

Queensland



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No. 58 of 1988

**An Act to amend the Commissions of Inquiry Act 1950-1988 in certain particulars and the Criminal Law (Rehabilitation of Offenders) Act 1986-1988 and the Invasion of Privacy Act 1971-1981 each in a certain particular**

[ASSENTED TO 25TH AUGUST, 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 *Commissions of Inquiry Act and Other Acts Amendment Act 1988*.

**2. Arrangement.** This Act is divided into Parts as follows:—

PART I—PRELIMINARY;

PART II—AMENDMENT OF THE COMMISSIONS OF INQUIRY ACT 1950-1988;

PART III—AMENDMENT OF THE CRIMINAL LAW (REHABILITATION OF OFFENDERS) ACT 1986-1988;

PART IV—AMENDMENT OF THE INVASION OF PRIVACY ACT 1971-1981.

### PART II—AMENDMENT OF THE COMMISSIONS OF INQUIRY ACT 1950-1988

**3. Principal Act and citation as amended.** (1) In this Part, the *Commissions of Inquiry Act 1950-1988* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Commissions of Inquiry Act 1950-1988*.

**4. Amendment of s. 4A. Interaction of Commission with courts, etc.** Section 4A of the Principal Act is amended by inserting after subsection (3) the following subsection:—

“(3A) Every court, tribunal, warden, coroner, justice or other person referred to in subsections (1) and (2), including those courts and persons excluded by paragraph (b) of subsection (1) shall take judicial notice of—

(a) the identity of the Attorney-General at the time information is given under subsection (2) or a certificate is made under subsection (3);

(b) the signature of that Attorney-General on any notification of information given under subsection (2);

and

(c) the authorization by that Attorney-General of the giving of information under subsection (2) or the publication of a certificate under subsection (3).”.

**5. Amendment of s. 5. Power to summon witness and require production of books etc.** Section 5 of the Principal Act is amended by inserting after subsection (2) the following subsection:—

“(2A) Where an Order in Council has declared that a chairman’s writing made under subsection (1) is to take precedence over any oath taken, affirmation made, or provision of an Act, which oath, affirmation or provision might afford reasonable excuse for not complying with any writing of a chairman made under subsection (1)—

- (a) the obligation to act in accordance with the oath or affirmation, or with the provision shall not constitute such reasonable excuse;
- (b) the person bound by the oath or affirmation, or by the provision shall not be taken—
  - (i) to have breached the oath or affirmation;
  - (ii) to have committed an offence against the provision;
  - or
  - (iii) to have rendered himself liable to disciplinary action,  
by reason of his complying with the chairman’s writing.

(2B) An Order in Council referred to in subsection (2A) may be made whether or not a chairman’s writing has been made under subsection (1) at the time the order is made.”.

**6. Amendment of s. 10. Punishment of contempt of a Commission.** Section 10 of the Principal Act is amended by—

(a) omitting subsection (5) and substituting the following subsection:—

“(5) Where the chairman certifies the contempt of a Commission to the Supreme Court—

- (a) the Supreme Court shall thereupon enquire into the alleged contempt;
- (b) having regard to the evidence produced against or on behalf of the person charged with contempt and any statement that may be offered on behalf of that person the Supreme Court (if satisfied that the person is guilty of the contempt) may punish or take steps for the punishment of the person in like manner and to the like extent as if the person had committed the contempt in or in relation to proceedings in the Supreme Court;  
and
- (c) the Rules of the Supreme Court, as in force for the time being, shall with any necessary adaptations, apply and extend accordingly.”.

**7. Amendment of s. 14. Statements made by witness not admissible in evidence against him.** Section 14 (2) of the Principal Act is amended by inserting after the word "offence" the words " , or a conspiracy by the witness with another person to commit an offence,".

**8. New s. 22A. Evidential effect of certificates.** The Principal Act is amended by inserting after section 22 the following section:—

**"22A. Evidential effect of certificates.** Where in proceedings of whatever nature before any court, justices, tribunal, or in any inquiry, examination or arbitration it is relevant to prove—

- (a) any matter related to an inquiry pursuant to a Commission;
- or
- (b) the taking of any step by a person purporting to act pursuant to any power or authority conferred by this Act,

a certificate purporting to be that of the chairman of the Commission or of a deputy to the Commission as to such matter or the taking of such step shall, upon its production in the proceedings, be evidence and, in the absence of evidence to the contrary from a source other than the chairman or deputy, conclusive evidence of the matters contained in the certificate."

### PART III—AMENDMENT OF THE CRIMINAL LAW (REHABILITATION OF OFFENDERS) ACT 1986-1988

**9. Amendment of s. 5. Matter excluded from criminal history.** Section 5 of the *Criminal Law (Rehabilitation of Offenders) Act 1986-1988* is amended by adding at the end of the section the following subsection:—

“(3) Subsection (2) does not apply where the requirement or request to disclose a conviction or charge therein referred to is made—

- (a) for the purposes of an inquiry being conducted pursuant to authority conferred by or under an Act;
- or
- (b) in criminal or civil proceedings before a court if the fact of the conviction or charge is relevant to an issue in the proceedings or the court has granted permission for the requisition or request to be made.”.

**10. Citation.** The *Criminal Law (Rehabilitation of Offenders) Act 1986-1988* as amended by this Part may be cited as the *Criminal Law (Rehabilitation of Offenders) Act 1986-1988*.

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PART IV—AMENDMENT OF THE INVASION OF PRIVACY  
ACT 1971-1981

**11. Amendment of s. 45. Prohibition on communication or publication of private conversations by private parties thereto.** Section 45 (2) of the *Invasion of Privacy Act 1971-1981* is amended by adding at the end of the subsection the following paragraph:—

“In this subsection the term “legal proceedings” includes—

- (a) proceedings (whether civil or criminal) in or before any court;
- (b) proceedings before justices;
- (c) proceedings before any court, tribunal or person (including any inquiry, examination or arbitration) in which evidence is or may be given;  
and
- (d) any part of legal proceedings.”.

**12. Citation.** The *Invasion of Privacy Act 1971-1981* as amended by this Part may be cited as the *Invasion of Privacy Act 1971-1988*.