

Queensland



**STATUTE LAW
(MISCELLANEOUS
PROVISIONS) ACT 1997**

Act No. 81 of 1997

Queensland



STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1997

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Queensland



**Statute Law (Miscellaneous Provisions) Act
1997**

Act No. 81 of 1997

**An Act to make various amendments of Queensland statute law and
to repeal an Act**

[Assented to 5 December 1997]

The Parliament of Queensland enacts—**Short title**

1. This Act may be cited as the *Statute Law (Miscellaneous Provisions) Act 1997*.

Commencement

2. This Act commences on the day of assent except so far as is otherwise expressly provided.

Amended Acts—schedule

3. The schedule amends the Acts mentioned in it.

Repeal

4. The *Commonwealth and State Housing Agreement Act 1990* is repealed.

Explanatory note

This Act has been identified as exhausted.

Explanatory notes

5. An explanatory note to a provision of this Act is not part of the Act.

SCHEDULE

AMENDMENTS OF ACTS

section 3

ART UNIONS ACT 1992

Amendment

1. Sections 127 and 128—

omit, insert—

‘References to earlier Acts

‘127. In an Act or document, a reference to any of the following Acts may, if the context permits, be taken to be a reference to this Act—

- *Art Union Regulation Act 1930*
- *Art Union Regulation Act 1964*
- *Art Unions and Amusements Act 1976*
- *Art Unions and Public Amusements Act 1992.*’

Explanatory note

Amendment 1 allows references to certain earlier Acts to be taken to be references to the *Art Unions Act 1992*, if the context permits.

SCHEDULE (continued)

**BADGE, ARMS, FLORAL AND OTHER EMBLEMS
OF QUEENSLAND ACT 1959****Amendment****1. Section 1, ‘and Floral Emblem’—**

omit, insert—

‘, *Floral and other Emblems*’.

2. Section 2B—

omit, insert—

‘Bird emblem

‘**2B.** The brolga (*Grus rubicunda*) is the bird emblem of the State.

‘Gem emblem

‘**2C.** The sapphire, of any colour, is the gem emblem of the State.

‘Arms and badge

‘**2D.(1)** The arms of the State are as described in schedule 1.

‘**(2)** The badge of the State is as described in schedule 2.’.

**3. Sections 3 and 5(1), ‘Premier and Minister for State
Development’—**

omit, insert—

‘Premier’.

4. Section 4(1), ‘and liable to a penalty of not more than \$100’—

omit.

 SCHEDULE (continued)
5. Section 4(1), as a penalty—*insert—*

‘Maximum penalty—50 penalty units.’.

6. Section 4(3) and (4)—*omit.***7. Section 5(2), ‘\$20’—***omit, insert—*

‘10 penalty units’.

8. After section 6—*insert—***‘SCHEDULE 1****‘ARMS OF THE STATE**

section 2D

‘PART 1—HERALDIC DESCRIPTION

For arms, per fesse the Chief Or, the Base per pale Sable and Gules, in Chief a Bull’s head caboshed in profile muzzled a Merino Ram’s head respecting each other proper, the dexter Base charged with a Garb also Or and the sinister Base on a Mount a Pile of Quartz issuant therefrom a Gold Pyramid in front of the Mount a Spade surmounted by a Pick saltirewise all proper.

SCHEDULE (continued)

And for the crest, on a wreath of the Colours, a Mount thereon a Maltese Cross Azure surmounted with a Royal Crown between 2 sugar-canes all proper.

And for the Supporters, on the dexter side a Red Deer and on the sinister side a Brolga wings elevated and addorsed both proper, below on a scroll this motto, 'Audax at Fidelis'.

