

Queensland



CONSTITUTION (OFFICE OF GOVERNOR) ACT 1987

**Reprinted as in force on 6 June 2002
(includes amendments up to Act No. 81 of 1997)**

This is the reprint current on the repeal date

Reprint No. 2A

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 6 June 2002. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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 have been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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CONSTITUTION (OFFICE OF GOVERNOR) ACT 1987

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CONSTITUTION (OFFICE OF GOVERNOR) ACT 1987

[as amended by all amendments that commenced on or before 6 June 2002]

An Act to provide with respect to the discharge of the office of Governor of the State and the existence of an Executive Council

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Constitution (Office of Governor) Act 1987*.

PART 2—GOVERNMENT OF QUEENSLAND

3 Governor

(1) There shall be a Governor in and over the State.

(2) The appointment of a person to the office of Governor in and over the State—

- (a) shall be during Her Majesty's pleasure by commission under Her Majesty's Sign Manual;
- (b) may be terminated only by instrument under Her Majesty's Sign Manual taking effect upon publication thereof in the Government Gazette or at a later time specified in the instrument in that behalf.

4 Authorities and powers of Governor

(1) The Governor is authorised and required to do and execute all things that belong to the Governor's office according to the laws that are now or shall hereafter be in force in the State.

(2) The Governor is authorised, and has always had authority, to keep and use the Public Seal of the State for sealing all public instruments made and passed in Her Majesty's name.

5 Publication of Governor's commission—declaration of Governor's allegiance

(1) Every person appointed to the office of Governor in and over the State, before entering on any of the duties of the office and with all due solemnity—

- (a) shall cause the commission appointing the person to be Governor to be read and published at the seat of government in the State, in the presence of the Chief Justice or the next senior Judge of the State who is able to act and of at least 2 members of the Executive Council of the State; and
- (b) thereafter, then and there shall take in the presence of the persons referred to in paragraph (a) the oath of allegiance and the oath of office subject to and in accordance with the law and practice of the State.

(2) The Chief Justice or next senior Judge of the State who is able to act shall administer the oaths referred to in subsection (1) or, as permitted by law, take affirmations in lieu of those oaths.

6 Executive Council

There shall be an Executive Council for the State, which shall consist of—

- (a) the persons who immediately before the passing of this Act are members of the Executive Council; and
- (b) persons who may at any time be members of the Executive Council in accordance with any Act in force; and
- (c) such other persons as the Governor shall, from time to time in the name and on behalf of Her Majesty and subject to any Act in

force, appoint under the Public Seal of the State to be members of the Executive Council;

until their membership thereof be terminated by death, their resignation therefrom or their removal therefrom by the Governor.

7 Meetings of Executive Council

(1) The Governor shall attend and preside at all meetings of the Executive Council unless the Governor is prevented by some good and sufficient cause and, in the Governor's absence, such member of the Executive Council as the Governor may appoint in that behalf or, in the absence of such an appointee, the member of the Executive Council who is for the time being taken to be the most senior of the members thereof present at the meeting shall preside.

(2) The Executive Council shall not proceed to dispatch business unless—

- (a) it has been duly summoned by authority of the Governor; and
- (b) 2 members thereof, at the least, exclusive of the Governor or member thereof presiding, are present and assisting throughout the whole of the meeting at which the business is dispatched.

8 Specific power of Governor

Without prejudice to the operation of any other Act, the Governor is authorised and empowered—

- (a) so far as it is within the powers of Her Majesty so to do, upon cause appearing to the Governor sufficient—to remove or suspend from office any person holding any office or place by virtue of any appointment made in the name or under the authority of Her Majesty;
- (b) as the Governor shall see occasion, where an offender may be tried in the State in respect of an offence (not being an offence against the laws of the Commonwealth)—to grant, in the name and on behalf of Her Majesty, to the offender, either free or subject to lawful conditions—
 - (i) a pardon, a commutation of sentence or a reprieve of execution of sentence for such period as the Governor thinks fit; or

- (ii) a remission of any fine, penalty, forfeiture or other consequence of conviction of the offender.

9 Administration of Government in absence etc. of Governor

(1) In the event of—

- (a) the office of Governor in and over the State becoming vacant; or
- (b) the Governor assuming the administration of the Government of the Commonwealth; or
- (c) the Governor becoming incapable or being absent from the State, and a deputy not having been appointed pursuant to section 10;

the Lieutenant-Governor or, if there be no such officer in the State and able to act, the Chief Justice of the State or, if there be no Chief Justice in the State and able to act, the next senior Judge of the Supreme Court of Queensland who is in the State and able to act shall administer the Government of the State, having previously to, or as soon as is reasonably practicable after, the happening of that event taken the oaths or affirmations directed by section 5 to be taken by the Governor in the manner prescribed by section 5(1)(b).

(2) Where the Governor is beyond the boundaries of the State in the course of passage from one part of the State to another part of the State the Governor shall be deemed not to be absent from the State for the purposes of subsection (1).

