

Queensland



OFFICIALS IN PARLIAMENT ACT 1896

**Reprinted as in force on 6 June 2002
(includes amendments up to Act No. 1 of 2001)**

This is the reprint current on the repeal date

Reprint No. 2C

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This Act is reprinted as at 6 June 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.

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.**

Queensland



OFFICIALS IN PARLIAMENT ACT 1896

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OFFICIALS IN PARLIAMENT ACT 1896

[as amended by all amendments that commenced on or before 6 June 2002]

An Act to amend the law relating to persons holding office under the Crown who may sit and vote in the Legislative Assembly

1 Short title

This Act may be cited as the *Officials in Parliament Act 1896*.

3 Governor may declare what Ministers may sit in Legislative Assembly

(1) The Governor may from time to time by proclamation declare any officers of the Crown, not exceeding 19 in all, and being officers liable to retire from office on political grounds, to be capable of being elected members of the Legislative Assembly and of sitting and voting therein at the same time.

Sick leave

(2) In the case of illness of any such officer the Governor may by proclamation grant to the officer leave of absence with pay for a period not exceeding 6 calendar months.

When member of Legislative Assembly may act as officer

(3) The Governor may, by proclamation, authorise and empower any member of the Executive Council who is not another such officer but who is for the time being a member of the Legislative Assembly to perform and exercise during the absence—

- (a) from the State of any such officer who is so absent in the course of the duties of office; or
- (b) from office of any such officer who is so absent on leave granted under subsection (2);

all or any of the duties, powers, and authorities imposed or conferred upon the officer so absent or any other officer mentioned in subsection (1) by any

Act, rule, practice, or ordinance, and the member so authorised and empowered may perform any such duties, powers, and authorities accordingly.

(4) A member of the Executive Council who, being a member of the Legislative Assembly, is authorised and empowered under subsection (3) to act in the office of any officer mentioned in subsection (1) shall, in respect of any continuous period of 30 days or more during which the member so acts, be paid additional salary at the rate for the time being applicable to that office under the *Parliamentary Members' Salaries Act 1988* in addition to the salary payable to the member as a member of the Legislative Assembly.

(5) The provisions of section 5 shall not apply to any member of the Executive Council who, being for the time being a member of the Legislative Assembly, holds, or held on or after 1 January 1939, an office or place of profit under the Crown when acting or purporting to act in lieu of any officer mentioned in subsection (1) during the absence from the State in the course of the duties of office or during the absence or purported absence on sick leave of any such officer, and such member is, and always has been, on and after 1 January 1939, capable of being elected, and of sitting and voting, as a member of the Legislative Assembly, and of receiving for any continuous period of 30 days or more during which the member so acts additional salary at the rate for the time being applicable to that office in addition to the salary payable to the member as a member of the Legislative Assembly.

(6) This section shall not be so read and construed as to limit the provisions of section 8.

5 Government officers not to sit in Legislative Assembly except as mentioned

(1) Any person holding any office or place of profit under the Crown, or having a pension from the Crown during pleasure or for a term of years, and not being one of the officers named in a proclamation made under this Act and not being a member of the Executive Council who is also a member of the Legislative Assembly authorised and empowered by the Governor to act for the time being in lieu of any such officer as aforesaid pursuant to section 3(3) shall be incapable of being elected, or of sitting or voting, as a member of the Legislative Assembly; and the election of any such person to be a member of the Legislative Assembly shall be null and

void, and a writ shall forthwith issue for the election of a member in the person's stead.

(1A) Subsection (1) shall not apply to any person, otherwise qualified—

- (a) who is in receipt of a pension—
 - (i) as an officer or member of a naval, military, or air force of the Commonwealth or of the United Kingdom or of any part of Her Majesty's dominions; or
 - (ii) being a female—on account of having served in any capacity with or with any service forming part of any such naval, military, or air forces, including service as medical practitioner, or nurse or masseuse, or otherwise; or
- (b) who is in receipt only of daily pay as an officer or member (male or female) of any such naval, military, or air forces and is not employed permanently or at an annual salary as such an officer or member.

(1B) Also, subsection (1) does not prevent a member who holds an office or place of profit under the Crown sitting or voting as a member of the Legislative Assembly if, when holding the office or place, neither the member nor any other person is entitled to or is entitled to and receives any fee or other reward on account of the member holding the office or place.

Certain persons holding office or place of profit under the Crown may be elected to Parliament

(2) Subsection (1) shall not apply so as to prevent any person holding any office or place of profit under the Crown who is otherwise qualified from being nominated as a candidate and being elected as a member of the Legislative Assembly; but if such person is so elected the person shall vacate and be deemed to vacate the person's office or place of profit under the Crown from the day appointed in the writ for taking the poll for the person's election.

(3) A person to whom subsection (2) applies shall be entitled to leave of absence for a period not exceeding 2 months for the purpose of contesting a Legislative Assembly election.

