



Queensland

Emblems of Queensland Act 2005

Act No. 5 of 2005



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Queensland

Emblems of Queensland Act 2005

Act No. 5 of 2005

An Act relating to the State arms, State badge, State flag and other State emblems, and to prohibit unauthorised assumption, use or publication of the State arms or State badge

[Assented to 18 March 2005]

The Parliament of Queensland enacts—**Part 1 Preliminary****1 Short title**

This Act may be cited as the *Emblems of Queensland Act 2005*.

2 Dictionary

The dictionary in schedule 5¹ defines particular words used in this Act.

Part 2 State arms, State badge and State flag**3 State arms, State badge and State flag**

- (1) The State arms² are as described in schedule 1.³
- (2) The State badge is as described in schedule 2.⁴
- (3) The State flag is as described in schedule 3.⁵

4 Unauthorised assumption, use or publication of State arms or State badge prohibited

- (1) A person must not—

1 Schedule 5 (Dictionary)

2 Schedule 5 (Dictionary)

3 Schedule 1 (State arms)

4 Schedule 2 (State badge)

5 Schedule 3 (State flag)

- (a) assume, use or publish the State arms or State badge in connection with a relevant enterprise without lawful authority; or
- (b) otherwise assume, use or publish the State arms or State badge without reasonable excuse.

Maximum penalty—50 penalty units.

- (2) In a proceeding, the onus is on the defendant to prove lawful authority.
- (3) In this section—

lawful authority means the authority of—

- (a) the Queen; or
- (b) the Governor in Council; or
- (c) the Minister; or
- (d) an Act; or
- (e) a law of the Commonwealth.

publish includes—

- (a) print; and
- (b) cause to be printed; and
- (c) distribute, deliver or send, electronically or otherwise; and
- (d) cause to be distributed, delivered or sent, electronically or otherwise; and
- (e) publish to a single person.

relevant enterprise means any of the following—

- (a) a club or association;
- (b) a business;
- (c) a profession, trade or calling.

State arms includes anything that depicts or substantially resembles the State arms.

State badge includes anything that depicts or substantially resembles the State badge, but does not include the State badge appearing as part of the State flag.

5 **Executive officers must ensure corporation complies with Act**

- (1) The executive officers of a corporation must ensure that the corporation complies with this Act.
- (2) If a corporation commits an offence against a provision of this Act, each of its executive officers also commit an offence, namely, the offence of failing to ensure that the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of its executive officers committed the offence of failing to ensure that the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove that—
 - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer took reasonable precautions and exercised due diligence to ensure the corporation complied with the provision; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.
- (5) For subsection (4)(a), it is sufficient for the executive officer to prove that the act or omission that was the offence was done or made without the officer's knowledge despite the officer having taken reasonable precautions and exercised due diligence to ensure the corporation complied with the provision.
- (6) In this section—

executive officer, of a corporation, means a person who is concerned with or takes part in its management, whether or not the person is a director or the person's position is given the name of executive officer.

6 Prosecution of offences

- (1) An offence against this Act may be prosecuted—
 - (a) summarily under the *Justices Act 1886*; and
 - (b) on the complaint of a person authorised in writing by the Minister to make the complaint.
- (2) A person who continues an offence against this Act after the person is convicted—
 - (a) may be charged in 1 or more complaints for periods the offence continues; and
 - (b) is liable to a further penalty of not more than 10 penalty units for each day on which the person continues the offence.

7 Delegation by Minister

- (1) The Minister may delegate to an appropriately qualified officer of the department the Minister's authority to authorise a person to assume, use or publish the State arms or State badge.
- (2) In this section—

appropriately qualified, in relation to the exercise of a power, means having the qualifications, experience or standing appropriate to the exercise of the power.

Example of standing—

an officer's classification level in the public service

8 Armorial insignia prescribed for use

- (1) This section applies if an armorial insignia, however described, is prescribed for use under an Act for a document, seal, or otherwise as a mark of authority relating to the State, whether the word 'State', 'Queensland' or 'Crown' is used.
- (2) The use for that purpose of a representation of the State arms is taken to be, and to always have been, sufficient in law to comply with that prescription.
- (3) In this section—

armorial insignia includes a representation of an armorial insignia.

State arms includes any form in which the State arms is or was granted at a material time or at any previous time.

Part 3 Other State emblems

9 Other State emblems in sch 4

Schedule 4⁶ sets out other State emblems.⁷

Part 4 General

10 Regulation-making power

The Governor in Council may make regulations under this Act.

Part 5 Repeal and transitional provisions

11 Repeal

The Badge, Arms, Floral and other Emblems of Queensland Act 1959 No. 39 is repealed.

6 Schedule 4 (Other State emblems)

7 Schedule 5 (Dictionary)

12 References to repealed Act

A reference in an Act or other document to the repealed Act may, if the context permits, be taken as a reference to this Act.

13 Lawful authority under repealed Act

- (1) This section applies to a person who, immediately before the commencement, had lawful authority under the repealed Act.
- (2) On the commencement, the person is taken to have lawful authority under section 4.⁸

⁸ Section 4 (Unauthorised assumption, use or publication of State arms or State badge prohibited)

Schedule 1 State arms

section 3(1)

Part 1 Heraldic description

For arms, per fesse the Chief Or, the Base per pale Sable and Gules, in Chief a Bull's head caboshed in profile muzzled a Merino Ram's head respecting each other proper, the dexter Base charged with a Garb also Or and the sinister Base on a Mount a Pile of Quartz issuant therefrom a Gold Pyramid in front of the Mount a Spade surmounted by a Pick saltirewise all proper.

