

Queensland



# **PEACEFUL ASSEMBLY ACT 1992**

**Act No. 38 of 1992**

# Queensland



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Queensland



## **Peaceful Assembly Act 1992**

### **Act No. 38 of 1992**

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**An Act to provide for the recognition, exercise and any necessary and reasonable restrictions of the right of peaceful assembly, and for related purposes**

*[Assented to 23 July 1992]*

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.

### Short title

1. This Act may be cited as the *Peaceful Assembly Act 1992*.

### Objects

2.(1) The objects of this Act are—

- (a) to recognise the right of peaceful assembly; and
- (b) to ensure, so far as it is appropriate to do so, that persons may exercise the right to participate in public assemblies; and
- (c) to ensure that the exercise of the right to participate in public assemblies is subject only to such restrictions as are necessary and reasonable in a democratic society in the interests of—
  - (i) public safety; or
  - (ii) public order; or
  - (iii) the protection of the rights and freedoms of other persons; and
- (d) to ensure that the right of persons to participate in public assemblies may be exercised without payment of a fee, charge or other amount for a licence, permit or other authorisation.

(2) In subsection (1)(c)(iii), a reference to the rights of persons includes a reference to—

- (a) the rights of members of the public to enjoy the natural environment; and
- (b) the rights of persons to carry on business.

### Relationship with other laws

**3.(1)** This Act has effect despite any other law relating to—

- (a) the right of peaceful assembly; or
- (b) the movement of traffic or pedestrians; or
- (c) loitering; or
- (d) the use or obstruction of a public place; or
- (e) the payment of a fee, charge or other amount for a licence, permit or other authorisation relating to a public assembly.

**(2)** Despite subsection (1), nothing in this Act affects the common law of trespass and, in particular, the right of a person in, or entitled to, possession of land—

- (a) to request a trespasser to leave the land; and
- (b) if the trespasser refuses to leave on being requested—to remove the trespasser from the land.

**(3)** In this section—

“**law**” includes an Act, a statutory rule and the common law.

### Definitions

**4.** In this Act—

“**appropriate police office**”, in relation to a proposed public assembly, means a police office in the police district in which the assembly is to be held;

“**assembly notice**” means a notice of intention to hold a public assembly mentioned in section 7;

“**clerk**”, in relation to a local authority, includes a town clerk;

“**Commissioner**” means the Commissioner of the Police Service within the meaning of the *Police Service Administration Act 1990*;

“**mediation session**” has the meaning given by section 1.3 of the *Dispute Resolution Centres Act 1990*;

**“organiser”**, in relation to a public assembly for which an assembly notice has been given, means the person specified in the notice as the person responsible for organising and conducting the assembly;

**“place of assembly”**, in relation to an assembly that is a procession, includes a place at or through which it is proposed the assembly will stop or pass;

**“police district”** means a district established by the Commissioner for the efficient and proper administration, management and functioning of the Police Service;

**“police office”** means a place in relation to which a declaration declaring the place to be a police establishment or police station is in force under section 10.10 of the *Police Service Administration Act 1990*;

**“public assembly”** means an assembly held in a public place, whether or not the assembly is at a particular place or moving;

**“public place”** includes—

- (a) a road; and
- (b) a place open to or used by the public as of right; and
- (c) a place for the time being open to or used by the public, whether or not—
  - (i) the place is ordinarily open to or used by the public; or
  - (ii) by the express or implied consent of the owner or occupier; or
  - (iii) on payment of money;

**“representative”** means—

- (a) in relation to the Commissioner—a police officer nominated by the Commissioner; or
- (b) in relation to a local authority—an officer of the local authority nominated by it;

**“road”** has the meaning given by section 9(1) of the *Traffic Act 1949*.

**Right of peaceful assembly**

**5.(1)** A person has the right to assemble peacefully with others in a public place.

**(2)** The right is subject only to such restrictions as are necessary and reasonable in a democratic society in the interests of—

- (a) public safety; or
- (b) public order; or
- (c) the protection of the rights and freedoms of other persons.

**(3)** In subsection (2)(c), a reference to the rights of persons includes a reference to—

- (a) the rights of members of the public to enjoy the natural environment; and
- (b) the rights of persons to carry on business.

**(4)** Nothing in this section limits the power of a local authority to regulate pedestrian malls, but the power is subject to the right mentioned in subsection (1).

**Legal immunity for participant in public assembly**

**6.(1)** If a public assembly—

- (a) is an authorised public assembly; and
- (b) is peaceful; and
- (c) is held substantially in accordance with—
  - (i) the relevant particulars; and
  - (ii) any relevant conditions;

a person who participates in the assembly does not, merely because of the participation, incur any civil or criminal liability because of the obstruction of a public place.

**(2)** In this section—

**“relevant condition”** means a condition specified in relation to the assembly in—



- (a) a notice under section 10(2)(a) or (b); or
- (b) an order of a Magistrates Court under section 12 or 14;

**“relevant particulars”** means the particulars given in the assembly notice for the assembly (except so far as any of the particulars are inconsistent with a relevant condition).

