



Constitution of Queensland 2001

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Reprint note

Powers under the *Reprints Act 1992* have been used in this reprint to bring the legislation into line with current drafting practice.



Queensland

Constitution of Queensland 2001

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Constitution of Queensland 2001

An Act to consolidate particular laws relating to the Constitution of the State of Queensland

Preamble

The people of Queensland, free and equal citizens of Australia—

- (a) intend through this Constitution to foster the peace, welfare and good government of Queensland; and
- (b) adopt the principle of the sovereignty of the people, under the rule of law, and the system of representative and responsible government, prescribed by this Constitution; and
- (c) honour the Aboriginal peoples and Torres Strait Islander peoples, the First Australians, whose lands, winds and waters we all now share; and pay tribute to their unique values, and their ancient and enduring cultures, which deepen and enrich the life of our community; and
- (d) determine to protect our unique environment; and
- (e) acknowledge the achievements of our forebears, coming from many backgrounds, who together faced and overcame adversity and injustice, and whose efforts bequeathed to us, and future generations, a realistic opportunity to strive for social harmony; and
- (f) resolve, in this the 150th anniversary year of the establishment of Queensland, to nurture our inheritance, and build a society based on democracy, freedom and peace.

Chapter 1 Preliminary

1 Short title

This Act may be cited as the *Constitution of Queensland 2001*.

2 Commencement

This Act commences on 6 June 2002.

3 Object

This Act declares, consolidates and modernises the Constitution of Queensland.

Note—

However, this Act does not consolidate the following constitutional provisions because of the special additional procedures, including approval by the majority of electors at a referendum, that may be required—

Constitution Act 1867, sections 1, 2, 2A, 11A, 11B and 53

Constitution Act Amendment Act 1890, section 2

Constitution Act Amendment Act 1934, sections 3 and 4.

Further, this Act does not consolidate the *Constitution Act 1867*, sections 30 and 40.

3A Effect of preamble

The Parliament does not in the preamble—

- (a) create in any person any legal right or give rise to any civil cause of action; or
- (b) affect in any way the interpretation of this Act or of any other law in force in Queensland.

4 References to the Sovereign

A reference in this Act to the Sovereign is a reference to the Queen or King for the time being, and, if necessary, includes the Queen's or King's heirs and successors.

5 Note in text is part of this Act

A note in the text of this Act is part of this Act.

Chapter 2 Parliament

Part 1 Constitution and powers of Parliament

6 The Parliament

The *Constitution Act 1867*, section 2A provides for the Parliament in Queensland.

Note—

The *Constitution Act 1867*, section 2A is subject to section 53 (Certain measures to be supported by referendum) of that Act. See attachment 1 for a copy of these provisions.

Note also the *Constitution Act Amendment Act 1934*, section 3 (Parliament not to be altered in the direction of re-establishing the Legislative Council or other body except in accordance with this section). See attachment 3 for a copy of this provision.

7 Legislative Assembly

The *Constitution Act 1867*, section 1 provides for a Legislative Assembly in Queensland.

Note—

The *Constitution Act 1867*, section 1 is subject to section 53 (Certain measures to be supported by referendum) of that Act. See attachment 1 for a copy of these provisions.

8 Law-making power

The *Constitution Act 1867*, section 2 provides for law-making power in Queensland.

Notes—

The *Constitution Act 1867*, section 2 is subject to section 53 (Certain measures to be supported by referendum) of that Act. See attachment 1 for a copy of these provisions.

See also the *Australia Act 1986* (Cwlth), sections 2 (Legislative powers of Parliaments of States), 3 (Termination of restrictions on legislative powers of Parliaments of States) and 6 (Manner and form of making certain State laws).

9 Powers, rights and immunities of Legislative Assembly

- (1) The powers, rights and immunities of the Legislative Assembly and its members and committees are—
 - (a) the powers, rights and immunities defined under an Act; and
 - (b) until defined under an Act—the powers, rights and immunities, by custom, statute or otherwise, of the Commons House of Parliament of the United Kingdom and its members and committees at the establishment of the Commonwealth.

Note—

Date of establishment of the Commonwealth—1 January 1901.

- (2) In this section—

rights includes privileges.

10 Members of Legislative Assembly

The Legislative Assembly is to consist of directly elected members who are eligible to be elected by the inhabitants of the State who are eligible to elect members.

Notes—

- 1 In relation to eligibility of directly elected members of the Legislative Assembly, see section 21.
- 2 In relation to inhabitants of the State who are eligible to elect members, see the *Electoral Act 1992*.

11 Number of members of Legislative Assembly

The Legislative Assembly is to consist of 89 members.

12 Division of State into electoral districts

The State is to be divided into the same number of electoral districts as there are members of the Legislative Assembly.

Note—

The process for dividing the State into electoral districts is provided for by the *Electoral Act 1992*.

13 1 member for each electoral district

Each member of the Legislative Assembly is to represent 1 of the electoral districts.

14 Power to alter system of representation

The Parliament under an Act may—

- (a) vary the number of members to be elected to the Legislative Assembly; and
- (b) vary the electoral districts of the State that are to be represented in the Legislative Assembly; and
- (c) establish new and other electoral districts; and

long as it would have continued if the Sovereign's reign had not ended.

