

Queensland



ANNO TRICESIMO SEPTIMO

ELIZABETHAE SECUNDAE REGINAE

No. 47 of 1988

**An Act to provide for amendment and construction of various
Acts upon a change in administrative arrangements
and for related purposes**

[ASSENTED TO 12TH MAY, 1988]

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.** This Act may be cited as the *Acts Amendment and Construction Act 1988*.

2. **Arrangement.** This Act is arranged in Parts and Divisions of Parts as follows:—

PART I—PRELIMINARY (ss. 1-2);

PART II—AMENDMENT AND CONSTRUCTION TO
RECOGNIZE ADMINISTRATION WITHIN
DEPARTMENT OF FAMILY SERVICES (ss. 3-9);

Division 1—Scheduled Amendments;

Division 2—Provisions Concerning Mental Health Services Act;

PART III—AMENDMENT AND CONSTRUCTION TO
RECOGNIZE ADMINISTRATION WITHIN
QUEENSLAND WATER RESOURCES COMMISSION
(ss. 10-11);

Division 1—Scheduled Amendments;

Division 2—Provisions Concerning Local Government Act;

PART IV—AMENDMENT TO RECOGNIZE
ADMINISTRATION WITHIN QUEENSLAND
TREASURY (s. 12);

SCHEDULE I;

SCHEDULE II;

SCHEDULE III.

PART II—AMENDMENT AND CONSTRUCTION TO RECOGNIZE ADMINISTRATION WITHIN DEPARTMENT OF FAMILY SERVICES

Division 1—Scheduled Amendments

3. **Amendments of Scheduled Acts.** (1) An Act referred to in Schedule I is amended in the provision thereof specified in the first column of the schedule as specified in the second column of the schedule opposite that provision.

(2) An Act referred to in Schedule I as amended by this Act may be cited as specified in relation to that Act in the third column of the schedule.

Division 2—Provisions Concerning Mental Health Services Act

4. **Construction of definition.** The definition “Director of Intellectual Handicap Services” in section 5 (1) of the *Mental Health Services Act 1974-1987* shall be read and construed as follows:—

““Director of Intellectual Handicap Services” means the officer in charge of Intellectual Handicap Services of the department

within which the *Family Services Act 1987-1988* is administered and includes any person who for the time being performs the duties of that office;”.

5. Construction of s. 13. Visits by official visitors. In respect of special visits that are required to be made by one or more official visitors under section 13 of the *Mental Health Services Act 1974-1987* to a training centre for the administration of which the Director of Intellectual Handicap Services is responsible under section 16 (3) of that Act as construed by section 6 of this Act and in respect of reports required to be prepared under the said section 13 in respect of such visits a provision of the *Mental Health Services Act 1974-1987* specified in the first column of the following Table shall be read and construed as specified in the second column of the Table opposite that provision:—

TABLE

Provision	Construction of Provision
s. 13 (1)	the reference “Minister or the Director-General or Director” shall be construed as “Minister for the time being administering the <i>Family Services Act 1987-1988</i> or the Permanent Head of the department within which that Act is administered”;
s. 13 (2) (a)	the reference “Minister or Director-General” shall be construed as “Minister for the time being administering the <i>Family Services Act 1987-1988</i> or the Permanent Head of the department within which that Act is administered”.

6. Construction of s. 16 (3). Psychiatric hospitals, training centres and other places. Section 16 (3) of the *Mental Health Services Act 1974-1987* shall be read and construed as follows:—

“(3) Subject to the Minister and to the Director-General, the Director is charged with the administration of psychiatric hospitals, training centres other than centres referred to in the next following paragraph, security patients’ hospitals and other places established under this section.

Subject to the Minister for the time being administering the *Family Services Act 1987-1988* and the Permanent Head of the department within which that Act is administered, the Director of Intellectual Handicap Services is charged with the administration of training centres conducted as a service of that department.”.

