



Queensland

# Parliament of Queensland Act 2001

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## Queensland

# Parliament of Queensland Act 2001

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# Parliament of Queensland Act 2001

**An Act to provide for the powers, rights and immunities of the Legislative Assembly, appointment of its officers and committees, establishment 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**

## 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*—
  - (a) contains basic statements about the Assembly's membership and procedures and its powers, rights and immunities; and
  - (b) provides for the duration of the Assembly.
- (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 1934* prohibits provision being made for the existence of another legislative body except as provided in the Act.
- (5) 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.

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## 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 portfolio 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.



Governor for the purpose even though in not more than 5 of the electoral districts a member has not been elected.

## **10A Sitting and transacting business in exceptional circumstances**

- (1) In exceptional circumstances, a meeting of the Assembly or a Committee of the Whole House may be held, and business transacted, using any technology that enables reasonably continuous and contemporaneous communication between the Speaker or Deputy Speaker presiding and the members present other than members present by proxy, and between the members present other than members present by proxy.
- (2) For the purposes of a meeting held and business transacted in exceptional circumstances, the provisions of this Act are to be applied—
  - (a) with necessary and appropriate modifications that may be prescribed in the standing rules and orders of the Assembly; or
  - (b) in the absence of the prescription mentioned in paragraph (a), with modifications the Speaker determines to be necessary and appropriate in the circumstances.

### *Example of a necessary and appropriate modification*

The standing rules and orders of the Assembly might provide that if, during a meeting conducted under this section, a member who is present by electronic means is voting as and for an absent member under section 20, references to voting inside the bar or outside the bar are to be read as requiring the member to declare to the Speaker or Deputy Speaker presiding whether the member is voting for the absent member and in the member's own right, or for the absent member only.

## **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;
  - (ca) the way the time, date and place for a meeting of the Assembly may be set;
  - (cb) the way the proceedings of the Assembly are to be conducted in exceptional circumstances including, for example, how the electronic attendance of members is to be facilitated and verified, and how votes are to be taken;
  - (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 referral of Bills, subordinate legislation or other matters to portfolio committees for consideration and report;
  - (h) the proper presentation of Bills to the Governor for royal assent;
  - (i) the declaration and registration of interests of members and of persons related to members, whether continuing or for a particular purpose.
- (2A) To facilitate proxy voting at meetings of the Assembly or a Committee of the Whole House held in exceptional circumstances, standing rules and orders may also provide for

a system of proxy voting in addition to, and in a way that differs from, proxy voting under part 5.

- (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, a quorum exists if 16 members of the Assembly, exclusive of the Speaker or Deputy Speaker presiding, are present.

## **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 Deputy Speaker 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 Deputy Speaker 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 Deputy Speaker is for any reason unable to act as Speaker at a time mentioned in subsection (3)(a) or (b), the most senior temporary Deputy Speaker, who is able to act as Speaker, may act as the Speaker.

- (5) For subsection (4), as between temporary Deputy Speakers the most senior temporary Deputy Speaker 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 Deputy Speaker**

### **17 Deputy Speaker**

- (1) The members of the Assembly must as soon as practicable on sitting after every general election proceed to appoint a member to be Deputy Speaker.
- (2) The Deputy Speaker must preside at all meetings of a Committee of the Whole House, unless otherwise provided by the standing rules and orders.
- (3) The Deputy Speaker stops holding office on his or her resignation or removal by a vote of the Assembly.
- (4) On the Deputy Speaker's death, resignation or removal by a vote of the Assembly, the members must proceed to appoint another member to be the Deputy Speaker before proceeding to any other business.

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

- (1) For all purposes, the Deputy 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) To remove doubt, it is declared that subsection (1) applies to the Deputy Speaker acting as Speaker under section 16(3) for the purposes of section 15(1).
- (3) Subsection (1) applies even if the Deputy 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.

## 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, the proxy may vote as and for the absent member.

- (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 Deputy Speaker, 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—

[s 24]

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- (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.

# **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

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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—
  - (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.

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- (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 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 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 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.
  - (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) 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 the Assembly or a committee**

- (1) Without limiting sections 8 and 9, evidence may not be given in any proceeding of an answer given by a person before the Assembly or a committee, or of the fact the person produced a document or other thing to the Assembly or a committee.
- (2) However, subsection (1) does not apply to—

- (a) a proceeding before the Assembly or a committee of the Assembly; or
  - (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; 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.
- (3) Subsection (2) applies despite sections 8 and 9.

## 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
- 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

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- 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) or (4), 31(3), 32(2) or (6), 33(2) or (8) or 69B(1), (2) or (4)
- 8 preventing or attempting to prevent a person from complying with section 29(1), 30(1) or (4), 31(3), 32(2) or (6), 33(2) or (8) or 69B(1), (2) or (4)
- 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.

- (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.

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#### **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 2006*, section 6.

#### **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 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 chief executive (corrective services) or a person in charge of a 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 an Act, the person may be proceeded against for the contempt or for the offence against the 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 Act.

## **Part 3 Parliamentary records**

#### **48 Definitions for pt 3**

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.

**broadcast** means a broadcast, transmission, rebroadcast or retransmission made electronically or in any other way.

**parliamentary record** see section 49.

**publication** means a publication in any form and includes a broadcast.

#### **49 Meaning of *parliamentary record***

- (1) A ***parliamentary record*** is a record relating to proceedings in the Assembly.
- (2) A record relating to proceedings in the Assembly includes a record of proceedings in the Assembly.
- (3) The record may be—
  - (a) in any form; or
  - (b) permanent or otherwise; or
  - (c) made at the same time as the proceedings to which it relates or otherwise.