18 Time and place for sessions of Legislative Assembly

- (1) The Governor may set the times and places in Queensland for sessions of the Legislative Assembly that the Governor considers appropriate.
- (2) The Governor may change the times and places if the Governor considers change advisable and more consistent with general convenience and the public welfare.
- (3) The Governor must give sufficient notice of a change.

19 Minimum sitting requirement for Legislative Assembly

- (1) There must be at least 2 sittings of the Legislative Assembly in every calendar year.
- (2) Six months must not pass between a sitting of the Legislative Assembly and the next sitting of the Legislative Assembly.

Part 3 Appropriation for Legislative Assembly

20 Separate appropriation for Legislative Assembly

- (1) Legislation appropriating the consolidated fund for the Legislative Assembly and the parliamentary service, including salaries payable under the *Queensland Independent Remuneration Tribunal Act 2013* and the *Parliamentary Service Act 1988*, is to be contained in a Bill separate from any other Bill about any appropriation for any other purpose.
- (2) This section is to be read with the *Financial Accountability Act 2009*.

Part 4 Members

Division 1 Generally

21 Eligibility to be a candidate and to be elected as a member

- (1) A person is eligible to be a candidate, and to be elected, as a member of the Legislative Assembly, if the person—
 - (a) is an adult Australian citizen living in Queensland; and
 - (b) has any further qualification required under an Act; and
 - (c) is not disqualified under an Act.

Note—

For an example of subsection (1)(b) and (c), see the *Parliament of Queensland Act 2001*, section 64 (Qualifications to be a candidate and be elected a member).

- (2) Subsection (1) is subject to any conditions imposed under an Act.

22 No member to sit or vote without first taking oath or making affirmation

- (1) No member may sit or vote in the Legislative Assembly unless the member has taken or made the oath or affirmation of allegiance and of office in schedule 1.
- (2) The oath must be taken or the affirmation must be made in the presence of the Governor or a person authorised by the Governor to administer the oath or affirmation.
- (3) A member *takes* the member's seat on taking the oath or making the affirmation.

Division 2 Members who are Ministers or Assistant Ministers

23 Ministers

Chapter 3, part 3 contains provisions about the appointment of members of the Legislative Assembly as Ministers or acting Ministers.

24 Appointment of Assistant Ministers

- (1) The Governor in Council may appoint members of the Legislative Assembly as Assistant Ministers.
- (2) However, a Minister or member of Executive Council may not be appointed as an Assistant Minister.
- (3) To remove any doubt, it is declared that an Assistant Minister is not a Minister of the State.

25 Functions of Assistant Minister

An Assistant Minister has the functions decided by the Premier.

26 Length of Assistant Minister's appointment

- (1) The appointment of a member of the Legislative Assembly as an Assistant Minister ends on the polling day for the next general election after the appointment.
- (2) However, the appointment ends before the polling day when any of the following happen—
 - (a) the member's seat becomes vacant otherwise than because the Legislative Assembly is dissolved or expires by the passage of time;
 - (b) the member resigns as Assistant Minister by written notice of resignation given to the Premier;

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- (c) the member is appointed as a Minister or member of Executive Council or is appointed to act as a Minister under section 46;
 - (d) the appointment is ended by the Governor in Council under subsection (3).
- (3) The Governor in Council, at any time, may end the appointment for reasons the Governor in Council considers sufficient or for no reason.
- (4) In this section—
- general election* means an election for the members of the Legislative Assembly.

Chapter 3 Governor and Executive Government

Part 1 Interpretation

27 Governor in Council

The Governor in Council is the Governor acting with the advice of Executive Council.

Part 2 Governor

28 Definition for pt 2

In this part—

Royal Sign Manual means the signature or royal hand of the Sovereign.

29 Governor

- (1) There must be a Governor of Queensland.
- (2) The Governor must be appointed by commission under the Royal Sign Manual.

30 Office of Governor

The *Constitution Act 1867*, sections 11A and 11B contain provisions about the office of Governor.

Note—

The *Constitution Act 1867*, sections 11A and 11B are subject to section 53 (Certain measures to be supported by referendum) of that Act. See attachment 1 for a copy of these provisions.

31 Requirements concerning commission and oath or affirmation

- (1) Before undertaking any duties as Governor, a person appointed as Governor must, in the presence of the Chief Justice, or the next most senior judge of the Supreme Court of Queensland who is able to act, (the *judicial officer*) and of at least 2 members of Executive Council—
 - (a) cause the commission appointing the person as Governor to be read and published at the seat of government in the State; and
 - (b) take or make the oath or affirmation of allegiance and of office in schedule 1, subject to and in accordance with the law and practice of the State.
- (2) The judicial officer must administer the oath or affirmation.

32 Termination of appointment as Governor

- (1) The appointment of a person as Governor may be terminated only by instrument under the Royal Sign Manual.
- (2) The instrument takes effect on its publication in the gazette or at a later time stated in the instrument.

33 General power of Governor

The Governor is authorised and required to do all things that belong to the Governor's office under any law.

34 Power of Governor—Ministers

Ministers hold office at the pleasure of the Governor who, in the exercise of the Governor's power to appoint and dismiss the Ministers, is not subject to direction by any person and is not limited as to the Governor's sources of advice.

