

Queensland



# PARLIAMENT OF QUEENSLAND ACT 2001

**Act No. 81 of 2001**



Queensland



**PARLIAMENT OF QUEENSLAND  
ACT 2001**

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**DICTIONARY**

# Queensland



## Parliament of Queensland Act 2001

### Act No. 81 of 2001

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**An Act to provide for the powers, rights and immunities of the Legislative Assembly, appointment of its officers and committees, continuation of particular committees, qualification for membership of the Legislative Assembly, matters affecting continuation of membership and capacity of members, matters incidental to its existence and for other matters**

*[Assented to 3 December 2001]*

**The Parliament of Queensland enacts—**

## **CHAPTER 1—PRELIMINARY**

### **1 Short title**

This Act may be cited as the *Parliament of Queensland Act 2001*.

### **2 Commencement**

This Act commences on 6 June 2002.

### **3 Definitions**

The dictionary in the schedule defines particular words used in this Act.

### **4 Object**

This Act generally consolidates existing laws incidental to the operation of the Assembly.

### **5 Relationship between this Act and some other Acts about Parliament**

(1) This Act contains laws incidental to the operation of the Assembly.

(2) The *Constitution of Queensland 2001* contains basic statements about the Assembly's membership and procedures and its powers, rights and immunities.

(3) The *Constitution Act 1867* requires a Legislative Assembly to exist, declares the Parliament of Queensland and law-making power in Queensland and has some provisions about the office of Governor.

*Note—*

See also the *Australia Act 1986* (Cwlth), sections 2 (Legislative powers of Parliaments of States), 3 (Termination of restrictions on legislative powers of Parliaments of States) and 6 (Manner and form of making certain State laws).

(4) The *Constitution Act Amendment Act 1890* provides for the duration of the Assembly.

(5) The *Constitution Act Amendment Act 1934* prohibits provision being made for the existence of another legislative body except as provided in the Act.

(6) The *Parliamentary Service Act 1988* contains laws about administrative and support services for the Assembly, including the administrative powers of the Speaker, the office and powers of the Clerk and the establishment of the parliamentary service.

## **6 Act does not limit power, right or immunity**

Nothing in this Act derogates from any power, right or immunity of the Assembly or its members or committees.

## **7 Note in text is part of this Act**

A note in the text of this Act is part of this Act.

# **CHAPTER 2—PROCEEDINGS IN THE ASSEMBLY**

## **PART 1—PROTECTION AND DEFINITION**

### **8 Assembly proceedings can not be impeached or questioned**

(1) The freedom of speech and debates or proceedings in the Assembly can not be impeached or questioned in any court or place out of the Assembly.

(2) To remove doubt, it is declared that subsection (1) is intended to have the same effect as article 9 of the Bill of Rights (1688) had in relation to the Assembly immediately before the commencement of the subsection.

## 9 Meaning of “proceedings in the Assembly”

(1) **“Proceedings in the Assembly”** include all words spoken and acts done in the course of, or for the purposes of or incidental to, transacting business of the Assembly or a committee.

(2) Without limiting subsection (1), **“proceedings in the Assembly”** include—

- (a) giving evidence before the Assembly, a committee or an inquiry; and
- (b) evidence given before the Assembly, a committee or an inquiry; and
- (c) presenting or submitting a document to the Assembly, a committee or an inquiry; and
- (d) a document tabled in, or presented or submitted to, the Assembly, a committee or an inquiry; and
- (e) preparing a document for the purposes of, or incidental to, transacting business mentioned in paragraph (a) or (c); and
- (f) preparing, making or publishing a document (including a report) under the authority of the Assembly or a committee; and
- (g) a document (including a report) prepared, made or published under the authority of the Assembly or a committee.

(3) Despite subsection (2)(d), section 8 does not apply to a document mentioned in subsection (2)(d)—

- (a) in relation to a purpose for which it was brought into existence other than for the purpose of being tabled in, or presented or submitted to, the Assembly or a committee or an inquiry; and
- (b) if the document has been authorised by the Assembly or the committee to be published.

*Example—*

A document evidencing fraud in a department tabled at a Public Accounts Committee inquiry can be used in a criminal prosecution for the fraud if the document was not created for the committee’s inquiry and the committee has authorised the document to be published.

(4) If the way in which a document is dealt with has the effect that—

- (a) under an Act; or
- (b) under the rules, orders, directions or practices of the Assembly;

the document is treated, or accepted, as having been tabled in the Assembly for any purpose, then, for the purposes of this Act, the document is taken to be tabled in the Assembly.

(5) For this section, it does not matter what the nature of the business transacted by a committee is or whether the business is transacted under this Act or otherwise.

## **PART 2—MISCELLANEOUS**

### **10 Assembly may proceed to business although not more than 5 members have not been elected**

Following a general election, the Assembly may proceed to the transaction of business at the time appointed by the Governor for the purpose even though in not more than 5 of the electoral districts a member has not been elected.

### **11 Standing rules and orders may be made**

(1) The Assembly may prepare and adopt standing rules and orders that appear to the Assembly best adapted to conduct proceedings in the Assembly.

(2) Without limiting subsection (1), the standing rules and orders may provide for the following—

- (a) the orderly conduct of the Assembly;
- (b) the way the Assembly must be presided over in the absence of the Speaker;
- (c) the way the Assembly's powers, rights and immunities may be exercised and upheld;
- (d) the way notices of Bills, resolutions and other business intended to be submitted to the Assembly at any session may be published for general information;
- (e) publication of the proceedings of the Assembly and its committees, whether the Assembly is sitting, adjourned, prorogued or dissolved;

- (f) the proper passing, entitling and numbering of the Bills to be introduced into and passed by the Assembly;
- (g) the proper presentation of Bills to the Governor for royal assent;
- (h) the declaration and registration of interests of members and of persons related to members, whether continuing or for a particular purpose;
- (i) the classes of person who should be treated as being related to members for the purpose of declaring or registering interests.

(3) A standing rule or order becomes binding and of force on adoption by the Assembly or at another time decided by the Assembly.

## **12 Quorum**

At a meeting of the Assembly, 16 members of the Assembly exclusive of the Speaker are a quorum.

## **13 Voting**

At a meeting of the Assembly or a Committee of the Whole House—

- (a) a question is decided by a majority of the members present and voting; and
- (b) the Speaker or Chairperson of Committees presiding—
  - (i) has no deliberative vote; but
  - (ii) if the votes are equal, has the casting vote.

## **PART 3—THE SPEAKER**

### **14 The Speaker**

(1) The members of the Assembly must immediately on sitting after every general election proceed to elect a member to be Speaker.

(2) The Speaker must preside at all meetings of the Assembly, unless otherwise provided by the standing rules and orders.



(3) The Speaker stops holding office on his or her resignation or removal by a vote of the Assembly.

(4) On the Speaker's death, resignation or removal by a vote of the Assembly, the members must proceed to elect another member to be the Speaker before proceeding to any other business.

## **15 Speaker continues to hold office on Assembly's expiry or dissolution**

(1) For all purposes, the Speaker holding office on the Assembly's expiry or dissolution continues to hold the office until the day before the Assembly's first sitting day after a general election.

(2) Subsection (1) applies even if the Speaker—

- (a) is not a candidate for election as a member at the general election; or
- (b) is a candidate for election as a member at the general election and is not elected.

## **16 Deputy Speaker in particular circumstances**

(1) This section does not affect the way in which the Assembly is presided over when it is sitting in the absence of the Speaker.

(2) The way in which the Assembly is presided over when it is sitting in the absence of the Speaker is decided under the standing rules and orders and any resolution of the Assembly.

(3) Subject to subsections (1) and (2), the Chairperson of Committees may act as the Speaker—

- (a) during a vacancy in the Speaker's office; or
- (b) during a period when the Speaker is absent from duty or from the State or is, for another reason, unable to perform the duties of the office.

(4) If the Chairperson of Committees is for any reason unable to act as Speaker at a time mentioned in subsection (3)(a) or (b), the most senior temporary Chairperson of Committees, who is able to act as Speaker, may act as the Speaker.

(5) For subsection (4), as between temporary Chairpersons of Committees the most senior temporary Chairperson of Committees is the one who has continually served longest as a member.

(6) A person acting as the Speaker may be referred to as the Deputy Speaker.

## **PART 4—CHAIRPERSON OF COMMITTEES**

### **17 Chairperson of Committees**

(1) The members of the Assembly must as soon as practicable on sitting after every general election proceed to appoint a member to be Chairperson of Committees.

(2) The Chairperson of Committees must preside at all meetings of a Committee of the Whole House, unless otherwise provided by the standing rules and orders.

(3) The Chairperson of Committees stops holding office on his or her resignation or removal by a vote of the Assembly.

(4) On the Chairperson of Committees' death, resignation or removal by a vote of the Assembly, the members must proceed to appoint another member to be the Chairperson of Committees before proceeding to any other business.

### **18 Chairperson of Committees continues to hold office on Assembly's expiry or dissolution**

(1) For all purposes, the Chairperson of Committees holding office on the Assembly's expiry or dissolution continues to hold the office until the day before the Assembly's first sitting day after a general election.

(2) To remove doubt, it is declared that subsection (1) applies to the Chairperson of Committees acting as Speaker under section 16(3) for the purposes of section 15(1).

(3) Subsection (1) applies even if the Chairperson of Committees—

- (a) is not a candidate for election as a member at the general election; or

- (b) is a candidate for election as a member at the general election and is not elected.

## PART 5—PROXY VOTING

### 19 Member who may give proxy

(1) This section applies if, as evidenced by the certificates of at least 2 doctors, a member (the “**absent member**”) stated in the certificates is in a state of ill health that prevents the member, during a period stated in the certificates, from attending any sittings of the Assembly.

(2) The absent member may notify the Speaker in writing that the member desires to vote as a member at every sittings of the Assembly and of every Committee of the Whole House—

- (a) by way of a named proxy who is also a member (the “**first proxy**”); or
- (b) if the first proxy is not present, by another named proxy, who is also a member (the “**second proxy**”).

(3) The absent member or, if the member is unable to do so through ill health, another member on the member’s behalf, must present the certificates and notification to the Speaker.

(4) The Speaker must read the certificates and notification to the Assembly—

- (a) if the Assembly is sitting on the day the Speaker receives them—on that day; or
- (b) if the Assembly is not sitting on that day—on the next sitting day.

(5) If the Speaker declares that the Speaker is satisfied that the matters stated in the certificates are true, at any division at any sittings of the Assembly or any Committee of the Whole House during the period stated in the certificates, subject to section 23,<sup>1</sup> the proxy may vote as and for the absent member.

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<sup>1</sup> Section 23 (End of proxy)

(6) Under subsection (5), the first proxy may vote, or, if the first proxy is absent, the second proxy may vote.

(7) The proxy may vote as and for the absent member either without voting in the proxy's own right or in addition to voting in the proxy's own right.

## **20 How the proxy votes**

(1) The proxy is to vote by declaring to the Speaker or the Chairperson of Committees, as the case may be, during the taking of the votes on the division, that the proxy votes as and for the absent member for the 'ayes' or for the 'noes'.

(2) If the vote is for the 'ayes', the tellers for the 'ayes' must count it accordingly, and, if the vote is for the 'noes', the tellers for the 'noes' must count it accordingly.

(3) A vote so declared is as effectual as if the absent member had been personally present in the Assembly on the taking of the votes on the division and had voted on the side of the question for which the member's vote has been so declared by proxy.

(4) A member who, as a proxy, votes as and for the absent member, and does not vote in the member's own right, must declare the vote as and for the absent member from outside the bar of the Assembly.

(5) If the member declares the vote as and for the absent member within the bar, the member must be taken to vote also in the member's own right on the side of the question which the member's place in the division indicates.

## **21 How a proxy is substituted**

(1) This section applies if, during the period stated in the certificates, the absent member notifies the Speaker in writing that the member desires to substitute as the member's first proxy and second proxy or either of them 2 other named members or 1 other named member, as the case may be.

(2) The Speaker must read the notification to the Assembly—

- (a) if the Assembly is sitting on the day the Speaker receives the notification—on that day; or
- (b) if the Assembly is not sitting on that day—on the next sitting day.

(3) On the notification under subsection (2) being read to the Assembly by the Speaker, the other members or member named in the notification—

- (a) becomes the first proxy and the second proxy or the first proxy or the second proxy, as the case may be, in substitution for the members or member who had been authorised to vote as and for the absent member; and
- (b) as the proxies or proxy, may vote as and for the absent member as provided under section 20.