*Example—*

The record may be in audio or visual form and last only a short time.

#### **50 Assembly or committee may authorise publication**

- (1) The Assembly may authorise publication of a parliamentary record.
- (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) An authority under subsection (1) or (2) extends to the doing of all acts preparatory to, or otherwise for the purposes of, publication.

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- (4) This part does not limit by implication any other power the Assembly or a committee may have to authorise publication of any thing.
  - (5) Without limiting subsections (1) and (2), if the Assembly authorises publication of a thing under subsection (1), or a committee authorises publication of a thing under subsection (2), without mentioning who may publish the thing, the Assembly or committee is taken to authorise the publication of the thing by the government printer.
  - (6) If the Assembly authorises, or is taken to authorise, the printing of a parliamentary record, then, unless the Assembly otherwise expressly provides—
    - (a) the Assembly is taken to authorise the publication of the parliamentary record; and
    - (b) publication of the parliamentary record other than in printed form is adequate compliance with any requirement that the document be printed.

## **51 Assembly taken to have authorised particular publication**

- (1) The Assembly is taken to have authorised the publication of an authorised parliamentary record by an authorised publisher.
- (2) The authority conferred by subsection (1) extends to the doing of all acts preparatory to, or otherwise for the purposes of, the publication.
- (3) For this part, a thing purporting to be an authorised parliamentary record is taken to be an authorised parliamentary record unless the contrary is proved.
- (4) In this section—

*authorised parliamentary record* means a parliamentary record, including any of the following records, the publication of which is authorised by an authorising person—

- (a) the Record of Proceedings;
- (b) the Notices of Motion and Orders of the Day;

- (c) the Questions on Notice and answers to questions on notice;
- (d) transcripts or other reports of proceedings in a committee or an inquiry;
- (e) an audio or visual record of proceedings in the Assembly.

***authorised publisher*** means—

- (a) a member or a person acting on behalf of a member; or
- (b) the Speaker; or
- (c) the chairperson of a committee; or
- (d) the Clerk; or
- (e) an officer or employee of the parliamentary service acting in the course of the person's duties; or
- (f) the government printer; or
- (g) an engaged entity.

***engaged entity*** means—

- (a) an entity engaged by the Speaker or Clerk or a chairperson of a committee (the ***engager***) for the publication of a particular authorised parliamentary record; or
- (b) an employee, contractor or agent of the entity acting in the course of the person's duties, contract or agency; or
- (c) if, with the engager's written approval, the entity engages another entity for the publication of the particular authorised parliamentary record—
  - (i) the other entity; or
  - (ii) an employee, contractor or agent of the other entity acting in the course of the person's duties, contract or agency.

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**52 Tabled, unpublished documents may be read etc.**

- (1) A person may read any document that is tabled in the Assembly by a member, but is not authorised by the Assembly to be published.
- (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 published when tabled or taken to be tabled in the Assembly**

The following documents are taken to be published 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 authorises the document to be published.

## **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); and
  - (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 thing is a parliamentary record; and
  - (g) that the Assembly authorised publication of a parliamentary record or a committee authorised publication of evidence or a document; and
  - (h) that the Assembly or a committee authorised publication of a thing by the government printer under section 50(5); and
  - (i) that a thing is an authorised parliamentary record as defined under section 51; and
  - (j) that an entity is an authorised publisher as defined under section 51 for publication of a particular authorised parliamentary record; and
  - (k) that an act was preparatory to, or otherwise for the purposes of, publication of a thing; and
  - (l) that a document was tabled in the Assembly by a member but was not—

- (i) authorised by the Assembly to be published; or
- (ii) taken to be published by the Assembly; and
- (m) that a document was tabled in the Assembly by the member with—
  - (i) the express permission of the Speaker; or
  - (ii) the leave of the Assembly; and
- (n) that a person is an authorising person; and
- (o) that a person is the government printer; and
- (p) that the Assembly imposed conditions on the publication of a parliamentary record.

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

- (1) An engaged entity or another person does not incur any civil or criminal liability for—
  - (a) publishing a parliamentary record under the authority of the Assembly; or
  - (b) publishing evidence or a document under the authority of 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
  - (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.
- (6) In this section—  
*engaged entity* see section 51.  
*publishing* a thing includes doing all acts preparatory to, or otherwise for the purposes of, publishing the thing.

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

- (1) Reports of the debates in the Assembly published in written form under the authority of the Assembly may be received in evidence as an accurate record of what happened in the Assembly.

*Note—*

See also the *Evidence Act 1977*, section 47 in relation to copies of official records of proceedings in the Assembly.

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

## **58 Assembly may impose conditions on publication**

- (1) The Assembly may at any time impose conditions on the publication of a parliamentary record.
- (2) It does not matter whether the parliamentary record has been previously published or whether the Assembly authorises or has authorised the publication.

*Example—*

Assume an audio or visual record of proceedings in the Assembly is published on the internet by an authorised publisher under section 51. The Assembly may impose conditions on the publication by the authorised publisher. The Assembly may also impose conditions on the publication by a person who has accessed the internet publication of a parliamentary record derived from that access.

- (3) Publication of a parliamentary record in contravention of a condition imposed by the Assembly is a contempt of the Assembly.



## **59A References to when the Assembly is not sitting**

- (1) Subsection (2) applies if an Act or the standing rules and orders refer to something being done, or state the effect of something done, in relation to a document when the Assembly is not sitting.
- (2) The reference to the Assembly not sitting is taken to include the Assembly being expired, prorogued or dissolved.
- (3) If a document is taken to have been tabled in the Assembly because of subsection (2) when the Assembly—
  - (a) has expired or is dissolved; or
  - (b) is prorogued and the Assembly expires or is dissolved before its next session;the document is taken to be a document of the next Assembly.
- (4) If a document is taken to have been tabled in the Assembly because of subsection (2) when the Assembly is prorogued and the Assembly does not expire and is not dissolved before its next session, the document is taken to be a document of the next session of the Assembly.