7. Construction of provisions concerning trust funds. In respect of—

- (a) moneys credited to a Patients’ Trust Fund under section 73 of the *Mental Health Services Act 1974-1987* that are to be applied for the maintenance or benefit or at the direction

of an intellectually handicapped person in a training centre for the administration of which the Director of Intellectual Handicap Services is responsible under section 16 (3) of that Act as construed by section 6 of this Act;

- (b) moneys credited to a Trust Fund under section 74 of the *Mental Health Services Act 1974-1987* for a purpose in connexion with a training centre for the administration of which the Director of Intellectual Handicap Services is responsible under section 16 (3) of that Act as construed by section 6 of this Act;

or

- (c) moneys referred to in paragraph (a) or (b) that from time to time become available to be invested in the name of the Director of Finance, Department of Health under section 75 of the *Mental Health Services Act 1974-1987*,

a provision of the *Mental Health Services Act 1974-1987* specified in the first column of the following Table shall be read and construed as specified in the second column of the Table opposite that provision:—

TABLE

Provision	Construction of Provision
s. 73 (4)	<p>(a) the reference “Under Secretary, Department of Health” shall be construed as “Permanent Head of the department within which the <i>Family Services Act 1987-1988</i> is administered”;</p> <p>(b) the reference “Minister” shall be construed as “Minister for the time being administering the <i>Family Services Act 1987-1988</i>”;</p> <p>(c) the reference “Director” shall be construed as “Permanent Head of the department within which the <i>Family Services Act 1987-1988</i> is administered”.</p>
s. 74	<p>(a) a reference “Minister” wherever it occurs shall be construed as “Minister for the time being administering the <i>Family Services Act 1987-1988</i>”;</p> <p>(b) the reference “Under Secretary, Department of Health” shall be construed as “Permanent Head of the department within which the <i>Family Services Act 1987-1988</i> is administered”.</p>

TABLE—continued

Provision	Construction of Provision
s. 75	<p>(a) the reference “with the approval of the Under Secretary, Department of Health, first had and obtained, be invested in the name of the Director of Finance, Department of Health,” occurring in subsection (1) shall be construed as “be invested in his official name by the Permanent Head of the department within which the <i>Family Services Act 1987-1988</i> is administered”;</p> <p>(b) the reference “Director of Finance, Department of Health” occurring in subsection (2) shall be construed as “Permanent Head of the department within which the <i>Family Services Act 1987-1988</i> is administered”;</p> <p>(c) the reference “Minister’s approval” occurring in subsection (4) shall be construed as “approval of the Minister for the time being administering the <i>Family Services Act 1987-1988</i>”.</p>

8. Divesting and vesting of moneys. (1) In respect of moneys referred to in paragraph (a) or (b) of section 7 that are invested pursuant to section 75 of the *Mental Health Services Act 1974-1987* at the commencement of this Act, the entitlement to those moneys and to interest accrued thereon from time to time shall, upon such commencement, divest from the Director of Finance, Department of Health, and vest in the Permanent Head of the department within which the *Family Services Act 1987-1988* is administered.

(2) All persons who at the commencement of this Act hold moneys referred to in subsection (1) are authorized to make such alterations in their records as are necessary to express the divesting and vesting prescribed by that subsection and to deal with those moneys and interest accrued thereon from time to time in accordance with that subsection.

9. Construction of Mental Health Services Regulations. In reading and construing regulation 11 or 46 of the Mental Health Services Regulations 1985 in so far as the regulation is applicable to or in respect of a training centre for the administration of which the Director of Intellectual Handicap Services is responsible under section 16 (3) of the *Mental Health Services Act 1974-1987* as construed by section 6 of this Act—

- (a) the reference “Under Secretary, Department of Health” occurring in paragraph (b) of regulation 11 shall be construed as “Permanent Head of the department within which the *Family Services Act 1987-1988* is administered”;
- (b) the reference “Director and” occurring in regulation 46 shall be construed as “Permanent Head of the department within

which the *Family Services Act 1987-1988* is administered and”;

- (c) the reference “Chief Nursing Officer within the meaning of the *Hospitals Act 1936-1984*” occurring in subparagraph (ix) of paragraph (b) of regulation 46 shall be construed as “Director of Intellectual Handicap Services”.

PART III—AMENDMENT AND CONSTRUCTION TO RECOGNIZE ADMINISTRATION WITHIN QUEENSLAND WATER RESOURCES COMMISSION

Division 1—Scheduled Amendments

10. Amendment of scheduled Acts. (1) An Act referred to in Schedule II is amended in the provision thereof specified in the first column of the schedule as specified in the second column of the schedule opposite that provision.

(2) An Act referred to in Schedule II as amended by this Act may be cited as specified in relation to that Act in the third column of the schedule.