## **22 End of certificates, notification and Speaker's declaration on last day of session—renewal**

(1) The certificates, notification and Speaker's declaration under this part are ineffective beyond the last day of the session of the Assembly in which the certificates, notification and declaration were received or made.

(2) However, if the ill health of the absent member and the absent member's inability to attend any sittings of the Assembly continue or are likely to continue beyond the period stated in the certificates, or beyond the last day of the session of the Assembly in which the certificates were received, the certificates, notification, and declaration may be renewed whenever necessary.

## **23 End of proxy**

(1) No further vote of the absent member may be declared by proxy if, during the period stated in the certificates and after any declaration made by the Speaker in relation to the member—

- (a) the member attends any sittings of the Assembly or any Committee of the Whole House; or
- (b) the Speaker declares to the Assembly that the Speaker is satisfied that the member is able to attend the sittings; or
- (c) the Speaker reads to the Assembly a notification by the member that the member desires that the member's vote is to be no longer declared by proxy.

(2) When the absent member notifies the Speaker in writing that the member desires that the member's vote be no longer declared by proxy, the Speaker must read the notification to the Assembly—

- (a) if the Assembly is sitting on the day the Speaker receives the notification—on that day; or
- (b) if the Assembly is not sitting on that day—on the next sitting day.

## **24 Part does not affect vacation of seat provisions**

This part does not affect section 72.<sup>2</sup>

# **CHAPTER 3—POWERS, RIGHTS AND IMMUNITIES**

## **PART 1—POWERS TO REQUIRE ATTENDANCE AND PRODUCTION**

### **25 Power to order attendance or production of document or other thing**

(1) The Assembly may order a person to attend before the Assembly or an authorised committee and also to produce to the Assembly or an authorised committee any document or other thing in the person's possession.

(2) An authorised committee may order a person, other than a member, to attend before the committee and also to produce to the committee any document or other thing in the person's possession.

(3) Any committee of the Assembly may receive testimonial, documentary and other evidence voluntarily given.

### **26 Summons to non-member to attend or produce document or other thing**

(1) Subject to section 28, a person who is ordered to attend must be given a summons issued by—

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<sup>2</sup> Section 72 (Vacating seats of members in particular circumstances)

- (a) if ordered to attend by the Assembly—the Speaker; or
- (b) if ordered to attend by an authorised committee—the Clerk on notification by the committee’s chairperson.

(2) The summons must state—

- (a) a reasonable time and place for the attendance; and
- (b) if a document or other thing is ordered to be produced—reasonable particulars of the document or other thing.

## **27 Attendance expenses**

A person, other than a member, ordered to attend before the Assembly or an authorised committee is entitled to be paid a reasonable amount for expenses of attendance as decided by the Speaker.

## **28 Member required to attend without summons**

(1) A member may be given an order under section 25 without being given a summons.

(2) The order must state—

- (a) a reasonable time and place for the attendance; and
- (b) if a document or other thing is ordered to be produced—reasonable particulars of the document or other thing.

## **29 Obligation to attend before the Assembly**

(1) A person ordered to attend before the Assembly must not—

- (a) fail to attend before the Assembly as ordered; or
- (b) fail to attend from time to time as required by the Speaker in the course of the Assembly’s proceedings in relation to the matter on which the person was ordered to attend.

(2) A person may be excused by the Assembly for a failure to attend, or to attend from time to time.

**30 Obligation to attend before an authorised committee**

(1) A person ordered to attend before an authorised committee must not—

- (a) fail to attend before the authorised committee as ordered; or
- (b) fail to attend from time to time as required by the authorised committee's chairperson in the course of the committee's proceedings in relation to the matter on which the person was ordered to attend.

(2) The authorised committee may report the failure to the Assembly.

(3) The Assembly may order the person to attend before the authorised committee.

(4) The person mentioned in subsection (3) must not—

- (a) fail to attend before the authorised committee as ordered by the Assembly; or
- (b) fail to attend from time to time as required by the authorised committee's chairperson in the course of the committee's proceedings in relation to the matter on which the person was ordered to attend.

(5) A person may be excused for a failure to attend, or to attend from time to time, mentioned in subsections (1) and (4)—

- (a) if ordered or required to attend by the authorised committee or the committee's chairperson—by the committee; or
- (b) in any case—by the Assembly.

**31 Examination under oath or affirmation**

(1) The Assembly or an authorised committee before which a person attends may require the person to answer questions under oath or affirmation.

(2) The oath or affirmation must be administered by—

- (a) if the person attends before the Assembly—the Speaker or the Clerk; or
- (b) if the person attends before an authorised committee—the committee's chairperson or the Clerk, or Clerk's delegate, attending the committee.



(3) A person must not fail to be sworn or to make an affirmation if required under subsection (1).

(4) A person may be excused from a failure mentioned in subsection (3)—

- (a) if attending before the authorised committee—by the committee; or
- (b) in any case—by the Assembly.

### **32 Obligation to respond and produce to the Assembly**

(1) If a person attending before the Assembly does not—

- (a) answer a question asked by the Assembly; or
- (b) produce a document or other thing the Assembly ordered the person to produce to it;

the Speaker may require the person to answer the question or produce the document or other thing.

(2) A person must comply with the Speaker's requirement under subsection (1) unless the person makes an objection under subsections (3) and (4).

(3) A person may object to answering the question or producing the document or other thing on 1 or both of the grounds mentioned in section 34.

(4) The objection must be made directly to the Assembly or in writing and must state the grounds of the objection.

(5) The Assembly may order the person to answer the question or produce the document or other thing to the Assembly if—

- (a) the person has not made an objection under subsections (3) and (4); or
- (b) the person has made an objection under subsections (3) and (4) and the Assembly decides the person must answer the question or produce the document or other thing despite the objection.

(6) A person to whom an order under subsection (5) is directed must comply with the order.

**33 Obligation to respond and produce to an authorised committee**

(1) If a person attending before an authorised committee does not—

- (a) answer a question asked by the committee; or
- (b) produce a document or other thing the Assembly or the committee ordered the person to produce to the committee;

the chairperson of the committee may require the person to answer the question or produce the document or other thing.

(2) A person must comply with the chairperson's requirement under subsection (1) unless the person makes an objection under subsections (3) and (4).

(3) A person may object to answering a question asked by the committee or producing a document or other thing the committee ordered the person to produce to it on 1 or both of the grounds mentioned in section 34.

(4) The objection must be made directly to the committee or in writing and must state the grounds of the objection.

(5) If—

- (a) the person does not comply with the requirement under subsection (1) and does not make an objection under subsections (3) and (4); or
- (b) the person makes an objection under subsections (3) and (4) and the committee considers the person must answer the question or produce the document or other thing despite the objection;

the committee may report the matter to the Assembly.

(6) The Assembly may order the person to answer the question or produce the document or other thing to the committee if—

- (a) the person has not make an objection under subsections (3) and (4); or
- (b) the person has made an objection under subsections (3) and (4) and the Assembly decides the person must answer the question or produce the document or other thing despite the objection.

(7) If the Assembly orders a person under subsection (6) to answer a question or produce a document or other thing, the Assembly may also order a class of person, including a person who has not appeared, or been asked to appear, before the committee, to answer the same question or produce the same document or other thing.

(8) A person or a class of person to whom an order under subsection (6) or (7) is directed must comply with the order.

### **34 Grounds for objecting to answering a question or production**

A person may object to answering a question or producing a document or other thing under sections 32(3) and 33(3)<sup>3</sup> on the grounds that—

- (a) the answer, document or thing is of a private nature and does not affect the subject of inquiry; or
- (b) giving the answer or producing the document or thing might tend to incriminate the person and the person would have a claim of privilege against self-incrimination in a Supreme Court action if the person were asked in the action to give the answer or produce the document or thing.

### **35 Assembly to have regard to particular things when considering objection**

In deciding whether to make an order under section 32(5) or 33(6) the Assembly must have regard to—

- (a) the public interest in having the questions answered before the Assembly or authorised committee or the documents or other things produced to the Assembly or authorised committee; and
- (b) the public interest in providing appropriate protection to individuals against invasions of privacy or against self-incrimination.

### **36 Inadmissibility of particular events before a committee**

(1) Evidence may not be given in any proceeding of an answer given by a person before a committee, or of the fact the person produced a document or other thing to a committee.

(2) However, subsection (1) does not apply to—

- (a) a proceeding before the Assembly or a committee of the Assembly; or

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3 Sections 32 (Obligation to respond and produce to the Assembly) and 33 (Obligation to respond and produce to an authorised committee)

- (b) a criminal proceeding brought against the person about the falsity, or the misleading, threatening or offensive nature, of the answer, document, or other thing;<sup>4</sup> or
  - (c) a criminal proceeding brought against the person about the person's failure to produce a document or thing to, or refusal to answer a question before, the Assembly or a committee.<sup>5</sup>
- (3) Subsection (2) applies despite sections 8 and 9.<sup>6</sup>

## PART 2—CONTEMPTS

### 37 Meaning of “contempt” of the Assembly

(1) “**Contempt**” of the Assembly means a breach or disobedience of the powers, rights or immunities, or a contempt, of the Assembly or its members or committees.

(2) Conduct, including words, is not contempt of the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with—

- (a) the free exercise by the Assembly or a committee of its authority or functions; or
- (b) the free performance by a member of the member's duties as a member.

*Examples of contempt—*

1. Assaulting, obstructing or insulting a member—
  - (a) in the member's coming to or going from the Assembly or a meeting of a committee; or
  - (b) anywhere else because of the member's performance of his or her parliamentary duties.

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4 For example, see the Criminal Code, section 57 (False evidence before Parliament).

5 For example, see the Criminal Code, section 58 (Witnesses refusing to attend or give evidence before Parliament or parliamentary committee).

6 Sections 8 (Assembly proceedings can not be impeached or questioned) and 9 (Meaning of “proceedings in the Assembly”)

2. Attempting to compel a member by force, insult or menace to take a particular position in relation to a proposition or matter pending, or expected to be brought, before the Assembly or a committee.
3. Sending a threat to a member because of the member's performance of his or her parliamentary duties.
4. Sending a challenge to fight a member.
5. The offering of a bribe to or attempting to bribe a member.
6. Creating or joining in any disturbance in the Assembly or before a committee or in the Assembly's or a committee's vicinity while it is sitting that may interrupt its proceedings.
7. Contravention of section 29(1), 30(1) and (4), 31(3), 32(2) and (6) or 33(2) and (8).<sup>7</sup>
8. Preventing or attempting to prevent a person from complying with section 29(1), 30(1) and (4), 31(3), 32(2) and (6) or 33(2) and (8).
9. Improperly influencing, or attempting to improperly influence, a person, in relation to any evidence to be given by the person to the Assembly or a committee.
10. Treating a person adversely and without lawful authority, or attempting to do so, because of evidence given by the person to the Assembly or a committee or because of a belief or suspicion about that evidence.

### **38 Decisions on contempt**

Whether particular conduct is contempt of the Assembly as defined under section 37 is a matter for the Assembly to decide, acting on any advice it considers appropriate.

### **39 Assembly's power to deal with contempt**

(1) The Assembly has the same power to deal with a person for contempt of the Assembly as the Commons House of the Parliament of the United Kingdom had at the establishment of the Commonwealth to deal with contempt of the Commons House.

*Note—*

Date of establishment of the Commonwealth—1 January 1901.

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<sup>7</sup> Section 29 (Obligation to attend before the Assembly), 30 (Obligation to attend before an authorised committee), 31 (Examination under oath or affirmation), 32 (Obligation to respond and produce to the Assembly) or 33 (Obligation to respond and produce to an authorised committee)

(2) To remove doubt, it is declared that the power includes power to fine the person and impose imprisonment on the person in default of the payment of the fine, as provided for under sections 40 to 45.

#### **40 Assembly proceedings on contempt**

(1) Subject to section 38, proceedings for punishment by the Assembly of contempt are to be taken in the way stated in the standing rules and orders.

(2) The Assembly may order a person found by it to have committed a contempt to pay a fine of an amount not more than an amount stated in the standing rules and orders.

(3) If a fine imposed on a person under subsection (2) is not paid within a reasonable time stated by the Assembly, the Assembly may order the person to be imprisoned as directed by it—

- (a) until the fine is paid; or
- (b) until the end of the session of the Assembly or a part of the session.