## **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.

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**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; or
  - (d) has been convicted within 10 years before the day of nomination of a disqualifying electoral offence; or
  - (e) has been convicted, and not pardoned, of treason, sedition or sabotage under the law of Queensland, another State or the Commonwealth; or
  - (f) is an undischarged bankrupt under the *Bankruptcy Act 1966* (Cwlth), or a corresponding law of another jurisdiction; or
  - (g) has executed a deed of arrangement as debtor under the *Bankruptcy Act 1966* (Cwlth), part X, or a

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corresponding law of another jurisdiction, and the terms of the deed have not been fully complied with; or

- (h) 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
  - (i) is not entitled to be a candidate for election, or to be elected as a member of the Assembly, under another law.
- (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, 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.
- (6) In this section—
- disqualifying electoral offence*** means—



*Note—*

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).

- (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 an Assistant Minister; or
  - (b) an Act or resolution of the Assembly 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 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 registrar.
- (6) In this section—
- reward* does not include—
- (a) an amount decided under the *Queensland Independent Remuneration Tribunal Act 2013*; or

- (aa) an amount decided under the deed under the *Superannuation (State Public Sector) Act 1990* in relation to a transferring member within the meaning of repealed section 32A of that Act; 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).

*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, as a candidate for election—
  - (a) human rights commissioner under the *Anti-Discrimination Act 1991*;
  - (b) auditor-general;
  - (c) commissioner of the Crime and Corruption Commission;
  - (d) the Clerk;
  - (f) commissioner of the police service;
  - (g) Crown solicitor;
  - (h) director of public prosecutions;
  - (i) electoral commissioner;
  - (j) the health ombudsman under the *Health Ombudsman Act 2013*;

- (k) information commissioner;
  - (l) integrity commissioner;
  - (m) ombudsman;
  - (n) parliamentary counsel;
  - (o) parliamentary crime and corruption commissioner;
  - (p) a commissioner of the Public Service Commission;
  - (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), a member takes the member's seat on taking the oath or making the affirmation mentioned in section 22(1) of that Act.
- 2 Under the *Local Government Act 2009*, section 155(3), a councillor of a local government (which by definition includes the mayor) ceases to be a councillor if the councillor becomes a

member of the Legislative Assembly. See also the *City of Brisbane Act 2010*, section 155(3).

- 3 For the effect of a paid State appointment on a candidate's election, see section 66.
- (2) Subsection (1) does not affect section 72(1)(a).

## 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).

## Part 2A Registers of interests

### 69A Definitions for pt 2A

In this part—

***child***, in relation to a member, includes an adopted child, ex-nuptial child or stepchild of the member.

***register*** means—

- (a) the register of members' interests; or
- (b) the register of related persons' interests.

***related person***, in relation to a member, means—

- (a) the member's spouse; or
- (b) a person who is totally or substantially dependent on the member and—
  - (i) the person is the member's child; or
  - (ii) the person's affairs are so closely connected with the member's affairs that a benefit derived by the

person, or a substantial part of it, could pass to the member.

*statement of interests* means—

- (a) a statement of interests (member); or
- (b) a statement of interests (related persons).

*statement of interests (member)* see section 69B(1)(a).

*statement of interests (related persons)* see section 69B(1)(b).

## 69B Statements of interests

- (1) A member must, within 1 month after taking the member's seat, give to the registrar the following statements—
  - (a) a statement of the interest, as at the date of the election, of the member (a *statement of interests (member)*);
  - (b) a statement of the interest, as at the date of the election, of which the member is aware of each person who is a related person of the member (a *statement of interests (related persons)*).

*Notes—*

- 1 Under the *Constitution of Queensland 2001*, section 22(3), a member takes the member's seat on taking the oath or making the affirmation mentioned in section 22(1) of that Act.
  - 2 A contravention of subsection (1) constitutes contempt of the Assembly—see section 37. See also sections 69D and 47.
- (2) A member must, within 1 month after becoming aware of a change in the particulars contained in the last statement of interests given by the member, notify the registrar in writing of the change.

*Note—*

A contravention of subsection (2) constitutes contempt of the Assembly—see section 37. See also sections 69D and 47.

- (3) A statement of interests and any change in the particulars of the interests must be given in accordance with the standing rules and orders.

- (4) A member must not give to the registrar a statement of interests or information relating to a statement of interests the member knows is false or misleading in a material particular.

*Note—*

A contravention of subsection (4) constitutes contempt of the Assembly—see section 37. See also sections 69D and 47.

- (5) A reference in this section to an interest is a reference to the matter within its ordinary meaning under the general law and the definition in the *Acts Interpretation Act 1954*, schedule 1 does not apply.

## **69C Registrar**

- (1) There is to be a Registrar of Members' Interests (*registrar*).
- (2) The Clerk is to be the registrar.
- (3) The registrar must keep—
  - (a) a register of members' interests; and
  - (b) a register of related persons' interests.
- (4) The registrar must, in accordance with the standing rules and orders, enter the following particulars in the relevant register and keep the registers up to date—
  - (a) the particulars of the interests given by a member in a statement of interests (member) and any changes to the particulars notified by the member;
  - (b) the particulars of the interests given by a member in a statement of interests (related persons) and any changes to the particulars notified by the member.
- (5) The registrar must, in accordance with the standing rules and orders, include a copy of each waiver given under section 65(5) as part of the register of members' interests.

