



Queensland's Constitution

The *Constitution of Queensland 2001* annotated section by section for easier understanding



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Foreword



by Premier Peter Beattie

Good democratic government relies on its citizens' understanding of the system of government and their ability to participate in that system.

The Queensland Government is committed to delivering a civics education program to improve its citizens' understanding of and participation in government.

Queensland's identity as a State, and the democratic ideals on which our State is built, rest on our Constitution.

The new consolidated *Constitution of Queensland 2001* makes our Constitution more accessible to all Queenslanders by bringing it together in one document and in language that we can all understand.

This annotated guide presents the new consolidated Constitution with explanatory notes alongside each section. It is a simple, smart read.

These notes have been prepared to explain Queensland's constitutional arrangements as clearly as possible to people with no specific knowledge in this area.

The annotated Constitution is accompanied by a range of constitutional resource materials to be used in schools and adult civic education programs.

It is intended that these resource materials will set the foundations for building a Constitution that is more relevant to Queensland today and that reflects the aspirations of all Queenslanders.

I hope you find the annotated *Constitution of Queensland 2001* useful as a guide to the fundamental law that underpins our system of government.

A handwritten signature in cursive script that reads "P Beattie".

**PETER BEATTIE MP
PREMIER AND MINISTER FOR TRADE**

Queensland Week, June 2002

Contents

Foreword	iii
Introduction	
General	ix
Historical background	ix
The changing Constitution	xii
Using this annotated guide	xiv

Constitution of Queensland 2001

Chapter 1 – Preliminary	3
1 Short title	4
2 Commencement	4
3 Object	4
4 References to the Sovereign	4
5 Note in text is part of this Act	4
Chapter 2 – Parliament	7
Part 1 – Constitution and powers of Parliament	
6 The Parliament	8
7 Legislative Assembly	10
8 Law-making power	12
9 Powers, rights and immunities of Legislative Assembly	12
10 Members of Legislative Assembly	14
11 Number of members of Legislative Assembly	14
12 Division of State into electoral districts	16
13 1 member for each electoral district	16
14 Power to alter system of representation	16
Part 2 – Procedural requirements for the Legislative Assembly	
15 Summoning, proroguing and dissolving the Legislative Assembly	18
16 Duration of Legislative Assembly	20
17 Continuation of Legislative Assembly despite end of Sovereign’s reign	20
18 Time and place for sessions of Legislative Assembly	20
19 Minimum sitting requirement for Legislative Assembly	22
Part 3 – Appropriation for Legislative Assembly	
20 Separate appropriation for Legislative Assembly	22
Part 4 – Members	
Division 1 – Generally	
21 Eligibility to be a candidate and to be elected as a member	22
22 No member to sit or vote without first taking oath or making affirmation	24

Division 2—Members who are Ministers or

Parliamentary Secretaries

23	Ministers	24
24	Appointment of Parliamentary Secretaries	24
25	Functions of Parliamentary Secretary	26
26	Length of Parliamentary Secretary's appointment	28

Chapter 3—Governor and Executive Government 31

Part 1—Interpretation

27	Governor in Council	32
----	---------------------------	----

Part 2—Governor

28	Definition for pt 2	32
29	Governor	32
30	Office of Governor	34
31	Requirements concerning commission and oath or affirmation	34
32	Termination of appointment as Governor	36
33	General power of Governor	36
34	Power of Governor—Ministers	36
35	Power of Governor—removal or suspension of officer	38
36	Power of Governor—relief for offender	38
37	Power of Governor—public seal	38
38	Continued use of seal despite end of Sovereign's reign	38
39	Statutory powers when Sovereign personally in State	40
40	Delegation by Governor to Deputy Governor	40
41	Administration of Government by Acting Governor	42

Part 3—Cabinet and Ministers of the State

42	Cabinet	44
43	Appointment of Ministers of the State	44
44	Administrative arrangements	44
45	Minister may act for another Minister	46
46	Member may act for a Minister	46
47	Sick leave	46

Part 4—Executive Council

48	Executive Council	48
49	Length of appointment as member of Executive Council	48
50	Meetings of Executive Council	50

Part 5—Powers of the State

Division 1—Generally

51	Powers of the State	50
----	---------------------------	----

Division 2—Commercial activities

52	Definitions for div 2	50
53	Commercial activities by State	52
54	Commercial activities by Minister	52
55	Delegation by Minister	52

Chapter 4—Courts	55
56 Definitions for ch 4	56
57 Supreme Court and District Court	56
58 Supreme Court’s superior jurisdiction	56
59 Appointment of judges	58
60 Length of judge’s appointment	58
61 Removal from office for misbehaviour or incapacity	58
62 Judge’s salary	60
63 Protection if office abolished	60
Chapter 5—Revenue	63
64 Consolidated fund	64
65 Requirement to pay tax, impost, rate or duty	64
66 Payment from consolidated fund	64
67 Charges on consolidated fund	64
68 Governor’s recommendation required for appropriation	64
Chapter 6—Lands	67
69 Lands	68
Chapter 7—Local government	71
Part 1—System of local government	
70 System of local government	72
71 Requirements for a local government	72
Part 2—Procedure limiting dissolution of local government and interim arrangement	
72 Definition for pt 2	72
73 Dissolution of local government must be tabled	74
74 Suspension until dissolution ratified	74
75 Ratification of dissolution	74
76 No tabling or ratification of dissolution	76
Part 3—Special procedures for particular local government bills	
77 Procedure for Bill affecting a local government	76
78 Procedure for Bill ending system of local government	78
Chapter 8—Miscellaneous	81
79 Issue of compliance not justiciable	82
80 Continued holding of office under the Crown despite end of Sovereign’s reign	82
Chapter 9—Transitional provisions	85
(Sections 81–93)	86–88
Chapter 10—Consequential amendments and repeals	89
94 Amendments	90
95 Repeals	90

Schedule 1

Oaths and affirmations 91

Attachment 1

Constitution Act 1867, sections 1, 2, 2A, 11A, 11B and 53 93

Attachment 2

Constitution Act Amendment Act 1890, section 2 95

Attachment 3

Constitution Act Amendment Act 1934, section 3 97

Attachment 4

Constitution Act 1867, sections 30 and 40 98

Appendixes

Appendix 1: State referendums held in Queensland 99

Appendix 2: Proclamation detailing the Queensland
ministerial portfolios as at 23 March 2001 100

Appendix 3: Major changes in rules of eligibility to vote
in Queensland 101

Appendix 4: Key dates and events in Queensland's
electoral history 102

Appendix 5: Division of Queensland into electoral
districts 103

Appendix 6: Governors of Queensland—terms of office 107

Appendix 7: List of websites for further information 108

Glossary 109

Index 113

Introduction

General

A constitution is a set of principles according to which a nation, state or organisation is governed. Until 2001, Queensland had no single document that listed these principles for the State; instead, the State Constitution was contained in a number of Acts of Parliament.

Over the past eight years the Queensland Constitution has been examined by various commissions and all-party parliamentary committees, and has been the subject of statewide community consultation. As a result, the Constitution has now been “consolidated” into one Act, called the *Constitution of Queensland 2001*.

The State Constitution has also been rewritten in plain English to make it accessible and easy for everyone to understand. As well as making us aware of our existing constitutional provisions, this will make it possible for us all to be involved in considering constitutional reform questions of the future.

This annotated guide presents the rewritten Constitution with explanatory notes alongside each section, to give you a better understanding of the document itself and of the way in which the Constitution functions in contemporary government.

Historical background

Systems of government are complex and, in almost all cases, are innovations on systems developed in the past. Queensland’s Constitution draws heavily on earlier systems of government, and its heritage is a vital part of understanding what it says—and does not say—about the workings of our government.

Parliamentary democracy

The system we use today evolved out of two different traditions, monarchy and democracy. As a monarch, the king or queen did not have to consult with the people about the laws and government of the land; in practice, however, a wise monarch gave people an opportunity to speak. The institution of parliament grew out of this practice.

The term “Parliament” is derived from the French word *parler*, which means “to speak”. This term has been used since the thirteenth century to refer to the national assembly in England, though the nature of the Parliament has changed considerably since then. These changes have mainly been due to the growing influence of democracy. The democratic ideal is for all those subject to the law to be involved in the making of laws. In striving for this ideal, the Parliament has grown from a small group of wealthy men of influential families to a meeting place which now aims to represent the majority of all adult

citizens of the State—regardless of gender, wealth, or distance from the seat of power.

As parliaments became more representative of the people, the relationship between the monarch and the representatives changed. Technically, the Parliament is still a place where the head of state can confer with the people about laws and the administration of government. In practice, however, it is the democratic Parliament that now prompts and carries out these functions. This is essentially the history of the British system of government, called the “Westminster system” after the part of London where the Houses of Parliament are located.

The Westminster system of government

Under the Westminster system there is a hereditary head of state (the monarch or his/her representative) and an elected Parliament to represent the people. Within this overarching structure, groups are formed and appointed to carry out the functions of government.

The system divides the practice of government into three main “arms”:

- **The Legislature** (also called the Parliament because it involves all representatives) has the power to make laws that apply to all citizens, by passing statutes.
- **The Executive** (a group drawn from the Parliament and responsible to it) has the power to apply and administer the laws made by the legislature, and to put into practice the decisions of government.
- **The Judiciary** (a group appointed by the Executive and drawn from outside the Parliament) has the power to hear disputes between citizens, and to make decisions by interpreting the laws made by the Legislature.

The three “arms” were developed so that no single group could be responsible for making, applying and interpreting the law—and perhaps misusing this supreme power.

In fact, the functions overlap to some extent. For example, the Ministers of the Crown who form part of the Executive are also members of the Legislature. The Judiciary is still relatively separate from the other arms because, though appointed by the Executive, judges are appointed until their retirement to ensure independence from the government that installed them.

Many and varied conventions like this have developed around the ways this model of government is applied. For instance, while the monarch plays a very important part in this system, the decisions made and enacted by him or her concerning the running of the state are most often made on the advice of the elected government.

The Westminster system of government developed over many hundreds of years—and continues to change and develop. But the relationship between the monarch and the Parliament, and the three functions of Legislature, Executive and Judiciary, were the basis of the system of government that was transplanted to Australia through colonisation.

Australia and constitutional government

New South Wales was established as a colony, subject to the laws of Britain. The person appointed to supervise British rule in the colony was the Governor—a representative of the monarch and the British government, and the sole arbiter of all aspects of law and administration in the colony.

As the colony grew and the tasks of government became more complex, government officials were appointed to assist the Governor, but these councils were not originally meant to be representative of the people.

In the early days Queensland was part of the British-administered Colony of New South Wales, which occupied a large part of the Australian continent. Brisbane was established in 1825 as a penal settlement for the more hardened criminals. The convicts had no claim to representative government. As time went on, however, more free settlers arrived. This changed the nature of the settlement of Brisbane and what the people wanted and expected from a form of government.

As Queensland's economic significance increased and its productivity and population expanded, a separate sense of identity emerged. Brisbane had become the dominant urban centre of the north, linked by land with the northern pastoral settlements and by sea with Sydney and London. But it was remote from the centre of government in New South Wales, and people wanted independence as well as self-government.

In 1851, the first of many meetings was held to consider Queensland's separation from New South Wales. Queen Victoria gave her approval, and on 6 June 1859 the new Colony of Queensland was established. Queensland became a self-governing colony with its own Constitution, a Governor, and a Parliament made up of a nominated Legislative Council and an elected Legislative Assembly. Queensland's first constitutional legislation was enacted in 1867.

Queen Victoria remained Queensland's head of state, but sent as her representative Sir George Ferguson Bowen to be the first Governor of Queensland. The British queen or king remains Queensland's head of state, and is still represented by a Governor; but since the 1940s an Australian has always been appointed as Governor instead of someone sent from Britain.

By the late nineteenth century there were six self-governing British colonies in Australia, each with its own Constitution. A series of conventions were held in the 1890s, at which representatives of the various colonies met to consider the creation of a federal system—a Commonwealth of states. Under the proposed system the Commonwealth would have law-making power over certain matters, while the states would retain other powers. One of the major incentives for the creation of a federal system was the need for a single trade area within Australia for the economic benefit of all Australians. In addition, it was considered that the creation of a federal system would give Australia a more significant role in international affairs. At this time, many European countries were acquiring and ruling over colonies and dependencies (a policy known as imperialism), and Australia needed its own voice.

In a series of elections held in the colonies, the people of Australia voted to join together and form the Commonwealth of Australia. In 1900 the British Parliament (which still had the legal authority) passed the Australian Commonwealth Constitution, which took effect on 1 January 1901. The Australian Constitution gave specific powers to the Commonwealth (such as trade and commerce, corporations, industrial disputes, taxation and excise duties, external affairs, defence and national security). It recognised the six colonies as states and preserved their constitutions.

The State Parliaments have the power to pass laws on a much wider range of subjects than the Commonwealth Parliament does. However, in the few situations where they enact laws on the same subject, the Commonwealth Constitution (section 109) specifies that Commonwealth law will prevail.

The changing Constitution

Constitutions do change. Within them there may be provisions that can be changed quickly by the government of the day and those that are deliberately made difficult to change and require the thought and full support of the people. In this way a constitution is made responsive to change, but also protects those features of government—and therefore the rights of the people—that the writers of the Constitution felt were vitally important.

The Queensland Parliament can make alterations to most parts of the State Constitution by passing legislation. One example of this occurred when the upper house of our Parliament voted itself out of existence, making Queensland a unicameral (or single-house) Parliament.

There are, however, some parts of the Constitution that Parliament cannot repeal or change unless it follows a special, additional procedure. These provisions are said to be “entrenched”. In Queensland, the additional procedure that is required before entrenched provisions can be changed is the holding of a referendum. A referendum is a vote by all eligible voters on a proposal. In Queensland, for a referendum to succeed there must be a Yes vote from 50% or more of the voters.

There are some provisions in the consolidated Constitution that not only entrench existing provisions, but also state that they are themselves subject to the same conditions before they can be changed. These provisions are said to be “doubly entrenched”. The few doubly entrenched provisions in the Queensland Constitution include the following:

- the establishment and law-making power of the Parliament of Queensland and the Legislative Assembly;
- the duration of the Parliament; and
- matters relating to the office of the Governor.

Because these doubly entrenched provisions could not be altered without a referendum they have been left in their original Acts rather

than being consolidated into the *Constitution of Queensland 2001*. These provisions are set out in Attachments 1 and 2 of the Constitution.

A “singly entrenched” provision is slightly less difficult to change. An example of a singly entrenched provision is section 78 of the *Constitution of Queensland 2001*. This provision requires that a Bill to end the system of local government must first be approved by a majority vote of the electors; however, the provision does not subject itself to the same procedural requirements.

This Act, the *Constitution of Queensland 2001*, is designed to encourage the people of the State to be well informed about the way they are governed, and to stand ready to influence the shaping of government in the future.

Using this annotated guide

This guide is organised with the text of the Constitution presented in full on the left-hand pages. Explanatory notes and other points of interest are presented on the right.

After the main body of the Constitution you will find a glossary and index. Look to the glossary for further explanation of terms specific to the Constitution. The index will also assist you in using this text as a reference tool, directing you quickly to specific topics of interest within both the Constitution and the explanatory notes.



Constitution of Queensland 2001

Chapter 1 **Preliminary**

The preliminary chapter sets out the title of the Queensland Constitution, the date when it becomes binding, and the object of this new version. It also explains the relationship of the Constitution to some other Acts, and the meaning of particular terms and features of the document. It is important to understand the information in the preliminary chapter before reading the rest of the Constitution.

Use chapter 1 to find answers to these questions:

- From what date did this Constitution take effect?
- Which sections of previous constitutions and other Acts are unchanged by this new Constitution?
- Why doesn't this Constitution refer to the monarch by name?
- Are notes in the Act just for extra information, or are they legally binding?

1 Short title

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

2 Commencement

This Act commences on 6 June 2002.

3 Object

This Act declares, consolidates and modernises the Constitution of Queensland.

Note—

However, this Act does not consolidate the following constitutional provisions because of the special additional procedures, including approval by the majority of electors at a referendum, that may be required—

Constitution Act 1867, sections 1, 2, 2A, 11A, 11B and 53

Constitution Act Amendment Act 1890, section 2

Constitution Act Amendment Act 1934, sections 3 and 4.

Further, this Act does not consolidate the *Constitution Act 1867*, sections 30 and 40.

4 References to the Sovereign

A reference in this Act to the Sovereign is a reference to the Queen or King for the time being, and, if necessary, includes the Queen's or King's heirs and successors.

