

Queensland



CROWN PROCEEDINGS ACT 1980

**Reprinted as in force on 5 December 2000
(includes amendments up to Act No. 63 of 2000)**

Warning—see last endnote for uncommenced amendments

Reprint No. 2C

This reprint is prepared by
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Warning—This reprint is not an authorised copy

Information about this reprint

This Act is reprinted as at 5 December 2000. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

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CROWN PROCEEDINGS ACT 1980

[as amended by all amendments that commenced on or before 5 December 2000]

An Act to consolidate and amend the law relating to proceedings by or against the Crown and the recovery of certain debts due to the Crown and for related purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Crown Proceedings Act 1980*.

Application

5. This Act applies to all proceedings instituted after the commencement of this Act and in respect of any claim made in respect of or based upon a cause of action whether arising before or after the commencement of this Act.

Crown bound

6.(1) This Act binds the Crown.

(2) Save as provided in sections 8 and 19, this Act has effect notwithstanding anything in any Act or enactment or rule of law, practice or procedure.

Interpretation

7. In this Act—

“**appeal**” includes a rehearing or review.

“**approved form**” see section 20.¹

“**court**” includes a tribunal.

“**Crown**” means the Crown in right of the State of Queensland and includes a corporation representing the Crown, constituted by or under any Act.

“**judgment**” includes any decree, order or award.

“**police service**” means the Queensland Police Service.

“**proceeding**” means any action, suit or proceeding of a civil nature.

“**proper officer**”, when used in relation to a court, means—

- (a) in the case of the Supreme Court or the District Court—the registrar;
- (b) in the case of a Magistrates Court—the clerk of the court.

PART 2—PROCEEDINGS BY OR AGAINST THE CROWN

Mode of proceeding

8.(1) Subject to this Act and any other Act or law, a claim by or against the Crown may be made and enforced by a proceeding by or against the Crown under the title the ‘State of Queensland’.

(2) This section does not apply to a claim by or against a corporation representing the Crown, constituted by or under any Act.

Procedure

9.(1) A proceeding by or against the Crown—

- (a) shall be instituted in the court that would have jurisdiction if the proceeding were between subject and subject;

¹ Section 20 (Approval of forms)

- (b) shall be instituted and proceeded with in accordance with the procedure of the court specifically applicable thereto or, if there is no such procedure, as nearly as possible in accordance with the procedure applicable to a proceeding between subject and subject.

(2) In a proceeding by or against the Crown—

- (a) the rights of parties including rights of appeal shall as nearly as possible be the same; and
- (b) judgment may be given and costs awarded;

as in a proceeding between subject and subject.

(3) To remove any doubt, it is declared that this section does not require the Crown to comply with a provision (other than a procedural provision) of an Act or law that does not otherwise bind the Crown.

Nature of relief

10. In a proceeding by or against the Crown, the court shall, subject to this Act, have power to give all such judgment as it has power to give in proceedings between subject and subject and otherwise to give such appropriate relief as a particular case requires.

Satisfaction of judgment

11.(1) A judgment for or of money, damages or costs in a proceeding against the Crown shall be satisfied by the Treasurer by payment out of money—

- (a) in the Treasurer's hands for the time being, lawfully applicable thereto; or
- (b) that may be appropriated by Parliament for that purpose.

(2) Where a payment specified in subsection (1) is not duly made by the Treasurer, execution may be had and levied by distress and sale on any property vested in Her Majesty in right of the State of Queensland other than—

- (a) all property used, held, occupied or enjoyed or intended so to be by the Governor for the time being;

- (b) the parliamentary buildings at Brisbane and all property therein or appertaining thereto or used or occupied therewith for the purposes of Parliament or of the Legislative Assembly;
- (c) Supreme Court houses and other court houses and offices appertaining thereto;
- (d) all prisons within the meaning of the *Corrective Services Act 1988* and all property therein or appertaining thereto or used or occupied therewith.

PART 3—RECOVERY BY THE CROWN OF CERTAIN DEBTS

Procedure on recovery of certain fines

12.(1) Where a penalty by way of a fine is imposed upon a person otherwise than by a judgment or conviction of a court, a judge or the chairperson of the court by which or the justice or 1 of the justices by whom the fine is imposed shall, if the fine is not paid immediately, furnish to the Attorney-General a certificate in the approved form, setting forth—

- (a) the fact that the fine has been imposed;
- (b) the full name and place of residence or business of the person on whom the fine has been imposed;
- (c) the reason for and the amount of the fine.

(2) Upon receipt of the certificate specified in subsection (1), the Attorney-General shall cause final judgment in the approved form to be entered in a court of competent jurisdiction for the amount of the fine and the costs of entering judgment.

(2A) A judgment entered pursuant to subsection (2) is for all purposes a judgment of the court in which it has been entered.