## **69D Dishonest disclosure or non-disclosure of interests**

- (1) A Minister must not, with intent to dishonestly obtain a benefit for the Minister or another person, or to dishonestly

cause a detriment to another person, contravene section 69B(1), (2) or (4).

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) In this section—

*benefit* includes property, advantage, service, entertainment, the use of or access to property or facilities, and anything of benefit to a person whether or not it has any inherent or tangible value, purpose or attribute.

*detriment*, caused to a person, includes detriment caused to a person's property.

## **69E Proceeding for offence against s 69D**

- (1) An offence against section 69D is a misdemeanour.
- (2) A proceeding for an offence against section 69D may be started only with the written consent of the director of public prosecutions.
- (3) A proceeding for an offence against section 69D may be taken, at the election of the prosecution—
  - (a) by way of summary proceeding under the *Justices Act 1886*; or
  - (b) on indictment.
- (4) However, a magistrate must not hear an indictable offence against section 69D summarily if the magistrate is satisfied, on an application made by the defence, that because of exceptional circumstances the offence should not be heard and decided summarily.

*Note—*

For examples of exceptional circumstances, see the examples stated in the Criminal Code, section 552D(2).

(5) If subsection (4) applies—

- 
- (a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and
  - (b) the proceeding for the charge must be conducted as a committal proceeding; and
  - (c) a plea of the defendant at the start of the hearing must be disregarded; and
  - (d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and
  - (e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.
- (6) A Magistrates Court that summarily deals with a charge of an offence against section 69D—
- (a) must be constituted by a magistrate; and
  - (b) has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose.
- (7) In this section—

*director of public prosecutions* means the Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1984*.

## **69F Use of evidence or information for investigation or prosecution**

- (1) This section applies to the following—
  - (a) evidence of anything said or done during proceedings in the Assembly;
  - (b) any information given to the registrar under this part.
- (2) The evidence or information may be—
  - (a) recorded, used and disclosed for the purpose of the investigation or prosecution of an offence against section 69D; and



- 
- (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—

**duty or service** includes a duty or service constituted by the act of transacting any business for the entity of the State concerned.

**entity**, of the State, does not include a local government.

**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 the *Queensland Independent Remuneration Tribunal Act 2013*; or
- (aa) an amount decided under the deed under the *Superannuation (State Public Sector) Act 1990* in relation to a transferring member within the meaning of repealed section 32A of that Act; 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.

*Note—*

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—



- (c) the member stops being an Australian citizen;
- (d) the member takes an oath or makes a declaration or acknowledgement 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;
- (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.

- (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 153; 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;
  - (iii) a disqualifying electoral offence;
  - (iv) 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 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 12 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.
- (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.
- (4) In this section—
- disqualifying electoral offence* see the *Electoral Act 1992*, section 2.

### **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
  - (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



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—
  - (a) establishing the Committee of the Legislative Assembly with areas of responsibility that include the conduct of the Assembly and the ethical conduct of members; and
  - (b) providing for the membership and operation of portfolio committees; and
  - (c) establishing the Ethics Committee with areas of responsibility that include dealing with complaints

about the ethical conduct of members and alleged breaches of parliamentary privilege.

## 79 Definitions for ch 5

In this chapter—

**Annual Appropriation Act** see the *Financial Accountability Act 2009*, section 6.

**Authority** means the Authority established under the *Queensland Rail Transit Authority Act 2013*, section 6.

**commercial entity** see section 96(4).

**community service obligation**—

- (a) of a GOC—see the *Government Owned Corporations Act 1993*, section 112; or
- (b) of the Authority—see the *Queensland Rail Transit Authority Act 2013*, section 57.

**consider** includes examine and inquire into.

**constructing authority** see section 96.

**cross bench member** means a member of the Assembly who is neither a government member nor an opposition member.

**government financial documents** includes—

- (a) a document tabled in the Assembly under the *Financial Accountability Act 2009*; and
- (b) the annual financial statements and annual reports of a GOC or the Authority; 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.

**government member** means a member of the Assembly who is a member of a political party recognised in the Assembly as being in government.

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**major works** means works (other than public works) undertaken as part of a major infrastructure investment outlined in—

- (a) for a GOC—the GOC’s statement of corporate intent; or
- (b) for the Authority—the Authority’s operational plan.

**non-government member** means an opposition member or a cross bench member.

**opposition member** means a member of the Assembly who is a member of a political party recognised in the Assembly as being in opposition.

**present**, in relation to a member at a meeting of a committee, means present in person or by telephone, video or other electronic means.

**public works** see section 94(1)(b).

**voting**, in relation to a member at a meeting of a committee, means voting in person or by telephone, video or other electronic means.

**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



(3) In this section—

*alternate*, in relation to a member, means another member of the Assembly nominated by the first member to perform the first member's role as a member of the committee.

*cross bench member* does not include the Speaker.

### **81A Nomination of cross bench member**

(1) If there is a vacancy in the membership of the committee under section 81(2)(b)(i)—

(a) the members of the Assembly who are cross bench members must—

(i) choose, by majority, a cross bench member to be the nominee for membership of the committee; and

(ii) advise the Leader of the House in writing of their choice; and

(b) the Leader of the House must nominate the chosen member to be a member of the committee.

(2) The Leader of the House does not have a vote in any process used by the cross bench members to choose a member under subsection (1)(a)(i).

(3) However, if at least 2 sitting days have elapsed since the vacancy arose and the cross bench members have not complied with subsection (1)(a), the Leader of the House may choose a cross bench member and nominate that member.

(4) In this section—

*cross bench member* does not include the Speaker.