5 Note in text is part of this Act

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

The Constitution, in contrast to most laws passed by the Parliament, does not include the word “Act” in its title. This reflects the Constitution’s status as the fundamental law in the State of Queensland. It establishes the framework for governing the State.

The *Constitution of Queensland 2001* commenced operation on 6 June 2002 (Queensland Day). This day is actually the State’s birthday because it marks the anniversary of Queensland’s separation from New South Wales on 6 June 1859 (see Introduction). Queensland Day is celebrated on 6 June each year to focus on the State’s history and development, and on the achievements of Queenslanders.

This section states what Parliament sought to achieve by passing the Act. Queensland’s Constitution was previously spread over a number of Acts, laws and documents, many of which were drafted more than a century ago. This made it difficult for members of the community to understand or appreciate the State’s constitutional arrangements. That is why the Constitution has been consolidated and modernised.

The provisions listed in the note are “entrenched”, which means that they cannot be altered without the approval of at least 50% of voters at a referendum (see Introduction, “The changing Constitution”). As a referendum has not been held, they remain in their original Acts, and have not been relocated into the *Constitution of Queensland 2001*. “Signpost” provisions have been inserted into the Constitution to refer to these entrenched provisions in their original Acts. These provisions have been reproduced in Attachments 1–4 to the Act.

A sovereign is a king, queen or other monarch. At present Her Majesty Queen Elizabeth II is the Queen of Australia. When a sovereign dies or abdicates (gives up the throne), a successor is immediately decided according to rules that were laid down at the end of the seventeenth century. The succession to the British throne is regulated not only through descent but also by British statutes, which confirm that the British Parliament determines who is entitled to be monarch. The Queensland Constitution refers to “the Queen or King for the time being” so that a change of monarch will not cause the constitution to become out of date.

As a contemporary drafting technique, a note is sometimes used in an Act to help explain the meaning of a provision. (See, for example, section 6 in chapter 2.) This section declares that such a note is part of the Act.

The consolidation combines many different Acts, laws and documents, drafted over a period of 134 years. Adding the notes is a means of ensuring that the Constitution can be understood without reference to any additional material.

Chapter 2 Parliament

The second chapter of the Constitution refers to the creation of the Parliament and sets out how it will work in Queensland. The original writers of the Constitution were not creating a new style of government; they were working with the Westminster system, which they knew well. So if you need to know why certain features of government exist it is best to trace back to the original source (see Introduction, “Historical background”). The Queensland Constitution will tell you how those features are applied in this State.

A constitution usually sets out the aims of an organisation or society and the rules for running it, and it is this sort of detail about the running of Parliament that you will find in chapter 2.

Use chapter 2 to find answers to these questions:

- When was Queensland’s Parliament first set up?
- How many houses of Parliament operate in Queensland?
- Who has the power to make laws?
- How are members of the Legislative Assembly chosen?
- How many electoral districts exist in Queensland, and why?
- What rules about elections can be changed by the Parliament, and which can be changed only by the people of the State (in a referendum)?
- Who decides when a parliamentary term starts, rests, and finishes?
- What are the various jobs within the Parliament, and the conditions of these jobs?

Part 1— Constitution and powers of Parliament

6 The Parliament

The *Constitution Act 1867*, section 2A provides for the Parliament in Queensland.

Note—

The *Constitution Act 1867*, section 2A is subject to section 53 (Certain measures to be supported by referendum) of that Act.

Note also the *Constitution Act Amendment Act 1934*, section 3 (Parliament not to be altered in the direction of re-establishing the Legislative Council or other body except in accordance with this section).

SECTION 2A OF THE *CONSTITUTION ACT 1867* STATES:

2A The Parliament

(1) The Parliament of Queensland consists of the Queen and the Legislative Assembly referred to in sections 1 and 2.

(2) Every Bill, after its passage through the Legislative Assembly, shall be presented to the Governor for assent by or in the name of the Queen and shall be of no effect unless it has been duly assented to by or in the name of the Queen.

In 1986 the “Australia Acts” were passed by the Commonwealth, State and United Kingdom Governments. These terminated all remaining power the British Parliament still held to enact legislation that would become part of the law of the Commonwealth or any of the states or territories of Australia.

The note forming part of section 6 explains that, although section 2A of the *Constitution Act 1867* establishes the Parliament, this is also subject to section 53 of the same Act, “Certain measures to be supported by referendum”. Section 53 provides that any Bill which might interfere (either directly or indirectly) with the office of the Governor cannot be presented for Assent unless it has been approved by referendum. For such a Bill to become law it must be submitted to the electors no sooner than two months after the Bill has been passed by the Legislative Assembly. If a majority of electors approve the Bill at referendum it will be then presented to the Governor for Assent. (For more information on the entrenched provisions see Introduction, “The changing Constitution”.)

The note also refers to the Legislative Council, which was abolished in 1922 (see box, page 11). In Queensland, parliamentary committees (which include representatives from all parties, and sometimes independent members) perform functions that are normally the responsibility of an upper house.

It would take a referendum to change the provision abolishing the Legislative Council, because the provision is entrenched (see section 3 of the *Constitution Act Amendment Act 1934* and section 53 of the *Constitution Act 1867*, quoted in the attachments at the end of the Constitution).

The Queensland Parliament consists of the Legislative Assembly and the Queen as head of state; but usually the State Governor acts in place of the Queen. One of the principal roles of the Parliament is to pass laws for the State. Both the Legislative Assembly and the Queen must agree to a Bill (a piece of legislation in its draft form) before it can become an Act of Parliament (a piece of legislation in its final form). Usually it is the Governor who gives the “Royal Assent” (agreement to a Bill) by signing as the Queen’s representative.

7 Legislative Assembly

The *Constitution Act 1867*, section 1 provides for a Legislative Assembly in Queensland.

Note—

The *Constitution Act 1867*, section 1 is subject to section 53 (Certain measures to be supported by referendum) of that Act.

SECTION 1 OF THE *CONSTITUTION ACT 1867* STATES:

1 Legislative Assembly

There shall be within the said Colony of Queensland a Legislative Assembly.

The Queensland Parliament consists of a single house, called the Legislative Assembly.

The Legislative Assembly:

- provides the State Government from the political party or coalition of parties that has a majority of the seats;
- introduces, debates and passes laws for the State;
- takes responsibility for public finance;
- provides opportunities for the activities of the Government to be scrutinised through a variety of parliamentary procedures, including Question Time, Notices of Motion, Private Members' Bills, Private Members' Statements, legislation debates and parliamentary committees; and
- attends to the public interests of the State's citizens, through parliamentary procedures such as Petitions, Matters of Public Interest, Adjournment Debates, Grievance Debates and Address in Reply debates.

Letters Patent were issued by Queen Victoria in 1859, granting Queensland separation from New South Wales. (Letters Patent are official documents delegating powers or authorising someone to do something). These provided for:

- a Legislative Council, members of which were nominated by the Governor; and
- a Legislative Assembly of 26 elected members. At that time, only people who owned property in a particular electoral district were entitled to vote there.

This section refers to the "Colony of Queensland". Queensland became a State on Federation Day, 1 January 1901. This provision is entrenched, so it is not possible to amend this description of Queensland without a referendum (see Introduction, "The changing Constitution").

Queensland's unicameral Parliament

Queensland is the only state in Australia that has just one house of Parliament. This is known as a unicameral Parliament. Originally it had an upper house (the Legislative Council) in addition to the Legislative Assembly. However, from the early days of Parliament in Queensland, relations between the Legislative Assembly and the Legislative Council were strained. The Legislative Council was criticised because its members were nominated by the Governor rather than elected, and it was considered that they abused their privileges.

In 1921, the Queensland Labor Government advised the Governor to appoint additional Legislative Councillors who would be in favour of abolishing the Upper House. Legislation to do away with the Legislative Council was passed the following year, despite the fact that a referendum on the question failed (see Appendix 1).

Other jurisdictions

All other Australian states and the Commonwealth Government have bicameral Parliaments, meaning they have two houses of Parliament: a lower house (Legislative Assembly) and an upper house (Legislative Council). The upper house is also known as a house of review or a senate. The parliaments of many democracies are bicameral, including those of the United Kingdom, Canada (at the federal level) and the United States (federally, and for all states except Nebraska).

Although Queensland's unicameral status is unique in Australia, there are many examples of unicameral Parliaments throughout the world. These include Israel, Denmark, Finland, Luxembourg, Sweden, Greece, New Zealand, Ghana, Cyprus, Sierra Leone, Tanzania, Uganda, Malta, Malawi, Zambia, Gambia, Guyana, Singapore, Botswana, Zimbabwe and (Western) Samoa. In addition, all the Canadian provinces, all the Malaysian states and some Indian states are unicameral.

8 Law-making power

The *Constitution Act 1867*, section 2 provides for law-making power in Queensland.

Notes—

The *Constitution Act 1867*, section 2 is subject to section 53 (Certain measures to be supported by referendum) of that Act.

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).

SECTION 2 OF THE *CONSTITUTION ACT 1867* STATES:

2 Legislative Assembly constituted

Within the said Colony of Queensland Her Majesty shall have power by and with the advice and consent of the said Assembly to make laws for the peace welfare and good government of the colony in all cases whatsoever.

9 Powers, rights and immunities of Legislative Assembly

(1) The powers, rights and immunities of the Legislative Assembly and its members and committees are—

- (a) the powers, rights and immunities defined under an Act; and
- (b) until defined under an Act—the powers, rights and immunities, by custom, statute or otherwise, of the Commons House of Parliament of the United Kingdom and its members and committees at the establishment of the Commonwealth.

Note—

Date of establishment of the Commonwealth—1 January 1901.

(2) In this section—

“rights” includes privileges.

When Australia became a federation of states in 1901, there were six colonial governments already in existence, each with its own Constitution, Parliament, Executive branch and Judiciary. The Australian Constitution guarantees that this situation will continue, but subject to the Australian Constitution (sections 106–7).

State Parliaments have almost unlimited power to make laws for the “peace, welfare and good government” of their respective states. There are a few exceptions specified in the Australian Constitution, however. For example, the states may not:

- impose duties of customs and excise; or
- raise defence forces without the consent of the Commonwealth Parliament.

In the event of an inconsistency between Commonwealth and State law, the Commonwealth law prevails. This provision is entrenched, so it cannot be altered without a referendum (see Introduction, “The changing Constitution”).

As a general guide, the matters about which the Queensland Government makes laws are reflected in ministerial portfolio titles. From time to time portfolio titles are amended, either because of a change in Government or to add or delete responsibilities. In 1869, for example, one of Queensland’s Ministers was appointed as “Secretary for Public Works and Gold Fields”; and, until Federation in 1901, the “Postmaster-General” was another portfolio of the Queensland Ministry. The current portfolio titles of the Queensland Ministry are given in the proclamation included as Appendix 2.

The Legislative Assembly has certain powers and privileges that enable it to carry out its functions. These are defined in the *Parliament of Queensland Act 2001*, which was enacted at the same time as the new Queensland Constitution. This Act consolidates all the additional existing laws relating to the operation of the Queensland Parliament. A provision in chapter 3 of the *Parliament of Queensland Act* clarifies that the powers and privileges of the British House of Commons were inherited by Queensland’s Legislative Assembly at Federation, but have evolved according to Queensland Parliamentary practice since 1901.

10 Members of Legislative Assembly

The Legislative Assembly is to consist of directly elected members who are eligible to be elected by the inhabitants of the State who are eligible to elect members.

11 Number of members of Legislative Assembly

The Legislative Assembly is to consist of 89 members.

Sections 10–14 relate to the democratic and representative nature of Queensland’s Legislative Assembly. Members of the Legislative Assembly are elected by those Queenslanders who are eligible to vote.

Queensland’s *Electoral Act 1992* sets out the eligibility criteria for voting in Queensland State elections.

Generally, people are eligible to vote in Queensland State elections if they:

- are 18 years of age or over;
- are Australian citizens (or British subjects who were on a Commonwealth of Australia electoral roll on 25 January 1984); and
- have lived in a Queensland electoral district for at least the last month.

People who are 17 years old can provisionally enrol, so that they can vote at elections when they reach 18 years of age.

The following people are not entitled to enrol and vote:

- people who are incapable of understanding the nature and significance of enrolment and voting because they are defined as being “of unsound mind”; or
- prisoners serving a sentence of five years or more; or
- people who have been convicted of treason and not pardoned; or
- Australian citizens permanently living overseas who do not intend to return to Australia; or
- people who have renounced their Australian citizenship.

There have been significant changes to the rules of eligibility to vote in Queensland since the late nineteenth century. These are listed in Appendix 3.

The Queensland Parliament currently comprises 89 members. For a political party or coalition of parties to form a government it must have a majority of members in the Legislative Assembly (i.e. at least 45). Since 1860, the number of parliamentary members has increased a number of times, as set out in Appendix 4.

12 Division of State into electoral districts

The State is to be divided into the same number of electoral districts as there are members of the Legislative Assembly.

Note—

The process for dividing the State into electoral districts is provided for by the *Electoral Act 1992*.

13 1 member for each electoral district

Each member of the Legislative Assembly is to represent 1 of the electoral districts.

14 Power to alter system of representation

The Parliament under an Act may—

- (a) vary the number of members to be elected to the Legislative Assembly; and
- (b) vary the electoral districts of the State that are to be represented in the Legislative Assembly; and
- (c) establish new and other electoral districts; and
- (d) vary and regulate the appointment of returning officers and make any new and other provision that it considers convenient for the issuing and return of writs for the election of members to the Legislative Assembly and the time and place of holding the elections.

The *Electoral Act 1992*, which governs Queensland's present electoral system, created an independent authority called the Electoral Commission of Queensland. Among its other functions, the Electoral Commission carries out redistributions of electoral district boundaries.

The current 89 electoral districts in Queensland are shown on the maps of Queensland in Appendix 5. The factors that may influence the redistribution of electoral boundaries include:

- maintenance of similar numbers of electors in different districts;
- population trends within the State;
- community of interest (i.e. the desirability of grouping together communities that have similar requirements of their parliamentary representative);
- methods of communication and travel;
- topography;
- boundaries of existing electoral districts; and
- boundaries of existing local government areas.

Members are designated by their electoral district (e.g. the Member for Brisbane Central, Toowoomba South, Robina, or Gladstone).

The key dates in Queensland's electoral history are listed in Appendix 4. A significant change occurred in 1910 when the "one vote, one value" system was introduced. Before then, there were fewer voters in electoral districts outside Brisbane and, except for a brief six-year period (1872–78), there were electoral districts with more than one representative. In 1910 a more representative system was introduced by dividing the State into 72 single-member constituencies, each of which contained approximately the same number of voters (within 20% above or below the State average).

It is important for Parliament to have the power to alter the system of representation, because this recognises the need to respond to changing communities.

Elections were held in 1860 for Queensland's first Parliament. At that time the only people who could vote were adult males who were born in the colony or were naturalised citizens, and who owned real estate. There were 26 members elected for 16 electoral districts. There were three three-member electorates, four two-member electorates and nine single-member electorates, all of them basically representative of the pastoral and business classes.

The system of representation has been altered many times since then. As the franchise (right to vote) broadened, the categories of people allowed to serve as members of the Legislative Assembly also increased.

Part 2 – Procedural requirements for the Legislative Assembly

15 Summoning, proroguing and dissolving the Legislative Assembly

(1) The Governor may summon the Legislative Assembly in the Sovereign's name by instrument under the Public Seal of the State.

(2) The Governor may prorogue or dissolve the Legislative Assembly by proclamation or otherwise whenever the Governor considers it expedient.

The period after a general election, from when the Parliament is “opened” by the Governor to when it “ends”, is known as a term. For example, after the general election on 17 February 2001 the Governor opened the 50th term of the Queensland Parliament on 20 March 2001. In Queensland, the term of the Parliament can last for a maximum of three years (see section 16).

A term of Parliament consists of sessions. A term may have one session lasting the full term (e.g. the 49th term of Parliament had a single session), or it may have number of sessions. The 48th term of Parliament had two sessions because there was a change of Government during the term.

There are some special processes for commencing and ending terms and sessions of Parliament. These are called summoning, proroguing and dissolving Parliament.

Summoning

Before a new term or session of Parliament can begin, the Governor must summon the Legislative Assembly. First, however, a writ must be returned to the Parliament, listing all the names of those members elected. The Governor summons the Legislative Assembly with an official document approximately four weeks before the opening of Parliament.