Division 2—Provisions Concerning Local Government Act

“11. Construction of s. 32 (1), (2), (2A), (3), (6), (13) and (14). (1) Where an order, report or approval allowed or required to be made or given pursuant to subsection (1), (2), (2A), (3), (6) or (13) of section 32 of the *Local Government Act 1936-1987* by the Minister within the meaning of that Act would, if made or given, be in respect of any work, service, undertaking, matter or thing concerning prescribed matter, that subsection shall be construed as requiring the Minister to consult with the Minister for the time being administering the *Water Resources Administration Act 1978-1984* with respect to the work, service, undertaking, matter or thing before he makes the order or report or gives his approval.

In this subsection “prescribed matter” means water supply, sewerage, septic tank systems, stormwater drainage, agricultural drainage, flood mitigation or swimming pools.”;

(2) In reading and construing subsection (14) (i) of section 32 of the *Local Government Act 1936-1987*—

- (a) the third paragraph thereof shall be construed as follows:—
“Applications for such consent shall be made to the Permanent Head of the department within which the *Water Resources Administration Act 1978-1984* is administered.”;
- (b) the reference “Minister” in the fourth paragraph shall be construed as “Minister for the time being administering the *Water Resources Administration Act 1978-1984*”;
- (c) the sixth paragraph shall be taken to have been omitted.

PART IV—AMENDMENT TO RECOGNIZE ADMINISTRATION WITHIN QUEENSLAND TREASURY

12. Amendments of Scheduled Acts. (1) An Act referred to in Schedule III is amended in the provision thereof specified in the first

column of the schedule as specified in the second column of the schedule opposite that provision.

(2) An Act referred to in Schedule III as amended by this Act may be cited as specified in relation to that Act in the third column of the schedule.

SCHEDULE I

[s. 3]

Act and Provision Amended	Amendment	Citation
<i>Adoption of Children Act 1964-1987</i> s. 6	omit from the definitions "Department" and "Director" the words " <i>and Youth</i> "	<i>Adoption of Children Act 1964-1988</i>
s. 61 (c)	omit from provision (c) the words " <i>and Youth</i> "	<i>Adoption of Children Act 1964-1988</i>
<i>Children's Services Act 1965-1987</i> s. 8	omit from the definitions "Department" and "Director" the words " <i>and Youth</i> "	<i>Children's Services Act 1965-1988</i>
<i>Criminal Law (Rehabilitation of Offenders) Act 1986-1987</i> s. 9A (1)	omit from the Table the words " <i>and Youth</i> " where they three times occur	<i>Criminal Law (Rehabilitation of Offenders) Act 1986-1988</i>
<i>Family and Youth Services Act 1987</i> long title short title (s. 1) s. 3 s. 5	omit the words " , youth " omit the words " <i>and Youth</i> " omit from the reference to Part III the words " , YOUTH " omit the expression "," at the end of paragraph (d) and substitute the expression "." omit paragraph (e)	<i>Criminal Law (Rehabilitation of Offenders) Act 1986-1988</i>

SCHEDULE I—*continued*

Act and Provision Amended	Amendment	Citation
<i>Family and Youth Services Act 1987</i> —continued		
PART III	omit from the heading preceding section 14 the words “, YOUTH”	
s. 14 (1)	omit the words “, youth”	
s. 18 (1)	omit the words “, youth”	
Schedule cls. 8, 11, 12 and 37	omit from each clause the words “ <i>and Youth</i> ” wherever they occur	<i>Family Services Act 1987-1988</i>
<i>Intellectually Handicapped Citizens Act 1985</i>		
s. 41 (1)	omit the words “Department of Health” and substitute the words “department within which the <i>Family Services Act 1987-1988</i> is administered”	<i>Intellectually Handicapped Citizens Act 1985-1988</i>
<i>Maintenance Act 1965-1987</i>		
s. 133	omit the words “ <i>and Youth</i> ”	<i>Maintenance Act 1965-1988</i>

SCHEDULE II

[s. 10]

Act and Provision Amended	Amendment	Citation
<i>Brisbane and Area Water Board Act 1979-1987</i>		
s. 4	insert after the definition "Chairman" the following definition:— " "Commissioner" means the Commissioner of Water Resources under and within the meaning of the <i>Water Resources Administration Act 1978-1984</i> ;"	
s. 7	omit the definition "Director" omit the word "Director" and substitute the word "Commissioner"	
s. 21 (2)	omit subsection (2) and substitute the following subsection:— "(2)The Advisory Committee shall consist of the following members:— (a) the person for the time being holding the office of Commissioner or his nominee; (b) the person for the time being holding the office of Chief Engineer and Manager, Water Supply Department, Brisbane City Council, or his nominee; (c) a person nominated by the Board, being a person who is an officer of a Local Authority (other than Brisbane City Council) represented on the Board."	

