

Queensland



COMMERCIAL CAUSES ACT 1910

**Reprinted as in force on 9 December 1994
(includes amendments up to Act No. 68 of 1991)**

Reprint No. 1

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This Act is reprinted as at 9 December 1994. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (Pt 4, Div 2)
- express gender specific provisions in a way consistent with current legislative drafting practice (s 24)
- use standard punctuation consistent with current legislative drafting practice (s 27)
- use expressions consistent with current legislative drafting practice (s 29)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current legislative drafting practice (s 35)
- omit provisions that are no longer required (s 39)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43).

Also see Endnotes for information about—

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in the reprint, including—**
 - **Table of obsolete and redundant provisions**
 - **Table of renumbered provisions.**

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COMMERCIAL CAUSES ACT 1910

[as amended by all amendments that commenced on or before 9 December 1994]

An Act to make better provision for the trial of commercial causes

Short title

1. This Act may be cited as the *Commercial Causes Act 1910*.

Interpretation

2. In this Act—

“**commercial causes**” include causes arising out of the ordinary transactions of merchants and traders; amongst others those relating to the construction of mercantile documents, export or import of merchandise, carriage of goods, sale of goods, building contracts, engineering contracts, insurance, banking, money lending, mercantile agency and mercantile usages.

“**Judge**” means a Judge of the Supreme Court.

“**prescribed**” means prescribed by rules of court.

“**registrar**” means the registrar of the Supreme Court, and includes a deputy registrar.

“**rules of court**” include forms.

A list of commercial causes to be kept

- 3.(1) A list of commercial causes shall be kept by the registrar.

(2) All proceedings in the causes on such list shall be in accordance with the provisions of this Act.

(3) No cause shall be entered on such list except upon the order of a Judge as hereinafter provided.

Either party may apply to have action placed on such list

4.(1) Either party to an action in the Supreme Court may, at any time after the commencement of the action, call upon the other party to show cause before a Judge in Chambers why such action should not be entered on the list of commercial causes.

(2) The Judge may order the action to be so entered, and from such order there shall be no appeal.

Directions

(4) Such Judge or any other Judge shall, by such or a subsequent order, give such directions as in the Judge's opinion are expedient for the speedy and inexpensive determination of the questions in the action really at issue between the parties.

(5) To effect this purpose the Judge may inter alia do any or all of the following things—

- (a) dispense with pleadings;
- (b) dispense with the rules of evidence for proving any matter where it is just to do so (including cases where expense and delay might otherwise be caused); and without limiting the generality of this power, dispense with the proof of handwriting, of documents, of the identity of parties or parcels, or of authority;
- (c) require particulars of the cause of action, of the grounds of defence, or of any other facts or circumstances connected with the action to be served within a specified time by either party;
- (d) order mutual discoveries and inspection within a specified time;
- (e) require either party to make admissions with respect to any question of fact involved in the action;
- (f) settle the issues for trial;
- (g) order the action to be tried without a jury unless a jury is demanded by both parties;
- (h) order the trial to be expedited;

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- (i) direct that notes of the evidence at the trial shall be taken in shorthand;
- (j) state a case on matters of law for the Court of Appeal;
- (k) fix the amount of party and party costs to be paid by the unsuccessful party.

Jury's verdict or Judge's decision may be final

5. The parties may, if they so desire, agree that the verdict of the jury or the decision of the Judge in a commercial cause shall be final.

Rules of court

6. The Judges of the Supreme Court may make rules of court for carrying this Act into effect, and in particular for all or any of the following matters—

- (a) regulating the sittings of the court to try commercial causes;
- (b) regulating the pleading, practice, and procedure in such causes and the costs of proceedings therein.

Commercial dispute concerning construction of document

6A.(1) Where a commercial dispute has arisen concerning the construction of a document or its application to any facts, any party to the dispute may apply to a Judge in Chambers for the determination of the questions involved in the dispute notwithstanding that no commercial cause has been commenced.