Prorogation

Prorogation is the ending of a session of Parliament, but not of the term of the Parliament itself. The Governor prorogues Parliament on the advice of the Premier. In the past it was the practice to end the session at the end of each calendar year by prorogation and commence the New Year with the next session. This practice has not been followed in recent times.

Dissolution

Dissolution is the ending of a term of Parliament. The dissolution of Parliament is the trigger for a writ to be issued for holding a general election. The Parliament is dissolved by the Governor on the advice of the Premier.

If the Governor does not dissolve the Legislative Assembly, it automatically expires after three years and a general election follows. In Queensland the Parliament has always been dissolved before the three years have elapsed.

16 Duration of Legislative Assembly

The *Constitution Act Amendment Act 1890*, section 2 provides for the duration of the Legislative Assembly.

Note—

The *Constitution Act Amendment Act 1890*, section 2 is subject to the *Constitution Act Amendment Act 1934*, section 4 (Duration of Legislative Assembly not to be extended except in accordance with this section).

SECTION 2 OF THE *CONSTITUTION ACT AMENDMENT ACT 1890* STATES:

2 Duration of Legislative Assembly to be 3 years only

Every Legislative Assembly hereafter to be summoned and chosen shall continue for 3 years from the day appointed for the return of the writs for choosing the same, and no longer; subject nevertheless to be sooner dissolved by the Governor.

17 Continuation of Legislative Assembly despite end of Sovereign's reign

If the Sovereign's reign ends, the Legislative Assembly, as constituted immediately before the end of the reign, continues in existence, subject to dissolution under section 15(2), for as long as it would have continued if the Sovereign's reign had not ended.

18 Time and place for sessions of Legislative Assembly

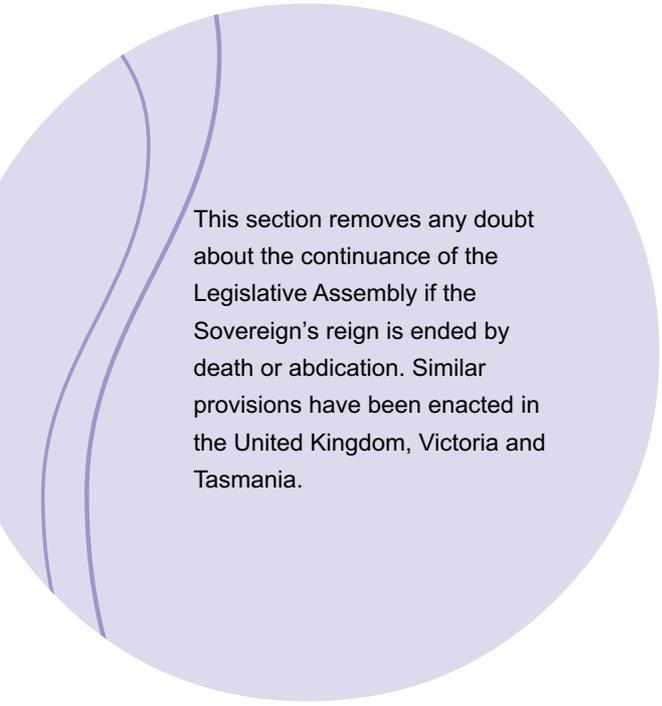
(1) The Governor may set the times and places in Queensland for sessions of the Legislative Assembly that the Governor considers appropriate.

(2) The Governor may change the times and places if the Governor considers change advisable and more consistent with general convenience and the public welfare.

(3) The Governor must give sufficient notice of a change.

Queensland is the only state legislature that has a three-year term. In all other states the term is four years. The Commonwealth House of Representatives also has a three-year term.

This provision is entrenched, requiring a referendum before it can be changed (see Introduction, “The changing Constitution”). In 1991, a referendum to increase the term to four years was narrowly defeated.



This section removes any doubt about the continuance of the Legislative Assembly if the Sovereign’s reign is ended by death or abdication. Similar provisions have been enacted in the United Kingdom, Victoria and Tasmania.

Queensland’s first Parliament met on 22 May 1860 in the former convict barracks that once stood in Queen Street, Brisbane. On 4 August 1868, Members of the Fourth Parliament were summoned to meet at the newly built Parliament House in George Street. Parliament has met there ever since, except between March 1979 and September 1982, when it met in the Executive Building while Parliament House was refurbished.

Parliament usually sits on Tuesdays, Wednesdays and Thursdays, and on Fridays when required. Sittings often continue late into the night.

In September 2002, Parliament will meet in Townsville. This will be the first time that the Queensland Legislative Assembly has ever sat outside Brisbane.

19 Minimum sitting requirement for Legislative Assembly

(1) There must be at least 2 sittings of the Legislative Assembly in every calendar year.

(2) Six months must not pass between a sitting of the Legislative Assembly and the next sitting of the Legislative Assembly.

Part 3—Appropriation for Legislative Assembly

20 Separate appropriation for Legislative Assembly

(1) Legislation appropriating the consolidated fund for the Legislative Assembly and the parliamentary service, including salaries payable under the *Parliament of Queensland Act 2001* and the *Parliamentary Service Act 1988*, is to be contained in a Bill separate from any other Bill about any appropriation for any other purpose.

(2) This section is to be read with the *Financial Administration and Audit Act 1977*.

Part 4—Members

Division 1—Generally

21 Eligibility to be a candidate and to be elected as a member

(1) A person is eligible to be a candidate, and to be elected, as a member of the Legislative Assembly, if the person—

- (a) is an adult Australian citizen living in Queensland; and
- (b) has any further qualification required under an Act; and
- (c) is not disqualified under an Act.

Note—

For an example of subsection (1)(b) and (c), see the *Parliament of Queensland Act 2001*, section 64 (Qualifications to be a candidate and be elected a member).

(2) Subsection (1) is subject to any conditions imposed under an Act.

A “sitting” is a meeting of a house of Parliament. The Legislative Assembly must sit at least twice every calendar year, and there must be less than six months between one sitting and the next. In practice, Parliament sits many more times than the minimum stated. In 2001, for example, Parliament sat for a total of 46 days.

The Government needs authorisation from Parliament to spend money or collect taxes. The authority that Parliament gives to the Government each year for its regular expenditure is called “supply” (also known as the State Budget), and it is found in several Acts of Parliament known as Appropriation Acts .

In Queensland two separate Annual Appropriation Acts are prepared to authorise the payment of funding. One Act covers the departments that are responsible to Ministers; the other is for the Legislative Assembly and parliamentary service. The parliamentary service assists members and committees of the Parliament to carry out their parliamentary responsibilities.

The *Financial Administration and Audit Act 1977* governs the use and management of the financial and physical resources of the Queensland Government.

See also chapter 5.

This provision is included in the Queensland Constitution because the right to stand for Parliament is important for every citizen. To be eligible to nominate as a candidate for the Legislative Assembly, a person must be an adult Australian citizen living in Queensland and on the electoral roll. Any eligible voter can nominate to contest a seat, and does not necessarily have to reside in that electoral district. Major political parties endorse (i.e. select) their own candidates for electoral districts.

Section 64 of the *Parliament of Queensland Act 2001* sets out disqualifying factors. People who have been convicted of certain offences, and people who are bankrupt, are not permitted to nominate as candidates for the Legislative Assembly. Certain people appointed to public office are also disqualified from nominating; these include the Governor-General, the State Governor and judges.

22 No member to sit or vote without first taking oath or making affirmation

(1) No member may sit or vote in the Legislative Assembly unless the member has taken or made the oath or affirmation of allegiance in schedule 1.

(2) The oath must be taken or the affirmation must be made in the presence of the Governor or a person authorised by the Governor to administer the oath or affirmation.

(3) A member “takes” the member’s seat on taking the oath or making the affirmation.

Division 2—Members who are Ministers or Parliamentary Secretaries

23 Ministers

Chapter 3, part 3 contains provisions about the appointment of members of the Legislative Assembly as Ministers or acting Ministers.

24 Appointment of Parliamentary Secretaries

(1) The Governor in Council may appoint members of the Legislative Assembly as Parliamentary Secretaries.

(2) However, a Minister or member of Executive Council may not be appointed as a Parliamentary Secretary.

The oath or affirmation (detailed in Schedule 1 to the Constitution) reflects the Queen's title as "lawful Sovereign of Australia". (An oath uses God's name, whereas an affirmation does not.) It is a solemn undertaking by the prospective member of the Legislative Assembly to meet his or her responsibilities fully in representing and serving the people of Queensland.

This provision is a signpost to chapter 3, part 3, which deals with the appointment of Ministers.

The practice of appointing Parliamentary Secretaries in Queensland began in 1996. The Government of the time decided that Parliamentary Secretaries were to be appointed to assist Ministers in the performance of their portfolio functions. At the time, no specific legislative provision existed for the establishment or appointment of Parliamentary Secretaries.

This provision enables the Governor in Council to appoint a member of the Legislative Assembly as a Parliamentary Secretary (see section 27 for an explanation of "Governor in Council"). There is no limit as to the number of Parliamentary Secretaries that may be appointed at any given time.

At Commonwealth level, there have been Parliamentary Secretaries (originally called "Assistant Ministers") since 1905. Parliamentary Secretaries are also currently appointed in Tasmania, New South Wales and Western Australia.

25 Functions of Parliamentary Secretary

A Parliamentary Secretary has the functions decided by the Premier.

Although the Premier decides the functions of Parliamentary Secretaries, the portfolio Ministers they assist also have a say in their more specific duties.

Among their other duties, Parliamentary Secretaries will usually:

- make inquiries on behalf of the Minister;
- represent the Minister at official engagements;
- comment upon and publicly discuss government policy and decisions relevant to the portfolio, as instructed by the portfolio Minister;
- meet with delegations, clients of the department and authorities within the portfolio, and report on those meetings to the Minister; and
- liaise with other members of the Legislative Assembly on matters arising within the portfolio.

A Parliamentary Secretary can continue to perform all other duties applicable to members of the Legislative Assembly, including asking questions and speaking in support of legislation.

A Parliamentary Secretary cannot:

- sit as a Minister in Cabinet or on a committee of Cabinet while appointed as a Parliamentary Secretary;
- breach Cabinet solidarity (Although not a member of Cabinet, a Parliamentary Secretary is bound by the collective responsibility of Cabinet.);
- attend a meeting of the Executive Council or sign Executive Council Minutes on behalf of the Minister;
- perform any duties in the Legislative Assembly on behalf of the Minister including answering questions without notice, presenting ministerial statements, tabling documents and introducing legislation; or
- appear before a Committee of the House on behalf of the Minister.

26 Length of Parliamentary Secretary's appointment

(1) The appointment of a member of the Legislative Assembly as a Parliamentary Secretary ends on the polling day for the next general election after the appointment.

(2) However, the appointment ends before the polling day when any of the following happen—

- (a) the member's seat becomes vacant otherwise than because the Legislative Assembly is dissolved or expires by the passage of time;
- (b) the member resigns as Parliamentary Secretary by written notice of resignation given to the Premier;
- (c) the member is appointed as a Minister or member of Executive Council or is appointed to act as a Minister under section 46;
- (d) the appointment is ended by the Governor in Council under subsection (3).

(3) The Governor in Council, at any time, may end the appointment for reasons the Governor in Council considers sufficient or for no reason.

(4) In this section—
“**general election**” means an election for the members of the Legislative Assembly.

A Parliamentary Secretary's appointment automatically terminates at the end of a parliamentary term. It may terminate earlier if:

- the member's seat becomes vacant through resignation or dismissal;
- the Parliamentary Secretary resigns the appointment;
- the member is appointed as a Minister or acting Minister; or
- the Governor in Council ends the appointment.

If a Parliamentary Secretary is promoted to the position of Minister, a replacement Parliamentary Secretary is usually appointed to the former role.

A Parliamentary Secretary is appointed to a position to assist a particular Minister. If the Parliamentary Secretary is to be transferred to assist another Minister, the original appointment needs to be terminated and a fresh appointment made.

Chapter 3 Governor and Executive Government

The previous chapter dealt with Parliament and its representation of the people (the legislative arm of government). Chapter 3 covers the establishment of an executive arm of government. The Executive has responsibility for administering laws and carrying out the business of government. It includes the Governor, and the Ministers supported by the various departments and agencies. In particular, this part of the Constitution defines the roles and relationships between the appointed Governor and those elected members of Parliament who are subsequently appointed as Ministers in the Cabinet.

You should refer back to the Introduction for an explanation of the purpose and design of the executive arm of government. The Queensland Constitution explains how these principles apply in Queensland.

Use chapter 3 to find answers to these questions:

- What are the role and powers of the position of Governor?
- How is the Governor appointed, and how is the appointment terminated?
- What happens when the Governor is unable to carry out his or her duties?
- How many Ministers can be appointed at one time?
- What are the working arrangements for Ministers?
- What are the differences between the Cabinet and Executive Council?

Part 1— Interpretation

27 Governor in Council

The Governor in Council is the Governor acting with the advice of Executive Council.

Part 2— Governor

28 Definition for pt 2

In this part—

“Royal Sign Manual” means the signature or royal hand of the Sovereign.

29 Governor

- (1) There must be a Governor of Queensland.
- (2) The Governor must be appointed by commission under the Royal Sign Manual.

The term “Governor in Council” means “the Governor acting with the advice of the Executive Council”; in other words the Governor in Council is a decision-making body (i.e. a group of people, not an individual). The Executive Council consists of the Government Ministers.

The Governor meets with members of the Executive Council and formally approves matters such as statutory appointments, significant expenditure and subordinate legislation.

When Queen Elizabeth II succeeded her father, King George VI, as Sovereign on 6 February 1952, her description in the Proclamation of Accession was (translated from the Latin): “Queen Elizabeth II by the Grace of God, Queen of this Realm and of Her other Realms and Territories, Head of the Commonwealth, Defender of the Faith”. The Queen signs formal and official documents and messages using an abbreviated form of her full title: “Elizabeth R”. (“R” stands for the Latin *Regina*, meaning “Queen”.)

Queensland is a constitutional monarchy with the Queen as head of state, and the Governor is the Queen’s representative in Queensland. The Queen must personally sign the Governor’s document of appointment, and this document—the Governor’s commission—is sealed with the Public Seal of the State (see section 37).

Queensland’s first Governor, Sir George Ferguson Bowen, was born in Ireland in 1821. His term commenced on 10 December 1859. After serving as Queensland’s first Governor, he was appointed as Governor of New Zealand from 1868 to 1873, Governor of Victoria from 1873 to 1879, Governor of Mauritius from 1879 to 1882 and Governor of Hong Kong from 1882 to 1886.

A list of all Queensland’s Governors to date is given in Appendix 6.

30 Office of Governor

The *Constitution Act 1867*, sections 11A and 11B contain provisions about the office of Governor.

Note—

The *Constitution Act 1867*, sections 11A and 11B are subject to section 53 (Certain measures to be supported by referendum) of that Act.

SECTION 11A OF THE *CONSTITUTION ACT 1867* STATES:

11A Office of Governor

- (1) The Queen's representative in Queensland is the Governor who shall hold office during Her Majesty's pleasure.
- (2) Abolition of or alteration in the office of Governor shall not be effected by an Act of the Parliament except in accordance with section 53.
- (3) In this Act and in every other Act a reference to the Governor shall be taken—
 - (a) to be a reference to the person appointed for the time being by the Queen by Commission under Her Majesty's Royal Sign Manual to the office of Governor of the State of Queensland;
and
 - (b) to include any other person appointed by dormant or other Commission under the Royal Sign Manual to administer the Government of the State of Queensland.

11B Definition of Royal Sign Manual

In section 11A the expression "Royal Sign Manual" means the signature or royal hand of the Sovereign.

31 Requirements concerning commission and oath or affirmation

- (1) Before undertaking any duties as Governor, a person appointed as Governor must, in the presence of the Chief Justice, or the next most senior judge of the Supreme Court of Queensland who is able to act, (the "judicial officer") and of at least 2 members of Executive Council—
 - (a) cause the commission appointing the person as Governor to be read and published at the seat of government in the State;
and
 - (b) take or make the oath or affirmation of allegiance and of office in schedule 1, subject to and in accordance with the law and practice of the State.
- (2) The judicial officer must administer the oath or affirmation.

The Governor holds office at the Sovereign’s “pleasure”, which means that there is no end date specified for this appointment; however, by convention the term has been five years. The Governor is appointed on the recommendation of the Premier.

The Governor of Queensland acts with the full authority of the Sovereign in the State of Queensland in all aspects other than the appointment of a successor.

