



# APPOINTMENTS (CLARIFICATION OF VALIDITY) ACT 1991

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Queensland



**Appointments (Clarification of Validity)  
Act 1991**

**Act No. 44 of 1991**

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**An Act to amend the *Criminal Justice Act 1989* and the *Electoral and Administrative Review Act 1989***

*[Assented to 28 August 1991]*

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

## **PART 1—PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Appointments (Clarification of Validity) Act 1991*.

### **Commencement**

2.(1) Part 2 (other than sections 5, 6 and 8) is taken to have commenced on the enactment of the *Criminal Justice Act 1989*.

(2) Part 3 (other than sections 11, 12, 13 and 15) is taken to have commenced on the enactment of the *Electoral and Administrative Review Act 1989*.

(3) Sections 5 and 11 are taken to have commenced on the enactment of the *Members (E.A.R.C. and C.J.C.) Act 1990*.

## **PART 2—AMENDMENT OF CRIMINAL JUSTICE ACT 1989**

### **Amended Act**

3. The *Criminal Justice Act 1989* is amended as set out in this Part.

### **Amendment of s.2.2 (Membership of Commission)**

4. At the end of section 2.2—

*insert—*

‘(4) The appointment of a person as a Commissioner (whether under this

section or section 2.9) is not invalid merely because of a defect or irregularity in relation to the appointment.

‘(5) Nothing in this Act, any other Act or any rule of law prevents a Commissioner of the Criminal Justice Commission also being the chairperson to the Commission, or a deputy to the Commission, within the meaning of the *Commission of Inquiry Continuation Act 1989*.’.

### **Amendment of s.2.4 (Disqualification for appointment to Commission)**

5. At the end of section 2.4—

*insert—*

‘(3) A Commissioner is not eligible for appointment as a member mentioned in subsection (1)(f) and any such purported appointment is invalid.’.

### **Replacement of s.2.7 (Appointment of acting members)**

6. Section 2.7—

*omit, insert—*

#### **‘Acting Commissioners**

‘2.7(1) The Governor in Council may appoint a person to act as Chairperson—

- (a) during a vacancy in the office; or
- (b) during any period, or during all periods, when the Chairperson is absent from duty or from the State or is, for any reason, unable to perform the duties of the office.

‘(2) The Governor in Council may appoint a person to act as another Commissioner—

- (a) during a vacancy in the office; or
- (b) during any period, or during all periods, when the Commissioner is acting as Chairperson or is, for any reason, unable to perform the duties of the office.

‘(3) Sections 2.5(1) and (4) and 2.6(1), (4), (5) and (6) do not apply to an appointment under this section.

‘(4) Sections 2.5(2) and (3) and 2.6(2) and (3) apply to an appointment under this section to the extent that it is reasonably practicable to comply with those provisions.’.

### **Amendment of s.2.8 (Tenure of office)**

7. After section 2.8(2)—

*insert—*

‘(2A) If the appointment of a Commissioner does not specify a term of appointment—

- (a) the appointment is valid; and
- (b) the Commissioner is, subject to subsections (2B) and (3), taken to have been appointed for a term of—
  - (i) if the Commissioner is the first Chairperson of the Commission—3 years; and
  - (ii) in any other case—5 years.

‘(2B) If the appointment of a Commissioner does not specify a term of appointment, nothing in this Act (other than subsections (1), (2) and (3)), any other Act or any rule of law prevents the Governor in Council from fixing a term of appointment by a later Gazette notice.’.

### **Amendment of s.2.10 (Proceedings of Commission)**

8. Section 2.10(3)—

*omit, insert—*

‘(3) The Chairperson is to preside at all meetings at which the Chairperson is present.

‘(3A) If the Chairperson is not present at a meeting, the Commissioners present are to appoint one of them to preside.’.

## **PART 3—AMENDMENT OF ELECTORAL AND ADMINISTRATIVE REVIEW ACT 1989**

### **Amended Act**

9. The *Electoral and Administrative Review Act 1989* is amended as set out in this Part.

### **Amendment of s.2.2 (Composition of Commission)**

10. At the end of section 2.2—

*insert—*

‘(2) The appointment of a person as a Commissioner (whether under this section or section 2.7) is not invalid merely because of a defect or irregularity in relation to the appointment.’.

### **Amendment of s.2.3 (Qualification for membership)**

11. At the end of section 2.3—

*insert—*

‘(5) A Commissioner is not eligible for appointment as a member mentioned in subsection (2)(b) and any such purported appointment is invalid.’.

### **Amendment of s.2.4 (Selection of persons for appointment)**

12. At the end of section 2.4—

*insert—*

‘(5) Appointment of the Chairperson may be made independently of the appointment of the other members of the Commission.’.

### **Replacement of s.2.5 (Appointment of members and acting members)**

13. Section 2.5—

*omit, insert—*

### **‘Acting Commissioners**

**‘2.5(1)** The Governor in Council may appoint a person to act as Chairperson—

- (a) during a vacancy in the office; or
- (b) during any period, or during all periods, when the Chairperson is absent from duty or from the State or is, for any reason, unable to perform the duties of the office.

**‘(2)** The Governor in Council may appoint a person to act as another Commissioner—

- (a) during a vacancy in the office; or
- (b) during any period, or during all periods, when the Commissioner is acting as Chairperson or is, for any reason, unable to perform, the duties of the office.

**‘(3)** Section 2.4 does not apply to an appointment under this section.’.

### **Amendment of s.2.6 (Tenure of office)**

**14.** After section 2.6(1)—

*insert—*

**‘(1A)** If the appointment of a Commissioner does not specify a term of appointment—

- (a) the appointment is valid; and
- (b) the Commissioner is, subject to subsection (1B), taken to have been appointed for a term of 3 years.

**‘(1B)** If the appointment of a Commissioner does not specify a term of appointment, nothing in this Act (other than subsection (1)), any other Act or any rule of law prevents the Governor in Council from fixing a different term of appointment by later Gazette notice.’.

**Amendment of s.2.8 (Proceedings of Commission)**

**15.** Section 2.8(3)—

*omit, insert—*

**‘(3)** The Chairperson is to preside at all meetings at which the Chairperson is present.

**‘(3A)** If the Chairperson is not present at a meeting, the Commissioners present are to appoint one of them to preside.’.