'PART 2—PICTORIAL DESCRIPTION

SCHEDULE (continued)

‘SCHEDULE 2**‘BADGE OF THE STATE**

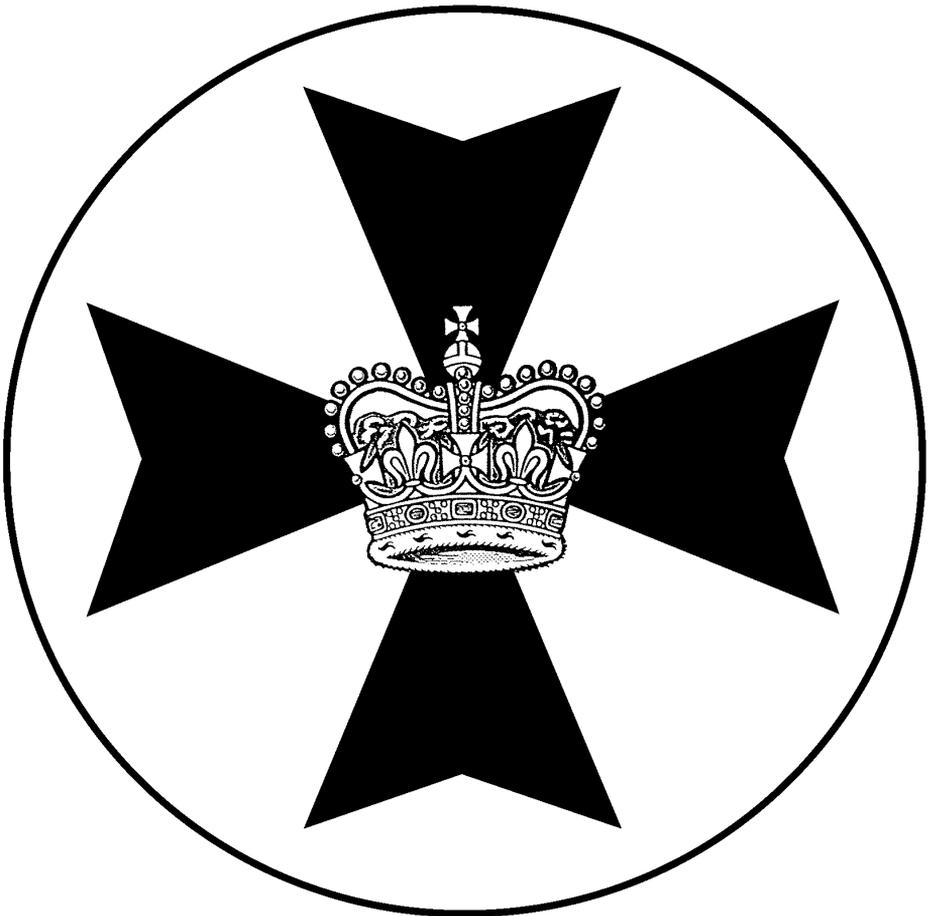
section 2D

‘PART 1—HERALDIC DESCRIPTION

On a roundel Argent a Maltese Cross Azure surmounted with a Royal Crown.

SCHEDULE (continued)

'PART 2—PICTORIAL DESCRIPTION



SCHEDULE (continued)

Explanatory notes

Amendment 1 amends the name of the Act to more accurately reflect its scope.

Amendment 2 removes the power of the Premier to notify things to be emblems of the State by gazette notice. Amendment 2 also states the bird and gem emblems of the State and the arms and the badge of the State. The arms and badge and the bird and gem emblems were previously described under a gazette notification. There is no change to the previous descriptions.

Amendment 3 corrects a redundant reference to the Premier.

Amendments 4 and 5 increase the penalty for an unauthorised assumption or use of the badge or arms of the State.

Amendment 6 removes the power of the Premier to notify the arms and badge of the State by gazette notice.

Amendment 7 increases the daily continuing penalty for an unauthorised assumption or use of the badge or arms of the State.

Amendment 8 inserts the schedules containing the descriptions of the arms and badge of the State.