These provisions are entrenched, and therefore cannot be altered without a referendum (see Introduction, “The changing Constitution”).

The Governor is appointed by commission: a document which is read publicly in Brisbane—the seat of government—and published in the *Queensland Government Gazette*. The Governor is then sworn in by the most senior judicial officer in the State (the Chief Justice of the Supreme Court of Queensland), witnessed by at least two members of the Executive Council. The ceremony takes place at Parliament House.

This section refers to the “seat of government in the State”, which in Queensland is Brisbane.

32 Termination of appointment as Governor

(1) The appointment of a person as Governor may be terminated only by instrument under the Royal Sign Manual.

(2) The instrument takes effect on its publication in the gazette or at a later time stated in the instrument.

33 General power of Governor

The Governor is authorised and required to do all things that belong to the Governor's office under any law.

34 Power of Governor – Ministers

Ministers hold office at the pleasure of the Governor who, in the exercise of the Governor's power to appoint and dismiss the Ministers, is not subject to direction by any person and is not limited as to the Governor's sources of advice.

The Queensland Constitution does not specify any criteria for the Governor's enforced retirement or dismissal. To date, no appointment of a Queensland Governor has been terminated prematurely. If such a termination were ever to occur, the Sovereign would sign the document only on the advice of the Premier.

The Governor's powers are specified in:

- the Commission of Appointment;
- provisions of the *Australia Acts 1986*;
- the *Constitution of Queensland 2001*;
- entrenched provisions from the *Constitution Act 1867*; and
- the provisions of the many Acts that require certain things to be done or approved by the Governor in Council.

The Governor also has certain powers known as "Royal Prerogatives", which are the powers of the Governor as an individual and not of the Governor in Council (see section 27). By convention, the Governor seeks the advice of the Premier when using these powers. They include the power to:

- dissolve Parliament (i.e. end a term of Parliament, making an election necessary);
- prorogue Parliament (i.e. end a session of Parliament until the next session, without an election intervening);
- issue writs (formal orders) for elections (although in practice writs are issued on the advice of the Executive Council);
- call upon a person to form a government; and
- pardon a conviction or remit a sentence, fine or penalty imposed on an offender by a court.

The Governor has the power to appoint and dismiss Ministers, and may do this with or without advice or direction from anyone else.

The Governor must be satisfied, from whatever source of advice he or she chooses, that the person to be commissioned as Premier can command a majority of the 89 seats in the Parliament. Only then will the Government be able to meet its responsibilities in governing the State.

Once the Governor determines who will be commissioned as Premier, the Governor will then receive the Premier's advice on the appointment of the rest of the Government's Ministers.

There have been extremely rare occasions when a State Governor has used what is known as the "reserve powers of the Crown" to take action independently of the Premier's advice.

35 Power of Governor—removal or suspension of officer

(1) This section does not limit the power of the Governor under another provision of this Act or another Act.

(2) To the extent that it is within the Governor's power and if the Governor considers there is sufficient reason, the Governor may remove or suspend a person holding an office or place under an appointment made in the name or under the authority of the Sovereign.

36 Power of Governor—relief for offender

(1) This section does not limit the operation of another Act.

(2) In relation to an offence against a law of the State, the Governor may grant the offender, in the name and on behalf of the Sovereign—

- (a) a pardon, a commutation of sentence or a reprieve of execution of sentence for a period the Governor considers appropriate; or
- (b) a remission of a fine, penalty, forfeiture or other consequence of conviction of the offender.

(3) The grant may be unconditional or subject to lawful conditions.

37 Power of Governor—public seal

The Governor may keep and use the Public Seal of the State for sealing all public instruments made or passed in the Sovereign's name.

38 Continued use of seal despite end of Sovereign's reign

(1) This section applies if the Sovereign's reign ends and, immediately before the end of the reign, a seal for Queensland issued by the Sovereign is in existence.

(2) The seal, until a new seal is issued by the next Sovereign, may continue to be used as if the Sovereign's reign had not ended.

A number of Acts of Parliament give the Governor power to suspend or remove people from office. The Governor relies on ministerial advice through the Premier (or the Governor in Council process) when using this power.

It is sometimes possible for a convicted person to ask the Governor to pardon or commute a sentence, or to grant a reprieve from a sentence, or remission from a fine or penalty. Usually it is the petitioners themselves or their lawyers who petition the Governor for pardon.

Again the Governor acts on ministerial advice, usually from the Attorney-General (via the Premier).

A seal is a device that leaves an impression on paper and provides a mark of authenticity on certain official instruments. The "Public Seal of the State" is the seal that demonstrates the Sovereign's authority in Queensland. Examples of documents that the Governor seals with the Public Seal of the State include commissions appointing members of the judiciary, Deputy Governors, Ministers and Executive Councillors, as well as various types of proclamations.

Each successive Sovereign issues a new Public Seal of the State for Queensland. When a Sovereign's reign ends, the old seal continues to be used until a new one is issued.

39 Statutory powers when Sovereign personally in State

(1) When the Sovereign is personally present in the State, any power under an Act exercisable by the Governor may be exercised by the Sovereign.

(2) The Governor has the same powers in relation to an act done, or an instrument made, by the Sovereign under this section as the Governor has in relation to an act done, or an instrument made, by the Governor himself or herself.

(3) This section does not affect or prevent the exercise of any power under an Act by the Governor.

(4) In this section, references to the Governor or to the Sovereign include references to the Governor, or to the Sovereign, acting with the advice of the Executive Council.

40 Delegation by Governor to Deputy Governor

(1) The Governor may delegate all or any of the Governor's powers to the person mentioned in subsection (2) during and only during any or all periods—

- (a) the Governor is temporarily absent for a short period from the seat of government, except when administering the Government of the Commonwealth; or
- (b) the Governor is ill and there are reasonable grounds for believing the illness will be of short duration.

(2) The person to whom the Governor's powers may be delegated is—

- (a) the Lieutenant-Governor; or
- (b) if there is no Lieutenant-Governor in the State and able to act—the Chief Justice; or
- (c) if there is no Chief Justice in the State and able to act—the next most senior judge of the Supreme Court of Queensland who is in the State and able to act.

(3) The delegation must be by instrument under the Public Seal of the State and specify the powers given to the delegate.

(4) A person exercises the Governor's powers under a delegation as Deputy Governor.

Section 7(2) of the *Australia Acts 1986* terminated the Sovereign's powers in the State of Queensland except in relation to:

- appointing or dismissing the Governor (section 7(3)); and
- times when the Sovereign is personally present in the State (section 7(4)).

When present in the State, therefore, the Sovereign can perform those functions where the Governor normally acts on the Sovereign's behalf, and can exercise any of the statutory powers that are specifically the Governor's.

Extensive consultation was undertaken between Australia and the United Kingdom during the development of the Australia Acts. At this time, the matter of the Queen's constitutional status in Australia at state and federal levels was clarified.

If the Governor is absent from the seat of government (Brisbane) or is ill for a short period, a Deputy Governor may be appointed by means of a commission signed by both the Governor and the Premier. Such an appointment is normally made if the Governor is away from Brisbane for more than a day—in case, for example, there needs to be a special sitting of Executive Council. The Deputy Governor's powers are limited to those specified in the commission document.

The Lieutenant-Governor is listed as first choice for Deputy Governor. Queensland has had several Lieutenant-Governors in the past (including former Premiers, Chief Justices and Presidents of the former Legislative Council), but no longer has one. The last one was the Honourable F.A. Cooper, former Premier of Queensland, who was appointed Lieutenant-Governor on 24 April 1946, and held office until he died on 30 April 1949.

Lieutenant-Governors of Queensland were generally appointed during a period known as a "Vice-Regal interregnum", between the departure of a Governor and the arrival of a successor from London. Lieutenant-General Sir John Dudley Lavarack, who held office from 1946 to 1957, was the first Australian-born Governor of Queensland; by convention, all Governors of Queensland since that time have been Australian citizens. This means there is no longer an interregnum, which is one of the reasons why it is no longer considered necessary to appoint a Lieutenant-Governor. It is usually the Chief Justice, therefore, who is first approached to be appointed as Deputy Governor.

41 Administration of Government by Acting Governor

(1) The person mentioned in subsection (3) must administer the Government of the State during any period—

- (a) the office of Governor is vacant; or
- (b) the Governor assumes the administration of the Government of the Commonwealth; or
- (c) the Governor is absent from the State and the Governor's powers are not being exercised by a Deputy Governor under a delegation under section 40; or
- (d) the Governor is incapable of performing the duties of office and the Governor's powers are not being exercised by a Deputy Governor under a delegation under section 40.

(2) The Governor is taken not to be absent from the State for subsection (1)(c) if the Governor is beyond the boundaries of the State in the course of travel from 1 part of the State to another part of the State.

(3) The person who must administer the Government of the State is—

- (a) the Lieutenant-Governor; or
- (b) if there is no Lieutenant-Governor in the State and able to act—the Chief Justice; or
- (c) if there is no Chief Justice in the State and able to act—the next most senior judge of the Supreme Court of Queensland who is in the State and able to act.

(4) A person administering the Government of the State under this section acts as Governor and performs the Governor's functions and exercises the Governor's powers as Acting Governor.

(5) Before assuming the administration of the Government of the State, the person must have previously taken or made, or must take or make as soon as is reasonably practicable after the occasion arises for the person to administer the State, the oath or affirmation of allegiance and of office in schedule 1.

(6) The oath must be taken or the affirmation made in the presence of—

- (a) the Chief Justice or the next most senior judge of the Supreme Court of Queensland who is able to act (the “judicial officer”); and
- (b) at least 2 members of Executive Council.

(7) The judicial officer must administer the oath or affirmation.

(8) The person must not continue to administer the Government of the State after the Governor or some other person holding an office prior in title to administer the Government of the State under subsections (1) and (3) has, by proclamation, given notice that the Governor or other person has assumed or resumed, or is about to assume or resume, the administration of the Government of the State.

If the Governor is absent from the State (and not merely from Brisbane), an Acting Governor is appointed. There are two significant differences between the appointments of Deputy Governor and Acting Governor:

- When the circumstances arise, an Acting Governor automatically administers the State. The appointment of a Deputy Governor is discretionary.
- The Acting Governor does not act on behalf of the Governor (as is the case for a Deputy Governor), but administers the Government of the State in his or her own right.

As there is no Lieutenant-Governor appointed in Queensland, the Chief Justice (the most senior judicial officer in the State) is normally appointed as Acting Governor. The Chief Justice, if unavailable to act, will nominate the President of the Court of Appeal or, if the President is unavailable to act, one of the justices of the Court of Appeal. The Acting Governor issues a proclamation when commencing administration of the Government of the State. On the first occasion that a Justice of the Supreme Court assumes administration of the State he or she must make an oath or take an affirmation of allegiance and office.

The Governor, on return to the State, issues a proclamation advising that he or she is resuming administration of government.

Part 3—Cabinet and Ministers of the State

42 Cabinet

- (1) There must be a Cabinet consisting of the Premier and a number of other Ministers appointed under section 43.
- (2) The Cabinet is collectively responsible to the Parliament.

43 Appointment of Ministers of the State

- (1) The Governor, by proclamation, may declare the offices to which persons may be appointed as Ministers of the State.
- (2) The Governor, by commission, may appoint a person as a Minister of the State.
- (3) To remove any doubt, it is declared that the Attorney-General is a Minister.
- (4) The maximum number of Ministers at any time is 19.
- (5) A Minister must, before entering on the duties of the Minister's office, take or make the oath or affirmation of allegiance and of office in schedule 1.
- (6) The oath must be taken or the affirmation made in the presence of the Governor or a person authorised by the Governor to administer the oath or affirmation.

44 Administrative arrangements

The Governor in Council, by order published in the gazette, may make administrative arrangements doing either or both of the following—

- (a) distributing the public business, or any of that business, among the Ministers;
- (b) declaring either or both of the following—
 - (i) the administrative units, or any of the administrative units, or the parts of the administrative units administered by each Minister respectively, or any Minister;
 - (ii) the Acts, or any of the Acts, or the parts of the Acts administered by each Minister respectively, or by any Minister.

Cabinet is responsible for developing and coordinating the policies of the Government. By convention, Cabinet consists of the Ministers who are appointed by the Governor under section 43, with the Premier as chairperson. Cabinet decisions result from collective deliberation and must be accepted by the Cabinet Ministers as Government policy.

Cabinet processes are established by the Premier to ensure that all Ministers are bound by the same rules and by high standards of probity. The Cabinet Ministers are collectively responsible and accountable to the Parliament.

Cabinet meets once a week, usually on a Monday, and considers its business through formal submissions sponsored by the individual Ministers. Although Cabinet usually meets in Brisbane, it also regularly meets in rural and regional centres throughout Queensland, to give those communities access to the prime policy-making body of Government.

Further information on the Cabinet process in Queensland can be obtained from the *Queensland Cabinet Handbook*, at: www.premiers.qld.gov.au/governingqld/cabinethandbook.

The process for appointing Ministers usually follows a general election. When it is clear which political party or coalition of parties has won a majority of the 89 seats, the leader of that party or parties will be appointed by the Governor as Premier. The Premier will nominate the remaining Ministers to the Governor.

The Governor issues a proclamation officially declaring the portfolio titles of the Ministers, of whom there may be no more than 19 (see Appendix 2). The Attorney-General is considered to be one of the Ministers. The portfolio titles are decided by the Premier, and they reflect the Ministers' areas of responsibility for Government administration (e.g. Minister for Education, Minister for Health). The proclamation, which is published in the *Queensland Government Gazette*, usually determines the seniority of Ministers. The Governor appoints individual Ministers by commission.

The Premier is responsible for the "administrative arrangements" document, which clearly defines ministerial responsibility (i.e. which Minister is responsible for each aspect of government business). This assists the process by which the Government is accountable to the elected representatives through the Parliament.

Administrative arrangements are approved by the Governor in Council in the form of an Order in Council published in the *Queensland Government Gazette*. The Order in Council sets out each Minister's title, principal ministerial responsibilities and legislation administered, as well as the administrative units under each portfolio. An electronic copy of the most recent Administrative Arrangements Order can be accessed at: www.premiers.qld.gov.au/policies/admin.

45 Minister may act for another Minister

(1) The Governor or Premier, in writing, may appoint a Minister to act as another Minister.

(2) The Minister may be appointed to perform all or any of the other Minister's functions and exercise all or any of the other Minister's powers.

(3) However, an appointment by the Premier may not be for a period of more than 14 days.

46 Member may act for a Minister

(1) Without limiting section 45, the Governor, by proclamation, may appoint a member of the Legislative Assembly to act as a Minister for any or all periods the Minister is—

- (a) absent from the State in the course of the duties of the office; or
- (b) absent on leave given under section 47.

(2) The member may be appointed to perform all or any of a Minister's functions and exercise all or any of a Minister's powers.

(3) The member, before entering on the duties of the office, must take or make the oath or affirmation of allegiance and of office in schedule 1.

(4) The oath must be taken or the affirmation made in the presence of the Governor or a person authorised by the Governor to administer the oath or affirmation.

(5) A person who is already a Minister may not be appointed under subsection (1).

(6) An appointment under subsection (1) has effect despite section 43(4).

47 Sick leave

The Governor, by proclamation, may give a Minister who is ill leave of absence with pay for a period of not more than 6 months.

When a Minister is on leave or absent from the State, that Minister's duties and powers are delegated in writing to another Minister. Without this provision, important legislative and executive functions might not be able to be performed.

The Premier may authorise the delegation of power for periods of up to 14 days. For periods longer than that it is the Governor who gives authorisation. It is the usual practice for the Governor to authorise the delegation if the Minister is travelling overseas, even if the absence is less than 15 days. When the Premier takes leave or travels overseas the Governor approves a delegation for a Minister—usually the Deputy Premier—to act for the Premier.

In contrast to section 45, which provides for one Minister to deputise for another, this provision enables a backbencher to act as an additional Minister. Such an appointment might occur if a Minister was absent from the State or was absent from duty due to illness. An acting Minister must make an oath or affirmation of allegiance and of office before commencing duties. In practice, a member of the Legislative Assembly appointed as an acting Minister would be from the political party or parties forming the Government.

There is only one known occasion in Queensland history on which a member of the Legislative Assembly who was not already a Minister has been appointed as an acting Minister. In 1962, Keith Morris was granted a leave of absence on account of illness. Alexander Dewar was appointed as an acting Minister from 25 October 1962 to 10 January 1963. Mr Dewar was subsequently sworn in as a Minister.