(4) For subsection (3), the Assembly may order a person to be imprisoned—

- (a) in the custody of an officer of the Assembly; or
- (b) under the *Corrective Services Act 2000*, section 6.<sup>8</sup>

#### **41 Speaker's warrant for contempt**

The Speaker, on the Assembly's resolution, may issue a warrant for the apprehension and imprisonment of a person fined for contempt if the fine is not paid as required by the Assembly.

#### **42 Arrest pending warrant in certain cases**

(1) A person who commits a contempt by creating or joining in any disturbance in the Assembly or before a committee or in the Assembly's or a committee's vicinity while it is sitting that may interrupt its proceedings

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<sup>8</sup> *Corrective Services Act 2000*, section 6 (Where persons to be detained)

may be apprehended without warrant on the Speaker's order, oral or written.

(2) The person may be kept in the custody of an officer of the Assembly until the person is dealt with by the Assembly under section 39.

#### **43 Form of warrant**

A warrant issued under section 41 need not be in any particular form, but it must state in effect that the person has been found by the Assembly to have committed a contempt of the Assembly.

#### **44 Duty to help in execution of Speaker's order or warrant**

(1) The commissioner of the police service, all police officers and other persons are required to help in the apprehension and detention of any person who is required to be apprehended under the order or warrant of the Speaker.

(2) For the purpose of searching for and apprehending a person under the Speaker's order or warrant, a person may enter any place using force that may be reasonably necessary.

#### **45 Warrant to be given effect**

The person in charge of a corrective services facility or watch-house to whom is delivered a person apprehended under the Speaker's warrant must take the person into custody and detain the person in accordance with the warrant's terms.

#### **46 Treasurer's power to retain allowances to pay fine**

(1) This section applies if under this part—

- (a) a member has been found by the Assembly to have committed a contempt; and
- (b) the member has been summarily dealt with by the Assembly and ordered to pay a fine; and
- (c) any amount of the fine is not paid by the member as required by the Assembly's order.

(2) The Speaker must deliver a signed certificate countersigned by the Clerk to the Treasurer notifying the Treasurer that the amount has not been paid as required by the Assembly.

(3) On receiving the certificate, the Treasurer may order that there be set aside and retained by the Treasurer amounts the Treasurer considers proper out of the salary to which the member is entitled as a member until the full amount of the fine has been paid.

(4) The Treasurer may act under subsection (3), even though the session in which the fine was imposed has ended.

(5) The Treasurer may at any time amend the order.

(6) All amounts set aside and retained by the Treasurer are part of the consolidated fund.

#### **47 Other proceedings**

(1) If a person's conduct is both a contempt of the Assembly and an offence against another Act, the person may be proceeded against for the contempt or for the offence against the other Act, but the person is not liable to be punished twice for the same conduct.

(2) The Assembly may, by resolution, direct the Attorney-General to prosecute the person for the offence against the other Act.

### **PART 3—PARLIAMENTARY PAPERS**

#### **48 Meaning of “authorising person”**

In this part—

“authorising person” means—

- (a) the Speaker; or
- (b) the chairperson of a committee; or
- (c) the Clerk; or
- (d) the chief reporter.



**49 Assembly or committee may authorise publication**

(1) The Assembly may authorise the publication of a document relating to proceedings in the Assembly.

(2) A committee may authorise publication of—

- (a) evidence given before the committee; or
- (b) a document presented or submitted to the committee; or
- (c) a document (including a report) prepared or made by the committee.

(3) This section does not limit by implication any other power the Assembly may have to authorise the publication of a document.

**50 Authority for government printer to publish**

If the Assembly or a committee orders or otherwise authorises evidence or a document to be printed, then, unless the order or other authority otherwise expressly provides, the Assembly or the committee is taken to have authorised the government printer to publish the evidence or document.

**51 Assembly taken to have authorised certain publications**

(1) The Assembly is taken to have authorised a person to whom this section applies to publish parliamentary documents.

(2) The authority conferred by subsection (1) extends to—

- (a) the doing of all acts preparatory to, and for the purposes of, publication; and
- (b) all forms of publication.

(3) For this part, a document that purports to be a parliamentary document is taken to be a parliamentary document unless the contrary is proved.

(4) In this section—

“document” includes—

- (a) a copy of a document; and
- (b) a part of a document; and
- (c) an abstract of, or extract from, a document;

if the copy, part, abstract or extract is published with the authority of an authorising person.

**“parliamentary document”** means—

- (a) the Votes and Proceedings; or
- (b) the Notices of Motion and Orders of the Day; or
- (c) the Questions on Notice and answers to questions on notice; or
- (d) Hansard reports of proceedings in the Assembly, a committee or an inquiry; or
- (e) another document that is published with the authority of an authorising person.

**“person to whom this section applies”** means—

- (a) a member or a person acting on behalf of a member; or
- (b) the Clerk; or
- (c) an officer or employee of the parliamentary service acting in the course of the person’s duties; or
- (d) the government printer; or
- (e) an officer or employee of the government printer acting in the course of the person’s duties.

## **52 Tabled, unprinted documents may be read etc.**

(1) A person may read any document that is tabled in the Assembly by a member, but is not ordered or otherwise authorised by the Assembly to be printed.

(2) The person may make a copy of, take an extract from, or take notes of, the document.

(3) A person does not incur any civil or criminal liability for the doing by the person or another person of an act permitted to be done under this section.

## **53 Particular documents are taken to be printed when tabled or taken to be tabled in the Assembly**

The following documents are taken to be printed when tabled or taken to be tabled in the Assembly—

- (a) a report of a committee or an inquiry;
- (b) a Bill presented to the Assembly and the explanatory note for the Bill;
- (c) a report that, under an Act—
  - (i) is received by a Minister or the Speaker; and
  - (ii) is required or permitted to be tabled in the Assembly.

#### **54 Publication of fair report of tabled document**

(1) A person does not incur any civil or criminal liability for the publication of a fair report of a document that is tabled in the Assembly by a member with—

- (a) the express permission of the Speaker; or
- (b) the leave of the Assembly.

(2) Subsection (1) applies to a document whether or not the Assembly orders or otherwise authorises the document to be printed.

#### **55 Evidentiary certificates**

(1) A certificate purporting to be signed by an authorising person and stating any 1 or more of the matters mentioned in subsection (2) is evidence of those matters.

(2) The matters are—

- (a) that evidence was given before the Assembly, a committee or an inquiry; and
- (b) that a document was presented or submitted to the Assembly, a committee or an inquiry; and
- (c) that a document was tabled in, or presented or submitted to, the Assembly, a committee or inquiry; and
- (d) that a document was prepared for the purposes of, or incidental to, transacting business mentioned in section 9(2)(a) or (c);<sup>9</sup> and

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9 Section 9 (Meaning of “proceedings in the Assembly”)

- (e) that a document (including a report) was prepared, made or published under the authority of the Assembly, a committee or inquiry; and
- (f) that a committee authorised publication of evidence; and
- (g) that the Assembly or a committee authorised the government printer to publish evidence or a document; and
- (h) that a person is a person to whom section 51<sup>10</sup> applies; and
- (i) that a thing is a document, or a parliamentary document, for the purposes of section 51; and
- (j) that an act was preparatory to, or for the purposes of, publication of a thing that is a parliamentary document for the purposes of section 51; and
- (k) that a document was tabled in the Assembly by a member, but was not—
  - (i) ordered or otherwise authorised, by the Assembly to be printed; or
  - (ii) taken to be printed by the Assembly; and
- (l) that a document was tabled in the Assembly by a member with—
  - (i) the express permission of the Speaker; or
  - (ii) the leave of the Assembly; and
- (m) that a person is an authorising person; and
- (n) that a person is the government printer.

## **56 No liability for publishing under authority of Assembly or committee**

(1) A person does not incur any civil or criminal liability for publishing evidence or a document by order or under the authority of the Assembly or a committee.

(2) If a proceeding is brought for a publication to which subsection (1) applies, the defendant may produce to the court a certificate—

- (a) signed by an authorising person; and

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<sup>10</sup> Section 51 (Assembly taken to have authorised certain publications)

(b) stating that the publication is a publication to which that subsection applies.

(3) Before producing the certificate, the defendant must give the plaintiff or prosecutor and any other defendant 24 hours notice of the defendant's intention to produce the certificate.

(4) On production of the certificate, the court must dismiss the proceeding and may order the plaintiff or prosecutor to pay the defendant's costs.

(5) This section does not affect any other defence available to the defendant.

### **57 Reports of debates taken to be true and correct record**

(1) Reports of the debates in the Assembly published by order or under the authority of the Assembly may be received in evidence as an accurate record of what happened in the Assembly.

(2) Evidence must not be admitted contradicting, adding to or otherwise impugning the accuracy of the reports.

### **58 Application of pt 3**

This part applies to evidence given and documents tabled, printed or published at any time whether before or after the commencement of the part.

## **PART 4—TABLING OF REPORTS OUTSIDE SITTINGS**

### **59 Tabling of report when Assembly not sitting**

(1) This section applies to a report that, under an Act—

- (a) is received by a Minister or the Speaker; and
- (b) is required or permitted to be tabled in the Assembly.

(2) If the Minister or Speaker wants to table the report when the Assembly is not sitting, the Minister or Speaker may give a copy of the report to the Clerk.

(3) The report is taken to have been tabled on the day a copy of the report is received by the Clerk.

(4) The receipt of the report by the Clerk, and the day of the receipt, must be recorded in the Assembly's Votes and Proceedings for the next sitting day after the day of receipt.

(5) For subsection (1)(b), if a report is required or permitted to be tabled in the Assembly, a part of the report or a document accompanying the report is also taken to be required or permitted to be tabled in the Assembly.

(6) A report tabled under subsection (3) is a report tabled in and printed by order of the Assembly.

(7) This section does not limit the Assembly's power by resolution or order to provide for the tabling of reports and other documents when the Assembly is not sitting.

(8) In this section—

“**report**” includes—

- (a) part of a report; and
- (b) a document accompanying a report.

## **PART 5—CUSTODY OF ASSEMBLY DOCUMENTS**

### **60 Application of pt 5**

This part applies despite any other law.

### **61 Clerk has custody of Assembly documents**

For this part, the Clerk is taken to have custody of all documents in the possession of the Assembly, a committee or an inquiry.

**62 Instrument requiring access or production must be addressed to Clerk**

(1) An instrument requiring access to or production of a document mentioned in section 61 must be addressed to the Clerk.

(2) If the instrument is not addressed to the Clerk, it is of no effect.

**63 Assembly controls release**

(1) The Clerk may not allow access to, or produce, a document as required under an instrument mentioned in section 62 unless—

- (a) for a document in the possession of a committee that has not been tabled in the Assembly—the committee or the Assembly by resolution has given leave; or
- (b) for a document in the possession of an inquiry that has not been tabled in the Assembly—the inquiry or the Assembly by resolution has given leave; or
- (c) for a document in the possession of the Assembly that has not been tabled in the Assembly—the Assembly by resolution has given leave; or
- (d) for a document that has been tabled in the Assembly and prohibited by the Assembly from being published—the Assembly by resolution has given leave.

(2) However, if—

- (a) an instrument requires access to or production of a document in the possession of the Assembly; and
- (b) the Assembly has expired or is dissolved, prorogued or adjourned for more than 7 days;

the Speaker may give leave for the document to be accessed or produced as required under the instrument.

## CHAPTER 4—CANDIDATES AND MEMBERS

### PART 1—QUALIFICATIONS

#### 64 Qualifications to be a candidate and be elected a member

(1) A person may be nominated as a candidate for election, and may be elected, as a member of the Assembly for an electoral district only if the person is—

- (a) an adult Australian citizen living in Queensland; and
- (b) enrolled on an electoral roll for the electoral district or another electoral district; and
- (c) not a disqualified person under subsection (2) or (3).

(2) A person is a disqualified person if the person—

- (a) is subject to a term of imprisonment or detention, periodic or otherwise; or
- (b) within 2 years before the day of nomination, has been convicted of an offence against the law of Queensland, another State or the Commonwealth and sentenced to more than 1 year's imprisonment; or
- (c) has been convicted within 7 years before the day of nomination of an offence against the Criminal Code, section 59 or 60;<sup>11</sup> or
- (d) has been convicted, and not pardoned, of treason, sedition or sabotage under the law of Queensland, another State or the Commonwealth; or
- (e) is an undischarged bankrupt under the *Bankruptcy Act 1966* (Cwlth), or a corresponding law of another jurisdiction; or
- (f) has executed a deed of arrangement as debtor under the *Bankruptcy Act 1966* (Cwlth), part X, or a corresponding law of another jurisdiction, and the terms of the deed have not been fully complied with; or

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11 Criminal Code, section 59 (Member of Parliament receiving bribes) or 60 (Bribery of member of Parliament)



- (g) has creditors who have accepted a composition under the *Bankruptcy Act 1966* (Cwlth), part X, or a corresponding law of another jurisdiction, and a final payment has not been made under that composition; or
- (h) is not entitled to be a candidate for election, or to be elected as a member of the Assembly, under another law.