**CONSTITUTION (OFFICE OF GOVERNOR)
ACT 1987****Amendment****1. Section 9, ‘first taking’—**

omit, insert—

‘having previously to, or as soon as is reasonably practicable after, the happening of that event taken’.

Explanatory note

Amendment 1 removes the need for the person assuming the administration of the government in the Governor’s absence etc. from having to re-take the oath or affirmation of office each time the person assumes administration. It will be sufficient for the person to have taken the oath or affirmation once.

SCHEDULE (continued)

**FINANCIAL ADMINISTRATION AND AUDIT
ACT 1977****Amendment****1. Section 46J(3)(b), from ‘section’—**

omit, insert—

‘section 46F(8).’.

2. Section 52(2) to (4)—

omit, insert—

‘(2) The auditor-general is to be paid a salary at a rate decided by the Governor in Council.

‘(3) The auditor-general is entitled to the allowances (if any) and holds office on the terms and conditions not provided for by this Act that are decided by the Governor in Council.

‘(4) Advice to the Governor in Council regarding the salary, allowances and other terms and conditions is only to be given after consultation with the Parliamentary Accounts Committee.

‘(5) The salary and allowances of the auditor-general are payable out of the public accounts, which are appropriated accordingly.’.

3. Section 109(2)(a), ‘11(4)’—

omit, insert—

‘11(5)’.

Explanatory notes

Amendments 1 and 3 correct cross references.

Amendment 2 implements a recommendation of the Electoral and Administrative Review Commission Report on the Review of Public Service Auditing in

SCHEDULE (continued)

Queensland. The report identified the need to ensure that persons of the highest calibre are recruited to the position of auditor-general. The amendment also subjects the auditor-general's remuneration package to input from the Legislative Assembly through the parliamentary committee.

GAMING MACHINE ACT 1991**Amendment****1. Section 3, heading, 'Definition'—**

omit, insert—

'Definitions'.

2. Section 55, heading, 'chief'—

omit, insert—

'Chief'.

3. Section 64(11), 'director's'—

omit, insert—

'chief executive's'.

4. Section 68(2), 'director'—

omit, insert—

'chief executive'.

5. Section 72ZW(5), 'licenced'—

omit, insert—

'licensed'.

SCHEDULE (continued)

Explanatory notes

Amendment 1, 2 and 5 correct typographical errors.

Amendment 3 and 4 corrects redundant references to the director.

GOVERNMENT OWNED CORPORATIONS ACT 1993**Amendment****1. Section 136(8), ‘Crimes (Confiscation of Profits) Act 1989’—**

omit, insert—

‘Crimes (Confiscation) Act 1989’.

Explanatory note

Amendment 1 updates a reference to an Act.

INTEGRATED RESORT DEVELOPMENT ACT 1987**Amendment****1. Section 62(3)—**

omit.

Explanatory note

Amendment 1 removes a redundant provision. Section 62(3) provides for the non-application of a provision of the *Building Units and Group Titles Act 1980* that has been omitted from that Act.

SCHEDULE (continued)

**PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT 1970****Amendment****1. Section 17—***insert—*

‘(1B) However, if the person has received salary as a member for an aggregate period of more than 20 years and the number worked out under subsections (1) and (1A) by dividing factor B by factor C (the “**actual number**”) is less than the highest number that would have been worked out under the subsections by dividing factor B by factor C had the person ceased to be a member at any time after completing 20 years service in the Assembly, the actual number is taken to be the highest number.’.

Explanatory note

Amendment 1 ensures a member’s entitlements under the section cannot decrease after completing 20 years service as a member.

PUBLIC SERVICE ACT 1996**Amendment****1. Part 5, division 6, heading—***relocate* to before section 74.**2. Section 77(1), after ‘appoint’—***insert—*

‘or second’.

SCHEDULE (continued)

3. Section 78(1), after ‘appointment’—*insert—*

‘or secondment’.

4. Section 79(4)—*omit.***5. Section 95(1)(g), ‘chief executive, another’—***omit, insert—*

‘person to be or as a chief executive, a’.