A Minister is entitled to take sick leave for a period of up to six months on full salary (as outlined in the *Members' Entitlements Handbook*).

Part 4—Executive Council

48 Executive Council

- (1) There must be an Executive Council for the State.
- (2) Executive Council consists of the persons appointed as members of the Executive Council by the Governor by instrument under the Public Seal of the State.
- (3) A member of Executive Council must, before entering on the duties of the member's office, take or make the oath or affirmation of office and of secrecy in schedule 1.
- (4) The oath must be taken or the affirmation made in the presence of the Governor or a person authorised by the Governor to administer the oath or affirmation.

49 Length of appointment as member of Executive Council

The appointment of a person as a member of Executive Council ends only on the happening of either of the following—

- (a) the person's resignation as a member of Executive Council;
- (b) the person's removal as a member of Executive Council by the Governor.

As in other Australian colonies, an Executive Council was established in Queensland at the time of its separation from New South Wales (1859).

In Queensland, it is customary for Executive Councillors to be the same people as those who comprise the Ministry. Ministers are appointed as Executive Councillors immediately after being sworn in; that is, they are appointed to fulfil two roles—Minister and Executive Councillor. Like the appointment as a Minister, appointment as an Executive Councillor involves receiving a commission signed by the Governor, and publication of the appointment in the *Queensland Government Gazette*.

Administrative action under numerous Acts, such as appointments, making regulations and by-laws, and approving financial deeds of agreement, can be carried out only by the Governor in Council.

The Governor in Council gives legal authority to actions to be taken or decisions made under Acts of Parliament. (See section 27 for an explanation of the entity “Governor in Council”.) The Governor in Council, unlike Cabinet, is not a deliberative body. The Governor carefully examines all recommendations before an Executive Council meeting. If there is insufficient information on what is proposed and the reason for it, the Governor can seek additional information before giving his or her approval (see the Executive Council Handbook at www.premiers.qld.gov.au).

If a Minister relinquishes a portfolio and resigns from the Ministry, he or she must also resign as a member of Executive Council. If a Minister moves from one portfolio to another during a term of Government, he or she resigns from the original portfolio before being appointed to the new one; but in this case there is no impact on the Minister’s membership of Executive Council.

50 Meetings of Executive Council

- (1) The Governor must preside over a meeting of Executive Council.
- (2) However, if, for good reason, the Governor can not preside, a meeting of Executive Council must be presided over by—
 - (a) if the Governor has appointed a member of Executive Council to preside—the member; or
 - (b) if the Governor has not appointed a member to preside—the member who is taken to be the most senior member present.
- (3) Executive Council must not deal with any business at a meeting unless—
 - (a) it has been summoned to meet by the Governor’s authority; and
 - (b) at least 2 members, other than any presiding member, are present for the entire meeting.

Part 5— Powers of the State

Division 1— General

51 Powers of the State

- (1) The Executive Government of the State of Queensland (the “State”) has all the powers, and the legal capacity, of an individual.
- (2) The State may exercise its powers—
 - (a) inside and outside Queensland; and
 - (b) inside and outside Australia.
- (3) This part does not limit the State’s powers.

Example—

This part does not affect any power a Minister has apart from this part to bind the State by contract.

Division 2— Commercial activities

52 Definitions for div 2

- In this division—
- “commercial activities” includes—
- (a) commercial activities that are not within the ordinary functions of the State; and
 - (b) commercial activities of a competitive nature; and
 - (c) activities declared by an Act to be commercial activities;
- but does not include activities declared by an Act not to be commercial activities.
- “State” includes a public sector unit.

The Governor is not a member of the Executive Council, but presides over its meetings.

This provision sets out alternative officers who are able to preside over Executive Council if the Governor is unable to do so. In practice, if the Governor is either away from Brisbane or absent from the State, a Deputy Governor or Acting Governor will preside in the Governor's absence (see sections 40 and 41). It would have to be an extremely rare emergency to necessitate anyone other than the Governor, a Deputy Governor or an Acting Governor presiding over a meeting of the Executive Council.

The Executive Council generally meets on a Thursday in the Executive Building, George Street, Brisbane. When Parliament is sitting, meetings are conducted at Parliament House. From time to time, special meetings are held at Government House (the residence of the Governor) to consider urgent business.

Unlike Cabinet, where it is practice for all the Ministers to attend each meeting, Executive Council meetings can proceed as long as the presiding officer and at least two Executive Councillors are in attendance.

The State is allowed to enter into contracts and own property, just as an individual can; it can also enter into commercial transactions interstate and overseas. For example, Queensland can contract to lease or acquire premises for its overseas trade offices (e.g. in London, Los Angeles or Osaka). See also section 53.

These powers are separate from any that a Minister may hold individually, and have no bearing on such individual powers.

This section defines “commercial activities” as used in section 53 and 54, and specifies that the term “State” includes public sector units. (Government departments are public sector units.)

53 Commercial activities by State

- (1) The State may carry out commercial activities.
- (2) This section is sufficient statutory authority for the State to carry out a commercial activity.
- (3) Commercial activities may be carried out—
 - (a) without further statutory authority; and
 - (b) without prior appropriation from the consolidated fund for the purpose.
- (4) Commercial activities may be carried out—
 - (a) inside and outside Queensland; and
 - (b) inside and outside Australia.

54 Commercial activities by Minister

A Minister may carry out commercial activities for the State.

55 Delegation by Minister

- (1) A Minister may delegate a power of the State to an appropriately qualified officer of the State.
- (2) An officer of the State may subdelegate the delegated power to another appropriately qualified officer of the State.
- (3) In this section—

“appropriately qualified”, in relation to a delegated power, includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

A person’s level of employment in the entity in which the person is employed.

“officer of the State” means—

- (a) a chief executive, or employee, of a public sector unit; or
- (b) an officer of the public service.

The State (meaning the Executive Government) has the power to carry out a wide range of commercial activities, such as:

- entering into residential tenancy agreements for public housing;
- entering into commercial leasing agreements for government-owned buildings;
- acquiring land for various purposes; and
- acquiring and maintaining industrial and manufacturing units and equipment.

In addition, a number of government departments have “commercialised business units” which operate, as far as practicable, on a competitively neutral basis. A comprehensive directory of all the commercial activities undertaken by the Queensland Government can be accessed through the Queensland Government website at www.qld.gov.au.

This section empowers Ministers to carry out commercial activities on behalf of the State of Queensland.

A Minister may delegate a power of the State to an appropriately qualified officer of the State. In turn, that officer may further delegate these powers. In effect, this provision enables officers of the public service to carry out business activities on behalf of the State. Sharing these responsibilities is essential in view of the large volume of business conducted by the Government.

Chapter 4 Courts

The Executive and Parliament work together to carry out the business of the Government and establish the laws of the State. The Judiciary interprets the laws and gives them meaning, through the decisions they make in cases that come before the courts. This chapter outlines the establishment of the Judiciary and the court system in which it operates.

Use chapter 4 to find answers to these questions:

- Which courts must exist according to the Queensland Constitution?
- How are judges appointed to the Supreme Court?
- How can a judge be removed from office, and under what circumstances?

56 Definitions for ch 4

In this chapter—

“**judge**” means a judge of the Supreme Court or District Court.

“**office**” means any of the following offices—

- (a) Chief Justice of Queensland;
- (b) President of the Court of Appeal;
- (c) Senior Judge Administrator;
- (d) judge of appeal of the Supreme Court;
- (e) judge of the Supreme Court;
- (f) Chief Judge of the District Court;
- (g) judge of the District Court.

57 Supreme Court and District Court

There must be a Supreme Court of Queensland and a District Court of Queensland.

58 Supreme Court’s superior jurisdiction

(1) The Supreme Court has all jurisdiction necessary for the administration of justice in Queensland.

(2) Without limiting subsection (1), the court—

- (a) is the superior court of record in Queensland and the supreme court of general jurisdiction in and for the State; and
- (b) has, subject to the Commonwealth Constitution, unlimited jurisdiction at law, in equity and otherwise.

This section provides a list of various offices that currently exist within the Judiciary in Queensland. The term “Judiciary” is used collectively to describe the judges, as well as the branch of government concerned with the administration of justice.

The *Supreme Court Constitution Amendment Act 1861* declared the existence of the Supreme Court of Queensland. The District Courts of Queensland were originally established in 1866 to ease the workload of the Supreme Court but were abolished in 1921 by an Act of Parliament. The District Courts were re-established in 1958 to address increased workloads in the Supreme Court.

There are also other courts and tribunals, established under various Acts of Parliament to deal with a range of disputes and offences (e.g. the Magistrates Court, the Childrens Court and the Small Claims Tribunal).

The Supreme Court of Queensland is the highest court in the Queensland court system. It consists of the Chief Justice and two divisions: the Trial Division and the Court of Appeal. The Supreme Court deals with serious criminal offences, and with civil disputes where the amount in dispute is more than \$250 000. For criminal cases the Trial Division of the Supreme Court must use a jury to determine guilt or innocence, but a judge usually decides civil cases without a jury.

The only court senior to the Supreme Court is the High Court of Australia, which is established under the Commonwealth Constitution. Certain matters heard in the Supreme Court can be appealed in the High Court.

59 Appointment of judges

(1) The Governor in Council, by commission, may appoint a barrister or solicitor of the Supreme Court of at least 5 years standing as a judge.

(2) A judge must, before entering on the duties of an office, take or make the oath or affirmation of allegiance and of office in schedule 1.

(3) The oath must be taken or the affirmation made in the presence of the Governor or a person authorised by the Governor to administer the oath or affirmation.

60 Length of judge's appointment

(1) A judge holds an office as a judge indefinitely during good behaviour.

(2) However, the *Supreme Court of Queensland Act 1991* and the *District Court of Queensland Act 1967* provide for a judge's retirement.

(3) A judge may resign an office by written notice of resignation given to the Governor.

61 Removal from office for misbehaviour or incapacity

(1) A judge may not be removed from an office other than under this section.

(2) A judge may be removed from an office by the Governor in Council, on an address of the Legislative Assembly, for—

- (a) proved misbehaviour justifying removal from the office; or
- (b) proved incapacity to perform the duties of the office.

(3) A judge's misbehaviour justifying removal from an office is proved only if the Legislative Assembly accepts a finding of a tribunal, stated in a report of the tribunal, that, on the balance of probabilities, the judge has misbehaved in a way that justifies removal from the office.

(4) A judge's incapacity to perform the duties of an office is proved only if the Legislative Assembly accepts a finding of a tribunal, stated in a report of the tribunal, that, on the balance of probabilities, the judge is incapable of performing the duties of the office.

(5) The tribunal is to be established under an Act.

(6) The tribunal has the functions, powers, protection and immunity given under an Act.

(7) The tribunal must consist of at least 3 members.

(8) The members are to be appointed by resolution of the Legislative Assembly.

(9) A person is eligible for appointment as a member only if the person is a former judge or justice of a State or Federal superior court in Australia.

(10) However, a person is not eligible for appointment as a member if the person and the judge who may be removed were judges of the same court at the same time.

To be appointed as a judge, a person must have been a solicitor or a barrister for at least five years. Judges must be sworn in before taking up their judicial duties, taking an oath or making an affirmation. The oath or affirmation is given in full in Schedule 1 at the end of the Constitution.

Under the current provisions of other Acts, judges continue in office until the age of 70 unless they resign earlier. Judges cannot be removed from office except by the Governor, in accordance with the procedure set down in section 61.

Judges can be removed from office on the grounds of misbehaviour, or if they are proved incapable of performing their duties. This process involves all three arms of government: the Judiciary, Executive and Legislature.

A tribunal, consisting of at least three former judges, has to consider the circumstances and come to a conclusion based on the “balance of probabilities”. (This means that it is more likely than not that something occurred or did not occur.) If the Legislative Assembly accepts the tribunal’s decision, the Governor in Council can remove the judge.

62 Judge's salary

- (1) A judge must be paid a salary at the rate applicable to the judge's office.
- (2) The amount of the salary may not be decreased.
- (3) The payment of the amount for judges' salaries from the consolidated fund is authorised and the consolidated fund is appropriated for the purpose.

63 Protection if office abolished

- (1) This section applies if an office held by a judge is abolished either directly or by abolition of a court or part of a court.
- (2) The judge is entitled at least, without loss of salary, to be appointed to, and to hold, another office of equivalent or higher status in the same court in which the judge held the abolished office or in another court, unless the judge already holds that type of office.
- (3) The entitlement mentioned in subsection (2)–
 - (a) continues for the period during which the judge would have been entitled to hold the abolished office, subject to removal under section 61; and
 - (b) lapses if the judge fails to take up an appointment to the other office or resigns from it.

This is a general provision about judges' salaries. Actual rates of pay are contained in other legislation (e.g. the *Judges (Salaries and Allowances) Act 1976*). By preserving judges' salaries this provision protects the independence of the Judiciary.

This is a new provision designed to prevent the reduction of the number of judicial offices. It is also an important protection to maintain the independence of the judicial arm of government.

Chapter 5 Revenue

“Revenue” is the Government’s income, and this chapter is devoted to managing the collection, distribution and use of Government funds.

Use chapter 5 to find answers to these questions:

- What process does the Government have to use to create new taxes, imposts, rates or duties for the purpose of collecting revenue?
- Where is the revenue collected?
- What authorisation is needed for Government spending (other than costs associated with managing the consolidated fund)?
- What is an “appropriation” Bill and who recommends it?

64 Consolidated fund

All taxes, imposts, rates and duties and other revenues of the State are to form 1 consolidated fund to be appropriated for the public service of the State in the way, and subject to the charges, specified by an Act.

65 Requirement to pay tax, impost, rate or duty

A requirement to pay a tax, impost, rate or duty of the State must be authorised under an Act.

66 Payment from consolidated fund

(1) The payment of an amount from the consolidated fund must be authorised under an Act.

(2) Further, the Act authorising the payment must specify the purpose for which the payment is made.

(3) This section does not apply in relation to the costs, charges and expenses relating to the collection and management of the consolidated fund.

67 Charges on consolidated fund

(1) The consolidated fund is permanently charged with all the costs, charges and expenses relating to the collection and management of the fund.

(2) The costs, charges and expenses are the first charge on the consolidated fund.

(3) However, the costs, charges and expenses may be reviewed and audited under an Act.

68 Governor's recommendation required for appropriation

(1) The Legislative Assembly must not originate or pass a vote, resolution or Bill for the appropriation of—

- (a) an amount from the consolidated fund; or
- (b) an amount required to be paid to the consolidated fund;

that has not first been recommended by a message of the Governor.

(2) The message must be given to the Legislative Assembly during the session in which the vote, resolution or Bill is intended to be passed.

All of the money the State receives goes into one “consolidated fund”, which is overseen by the Treasurer. The Treasurer then allocates money to be used for the benefit of the public. The costs of operating the public service in Queensland are met by the consolidated fund. Temporarily unused funds are invested, but remain part of the consolidated fund.

Before any money can be taken from the consolidated fund, Parliament must pass an Act that authorises public expenditure from the consolidated fund. Such Acts are called Appropriation Acts. Without a majority vote in Parliament, the Government could not pass its budget.

Money from the consolidated fund is used to pay the costs associated with collecting and managing the fund itself. These costs must be paid before any other expenditure can take place. No separate Act of Parliament is required to authorise payment of these costs.

Any Bill seeking authorisation to spend money from the consolidated fund must first be recommended by the Governor. The Governor’s message is sent on the advice of the Premier; thus only Appropriation Bills that have Government support can be passed. This gives the Government control over the appropriation process by preventing the Legislative Assembly from passing spending laws without Government approval. The involvement of the Governor also provides a balance between the Executive and the Parliament in relation to finance.

No tax can be levied until Parliament has passed a law to authorise it.

Chapter 6 **Lands**

The Queensland Constitution gives the Government power over lands that are not specifically owned by a person or organisation. These lands are referred to as unallocated lands.

Use chapter 6 to find the answer to this question:

- Where are the Queensland Parliament's rights and powers in relation to unallocated lands explained?

69 Lands

(1) The *Constitution Act 1867*, section 30 gives the Parliament law-making power in relation to the waste lands of the Crown in Queensland.

(2) The *Constitution Act 1867*, section 40 vests particular rights in relation to the waste lands of the Crown in Queensland in the Parliament.

Section 30 of the *Constitution Act 1867* gives the Queensland Parliament power to make laws regulating the sale or other disposal of unallocated lands or Crown land in Queensland. Section 40 of the same Act gives the State total control of such land, including all revenue derived from it.

