



Constitution Act 1867

Current as at 6 June 2002—revised version

Reprint note

Powers under the *Reprints Act 1992* have been used in this reprint to bring the legislation into line with current drafting practice.



Queensland

Constitution Act 1867

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Constitution Act 1867

An Act to consolidate the laws relating to the Constitution of the State of Queensland

Part 1 Preliminary

1A Short title

This Act may be cited as the *Constitution Act 1867*.

Part 2 The Legislature

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.

Part 3 The Governor

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.

Part 4 Crown land

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.

Part 5 Requirement for referendum

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*.

1 Index to endnotes

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2 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amd	= amendment	prov	= provision
t			
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renu	= renumbered
		m	
ins	= inserted	rep	= repealed
lap	= lapsed	(retro	= retrospectively
)	
notf	= notified	rv	= revised version
d			
num	= numbered	s	= section

Key	Explanation	Key	Explanation
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
		m	
prev	= previous		

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments to	Effective	Reprint date
1	1989 Act No. 93	10 October 1989	16 February 1996
2	1996 Act No. 3	9 May 1996	7 June 1996

Reprint No.	Amendments to	Effective	Reprint date
2A	1996 Act No. 37	21 October 1998	29 January 1999
2B	2001 Act No. 80	6 June 2002	20 June 2002

Current as at	Amendments included	Notes
20 June 2002 rv	2001 Act No. 80	RA s 43

4 List of legislation

Constitution Act 1867 31 Vic No. 38

date of assent 28 December 1867
 commenced 31 December 1867 (see s 57)
 amending legislation—

Constitution Act Amendment Act 1871 34 Vic No. 28

date of assent 19 June 1871
 commenced on date of assent

Defamation Act 1889 53 Vic No. 12 s 2 sch (prev Defamation Law of Queensland)

date of assent 11 October 1889
 commenced on date of assent

Constitution Act Amendment Act 1890 54 Vic No. 3

date of assent 29 September 1890
 commenced on date of assent

Criminal Code Act 1899 63 Vic No. 9 s 3(2) sch 3

date of assent 28 November 1899
 commenced on date of assent

Acts Citation Act 1903 3 Edw 7 No. 10 s 10 sch 3 (prev Acts Shortening Act Amendment Act 1903)

date of assent 13 November 1903
 commenced on date of assent

Statute Law Revision Act 1908 8 Edw 7 No. 18 s 2 sch 1

date of assent 23 December 1908
 commenced on date of assent

Constitution Act Amendment Act 1922 12 Geo 5 No. 32

date of assent 23 March 1922
 commenced on date of assent

Constitution Acts Amendment Act 1959 8 Eliz 2 No. 23

date of assent 16 April 1959
commenced on date of assent

Constitution Acts Amendment Act 1961 10 Eliz 2 No. 20

date of assent 4 April 1961
commenced 1 April 1961 (see s 1(3))

Constitution Acts Amendment Act 1964 No. 6

date of assent 31 March 1964
commenced 1 July 1963 (see s 1(3))

Constitution Acts Amendment Act 1965 No. 65

date of assent 23 December 1965
commenced 1 December 1965 (see s 1(3))

Constitution Acts Amendment Act 1968 No. 24

date of assent 13 September 1968
commenced on date of assent

Constitution Acts Amendment Act 1971 No. 46

date of assent 1 November 1971
commenced on date of assent

Metric Conversion Act 1972 No. 31 pt 2 sch 1

date of assent 21 December 1972
commenced 5 July 1973 (proc pubd gaz 7 July 1973 p 1927)

Constitution Act Amendment Act 1977 No. 9

date of assent 5 April 1977
for notification of Royal Assent see proc pubd gaz 5 April 1977 p 1385
commenced on date of assent

Constitution Act and Another Act Amendment Act 1977 No. 24 pt 2

date of assent 21 April 1977
commenced 1 July 1977 (proc pubd gaz 25 July 1977 p 1122)