### **82 Chairperson**

The Speaker is to be the chairperson of the committee.

## **83 Meetings**

- (1) This section applies to a meeting of the committee.
- (2) The Speaker is responsible for calling the meeting and setting the agenda.
- (3) A quorum is—
  - (a) if the committee includes a cross bench member under section 81(2)—5 members; or
  - (b) otherwise—4 members.
- (4) A question is decided by a majority of the votes of the members present and voting.
- (5) Each member present has a vote on each question to be decided and, if the votes are equal, the Speaker has a casting vote.

## **Division 2 Role of committee**

### **84 Areas of responsibility**

The committee has the following areas of responsibility—

- (a) the ethical conduct of members;

*Note—*

However, under section 104C(2), a complaint about a particular member not complying with the code of ethical conduct for members may be considered only by the Assembly or the Ethics Committee.

- (b) parliamentary powers, rights and immunities;
- (c) standing rules and orders about the conduct of business by, and the practices and the procedures of, the Assembly and its committees;
- (d) any other matters for which the committee is given responsibility under the standing rules and orders;
- (e) any matter referred to the committee by the Speaker.

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## **85 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 the classes of person who should be treated as related to a member; and
- (d) publishing explanatory information about the requirements to register interests; and
- (e) any other responsibility about the registration of interests the Assembly may order the committee to have; and
- (f) considering any other issue about the registration of interests.

## **86 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

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- (c) publishing explanatory information about the obligations of members about their ethical conduct; and
  - (d) 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 values 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 values, to the extent the principles and values are relevant to members and their functions.

## **87 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.

# **Part 3 Portfolio committees**

## **Division 1 Establishment**

### **88 Establishment**

- (1) The Assembly must, by standing rules and orders, establish committees as required under the *Constitution of Queensland 2001*, section 26A (*portfolio committees*).
- (2) The standing rules and orders must state, for each portfolio committee—
  - (a) its name; and
  - (b) its primary area of responsibility (its *portfolio area*).

- (3) Each department must be covered by a portfolio area, whether by allocating the whole department to the portfolio area of a committee or allocating parts of the department to the portfolio areas of different committees.
- (4) As soon as practicable after a change in the Administrative Arrangements, the Assembly must prepare and adopt any amendments of the standing rules and orders concerning the portfolio committees that are necessary to comply with this section.
- (5) As well as 1 or more departments or parts of departments, a committee's portfolio area may include other government entities and matters.

## **Division 2                    Membership and operation**

### **89            Explanation**

This division provides for the membership and operation of portfolio committees according to the numbers of government members and non-government members making up the membership of the Assembly.

### **91            Membership and operation—less than 15% non-government membership of Assembly**

- (1) This section applies to each portfolio committee during a period when the number of non-government members is less than 15% of the number of Assembly members provided for under the *Constitution of Queensland 2001*, section 11.

*Note—*

The *Constitution of Queensland 2001*, section 11 provides that the Legislative Assembly is to consist of 93 members. So this section applies if there are up to 13 non-government members.

- (2) The committee comprises 8 members, being—
  - (a) 6 members nominated by the Leader of the House; and
  - (b) 2 members nominated by the Leader of the Opposition.

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- (3) The chairperson is the member of the committee nominated as chairperson by the Leader of the House.
- (4) A quorum is 5 members including at least 1 non-government member.
- (5) A question is decided by a majority of the votes of the members present and voting.
- (6) Each member has a vote on each question to be decided.
- (7) If the votes on a question are equal, the question is decided in the negative but may be put again at any time.

**91A Membership and operation—at least 15% but less than 25% non-government membership of Assembly**

- (1) This section applies to each portfolio committee during a period when the number of non-government members is at least 15% but less than 25% of the number of Assembly members provided for under the *Constitution of Queensland 2001*, section 11.

*Note—*

The *Constitution of Queensland 2001*, section 11 provides that the Legislative Assembly is to consist of 93 members. So this section applies if there are 14 to 23 non-government members.

- (2) The committee comprises 7 members, being—
  - (a) 5 members nominated by the Leader of the House; and
  - (b) 2 members nominated by the Leader of the Opposition.
- (3) The chairperson is the member of the committee nominated as chairperson by the Leader of the House.
- (4) A quorum is 4 members including at least 1 non-government member.
- (5) A question is decided by a majority of the votes of the members present and voting.
- (6) Each member has a vote on each question to be decided.
- (7) If the votes on a question are equal, the question is decided in the negative but may be put again at any time.

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**91B Membership and operation—at least 25% but less than 50% non-government membership of Assembly**

- (1) This section applies to each portfolio committee during a period when the number of non-government members is at least 25% but less than 50% of the number of Assembly members provided for under the *Constitution of Queensland 2001*, section 11.

*Note—*

The *Constitution of Queensland 2001*, section 11 provides that the Legislative Assembly is to consist of 93 members. So this section applies if there are 24 to 46 non-government members.

- (2) The committee comprises 6 members, being—
- (a) 3 members nominated by the Leader of the House; and
  - (b) 3 members nominated by the Leader of the Opposition.
- (3) The chairperson is the member of the committee nominated as chairperson by the Leader of the House.
- (4) A quorum is 4 members.
- (5) A question is decided by a majority of the votes of the members present and voting.
- (6) Each member has a vote on each question to be decided.
- (7) If the votes on a question are equal, the chairperson has a casting vote.

**91C Membership and operation—at least 50% non-government membership of Assembly**

- (1) This section applies to each portfolio committee during a period when the number of non-government members is at least 50% of the number of Assembly members provided for under the *Constitution of Queensland 2001*, section 11.