*Note—*

For an example of the operation of subsection (2)(h), see the *Electoral Act 1992*, section 176.<sup>12</sup>

**(3)** Also, the following persons are disqualified persons—

- (a) the Governor-General, Administrator or head of government of the Commonwealth or the Governor, Administrator or head of government of a State;
- (b) the holder of a judicial office of any jurisdiction of a State or the Commonwealth.

**(4)** For subsection (2)(a), the circumstances in which a person is subject to a term of imprisonment or detention—

- (a) include circumstances in which the person is released from the term of imprisonment or detention on parole, home detention, leave of absence or otherwise without being discharged from all liability to serve all or part of the term; but
- (b) do not include circumstances in which a person is subject to a term of imprisonment but is at liberty because the term of imprisonment has been suspended.

**(5)** For subsection (2)(b), the following apply—

- (a) if the sentence of imprisonment is suspended, the provision does not apply;
- (b) however, if the person is ordered at any time to actually serve more than 1 year of the suspended term of imprisonment, the provision applies.

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<sup>12</sup> *Electoral Act 1992*, section 176 (Further penalty of disqualification for certain offences)

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## PART 2—CANDIDATES AND MEMBERS HOLDING PAID PUBLIC APPOINTMENT

### 65 Meaning of “paid public appointment” and related appointment

(1) A person holds a “paid public appointment” if the person, for reward—

- (a) holds an office under, or is employed by, the State, another State or the Commonwealth; or
- (b) holds an appointment to or in or is employed by or in—
  - (i) an entity of the State, another State or the Commonwealth; or
  - (ii) the parliamentary service of the Assembly or an administrative office or service attached to the legislature of another State or the Commonwealth; or
  - (iii) a court or tribunal or a registry or other administrative office of a court or tribunal, of the State, another State or the Commonwealth; or
  - (iv) a local government of the State or another State.

(2) A “paid State appointment” held by a person is a paid public appointment the person holds in connection with the State of Queensland because of an office or appointment or employment mentioned in subsection (1)(a) or (b).<sup>13</sup>

(3) However, a member does not hold a paid public appointment if—

- (a) the appointment is under the *Constitution of Queensland 2001*—
  - (i) as a Minister or to act as a Minister; or
  - (ii) as a Parliamentary Secretary; or
- (b) an Act requires or expressly permits that the appointment be held by a member of the Assembly, however described; or
- (c) when the appointment is held by a member of the Assembly, neither the member nor any other person is entitled to or is

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13 For the effect of this definition, see sections 66 (Effect of paid State appointment on candidate’s election), 69 (Appointment to paid State appointment is of no effect) and 72(1)(f) (Vacating seats of members in particular circumstances).

entitled to and receives any reward on account of the member holding the appointment; or

- (d) the appointment is as a local government mayor or councillor, whether the person is appointed or elected as mayor or councillor.

(4) For subsection (3)(c), a member is not taken to be entitled to a reward if the member irrevocably waives for all legal purposes the entitlement to the reward.

(5) For a waiver under subsection (4), 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.

(6) In this section—

“reward” does not include—

- (a) an amount decided under chapter 7<sup>14</sup> or the *Parliamentary Contributory Superannuation Act 1970*; or  
(b) reasonable expenses actually incurred by or for the member for any 1 or more of the following—  
(i) accommodation;  
(ii) meals;  
(iii) domestic air travel;  
(iv) taxi fares or public transport charges;  
(v) motor vehicle hire; or  
(c) an amount (other than an amount paid at the pleasure of the State, another State or the Commonwealth) paid as a pension, entitlement, remuneration, allowance or otherwise for—  
(i) past service in a paid public appointment; or  
(ii) past or existing service as a member of the Commonwealth’s military reserve forces.

## 66 Effect of paid State appointment on candidate's election

(1) If a person who holds a paid State appointment becomes a candidate for election to the Assembly, the person must be absent on leave from the appointment for the election period.

(2) To comply with subsection (1), the person is entitled to take any accrued leave or leave without reward.

(3) If the person fails to comply with subsection (1), the person is taken to be on unpaid leave and is not entitled to any reward from anyone for service in the paid State appointment during the election period.

(4) If the person is elected as a member, the person's paid State appointment is taken to end on the day before the day of the poll at which the person is elected.

(5) Subsection (4) applies whether or not the person complies with subsection (1).

(6) This section applies despite any law other than this Act.

(7) In this section—

**“becomes a candidate”** means becomes a candidate for election under the *Electoral Act 1992*, section 88(3).<sup>15</sup>

**“election period”** means the period starting when the person becomes a candidate and ending—

- (a) if the person is elected—at the end of the day before the day of the poll at which the person is elected; or
- (b) if the person is not elected—on the election of the candidate who is elected for the electoral district.

## 67 Resignation of particular office holders on becoming candidates

(1) A person who holds any of the following offices, or who is a deputy of anyone holding any of the following offices, must resign office immediately on the person being nominated under the *Electoral Act 1992*, section 84,<sup>16</sup> as a candidate for election—

- (a) anti-discrimination commissioner;

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<sup>15</sup> *Electoral Act 1992*, section 88 (Announcement of nominations)

<sup>16</sup> *Electoral Act 1992*, section 84 (How and when nomination takes place)

- (b) auditor-general;
- (c) chairperson, commissioner or assistant commissioner of the Crime and Misconduct Commission;
- (d) the Clerk;
- (e) commissioner for children and young people;
- (f) commissioner of the police service;
- (g) Crown solicitor;
- (h) director of public prosecutions;
- (i) electoral commissioner;
- (j) health rights commissioner;
- (k) information commissioner;
- (l) integrity commissioner;
- (m) ombudsman;
- (n) parliamentary counsel;
- (o) parliamentary crime and misconduct commissioner;
- (p) public service commissioner;
- (q) public trustee;
- (r) solicitor-general.

(2) An office holder who fails to comply with subsection (1) is taken to resign office on becoming a candidate under the *Electoral Act 1992*, section 88(3), despite any other law.

(3) For subsection (1), a person is not a deputy of anyone holding an office only because the person is temporarily acting in the office of deputy.

## **68 Effect of election on particular candidates**

(1) Any of the following persons who is elected as a member can not take his or her seat until the person stops holding the membership or appointment mentioned in relation to the person—

- (a) member of the Commonwealth Parliament or of a legislature of another State;
- (b) mayor or a councillor of a local government of another State;

- (c) holder of a paid public appointment other than a paid State appointment.

Notes—

1. Under the *Constitution of Queensland 2001*, section 22(3),<sup>17</sup> a member takes the member's seat on making the oath or affirmation mentioned in section 22(1) of that Act.
2. Under the *Local Government Act 1993*, section 224A,<sup>18</sup> a councillor of a local government (which by definition includes a mayor of a local government) ceases to be a councillor if, under the *Electoral Act 1992*, section 88(3),<sup>19</sup> the councillor becomes a candidate for an election as a member of the Legislative Assembly.
3. For the effect of a paid State appointment on a candidate's election, see section 66.<sup>20</sup>

(2) Subsection (1) does not affect section 72(1)(a).<sup>21</sup>

## **69 Appointment to paid State appointment is of no effect**

(1) A member must not accept a paid State appointment.

(2) Despite any law other than this Act, a purported appointment of a member to hold a paid State appointment is of no effect as an appointment.

Note—

For an effect of accepting a paid public appointment other than a paid State appointment, see section 72(1)(f).

17 *Constitution of Queensland 2001*, section 22 (No member to sit or vote without first taking oath or making affirmation)

18 *Local Government Act 1993*, section 224A (Councillor ceases to be councillor on becoming candidate for an Australian Parliament)

19 *Electoral Act 1992*, section 88 (Announcement of nominations)

20 Section 66 (Effect of paid State appointment on candidate's election)

21 Section 72 (Vacating seats of members in particular circumstances)

## PART 3—RESTRICTIONS ON DEALINGS WITH THE STATE

### 70 Meaning of “transacts business”

(1) A member “**transacts business**” with an entity of the State if the member—

- (a) has a direct or indirect interest in a contract with an entity of the State; or
- (b) performs a duty or service for reward for an entity of the State.

(2) However, a member does not “**transact business**” with an entity of the State in the following circumstances—

- (a) for a contract—
  - (i) the contract is required of, or expressly permitted for, the member, under an Act; or
  - (ii) the contract allows or permits the member to be provided with goods or to use services that are available to the public on the same terms the goods or services are available to the public; or
  - (iii) the contract is for the lawful payment of compensation; or
  - (iv) the contract is made, entered into, or accepted, by a listed or non-aligned corporation;

*Examples of subparagraph (ii)—*

1. A contract to use rail passenger transport.
2. The purchase of a vehicle at a public auction conducted by an entity of the State.

- (b) for a duty or service—
  - (i) an Act requires or expressly permits the member to perform the duty or service; or
  - (ii) neither the member nor any other person is entitled to or is entitled to and receives any reward on account of the member performing the service or duty; or
  - (iii) the duty or service is the attendance at a court or other place or the giving of evidence at a court or other place in obedience to any court process.

(3) For subsection (2)(b)(ii), a member is not taken to be entitled to a reward if the member irrevocably waives for all legal purposes the entitlement to the reward.

(4) For a waiver under subsection (3), 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.

(5) In this section—

**“listed corporation”** has the meaning given by the Corporations Act.

**“non-aligned corporation”** means a corporation with more than 20 shareholders 1 of whom is the member if the member does not—

- (a) own 5% or more of the corporation’s shares; or
- (b) have control of the corporation’s board.

**“reward”** does not include—

- (a) an amount decided under chapter 7<sup>22</sup> or the *Parliamentary Contributory Superannuation Act 1970*; or
- (b) reasonable expenses actually incurred by or for the member for any 1 or more of the following—
  - (i) accommodation;
  - (ii) meals;
  - (iii) domestic air travel;
  - (iv) taxi fares or public transport charges;
  - (v) motor vehicle hire.

## 71 Restrictions on member transacting business with an entity of the State

(1) A member must not transact business, directly or indirectly, with an entity of the State.<sup>23</sup>

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22 Chapter 7 (Members’ salaries)

23 The effect of a contravention of this subsection is dealt with under section 72(1)(h) (Vacating seats of members in particular circumstances).



(2) If a member contravenes subsection (1) in relation to a contract with an entity of the State—

- (a) the contract is invalid to the extent of the contravention; and
- (b) the member is not entitled to, and may not receive, the reward in connection with the contract.

(3) If a member contravenes subsection (1) in relation to the performance of a duty or service for an entity of the State, the member is not entitled to, and may not receive, the reward for the duty or service.

(4) A member does not contravene subsection (1) in relation to a contract with an entity of the State if the member—

- (a) acquires the interest in the contract—
  - (i) under a testamentary disposition or because of the laws of succession; or
  - (ii) as executor, administrator or trustee of the estate of a deceased person; and
- (b) disposes of the interest within—
  - (i) 1 year after the day the person whose death gave rise to the interest mentioned in paragraph (a) died; or
  - (ii) a longer period allowed by the Assembly.

(5) A new member does not contravene subsection (1) in relation to an interest in a contract with an entity of the State arising before the member's election if he or she disposes of the interest within 6 months after being elected.

(6) A new member does not contravene subsection (1) in relation to an obligation to perform a duty or service arising before the member's election if he or she discharges the obligation within 6 months after being elected.

(7) It is declared that subsection (1) does not extend—

- (a) to a contract or agreement with WorkCover Queensland in relation to insurance business carried on by it; or
- (b) to any contract or agreement securing the repayment of the principal, or the payment of interest on, or both the repayment of principal and the payment of interest on, an amount lent to an entity of the State; or

- (c) to any contract or agreement for the provision of legal assistance under the *Legal Aid Queensland Act 1997*, or similar assistance under another law, directly or indirectly by a member who is a lawyer or by a legal practice in which a member who is a lawyer has an interest.

(8) In this section—

“**new member**” means a member who was not a member of the Assembly immediately before the Assembly last expired or was last dissolved.