(3) An appeal does not lie in respect of a judgment entered pursuant to subsection (2).

PART 4—GENERAL PROVISIONS

Service of documents

19.(1) Subject to any other Act or law or any practice, a document or other writing required to be served on the Crown for the purposes of or in connection with a proceeding by or against the Crown shall be served on the crown solicitor and service of a document or other writing in accordance with this subsection shall be duly effected if it is left at the office of the crown solicitor with some responsible person.

(2) Save as prescribed by subsection (1), a notice, order or other writing authorised or required by this Act to be given to or served on any person shall be duly given or served if—

- (a) it is served personally on the person to whom it is directed;
- (b) it is left at the place of residence or business of the person to whom it is directed last known to the person who gives it;
- (c) it is sent by post to the place of residence or business of the person to whom it is directed last known to the person who gives it.

Approval of forms

20.(1) The chief executive may approve forms for—

- (a) anything for which this Act requires or permits an approved form to be used; or
- (b) another use under this Act.

(2) Subsection (1)(b) does not apply to forms for court proceedings.

Regulation making power

21. The Governor in Council may make regulations under this Act.

References to repealed Act

22. A reference in an Act or document to the *Crown Remedies Act 1874* is taken to be a reference to this Act.

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 5 December 2000. Future amendments of the Crown Proceedings Act 1980 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No.[X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 87 of 1994	27 January 1995
2	to Act No. 58 of 1995	15 December 1995
2A	to Act No. 79 of 1996	3 March 1997
2B	to Act No. 19 of 1999	24 August 1999

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Comparative legislation	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Crown Proceedings Act 1980 No. 2

date of assent 31 March 1980

remaining provisions commenced 1 July 1980 (proc pubd gaz 28 June 1980 p 1634)

as amended by—

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2

date of assent 1 December 1994

commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Justice Legislation (Miscellaneous Provisions) Act 1996 No. 79 pts 1, 8

date of assent 12 December 1996

pt 1 commenced on date of assent

remaining provisions commenced 28 February 1997 (1997 SL No. 35)

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch

date of assent 30 April 1999

commenced on date of assent

State Penalties Enforcement Act 1999 No. 70 ss 1–2, 166 sch 1

date of assent 6 December 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 27 November 2000 (2000 SL No. 274)

Corrective Services Act 2000 No. 63 ss 1, 2(2), 276 sch 2

date of assent 24 November 2000

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2(2))

7 List of annotations

Commencement

s 2 om R2 (see RA s 37)

Arrangement

s 3 om R1 (see RA s 36)

Repeals and savings

s 4 om R1 (see RA ss 38, 40)

Interpretation

s 7 def “**approved form**” ins 1995 No. 58 s 4 sch 1

def “**proper officer**” amd 1999 No. 19 s 3 sch

def “**Treasurer**” om R1 (see RA s 39)

Procedure

s 9 amd 1996 No. 79 s 26

Satisfaction of judgment

s 11 amd 2000 No. 63 s 276 sch 2

Procedure on recovery of certain fines

s 12 amd 1995 No. 58 s 4 sch 1

Recovery of debts due by recognisance

s 13 amd 1995 No. 58 s 4 sch 1
om 1999 No. 70 s 166 sch 1

Recovery of amount undertaken by surety

s 14 amd 1995 No. 58 s 4 sch 1
om 1999 No. 70 s 166 sch 1

Variation or rescission of order forfeiting recognisance or made against a surety to an undertaking as to bail

s 15 amd 1995 No. 58 s 4 sch 1; 1999 No. 19 s 3 sch
om 1999 No. 70 s 166 sch 1

Execution of warrant

s 16 om 1999 No. 70 s 166 sch 1

Duty of keeper of prison

s 17 om 1999 No. 70 s 166 sch 1

Application of Justices Act

s 18 om 1999 No. 70 s 166 sch 1

Approval of forms

s 20 amd R1 (see RA s 39)
sub 1995 No. 58 s 4 sch 1

Regulation making power

s 21 prev s 21 renum as s 22 1995 No. 58 s 4 sch 1
pres s 21 ins 1995 No. 58 s 4 sch 1

References to repealed Act

s 22 (prev s 21) ins 1994 No. 87 s 3 sch 2
renum 1995 No. 58 s 4 sch 1

Transitional provision about approved forms

s 23 ins 1995 No. 58 s 4 sch 1
exp 28 May 1996 (see s 23(3))

SCHEDULE

om R1 (see RA s 40)

8 Provisions that have not commenced and are not incorporated into reprint

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

Corrective Services Act 2000 No. 63 s 276 sch 2 reads as follows—

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1. Section 11(2)(d), ‘all prisons within the meaning of the *Corrective Services Act 1988*’—

omit, insert—

‘all corrective services facilities within the meaning of the *Corrective Services Act 2000*’.