(4) However—

- (a) except as provided in paragraph (b), the person shall not be entitled to any salary during the person's absence from duty for that purpose;

- (b) for such purpose such person shall have and may exercise in respect of such period not exceeding 2 months or any part thereof any accrued right to leave of absence with salary had by the person;
- (c) if such person is elected nothing in paragraph (b) shall entitle or be deemed to entitle such person to leave of absence with salary during any period after the day appointed in the writ for taking the poll for the person's election.

(5) For subsection (1B), a member is not to be taken to be entitled to a fee or reward if the member irrevocably waives for all legal purposes the entitlement to the fee or reward.

(6) For a waiver under subsection (5), the member must, as soon as practicable after becoming aware of the entitlement—

- (a) waive the entitlement in writing; and
- (b) give a copy of the waiver to the Speaker.

(7) In this section—

“fee or other reward” does not include reasonable expenses actually incurred by or for the member for any 1 or more of the following—

- (a) accommodation;
- (b) meals;
- (c) domestic air travel;
- (d) taxi fares or public transport charges;
- (e) motor vehicle hire.

6 Parliamentary Secretary not officer liable to retire on political grounds etc.

(1) A Parliamentary Secretary is not an officer of the Crown liable to retire from office on political grounds.

(2) Also, an appointment as Parliamentary Secretary is not an office or place of profit under the Crown.

(3) This section applies for this Act and for other Acts and laws.

8 Duties imposed by law on any Minister may be ordered to be performed by other Minister

(1) The Governor may from time to time authorise and empower any of such officers to perform and exercise all or any of the duties, powers, and authorities imposed or conferred upon any other of such officers by any Act, rule, practice, or ordinance, and the officer so authorised and empowered may perform and exercise any such duties, powers, and authorities accordingly.

(2) The Premier may, in writing, from time to time authorise and empower any of such officers to perform and exercise temporarily for any period not longer than 14 days all or any of the duties, powers and authorities imposed or conferred upon the Premier, or any other of such officers by any Act, rule, practice or ordinance, and the officer so authorised and empowered may perform and exercise any such duties, powers and authorities accordingly.

(2A) Notification of any such authority and power may be published in the gazette and judicial notice shall be taken of every such authority and power so notified.

(3) In this section—

“**officer**” includes any member of the Executive Council who, being a member of the Legislative Assembly, is authorised and empowered by the Governor, by proclamation, under section 3(3) to act for the time being in the office of any such officer.

8A Attorney-General is a Minister

To remove any doubt, it is declared that the Attorney-General is an officer and a Minister within the meaning of this Act.

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 6 June 2002.

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

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	to Act No. 58 of 1995	9 February 1996
2	to Act No. 3 of 1996	30 May 1996
2A	to Act No. 21 of 1999	9 August 1999
2B	to Act No. 1 of 2001	6 April 2001

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Officials in Parliament Act 1896 60 Vic No. 3

date of assent 27 July 1896
commenced on date of assent
rep 6 June 2002 (2001 No. 80 s 95(1) sch 3)
amending legislation—

Statute Law Revision Act 1908 8 Edw 7 No. 18 s 2 sch 1

date of assent 23 December 1908
commenced on date of assent

Officials in Parliament Act Amendment Act 1920 11 Geo 5 No. 6

date of assent 10 December 1920
commenced on date of assent

Officials in Parliament Act Amendment Act 1922 13 Geo 5 No. 12

date of assent 6 October 1922
commenced on date of assent

Constitution Act Amendment Act 1926 17 Geo 5 No. 2 ss 3–4

date of assent 6 September 1926
commenced 1 July 1926 (see s 4)

Constitution Act Amendment Act 1936 1 Edw 8 No. 34 ss 3–4

date of assent 11 December 1936
commenced 1 July 1936 (see s 5)

Officials in Parliament Act Amendment Act 1939 3 Geo 6 No. 29

date of assent 1 December 1939
commenced on date of assent

Constitution Act Amendment Act 1944 8 Geo 6 No. 8 s 3

date of assent 27 November 1944
commenced on date of assent

Officials in Parliament Acts Amendment Act 1945 9 Geo 6 No. 26 s 3

date of assent 6 December 1945
commenced on date of assent

**Officials in Parliament Acts and the Legislative Assembly Acts Amendment Act 1946
10 Geo 6 No. 14 s 3**

date of assent 4 April 1948
commenced on date of assent

Officials in Parliament Acts Amendment Act 1948 12 Geo 6 No. 32

date of assent 9 September 1948
commenced on date of assent

Constitution Acts Amendment Act 1948 13 Geo 6 No. 17 pt 3

date of assent 17 December 1948
commenced 1 July 1948 (see s 1(3))

Officials in Parliament Acts Amendment Act 1949 13 Geo 6 No. 19

date of assent 16 March 1949
commenced on date of assent

Constitution Acts Amendment Act 1950 14 Geo 6 No. 23 pt 3

date of assent 2 December 1950
commenced on date of assent

Constitution Acts Amendment Act 1953 2 Eliz 2 No. 3 pt 3

date of assent 17 September 1953
commenced 1 July 1953 (see s 1(3))