There have been a number of statutory schemes for the administration of unallocated lands throughout Queensland's history. Currently, the *Land Act 1994* provides authority for granting statutory interests in land such as pastoral leases, as well as freehold.

These provisions have not been relocated from the *Constitution Act 1867* to the consolidated Queensland Constitution because this would be invalid under the *Native Title Act 1993* (Cwlth). Native title may still exist over some of the unallocated lands, and re-enacting these sections could therefore affect native title holders.

Chapter 7 **Local government**

The provisions concerning local governments in Queensland have been a fairly recent addition to the Constitution. The Constitution outlines the relationship between State and local governments and the powers of each.

Use chapter 7 to find the answer to these questions:

- Can the State suspend or dissolve a local government?
- Who has to be part of the decision to dissolve a local government?
- If the State is considering an Act that will affect local governments, what sort of consultation should take place?

Part 1—System of local government

70 System of local government

- (1) There must be a system of local government in Queensland.
- (2) The system consists of a number of local governments.

71 Requirements for a local government

(1) A local government is an elected body that is charged with the good rule and local government of a part of Queensland allocated to the body.

(2) Another Act, whenever made, may provide for the way in which a local government is constituted and the nature and extent of its functions and powers.

(3) Despite subsection (1), another Act, whenever made, may provide for the appointment of 1 or more bodies or persons to perform all or any of a local government's functions and to exercise all or any of a local government's powers and to be taken to be a local government—

- (a) during a suspension of a local government's councillors under section 74; or
- (b) if a local government is dissolved or unable to be properly elected—until a local government has been properly elected.

(4) In subsection (3)—

“local government” includes a joint local government.

Part 2—Procedure limiting dissolution of local government and interim arrangement

72 Definition for pt 2

In this part—

“Minister” means the Minister who administers the provision under which the local government may be dissolved.



This section determines that there must be a system of local government in Queensland. The actual system is established by other Acts of Parliament, principally the *Local Government Act 1993*. The structure, functions and other aspects of local government can be changed by State Government legislation.



The *Local Government Act 1993* provides a framework within which local governments supply basic community infrastructure and property-related services throughout Queensland. Traditionally, they have provided services such as roads, water supply and sewerage, but increasingly councils are also becoming involved in the social, economic and cultural development of their communities and in improving local living environments.

Should a local government's councillors be suspended, or a local government be dissolved or unable to be elected, a person or group of people can be appointed to perform its functions on a temporary basis so that essential services can continue.



There is always a Minister with portfolio responsibility for local government. Currently, it is the Minister for Local Government and Planning who is responsible for administering the *Local Government Act 1993*.

73 Dissolution of local government must be tabled

The Minister must, within 14 days after an instrument purporting to dissolve a local government is made, table a copy of the instrument in the Legislative Assembly.

74 Suspension until dissolution ratified

From the time an instrument purporting to dissolve a local government is made until it is ratified under section 75 or its effect ends under section 76, it has the effect only of suspending the local government's councillors from office.

Note—

Section 71 permits another Act to provide for the appointment of 1 or more bodies or persons to perform all or any functions and exercise all or any powers of the local government and to be taken to be the local government during the suspension.

75 Ratification of dissolution

(1) The Legislative Assembly, on the Minister's motion, may ratify the dissolution of the local government within 14 sitting days after a copy of the instrument purporting to dissolve the local government is tabled.

(2) If the Legislative Assembly ratifies the dissolution, the local government is dissolved in accordance with the instrument from the time of ratification.

Tabling a document means a Member of Parliament presenting a document to the house. Documents are tabled so that an official record is created in Parliament.

Dissolving a local government means removing all the elected office-holders from office until a further election is held. The Minister responsible must inform the local government in writing, and then table the document in Parliament within 14 days. This is an important mechanism whereby the Minister is held accountable for this action to the Parliament.

If the Minister proposes the dissolution of a local government, the councillors are suspended from office until the Legislative Assembly ratifies (confirms) the dissolution. Only then do the councillors' appointments end.

To dissolve a local government, the Minister requires the support of the Legislative Assembly, which must ratify the dissolution within 14 sitting days (not calendar days) after the document is tabled.

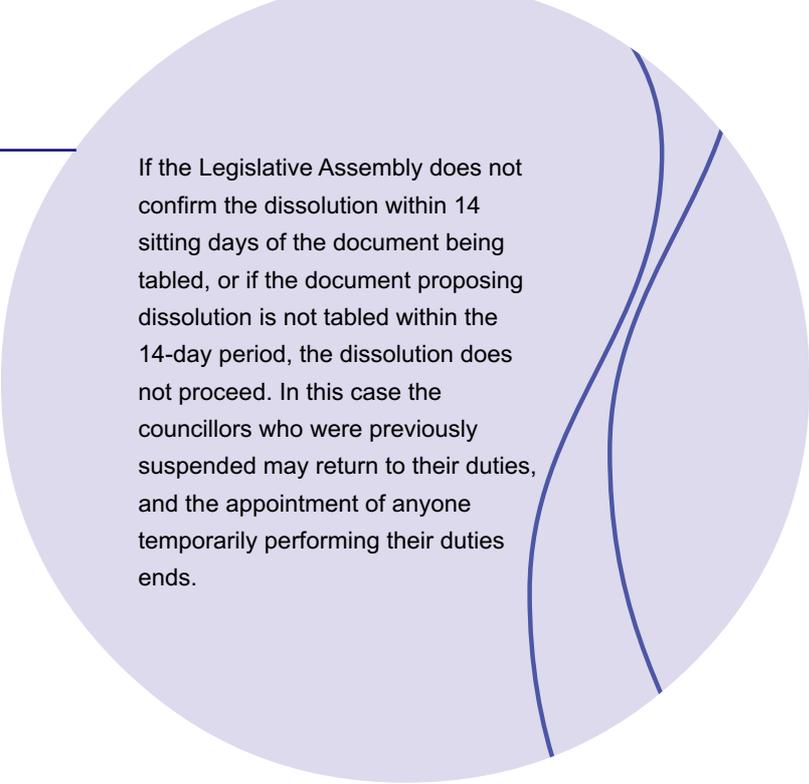
76 No tabling or ratification of dissolution

- (1) This section applies if—
 - (a) a copy of the instrument purporting to dissolve the local government is not tabled under section 73; or
 - (b) the Legislative Assembly refuses to ratify the dissolution of a local government moved by the Minister; or
 - (c) at the end of 14 sitting days after a copy of the instrument purporting to dissolve the local government is tabled—
 - (i) the Minister has not moved that the dissolution be ratified; or
 - (ii) the Legislative Assembly has not ratified the dissolution, even though the Minister has moved that it be ratified.
- (2) The effect of the instrument purporting to dissolve the local government ends.
- (3) The suspension from office of the local government's councillors ends and they are reinstated in their respective offices.
- (4) The appointment of a body or person appointed to perform all or any functions and exercise all or any powers of the local government because of its purported dissolution ends.

Part 3—Special procedures for particular local government Bills

77 Procedure for Bill affecting a local government

- (1) This section applies for a Bill for an Act that would—
 - (a) be administered by a Minister who administers a provision of the *Local Government Act 1993*; and
 - (b) affect local governments generally or any of them.
- (2) The member of the Legislative Assembly who proposes to introduce the Bill in the Legislative Assembly must, if the member considers it practicable, arrange for a summary of the Bill to be given to a body representing local governments in the State a reasonable time before the Bill is introduced in the Legislative Assembly.



If the Legislative Assembly does not confirm the dissolution within 14 sitting days of the document being tabled, or if the document proposing dissolution is not tabled within the 14-day period, the dissolution does not proceed. In this case the councillors who were previously suspended may return to their duties, and the appointment of anyone temporarily performing their duties ends.



If a Bill introduced in Parliament is likely to affect local governments (e.g. a water reform Bill), the member introducing the Bill should make a summary of the Bill available, in reasonable time, to a body representing local governments in the State. The appropriate bodies are:

- the Local Government Association of Queensland Inc., formed in 1896, which represents local government in its dealings with other governments, unions, business and the community; and
- the Aboriginal and Islander Coordinating Councils—statutory bodies that represent various Aboriginal and Torres Strait Islander community councils—which are local government bodies for Aboriginal and Torres Strait Islander communities under the provisions of the *Community Services (Aborigines) Act 1984* and the *Community Services (Torres Strait) Act 1984*.

This consultation process allows local governments, through their representative bodies, to present their views to the Minister for consideration before the Bill is introduced in Parliament.

78 Procedure for Bill ending system of local government

(1) This section applies for a Bill for an Act ending the system of local government in Queensland.

(2) The Bill may be presented for assent only if a proposal that the system of local government should end has been approved by a majority vote of the electors voting on the proposal.

(3) The Bill has no effect as an Act if assented to after presentation in contravention of subsection (2).

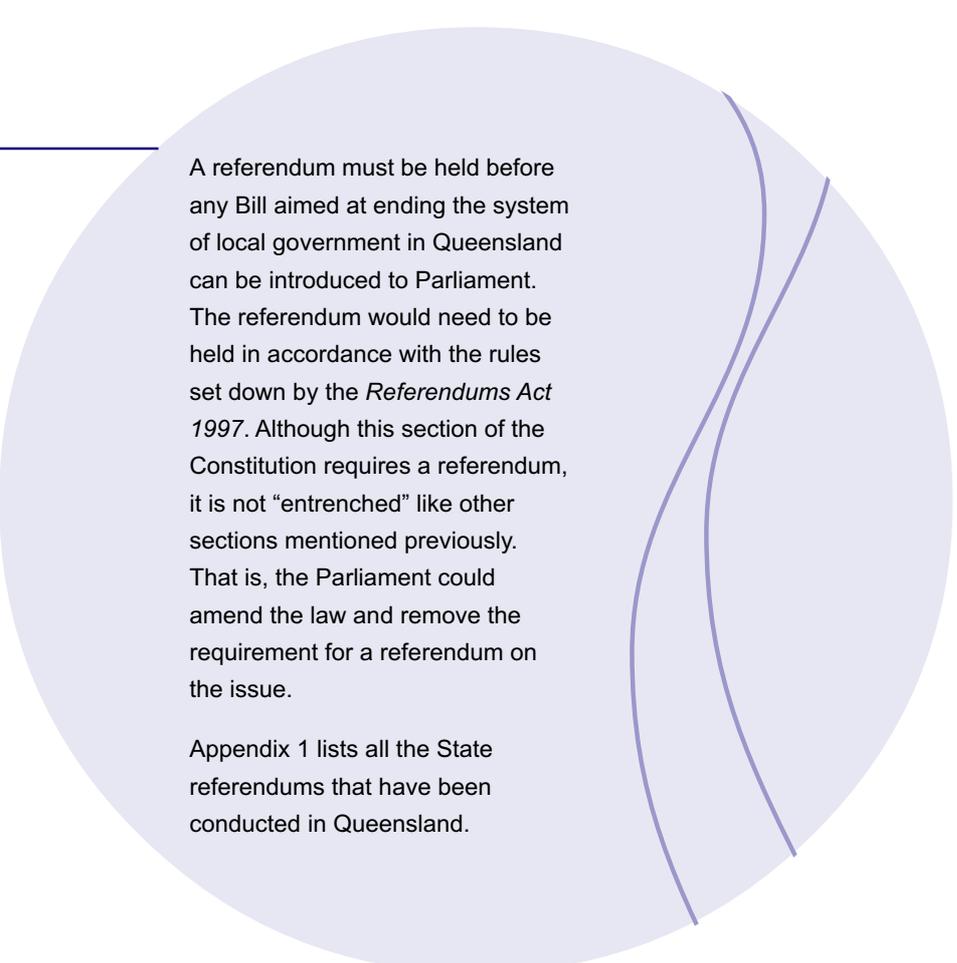
(4) The vote about the proposal must be taken on a day that is more than 1 month but less than 6 months before the Bill is introduced in the Legislative Assembly.

(5) The vote must be taken in the way prescribed by an Act.

(6) An elector may bring a proceeding in the Supreme Court for a declaration, injunction or other remedy to enforce this section either before or after the Bill is presented for assent.

(7) In this section—

“**elector**” means a person entitled to vote at a general election for members of the Legislative Assembly.



A referendum must be held before any Bill aimed at ending the system of local government in Queensland can be introduced to Parliament. The referendum would need to be held in accordance with the rules set down by the *Referendums Act 1997*. Although this section of the Constitution requires a referendum, it is not “entrenched” like other sections mentioned previously. That is, the Parliament could amend the law and remove the requirement for a referendum on the issue.

Appendix 1 lists all the State referendums that have been conducted in Queensland.

Chapter 8 **Miscellaneous**

This chapter brings together various provisions about the management of the Constitution, and about creating plans that allow the Government to continue to operate even in unusual circumstances.

Use chapter 8 to find the answers to these questions:

- Which aspects of the Constitution cannot be challenged in a court of law?
- When the Sovereign's reign comes to an end, do the appointments of all the officers of the sitting Government automatically end also?

79 Issue of compliance not justiciable

Without affecting the justiciability of any other issue under this Act, it is declared that the issue of compliance with section 31, 40, 41, 48 or 50 is not justiciable in any court.

80 Continued holding of office under the Crown despite end of Sovereign's reign

(1) This section applies if the Sovereign's reign ends and a person is holding an office under the Crown immediately before the end of the Sovereign's reign.

(2) The person continues holding the office for as long as the person would have held the office if the Sovereign's reign had not ended.

(3) If, before the end of the Sovereign's reign, the person had taken any oath or made any affirmation provided for under an Act, the person is not required, because the Sovereign's reign has ended, to again take the oath or make the affirmation.

(4) If the oath taken or the affirmation made before the end of the Sovereign's reign related only to the then reigning Sovereign, the oath or affirmation is taken to relate to the then reigning Sovereign and the Sovereign's heirs and successors.

An issue that is “justiciable” is one that can be settled by a court of law, or is subject to the action of a court of law. The following sections of the Constitution cannot be challenged in a court of law:

- section 31, Requirements concerning commission and oath or affirmation;
- section 40, Delegation by Governor to Deputy Governor;
- section 41, Administration of Government by Acting Governor;
- section 48, Executive Council; and
- section 50, Meetings of Executive Council.

Suppose, for example, the Governor had not made the oath or affirmation of allegiance and of office strictly in accordance with section 31 of the Queensland Constitution. This would not invalidate a decision of the Governor in Council, nor could the decision be challenged in a court.

If the Sovereign’s reign ends, there is no need to reappoint the Governor, Ministers, Members of Parliament and the Judiciary, because the oaths or affirmations (as referred to in sections 22, 31, 41, 43, 46, 48 and 59) refer also to the Sovereign’s heirs and successors.

Chapter 9 **Transitional provisions**

The purpose of these transitional provisions was to ensure a smooth transition when provisions from previous Acts were consolidated into the single new Act. These specific provisions clarify that the existing institutions, such as the Supreme Court and District Court of Queensland, the Legislative Assembly and the consolidated fund, continue in the form in which they existed immediately before the Act commenced (6 June 2002). They also ensure that existing appointments of the Governor, Ministry, Executive Councillors, Parliamentary Secretaries and the Judiciary, current at 6 June 2002, remain valid. In addition, they prevent any legal confusion over the slight changes in references to official bodies or offices that have resulted from modernising the Act.

81 Continuation of membership of Legislative Assembly

A person who, immediately before the commencement of section 10, was a member of the Legislative Assembly continues as a member of the Legislative Assembly and is taken to have satisfied the oath or affirmation requirement under section 22.

82 Continuation of appointment as Governor

The person who, immediately before the commencement of section 29, was the Governor continues as the Governor and is taken to have satisfied the requirements under section 31 concerning the commission and the oath or affirmation.

83 Acting Governor—previous oaths or affirmations

A person who, before the commencement of section 41, has taken the oaths or made the affirmations required under the *Constitution (Office of Governor) Act 1987*, section 9(1), as in force before it was repealed, is taken to have satisfied the oath or affirmation required under section 41.

84 Continuation of appointment as Minister of State

A person who, immediately before the commencement of section 43, was a Minister continues as a Minister of the State and is taken to have satisfied the oath or affirmation requirement under section 43.

85 Continuation of appointment as Parliamentary Secretary

A person who, immediately before the commencement of section 24, was a Parliamentary Secretary continues as a Parliamentary Secretary.

86 Continuation of administrative arrangements

The administrative arrangements as in force immediately before the commencement of section 44 are not affected by the section's commencement.

87 Continuation of membership of Executive Council

A person who, immediately before the commencement of section 48, was a member of Executive Council continues as a member of Executive Council and is taken to have satisfied the oath or affirmation requirement under section 48.

