

Queensland



ANNO TRICESIMO TERTIO  
ELIZABETHAE SECUNDAE REGINAE

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No. 70 of 1984

An Act to provide that certain Imperial enactments in force in England at the time of the passing of the Imperial Act 9 George IV Chapter 83 shall continue in force in Queensland; to repeal other Imperial enactments; to replace other Imperial enactments relating to insurance, service of process on Sunday, and waste by executors; to amend the Succession Act 1981–1983; and for related purposes

[ASSENTED TO 12TH OCTOBER, 1984]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. **Short title and citation.** This Act may be cited as the *Imperial Acts Application Act 1984*.

2. **Act to bind Crown.** This Act binds the Crown not only in right of the State of Queensland but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

3. **Arrangement.** This Act is arranged as follows:—

PART I—PRELIMINARY (ss. 1–4);

PART II—IMPERIAL ENACTMENTS PRESERVED OR TERMINATED (ss. 5–7);

PART III—SUBSTITUTION OF QUEENSLAND LAW FOR CERTAIN IMPERIAL ENACTMENTS (ss. 8–14);

SCHEDULES.

4. **Interpretation.** In this Act, unless the contrary intention appears, the term “Imperial enactment” includes any Act passed by the Imperial Parliament.

PART II—IMPERIAL ENACTMENTS PRESERVED OR TERMINATED

5. **Preserved Imperial enactments.** Each Imperial enactment specified in the First Schedule shall, from the commencement of this Act, continue to have the same force and effect, if any, as it had in Queensland immediately prior to the commencement of this Act.

6. **Imperial enactments not affected.** Nothing in this Act affects any Imperial enactment specified in the Second Schedule or any other Imperial enactment which independently of the provisions of the Imperial Act 9 George IV Chapter 83 (The Australian Courts Act, 1828) is made applicable to Queensland by express words or necessary intendment of any Imperial enactment.

7. **Termination of application of Imperial enactments.** Subject to this Act, the application in and for Queensland of all Imperial enactments (commencing with the Statute of Merton, 20 Henry III A.D. 1235–6) in force in England at the time of the passing of the Imperial Act 9 George IV Chapter 83, is terminated.

PART III—SUBSTITUTION OF QUEENSLAND LAW FOR CERTAIN IMPERIAL ENACTMENTS

8. **No insurance to be made by persons having no interest.** [14 George III c. 48.] (1) No insurance shall be made by any person on the life of any person or on any other event whatsoever wherein the person for whose use or benefit or on whose account the policy is made has no interest, or by way of gaming or wagering.

Every insurance made contrary to this subsection shall be void.

(2) It shall not be lawful to make any policy on the life of any person, or on any other event whatsoever, wherein the person effecting the policy has no interest, without inserting in that policy the names of the persons interested therein, or for whose use or benefit or on whose account that policy was made.

(3) In all cases where there is an interest in the life or other event the subject of the insurance, no greater sum shall be recovered or received from the insurer than the amount or value of the interest.

(4) Nothing in this section shall extend to insurance made by any person on ships or goods, or to contracts of indemnity against loss by fire or loss by other events whatsoever.

**9. Avoidance of wagering or gaming contracts of marine insurance.** [19 George II c. 37.] (1) Every contract of marine insurance by way of gaming or wagering is void.

(2) A contract of marine insurance is deemed to be a gaming or wagering contract—

(a) where the assured has no insurable interest, and the contract is entered into with no expectation of acquiring such an interest; or

(b) where the policy is made “interest or no interest”, or “without further proof of interest than the policy itself”, or “without benefit of salvage to the insurer”, or subject to any other like term:

Provided that, where there is no possibility of salvage, a policy may be effected without benefit of salvage to the insurer.

**10. Contracts of marine insurance must be embodied in policy.** [28 George III c. 56.] Subject to the provisions of any other Act, a contract of marine insurance is inadmissible in evidence in an action for the recovery of a loss under the contract unless it is embodied in a marine policy in accordance with this Part.

The policy may be executed and issued either at the time when the contract is concluded or afterwards.

**11. What policy of marine insurance must specify.** [28 George III c. 56.] A marine policy must specify—

(a) the name of the assured, or of some person who effects the insurance on his behalf;

(b) the subject-matter insured and the risk insured against;

(c) the voyage, or period of time, or both as the case may be, covered by the insurance;

(d) the sum or sums insured; and

(e) the name or names of the insurers.