## PART 4—AUTOMATIC VACATION OF MEMBER’S SEAT

### 72 Vacating seats of members in particular circumstances

(1) A member’s seat in the Assembly becomes vacant if any of the following happens—

- (a) the member fails to take his or her seat within 21 sitting days after being elected as a member;

*Note—*

Under the *Constitution of Queensland 2001*, section 22(3),<sup>24</sup> a member takes the member’s seat on making the oath or affirmation mentioned in section 22(1) of that Act.

- (b) the member stops being enrolled on the electoral roll for the member’s electoral district or another electoral district;
- (c) the member stops being an Australian citizen;
- (d) the member takes an oath or makes a declaration or acknowledgment of allegiance, obedience or adherence to, or becomes an agent of, a foreign state or power;
- (e) the member becomes a member of the Commonwealth Parliament or of a legislature of another State;

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<sup>24</sup> *Constitution of Queensland 2001*, section 22 (No member to sit or vote without first taking oath or making affirmation)

- (f) the member accepts a paid public appointment, other than a paid State appointment;

*Note—*

The effect of purporting to accept a paid State appointment is dealt with under section 69.<sup>25</sup>

- (g) the member is elected or appointed as mayor or a councillor of a local government of the State or another State;
- (h) the Assembly by resolution—
- (i) decides the member has contravened section 71(1), whether or not after reference of the question to the Court of Disputed Returns under the *Electoral Act 1992*, section 143;<sup>26</sup> and
  - (ii) decides not to make a declaration under section 73;
- (i) the member is convicted of any of the following offences—
- (i) an offence against the law of Queensland, another State or the Commonwealth for which the member is sentenced to more than 1 year's imprisonment;
  - (ii) an offence against the Criminal Code, section 59 or 60;<sup>27</sup>
  - (iii) treason, sedition or sabotage under the law of Queensland, another State or the Commonwealth;
- (j) the member becomes a bankrupt under the *Bankruptcy Act 1966* (Cwlth), or a corresponding law of another jurisdiction;
- (k) the member—
- (i) has executed a deed of arrangement as debtor under the *Bankruptcy Act 1966* (Cwlth), part X, or a corresponding law of another jurisdiction; and
  - (ii) breaches the terms of the deed;
- (l) the member's creditors accept a composition under the *Bankruptcy Act 1966* (Cwlth), part X, or a corresponding law of

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25 Section 69 (Appointment to paid State appointment is of no effect)

26 *Electoral Act 1992*, section 143 (Reference of question as to qualification or vacancy)

27 Criminal Code, section 59 (Member of Parliament receiving bribes) or 60 (Bribery of member of Parliament)

another jurisdiction, and the member breaches the terms of the composition;

- (m) the member is absent without the Assembly's permission from the Assembly for more than 21 consecutive sitting days, whether over 1 or more sessions;
- (n) anything else happens that causes the member's seat to be vacant under another law.

*Note—*

For an example of the operation of subsection (1)(n), see the *Electoral Act 1992*, section 176.<sup>28</sup>

(2) For subsection (1)(d), it does not matter that a member may acquire or use a foreign passport or travel document.

(3) For subsection (1)(i)(i), the following apply—

- (a) if the sentence of imprisonment is suspended, the provision does not apply;
- (b) however, if the member is ordered at any time to actually serve more than 1 year of the suspended term of imprisonment, the provision applies.

### **73 Assembly may disregard disqualifying events**

(1) This section applies if the Assembly considers that anything that happened whether before or after the commencement of this section (the “**disqualifying ground**”) may have caused—

- (a) a person to be disqualified from being elected as a member; or
- (b) the seat of a member to become vacant.

(2) The Assembly may declare by resolution the disqualifying ground to be of no effect.

(3) The Assembly may make the declaration only if the Assembly considers the ground—

- (a) has stopped having effect; and
- (b) was in all the circumstances trivial in nature; and

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<sup>28</sup> *Electoral Act 1992*, section 176 (Further penalty of disqualification for certain offences)

(c) happened or arose without the actual knowledge or consent of the person or member or was accidental or due to inadvertence.

(4) This section applies despite any other provision of this chapter.

(5) This section has no effect on the jurisdiction of the Court of Disputed Returns.

#### **74 Effect of appeals against conviction or sentence**

(1) This section applies if a member whose seat becomes vacant because of a conviction, or conviction and sentence, to which section 72(1)(i) or (n) applies (the “**disqualifying ground**”) appeals, or applies for leave to appeal, against the conviction or sentence within 1 calendar month after the conviction or sentence.

(2) If, on appeal, the conviction is quashed or set aside, or the sentence is changed to a sentence to which neither section 72(1)(i) nor (n) applies, the disqualifying ground is taken never to have happened.

(3) To ensure that subsection (2) has effect, a writ for an election to fill the vacancy in the member’s seat caused by the disqualifying ground can not be issued—

(a) until at least 1 calendar month has passed after the seat becomes vacant; and

(b) if the member appeals, or applies for leave to appeal, within 1 calendar month after the seat becomes vacant—until the appeal has ended without subsection (2) applying.

(4) Subsection (3) does not prevent a writ for a general election being issued.

### **PART 5—VACATION OF SEAT BY MEMBER**

#### **75 Resignation of seat in the Assembly**

(1) A member may resign his or her seat by signed writing addressed to the Speaker.

(2) The member’s seat becomes vacant when the Speaker receives the resignation.

**76 Vacancy because of resignation to contest Commonwealth election**

(1) This section applies if, to seek election for the Parliament of the Commonwealth, a member—

- (a) resigns the member's seat not later than 21 days after the issue of the writ for the election; and
- (b) at the time of tendering the resignation, notifies the Speaker in writing of—
  - (i) the member's intention to seek his or her election as a Commonwealth member; and
  - (ii) the member's intention in the event of failing to secure his or her election as a Commonwealth member to become again a candidate for the vacancy in the member's seat in the Assembly arising because of the resignation.

(2) The issue of a writ for an election to fill the vacancy in the member's seat in the Assembly must be deferred until—

- (a) if the member is elected as a Commonwealth member and a petition against the member's election or return as elected is not lodged within the time allowed for the lodging of that type of petition—the expiration of the time so allowed; or
- (b) if the member is elected as a Commonwealth member and a petition against the member's election or return as elected is lodged within the time allowed for the lodging of that type of petition—the final decision on that petition; or
- (c) if the member is not elected as a Commonwealth member and does not lodge a petition against the election or return as elected of another person as a Commonwealth member within the time allowed for the lodging of that type of petition—the expiration of the time so allowed; or
- (d) if the member is not elected as a Commonwealth member and lodges a petition against the election or return as elected of another person as a Commonwealth member within the time allowed for the lodging of that type of petition—the final decision on that petition; or
- (e) if the member is not nominated as a Commonwealth member, or if nominated does not consent to the nomination, within the time required for nomination under the laws of the Commonwealth—the expiration of that time.

(3) In this section—

“**Commonwealth member**” means a member of either House of the Parliament of the Commonwealth.

## **PART 6—GENERAL**

### **77 Particular matters not to affect function or power**

The performance of a function, or exercise of a power, by the Assembly or a committee is not affected because of any of the following—

- (a) the presence and voting of a person who purports to be a member of the Assembly or committee, but who is not qualified to be a member;
- (b) the presence and voting of a person who purports to be a member of the Assembly or committee, but who is disqualified under an Act from being a member;
- (c) the presence and voting of a person whose seat has become vacant;
- (d) the presence and voting of a person who was never properly elected as a member of the Assembly or committee;
- (e) a vacancy in the Assembly’s or committee’s membership.

## **CHAPTER 5—STATUTORY COMMITTEES OF THE ASSEMBLY**

### **PART 1—OBJECTS AND DEFINITIONS**

#### **78 Main object of ch 5 and its achievement**

(1) The main object of this chapter is to enhance the accountability of public administration in Queensland.

(2) The chapter's main object is to be achieved by establishing committees of the Assembly with areas of responsibility that include—

- (a) administrative review reform and constitutional, electoral and legal reform; and
- (b) the ethical conduct of members and parliamentary powers, rights and immunities; and
- (c) the integrity, economy, efficiency and effectiveness of government financial management; and
- (d) certain works undertaken by or for government; and
- (e) the application of fundamental legislative principles to particular Bills and subordinate legislation and the lawfulness of particular subordinate legislation; and
- (f) the Assembly's standing rules and orders.

## 79 Definitions for ch 5

In this chapter—

**“Annual Appropriation Act”** see the *Financial Administration and Audit Act 1977*, section 3.

**“commercial entity”** see section 97(4).<sup>29</sup>

**“community service obligation”** see the *Government Owned Corporations Act 1993*, section 121.

**“consider”** includes examine and inquire into.

**“constructing authority”** see section 97.

**“government financial documents”** includes—

- (a) a document tabled in the Assembly under the *Financial Administration and Audit Act 1977*; and
- (b) the annual financial statements and annual reports of a GOC; and
- (c) a document that would be a government financial document if it had been tabled in the Assembly as required by law;

but does not include estimates of receipts for the proposed expenditure under an Annual Appropriation Act.

<sup>29</sup> Section 97 (Meaning of “constructing authority” for works)



**“major GOC works”** means works (other than public works) undertaken as part of a major infrastructure investment outlined in a GOC’s statement of corporate intent.

**“proposed national scheme legislation”** means a Bill—

- (a) that is intended to be substantially uniform with, or complementary to, legislation of the Commonwealth or another State; and
- (b) whose operation may, under the Act to which the Bill relates, be changed by amendment of a law of the Commonwealth or another State.

**“public works”** see section 96(1).<sup>30</sup>

**“works”** includes—

- (a) a project, service, utility or undertaking; and
- (b) a part or stage of works; and
- (c) a repair, reconstruction or extension of works.

*Examples of paragraph (b)—*

1. Any intermediate stage of works between planning and completion.
2. Engagement of professional consultants for works.
3. Calling of tenders for works.

## PART 2—ESTABLISHMENT

### 80 Establishment of statutory committees

The following committees of the Assembly (the **“statutory committees”**) are established—

- Legal, Constitutional and Administrative Review Committee
- Members’ Ethics and Parliamentary Privileges Committee
- Public Accounts Committee
- Public Works Committee

<sup>30</sup> Section 96 (Areas of responsibility of Public Works Committee)

- Scrutiny of Legislation Committee
- Standing Orders Committee.

### **81 Membership of statutory committees**

(1) A statutory committee must consist of 7 members nominated as follows—

- (a) 4 members nominated by the member who is recognised in the Legislative Assembly as the Leader of the House;
- (b) 3 members nominated by the member who is recognised in the Legislative Assembly as the Leader of the Opposition.

(2) The chairperson of a statutory committee must be the member nominated as chairperson by the member who is recognised in the Legislative Assembly as the Leader of the House.

### **82 Quorum and voting at meetings of statutory committees**

At a meeting of a statutory committee—

- (a) a quorum consists of 4 members appointed to the committee; and
- (b) a question is decided by a majority of the votes of the members of the committee present and voting; and
- (c) each member of the committee has a vote on each question to be decided and, if the votes are equal, the chairperson of the committee has a casting vote.

## **PART 3—ROLE OF STATUTORY COMMITTEES**

### **83 Purpose of pts 3 and 4**

(1) This part sets out the role of statutory committees for their areas of responsibility.

(2) Part 4 sets out the areas of responsibility for each statutory committee.

**84 Role of statutory committees**

(1) The main role of a statutory committee is to deal with issues within its areas of responsibility.

(2) The committee is to also deal with an issue referred to the committee by the Assembly or under another Act, whether or not the issue is within its areas of responsibility.

(3) The committee may deal with an issue by—

- (a) considering it; and
- (b) reporting on it, and making recommendations about it, to the Assembly.

**PART 4—AREAS OF RESPONSIBILITY OF  
STATUTORY COMMITTEES***Division 1—Legal, Constitutional and Administrative Review Committee***85 Areas of responsibility of Legal, Constitutional and  
Administrative Review Committee**

The Legal, Constitutional and Administrative Review Committee has the following areas of responsibility—

- administrative review reform
- constitutional reform
- electoral reform
- legal reform.

