

NORTHERN TERRITORY OF AUSTRALIA

**GOVERNMENT OWNED CORPORATIONS (POWER CORPORATIONS
RESTRUCTURE) REGULATIONS**

Subordinate Legislation No. 16 of 2015

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 16 of 2015*

Government Owned Corporations (Power Corporations Restructure) Regulations

I, John Laurence Hardy, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Government Owned Corporations Act*.

Dated 30 June 2015

J. L. HARDY
Administrator

By His Honour's Command

D. W. TOLLNER
Treasurer

* Notified in the *Northern Territory Government Gazette* on 30 June 2015.

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Government Owned Corporations (Power Corporations Restructure) Regulations*.

2 Purpose of Regulations

These Regulations are made as mentioned in section 53B(1) of the Act for the purposes of transferring parts of their businesses between T-Gen, Jacana and P&WCorp.

3 Definitions

In these Regulations:

Jacana means the Power Retail Corporation established by section 5 of the *Power Retail Corporation Act*.

GOC means P&WCorp, T-Gen or Jacana.

Minister means the Treasurer.

P&WCorp means the Power and Water Corporation established by section 4 of the *Power and Water Corporation Act*.

post-transfer GOC, for an instrument, see regulations 12(b), 13(b), 14(b) and 15(1)(a)(ii).

pre-transfer GOC, for an instrument, see regulations 12(a), 13(a), 14(a) and 15(1)(a)(i).

Register means a register, prepared by the Minister before 30 June 2015, of the assets, liabilities, instruments, rights and proceedings that are to be affected by these Regulations.

T-Gen means the Power Generation Corporation established by section 5 of the *Power Generation Corporation Act*.

transferred asset means an asset, or part of an asset, to which regulation 5 applies.

transferred instrument means an instrument to which regulation 12, 13, 14 or 15 applies.

transferred liability means a liability, or part of a liability, to which regulation 9 applies.

transferee:

- (a) for a transferred asset – see regulation 5(1)(b); and
- (b) for a transferred liability – see regulation 9(1)(b).

transferor:

- (a) for a transferred asset – see regulation 5(1)(a); and
- (b) for a transferred liability – see regulation 9(1)(a).

4 Reference to things included in Register

A reference to something included in the Register includes a reference to a thing in a class of things included in the Register.

Part 2 Assets**5 Transfer of assets**

- (1) If an asset is included in the Register as one to which this regulation applies, on 30 June 2015 the asset:
 - (a) ceases to be an asset of the GOC specified in the Register as the transferor of the asset (the **transferor**); and
 - (b) becomes an asset of the GOC specified in the Register as the transferee of the asset (the **transferee**).
- (2) If the Register specifies that this regulation applies in relation to part only of the asset, a reference in subregulation (1) to an asset is a reference to that part of the asset.

6 Consideration

If an amount is included in the Register as consideration payable for a transferred asset, the transferee of the asset must provide the consideration on the terms specified in the Register to the transferor.

7 Accounting matters

- (1) If a value is ascribed to a transferred asset in the Register, the value of the asset as at 30 June 2015 is that value.
- (2) If the Register provides for the manner in which a transferred asset is to be dealt with in the accounts of the transferee or transferor of the asset, the transferee or transferor must deal with the asset in its accounts in that manner.

8 Asset related rights

- (1) On and after 30 June 2015, a right in relation to a transferred asset that would, but for this regulation, have been available to or against the transferor of the asset:
 - (a) is not available to or against the transferor; and
 - (b) is available instead to or against the transferee in the same way as it would, but for this regulation, have been available to or against the transferor.
- (2) Subregulation (1) does not apply in relation to either of the following:
 - (a) if a right in relation to an asset is specified in the Register as a right to which this paragraph applies – that right, to the extent specified in the Register;
 - (b) a right that is the subject of proceedings to which regulation 19 applies.

Part 3 Liabilities**9 Transfer of liabilities**

- (1) If a liability is included in the Register as one to which this regulation applies, on 30 June 2015 the liability:
 - (a) ceases to be a liability of the GOC specified in the Register as the transferor of the liability (the **transferor**); and
 - (b) becomes a liability of the GOC specified in the Register as the transferee of the liability (the **transferee**).
- (2) If the Register specifies that this regulation applies in relation to part only of the liability, a reference in subregulation (1) to a liability is a reference to that part of the liability.

10 Accounting matters

- (1) If a value is ascribed to a transferred liability in the Register, the value of the liability as at 30 June 2015 is that value.
- (2) If the Register provides for the manner in which a transferred liability is to be dealt with in the accounts of the transferee or transferor of the liability, the transferee or transferor must deal with the liability in its accounts in that manner.

11 Liability related rights

- (1) On and after 30 June 2015, a right in relation to a transferred liability that would, but for this regulation, have been available to or against the transferor of the liability:
 - (a) is not available to or against the transferor; and
 - (b) is available instead to or against the transferee in the same way as it would, but for this regulation, have been available to or against the transferor.
- (2) Subregulation (1) does not apply in relation to either of the following:
 - (a) if a right in relation to a liability is specified in the Register as a right to which this paragraph applies – that right, to the extent specified in the Register;
 - (b) a right that is the subject of proceedings to which regulation 19 applies.