**12. Service of process on Sunday.** [29 Charles II c. 7, s. 6.] Except where the provisions of any other Act or law otherwise provide, service of any writ, process, warrant, order, judgment or decree (except in the case of an offence, breach of the peace or any warrant, writ or process for the apprehension of any person) upon a Sunday shall be void.

**13. Amendment of Succession Act.** (1) The *Succession Act* 1981–1983 is amended by inserting after section 52 the following subsection:—

“52A. **Liability of executors for waste.** [30 Charles II c. 7. 4 William and Mary c. 24, s. 12.] Where a personal representative in his own wrong wastes or converts to his own use any part of the estate of the deceased person and dies, his personal representative shall to the extent of the available assets of the defaulter be liable and chargeable in respect of such waste or conversion in the same manner as the defaulter would have been if living.”.

(2) The *Succession Act* 1981–1983 as amended by subsection (1) may be cited as the *Succession Act* 1981–1984.

**14. References to Imperial enactments.** A reference in any Act to an Imperial enactment specified in the first column of the Third Schedule shall, where the case permits and unless a contrary intention appears, be construed as a reference to the enactment specified in the second column of that schedule opposite the Imperial enactment specified.

FIRST SCHEDULE  
IMPERIAL ENACTMENTS CONTINUED IN FORCE [s. 5]

Citation	Short title and enactment
(1297) 25 Edward I c. 29	Magna Carta
(1351) 25 Edward III c. 4	Criminal & Civil Justice
(1354) 28 Edward III c. 3	Liberty of subject
(1368) 42 Edward III c. 3	Due Process of Law
(1623) 21 James I c. 3	The Statute of Monopolies ss. 1 and 6
(1627) 3 Charles I c. 1	The Petition of Right

FIRST SCHEDULE—*continued*

Citation	Short title and enactment
(1640) 16 Charles I c. 10	The Habeas Corpus Act, 1640, s. 6
(1679) 31 Charles II c. 2	The Habeas Corpus Act, 1679, ss. 1-8, 11, 15-19
(1688) 1 William & Mary Sess. 2 c. 2	The Bill of Rights
(1698) 11 William III c. 7	The Piracy Act, 1698
(1700) 12 & 13 William III c. 2	The Act of Settlement
(1702) 1 Anne c. 2	The Demise of Crown Act, 1702, s. 4
(1702) 1 Anne St. 2 c. 21	The Treason Act, 1702, s. 3
(1707) 6 Anne c. 41	The Succession to Crown Act, 1707, s. 9
(1750) 24 George II c. 23	The Calendar (New Style) Act, 1750
(1772) 12 George III c. 11	The Royal Marriages Act, 1772 ss. 1 and 2
(1816) 56 George III c. 100	The Habeas Corpus Act, 1816

SECOND SCHEDULE  
 IMPERIAL ENACTMENTS NOT AFFECTED BY ACT

[s. 6]

Citation	Short Title
(1698) 11 William III c. 12	Crimes by Governors of Colonies
(1802) 42 George III c. 85	The Criminal Jurisdiction Act, 1802
(1821) 1 & 2 George IV c. 121	The Commissariat Accounts Act, 1821
(1824) 5 George IV c. 113	The Slave Trade Act, 1824

THIRD SCHEDULE  
 IMPERIAL ENACTMENTS FOR WHICH QUEENSLAND  
 ENACTMENTS ARE SUBSTITUTED

[s. 14]

Imperial enactment	Queensland enactment
(1677) 29 Charles II c. 7. (The Sunday Observance Act), s. 6.	<i>Imperial Acts Application Act</i> 1984. s. 12.
(1678) 30 Charles II c. 7. (Executors who commit waste)	<i>Succession Act</i> 1981–1984. s. 52A.
(1692) 4 William and Mary c. 24. (Estreats: Personal representatives), s. 12.	<i>Succession Act</i> 1981–1984. s. 52A.
(1745) 19 George II c. 37. (The Marine Insurance Act)	<i>Imperial Acts Application Act</i> 1984. s. 9.
(1774) 14 George III c. 48. (The Life Assurance Act)	<i>Imperial Acts Application Act</i> 1984. s. 8.
(1788) 28 George III c. 56. (The Marine Insurance Act)	<i>Imperial Acts Application Act</i> 1984. ss. 10 and 11.