35 Power of Governor—removal or suspension of officer

- (1) This section does not limit the power of the Governor under another provision of this Act or another Act.
- (2) To the extent that it is within the Governor's power and if the Governor considers there is sufficient reason, the Governor may remove or suspend a person holding an office or place under an appointment made in the name or under the authority of the Sovereign.

36 Power of Governor—relief for offender

- (1) This section does not limit the operation of another Act.
- (2) In relation to an offence against a law of the State, the Governor may grant the offender, in the name and on behalf of the Sovereign—
 - (a) a pardon, a commutation of sentence or a reprieve of execution of sentence for a period the Governor considers appropriate; or
 - (b) a remission of a fine, penalty, forfeiture or other consequence of conviction of the offender.
- (3) The grant may be unconditional or subject to lawful conditions.

37 Power of Governor—public seal

The Governor may keep and use the Public Seal of the State for sealing all instruments made or passed in the Sovereign's name.

38 Continued use of seal despite end of Sovereign's reign

- (1) This section applies if the Sovereign's reign ends and, immediately before the end of the reign, a seal for Queensland issued by the Sovereign is in existence.
- (2) The seal, until a new seal is issued by the next Sovereign, may continue to be used as if the Sovereign's reign had not ended.

39 Statutory powers when Sovereign personally in State

- (1) When the Sovereign is personally present in the State, any power under an Act exercisable by the Governor may be exercised by the Sovereign.
- (2) The Governor has the same powers in relation to an act done, or an instrument made, by the Sovereign under this section as the Governor has in relation to an act done, or an instrument made, by the Governor himself or herself.
- (3) This section does not affect or prevent the exercise of any power under an Act by the Governor.
- (4) In this section, references to the Governor or to the Sovereign include references to the Governor, or to the Sovereign, acting with the advice of Executive Council.

40 Delegation by Governor to Deputy Governor

- (1) The Governor may delegate all or any of the Governor's powers to the person mentioned in subsection (2) during and only during any or all periods—
 - (a) the Governor is temporarily absent for a short period from the seat of government, except when administering the Government of the Commonwealth; or

- (b) the Governor is ill and there are reasonable grounds for believing the illness will be of short duration.
- (2) The person to whom the Governor's powers may be delegated is—
 - (a) the Lieutenant-Governor; or
 - (b) if there is no Lieutenant-Governor in the State and able to act—the Chief Justice; or
 - (c) if there is no Chief Justice in the State and able to act—the next most senior judge of the Supreme Court of Queensland who is in the State and able to act.
- (3) The delegation must be by instrument under the Public Seal of the State and specify the powers given to the delegate.
- (4) A person exercises the Governor's powers under a delegation as Deputy Governor.

41 Administration of Government by Acting Governor

- (1) The person mentioned in subsection (3) must administer the Government of the State during any period—
 - (a) the office of Governor is vacant; or
 - (b) the Governor assumes the administration of the Government of the Commonwealth; or
 - (c) the Governor is absent from the State and the Governor's powers are not being exercised by a Deputy Governor under section 40; or
 - (d) the Governor is incapable of performing the duties of office and the Governor's powers are not being exercised by a Deputy Governor under section 40.
- (2) The Governor is taken not to be absent from the State for subsection (1)(c) if the Governor is beyond the boundaries of the State in the course of travel from 1 part of the State to another part of the State.
- (3) The person who must administer the Government of the State is—

-
- (a) the Lieutenant-Governor; or
 - (b) if there is no Lieutenant-Governor in the State and able to act—the Chief Justice; or
 - (c) if there is no Chief Justice in the State and able to act—the next most senior judge of the Supreme Court of Queensland who is in the State and able to act.
- (4) A person administering the Government of the State under this section acts as Governor and performs the Governor's functions and exercises the Governor's powers as Acting Governor.
 - (5) Before assuming the administration of the Government of the State, the person must have previously taken or made, or must take or make as soon as is reasonably practicable after the occasion arises for the person to administer the State, the oath or affirmation of allegiance and of office in schedule 1.
 - (6) The oath must be taken or the affirmation made in the presence of—
 - (a) the Chief Justice or the next most senior judge of the Supreme Court of Queensland who is able to act (the *judicial officer*); and
 - (b) at least 2 members of Executive Council.
 - (7) The judicial officer must administer the oath or affirmation.
 - (8) The person must not continue to administer the Government of the State after the Governor or some other person holding an office prior in title to administer the Government of the State under subsections (1) and (3) has, by proclamation, given notice that the Governor or other person has assumed or resumed, or is about to assume or resume, the administration of the Government of the State.

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- (i) the administrative units, or any of the administrative units, or the parts of the administrative units administered by each Minister respectively, or any Minister;
 - (ii) the Acts, or any of the Acts, or the parts of the Acts administered by each Minister respectively, or by any Minister.

45 Minister may act for another Minister

- (1) The Governor or Premier, in writing, may appoint a Minister to act as another Minister.
- (2) The Minister may be appointed to perform all or any of the other Minister's functions and exercise all or any of the other Minister's powers.
- (3) However, an appointment by the Premier may not be for a period of more than 14 days.