**86 Administrative review reform**

(1) The committee's area of responsibility about administrative review reform includes considering legislation, or provisions of legislation, about—

- (a) access to information; or
- (b) review of administrative decisions; or

- (c) anti-discrimination; or
  - (d) equal employment opportunity.
- (2) The committee's area of responsibility does not include—
- (a) investigating particular conduct; or
  - (b) reconsidering or reviewing a decision to investigate, conciliate or review, not to investigate, conciliate or review or to discontinue investigation, conciliation or review of a particular complaint or decision; or
  - (c) reconsidering or reviewing reports, findings, recommendations or decisions in relation to—
    - (i) a particular investigation, complaint or decision; or
    - (ii) particular conduct the subject of a report under the *Ombudsman Act 2001*, section 51(4).<sup>31</sup>

## 87 Constitutional reform

The committee's area of responsibility about constitutional reform includes any Bill expressly or impliedly repealing any law relevant to the State's constitution.

## 88 Electoral reform

The committee's area of responsibility about electoral reform includes monitoring generally the conduct of elections under the *Electoral Act 1992* and the capacity of the electoral commission to conduct elections.

## 89 Legal reform

The committee's area of responsibility about legal reform includes—

- (a) recognition of Aboriginal tradition and Island custom under Queensland law; and
- (b) proposed national scheme legislation referred to the committee by the Assembly.

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31 *Ombudsman Act 2001*, section 51(4) (Action after report making recommendations)

***Division 2—Members’ Ethics and Parliamentary Privileges Committee*****90 Areas of responsibility of Members’ Ethics and Parliamentary Privileges Committee**

The Members’ Ethics and Parliamentary Privileges Committee has the following areas of responsibility—

- the ethical conduct of members
- parliamentary powers, rights and immunities.

**91 Ethical conduct—registration of interests**

The committee’s area of responsibility about the ethical conduct of members includes—

- (a) examining the arrangements, under resolutions or the standing rules and orders of the Assembly, for compiling, keeping and allowing inspection of—
  - (i) a register of the interests of members; and
  - (ii) a register of the interests of persons related to members; and
- (b) considering proposals made by members and other persons about the form and content of the registers and documents relevant to the registers, including statements of interests to be made by members; and
- (c) considering complaints referred to the committee about the failure to register particular interests; and
- (d) considering the classes of person who should be treated as related to a member; and
- (e) publishing explanatory information about the requirements to register interests; and
- (f) any other responsibility about the registration of interests the Assembly may order the committee to have; and
- (g) considering any other issue about the registration of interests.

**92 Ethical conduct—code of conduct**

(1) The committee's area of responsibility about the ethical conduct of members includes—

- (a) publishing and reviewing a code of ethical conduct for members (other than members in their capacity as Ministers), including procedures for complaints about a member not complying with the code; and
- (b) the reform of legislation and standing rules and orders about the ethical conduct of members, including the registration or declaration of interests; and
- (c) considering complaints against particular members for failing to comply with the code of ethical conduct, reporting on complaints to the Assembly and recommending action by the Assembly; and
- (d) publishing explanatory information about the obligations of members about their ethical conduct; and
- (e) any other responsibility about the ethical conduct of members the Assembly may order the committee to have.

(2) In reviewing the code of ethical conduct for members, the committee must have regard to—

- (a) the ethics principles and obligations set out in the *Public Sector Ethics Act 1994*; and
- (b) the desirability of consistency between standards in the code of ethical conduct and the ethics principles and obligations, to the extent the principles and obligations are relevant to members and their functions.

(3) A complaint about a member not complying with the code of ethical conduct for members may be considered only by the Assembly or the committee.

(4) Subsection (3) has effect despite any other law, but the subsection does not apply to a court, tribunal or other entity if the entity may, under a law, consider an issue and the issue that is considered involves the commission, or claimed or suspected commission, of a criminal offence.

(5) Subsection (4) does not limit or otherwise affect the powers, rights and immunities of the Assembly and its committees and members.

**93 Parliamentary powers, rights and immunities**

The committee's area of responsibility about parliamentary powers, rights and immunities includes the powers, rights and immunities of the Assembly and its committees and members.

***Division 3—Public Accounts Committee*****94 Area of responsibility of Public Accounts Committee**

The Public Accounts Committee's area of responsibility is to assess the integrity, economy, efficiency and effectiveness of government financial management by—

- (a) examining government financial documents; and
- (b) considering the annual and other reports of the auditor-general.

**95 Reference of issues to auditor-general**

The committee may refer issues within its area of responsibility to the auditor-general for consideration.

***Division 4—Public Works Committee*****96 Areas of responsibility of Public Works Committee**

(1) The Public Works Committee's areas of responsibility are—

- (a) works (“**public works**”) undertaken by an entity that is a constructing authority for the works if the committee decides to consider the works; and
- (b) any major GOC works if the committee decides to consider the works.

(2) In deciding whether to consider public works, the committee may have regard to—

- (a) the stated purpose of the works and the apparent suitability of the works for the purpose; and
- (b) the necessity for, and the advisability of, the works; and

- (c) value for money achieved, or likely to be achieved, by the works; and
- (d) revenue produced by, and recurrent costs of, the works or estimates of revenue and costs for the works; and
- (e) the present and prospective public value of the works, including, for example, consideration of the impact of the works on the community, economy and environment; and
- (f) procurement methods for the works; and
- (g) the balance of public and private sector involvement in the works; and
- (h) the performance of—
  - (i) the constructing authority for the works; and
  - (ii) the consultants and contractors for the works;  
with particular regard to the time taken for finishing the works and the cost and quality of the works; and
- (i) the actual suitability of the works in meeting the needs and in achieving the stated purpose of the works.

### **97 Meaning of “constructing authority” for works**

(1) An entity is a “**constructing authority**” for works if the entity is the State or a department.

(2) An entity is also a “**constructing authority**” for works if—

- (a) the entity is established under an Act, or under State or local government authorisation, for a public, State or local government purpose; and
- (b) the works are funded from—
  - (i) the consolidated fund; or
  - (ii) the proceeds of a financial arrangement within the meaning of the *Statutory Bodies Financial Arrangements Act 1982*.

(3) In addition, a GOC is a “**constructing authority**” for works if the works are undertaken specifically or substantially for a community service obligation of the GOC.



(4) Also, an entity (a “**commercial entity**”) is a “**constructing authority**” for works if, under an agreement for the works—

- (a) the State or another entity representing the State—
  - (i) has, or will or may have, a financial liability or interest; or
  - (ii) has granted, or will or may grant land, or an interest in land or another right, privilege, monopoly, concession, franchise or interest; or
  - (iii) has contributed, or will or may contribute, resources of any kind; and
- (b) the works have become, or will or may become, the absolute property of the State or another entity representing the State.

(5) A GOC is a “**constructing authority**” for major GOC works referred to the committee by the Assembly.

## 98 Issues to which committee may have regard

In considering works, the Public Works Committee may have regard to the issues mentioned in section 96(2)(a) to (i).<sup>32</sup>

## 99 Entry and inspection of places

(1) The Public Works Committee may authorise a committee member or anyone else (the “**authorised person**”) to enter and inspect a place where works that the committee is considering are proposed to be, are being or have been carried out.

(2) The authorised person may inspect anything in the place relevant to the works.

(3) Nothing in subsection (1) prevents the committee from authorising all members of the committee to enter and inspect the place.

(4) However, the authorised person may enter the place only if the committee or authorised person gives reasonable written notice about the entry to the chief executive of the constructing authority for the works.

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32 Section 96 (Areas of responsibility of Public Works Committee)

(5) On being given the notice, the chief executive must promptly make arrangements for the entry, including, for example, obtaining the consent of the following—

- (a) if the place is occupied—the occupier of the place;
- (b) if the place is not occupied—the owner of the place.

(6) The arrangements must ensure proper regard is given to safety.

(7) The authorised person may enter and inspect the place without the consent mentioned in subsection (5) if the chief executive attempted to obtain the consent, but—

- (a) the attempt was unsuccessful (whether because the occupier or owner refused consent or otherwise); and
- (b) the chief executive gave written notice about the entry (of at least 7 days) to the occupier or owner.

(8) In this section—

“**building**” includes any structure.

“**chief executive**”, of a constructing authority, includes its chief executive officer, however called.

“**place**” includes premises.

“**premises**” includes—

- (a) a building; and
- (b) a part of a building; and
- (c) land where a building is situated.

## **100 Restriction on procurement of capital works project**

(1) This section applies if the Assembly—

- (a) refers works to the Public Works Committee; and
- (b) directs that procurement for the works must not start until the committee has considered the works and reported to the Assembly about the works.

(2) The works must not start or further proceed until the committee’s report is tabled in the Assembly and considered by the Assembly.

(3) This section applies despite any other Act.

**101 Dealing with commercially sensitive information in private session**

(1) This section applies if, while considering works, it appears to the Public Works Committee that confidential information may be given to the committee in a public hearing and publication of the information at the hearing could—

- (a) have a serious effect on the commercial interests of a GOC or commercial entity; or
- (b) reveal trade secrets of a GOC or commercial entity.

(2) The committee must deal with the information in private session.

(3) This section does not limit any other power of a committee to deal with an issue in private session.

**102 Reporting commercially sensitive information to Assembly**

(1) This section applies if the Public Works Committee considers that information obtained by the committee while considering works could, if reported to the Assembly—

- (a) have a serious effect on the commercial interests of a GOC or commercial entity; or
- (b) reveal trade secrets of a GOC or commercial entity.

(2) The committee may report the information to the Assembly only if it considers it is in the public interest to report the information.

***Division 5—Scrutiny of Legislation Committee*****103 Area of responsibility of Scrutiny of Legislation Committee**

(1) The Scrutiny of Legislation Committee's area of responsibility is to consider—

- (a) the application of fundamental legislative principles<sup>33</sup> to particular Bills and particular subordinate legislation; and

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33 "Fundamental legislative principles" are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law (*Legislative Standards Act 1992*, section 4(1)). The principles include requiring that legislation has sufficient regard to rights and liberties of individuals and the institution of Parliament.

(b) the lawfulness of particular subordinate legislation;  
by examining all Bills and subordinate legislation.

(2) The committee's area of responsibility includes monitoring generally the operation of—

- (a) the following provisions of the *Legislative Standards Act 1992*—
- section 4 (Meaning of “fundamental legislative principles”)
  - part 4 (Explanatory notes); and
- (b) the following provisions of the *Statutory Instruments Act 1992*—
- section 9 (Meaning of “subordinate legislation”)
  - part 5 (Guidelines for regulatory impact statements)
  - part 6 (Procedures after making of subordinate legislation)
  - part 7 (Staged automatic expiry of subordinate legislation)
  - part 8 (Forms)
  - part 10 (Transitional).

### *Division 6—Standing Orders Committee*

#### **104 Area of responsibility of Standing Orders Committee**

The Standing Orders Committee's area of responsibility is standing rules and orders about the conduct of business by, and the practices and the procedures of, the Assembly and its committees.

## **PART 5—CHANGE IN COMPOSITION OF STATUTORY COMMITTEE**

#### **105 Issues dealt with by previously constituted committees**

(1) If the composition of a statutory committee changes before it finishes dealing with an issue, the newly constituted committee may continue and finish dealing with the issue as if it had dealt with the issue from the beginning.

*Example—*

Evidence given to the previous committee may be taken to have been given to the newly constituted committee.

(2) Subsection (1) applies even if the committees are constituted during different Parliaments.

## CHAPTER 6—OTHER PROVISIONS ABOUT COMMITTEES

### 106 Act does not limit Assembly's powers

The Assembly's power to establish committees, and confer functions and powers on committees (including statutory committees), is not limited by this Act.

*Example—*

The Assembly may, by resolution, establish a standing or select committee.

### 107 Ministerial response to committee report

(1) This section applies if—

- (a) a report of a committee, other than the Scrutiny of Legislation Committee, recommends the Government or a Minister should take particular action, or not take particular action, about an issue; or
- (b) a report of the Members' Ethics and Parliamentary Privileges Committee recommends a motion be moved in the Assembly to implement a recommendation of the committee.

(2) The following Minister must provide the Assembly with a response—

- (a) for a report mentioned in subsection (1)(a)—the Minister who is responsible for the issue the subject of the report;
- (b) for a report mentioned in subsection (1)(b)—the Premier or a Minister nominated by the Premier.

(3) The response must set out—

- (a) any recommendations to be adopted, and the way and time within which they will be carried out; and
- (b) any recommendations not to be adopted and the reasons for not adopting them.

(4) The Minister must table the response within 3 months after the report is tabled.

(5) If a Minister can not comply with subsection (4), the Minister must—

- (a) within 3 months after the report is tabled, table an interim response and the Minister's reasons for not complying within 3 months; and
- (b) within 6 months after the report is tabled, table the response.

