



Crown Proceedings Act 1980

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Queensland

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Crown Proceedings Act 1980

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

1 Short title

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

5 Application

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.

6 Crown bound

- (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.

7 Interpretation

In this Act—

appeal includes a rehearing or review.

approved form see section 20.

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 or incorporated or registered under the Corporations 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

8 Mode of proceeding

- (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 or incorporated or registered under the Corporations Act.

9 Procedure

- (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;

- (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.

10 Nature of relief

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.

11 Satisfaction of judgment

- (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—

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- (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 corrective services facilities within the meaning of the *Corrective Services Act 2006* and all property therein or appertaining thereto or used or occupied therewith.

Part 3 Recovery by the Crown of certain debts

12 Procedure on recovery of certain fines

- (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

19 Service of documents

- (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.

20 Approval of forms

- (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.

21 Regulation making power

The Governor in Council may make regulations under this Act.

22 References to repealed Act

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