46 Member may act for a Minister

- (1) Without limiting section 45, the Governor, by proclamation, may appoint a member of the Legislative Assembly to act as a Minister for any or all periods the Minister is—
 - (a) absent from the State in the course of the duties of the office; or
 - (b) absent on leave given under section 47.
- (2) The member may be appointed to perform all or any of a Minister's functions and exercise all or any of a Minister's powers.
- (3) The member, before entering on the duties of the office, must take or make the oath or affirmation of allegiance and of office in schedule 1.
- (4) The oath must be taken or the affirmation made in the presence of the Governor or a person authorised by the Governor to administer the oath or affirmation.

- (5) A person who is already a Minister may not be appointed under subsection (1).
- (6) An appointment under subsection (1) has effect despite section 43(4).

47 Sick leave

The Governor, by proclamation, may give a Minister who is ill leave of absence with pay for a period of not more than 6 months.

Part 4 Executive Council

48 Executive Council

- (1) There must be an Executive Council for the State.
- (2) Executive Council consists of the persons appointed as members of the Executive Council by the Governor by instrument under the Public Seal of the State.
- (3) A member of Executive Council must, before entering on the duties of the member's office, take or make the oath or affirmation of office and of secrecy in schedule 1.
- (4) The oath must be taken or the affirmation made in the presence of the Governor or a person authorised by the Governor to administer the oath or affirmation.

49 Length of appointment as member of Executive Council

The appointment of a person as a member of Executive Council ends only on the happening of either of the following—

- (a) the person's resignation as a member of Executive Council;

-
- (b) the person's removal as a member of Executive Council by the Governor.

50 Meetings of Executive Council

- (1) The Governor must preside over a meeting of Executive Council.
- (2) However, if, for good reason, the Governor can not preside, a meeting of Executive Council must be presided over by—
 - (a) if the Governor has appointed a member of Executive Council to preside—the member; or
 - (b) if the Governor has not appointed a member to preside—the member who is taken to be the most senior member present.
- (3) Executive Council must not deal with any business at a meeting unless—
 - (a) it has been summoned to meet by the Governor's authority; and
 - (b) at least 2 members, other than any presiding member, are present for the entire meeting.

Part 5 Powers of the State

Division 1 General

51 Powers of the State

- (1) The Executive Government of the State of Queensland (the *State*) has all the powers, and the legal capacity, of an individual.
- (2) The State may exercise its powers—
 - (a) inside and outside Queensland; and

- (b) inside and outside Australia.
- (3) This part does not limit the State's powers.

Example—

This part does not affect any power a Minister has apart from this part to bind the State by contract.

Division 2 Commercial activities

52 Definitions for div 2

In this division—

commercial activities includes—

- (a) commercial activities that are not within the ordinary functions of the State; and
 - (b) commercial activities of a competitive nature; and
 - (c) activities declared by an Act to be commercial activities;
- but does not include activities declared by an Act not to be commercial activities.

State includes a public sector unit.

53 Commercial activities by State

- (1) The State may carry out commercial activities.
- (2) This section is sufficient statutory authority for the State to carry out a commercial activity.
- (3) Commercial activities may be carried out—
 - (a) without further statutory authority; and
 - (b) without prior appropriation from the consolidated fund for the purpose.
- (4) Commercial activities may be carried out—
 - (a) inside and outside Queensland; and
 - (b) inside and outside Australia.

54 Commercial activities by Minister

A Minister may carry out commercial activities for the State.

55 Delegation by Minister

- (1) A Minister may delegate a power of the State to an appropriately qualified officer of the State.
- (2) An officer of the State may subdelegate the delegated power to another appropriately qualified officer of the State.
- (3) In this section—

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

Example of standing—

A person's level of employment in the entity in which the person is employed.

officer of the State means—

- (a) a chief executive, or employee, of a public sector unit; or
- (b) an officer of the public service.

Chapter 4 Courts

56 Definitions for ch 4

In this chapter—

judge means a judge of the Supreme Court or District Court.

office means any of the following offices—

- (a) Chief Justice of Queensland;
- (b) President of the Court of Appeal;
- (c) Senior Judge Administrator;

- (d) judge of appeal of the Supreme Court;
- (e) judge of the Supreme Court;
- (f) Chief Judge of the District Court;
- (g) Judge Administrator;
- (h) judge of the District Court.

57 Supreme Court and District Court

There must be a Supreme Court of Queensland and a District Court of Queensland.

58 Supreme Court's superior jurisdiction

- (1) The Supreme Court has all jurisdiction necessary for the administration of justice in Queensland.
- (2) Without limiting subsection (1), the court—
 - (a) is the superior court of record in Queensland and the supreme court of general jurisdiction in and for the State; and
 - (b) has, subject to the Commonwealth Constitution, unlimited jurisdiction at law, in equity and otherwise.

59 Appointment of judges

- (1) The Governor in Council, by commission, may appoint a barrister or solicitor of the Supreme Court of at least 5 years standing as a judge.
- (2) A judge must, before entering on the duties of an office, take or make the oath or affirmation of allegiance and of office in schedule 1.
- (3) The oath must be taken or the affirmation made in the presence of the Governor or a person authorised by the Governor to administer the oath or affirmation.

60 Length of judge's appointment

- (1) A judge holds an office as a judge indefinitely during good behaviour.
- (2) However, the *Supreme Court of Queensland Act 1991* and the *District Court of Queensland Act 1967* provide for a judge's retirement.
- (3) A judge may resign an office by written notice of resignation given to the Governor.