88 Continuation of Supreme Court

(1) The Supreme Court of Queensland as formerly established as the superior court of record in Queensland is continued in existence.

(2) This Act does not—

- (a) take away, lessen or impair any jurisdiction or power that was, immediately before the commencement of section 58, vested in or capable of being exercised by the court or 1 or more judges of the court; or
- (b) affect anything done or existing in relation to the court before the commencement of section 58.

89 Continuation of District Court

(1) The District Court as formerly established is continued in existence as the District Court of Queensland.

(2) This Act does not—

- (a) take away, lessen or impair any jurisdiction or power that was, immediately before the commencement of section 57, vested in or capable of being exercised by the court or 1 or more judges of the court; or
- (b) affect anything done or existing in relation to the court before the commencement of section 57.

90 Continuation of appointment of judges

(1) A person who, immediately before the commencement of section 59, was a Supreme Court judge or District Court judge continues as a Supreme Court judge or District Court judge.

(2) A person who, immediately before the commencement of section 59, held an office, is taken to have satisfied the oath or affirmation requirement under section 59 in relation to the office.

(3) In this section—

“office” see section 56.

91 Continuation of consolidated fund

The consolidated fund in existence immediately before the commencement of section 64 is taken to be the consolidated fund.

92 Legislative Council references

A reference in an Act or document to the Legislature, or to the Parliament, or to both Houses of Parliament, or other reference, that, if the *Constitution Act Amendment Act 1922*, as repealed by this Act, had not been passed, would be taken to include a reference to the Legislative Council, is to be taken to refer only to the Queen and the Legislative Assembly of Queensland, or only to the Legislative Assembly, as the context may require.

Note—

The *Constitution Act Amendment Act 1922* abolished the Legislative Council of Queensland.

93 Administrator references

If, before the commencement of section 41, there is a reference in an Act or document to an Administrator, then from the commencement, if the context permits, the reference is taken to be a reference to an Acting Governor.

Chapter 10 **Consequential amendments and repeals**

Consolidating the Queensland Constitution involved making amendments to the existing legislation. Certain sections, and in some cases whole Acts, had to be repealed. Sections 94 and 95 act as an introduction to schedules 2, 3 and 4 of the Act, which set out these changes. These schedules are highly technical and administrative in nature, and accordingly have not been included in this explanatory document. Schedule 2 details the amendments to particular sections of other Queensland Acts as a consequence of consolidating the Constitution; Schedule 3 lists those Queensland Acts that are wholly repealed as a result of the consolidation process; and Schedule 4 lists the Imperial (i.e. British) laws that no longer have force in Queensland.

Schedule 1 gives the oaths and affirmations taken or made when various people take office: a member of the Legislative Assembly; a Governor and Acting Governor; a Minister and acting Minister; a member of Executive Council; and a judge. Schedule 1 has been included because oaths and affirmations are frequently referred to in the text of this document.

94 Amendments

An Act mentioned in schedule 2 is amended as set out in the schedule.

95 Repeals

- (1) The laws mentioned in schedule 3 are repealed.
- (2) The Imperial laws mentioned in schedule 4 are repealed so far as they are part of the law of Queensland.

Schedule 1

Oaths and affirmations

section 22, 31, 41, 43, 46, 48 and 59

Oath or affirmation of allegiance and of office—member of the Legislative Assembly

I, *..(name)..*, do sincerely promise and swear (*or, for an affirmation—do sincerely promise and affirm*) that

I will be faithful and bear true Allegiance to Her (*or His*) Majesty..*(name of Sovereign)*.. as lawful Sovereign of Australia and to Her (*or His*) heirs and successors, according to law; and

I will well and truly serve the people of Queensland and faithfully perform the duties and responsibilities of a member of the Legislative Assembly to the best of my ability and according to law.

So help me God! (*or omitted for an affirmation*).

Oath or affirmation of allegiance and of office—Governor and Acting Governor

I, *..(name)..*, do sincerely promise and swear (*or, for an affirmation—do sincerely promise and affirm*) that

I will be faithful and bear true Allegiance to Her (*or His*) Majesty..*(name of Sovereign)*.. as lawful Sovereign of Australia and to Her (*or His*) heirs and successors, according to law; and

I will well and truly serve Her (*or His*) Majesty..*(name of Sovereign)*.. in the office of Governor of Queensland (*or, for an Acting Governor—in the office of Acting Governor of Queensland*) in the Commonwealth of Australia, and will duly perform the functions and exercise the powers of the office according to the best of my ability, skill and knowledge; and

I will, in all things associated with the office, duly and impartially administer justice in Queensland.

So help me God! (*or omitted for an affirmation*).

Oath or affirmation of allegiance and of office— Minister of the State and acting Minister of the State

I, *..(name)..*, do sincerely promise and swear (*or, for an affirmation—do sincerely promise and affirm*) that

I will be faithful and bear true Allegiance to Her (*or His*) Majesty..*(name of Sovereign)*.. as lawful Sovereign of Australia and to Her (*or His*) heirs and successors, according to law; and

I will well and truly serve the people of Queensland in the office of (*portfolio title*) (*or, for an acting Minister of the State—acting in the office of (portfolio title)*).

So help me God! (*or omitted for an affirmation*).

Oath or affirmation of office and of secrecy— member of Executive Council

I, *..(name)..*, do sincerely promise and swear (*or, for an affirmation—do sincerely promise and affirm*) that

I will, to the best of my judgment and ability, faithfully advise and assist the Governor or other officer performing a function or exercising a power of the Governor as Deputy Governor or Acting Governor, in all matters brought under my consideration as a member of the Executive Council of Queensland; and

I will not disclose the confidential deliberations of the council.

So help me God! (*or omitted for an affirmation*).

Oath or affirmation of allegiance and of office— Judge

I, *..(name)..*, do sincerely promise and swear (*or, for an affirmation—do sincerely promise and affirm*) that

I will be faithful and bear true Allegiance to Her (*or His*) Majesty..*(name of Sovereign)*.. as lawful Sovereign of Australia and to Her (*or His*) heirs and successors, according to law; and

As a judge of the Supreme Court of Queensland (*or District Court of Queensland*) (*and/or as (title of other office, for example, Chief Justice of Queensland)*), I will at all times and in all things do equal justice to all persons and discharge the duties and responsibilities of the office according to law to the best of my knowledge and ability without fear favour or affection.

So help me God! (*or omitted for an affirmation*).

Attachment 1

sections 6, 7, 8 and 30

Constitution Act 1867, sections 1, 2, 2A, 11A, 11B and 53

The Constitution Act 1867—

1 Legislative Assembly

There shall be within the said Colony of Queensland a Legislative Assembly.

2 Legislative Assembly constituted

Within the said Colony of Queensland Her Majesty shall have power by and with the advice and consent of the said Assembly to make laws for the peace welfare and good government of the colony in all cases whatsoever.

2A The Parliament

(1) The Parliament of Queensland consists of the Queen and the Legislative Assembly referred to in sections 1 and 2.

(2) Every Bill, after its passage through the Legislative Assembly, shall be presented to the Governor for assent by or in the name of the Queen and shall be of no effect unless it has been duly assented to by or in the name of the Queen.

.....

11A Office of Governor

(1) The Queen's representative in Queensland is the Governor who shall hold office during Her Majesty's pleasure.

(2) Abolition of or alteration in the office of Governor shall not be effected by an Act of the Parliament except in accordance with section 53.

(3) In this Act and in every other Act a reference to the Governor shall be taken—

- (a) to be a reference to the person appointed for the time being by the Queen by Commission under Her Majesty's Royal Sign Manual to the office of Governor of the State of Queensland; and
- (b) to include any other person appointed by dormant or other Commission under the Royal Sign Manual to administer the Government of the State of Queensland.

11B Definition of Royal Sign Manual

In section 11A the expression “Royal Sign Manual” means the signature or royal hand of the Sovereign.

.....

53 Certain measures to be supported by referendum

(1) A Bill that expressly or impliedly provides for the abolition of or alteration in the office of Governor or that expressly or impliedly in any way affects any of the following sections of this Act namely—

sections 1, 2, 2A, 11A, 11B; and

this section 53

shall not be presented for assent by or in the name of the Queen unless it has first been approved by the electors in accordance with this section and a Bill so assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

(2) On a day not sooner than two months after the passage through the Legislative Assembly of a Bill of a kind referred to in subsection (1) the question for the approval or otherwise of the Bill shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly according to the provisions of the *Elections Act* 1915–1973 and of any Act amending the same or of any Act in substitution therefor.

Such day shall be appointed by the Governor in Council by Order in Council.

(3) When the Bill is submitted to the electors the vote shall be taken in such manner as the Parliament of Queensland prescribes.

(4) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for reservation thereof for the signification of the Queen’s pleasure.

(5) Any person entitled to vote at a general election of members of the Legislative Assembly is entitled to bring proceedings in the Supreme Court for a declaration, injunction or other remedy to enforce the provisions of this section either before or after a Bill of a kind referred to in subsection (1) is presented for assent by or in the name of the Queen.

Act 24 Geo. 5 No. 35 preserved

(6) The provisions of this section shall in no way affect the operation of *The Constitution Act Amendment Act of 1934*.

.....

Constitution Act Amendment Act 1890, section 2

The Constitution Act Amendment Act 1890—

2 Duration of Legislative Assembly to be 3 years only

Every Legislative Assembly hereafter to be summoned and chosen shall continue for 3 years from the day appointed for the return of the writs for choosing the same, and no longer; subject nevertheless to be sooner dissolved by the Governor.

Constitution Act Amendment Act 1934, section 4

The Constitution Act Amendment Act 1934—

4 Duration of Legislative Assembly not to be extended except in accordance with this section

(1) The provisions of section two of “*The Constitution Act Amendment Act of 1890*” (referred to in the preamble to this Act) shall not be amended in the direction of extending the period of three years, which, as provided by the said section two, is the period for which any Legislative Assembly, now or hereafter summoned and chosen, shall continue from the day appointed for the return of the writs for choosing the same and no longer (subject, nevertheless, to be sooner dissolved by the Governor), nor shall any other Act or law relating to the Constitution be passed extending such period of three years as aforesaid, except in the manner provided by this section.

(2) A Bill for any purpose within subsection (1) of this section shall not be presented to the Governor for the reservation thereof for the signification of His Majesty’s pleasure, or for the Governor’s Assent, or be in any other way assented to, until the Bill has been approved by the electors in accordance with this section.

(3) On a day not sooner than two months after the passage of the Bill through the Legislative Assembly, the question for the approval or otherwise of the Bill shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly according to the

provisions of “*The Elections Acts, 1915 to 1932,*” or any Act amending the same or in substitution therefor.

Such day shall be appointed by the Governor in Council.

(4) When the Bill is submitted to the electors the vote shall be taken in such manner as the Legislature prescribes.

(5) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for the reservation thereof for the signification of His Majesty’s pleasure.

(6) The provisions of this section shall extend to any Bill for the repeal or amendment of this section.

Constitution Act Amendment Act 1934, section 3

The Constitution Act Amendment Act 1934—

3 Parliament not to be altered in the direction of re-establishing the Legislative Council or other body except in accordance with this section

(1) The Parliament of Queensland (or, as sometimes called, the Legislature of Queensland), constituted by His Majesty the King and the Legislative Assembly of Queensland in Parliament assembled shall not be altered in the direction of providing for the restoration and/or constitution and/or establishment of another legislative body (whether called the “Legislative Council,” or by any other name or designation, in addition to the Legislative Assembly) except in the manner provided in this section.

(2) A Bill for any purpose within subsection one of this section shall not be presented to the Governor for the reservation thereof for the signification of His Majesty’s pleasure, or for the Governor’s Assent, or be in any other way assented to, until the Bill has been approved by the electors in accordance with this section.

(3) On a day not sooner than two months after the passage of the Bill through the Legislative Assembly, the question for the approval or otherwise of the Bill shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly according to the provisions of “*The Elections Acts, 1915 to 1932,*” or any Act amending the same or in substitution therefor.

Such day shall be appointed by the Governor in Council.

(4) When the Bill is submitted to the electors the vote shall be taken in such manner as the Legislature prescribes.

(5) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for the reservation thereof for the signification of His Majesty’s pleasure.

(6) The provisions of this section shall extend to any Bill for the repeal or amendment of this section.

Constitution Act 1867, sections 30 and 40

The Constitution Act 1867—

30 Legislature empowered to make laws regulating sale and other disposal of waste lands

Subject to the provisions contained in the Imperial Act of the 18th and 19th Victoria chapter 54 and of an Act of the 18th and 19th years of Her Majesty entitled *An Act to repeal the Acts of Parliament now in force respecting the Disposal of the Waste Lands of the Crown in Her Majesty's Australian Colonies and to make other provisions in lieu thereof* which concern the maintenance of existing contracts it shall be lawful for the legislature of this State to make laws for regulating the sale letting disposal and occupation of the waste lands of the Crown within the said State.

.....

40 The entire management of Crown lands and all revenues thence arising to be vested in the local legislature

The entire management and control of the waste lands belonging to the Crown in the said State and also the appropriation of the gross proceeds of the sales of such lands and all other proceeds and revenues of the same from whatever source arising within the said State including all royalties mines and minerals shall be vested in the legislature of the said State.

Appendix 1

State referendums held in Queensland

Date	Referendum	Result
2 September 1899	Federation referendum	Approved
13 April 1910	Religious instruction in state schools	Approved
5 May 1917	Abolition of Legislative Council	Failed
30 October 1920	Prohibition (brewing manufacture)	Failed
6 October 1923	Prohibition	Failed
23 March 1991	Four-year parliamentary terms	Failed
22 February 1992	Daylight saving	Failed

Appendix 2

Proclamation detailing the Queensland ministerial portfolios as at 23 March 2001

Queensland



Officials in Parliament Act 1896

PROCLAMATION

I, MAJOR GENERAL PETER ARNISON, Governor—

(a) declare that the following officers of the Crown liable to retire from office on political grounds are capable of being elected members of the Legislative Assembly and sitting and voting in the Legislative Assembly at the same time—

- Premier and Minister for Trade
- Deputy Premier, Treasurer and Minister for Sport
- Minister for Education
- Minister for Employment, Training and Youth and Minister for the Arts
- Minister for Health and Minister Assisting the Premier on Women's Policy
- Minister for State Development
- Minister for Police and Corrective Services and Minister Assisting the Premier on the Carpentaria Minerals Province
- Minister for Transport and Minister for Main Roads
- Attorney-General and Minister for Justice
- Minister for Environment
- Minister for Public Works and Minister for Housing
- Minister for Families and Minister for Aboriginal and Torres Strait Islander Policy and Minister for Disability Services
- Minister for Primary Industries and Rural Communities
- Minister for Tourism and Racing and Minister for Fair Trading
- Minister for Natural Resources and Minister for Mines
- Minister for Local Government and Planning
- Minister for Emergency Services and Minister Assisting the Premier in North Queensland
- Minister for Industrial Relations; and
- Minister for Innovation and Information Economy

(b) revoke the proclamation made under the Act, section 3(1), on 22 February 2001 (published in the gazette on 22 February 2001 at pages 701 and 702).

Signed and sealed on 23 March 2001.

By Command

PETER BEATTIE

God Save the Queen

ENDNOTES

1. Made by the Governor on 23 March 2001.
2. Published in the gazette on 23 March 2001.
3. The administering agency is the Department of the Premier and Cabinet.

Appendix 3

Major changes in the rules of eligibility to vote in Queensland

1872

Extension of voting rights to include all adult male British subjects who had been resident in an electoral district for six months

1905

“Universal” adult suffrage granted. (“Suffrage” means the general right to vote at elections.) Although described as “universal”, this included only European males who were born in either Britain or Australia and who were 21 years of age or older.

1914

Compulsory enrolment introduced

1915

Extension of suffrage to women

1931

Extension of suffrage to natives of British India

1959

Extension of suffrage to British subjects who were natives of Asia and Africa

1965

After a referendum under the Commonwealth Constitution, Indigenous Australians granted the right to vote in federal and state elections

1973

Extension of suffrage to adults over 18 years

Appendix 4

Key dates and events in Queensland's electoral history

1860

First elections: 26 members from 16 electorates for the Legislative Assembly; 11 nominees to the Legislative Council; five-year term

1864

Six extra one-member electorates

1872

42 one-member electorates for the 1873 election

1875

One extra member in the District of Cook

1878

42 electorates, 55 members

1885

44 electorates, 59 members

1887

60 electorates, 72 members

1892

61 electorates, 72 members

1893

Three-year terms introduced

1910

72 one-member electorates; one vote, one value with 20% tolerance

1922

Legislative Council abolished

1931

Electorates reduced to 62

1949

Zonal system introduced whereby electorates were allocated to zones with different quotas: 75 electorates in four zones

1958

78 electorates, three zones

1971

82 electorates in four zones

1985

89 electorates in four zones

1991

89 electorates, zones abolished

1992

Optional preferential voting

1999

July: redistribution of electoral districts, the first by a commission under the *Electoral Act 1992*. Of the 89 electorates, most changes are in the growing urban and coastal communities.