6. Schedule 2, MOTOR VEHICLES SAFETY ACT 1980—*omit.***7. Schedule 2, RACING AND BETTING ACT 1980, amendment 1—***omit.***Explanatory notes**

Amendment 1 relocates a division heading to its proper place.

Amendment 2 requires an employing authority’s intention to second a person to be advertised as required under a directive.

Amendment 3 requires selection for secondment to be based solely on merit, unless exempted under a directive.

Amendment 4 omits the power of a chief executive to transfer a senior executive.

Amendments 5 and 6 correct drafting errors.

Amendment 7 ensures that the flexibility of the current employment provisions of the *Racing and Betting Act 1980* are retained.

SCHEDULE (continued)

**QUEENSLAND INSTITUTE OF MEDICAL
RESEARCH ACT 1945****Amendment****1. Section 7(1), ‘5’—**

omit, insert—

‘8’.

Explanatory note

Amendment 1 ensures a majority of members of the Queensland Institute of Medical Research Council form a quorum.

**QUEENSLAND TOURIST AND TRAVEL
CORPORATION ACT 1979****Amendment****1. Section 31(3)—**

omit.

Explanatory note

Amendment 1 removes a redundant provision. The *Statutory Bodies Financial Arrangements Act 1982*, section 31 provides that a deposit and withdrawal account operated with a financial institution by a statutory body may, with the Treasurer’s approval, be operated with an overdraft facility.

SCHEDULE (continued)

RECREATION AREAS MANAGEMENT ACT 1988**Amendment****1. Section 25—**

omit, insert—

‘Application of Financial Administration and Audit Act 1977

‘**25.** The board is a statutory body under the *Financial Administration and Audit Act 1977*.’.

Explanatory note

Amendment 1 simplifies and clarifies the existing provision in the Act for the reporting requirements that apply to the board.

RESIDENTIAL TENANCIES ACT 1994**Amendment****1. Section 281(3), ‘made’—**

omit, insert—

‘made under’.

2. Schedule 3, definition “mediator”, from ‘ section 2.17’ to ‘Dispute Resolution Centres Act 1990’—

omit, insert—

‘the *Dispute Resolution Centres Act 1990*, section 19’.

SCHEDULE (continued)

Explanatory notes

Amendment 1 corrects a minor drafting error.

Amendment 2 updates a reference to a section.

**SUPERANNUATION AND OTHER LEGISLATION
AMENDMENT ACT 1997****Amendment****1. Section 2(1), after ‘• part 1’—**

insert—

- ‘• part 2, heading
- section 3’.

Commencement

Amendment 1 is taken to have commenced on the assent of the *Superannuation and Other Legislation Amendment Act 1997*.

Explanatory note

Amendment 1 provides for the commencement of a part heading and a provision identifying an Act being amended. This clarifies the effect of other amendments that commenced at the same time.

SCHEDULE (continued)

**SUPERANNUATION (STATE PUBLIC SECTOR)
ACT 1990****Amendment****1. Section 2(3), ‘subsection (1)(n)’—**

omit, insert—

‘subsection (1), definition “**unit of the State Public Sector**”, paragraph (n)’

2. Section 6D(2)—

omit, insert—

‘(2) The executive officer must be appointed by the Governor in Council.’

3. Section 22, from ‘steps’ to ‘ensure’—

omit, insert—

‘steps to ensure’.

4. Section 45—

omit, insert—

‘Expiry

‘**45.** This part expires on 30 June 1998.’.

Explanatory notes

Amendment 1 corrects a cross reference.

Amendment 2 replaces a provision dealing with the appointment of the executive officer. The replaced provision created some uncertainty about the way the executive officer is appointed.

SCHEDULE (continued)

Amendment 3 improves the structure of the provision.

Amendment 4 clarifies an uncertain date of expiry.