### **Authorised public assembly**

7. A public assembly is an authorised public assembly if—

- (a) notice of intention to hold the assembly has been given under section 8; and
- (b) the notice complies with section 9; and
- (c) the assembly is taken to have been approved under section 10.

### **Giving of assembly notice**

8.(1) An assembly notice is to be given—

- (a) to the Commissioner; and
- (b) if it is proposed that the assembly will be held in, or pass through, a place that is a park, reserve, pedestrian mall, square or other public place—to any local authority having jurisdiction in relation to the place.

(2) The notice is to be given—

- (a) in the case of the Commissioner—by leaving it at, or by sending it to, an appropriate police office; and
- (b) in the case of a local authority—by leaving it at, or by sending it to, the office of the clerk of the local authority.

### **Requirements for assembly notice**

9.(1) An assembly notice must—

- (a) be in writing; and
- (b) be addressed to the Commissioner or the relevant local authority, as the case requires; and

- (c) be signed by the organiser.
- (2) The notice must contain the following particulars—
  - (a) the name of the person responsible for organising and conducting the assembly;
  - (b) the address for service on the organiser of any notice under this Act;
  - (c) the name and address of the person by whom the notice is given;
  - (d) the day on which the assembly is proposed to be held;
  - (e) the place at which the assembly is proposed to be held;
  - (f) the time at which it is proposed that persons will assemble to participate in the assembly;
  - (g) the times at which it is proposed that the assembly will begin and end;
  - (h) if the assembly is a procession—
    - (i) the proposed route of the procession; and
    - (ii) any places at which it is proposed that the procession will stop; and
    - (iii) the length of time it is proposed that the procession will remain at each such place;
  - (i) the expected number of participants;
  - (j) the purpose of the assembly;
  - (k) a description of any sound amplification equipment proposed to be used during the assembly.

### **Approval of public assembly**

**10.(1)** A public assembly is taken to have been approved for the purposes of section 7(c) if, after the giving of the assembly notice for the assembly—

- (a) the required notice of permission for the assembly has been given to the organiser of the assembly; or
- (b) if the assembly notice was given not less than 5 business days

before the day on which the assembly is held—a Magistrates Court has not made an order under section 12 refusing to authorise the holding of the assembly; or

- (c) if the assembly notice was given less than 5 business days before the day on which the assembly is held—a Magistrates Court has made an order under section 14 authorising the holding of the assembly.

(2) The required notice of permission for a public assembly is—

- (a) a notice by the Commissioner stating that the Commissioner does not oppose the holding of the assembly; and
- (b) if the assembly notice was given to a local authority—a notice by the local authority stating that the authority does not oppose the holding of the assembly; and
- (c) if the place of assembly is a place for the time being open to or used by the public by the express or implied consent of the owner or occupier or on payment of money—a notice by the owner or occupier of the place consenting to the holding of the assembly.

(3) A notice mentioned in subsection (2) must be in writing.

### **Permission notice may be subject to certain conditions**

**11.(1)** The Commissioner, or local authority concerned, (the “**relevant authority**”) may, in a notice given under section 10(2)(a) or (b), specify conditions to which the giving of the notice is subject.

(2) A condition may not be specified unless—

- (a) the relevant authority has had regard to the objects of this Act; and
- (b) the organiser has agreed, in writing, to the condition; and
- (c) the consultations required by subsection (4) have been held.

(3) A condition must relate to—

- (a) a matter concerning—
  - (i) public safety; or
  - (ii) the maintenance of public order; or
  - (iii) the protection of the rights and freedoms of persons; or

- (b) the payment of clean up costs arising out of the holding of the assembly; or
- (c) the recognition of any inherent environmental or cultural sensitivity of the place of assembly; or
- (d) the application to the place of assembly of any resource management practice of a delicate nature.

(4) For the purposes of subsection (2)(c), the relevant authority must consult, or attempt to consult, with—

- (a) if there is a body known to the relevant authority to represent persons who have a significant interest in the place of assembly—the body; or
- (b) in any other case—each person, body, or agency, (an **“interested person”**) known to the relevant authority to have a significant interest in, or responsibility for, the place of assembly.

(5) If the relevant authority considers that, because of time constraints and the number of interested persons involved, it is not practicable—

- (a) to hold separate consultations with each interested person; or
- (b) to contact each interested person for the purpose of arranging consultations;

the relevant authority may—

- (c) fix a reasonable time and place for holding the consultations; and
- (d) cause a notice of the time and place to be published in a newspaper circulating in the area in which the assembly is proposed to be held.

### **Application for refusal to authorise public assembly**

**12.(1)** If an assembly notice is given to the Commissioner, or local authority concerned, (the **“relevant authority”**) not less than 5 business days before the day specified in the notice as the day on which it is proposed that the public assembly be held, the relevant authority may apply to a Magistrates Court for an order refusing to authorise the holding of the assembly.

(2) The Court must be in the Magistrates Courts District in which the

public assembly is proposed to be held.

(3) The Court may, by order—

- (a) refuse to authorise the holding of the public assembly; or
- (b) specify conditions that are to apply to the holding of the public assembly.