61 Removal from office for misbehaviour or incapacity

- (1) A judge may not be removed from an office other than under this section.
- (2) A judge may be removed from an office by the Governor in Council, on an address of the Legislative Assembly, for—
 - (a) proved misbehaviour justifying removal from the office; or
 - (b) proved incapacity to perform the duties of the office.
- (3) A judge's misbehaviour justifying removal from an office is proved only if the Legislative Assembly accepts a finding of a tribunal, stated in a report of the tribunal, that, on the balance of probabilities, the judge has misbehaved in a way that justifies removal from the office.
- (4) A judge's incapacity to perform the duties of an office is proved only if the Legislative Assembly accepts a finding of a tribunal, stated in a report of the tribunal, that, on the balance of probabilities, the judge is incapable of performing the duties of the office.
- (5) The tribunal is to be established under an Act.
- (6) The tribunal has the functions, powers, protection and immunity given under an Act.
- (7) The tribunal must consist of at least 3 members.
- (8) The members are to be appointed by resolution of the Legislative Assembly.

- (9) A person is eligible for appointment as a member only if the person is a former judge or justice of a State or Federal superior court in Australia.
- (10) However, a person is not eligible for appointment as a member if the person and the judge who may be removed were judges of the same court at the same time.

62 Judge's salary

- (1) A judge must be paid a salary at the rate applicable to the judge's office.
- (2) The amount of the salary may not be decreased.
- (3) The payment of the amount for judges' salaries from the consolidated fund is authorised and the consolidated fund is appropriated for the purpose.

63 Protection if office abolished

- (1) This section applies if an office held by a judge is abolished either directly or by abolition of a court or part of a court.
- (2) The judge is entitled at least, without loss of salary, to be appointed to, and to hold, another office of equivalent or higher status in the same court in which the judge held the abolished office or in another court, unless the judge already holds that type of office.
- (3) The entitlement mentioned in subsection (2)—
 - (a) continues for the period during which the judge would have been entitled to hold the abolished office, subject to removal under section 61; and
 - (b) lapses if the judge fails to take up an appointment to the other office or resigns from it.

Chapter 5 Revenue

64 Consolidated fund

All taxes, imposts, rates and duties and other revenues of the State are to form 1 consolidated fund to be appropriated for the public service of the State in the way, and subject to the charges, specified by an Act.

65 Requirement to pay tax, impost, rate or duty

A requirement to pay a tax, impost, rate or duty of the State must be authorised under an Act.

66 Payment from consolidated fund

- (1) The payment of an amount from the consolidated fund must be authorised under an Act.
- (2) Further, the Act authorising the payment must specify the purpose for which the payment is made.
- (3) This section does not apply in relation to the costs, charges and expenses relating to the collection and management of the consolidated fund.

67 Charges on consolidated fund

- (1) The consolidated fund is permanently charged with all the costs, charges and expenses relating to the collection and management of the fund.
- (2) The costs, charges and expenses are the first charge on the consolidated fund.
- (3) However, the costs, charges and expenses may be reviewed and audited under an Act.

68 Governor's recommendation required for appropriation

- (1) The Legislative Assembly must not originate or pass a vote, resolution or Bill for the appropriation of—
 - (a) an amount from the consolidated fund; or
 - (b) an amount required to be paid to the consolidated fund; that has not first been recommended by a message of the Governor.
- (2) The message must be given to the Legislative Assembly during the session in which the vote, resolution or Bill is intended to be passed.

Chapter 6 Lands

69 Lands

- (1) The *Constitution Act 1867*, section 30 gives the Parliament law-making power in relation to the waste lands of the Crown in Queensland.

Note—

See attachment 4 for a copy of the *Constitution Act 1867*, sections 30 and 40.

- (2) The *Constitution Act 1867*, section 40 vests particular rights in relation to the waste lands of the Crown in Queensland in the Parliament.

Chapter 7 Local government

Part 1 System of local government

70 System of local government

- (1) There must be a system of local government in Queensland.
- (2) The system consists of a number of local governments.

71 Requirements for a local government

- (1) A local government is an elected body that is charged with the good rule and local government of a part of Queensland allocated to the body.
- (2) Another Act, whenever made, may provide for the way in which a local government is constituted and the nature and extent of its functions and powers.
- (3) Despite subsection (1), another Act, whenever made, may provide for the appointment of 1 or more bodies or persons to perform all or any of a local government's functions and to exercise all or any of a local government's powers and to be taken to be a local government—
 - (a) during a suspension of a local government's councillors under section 74; or
 - (b) if a local government is dissolved or unable to be properly elected—until a local government has been properly elected.

76 No tabling or ratification of dissolution

- (1) This section applies if—
 - (a) a copy of the instrument purporting to dissolve the local government is not tabled under section 73; or
 - (b) the Legislative Assembly refuses to ratify the dissolution of a local government moved by the Minister; or
 - (c) at the end of 14 sitting days after a copy of the instrument purporting to dissolve the local government is tabled—
 - (i) the Minister has not moved that the dissolution be ratified; or
 - (ii) the Legislative Assembly has not ratified the dissolution, even though the Minister has moved that it be ratified.
- (2) The effect of the instrument purporting to dissolve the local government ends.
- (3) The suspension from office of the local government's councillors ends and they are reinstated in their respective offices.
- (4) The appointment of a body or person appointed to perform all or any functions and exercise all or any powers of the local government because of its purported dissolution ends.