Part 4 Instruments**12 Instruments to apply to one GOC instead of another**

If an instrument is included in the Register as one to which this regulation applies, on and after 30 June 2015 the instrument:

- (a) does not apply to the GOC specified in the Register as the pre-transfer GOC for the instrument (the **pre-transfer GOC**); and
- (b) applies instead to the GOC specified in the Register as the post-transfer GOC for the instrument (the **post-transfer GOC**) in the same way as it would, but for this regulation, have applied to the pre-transfer GOC; and
- (c) has effect as otherwise modified as specified in the Register.

13 Instruments to apply to 2 GOCs severally

If an instrument is included in the Register as one to which this regulation applies, on and after 30 June 2015 the instrument:

- (a) continues to apply to the GOC specified in the Register as the pre-transfer GOC for the instrument (the **pre-transfer GOC**); and

- (b) also applies to the GOC specified in the Register as the post-transfer GOC for the instrument (the ***post-transfer GOC***) in the same way as it applies to pre-transfer GOC; and
- (c) applies to the pre-transfer GOC and post-transfer GOC severally, not jointly; and
- (d) has effect as otherwise modified as specified in the Register.

14 Instruments to apply to GOCs to specified extent with modifications

If an instrument is included in the Register as one to which this regulation applies, on and after 30 June 2015 the instrument:

- (a) does not apply to a GOC specified in the Register as a pre-transfer GOC for the instrument (a ***pre-transfer GOC***); and
- (b) applies to each GOC specified in the Register as a post-transfer GOC for the instrument (a ***post-transfer GOC***) to the extent specified in the Register; and
- (c) has effect as otherwise modified as specified in the Register.

15 Statutory customer contracts

- (1) On and after 30 June 2015:
 - (a) the connection and supply provisions of the statutory contract:
 - (i) do not apply to Jacana (the ***pre-transfer GOC***); and
 - (ii) apply instead to P&WCorp (the ***post-transfer GOC***) in the same way as they would, but for this regulation, have applied to Jacana; and
 - (b) the retail provisions of the statutory contract continue to apply to Jacana and do not apply to P&WCorp.
- (2) The statutory contract, to the extent that it applies to P&WCorp, has effect as if section 91(1) of the *Electricity Reform Act* had been amended as follows:
 - (a) after "sells" by inserting "or supplies";
 - (b) after "selling" by inserting "or supplying";
 - (c) after "sale" by inserting "or supply".

(3) In this regulation:

connection and supply provisions means Appendix 1 to the statutory contract.

retail provisions means the statutory contract except Appendix 1.

statutory contract means the contractual terms and conditions fixed by Jacana under section 91 of the *Electricity Reform Act* and in force immediately before 30 June 2015.

16 Instruments to apply with necessary changes

- (1) A transferred instrument has effect as modified by subregulations (2) and (3).
- (2) A reference in the transferred instrument to a GOC to which it applied immediately before 30 June 2015 is modified to be or include (as the context requires) a reference to any other GOC to which it applies on and after 30 June 2015 by operation of this Part.
- (3) The transferred instrument is modified to make such other changes as are necessary.

17 Instrument related rights

- (1) On and after 30 June 2015, a right in relation to a transferred instrument that would, but for this regulation, have been available to or against a pre-transfer GOC:
 - (a) to the extent that the instrument applies to the pre-transfer GOC - continues to be available to or against that GOC; and
 - (b) to the extent that, on 30 June 2015, the instrument ceased to apply to the pre-transfer GOC - is not available to or against that GOC; and
 - (c) to the extent that the instrument applies to a post-transfer GOC - is available to or against that GOC.
- (2) Subregulation (1) does not apply in relation to either of the following:
 - (a) if a right in relation to an instrument is specified in the Register as a right to which this paragraph applies – that right, to the extent specified in the Register;
 - (b) a right that is the subject of proceedings to which regulation 19 applies.

18 Cessation of application of 2014 Regulations

- (1) If an instrument is included in the Register as one to which this regulation applies, on 30 June 2015, regulation 20 of the 2014 Regulations ceases to apply to the instrument.
- (2) In this regulation:

2014 Regulations means the *Government Owned Corporations (Power and Water Corporation Electricity Businesses Restructure) Regulations*.

Part 5 Proceedings**19 P&WCorp to replace Jacana as party**

If proceedings are included in the Register as proceedings to which this regulation applies, on 30 June 2015:

- (a) Jacana ceases to be a party to the proceedings; and
- (b) P&WCorp becomes a party to the proceedings in place of Jacana.

Part 6 Miscellaneous matters**20 Adjustment between GOCs to restore 1 July 2014 position**

- (1) On, or as soon as practicable after, 30 June 2015, each GOC must pay to each other GOC the amount required to put all of them into the financial position, with respect to each adjustment item, that they would have been in had 30 June 2015 been 1 July 2014.
- (2) In this regulation:

adjustment item means one of the following:

- (a) a transferred asset;
- (b) a transferred liability;
- (c) a transferred instrument (other than an instrument to which regulation 15 applies).

21 Register

- (1) The Minister cannot amend or revoke the Register on or after 30 June 2015.

- (2) On, or as soon as practicable after, 30 June 2015, the Minister must give a copy of the Register to each GOC.
- (3) Subregulation (4) applies if:
 - (a) a person requests a copy of all or part of the Register from the Minister; and
 - (b) the Minister is satisfied that the person has a proper interest in having access to the Register.
- (4) The Minister must give the person a copy of so much of the Register as relates to the person's interest.