(6) If the Assembly is not sitting, the Minister must give the response, or interim response and reasons, to the Clerk.

(7) The response, or interim response and reasons, is taken to have been tabled on the day they are received by the Clerk.

(8) The receipt of the response, or interim response and reasons, by the Clerk, and the day of the receipt, must be recorded in the Assembly's Votes and Proceedings for the next sitting day after the day of receipt.

(9) The response, or interim response and reasons, is a response, or interim response and reasons, tabled in the Assembly.

(10) Subsection (1) does not prevent a Minister providing a response to a recommendation in a report of the Scrutiny of Legislation Committee if it is practicable for the Minister to provide the response having regard to the nature of the recommendation and the time when the report is made.

*Example—*

If the committee recommends that a Bill be amended because, in the committee's opinion, it does not have sufficient regard to fundamental legislative principles and the Bill has not been passed by the Assembly, it may be practicable for the Minister to provide a response.

(11) Subsection (6) does not limit the Assembly's power by resolution or order to provide for the tabling of a response, or interim response and reasons, when the Assembly is not sitting.

(12) This section does not apply to an annual report of a committee.

**108 Annual report of committee**

(1) Within 4 months and 14 days after the end of each financial year, the chairperson of each committee that has met and conducted business during the year must table in the Assembly a report about the committee's activities during the year.

(2) The report must include—

- (a) a list of meetings of the committee and the names of members attending or absent from each meeting; and
- (b) a summary of issues considered by the committee, including a description of the more significant issues arising from the considerations; and
- (c) a statement of the committee's revenue and spending for the year; and
- (d) a brief description of responses by Ministers to recommendations of the committee.

(3) This section is subject to the Act or resolution of the Assembly under which the committee is established.

**CHAPTER 7—MEMBERS' SALARIES****PART 1—SALARY OF MEMBERS****109 Salary entitlement of a member**

A member of the Assembly is entitled to an annual salary that is \$500 less than the annual salary that a member of the House of Representatives of the Parliament of the Commonwealth, who is not entitled to any additional salary, is entitled to.

**110 Variation of member's salary**

A variation in a member's salary takes effect on and from the day the corresponding adjustment to the salary of a member of the House of Representatives of the Parliament of the Commonwealth takes effect.

**111 Notification of rate of salary**

As soon as practicable after each variation in a member's annual salary takes effect, the Governor in Council must publish by gazette notice a member's varied salary.

**PART 2—ADDITIONAL SALARIES OF MEMBERS****112 Additional salary entitlement of some members**

(1) A member who holds any of the following offices is entitled to be paid salary in addition to the salary the member is entitled to under section 109—

- (a) office holders in the Assembly—
- the Speaker
  - the Chairperson of Committees
  - the Leader of the House
  - the Leader of the Opposition
  - the Deputy Leader of the Opposition
  - the leader in the Assembly of a recognised political party, other than the Leader or Deputy Leader of the Opposition
  - the government whip
  - the opposition whip
  - the government deputy whip
  - the chairperson of a committee to which this section applies
  - a member of a committee to which this section applies;
- (b) Ministers—
- the Premier
  - the Minister who is recognised as the deputy for the Premier
  - each other Minister;
- (c) each Parliamentary Secretary.



(2) For subsection (1), a recognised political party is one of which 10 members at least are members of the Assembly and none of the 10 members is a Minister.

(3) This section applies to a statutory committee, other than the Standing Orders Committee, and any other committee prescribed under a regulation.

### **113 Adjustment of additional salary**

(1) The amount of an additional salary of a member who is an office holder in the Assembly mentioned in section 112(1)(a) or a Minister mentioned in section 112(1)(b) is the additional salary the member was entitled to immediately before the commencement of this section, as varied under section 115.

(2) The amount of the additional salary of a Parliamentary Secretary is the amount fixed by the Governor in Council by gazette notice.

### **114 Only 1 additional salary is payable**

(1) This section applies if a person is—

- (a) a Minister referred to more than once in section 112(1)(b); or
- (b) an office holder mentioned in section 112(1)(a) and a Parliamentary Secretary mentioned in section 112(1)(c); or
- (c) an office holder mentioned in section 112(1)(a) and a Minister mentioned in section 112(1)(b).

(2) The person is entitled to be paid only 1 additional salary.

### **115 Variation of member's additional salary**

(1) Whenever a variation to a member's salary takes effect under section 110, an additional salary payable to the member under section 112(1)(a) or (b) is varied by the same percentage.

(2) The variation to the additional salary takes effect on and from the day the variation under section 110 takes effect.

### **116 Additional salary of Deputy Speaker**

If the Chairperson of Committees acts as the Speaker for a continuous period of 30 days or more, for the whole of the period the Chairperson of

Committees acts, the Chairperson of Committees is to be paid an additional salary at the rate for the time being applicable to the office of the Speaker, instead of the additional salary payable to him or her as Chairperson of Committees.

### **117 Additional salary of temporary Chairperson of Committees**

If a temporary Chairperson of Committees acts in the office of the Chairperson of Committees for a continuous period of 30 days or more, for the whole of the period the temporary Chairperson of Committees acts, the temporary Chairperson of Committees is to be paid an additional salary at the rate for the time being applicable to the office of the Chairperson of Committees.

### **118 Additional salary of acting Minister**

(1) If a Minister acts in another Minister's office for which a higher additional salary is payable for a continuous period of 30 days or more, for the whole of the period the Minister acts, the Minister is to be paid the higher additional salary.

(2) If a member acts as a Minister for a continuous period of 30 days or more, for the whole of the period the member acts, the member is to be paid an additional salary at the rate for the time being applicable to the office of the Minister.

## **PART 3—WHEN SALARIES ARE PAID**

### **119 Application of pt 3**

This part only applies for the purpose of deciding the period for which a salary or additional salary is payable.

### **120 When salary is paid to a member**

(1) A person is entitled to salary as a member from the day of the poll at which the person is elected as a member until the day the person stops being a member.

(2) For subsection (1), if the person is a member on the expiry or dissolution of the Assembly—

- (a) the person does not stop being a member on the expiry or dissolution; and
- (b) if the person is not elected at the general election held after the expiry or dissolution, the person stops being a member on the polling day for the general election.

### 121 When additional salary under s 112 is paid

(1) A member who is entitled to additional salary under section 112<sup>34</sup> for holding an office is entitled to be paid the additional salary from the day of—

- (a) for an office holder appointed by the Assembly—the appointment;
- (b) in any other case—notification of the appointment to the Speaker or the Assembly;

until the day the person stops holding the office.

(2) For subsection (1), the person stops holding the office on—

- (a) for the Speaker—the day the person’s appointment as Speaker ends under section 14(3) or 15;<sup>35</sup> or
- (b) for the Chairperson of Committees—the day the person’s appointment as Chairperson ends under section 17(3) or 18;<sup>36</sup> or
- (c) for a Minister—the day the person’s appointment as Minister ends under the *Constitution of Queensland 2001*, section 34;<sup>37</sup> or
- (d) for a Parliamentary Secretary—the day the person’s appointment as Parliamentary Secretary ends under the *Constitution of Queensland 2001*, section 26;<sup>38</sup> or

34 Section 112 (Additional salary entitlement of some members)

35 Section 14 (The Speaker) or 15 (Speaker continues to hold office on Assembly’s expiry or dissolution)

36 Section 17 (Chairperson of Committees) or 18 (Chairperson of Committees continues to hold office on Assembly’s expiry or dissolution)

37 *Constitution of Queensland 2001*, section 34 (Power of Governor—Ministers)

38 *Constitution of Queensland 2001*, section 26 (Length of Parliamentary Secretary’s appointment)

- (e) for a member who is a chairperson or a member of a committee to which section 112 applies on the expiry or dissolution of the Assembly—the polling day for the general election held after the expiry or dissolution; or
- (f) for another person holding office—
  - (i) the day the person resigns the office; or
  - (ii) the day the person stops being a member; or
  - (iii) the day a successor is appointed to the office and, if the successor is not appointed by the Assembly, the Assembly or Speaker is notified of the appointment of the successor.

### **122 Apparent vacation of seat when Assembly not sitting**

(1) This section applies if at any time when the Assembly is not sitting the seat of any member has become vacant for any cause.

(2) The Speaker, or if the member concerned is the Speaker, the Chairperson of Committees, may direct the Treasurer to retain the amounts that would be payable to the member for the interval between the happening of the cause and the next sitting or session of the Assembly.

(3) If the Assembly declares the seat to have been vacated, no payment is to be made to the member for the time that has elapsed since the happening of the cause.

(4) However, if the seat is not declared to have been vacated, the amounts retained by the Treasurer are to be immediately paid to the member.

### **123 Annual reversion to treasury of undrawn moneys**

(1) If amounts payable to any member under any provision of this chapter have not been drawn by the member before the expiration of 7 days after 1 July in each year, the amounts are to revert to the treasury and become part of the consolidated fund.

(2) The member is no longer entitled to payment of the amounts.

## CHAPTER 8—MISCELLANEOUS

### 124 Regulation-making power

The Governor in Council may make regulations under this Act.

## CHAPTER 9—REPEALS, AMENDMENTS AND TRANSITIONAL PROVISIONS

### PART 1—REPEALS

#### 125 Repeals

The following Acts are repealed—

- Constitution Act Amendment Act 1896 60 Vic No. 5
- Parliamentary Committees Act 1995 No. 38
- Parliamentary Members' Salaries Act 1988 No. 32
- Parliamentary Papers Act 1992 No. 32.

### PART 2—AMENDMENT OF ACTS INTERPRETATION ACT 1954

#### 126 Act amended in pt 2

This part amends the *Acts Interpretation Act 1954*.

#### 127 Omission of s 29A (Tabling of reports when Legislative Assembly not sitting)

Section 29A—

*omit.*

## **PART 3—AMENDMENT OF CORRECTIVE SERVICES ACT 2000**

### **128 Act amended in pt 3**

This part amends the *Corrective Services Act 2000*.

### **129 Amendment of s 6 (Where persons to be detained)**

Section 6(3)—

*insert—*

‘(e) the *Parliament of Queensland Act 2001*, section 40(4)(a).<sup>39</sup>’.

## **PART 4—AMENDMENT OF CRIME AND MISCONDUCT ACT 2001**

### **130 Act amended in pt 4**

This part amends the *Crime and Misconduct Act 2001*.

### **131 Amendment of s 293 (Powers)**

Section 293(1)—

*omit, insert—*

‘(1) The parliamentary committee has power to call for persons, documents and other things.<sup>40</sup>’.

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39 *Parliament of Queensland Act 2001*, section 40 (Assembly proceedings on contempt)

40 See also the *Parliament of Queensland Act 2001*, chapter 3 (Powers, rights and immunities), part 1 (Powers to require attendance and production)

## **PART 5—AMENDMENT OF THE DISTRICT COURT ACT 1967**

### **132 Act amended in pt 5**

This part amends the *District Court Act 1967*.

### **133 Amendment of s 13 (Judges not to practise or sit in Parliament)**

(1) Section 13, heading, ‘**or sit in Parliament**’—

*omit.*

(2) Section 13, ‘, and a judge shall not be capable of being summoned or being chosen as a member of the Legislative Assembly’—

*omit.*

## **PART 6—AMENDMENT OF ELECTORAL ACT 1992**

### **134 Act amended in pt 6**

This part amends the *Electoral Act 1992*.

### **135 Replacement of s 83 (Who may be nominated)**

Section 83—

*omit, insert—*

#### **‘83 Who may be nominated**

Provisions about who may be nominated as a candidate for election, and may be elected, as a member of the Legislative Assembly for an electoral district are set out in section 176<sup>41</sup> and in the *Parliament of Queensland Act 2001*, section 64.<sup>42</sup>

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41 Section 176 (Further penalty of disqualification for certain offences)

42 *Parliament of Queensland Act 2001*, section 64 (Qualifications to be a candidate and be elected a member)

## PART 7—AMENDMENT OF FINANCIAL ADMINISTRATION AND AUDIT ACT 1977

### 136 Act amended in pt 7

This part amends the *Financial Administration and Audit Act 1977*.

### 137 Amendment of s 72 (Strategic review of audit office)

Section 72(3), ‘*Parliamentary Committees Act 1995*, section 24’—  
*omit, insert—*

‘*Parliament of Queensland Act 2001*, section 107<sup>43</sup>’.

### 138 Amendment of s 72B (Report of strategic review)

Section 72B(7), ‘*Parliamentary Committees Act 1995*, section 8(2)’—  
*omit, insert—*

‘*Parliament of Queensland Act 2001*, section 84(2)<sup>44</sup>’.