Part 3

**Special procedures for
particular local government
Bills**

77 Procedure for Bill affecting a local government

- (1) This section applies for a Bill for an Act that would—

- (a) be administered by a Minister who administers a provision of the *Local Government Act 2009*; and
 - (b) affect local governments generally or any of them.
- (2) The member of the Legislative Assembly who proposes to introduce the Bill in the Legislative Assembly must, if the member considers it practicable, arrange for a summary of the Bill to be given to a body representing local governments in the State a reasonable time before the Bill is introduced in the Legislative Assembly.

78 Procedure for Bill ending system of local government

- (1) This section applies for a Bill for an Act ending the system of local government in Queensland.
- (2) The Bill may be presented for assent only if a proposal that the system of local government should end has been approved by a majority vote of the electors voting on the proposal.
- (3) The Bill has no effect as an Act if assented to after presentation in contravention of subsection (2).
- (4) The vote about the proposal must be taken on a day that is more than 1 month but less than 6 months before the Bill is introduced in the Legislative Assembly.
- (5) The vote must be taken in the way prescribed by an Act.
- (6) An elector may bring a proceeding in the Supreme Court for a declaration, injunction or other remedy to enforce this section either before or after the Bill is presented for assent.
- (7) In this section—
elector means a person entitled to vote at a general election for members of the Legislative Assembly.

Chapter 8 Miscellaneous

79 **Issue of compliance not justiciable**

Without affecting the justiciability of any other issue under this Act, it is declared that the issue of compliance with section 31, 40, 41, 48 or 50 is not justiciable in any court.

80 **Continued holding of office under the Crown despite end of Sovereign's reign**

- (1) This section applies if the Sovereign's reign ends and a person is holding an office under the Crown immediately before the end of the Sovereign's reign.
- (2) The person continues holding the office for as long as the person would have held the office if the Sovereign's reign had not ended.
- (3) If, before the end of the Sovereign's reign, the person had taken any oath or made any affirmation provided for under an Act, the person is not required, because the Sovereign's reign has ended, to again take the oath or make the affirmation.
- (4) If the oath taken or the affirmation made before the end of the Sovereign's reign related only to the then reigning Sovereign, the oath or affirmation is taken to relate to the then reigning Sovereign and the Sovereign's heirs and successors.

Chapter 9 Transitional provisions

Part 1 Transitional provisions for Act No. 80 of 2001

81 Continuation of membership of Legislative Assembly

A person who, immediately before the commencement of section 10, was a member of the Legislative Assembly continues as a member of the Legislative Assembly and is taken to have satisfied the oath or affirmation requirement under section 22.

82 Continuation of appointment as Governor

The person who, immediately before the commencement of section 29, was the Governor continues as the Governor and is taken to have satisfied the requirements under section 31 concerning the commission and the oath or affirmation.

83 Acting Governor—previous oaths or affirmations

A person who, before the commencement of section 41, has taken the oaths or made the affirmations required under the *Constitution (Office of Governor) Act 1987*, section 9(1), as in force before it was repealed, is taken to have satisfied the oath or affirmation requirement under section 41.

84 Continuation of appointment as Minister of State

A person who, immediately before the commencement of section 43, was a Minister continues as a Minister of the State and is taken to have satisfied the oath or affirmation requirement under section 43.

85 Continuation of appointment as Parliamentary Secretary

A person who, immediately before the commencement of section 24, was a Parliamentary Secretary continues as a Parliamentary Secretary.

86 Continuation of administrative arrangements

The administrative arrangements as in force immediately before the commencement of section 44 are not affected by the section's commencement.

87 Continuation of membership of Executive Council

A person who, immediately before the commencement of section 48, was a member of Executive Council continues as a member of Executive Council and is taken to have satisfied the oath or affirmation requirement under section 48.

88 Continuation of Supreme Court

- (1) The Supreme Court of Queensland as formerly established as the superior court of record in Queensland is continued in existence.
- (2) This Act does not—
 - (a) take away, lessen or impair any jurisdiction or power that was, immediately before the commencement of section 58, vested in or capable of being exercised by the court or 1 or more judges of the court; or
 - (b) affect anything done or existing in relation to the court before the commencement of section 58.

89 Continuation of District Court

- (1) The District Court as formerly established is continued in existence as the District Court of Queensland.
- (2) This Act does not—

[s 90]

- (a) take away, lessen or impair any jurisdiction or power that was, immediately before the commencement of section 57, vested in or capable of being exercised by the court or 1 or more judges of the court; or
- (b) affect anything done or existing in relation to the court before the commencement of section 57.

Note—

See also the *District Court of Queensland Act 1967*, section 140.

90 Continuation of appointment of judges

- (1) A person who, immediately before the commencement of section 59, was a Supreme Court judge or District Court judge continues as a Supreme Court judge or District Court judge.
- (2) A person who, immediately before the commencement of section 59, held an office, is taken to have satisfied the oath or affirmation requirement under section 59 in relation to the office.
- (3) In this section—
office see section 56.