TRAFFIC ACT 1949**Amendment****1. Section 16(2C)(d)—**

omit, insert—

‘(d) a pilot or escort vehicle that is escorting an oversize vehicle under this Act or the *Transport Operations (Road Use Management) Act 1995*’.

Commencement

Amendment 1 commences on a day to be fixed by proclamation.

Explanatory note

Amendment 1 ensures that the current requirement for licensed pilot vehicle drivers to have a zero blood alcohol concentration level is to be continued when the licensing of pilot vehicle drivers is replaced by an accreditation scheme in January 1998.

SCHEDULE (continued)

**TRANSPORT (GLADSTONE EAST END TO
HARBOUR CORRIDOR) ACT 1996****Amendment****1. Section 9(4), ‘1 year’—**

omit, insert—

‘18 months’.

Explanatory note

The amendment extends the period within which a regulation may be made specifying a different area for an area that has an approximate area under the Act.

**TRANSPORT OPERATIONS (PASSENGER
TRANSPORT) ACT 1994****Amendment****1. Section 172(7), ‘30 November 1996’—**

omit, insert—

‘7 November 1999’.

Commencement

Amendment 1 is taken to have commenced on 30 November 1996.

Explanatory note

Amendment 1 corrects the date on which section 172 expires. The section preserves certain financial arrangements that were available before the commencement of the section. It was intended that the section would continue until 7 November 1999. However, an incorrect date of 30 November 1996 was inserted instead. The amendment corrects the error and permits the financial arrangements to continue.

SCHEDULE (continued)

WINE INDUSTRY ACT 1994**Amendment****1. Section 18(2), after ‘Friday’—***insert—*

‘, or before 1.00 pm on Anzac Day,’.

2. Section 19(1), after ‘Friday’—*insert—*

‘, or before 1.00 pm on Anzac Day’.

3. Section 51(1), ‘350’—*omit, insert—*

‘25’.

4. Section 51(2), ‘350’*omit, insert—*

‘25’.

Explanatory note

Amendment 1 clarifies the intent of section 18 by stating that a licensee may sell the licensee’s wine before 1.00 pm on Anzac Day only if the licensee is authorised under section 19 of the Act.

Amendment 2 clarifies the intent of section 19(1) to allow a licensee to apply for extended trading hours on Anzac Day.

Amendment 3 reduces the maximum penalty that may be imposed for a licensee’s failure to provide an annual return by the prescribed day. The maximum penalty has been amended for consistency with the *Liquor Act 1992*.

Amendment 4 reduces the maximum penalty that may be imposed for a licensee’s

SCHEDULE (continued)

failure to provide an annual return in the approved form or to include the prescribed particulars. The maximum penalty has been amended for consistency with the *Liquor Act 1992*.

WORKCOVER QUEENSLAND ACT 1996**Amendment****1. Section 152(4), after ‘entitled to’—**

insert—

‘lump sum’.

2. Section 181(5)(c)(i), ‘worker’—

omit, insert—

‘person’.

3. Section 181(5)(c)(i)(A), ‘worker’s’—

omit, insert—

‘person’s’.

4. Section 250, definition “damages certificate”, ‘section 265 or 270¹¹¹’—

omit, insert—

‘section 262, 265 or 270¹’.

¹ Section 262 (Claimant may seek damages only after being assessed), 265 (Access to damages if no previous application for compensation) or 270 (Application for damages certificate)

SCHEDULE (continued)

5. Section 262(3), ‘claimants’—

omit, insert—

‘claimant’s’.

Explanatory notes

Amendment 1 enables WorkCover to, for example, meet the medical costs associated with the assessment of the worker’s diminution of hearing where there is no entitlement to lump sum compensation.

Amendments 2 and 3 correct references to ‘worker’ in a division that covers ‘persons’.

Amendment 4 adds a reference to a certificate under section 262 to the definition of “damages certificate” as the section makes mention of a damages certificate for a claimant whose permanent impairment has not been assessed.

Amendment 5 corrects a typographical error.