SCHEDULE II—continued

Act and Provision Amended	Amendment	Citation
<i>Brisbane and Area Water Board Act 1979-1987—</i> continued		
s. 21 (4)	omit the words “, (b), (c) or (d)” and substitute the words “or (b)”	
	insert after the words “delegate of his” the words “or its”	
s. 21 (6)	omit the word “Director” (where twice occurring) and substitute in each case the word “Commissioner”	
s. 41 (1)	omit the words “Director who shall refer the matter to the Commissioner of Water Resources for investigation” and substitute the word “Commissioner”	
s. 106 (3)	omit subsection (3)	
s. 109 (3)	omit all words from and including the word “Director” to and including the words “Queensland,” and substitute the words “Commissioner for the approval of the Minister who”	
		<i>Brisbane and Area Water Board Act 1979-1988</i>
<i>City of Brisbane (Flood Mitigation Works Approval) Act 1952-1974</i>		
s. 2	insert before the definition “Constructed works” the following definition:— “ “Commissioner”—The Commissioner of Water Resources under and within the meaning of the <i>Water Resources Administration Act 1978-1984</i> ,”	

SCHEDULE II—*continued*

Act and Provision Amended	Amendment	Citation
<p><i>City of Brisbane (Flood Mitigation Works Approval) Act 1952-1974</i> —continued</p>	<p>omit from paragraph (a) the word “Minister” and substitute the word “Commissioner”</p>	
<p>s. 5 (2)</p>	<p>omit paragraph (c) and substitute the following paragraph:— “(c) shall be dealt with in accordance with subsection (2A).”</p>	
<p>s. 5 (2A)</p>	<p>omit subsection (2A) and substitute the following subsection:— “(2A) An application made under this section shall be considered by the Commissioner who shall— (a) where the application relates to works to be performed in a part of a river or creek which part is subject to tidal influence, refer the application— (i) to the Marine Board, which shall cause the matter of the application to be investigated and shall make a report and recommendation for submission by the Minister to the Governor in Council on the desirability of the works, having regard to the freedom of navigation in that part of the river or creek in question;</p>	

SCHEDULE II—continued

Act and Provision Amended	Amendment	Citation
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*City of Brisbane
(Flood Mitigation
Works Approval)
Act 1952-1974—
continued*

and

- (ii) to the Harbour Board having jurisdiction over the part of the river or creek in question, which shall cause the matter of the application to be investigated and shall make a report and recommendation for submission by the Minister to the Governor in Council on the desirability of the works, having regard to the effect the carrying out of such works would have on the use of the harbour in question;
 - (b) where the application relates to works to be performed in a part of a river or creek which part is not subject to tidal influence, investigate the matter of the application in respect of the desirability of the works having regard to the diversion of water (if any) from the river or creek in question;
- and
- (c) make such other or further investigations of the matter of the

SCHEDULE II—*continued*

Act and Provision Amended	Amendment	Citation
<i>City of Brisbane (Flood Mitigation Works Approval) Act 1952-1974— continued</i>	<p>application as to him seem desirable and make a report and recommendation for submission by the Minister to the Governor in Council on the desirability of the works to which the application relates having regard to the reports and recommendations of the Marine Board and a Harbour Board made pursuant to paragraph (a) (if any) and his investigations under this subsection.”</p>	
s. 5 (2B)	<p>omit the word “Minister” and substitute the word “Commissioner”</p>	
s. 5A (2)	<p>omit from paragraph (a) all words from and including the words “, in accordance with” to the end of the paragraph and substitute the words “to the Commissioner and, where it is appropriate so to do, to the Marine Board and a Harbour Board for the performance by him or them of the function or functions prescribed by section 5 (2A);”</p>	
s. 6 (1)	<p>insert after the words “Board,” the words “a Harbour Board,” insert after the words “Public Works,” the words “Commissioner,”</p>	