*Note—*

The *Constitution of Queensland 2001*, section 11 provides that the Legislative Assembly is to consist of 93 members. So this section applies if there are at least 47 non-government members.

- (2) The committee comprises 6 members, being—

- (a) 3 members nominated by the Leader of the House; and
- (b) 3 members nominated by the Leader of the Opposition.
- (3) The chairperson is the member of the committee nominated as chairperson by an order of the Assembly.
- (4) A quorum is 4 members.
- (5) A question is decided by a majority of the votes of the members present and voting.
- (6) Each member has a vote on each question to be decided.
- (7) If the votes on a question are equal, the question is decided in the negative but may be put again at any time.

## **Division 3                      Role of portfolio committees**

### **92            Role generally**

- (1) In relation to its portfolio area, a committee may—
  - (a) consider Appropriation Bills; and
  - (b) consider other legislation and proposed legislation as provided in section 93; and
  - (c) perform its role in relation to public accounts and public works as provided in this division; and
  - (d) initiate an inquiry into any other matter it considers appropriate.
- (2) A committee is to also deal with an issue referred to it by the Assembly or under another Act, whether or not the issue is within its portfolio area.
- (3) A committee may deal with a matter under this section by—
  - (a) considering the matter; and
  - (b) reporting on the matter, and making recommendations about it, to the Assembly.

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## 93 Legislation

- (1) A portfolio committee is responsible for examining each Bill and item of subordinate legislation in its portfolio area to consider—
  - (a) the policy to be given effect by the legislation; and
  - (b) the application of fundamental legislative principles to the legislation; and

*Note—*

*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.

- (c) for subordinate legislation—its lawfulness.
- (2) The committee's responsibility includes monitoring, in relation to legislation in its portfolio area, the operation of—
  - (a) the *Acts Interpretation Act 1954*, section 48; and
  - (b) the *Legislative Standards Act 1992*, section 4 and part 4; and
  - (c) the *Statutory Instruments Act 1992*, section 9 and parts 6, 7 and 10; and
  - (d) for subordinate legislation—the guidelines, for a regulatory impact statement system, approved by the Treasurer.

*Editor's note—*

The guidelines may be accessed on the website of Queensland Treasury.

- (3) The committee's responsibility also includes considering Bills, subordinate legislation and other laws and matters as required under the *Human Rights Act 2019*, sections 39, 40 and 57.

## 94 Public accounts and public works

- (1) A portfolio committee has the following responsibilities to the extent they relate to the committee's portfolio area—
  - (a) the assessment of the integrity, economy, efficiency and effectiveness of government financial management by—
    - (i) examining government financial documents; and
    - (ii) considering the annual and other reports of the auditor-general;
  - (b) works (*public works*) undertaken by an entity that is a constructing authority for the works if the committee decides to consider the works;
  - (c) any major works if the committee decides to consider the works.
- (2) In deciding whether to consider public works, a portfolio 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;

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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.

## 95 Reference of issues to auditor-general

A portfolio committee may refer issues within its portfolio area mentioned in section 94(1)(a) to the auditor-general for consideration.

## 96 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 or the Authority is a *constructing authority* for works if the works are undertaken specifically or substantially for a community service obligation of the GOC or the Authority.
- (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 or the Authority is a ***constructing authority*** for major works referred to a portfolio committee by the Assembly.

## **97 Issues to which committee may have regard**

In considering works, a portfolio committee may have regard to the issues mentioned in section 94(2)(a) to (i).

## **98 Entry and inspection of places**

- (1) A portfolio 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.
- (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;

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- (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) If the authorised person enters the place in the occupier's or owner's absence under subsection (7), the authorised person must give to the occupier or owner a written notice, within 7 days after the entry, stating—
- (a) the authorised person's name; and
- (b) the purpose for which the place was entered; and
- (c) the day and time of the entry.
- (9) In this section—

*building* includes any structure.

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

*place* includes premises other than residential premises.

*premises* includes—

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

## 99 Restriction on procurement of capital works project

- (1) This section applies if the Assembly—
- (a) refers works to a portfolio 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.

### **100 Dealing with commercially sensitive information in private session**

- (1) This section applies if, while considering works, it appears to a portfolio 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, the Authority or a commercial entity; or
  - (b) reveal trade secrets of a GOC, the Authority or a 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.

### **101 Reporting commercially sensitive information to Assembly**

- (1) This section applies if a portfolio 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, the Authority or a commercial entity; or
  - (b) reveal trade secrets of a GOC, the Authority or a 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.

## **Part 4 Ethics Committee**

### **Division 1 Establishment and operation**

#### **102 Establishment**

The Ethics Committee is established.

#### **103 Membership**

The committee comprises 6 members, being—

- (a) 3 members nominated by the Leader of the House; and
- (b) 3 members nominated by the Leader of the Opposition.

#### **104 Chairperson**

The chairperson of the committee is to be the member of the committee nominated as chairperson by the Leader of the House.

#### **104A Quorum and voting at meetings**

At a meeting of the committee—

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

## **Division 2                      Role of committee**

### **104B Areas of responsibility**

The committee has the following areas of responsibility—

- dealing with complaints about the ethical conduct of particular members
- dealing with alleged breaches of parliamentary privilege by members of the Assembly and other persons.

### **104C Complaints about ethical conduct**

- (1) The committee's area of responsibility about dealing with complaints about the ethical conduct of particular members is to—
  - (a) consider complaints referred to the committee about particular members failing to register particular interests; and
  - (b) consider complaints against particular members for failing to comply with the code of ethical conduct for members, report on complaints to the Assembly and recommend action by the Assembly.
- (2) 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.
- (3) Subsection (2) 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.
- (4) Subsection (3) does not limit or otherwise affect the powers, rights and immunities of the Assembly and its committees and members.