### **Restrictions affecting application for refusal to authorise public assembly**

**13.(1)** The relevant authority is not entitled to apply for an order under section 12 unless—

- (a) the relevant authority has had regard to the objects of this Act; and
- (b) the relevant authority has formed the opinion, on reasonable grounds, that if the assembly were to be held—
  - (i) the safety of persons would be likely to be placed in jeopardy; or
  - (ii) serious public disorder would be likely to happen; or
  - (iii) the rights or freedoms of persons would be likely to be excessively interfered with; and
- (c) the relevant authority has consulted, or attempted to consult, with each person, body, or agency, (an **“interested person”**) with which the relevant authority would be required to consult under section 11(4) for the purposes of section 11(2)(c); and
- (d) a mediation process has been engaged in and the process has ended.

(2) The mediation process is taken to have ended if—

- (a) a mediation session has been held at the request of the relevant authority and the session was attended by—
  - (i) the representative of the relevant authority; and
  - (ii) the organiser of the assembly; or
- (b) the relevant authority requested that a mediation session be held, but the session was not held because—

- (i) the matter was a matter that, under the *Dispute Resolution Centres Act 1990*, may not be the subject of a mediation session; or
- (ii) the matter was not accepted for mediation under that Act; or
- (c) the relevant authority requested that a mediation session be held, but—
  - (i) the organiser of the assembly—
    - (A) failed to attend, or participate in, the session; or
    - (B) withdrew from the session; or
  - (ii) the session was terminated under the *Dispute Resolution Centres Act 1990*.

(3) If the relevant authority considers that, because of time constraints and the number of interested persons involved, it is not practicable, for the purposes of subsection (1)(c)—

- (a) to hold separate consultations with each interested person; or
- (b) to contact each interested person for the purpose of arranging consultations;

the relevant authority may—

- (c) fix a reasonable time and place for holding the consultations; and
- (d) cause a notice of the time and place to be published in a newspaper circulating in the area in which the assembly is proposed to be held.

### **Application to authorise public assembly**

**14.(1)** If an assembly notice is given to the Commissioner, or local authority concerned, (the “**relevant authority**”) less than 5 business days before the day specified in the notice as the day on which it is proposed that the public assembly be held, the organiser may apply to a Magistrates Court for an order authorising the holding of the assembly.

(2) The Court must be in the Magistrates Courts District in which the public assembly is proposed to be held.

(3) The Court may, by order, authorise the holding of the public

assembly subject to such conditions (if any) as are specified in the order.

### **Restrictions affecting application to authorise public assembly**

**15.(1)** The organiser of a public assembly is not entitled to apply for an order under section 14 if the relevant authority, or each relevant authority, as the case requires, has notified the organiser in writing that the relevant authority does not oppose the holding of the assembly.

(2) The organiser is also not entitled to apply for the order unless a mediation process has been engaged in and the process has ended.

(3) The mediation process is taken to have ended if—

- (a) a mediation session has been held at the request of the organiser and the session was attended by—
  - (i) the organiser; and
  - (ii) the representative of the relevant authority or each relevant authority, as the case may be; or
- (b) the organiser requested that a mediation session be held, but the session was not held because—
  - (i) the matter was a matter that, under the *Dispute Resolution Centres Act 1990*, may not be the subject of a mediation session; or
  - (ii) the matter was not accepted for mediation under that Act; or
- (c) the organiser requested that a mediation session be held, but—
  - (i) the representative of the relevant authority or a relevant authority, as the case may be—
    - (A) failed to attend, or participate in, the session; or
    - (B) withdrew from the session; or
  - (ii) the session was terminated under the *Dispute Resolution Centres Act 1990*.

### **Hearing and determination of applications**

**16.(1)** For the purpose of hearing and determining an application under

section 12 or 14, a Magistrates Court is to be constituted by—

- (a) a Stipendiary Magistrate; or
- (b) if that is not practicable—2 justices, each of whom is either—
  - (i) a justice of the peace (magistrates court); or
  - (ii) a justice of the peace (qualified);

within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

(2) In determining an application under section 12 or 14, a Magistrates Court—

- (a) must have regard to the objects of this Act; and
- (b) must determine the application with the greatest possible speed to ensure that the application is not frustrated because of delay by the Court in giving its decision; and
- (c) is not bound by the rules of evidence; and
- (d) must conduct the proceeding with as little formality and technicality as possible.

(3) Each party to the application is to bear the party's own costs of the proceeding, regardless of the outcome of the proceeding.

(4) Not more than 1 application may be made under section 12 or 14 in relation to the same public assembly.

(5) Subsection (1) has effect despite anything contained in the *Justices of the Peace and Commissioners for Declarations Act 1991*.

### **Delegation of powers**

17. The Commissioner may delegate the Commissioner's powers under this Act to a Superintendent of Traffic within the meaning of the *Traffic Act 1949*.

### **Regulations**

18. The Governor in Council may make regulations for the purposes of this Act.



**Amendment of Traffic Act 1949**

**19.(1)** The *Traffic Act 1949* is amended as set out in this section.

**(2)** Section 57A—

*omit.*