And for the crest, on a wreath of the Colours, a Mount thereon a Maltese Cross Azure surmounted with a Royal Crown between 2 sugar-canes all proper.

And for the Supporters, on the dexter side a Red Deer and on the sinister side a Brolga wings elevated and addorsed both proper, below on a scroll this motto, 'Audax at Fidelis'.

Schedule 1 (continued)

Part 2**Monochrome pictorial
description**

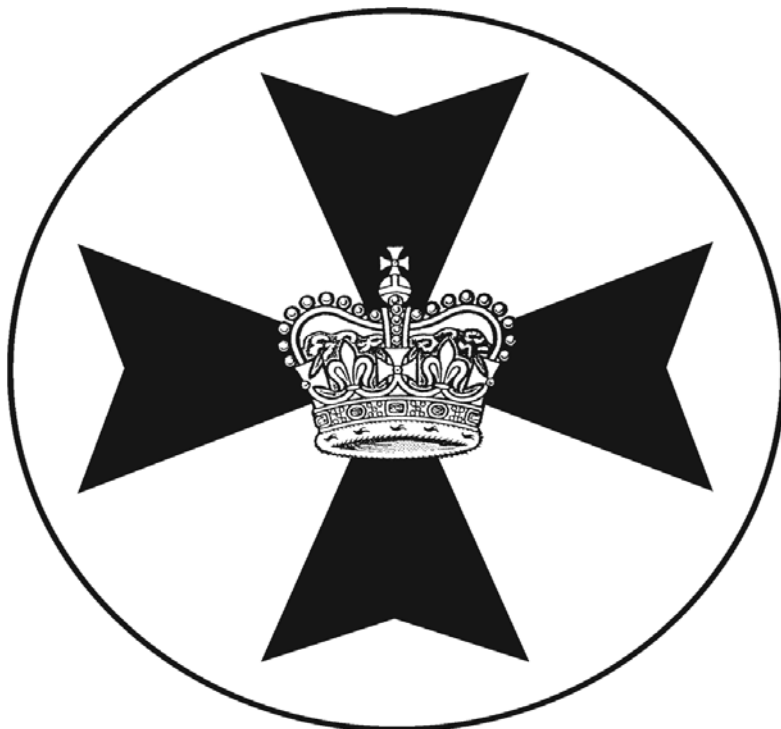
Schedule 2 State badge

section 3(2)

Part 1 Heraldic description

On a roundel Argent a Maltese Cross Azure surmounted with a Royal Crown.

Part 2 Monochrome pictorial description



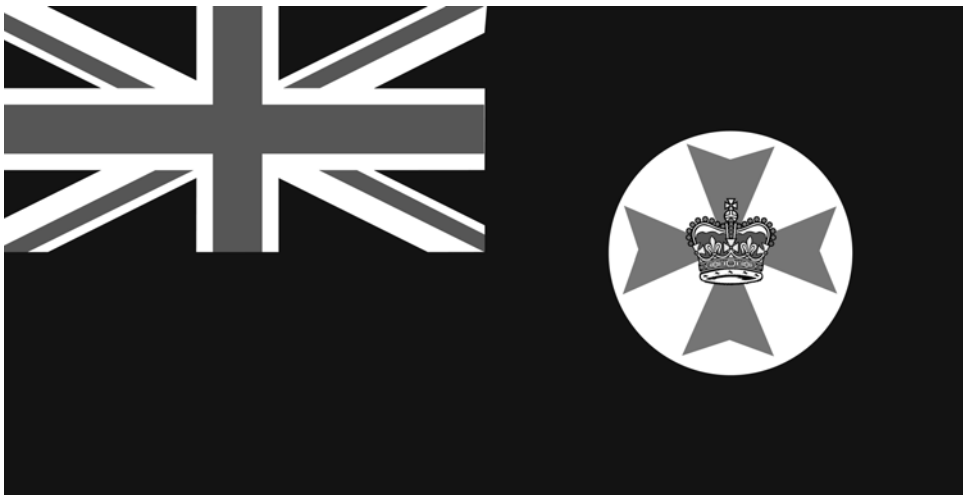
Schedule 3 State flag

section 3(3)

Part 1 Written description

The State flag is the British Blue Ensign, consisting of a dark-blue field with the Union flag occupying the upper hoist, differenced in the fly by the State badge.

Part 2 Monochrome pictorial description



Schedule 4 Other State emblems

section 9

1 **Floral emblem**

The Cooktown orchid (*Dendrobium bigibbum* var. *phalaenopsis*) is the State's floral emblem.

2 **Faunal emblem**

The koala (*Phascolarctos cinereus*) is the State's faunal emblem.

3 **Bird emblem**

The brolga (*Grus rubicunda*) is the State's bird emblem.

4 **Gem emblem**

The sapphire, of any colour, is the State's gem emblem.

5 **Aquatic emblem**

The barrier reef anemone fish (*Amphiprion akindynos*) is the State's aquatic emblem.

Schedule 5 Dictionary

section 2

State arms means the coat of arms of the State.

State badge means the badge of the State.

State emblem means an emblem of the State.

State flag means the flag of the State.