91 Continuation of consolidated fund

The consolidated fund in existence immediately before the commencement of section 64 is taken to be the consolidated fund.

92 Legislative Council references

A reference in an Act or document to the legislature, or to the Parliament, or to both Houses of Parliament, or other reference, that, if the *Constitution Act Amendment Act 1922*, as repealed by this Act, had not been passed, would be taken to include a reference to the Legislative Council, is to be taken to refer only to the Queen and the Legislative Assembly of Queensland, or only to the Legislative Assembly, as the context may require.

Note—

The *Constitution Act Amendment Act 1922* abolished the Legislative Council of Queensland.

93 Administrator references

If, before the commencement of section 41, there is a reference in an Act or document to an Administrator, then, from the commencement, if the context permits, the reference is taken to be a reference to an Acting Governor.

Part 2 Transitional provision for Parliament of Queensland and Other Acts Amendment Act 2012

94 Continuation of Parliamentary Secretaries as Assistant Ministers

- (1) A person who, immediately before the commencement of this section, was a Parliamentary Secretary continues as an Assistant Minister.
- (2) Anything done under an Act by a Parliamentary Secretary before the commencement of this section may, if the context permits, be taken to have been done under the Act by an Assistant Minister.
- (3) A reference in a document to a Parliamentary Secretary may, if the context permits, be taken to be a reference to an Assistant Minister.

Chapter 10 Repeals

95 Repeals

- (1) The laws mentioned in schedule 3 are repealed.
- (2) The Imperial laws mentioned in schedule 4 are repealed so far as they are part of the law of Queensland.

Schedule 1 Oaths and affirmations

sections 22, 31, 41, 43, 46, 48 and 59

Oath or affirmation of allegiance and of office—member of the Legislative Assembly

I, ..(name).., do sincerely promise and swear (*or, for an affirmation—do sincerely promise and affirm*) that

I will be faithful and bear true Allegiance to Her (*or His*) Majesty..(name of Sovereign).. as lawful Sovereign of Australia and to Her (*or His*) heirs and successors, according to law; and

I will well and truly serve the people of Queensland and faithfully perform the duties and responsibilities of a member of the Legislative Assembly to the best of my ability and according to law.

So help me God! (*or omitted for an affirmation*).

Oath or affirmation of allegiance and of office—Governor and Acting Governor

I, ..(name).., do sincerely promise and swear (*or, for an affirmation—do sincerely promise and affirm*) that

I will be faithful and bear true Allegiance to Her (*or His*) Majesty..(name of Sovereign).. as lawful Sovereign of Australia and to Her (*or His*) heirs and successors, according to law; and

I will well and truly serve Her (*or His*) Majesty..(name of Sovereign).. in the office of Governor of Queensland (*or, for an Acting Governor—in the office of Acting Governor of Queensland*) in the Commonwealth of Australia, and will duly perform the functions and exercise the powers of the office according to the best of my ability, skill and knowledge; and

I will, in all things associated with the office, duly and impartially administer justice in Queensland.

So help me God! (*or omitted for an affirmation*).

Oath or affirmation of allegiance and of office—Minister of the State and acting Minister of the State

I, *..(name)..*, do sincerely promise and swear (*or, for an affirmation—do sincerely promise and affirm*) that

I will be faithful and bear true Allegiance to Her (*or His*) Majesty..*(name of Sovereign)..* as lawful Sovereign of Australia and to Her (*or His*) heirs and successors, according to law; and

I will well and truly serve the people of Queensland in the office of (*portfolio title*) (*or, for an acting Minister of the State—acting in the office of (portfolio title)*).

So help me God! (*or omitted for an affirmation*).

Oath or affirmation of office and of secrecy—member of Executive Council

I, *..(name)..*, do sincerely promise and swear (*or, for an affirmation—do sincerely promise and affirm*) that

I will, to the best of my judgment and ability, faithfully advise and assist the Governor or other officer performing a function or exercising a power of the Governor as Deputy Governor or Acting Governor, in all matters brought under my consideration as a member of the Executive Council of Queensland; and

I will not disclose the confidential deliberations of the council.

So help me God! (*or omitted for an affirmation*).

Oath or affirmation of allegiance and of office—judge

I, *..(name)..*, do sincerely promise and swear (*or, for an affirmation—do sincerely promise and affirm*) that

I will be faithful and bear true Allegiance to Her (*or His*) Majesty..*(name of Sovereign)..* as lawful Sovereign of

Australia and to Her (*or His*) heirs and successors, according to law; and

As a judge of the Supreme Court of Queensland (*or District Court of Queensland*) (*and/or as (title of other office, for example, Chief Justice of Queensland)*), I will at all times and in all things do equal justice to all persons and discharge the duties and responsibilities of the office according to law to the best of my knowledge and ability without fear favour or affection.

So help me God! (*or omitted for an affirmation*).

Schedule 3 Repealed laws

section 95(1)

Legislative Assembly Act 1867 31 Vic No. 21

Note—

The provisions of this Act are dealt with by this Act and the *Parliament of Queensland Act 2001*.