Appendix 5

Division of Queensland into electoral districts



Maps provided by courtesy of the Queensland Electoral Commission.

Inset A



Maps provided by courtesy of the Queensland Electoral Commission.

Inset B



Maps provided by courtesy of the Queensland Electoral Commission.

Inset C



Maps provided by courtesy of the Queensland Electoral Commission.

Appendix 6

Governors of Queensland – terms of office

No.	From	To	Officer
1	10 December 1859	4 January 1868	George Ferguson Bowen
2	14 August 1868	2 January 1871	Samuel Wensley Blackall
3	12 August 1871	12 November 1874	Marquis of Normanby
4	23 January 1875	14 March 1877	William Wellington Cairns
5	20 July 1877	2 May 1883	Arthur Edward Kennedy
6	6 November 1883	9 November 1888	Anthony Musgrave
7	1 May 1889	15 November 1895	Henry Wylie Norman
8	9 April 1896	19 December 1901	Baron Lamington
9	24 March 1902	10 October 1904	Herbert Charles Chermside
10	30 November 1905	26 May 1909	Baron Chelmsford
11	2 December 1909	16 July 1914	William MacGregor
12	15 March 1915	3 February 1920	Hamilton John Goold-Adams
13	3 December 1920	17 September 1925	Matthew Nathan
14	13 June 1927	7 April 1932	Thomas Herbert John Chapman Goodwin
15	13 June 1932	23 April 1946	Leslie Orme Wilson
16	1 October 1946	4 December 1957	John Dudley Lavarack
17	18 March 1958	18 March 1966	Henry Abel Smith
18	21 March 1966	21 March 1972	Alan James Mansfield
19	21 March 1972	20 March 1977	Colin Thomas Hannah
20	22 April 1977	22 July 1985	James Maxwell Ramsay
21	22 July 1985	29 July 1992	Walter Benjamin Campbell
22	29 July 1992	29 July 1997	Mary Marguerite Leneen Forde
23	29 July 1997		Peter Maurice Arnison

Appendix 7

List of websites for further information

www.parliament.qld.gov.au

www.govhouse.qld.gov.au

www.ecq.qld.gov.au

www.premiers.qld.gov.au

www.constitution.qld.gov.au

www.foundingdocs.gov.au

www.fed.gov.au

www.localgovernment.qld.gov.au

www.legislation.qld.gov.au

www.centenary.org.au

www.courts.qld.gov.au

.....

Glossary

Act:

a law passed by Parliament.

affirmation:

a solemn promise which, unlike an oath, does not use God's name.

backbencher:

a Member of the Legislative Assembly who is not a Minister, shadow Minister, or Parliamentary Secretary.

balance of probabilities:

the legal test applied in the courts for findings of fact, to determine whether it is more likely than not that an event happened (or did not happen).

bicameral:

(a Parliament) having both a lower house and an upper house (cf. unicameral).

Bill:

a draft statute brought before Parliament, but not yet made law.

by convention:

not required by law, but expected as standard practice.

Cabinet:

a decision-making body consisting of the Government Ministers, chaired by the Premier.

civil law:

law relating to private matters between citizens (cf. criminal law).

coalition:

an alliance (e.g. between political parties).

commission:

an authority given to a person to perform a function; a group of people authorised to perform a specific task or function.

Commonwealth of Australia:

the federation of Australian states and territories, which came into effect on 1 January 1901.

commute:

reduce the severity (of a sentence).

constitution:

the set of principles according to which a nation, state or organisation is governed.

Court of Appeal:

the most senior division of the Supreme Court which hears appeals in relation to decisions made by single judges.

criminal law:

law relating to crimes (or forbidden acts) and involving punishment of the offender (cf. civil law).

customs duty:

a tax imposed on imported goods.

dissolve:

bring to an end (a term of Parliament).

doubly entrenched provisions:

sections of the Constitution stating that existing provisions can be changed only if special procedures are followed (i.e. approval of a majority of electors at a referendum), as well as subjecting themselves to the same special procedures before they can be changed (cf. singly entrenched provisions).

duty:

a tax imposed by law on the import, export, sale or manufacture of goods.

electoral district:

area within which the citizens elect a single member of the Legislative Assembly.

enact:

make into law.

endorse:

select (a candidate) for an election.

entrenched provisions:

provisions in law that cannot be easily changed or repealed. (See also doubly entrenched and singly entrenched provisions.)

excise duty:

a tax imposed on the manufacture, sale or consumption of certain goods within a country.

executive arm of government:

the section of government with responsibility for administering laws and carrying out the business of government.

Executive Council:

a body consisting of the Government Ministers; the Governor presides over the Executive Council, but is not a member of it.

exercise:

put (powers) into practice.

franchise:

the right to vote.

general election:

a parliamentary election before which all the seats in Parliament are declared vacant.

Governor:

the representative in Queensland of the head of state.

Governor in Council:

the decision-making body consisting of the Governor acting with the advice of the Executive Council.

head of state:

Queensland's head of state is the British monarch.

instrument:

a legal document authorising a procedure of government.

judicial:

relating to the administration of justice.

Judiciary:

the arm of government with responsibility for interpreting the law and hearing disputes between citizens.

justiciable:

able to be settled by a court of law, or subject to the action of a court of law.

Legislative Assembly:

the lower house, in parliamentary systems where there are two houses of Parliament; Queensland has only a Legislative Assembly and no upper house.

Legislative Council:

the upper house, in parliamentary systems where there are two houses of Parliament (e.g. other Australian states).

Legislature:

the arm of government with responsibility for making laws that apply to all citizens by passing statutes.

Letters Patent:

a document issued by the Sovereign or on behalf of the Sovereign delegating powers or authorising a person to do something.

Minister:

a senior member of the Government, appointed by the Governor with the advice of the Premier, with responsibility for a particular area (or areas) of administration; by convention, Ministers of the State are members of Cabinet and of the Executive Council.

Ministry:

a collective term referring to the Government Ministers.

oath:

a solemn promise using God's name (cf. affirmation).

Order in Council:

an order made by the Governor by and with the advice of the Executive Councillors and published in the *Government Gazette*.

pardon:

an official statement by the Governor releasing someone from a conviction for an offence.

portfolio:

the area of responsibility of a Government Minister.

powers, rights and immunities:

the powers and privileges of the Legislative Assembly that enable it to carry out its functions.

Premier:

the leader of the party or coalition of parties that holds the majority of seats in the Legislative Assembly.

proclamation:

a notice by the Governor making an official public announcement.

prorogation:

the ending of a session of Parliament without an election intervening.

redistribution:

a change in electoral district boundaries.

referendum:

a vote by all eligible voters on a proposal; for the proposal to be passed, there must be at least 50% of Yes votes.

repeal:

revoke or cancel (legislation).

reprieve:

grant a convicted person a delay in the implementation of a punishment.

revenue:

the income of a government.

seat of government:

(in Queensland) Brisbane.

sentence:

penalty imposed by a court on a convicted person.

session:

a parliamentary period which starts on the first day of sitting after an election or prorogation and ends at a prorogation or dissolution of the house; or, if neither has happened, after three years. A session may last from one day to three years.

singly entrenched provisions:

sections of the Constitution stating that existing provisions can be changed only if special procedures are followed (i.e. approval of a majority of electors at a referendum) (cf. doubly entrenched provisions).

sitting:

a meeting of a house of Parliament.

statute:

legislation published in a formal document.

suffrage:

the right to vote.

table:

present a document to a house of Parliament.

tax:

a compulsory levy imposed by government on goods purchased, property, income etc. to raise revenue.

term:

a limited period of time during which a Parliament may sit, between the opening of Parliament following a general election and its dissolution. In Queensland the maximum term is three years.

tribunal:

a body set up by the Government to investigate and pass judgment on specific matters.

unicameral:

(a Parliament) having only one house (cf. bicameral).

writ:

a written order (e.g. requiring an election to be held).

Index

A

- Aboriginal Coordinating Council 77
- Acting Governor 42, 43, 88
 - affirmation or oath taken 42, 43
 - appointment of 86
 - attendance at Executive Council 51
 - Judiciary member acting as 40–41
 - powers of 42
 - see also* Deputy Governor
- Acts of Parliament 9, 22, 49, 109
 - amendments of 90
 - Bills of 8, 9, 109
 - entrenched provisions of xii, 4, 5, 110
 - of appropriation 23, 64, 65, 88
 - notes of 5
 - provisions of xii, 4, 5
 - repeals of 90
 - see also* individual Acts
- affirmation 24–25, 109
 - see also* oath
- arms of government x
- Attorney-General 39
- Australia Acts 9, 12, 41
- Australian Constitution xii, 13, 57

B

- backbencher 47, 109
- balance of probabilities 58–59, 109
- bicameral Parliament 11, 109
- Bills *see under* Acts of Parliament
- boundaries *see* electoral districts
- Bowen, Sir George Ferguson 33, 107

C

- Cabinet 44, 45, 49, 109
 - see also* Ministers
- candidates for Parliament 22–23
- Chief Justice of Queensland 35, 40, 41, 42, 43, 56, 57
- Commonwealth of Australia xi, 109
 - Constitution xii, 13, 57
 - House of Representatives 21
 - legislation 12, 13
- constituencies *see* electoral districts
- Constitution Act 1867* 4, 34
 - and appointment of Governor 37
 - and lands 68, 69, 98
 - and Legislative Assembly 93
 - and office of Governor 93
- Constitution Act Amendment Act 1890* 4, 20
- Constitution Act Amendment Act 1922* 88
- Constitution Act Amendment Act 1934* 4, 20, 94, 97
- Cooper, the Honourable F.A. 41
- courts (of law)
 - Court of Appeal 56, 57, 109
 - District Court 56, 57, 58
 - High Court of Australia 57
 - justiciable issues 82–83, 110
 - Supreme Court 32, 34, 35, 56–57
 - see also* Judiciary

D

- Deputy Governor 40, 41, 43, 51
- Dewar, Alexander 47
- distribution of electoral boundaries 17, 102
- District Court 56, 57, 87
- District Court of Queensland Act 1967* 58

E

- elections *see* general elections
- Elections Acts 1915 to 1932* 97
- Electoral Act 1992* 17
- Electoral Commission of Queensland 17
- electoral districts 16, 17, 78, 103–106, 109
- entrenched provisions xii, 8–9, 12–13, 20–21, 34–35, 93–98, 109, 110
 - doubly entrenched xii
 - singly entrenched xiii
- executive arm of government x, 31–42, 110
- Executive Council x, 33, 34, 48–50, 110
 - affirmation or oath of members 48, 92
 - and commercial activities 51–52
 - during absence of Governor 40–41
 - formation of 48
 - meetings of 50–51
 - separate powers x
- see also* Governor in Council

F

Financial Administration and Audit Act 1977 22, 23

G

- general elections x, 16, 17, 19, 28, 45, 94, 101, 110
- Governor(s) xi, xii, 9, 23, 47, 49, 51, 93, 110
 - affirmation or oath of office 34–35, 91
 - and appointment of Ministers 44–47
 - and appropriation procedures 64
 - and Legislative Assembly procedures 18–20
 - appointment of 32
 - attending Executive Council meetings 50
 - list of 107

Governor(s) *continued*

- office of 34–36
- powers of 36–40
- role when Sovereign present 40–41
- Governor in Council 8, 24–25, 28–29, 32–33, 44–45, 110
 - and appointment of Executive Council members 48–49
 - role regarding removal of judge 58–59
- see also* Governor

H

- head of state *see* Sovereign
- High Court of Australia 57
- House of Commons 12–13

I

- income *see* revenue
- instrument (document) 76, 110

J

- judge(s) x, 56–61
 - abolishment of office 60
 - acting as Governor 40–41
 - affirmation or oath of office 59, 92
 - appointment of 58–59
 - removal from office 58–59
 - salaries of 60, 61
- Judges (Salaries and Allowances) Act 1976* 61
- Judiciary x, 13, 23, 56, 57, 110
 - separate powers x
- justiciable issues 82–83, 110

L

- Lavarack, Lieutenant-General Sir John Dudley 41, 107
- laws *see* Acts of Parliament
- legal system *see* Judiciary
- legislation *see* Acts of Parliament
- Legislative Assembly xi, xii, 8, 10, 13, 15, 94, 110
 - affirmation or oath taken by members of 24–25, 91
 - backbenchers 47, 109
 - candidates 12–13
 - dissolution of 18–19
 - eligibility of candidate for 22–23
 - functions 10–13
 - number of members in 14–16, 102
 - separate powers x
 - sessions of 19–20
 - sittings 22–23
 - summoning of 18, 19
 - term of 21
- Legislative Council xi, 9, 11, 88, 102, 110
- Legislature *see* Legislative Assembly
- Letters Patent 11, 110
- local government 72
 - bills 78
 - councillors 72–77
 - dissolution 72
 - dissolution or suspension of 72, 74–75, 77
 - ratification of dissolution 75–76
- Local Government Act 1993* 73, 76
- Local Government Association of Queensland Inc. 77
- lower house (of Parliament) xi, 11

M

- members of Parliament 14–17
 - see also under* Legislative Assembly
- Ministers x, 24–25, 53, 111
 - acting 46, 47
 - and local government 73
 - and sick leave 46, 47
 - appointment by Governor 36–39, 44–45
 - assisted by Parliamentary Secretaries 27–29
 - authority to delegate 51–52
 - listing of 100
 - taking affirmation or oath 44–45
 - see also* Cabinet
- ministries *see* portfolios
- monarch *see* Sovereign
- Morris, Keith 47

N

- Native Title Act 1993* (Cwlth) 69
- New South Wales, Colony of xi, 5
- notes (contained in Acts of Parliament) 4, 5

O

- oath or affirmation 24–25, 91–92, 109, 111
 - Acting Governor 42–43, 91
 - Governor 34–45, 91
 - in the event of Sovereign's death or abdication 82, 83
 - judges 59, 92
 - member of Executive Council 48, 92
 - member of Legislative Assembly 24–25, 91
 - Minister 44–45, 92
- Order in Council 45, 111

P

- pardon 38–39, 111
- Parliament ix, 4, 5, 8, 13, 21
 - houses of xii, 11
 - procedures 75
 - separate powers x
 - sessions 21
 - unicameral xii, 11, 112
 - Westminster system x
- see also* Legislative Assembly
- Parliament of Queensland Act 2001* 13, 22–23
- parliamentary committees 9, 27
- Parliamentary Secretaries 24, 25
 - appointment of 28, 86
 - functions of role 26–27
- Parliamentary Service Act 1988* 22
- portfolios 25, 100, 111
 - see also* Cabinet
- Premier 65, 100, 111
 - advising Governor 37, 44
 - and Cabinet 44–47
- prorogation 18–19, 111
- Public Seal of the State 18, 33, 38, 48
- public service 51–53

Q

- Queensland Community Services (Aborigines) Act 1994* 77
- Queensland Government Gazette* 35, 44, 45, 49

R

- redistribution (of electoral boundaries) 17, 102, 111
- referendums xii, 5, 9, 13, 78, 99, 111
- Referendums Act 1997* 78

- revenue 64–65, 111
- Royal Sign Manual 32–35, 93–94

S

- seats (of Parliament) *see* electoral districts
- Sovereign ix, x, xi, 5, 8, 12, 20, 21, 25
 - and Royal Assent 9
 - and Royal Sign Manual 32–35
 - death or abdication of 82–83
 - presence in State 40–41
- suffrage 101
- Supreme Court 32, 34, 45, 56–57
 - see also* Chief Justice
- Supreme Court Constitution Amendment Act 1861* 57
- Supreme Court of Queensland Act 1991* 58

T

- tabling a document 75, 112
- taxes 13, 64–65, 109, 112
- Treasurer 65

U

- unicameral Parliament xii, 112
- upper house (of Parliament) xii, 11

V

- voting eligibility 15, 101
 - see also* general elections

W

- Westminster system x