(3) Every person who duly assumes the administration of the Government of the State pursuant to subsection (1) is authorised and required to do and execute all things that the Governor might do and execute pursuant to this Act.

(4) A person who by virtue of office has duly assumed the Administration of the Government of the State pursuant to subsection (1) shall not continue to administer the Government of the State after—

- (a) the Governor, by proclamation; or
- (b) some other person holding an office prior in title to administer the Government of the State under subsection (1), by notification published in the Gazette upon the advice and under the hand of the Premier of the State;

has notified that the Governor or other person has assumed or resumed or is about to assume or resume the administration thereof.

10 Appointment of deputy for Governor

(1) In the event of—

- (a) the Governor having occasion to be temporarily absent for a short period from the State or from the seat of government but not from the State, except for the purpose of administering the Government of the Commonwealth; or
- (b) the Governor considering it desirable so to do by reason of illness in relation to which there exist reasonable grounds for believing that it will be of short duration;

the Governor may by an instrument under the Public Seal of the State constitute and appoint the Lieutenant-Governor or, if there be no such officer in the State and able to act, the Chief Justice of the State or, if there be no Chief Justice in the State and able to act, the next senior Judge of the Supreme Court of Queensland who is in the State and able to act to be the Governor's deputy during the Governor's temporary absence or illness and in that capacity to exercise, perform and execute for and on behalf of the Governor during the Governor's absence or illness, and no longer, all such authorities and powers vested in the Governor according to law as are specified in such instrument, and no other.

(2) Any appointment of a deputy made under subsection (1) may be revoked by the Governor at any time.

(3) The authority and power of the Governor of the State shall not be abridged, altered or in any way affected by the appointment of a deputy made under subsection (1).

(4) This section shall not be construed to require the Governor of the State to constitute and appoint a deputy upon an event referred to in subsection (1).

11 Issue of compliance not justiciable

The issue of compliance with section 5, 6, 7, 9 or 10 shall not be justiciable in any court.

12 Interpretation

(1) In this Part—

“**Governor**” means the person appointed for the time being to the office of Governor in and over the State and, in sections 6, 7, 8, 9 and 10,

includes a person for the time being administering the Government of the State pursuant to section 9(1) and a person for the time being appointed to be deputy of the Governor pursuant to section 10.

(2) In section 9(4)—

“Premier” includes a Minister of the Crown for the time being performing the duties of the Premier of the State.

13 Suspension of letters patent

For as long as the provisions of this Part are in force the provisions of the letters patent constituting the Office of the Governor of Queensland made by Her Majesty Queen Elizabeth II on 14 February 1986 and proclaimed in the State by His Excellency the Governor on 6 March 1986 are suspended in their operation.

ENDNOTES

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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 6 June 2002.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 71 of 1989	5 July 1994
1A	to Act No. 37 of 1995	21 February 1997
1B	to Act No. 81 of 1997	15 December 1997
2	to Act No. 81 of 1997	7 January 1998

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Renumbered provisions	1

6 List of legislation

Constitution (Office of Governor) Act 1987 No. 73

date of assent 1 December 1987
commenced on date of assent
rep 6 June 2002 (2001 No. 80 s 95(1) sch 3)
amending legislation—

Constitution (Office of Governor) Act Amendment Act 1989 No. 71

date of assent 24 August 1989
commenced on date of assent

Criminal Code No. 37 of 1995 ss 1–2, 459(5)–(6) sch 3 pt 3

date of assent 16 June 1995
ss 1–2 commenced on date of assent
remaining provisions never proclaimed into force and rep 1997 No. 3 s 121

Statute Law (Miscellaneous Provisions) Act 1997 No. 81 ss 1–3, sch

date of assent 5 December 1997
commenced on date of assent

7 List of annotations

Long title amd R1 (see RA s 37)

Arrangement

s 2 om R1 (see RA s 36)

Authorities and powers of Governor

s 4 amd 1989 No. 71 s 3

Administration of Government in absence etc. of Governor

s 9 amd 1997 No. 81 s 3 sch

PART 3—REPEALS AND AMENDMENTS

pt hdg prev pt hdg om R1 (see RA s 40)
 pres pt hdg ins 1995 No. 37 s 459(5) sch 3 pt 3 div 1 (never proclaimed into force and om 1997 No. 3 s 121)

Interference with Governor or Ministers

s 14 prev s 14 om R1 (see RA s 40)
 pres s 14 (prev 1899 63 Vic No. 9 sch 1 s 54) reloc 1995 No. 37 s 459(6) sch 3 pt 3 div 2 (never proclaimed into force and om 1997 No. 3 s 121)

Repeal of Australian States Constitution Act, 1907

s 15 om R1 (see RA s 40)

Amendment of Constitution Act 1867 as amended

s 16 om R1 (see RA s 40)

Amendment of Constitution Acts Amendment Act 1971–1983

s 17 om R1 (see RA s 40)

Repeal of Constitution of Queensland Amendment Act 1942

s 18 om R1 (see RA s 40)