Legislative Assembly Act and Another Act Amendment Act 1978 No. 5 pt 3

date of assent 17 May 1978
s 6 commenced 1 July 1977 (see s 6(2))
remaining provisions commenced on date of assent

Constitution Act Amendment Act 1978 No. 42

date of assent 8 June 1978
commenced on date of assent

Australia Act 1986 s 13 (Cwlth and Imp.)

date of assent 16 October 1985
commenced 3 March 1986 (see s 17(2))

Constitution (Office of Governor) Act 1987 No. 73 s 16

date of assent 1 December 1987
commenced on date of assent

Financial Administration and Audit Act and Another Act Amendment Act 1988 No. 49 pt 3

date of assent 12 May 1988
commenced 1 July 1988 (proc pubd gaz 25 June 1988 p 2441)

Constitution Act Amendment Act 1989 No. 93

date of assent 10 October 1989
commenced on date of assent

Constitution (Parliamentary Secretaries) Amendment Act 1996 No. 3 pts 1–2, s 2 sch 1

date of assent 9 May 1996
commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 146

date of assent 22 October 1996
s 146 commenced 21 October 1998 (automatic commencement under AIA s 15DA(2)) (see also 1997 SL No. 203 s 30(2))
remaining provisions commenced on date of assent

Constitution of Queensland 2001 No. 80 ss 1–2, 94 sch 2

date of assent 3 December 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 6 June 2002 (see s 2)

5 List of annotations

Note—For text of Australia Act 1986 (Imp.), s 13 see Australia Acts (Request) Act 1985 No. 69, sch 2.

Note also—References to ‘Pring’s Statutes’ and to Colonial Acts were omitted from the sectional notes throughout this Act by Act of 1903 3 Edw 7 No. 10 s 10 sch 3.

Preamble om 2001 No. 80 s 94 sch 2

PART 1—PRELIMINARY

hdg prec s 1A ins 1996 No. 3 s 2 sch 1

Short title

s 1A ins 1996 No. 3 s 2 sch 1

Legislative Assembly

s 1 amd 1922 12 Geo 5 No. 32 s 4 sch

Legislative Assembly constituted

s 2 amd 1922 12 Geo 5 No. 32 s 4 sch

The Parliament

s 2A ins 1977 No. 9 s 3

One session of Parliament to be held each year

s 3 amd 1922 12 Geo 5 No. 32 s 4 sch
om 2001 No. 80 s 94 sch 2

No member to sit or vote until the member has taken the following oath of allegiance

s 4 amd 1922 12 Geo 5 No. 32 s 4 sch
sub 1987 No. 73 s 16(3)(a)
om 2001 No. 80 s 94 sch 2

Affirmation may be made instead of oath

s 5 om 2001 No. 80 s 94 sch 2

Disqualifying contractors and persons interested in contracts—election to take place on vacancies

s 6 amd 1922 12 Geo 5 No. 32 s 4 sch
om 2001 No. 80 s 94 sch 2

Election of disqualified persons void

s 7 amd 1922 12 Geo 5 No. 32 s 4 sch
om 2001 No. 80 s 94 sch 2

Scope of ss 6 and 7

s 7A ins 1959 8 Eliz 2 No. 23 s 2(1)
amd 1996 No. 3 s 2 sch 1
om 2001 No. 80 s 94 sch 2

Seats to become vacant in certain cases

s 7B ins 1977 No. 24 s 5
om 1978 No. 5 s 6(1)

Power of Legislative Assembly to relieve from consequences of alleged defaults

s 7C ins 1977 No. 24 s 6
om 1978 No. 5 s 6(1)

Standing rules and orders to be made

s 8 amd 1922 12 Geo 5 No. 32 s 4 sch; 1978 No. 42 s 2
om 2001 No. 80 s 94 sch 2

Power to alter constitution of Legislative Council

s 9 om 1922 12 Geo 5 No. 32 s 4 sch

Power to alter system of representation

s 10 amd 1871 34 Vic No. 28 s 1
om 2001 No. 80 s 94 sch 2

Existing Legislature not affected by this Act

s 11 om 1987 No. 73 s 16(3)(b)

