the responsibilities of State Water Projects, immediately before the corporatisation day.

“State Water Projects asset” means an asset of the State that, immediately before the corporatisation day, is held for the purposes of State Water Projects.

“State Water Projects department” means the department in which State Water Projects was a commercialised business unit immediately before the corporatisation day.

“State Water Projects liability” means a liability to which, immediately before the corporatisation day, the State is subject for the purposes of State Water Projects.

⁷ *Water Resources Act 1989*, section 79 was omitted 1 October 2000. See 2000 Act No. 34 s 1145 sch 3.

ENDNOTES

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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 22 March 2002. Future amendments of the Government Owned Corporations (State Water Projects Corporatisation) Regulation 2000 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

Key	Explanation	Key	Explanation
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
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

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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
0A	to SL No. 231 of 2000	15 September 2000
1	to SL No. 231 of 2000	2 February 2001

5 List of legislation

Government Owned Corporations (State Water Projects Corporatisation) Regulation 2000 SL No. 140

made by the Governor in Council on 29 June 2000

notfd gaz 30 June 2000 pp 736–48

pts 5–7 commenced 1 October 2000 (see ss 2, 4 sch, 2000 SL No. 231 s 3, Water Act 2000 No. 34 s 1145 sch 3 and 2000 SL No. 257)

remaining provisions commenced on date of notification

exp 1 September 2010 (see SIA s 54)

amending legislation—

Government Owned Corporations (State Water Projects Corporatisation) Amendment Regulation (No. 1) 2000 SL No. 231

notfd gaz 1 September 2000 pp 58–60

commenced on date of notification

Government Owned Corporations Legislation Amendment Regulation (No. 1) 2002 SL No. 40 pts 1, 4

notfd gaz 15 March 2002 pp 1033–4

commenced on date of notification

6 List of annotations

Pipeline companies are government entities

s 21 amd 2002 SL No. 40 s 9

SCHEDULE—DICTIONARY

amd 2000 SL No. 231 s 3