SCHEDULE II—*continued*

Act and Provision Amended	Amendment	Citation
<p><i>City of Brisbane (Flood Mitigation Works Approval) Act 1952-1974— continued</i></p>	<p>insert after the words “said Co-ordinator-General,” the words “or with the said Commissioner,”</p>	<p><i>City of Brisbane (Flood Mitigation Works Approval) Act 1952-1988</i></p>
<p><i>Gladstone Area Water Board Act 1984</i> s. 6</p>	<p>insert after the definition “Chairman” the following definition:— ““Commissioner” means the Commissioner of Water Resources under and within the meaning of the <i>Water Resources Administration Act 1978-1984</i>,”</p>	
<p>s. 10</p>	<p>omit the definition “Director” omit from paragraph (c) the word “Director” and substitute the word “Commissioner” omit paragraph (e) and substitute the following paragraph:— “(e) a person nominated by the Commissioner,” add at the end of the section the following paragraph:— “On and from the commencement of the <i>Acts Amendment and Construction Act 1988</i>— (f) the person holding office as a member of the Board as the</p>	

 SCHEDULE II—*continued*

Act and Provision Amended	Amendment	Citation
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*Gladstone Area
Water Board Act
1984—continued*

nominee of the Director of Local Government immediately prior to that commencement shall, subject to section 16, continue to hold that office as the nominee of the Commissioner pursuant to paragraph (c) until the expiration of his term of office as a member of the Board and shall be Chairman;

- (g) the person holding office as a member of the Board as the nominee of the Commissioner immediately prior to that commencement shall, subject to section 16, continue to hold that office as the nominee of the Commissioner pursuant to paragraph (e) until the expiration of his term of office as a member of the Board.”

s. 40 (1)

omit the words “Director who shall refer the matter to the Commissioner of Water Resources for investigation” and substitute the word “Commissioner”.

*Gladstone Area
Water Board Act
1984-1988*

SCHEDULE II—*continued*

Act and Provision Amended	Amendment	Citation
<p><i>Sewerage and Water Supply Act 1949-1985</i> s. 7 (2)</p>	<p>omit from paragraph (i) the words “Department of Local Government” and substitute the words “Queensland Water Resources Commission”</p> <p>omit from paragraph (ii) the words “Department of Education” and substitute the words “Employment, Vocational Education and Training Department”</p> <p>add at the end of subsection (2) the following paragraph:—</p> <p>“On and from the commencement of the <i>Acts Amendment and Construction Act 1988</i>—</p> <p>(a) the person holding office as a member of the Board as the representative of the Department of Local Government immediately prior to that commencement shall, subject to subsection (3), continue to hold that office as the representative of the Queensland Water Resources Commission pursuant to paragraph (i) until the expiration of his term of office as a member of the Board and shall continue as Chairman;</p> <p>(b) the person holding office as a member of the Board as the representative of the</p>	

SCHEDULE II—continued

Act and Provision Amended	Amendment	Citation
<i>Sewerage and Water Supply Act 1949-1985—</i> continued	Department of Education immediately prior to that commencement shall, subject to subsection (3), continue to hold that office as the representative of the Employment, Vocational Education and Training Department pursuant to paragraph (ii) until the expiration of his term of office as a member of the Board.”	<i>Sewerage and Water Supply Act 1949-1988</i>
<i>Townsville/Thuringowa Water Supply Board Act 1987</i> s. 6	insert after the definition “chairman” the following definition:— ““Commissioner” means the Commissioner of Water Resources under and within the meaning of the <i>Water Resources Administration Act 1978-1984;</i> ”	
s. 40 (1)	omit the definition “Director” omit the words “Director who shall refer the matter to the Commissioner of Water Resources for investigation” and substitute the word “Commissioner”	<i>Townsville/Thuringowa Water Supply Board Act 1987-1988</i>

SCHEDULE III

[s. 12]

Act and Provision Amended	Amendment	Citation
<p><i>Queensland Industry Development Corporation Act 1985</i> s. 4</p>	<p>omit the definition “Minister” and substitute the following definition:— “ “Minister” means the Minister of the Crown for the time being charged with the administration of this Act and includes a Minister of the Crown who, for the time being, is performing the duties of the Minister;”</p>	<p><i>Queensland Industry Development Corporation Act 1985-1988</i></p>
<p><i>Suncorp Insurance and Finance Act 1985-1986</i> s. 5</p>	<p>omit the definition “Minister” and substitute the following definition:— “ “Minister” means the Minister of the Crown for the time being charged with the administration of this Act and includes a Minister of the Crown who, for the time being, is performing the duties of the Minister;”</p>	<p><i>Suncorp Insurance and Finance Act 1985-1988</i></p>