PART 3—THE GOVERNOR

hdg prec s 11A (prev hdg prec s 12) reloc 2001 No. 80 s 94 sch 2

Office of Governor

s 11A ins 1977 No. 9 s 4
amd Australia Act 1986 (Cwlth and Imp.) s 13(2)

Definition of Royal Sign Manual

s 11B ins 1977 No. 9 s 5
amd Australia Act 1986 (Cwlth and Imp.) s 13(3)

Place and time of holding Parliament

s 12 amd 1922 12 Geo 5 No. 32 s 4 sch
om 2001 No. 80 s 94 sch 2

Provisions of former Acts respecting the allowance and disallowance of Bills reserved

s 13 om 1987 No. 73 s 16(3)(b)

Officers liable to retire from office on political grounds

s 14 amd 1977 No. 9 s 6; Australia Act 1986 (Cwlth and Imp.) s 13(4); 1996 No. 37
s 146(2)–(3)
om 2001 No. 80 s 94 sch 2

Judges continued in the enjoyment of their offices during their good behaviour notwithstanding any demise of the Crown

s 15 om 2001 No. 80 s 94 sch 2

But they may be removed by the Crown on the address of Parliament

s 16 amd 1922 12 Geo 5 No. 32 s 4 sch
om 2001 No. 80 s 94 sch 2

Their salaries secured during the continuance of their commissions

s 17 om 2001 No. 80 s 94 sch 2

No money vote or Bill lawful unless recommended by Governor

s 18 om 2001 No. 80 s 94 sch 2

No part of public revenue to be issued except on warrants from Governor

s 19 om 1988 No. 49 s 30

THE LEGISLATIVE COUNCIL

hdg prec s 20 om 1922 12 Geo 5 No. 32 s 4 sch
ss 20–26 om 1922 12 Geo 5 No. 32 s 4 sch

THE LEGISLATIVE ASSEMBLY

hdg prec s 27 om 2001 No. 80 s 94 sch 2

Constitution of Legislative Assembly

s 27 om 2001 No. 80 s 94 sch 2

Members of Assembly

s 28 om 2001 No. 80 s 94 sch 2

Duration of Assembly

s 29 om 1890 54 Vic No. 3 s 1

PART 4—CROWN LAND

hdg prec s 30 sub 2001 No. 80 s 94 sch 2

Duties not to be levied on supplies for troops nor any duties inconsistent with treaties

s 31 om 1987 No. 73 s 16(3)(b)

Customs duties may be imposed not differential though contrary to existing Acts of Parliament

s 32 om 1987 No. 73 s 16(3)(b)

Force of laws and authority of courts preserved

s 33 om 1987 No. 73 s 16(3)(b)

CROWN RIGHTS AND REVENUES

hdg prec s 34 om 2001 No. 80 s 94 sch 2

All duties and revenues to form consolidated revenue fund

s 34 om 2001 No. 80 s 94 sch 2

Such fund permanently charged with expenses of collection

s 35 om 2001 No. 80 s 94 sch 2

Civil list of £16,300 payable to Her Majesty

s 36 om 1908 8 Edw 7 No. 18 s 2 sch 1

Civil list to be accompanied by surrender of all revenues of the Crown

s 37 om 1987 No. 73 s 16(3)(b)

Pensions payable to judges of Supreme Court

s 38 om 1987 No. 73 s 16(3)(b)

