

Queensland



**CITIZENS' INITIATED
REFERENDUM
(CONSTITUTION
AMENDMENT) BILL 1998**

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(CONSTITUTION AMENDMENT) BILL
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1998

A BILL

FOR

An Act to amend the *Constitution Act 1867* to provide for legislation by citizens' initiative and referendum, to entrench the provisions relating to citizens' initiatives and referendums, and to remove colonial terminology in certain sections of the Act

*Citizens' Initiated Referendum (Constitution
Amendment)*

The Parliament of Queensland enacts—

1

Short title

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Clause **1.** This Act may be cited as the *Citizens' Initiated Referendum (Constitution Amendment) Act 1998*.

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Act amended

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Clause **2.** This Act amends the *Constitution Act 1867*.

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Amendment of s 1 (Legislative Assembly)

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Clause **3.** Section 1, 'said Colony'—

8

omit, insert—

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'State'.

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Amendment of s 2 (Legislative Assembly constituted)

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Clause **4.(1)** Section 2, heading—

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omit, insert—

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'Legislative power'.

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(2) Section 2, 'said Colony'—

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omit, insert—

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'State'.

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(3) Section 2, 'the said Assembly'—

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omit, insert—

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'the Legislative Assembly, or with the consent of the electors manifested in accordance with section 2B,'.

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*Citizens' Initiated Referendum (Constitution
Amendment)*

(4) Section 2, 'colony'— 1
omit, insert— 2
 'State'. 3

Insertion of new ss 2B–2D 4

Clause 5. After section 2A— 5
insert— 6

'Legislation by citizens' initiative and referendum 7

'2B.(1) Laws for the peace, welfare and good government of the State 8
 may also be made by the procedure stated in this section. 9

'(2) A person (the "**proponent**"), qualified to vote for the election of 10
 members of the Legislative Assembly, may propose a law and register the 11
 text of the proposed law (the "**proposed law**") with the public officer 12
 responsible for the administration of referendums. 13

'(3) On receipt by the public officer, within 12 months after the 14
 registration of the proposed law, of a petition supporting the enactment of 15
 the proposed law, and on certification to the Governor by the officer that the 16
 petition bears the signatures of sufficient electors to amount— 17

(a) in each of a majority of the State's electoral districts—to at least 18
 2.5% of the electors enrolled in the district at the closure of the 19
 rolls for the previous general election of members of the 20
 Legislative Assembly; and 21

(b) in total—to at least 2.5% of the electors enrolled in the State at that 22
 time; 23

the Governor must issue a writ for a referendum on the proposed law. 24

'(4) The referendum must not be held within 3 months of the 25
 certification mentioned in subsection (3), but once the 3 months have 26
 passed the referendum must be held on the earlier of the following days— 27

(a) the day next appointed for a general election for members of the 28
 Legislative Assembly; 29

(b) the day next appointed for elections for members of a majority of 30

*Citizens' Initiated Referendum (Constitution
Amendment)*

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- the local government bodies in the State.
- ‘(5) If the proposed law is approved by both—
- (a) a majority of the electors voting; and
- (b) a majority of the electors voting in a majority of the electoral districts;
- it must be presented to the Governor for the royal assent.
- ‘(6) In the exercise of the Governor’s discretion whether to give the royal assent, the Governor is under no obligation to consider the advice of his or her Ministers, but instead should give full consideration to the will of the electors as expressed in the referendum.
- ‘(7) The following matters can not be the subject of a proposed law—
- (a) a matter affecting a particular locality or a particular person or particular group of persons;
- (b) the imposition of a liability or penalty retrospectively;
- (c) a matter beyond the Parliament’s constitutional power to enact;
- (d) appointment to, or removal from, public office of a particular person;
- (e) the appropriation of revenue or amounts for the services of the government or to any particular purpose;
- (f) the imposition of a tax, or any abolition of or change to a tax;
- (g) the composition of the judiciary of the Supreme Court or the District Court or any successor to either of those courts or the appointment or removal, or conditions of appointment or removal, of members of that judiciary;
- (h) the constitutional role of the Queen or the Governor, so long as Australia remains a constitutional monarchy.
- ‘(8) If a law purportedly enacted under this section relates partly to matters excluded by subsection (7) and partly to other matters, it is valid so far as its operation can practicably be limited to those other matters.
- ‘(9) The procedure under this section may be used to enact a new law, or to repeal or amend an existing law.

*Citizens' Initiated Referendum (Constitution
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‘(10) In this section—	1
“elector” means a person entitled to vote in an election of members of the Legislative Assembly.	2 3
‘Limitation on Parliament’s power to affect laws enacted under s 2B	4
‘2C.(1) The Parliament has no power, within 12 months after the date of assent of a law enacted under section 2B, to enact a law that is inconsistent with the law.	5 6 7
‘(2) To remove any doubt about the intended effect of subsection (1), it is declared that if a law enacted under section 2B has repealed or amended provisions of another law, the prohibition in subsection (1) extends to any enactment that would expressly or impliedly re-enact the former provisions.	8 9 10 11
‘Supporting provisions for the enactment of laws under s 2B	12
‘2D.(1) The Parliament may enact laws, not inconsistent with section 2B, making detailed provision for the presentation and acceptance of petitions, the sample checking of signatures on petitions, the conduct of referendums and for all other matters that would assist in giving effect to that section.	13 14 15 16
‘(2) Without limiting subsection (1), the laws may provide for the following—	17 18
(a) a requirement that the proponent must, before being permitted to register the text of a proposed law, present a preliminary petition demonstrating the support of 0.05% of the number of electors enrolled at the closure of the rolls for the previous general election of members of the Legislative Assembly;	19 20 21 22 23
(b) the provision of advice and other help from public officers to help the proponent to ensure that the proposed law complies with the requirements of this section, and with modern drafting standards;	24 25 26
(c) nomination by the proponent of persons who may take over his or her role on his or her resignation, incapacity or death;	27 28
(d) the publication, before the holding of a referendum, of a summary of the effect of the proposed law, and of arguments for and against its enactment;	29 30 31

*Citizens' Initiated Referendum (Constitution
Amendment)*

- (e) the termination of the procedure referred to in section 2B if the proponent is satisfied that a law enacted by the Parliament is sufficiently similar to the law proposed by the proponent; 1
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- (f) the prohibition, after a proposed law has been rejected by the electors at a referendum, of the presentation of any petition supporting the enactment of a substantially similar law within a period of not more than 5 years. 4
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‘(3) For subsection (2)(b), if provision has been made for the presentation of a preliminary petition, the provision of the advice may be made conditional on the presentation of the preliminary petition. 8
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‘(4) If there is no valid law making sufficient provision for a matter that arises when a person is attempting to promote the enactment of a law under section 2B, the person may apply to the Supreme Court for orders, and the court is to make those orders that will best promote the object of section 2B. 11
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‘(5) In this section— 15

“**elector**” means a person entitled to vote in an election of members of the Legislative Assembly.’. 16
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Amendment of s 53 (Certain measures to be supported by referendum) 18
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Clause 6. Section 53(1), after ‘2A,’— 20
insert— 21
‘2B, 2C, 2D,’. 22

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