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## **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 recommends the Government or a Minister should take particular action, or not take particular action, about an issue; or

- (b) a report of the Committee of the Legislative Assembly or the Ethics 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 that is 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 Record of 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 (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.
- (11) 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 8      Miscellaneous**

### **124      Regulation-making power**

The Governor in Council may make regulations under this Act.

## **Chapter 9      Repeals and transitional provisions for Act No. 81 of 2001**

### **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 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 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 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.

## **161 Application of ch 3, pt 3**

Chapter 3, part 3 applies to evidence given and documents tabled, printed or published at any time whether before or after the commencement of chapter 3, part 3 of this Act as originally enacted.

## Chapter 10 Further transitional provisions

### Part 1 Parliament of Queensland Amendment Act 2003

#### 162 Transitional provision

Chapter 3, part 3 applies to records relating to proceedings in the Assembly at any time whether before or after the commencement of this section.

### Part 2 Parliament of Queensland Amendment Act 2004

#### 163 Transitional provision

- (1) During the transitional period, section 71(2) is taken always to have applied in relation to a contract as if the amendment had commenced on 6 June 2002.
- (2) For deciding whether a member has contravened section 71(1) during the transitional period, section 72(1)(h) is taken to apply as if the amendment had commenced on 6 June 2002.
- (3) Section 159(6) has effect as if the amendment had commenced on 6 June 2002.
- (4) In this section—

*amendment* means the *Parliament of Queensland Amendment Act 2004*, section 3.

*transitional period* means the period starting at the beginning of 6 June 2002 and ending at the end of the day before the commencement of the amendment.



## 167 Provision for amendments to ss 70 and 71

- (1) During the transitional period, section 71(1) and (2) are taken always to have applied in relation to a contract or the performance of a duty or service as if sections 70 and 71 as amended by the amendment had commenced on 6 June 2002.
- (2) For deciding whether a member has contravened section 71(1) during the transitional period, section 72(1)(h) is taken to apply as if sections 70 and 71 as amended by the amendment had commenced on 6 June 2002.
- (3) Section 159(6) has effect as if sections 70 and 71 as amended by the amendment had commenced on 6 June 2002.
- (4) In this section—

*amendment* means the *Integrity Reform (Miscellaneous Amendments) Act 2010*, sections 75 and 76.

*transitional period* means the period starting at the beginning of 6 June 2002 and ending at the end of the day before the commencement of the amendment.

## Part 5 Parliament of Queensland (Reform and Modernisation) Amendment Act 2011

### 168 Definitions for pt 5

In this part—

*commencement* means the commencement of the provision in which the term is used.

*repealed*, in relation to a section, means as in force before the repeal of the section by the *Parliament of Queensland (Reform and Modernisation) Amendment Act 2011*.

### 169 Committee of the Legislative Assembly

- (1) The CLA is a committee to which section 112 applies.

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- (2) A reference in section 112(1)(a) to a member of a committee includes a member of the Assembly who is, as a nominee, performing the role of a member of the CLA.
  - (3) On the commencement of this subsection, the CLA continues as the committee established under section 79A.
  - (4) In this section—  
*CLA* means the committee appointed by a resolution of the Assembly on 10 March 2011 to be known as the Committee of the Legislative Assembly.

### **170 Initial membership of Ethics Committee**

- (1) This section applies to each person who, immediately before the commencement, was a member of the Integrity, Ethics and Parliamentary Privileges Committee established under repealed section 80.
- (2) The person continues as a member of the Ethics Committee established under section 102 until the appointment of members of the committee who have been nominated under section 103.

### **171 Continuation of Scrutiny of Legislation Committee for transitional period**

- (1) The scrutiny committee continues until the end of the transitional period.
- (2) During the transitional period, the scrutiny committee continues to have the area of responsibility that it had immediately before the commencement under repealed section 103, but only to the extent of—
  - (a) considering the application of fundamental legislative principles to—
    - (i) Bills introduced into the Assembly before the commencement; and
    - (ii) subordinate legislation made before the commencement; and

- (b) considering the lawfulness of subordinate legislation made before the commencement; and
  - (c) continuing to conduct its current inquiries.
- (3) In this section—

*current inquiry* means an inquiry of the scrutiny committee, acting in its area of responsibility under repealed section 103(2), that the committee started before the commencement but had not completed by the commencement.

*scrutiny committee* means the committee that, immediately before the commencement, was the Scrutiny of Legislation Committee established under repealed section 80.

*transitional period* means the period from the commencement until the end of the day on 30 June 2011.

## **172 Material held by committees**

- (1) A member of the Assembly who was a member of a pre-reform committee may give to the Clerk any material held by the committee immediately before the commencement.
- (2) The Clerk may make the material available to a statutory committee to which the material is relevant.
- (3) In this section—

*pre-reform committee* means a committee established under repealed section 80.

## **173 Additional salary of Manager of Opposition Business**

- (1) Despite section 113(1), the amount of an additional salary of a member who is the Manager of Opposition Business is the amount fixed by the Governor in Council by gazette notice, as varied under section 115.
- (2) The gazette notice under subsection (1) has retrospective operation to 10 March 2011.

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### **174 Additional salary of committee chairpersons**

- (1) The Governor in Council may, by gazette notice, fix an amount of an additional salary to which a committee chairperson is entitled to.
- (2) If an amount is fixed by gazette notice under subsection (1) then, despite section 113(1), the amount of an additional salary of a member who is the committee chairperson is the amount fixed by the gazette notice, as varied under section 115.
- (3) In this section—  
*committee chairperson* means the chairperson of a committee to which section 112 applies.