Consolidated fund to be appropriated by Act of the legislature

s 39 amd 1996 No. 3 s 2 sch 1

om 2001 No. 80 s 94 sch 2

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

s 40 amd 1996 No. 3 s 2 sch 1; 2001 No. 80 s 94 sch 2

Powers, privileges and immunities of Legislative Assembly

s 40A ins 1978 No. 42 s 3

om 2001 No. 80 s 94 sch 2

POWERS AND PRIVILEGES OF PARLIAMENT

hdg prec s 41 amd 1922 12 Geo 5 No. 32 s 4 sch

om 2001 No. 80 s 94 sch 2

Power to order the attendance of persons

s 41 amd 1922 12 Geo 5 No. 32 s 4 sch

om 2001 No. 80 s 94 sch 2

Order to attend to be notified by summons

s 42 amd 1922 12 Geo 5 No. 32 s 4 sch; 1972 No. 31 s 6 sch 1

om 2001 No. 80 s 94 sch 2

Attendance of members

s 43 amd 1922 12 Geo 5 No. 32 s 4 sch

om 2001 No. 80 s 94 sch 2

Objection to answer questions or produce documents to be reported to the House

s 44 amd 1922 12 Geo 5 No. 32 s 4 sch

om 2001 No. 80 s 94 sch 2

House empowered to punish summarily for certain contempts

s 45 amd 1922 12 Geo 5 No. 32 s 4 sch

om 2001 No. 80 s 94 sch 2

Speaker to issue warrant

s 46 amd 1922 12 Geo 5 No. 32 s 4 sch
om 2001 No. 80 s 94 sch 2

Persons disturbing proceedings of House may be arrested without warrant

s 47 amd 1922 12 Geo 5 No. 32 s 4 sch
om 2001 No. 80 s 94 sch 2

Form of warrant

s 48 amd 1922 12 Geo 5 No. 32 s 4 sch
om 2001 No. 80 s 94 sch 2

Execution of verbal order or warrant

s 49 amd 1922 12 Geo 5 No. 32 s 4 sch; 1996 No. 3 s 2 sch 1
om 2001 No. 80 s 94 sch 2

Doors may be broken open in executing warrant

s 50 amd 1922 12 Geo 5 No. 32 s 4 sch
om 2001 No. 80 s 94 sch 2

House may direct Attorney-General to prosecute instead of proceeding summarily

s 51 om 1889 53 Vic No. 12 s 2 sch

House may direct Attorney-General to prosecute for other contempts

s 52 amd 1922 12 Geo 5 No. 32 s 4 sch
om 2001 No. 80 s 94 sch 2

PART 5—REQUIREMENT FOR REFERENDUM

hdg prec s 53 ins 1977 No. 9 s 7

Certain measures to be supported referendum

s 53 prev s 53 om 1899 63 Vic No. 9 s 3(2) sch 3
pres s 53 ins 1977 No. 9 s 7
amd 1996 No. 37 s 146(4)

LOCAL GOVERNMENT

hdg prec s 54 ins 1989 No. 93 s 3
om 2001 No. 80 s 94 sch 2

System of local government

s 54 prev s 54 om 1889 53 Vic No. 12 s 2 sch
pres s 54 ins 1989 No. 93 s 3
om 2001 No. 80 s 94 sch 2

Manner of appointing persons to exercise powers, authorities, duties and functions of local government

s 55 prev s 55 om 1889 53 Vic No. 12 s 2 sch
pres s 55 ins 1989 No. 93 s 3
om 2001 No. 80 s 94 sch 2

Procedure on Bills affecting local government

s 56 prev s 56 om 1889 53 Vic No. 12 s 2 sch

pres s 56 ins 1989 No. 93 s 3
om 2001 No. 80 s 94 sch 2

PARLIAMENTARY SECRETARIES

hdg prec s 57 sub 1996 No. 3 s 3
om 2001 No. 80 s 94 sch 2

Appointment of Parliamentary Secretaries

s 57 sub 1996 No. 3 s 3
om 2001 No. 80 s 94 sch 2

Functions of Parliamentary Secretary

s 58 ins 1996 No. 3 s 3
om 2001 No. 80 s 94 sch 2

Duration of appointment as Parliamentary Secretary

s 59 ins 1996 No. 3 s 3
om 2001 No. 80 s 94 sch 2

Reimbursement of expenses

s 60 ins 1996 No. 3 s 3
om 2001 No. 80 s 94 sch 2

SCHEDULE A

om 1908 8 Edw 7 No. 18 s 2 sch 1

SCHEDULE B

om 1908 8 Edw 7 No. 18 s 2 sch 1