(2) A commercial dispute is a dispute which would be a commercial cause if made the subject of an action in the Supreme Court.

(3) An application under this section may be made in a summary manner by originating summons returnable on 2 clear days notice, supported by affidavit.

(4) Where it is necessary in the determination of a commercial dispute to decide any question of fact, the Judge may decide the question forthwith or settle the issues for trial and give any consequential directions as if the

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matter was a commercial cause.

(5) A determination of any issue of fact or of any question of law pursuant to this section shall be binding on all parties to the summons in the same manner as if the issue or question had been determined in a commercial cause.

(6) Where on the hearing of an application under this section, the Judge is of opinion that the dispute is not a commercial dispute but is a matter in which an application may be made under Rule 1A, 1B or 1BB of Order 64 of the Rules of the Supreme Court, the Judge may proceed to determine the matter as if it was the subject of an application pursuant to such of the said rules as are applicable in the circumstances.

Rules of court now in force

7.(1) Subject to this Act and the rules of court made thereunder, all enactments in force at the passing of this Act and, all rules of court, relating to actions shall apply to commercial causes.

Additional power as to regulation of practice and procedure by rules of court

(2) However, where any provisions in respect of the practice or procedure of the Supreme Court are contained in any Act, rules of court may be made for modifying such provisions with respect to commercial causes to such extent as may be deemed necessary.

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 9 December 1994. Future amendments of the Commercial Causes Act 1910 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 List of legislation**Commercial Causes Act 1910 1 Geo 5 No. 23**

date of assent 4 January 1911
 commenced on date of assent
 as amended by—

Commercial Causes Act Amendment Act 1972 No. 15

date of assent 15 December 1972
 commenced on date of assent

Supreme Court of Queensland Act 1991 No. 68 s 111 Sch 2

date of assent 24 October 1991
 commenced 14 December 1991 (proc pubd Gaz 14 December 1991 p 1973)

4 List of annotations

Key to abbreviations in list of annotations

| | | |
|--------|---|-------------------|
| amd | = | amended |
| Ch | = | Chapter |
| cl | = | clause |
| def | = | definition |
| Div | = | Division |
| exp | = | expires/expired |
| hdg | = | heading |
| ins | = | inserted |
| om | = | omitted |
| prec | = | preceding |
| pres | = | present |
| prev | = | previous |
| (prev) | = | previously |
| prov | = | provision |
| Pt | = | Part |
| RA | = | Reprints Act 1992 |
| renum | = | renumbered |
| Sdiv | = | Subdivision |
| sub | = | substituted |

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Interpretation

s 2 def “**commercial causes**” sub 1972 No. 15 s 2

Either party may apply to have action placed on such list

s 4 amd 1972 No. 15 s 3; 1991 No. 68 s 111 Sch 2

Commercial dispute concerning construction of document

s 6A ins 1972 No. 15 s 4

Rules of court now in force

s 7 amd 1972 No. 15 s 5

Saving

s 8 om 1991 No. 68 s 111 Sch 2

5 Table of obsolete and redundant provisions

TABLE OF OBSOLETE AND REDUNDANT PROVISIONS under the Reprints Act 1992 s 39

| | |
|-------------------|---|
| Omitted provision | Provision making omitted provision obsolete/redundant |
|-------------------|---|

| | |
|-----------------------------------|---------------------------------------|
| definitions to be read in context | Acts Interpretation Act 1954 s 32A |
|-----------------------------------|---------------------------------------|

6 Table of renumbered provisionsTABLE OF RENUMBERED PROVISIONS
under the Reprints Act 1992 s 43

| Previous | Renumbered as |
|--------------------|---------------|
| 3, 1st sentence | 3(1) |
| 3, 2nd sentence | 3(2) |
| 3, 3rd sentence | 3(3) |
| 4(4), 2nd sentence | 4(5) |
| 7, 1st sentence | 7(1) |
| 7, proviso | 7(2) |