### **175 Transitional—waivers**

- (1) This section applies to a waiver held by the Speaker that was given to the Speaker under section 65(5) before the commencement.
- (2) The Speaker must give the waiver to the registrar.
- (3) The registrar must, in accordance with the standing rules and orders, include a copy of the waiver as part of the register of members' interests.

## **Part 6 Parliament of Queensland and Other Acts Amendment Act 2012**

### **176 Additional salary of particular office holders**

- (1) Despite section 113(1), the amount of an additional salary of a member who is the Manager of Government Business, chief government whip or senior government whip is the amount fixed by the Governor in Council by gazette notice, as varied under section 115.

- (2) The gazette notice under subsection (1) has retrospective operation to 30 March 2012.
- (3) Until a gazette notice is made under section 113(2) after the commencement of this section, the amount of an additional salary of a member who is an Assistant Minister continues to be the additional salary the member was entitled to, as a Parliamentary Secretary, immediately before the commencement of this section.

## **Part 7**

# **Queensland Independent Remuneration Tribunal Act 2013**

### **177 Particular references to provisions of repealed ch 7**

- (1) This section applies to a provision of the *Superannuation (State Public Sector) Deed 1990* that includes a reference to either of the following in relation to a member of the Assembly—
  - (a) the *Parliament of Queensland Act 2001*, section 109;
  - (b) the *Parliament of Queensland Act 2001*, section 112.
- (2) The provision applies in relation to the member as if the reference were a reference to the *Queensland Independent Remuneration Tribunal Act 2013*.

### **178 Offices of Deputy Speaker and temporary Deputy Speaker**

- (1) The member holding office as Chairperson of Committees immediately before 9 August 2013 is taken to hold the office of Deputy Speaker.
- (2) A member holding office as a temporary Chairperson of Committees immediately before 9 August 2013 is taken to hold the office of a temporary Deputy Speaker.

## **Part 8**

# **Constitution of Queensland and Other Legislation Amendment Act 2016**

### **179 Continuation of existing portfolio committees**

- (1) This section applies to a portfolio committee established under section 88 immediately before the commencement.
- (2) On the commencement, the portfolio committee is taken to be established as a committee of the Assembly under the *Constitution of Queensland 2001*, section 26A.

## 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.

*Authority*, for chapter 5, see section 79.

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

*broadcast* for chapter 3, part 3, see section 48.

*candidate*, for election, see *Electoral Act 1992*, section 2, definition *candidate*.

*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 2006*, schedule 4, definition *corrective services facility*.

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

***COVID-19 emergency***, for chapter 2, part 2, see section 9A.

***cross bench member***, for chapter 5, see section 79.

***Deputy Leader of the Opposition*** means the member recognised in the Assembly as the Deputy Leader of the Opposition.

***Deputy Premier*** means the Minister who is recognised as the deputy for the Premier.

***Deputy Speaker*** means the Deputy Speaker of the Assembly.

***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
- (c) a Minister of the relevant State; or
- (d) a department, service, agency, authority, commission, corporation, instrumentality, board, office, or other entity, established for a government purpose of the relevant State; or
- (e) 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
- (f) a part of an entity mentioned in paragraph (d) or (e).

***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
- (d) a department, service, agency, authority, commission, corporation, instrumentality, board, office, or other entity, established for a Commonwealth government purpose; or
- (e) 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
- (f) a part of an entity mentioned in paragraph (d) or (e).

***exceptional circumstances***, for chapter 2, part 2, see section 9A.

***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 company*** means a corporation incorporated under the Corporations Act all the stock or shares in the capital of which is or are beneficially owned by the State.

***government entity*** means any of the following—

- (a) a government entity under the *Public Service Act 2008*, section 24;
- (b) a GOC;
- (c) a government company;
- (d) a statutory authority or other entity established under an Act;

(e) an office established under an Act.

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

*government member*, for chapter 5, see section 79.

*government printer* means the Government Printer of Queensland and includes an officer or employee of the government printer acting in the course of the person's duties.

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

*Leader of the House* means the member who is recognised in the Legislative Assembly as the Leader of the House.

*Leader of the Opposition* means the member recognised in the Assembly as the Leader of the Opposition.

*major works*, for chapter 5, see section 79.

*Manager of Opposition Business* means the member recognised in the Assembly as the Manager of Opposition Business.

*member* means a member of the Assembly.

*non-government member*, for chapter 5, see section 79.

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

*opposition member*, for chapter 5, see section 79.

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

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

*parliamentary precinct*, for chapter 2, part 2, see section 9A.

*parliamentary record* for chapter 3, part 3, see section 49.

*parliamentary service* means the parliamentary service established under the *Parliamentary Service Act 1988*.

*portfolio area*, of a portfolio committee, see section 88(2)(b).

*portfolio committee* means a committee established under section 88.

*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.

***present***—

- (a) for chapter 2, part 2, see section 9A; or
- (b) for chapter 5, see section 79.

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

***publication*** for chapter 3, part 3, see section 48.

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

***registrar*** see section 69C(1).

***reward*** includes fee.

***rights*** includes privileges.

***Speaker*** means the Speaker of the Assembly.

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

***statutory committee*** means any of the following committees—

- (a) the Committee of the Legislative Assembly;
- (b) a portfolio committee;
- (c) the Ethics Committee.

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

***temporary Deputy Speaker*** means a member appointed or recognised as a temporary Deputy Speaker under the standing rules and orders.

***transacts business***, with an entity of the State, see section 70.

***voting***—

- (a) for chapter 2, part 2, see section 9A; or
  - (b) for chapter 5, see section 79.
- works* for chapter 5, see section 79.