### 139 Amendment of schedule 3 (Dictionary)

Schedule 3, definition “**parliamentary committee**”, ‘*Parliamentary Committees Act 1995*’—

*omit, insert—*

‘*Parliament of Queensland Act 2001*, section 80<sup>45</sup>’.

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43 *Parliament of Queensland Act 2001*, section 107 (Ministerial response to committee report)

44 *Parliament of Queensland Act 2001*, section 84 (Role of statutory committees)

45 *Parliament of Queensland Act 2001*, section 80 (Establishment of statutory committees)



## **PART 8—AMENDMENT OF FREEDOM OF INFORMATION ACT 1992**

### **140 Act amended in pt 8**

This part amends the *Freedom of Information Act 1992*.

### **141 Amendment of s 108A (Strategic review of commissioner)**

Section 108A(3), ‘*Parliamentary Committees Act 1995*, section 24’—  
*omit, insert—*

‘*Parliament of Queensland Act 2001*, section 107<sup>46</sup>’.

### **142 Amendment of s 108AB (Report of strategic review)**

Section 108AB(7), ‘*Parliamentary Committees Act 1995*, section 8(2)’—

*omit, insert—*

‘*Parliament of Queensland Act 2001*, section 84(2)<sup>47</sup>’.

## **PART 9—AMENDMENT OF LOCAL GOVERNMENT ACT 1993**

### **143 Act amended in pt 9**

This part amends the *Local Government Act 1993*.

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46 *Parliament of Queensland Act 2001*, section 107 (Ministerial response to committee report)

47 *Parliament of Queensland Act 2001*, section 84 (Role of statutory committees)

**144 Omission of s 224 (Termination of membership of Legislative Assembly on becoming councillor)**

Section 224—

*omit.*

**PART 10—AMENDMENT OF OMBUDSMAN ACT 2001****145 Act amended in pt 10**

This part amends the *Ombudsman Act 2001*.

**146 Amendment of s 72 (Vacation of office)**

(1) Section 72(a), ‘the Assembly, or’—

*omit.*

(2) Section 72, at the end—

*insert—*

‘*Note—*

Under the *Parliament of Queensland Act 2001*, section 67(1), the person holding office as ombudsman must resign on being nominated under the *Electoral Act 1992*, section 84, as a candidate for election.’.

**147 Amendment of s 83 (Strategic review of ombudsman office)**

Section 83(3), ‘*Parliamentary Committees Act 1995*, section 24’—

*omit, insert—*

‘*Parliament of Queensland Act 2001*, section 107<sup>48</sup>’.

**148 Amendment of s 85 (Report of strategic review)**

Section 85(7), ‘*Parliamentary Committees Act 1995*, section 8(2)’—

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48 *Parliament of Queensland Act 2001*, section 107 (Ministerial response to committee report)

*omit, insert—*

*‘Parliament of Queensland Act 2001, section 84(2)<sup>49</sup>’.*

### **149 Amendment of section 89 (Functions)**

Section 89(e), footnote, *‘Parliamentary Committees Act 1995, section 10’—*

*omit, insert—*

*‘Parliament of Queensland Act 2001, section 86’.*

## **PART 11—AMENDMENT OF PARLIAMENTARY CONTRIBUTORY SUPERANNUATION ACT 1970**

### **150 Act amended in pt 11**

This part amends the *Parliamentary Contributory Superannuation Act 1970*.

### **151 Amendment of s 5 (Definitions)**

(1) Section 5, definition “**basic salary**”, footnote, *‘Parliamentary Members’ Salaries Act 1988, part 2’—*

*omit, insert—*

*‘Parliament of Queensland Act 2001, chapter 7 (Members’ salaries), part 1 (Salary of members)’.*

(2) Section 5, definition “**salary**”, footnote, from *‘Parliamentary Members’* to *‘Secretaries’—*

*omit, insert—*

*‘Parliament of Queensland Act 2001, chapter 7 (Members’ salaries), part 2 (Additional salaries of members)’.*

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49 *Parliament of Queensland Act 2001, section 84 (Role of statutory committees)*

## **PART 12—AMENDMENT OF POLICE POWERS AND RESPONSIBILITIES ACT 2000**

### **152 Act amended in pt 12**

This part amends the *Police Powers and Responsibilities Act 2000*.

### **153 Amendment of sch 1 (Acts not affected by this Act)**

Schedule 1—

*insert—*

*‘Parliament of Queensland Act 2001, section 44’.*

## **PART 13—TRANSITIONAL PROVISIONS**

### **154 Retrospective application of s 9**

(1) This section applies to all words spoken and acts done in the course of, or for the purposes of or incidental to, transacting business of the Assembly or a committee before the commencement of section 9 that would have been proceedings in the Assembly if they had happened after the commencement of section 9.

(2) The protection provided by section 8 in relation to proceedings in the Assembly extends to all the words and acts.

### **155 Saving of standing rules and orders**

The standing rules and orders of the Assembly in existence immediately before the commencement of this section, from the commencement are taken to have been prepared and adopted under section 11.

### **156 Continuation of the Speaker**

The member holding office as Speaker immediately before the commencement of this section, from the commencement is taken to hold office under section 14.

### **157 Continuation of the Chairperson of Committees**

The member holding office as Chairperson of Committees immediately before the commencement of this section, from the commencement is taken to hold office under section 17.

### **158 Continuation of existing law relating to previous contempt**

(1) This section applies to an act done or omission made before the commencement of this section that constituted contempt of the Assembly.

(2) The contempt is to be dealt with as if this Act and the *Constitution of Queensland 2001* had not been passed.

(3) Without limiting subsection (2), the *Constitution Act 1867*, sections 45 to 52 as they existed immediately before those sections were omitted by the *Constitution of Queensland 2001* continue to apply, despite being omitted, to the act or omission.

### **159 Transitional provisions relating to chapter 4**

(1) Chapter 4 applies to a member even if the member is a person whose membership of the Assembly was continued under the *Constitution of Queensland 2001*, section 81.

(2) Section 64(2) applies in relation to circumstances of imprisonment, detention, conviction, bankruptcy, execution of deed of arrangement, acceptance of composition or other event mentioned in the subsection even if they happened, or any act, omission or other circumstance to which they relate happened, before the commencement of the subsection.

(3) Section 66 applies in relation to the paid State appointment mentioned in the section, even if the circumstances of appointment or any of them arose before the commencement of the section.

(4) Section 67 applies in relation to a office holder or deputy of an office holder mentioned in the section, even if the circumstances of appointment or any of them arose before the commencement of the section.

(5) Section 68 applies in relation to a person mentioned in the section, even if the circumstances of membership or appointment mentioned in relation to the person or any of them arose before the commencement of the section.

(6) Section 71(1)—

- (a) applies in relation to the transaction of business mentioned in the subsection, even if it is a continuation of the transaction of business started before the commencement of the subsection; and
- (b) does not apply to the transaction of business that ended before the commencement of the subsection.

(7) Subject to subsection (6), the *Legislative Assembly Act 1867*, section 7B<sup>50</sup> continues to apply, despite the repeal of that Act, to the transaction of business and the performance of any duty or service mentioned in the section.

(8) Section 72(1)(i) to (n) applies in relation to circumstances of conviction, imprisonment, bankruptcy, breach of terms of a deed of arrangement or composition, or absence mentioned in the subsection even if they happened, or any act, omission or other circumstance to which they relate happened, before the commencement of the subsection.

### **160 Continuation of existing statutory committees**

(1) Each statutory committee established under section 80<sup>51</sup> is a continuation of the corresponding committee established under the *Parliamentary Committees Act 1995*.

(2) From the repeal of the *Parliamentary Committees Act 1995*, the membership of each statutory committee before the repeal continues as the membership of the same committee continued under subsection (1).

(3) A statutory committee that, immediately before the repeal of the *Parliamentary Committees Act 1995* was dealing with an issue within its areas of responsibility under that Act, from the repeal may continue to deal with the issue under this Act.

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50 *Legislative Assembly Act 1867*, section 7B (Eligibility of members to perform services)

51 Section 80 (Establishment of statutory committees)

## SCHEDULE

### DICTIONARY

section 3

**“Annual Appropriation Act”** for chapter 5, see section 79.

**“Assembly”** means the Legislative Assembly.

**“authorised committee”** means—

- (a) a statutory committee; or
- (b) a committee of the Assembly authorised by the Assembly or an Act to call for persons, documents and other things.

**“authorising person”** for chapter 3, part 3, see section 48.

**“Bill”** means a Bill for an Act proposed for enactment by the Parliament.

**“candidate”**, for election, see *Electoral Act 1992*, section 3, definition “candidate”.

**“Chairperson of Committees”** means the Chairperson of Committees in the Assembly.

**“chief reporter”** means the chief reporter, parliamentary reporting staff.

**“Clerk”** means the Clerk of the Parliament.

**“commercial entity”** for chapter 5, see section 79.

**“committee”** means a committee of the Assembly, whether or not a statutory committee.

**“Committee of the Whole House”** means the Committee of the Whole House of the Legislative Assembly.

**“community service obligation”** for chapter 5, see section 79.

**“consider”** for chapter 5, see section 79.

**“constructing authority”** for chapter 5, see section 79.

**“corrective services facility”** see the *Corrective Services Act 2000*, schedule 3, definition “corrective services facility”.

## SCHEDULE (continued)

**“corresponding law of another jurisdiction”** means a corresponding law of another jurisdiction, whether inside or outside Australia.

**“division”** means any voting of the Assembly or any Committee of the Whole House for which a division is called on any question.

**“entity”**, of a State, means—

- (a) the relevant State; or
- (b) the Governor or Governor in Council of the relevant State; or
- (d) a Minister of the relevant State; or
- (c) a department, service, agency, authority, commission, corporation, instrumentality, board, office, or other entity, established for a government purpose of the relevant State; or
- (d) an entity a majority or more of members of which, or of the governing body of which, are appointed by—
  - (i) an entity of the relevant State; or
  - (ii) a Minister of, or a person holding a paid public appointment under, the relevant State; or
- (e) a part of an entity mentioned in paragraph (c) or (d).

**“entity”**, of the Commonwealth, means—

- (a) the Commonwealth; or
- (b) the Governor-General or the Governor-General in Council of the Commonwealth; or
- (c) a Minister of the Commonwealth; or
- (c) a department, service, agency, authority, commission, corporation, instrumentality, board, office, or other entity, established for a Commonwealth government purpose; or
- (d) an entity a majority or more of members of which, or of the governing body of which, are appointed by—
  - (i) an entity of the Commonwealth; or
  - (ii) a Minister of, or a person holding a paid public appointment under, the Commonwealth; or
- (e) a part of an entity mentioned in paragraph (c) or (d).



## SCHEDULE (continued)

“**expiry**”, of the Assembly, means expiry of the Assembly by passage of time.

“**fundamental legislative principles**” see the *Legislative Standards Act 1992*, section 4.

“**general election**” see the *Electoral Act 1992*, section 3, definition “general election”.

“**government financial documents**” for chapter 5, see section 79.

“**government printer**”, in relation to a document or evidence that the Assembly or a committee orders or otherwise authorises to be printed, or that is taken to be printed by the Assembly, includes a person authorised by the Assembly to print the document or evidence.

“**inquiry**” means an inquiry held under the authority of the Assembly.

“**major GOC works**” for chapter 5, see section 79.

“**member**” means a member of the Assembly.

“**office**”, held by a person, includes position.

“**paid public appointment**” see section 65(1).

“**paid State appointment**” see section 65(2).

“**possession**”—

- (a) for a document in the possession of the Assembly, or a committee or an inquiry, includes a document tabled in, or presented or submitted to, the Assembly, the committee or the inquiry; and
- (b) generally includes the following—
  - (i) control;
  - (ii) power.

“**proceedings in the Assembly**” see section 9.

“**proposed national scheme legislation**” for chapter 5, see section 79.

“**public works**” for chapter 5, see section 79.

“**reward**” includes fee.

“**rights**” includes privileges.

“**Speaker**” means the Speaker of the Assembly.

## SCHEDULE (continued)

**“standing rules and orders”** means the standing rules and orders adopted under section 11.

**“statutory committee”** means a statutory committee established under section 80.

**“tabled”** in or at, includes laid before.

**“temporary Chairperson of Committees”** means a member appointed or recognised as a temporary Chairperson of Committees under the standing rules and orders.

**“works”** for chapter 5, see section 79.