



Queensland

Attorney-General Act 1999

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Attorney-General Act 1999

An Act relating to the functions and powers of the Attorney-General, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Attorney-General Act 1999*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Establishment of office

3 The office of Attorney-General

- (1) There is to be an Attorney-General for the State.
- (2) The Attorney-General is—
 - (a) the Minister who is designated by the Governor as Attorney-General or Minister for Justice and Attorney-General; or
 - (b) if the Governor does not designate a Minister as Attorney-General or Minister for Justice and Attorney-General—the Minister.

4 Position of Attorney-General

The Attorney-General is the first law officer of the State.

Part 3 Attorney-General's functions and powers

Division 1 Principal functions

5 Principal functions

The Attorney-General's principal functions are—

- (a) to be the State's chief legal representative; and
- (b) to give legal advice to the State; and
- (c) to be the Minister responsible to the Parliament for the administration of law and justice in the State.

Division 2 Powers

6 General powers

- (1) The Attorney-General has power to do all things necessary or convenient to be done for the Attorney-General's functions.
- (2) The Attorney-General may start and conduct litigation for the following—
 - (a) the State;
 - (b) the Governor;
 - (c) a Minister;
 - (d) a person suing or being sued on behalf of the State.

7 Specific powers

(1) The Attorney-General may do the following—

- (a) present an indictment;
- (b) enter nolle prosequi on indictments;

Note—

See the Criminal Code, section 563.

- (c) grant immunities from prosecution;
- (d) undertake to a person not to use, or make derivative use of, information or a thing against the person in a proceeding, other than in relation to the falsity of evidence given by the person in a proceeding;
- (e) enforce charitable and public trusts;
- (f) bring proceedings to enforce and protect public rights;
- (g) grant fiats to enable entities, that would not otherwise have standing, to start or continue proceedings in the Attorney-General's name—
 - (i) to enforce charitable and public trusts; and
 - (ii) to enforce and protect public rights;
- (h) challenge the constitutional validity of legislation (including Commonwealth legislation) that affects the public interest in the State;
- (i) appear before a court to help the court in appropriate cases;
- (j) advise the Executive Council on judicial appointments;
- (k) start proceedings for contempt of court in the public interest;
- (l) apply for judicial review to correct errors by courts and tribunals.

(2) Despite subsection (1)(a) or (b), the Attorney-General may not direct or instruct the Director of Public Prosecutions to present an indictment or enter a nolle prosequi.

(3) To avoid any doubt, it is declared that—

- (a) the Attorney-General may not grant immunity from prosecution for a future act or omission; and
- (b) a decision or proposed decision to exercise a power for a matter listed under subsection (1) is not a decision of an administrative character under an enactment merely because the matter is listed under subsection (1).

Division 3 General

8 Retention of traditional role

The Attorney-General has the functions, powers, prerogatives and privileges of the Attorney-General for the State under the common law or equity or by tradition or usage.

9 Additional functions and powers

- (1) The Attorney-General also has functions and powers conferred on the Attorney-General under this Act or another Act.
- (2) A function or power conferred on the Attorney-General under this Act or another Act does not limit another function or power of the Attorney-General.

9A Relator application

An application for the Attorney-General's fiat under section 7(1)(g) must be made to the Attorney-General in the way prescribed under a regulation.

Part 4 Reporting obligations

10 Refusal of relator application

- (1) This section applies if—
 - (a) an application is made for the Attorney-General to grant an entity a fiat to start or continue a proceeding in the Attorney-General's name to enforce or protect a public right; and
 - (b) the application is refused or the fiat is not granted within 60 days after the application was made.
- (2) The Attorney-General must—
 - (a) prepare a report outlining—
 - (i) the nature of the application; and
 - (ii) the breach of the public right alleged; and
 - (iii) the reasons for the refusal of the application or failure to grant the fiat; and
 - (b) table the report in the Legislative Assembly within 3 sitting days after—
 - (i) the refusal; or
 - (ii) if the application was not refused but the fiat was not granted within 60 days after the application was made, the end of the 60 days.

11 Independent exercise of powers about prosecutions

- (1) This section applies if the Attorney-General—
 - (a) presents an indictment against a person and—
 - (i) the person is acquitted; or
 - (ii) the person is convicted and any period for appealing against the conviction has ended and an appeal against the conviction has not been started; or

- (iii) the person is convicted and the person has appealed against the conviction and the appeal is finally decided or has otherwise ended; or
 - (iv) the prosecution process has otherwise ended; or
 - (b) enters a nolle prosequi on an indictment.
- (2) The Attorney-General must—
 - (a) prepare a report outlining the circumstances and reasons for the Attorney-General's decision to present the indictment or to enter the nolle prosequi; and
 - (b) table the report in the Legislative Assembly within 3 sitting days after the event mentioned in subsection (1) happens.
- (3) In this section—

convicted includes being found guilty, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

Part 5 Miscellaneous

12 Service on Attorney-General

- (1) This section applies if, under another Act, a document must or may be served on or given to the Attorney-General.
- (2) The service or giving of the document may be carried out by giving the document to the chief executive.

13 Regulation-making power

The Governor in Council may make regulations under this Act.

14 Review of amendments made in response to recommendations of the Women’s Safety and Justice Taskforce

- (1) The Attorney-General must ensure a review is carried out into the operation and effectiveness of the legislative amendments made in response to the recommendations of the Women’s Safety and Justice Taskforce (2021) by—
 - (a) the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023*; and
 - (b) the *Justice and Other Legislation Amendment Act 2023* to the *Criminal Law (Sexual Offences) Act 1978*; and
 - (c) the *Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024*; and
 - (d) the *Queensland Community Safety Act 2024* to the *Youth Justice Act 1992*; and
 - (e) the *Criminal Justice Legislation (Sexual Violence and Other Matters) Amendment Act 2024*.
- (2) The Attorney-General must determine the terms of reference of the review.
- (3) The review must—
 - (a) start as soon as practicable 5 years after the commencement; and
 - (b) consider—
 - (i) the outcomes of the amendments; and
 - (ii) the effects of the amendments on victims and perpetrators of sexual violence and domestic and family violence; and
 - (iii) the outcomes for, and the effects of the amendments on, Aboriginal and Torres Strait Islander peoples; and
 - (iv) whether the amendments are operating as intended.

- (4) The Attorney-General must, as soon as practicable after the review is completed, table a report of the review in the Legislative Assembly.