Constitution Acts Amendment Act 1957 6 Eliz 2 No. 16 pt 3

date of assent 4 November 1957
commenced on date of assent

Officials in Parliament Acts Amendment Act 1959 8 Eliz 2 No. 67

date of assent 22 December 1959
commenced on date of assent

Constitution Acts Amendment Act 1961 10 Eliz 2 No. 20 pt 3

date of assent 4 April 1961
commenced 1 April 1961 (see s 1(3))

Officials in Parliament Acts Amendment Act 1963 No. 6

date of assent 23 September 1963
commenced on date of assent

Constitution Acts Amendment Act 1964 No. 6 pt 3

date of assent 31 March 1964

commenced 1 July 1963 (see s 1(3))

Constitution Acts Amendment Act 1965 No. 65 pt 3

date of assent 23 December 1965

commenced 1 December 1965 (see s 1(3))

Constitution Acts Amendment Act 1968 No. 24 pt 3

date of assent 13 September 1968

commenced on date of assent

Officials in Parliament Act Amendment Act 1969 No. 2

date of assent 29 August 1969

commenced on date of assent

Constitution Acts Amendment Act 1971 No. 46 pt 3

date of assent 1 November 1971

commenced on date of assent

Officials in Parliament Act Amendment Act 1975 No. 1

date of assent 7 March 1975

commenced on date of assent

Constitution Acts Amendment Act 1982 No. 41 pt 4

date of assent 23 September 1982

commenced on date of assent

Parliamentary Members' Salaries Act 1988 No. 32 s 3

date of assent 21 April 1988

commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

**Constitution (Parliamentary Secretaries) Amendment Act 1996 No. 3 pts 1, 4, s 6
sch 3**

date of assent 9 May 1996

commenced on date of assent

Parliamentary Members (Office of Profit) Amendment Act 1999 No. 21 pts 1, 3

date of assent 30 April 1999

commenced on date of assent

Officials in Parliament Amendment Act 2001 No. 1

date of assent 23 March 2001

commenced on date of assent

7 List of annotations**Title** amd 1996 No. 3 s 6 sch 3

Repeal

s 2 om 1908 8 Edw 7 No. 18 s 2 sch 1

Governor may declare what Ministers may sit in Legislative Assembly

s 3 amd 1920 11 Geo 5 No. 6 s 2(i);
sub 1922 13 Geo 5 No. 12 s 2
amd 1926 17 Geo 5 No. 2 s 3(i); 1939 3 Geo 6 No. 29 s 2(i); 1948 12 Geo 6
No. 32 s 2; 1948 13 Geo 6 No. 17 s 6(a)–(b); 1949 13 Geo 6 No. 19 s 2;
1961 10 Eliz 2 No. 20 s 7(a)–(b); 1963 No. 6 s 3; 1969 No. 2 s 2; 1975
No. 1 s 2; 1996 No. 3 s 6 sch 3; 2001 No. 1 s 3

Until others declared, what Ministers are capable of sitting

s 4 om 1920 11 Geo 5 No. 6 s 2(ii)

Government officers not to sit in Legislative Assembly except as mentioned

s 5 amd 1920 11 Geo 5 No. 6 s 2(iii); 1939 3 Geo 6 No. 29 s 2 (ii); 1945 9 Geo 6
No. 26 s 3; 1946 10 Geo 6 No. 14 s 3; 1999 No. 21 s 8

Parliamentary Secretary not officer liable to retire on political grounds etc.

s 6 prev s 6 amd 1920 11 Geo 5 No. 6 s 2(iv); 1926 17 Geo 5 No. 2 s 3(ii); 1936
1 Edw 8 No. 34 s 3
sub 1944 8 Geo 6 No. 8 s 3
amd 1948 13 Geo 6 No. 17 s 6(c); 1949 13 Geo 6 No. 19 s 3; 1950 14 Geo 6
No. 23 s 7; 1953 2 Eliz 2 No. 3 s 7 (a); 1957 6 Eliz 2 No. 16 s 8(a); 1959 8
Eliz 2 No. 67 s 2
sub 1961 10 Eliz 2 No. 20 s 7(c)
amd 1963 No. 6 s 4; 1964 No. 6 s 7; 1965 No. 65 s 7; 1968 No. 24 s 7; 1971
No. 46 s 8; 1982 No. 41 s 9
om 1988 No. 32 s 3
pres s 6 ins 1996 No. 3 s 7

Adjustment of salaries

s 6A ins 1953 2 Eliz 2 No. 3 s 7(b)
om 1957 6 Eliz 2 No. 16 s 8(b)

No person to draw salaries for two offices

s 7 amd 1961 10 Eliz 2 No. 20 s 7(d)
om 1988 No. 32 s 3

Duties imposed by law on any Minister may be ordered to be performed by other Minister

s 8 amd 1959 8 Eliz 2 No. 67 s 3; 1996 No. 3 s 6 sch 3

Attorney-General is a Minister

s 8A ins 1995 No. 58 s 4 sch 1

Names Home Secretary and Treasurer to be used

s 9 om 1996 No. 3 s 6 sch 3

SCHEDULE

om 1908 8 Edw 7 No. 18 s 2 sch 1