Queensland Coast, Islands and Waters Proclamation dated 22 August 1872 and published in the gazette on 24 August 1872 at pages 1325–6

Officials in Parliament Act 1896 60 Vic No. 3

Demise of the Crown Act 1910 1 Geo 5 No. 21

Constitution Act Amendment Act 1922 12 Geo 5 No. 32

Royal Powers Act 1953 2 Eliz 2 No. 29

Australia Acts (Request) Act 1985 No. 69

Proclamation of Letters Patent for Governor dated 6 March 1986 and published in the gazette on 8 March 1986 at pages 903–6

Constitution (Office of Governor) Act 1987 No. 73

Note—

The *Parliament of Queensland Act 2001* repealed the *Constitution Act Amendment Act 1896*.

Acts Interpretation Regulation 1997 SL No. 28

Note—

The provisions of this regulation are dealt with by the *Births, Deaths and Marriages Registration Act 2003*, section 44 (Obtaining information from the registrar).

Schedule 4 Repealed Imperial laws

section 95(2)

Australian Constitutions Act 1850 13 & 14 Vic. c. 59

New South Wales Constitution Act 1855 18 & 19 Vic. c. 54

Order in Council dated 6 June 1859 mentioned in the preamble to the *Constitution Act 1867*

Australian Constitutions Act 1862 25 & 26 Vic. c. 11

Colonial Letters Patent Act 1863 26 & 27 Vic. c. 76

Letters Patent for Governor dated 6 March 1866 and published in the gazette on 8 March 1866 at pages 903–6

Attachment 1

sections 6, 7, 8 and 30

Constitution Act 1867, sections 1, 2, 2A, 11A, 11B and 53

The Constitution Act 1867—

1 Legislative Assembly

There shall be within the said Colony of Queensland a Legislative Assembly.

2 Legislative Assembly constituted

Within the said Colony of Queensland Her Majesty shall have power by and with the advice and consent of the said Assembly to make laws for the peace welfare and good government of the colony in all cases whatsoever.

2A The Parliament

- (1) The Parliament of Queensland consists of the Queen and the Legislative Assembly referred to in sections 1 and 2.
- (2) Every Bill, after its passage through the Legislative Assembly, shall be presented to the Governor for assent by or in the name of the Queen and shall be of no effect unless it has been duly assented to by or in the name of the Queen.

.....

11A Office of Governor

- (1) The Queen's representative in Queensland is the Governor who shall hold office during Her Majesty's pleasure.
- (2) Abolition of or alteration in the office of Governor shall not be effected by an Act of the Parliament except in accordance with section 53.
- (3) In this Act and in every other Act a reference to the Governor shall be taken—
 - (a) to be a reference to the person appointed for the time being by the Queen by Commission under Her Majesty's Royal Sign Manual to the office of Governor of the State of Queensland; and
 - (b) to include any other person appointed by dormant or other Commission under the Royal Sign Manual to administer the Government of the State of Queensland.

11B Definition of Royal Sign Manual

In section 11A the expression "Royal Sign Manual" means the signature or royal hand of the Sovereign.

.....

53 Certain measures to be supported by referendum

- (1) A Bill that expressly or impliedly provides for the abolition of or alteration in the office of Governor or that expressly or impliedly in any way affects any of the following sections of this Act namely—

sections 1, 2, 2A, 11A, 11B; and

this section 53

shall not be presented for assent by or in the name of the Queen unless it has first been approved by the electors in accordance with this section and a Bill so assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

- (2) On a day not sooner than two months after the passage through the Legislative Assembly of a Bill of a kind referred to in subsection (1) the question for the approval or otherwise of the Bill shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly according to the provisions of the *Elections Act 1915–1973* and of any Act amending the same or of any Act in substitution therefor.

Such day shall be appointed by the Governor in Council by Order in Council.

- (3) When the Bill is submitted to the electors the vote shall be taken in such manner as the Parliament of Queensland prescribes.
- (4) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for reservation thereof for the signification of the Queen's pleasure.
- (5) Any person entitled to vote at a general election of members of the Legislative Assembly is entitled to bring proceedings in the Supreme Court for a declaration, injunction or other remedy to enforce the provisions of this section either before or after a Bill of a kind referred to in subsection (1) is presented for assent by or in the name of the Queen.

- (6) **Act 24 Geo. 5 No. 35 preserved**

The provisions of this section shall in no way affect the operation of *The Constitution Act Amendment Act of 1934*.

.....

Attachment 2

section 16

Constitution Act Amendment Act 1890, section 2

The Constitution Act Amendment Act 1890—

2 Duration of Legislative Assembly to be 3 years only

Every Legislative Assembly hereafter to be summoned and chosen shall continue for 3 years from the day appointed for the return of the writs for choosing the same, and no longer; subject nevertheless to be sooner dissolved by the Governor.

Constitution Act Amendment Act 1934, section 4

The Constitution Act Amendment Act 1934—

4 Duration of Legislative Assembly not to be extended except in accordance with this section

- (1) The provisions of section two of “*The Constitution Act Amendment Act of 1890*” (referred to in the preamble to this Act) shall not be amended in the direction of extending the period of three years, which, as provided by the said section two, is the period for which any Legislative Assembly, now or hereafter summoned and chosen, shall continue from the day appointed for the return of the writs for choosing the same and no longer (subject, nevertheless, to be sooner dissolved by the

Governor), nor shall any other Act or law relating to the Constitution be passed extending such period of three years as aforesaid, except in the manner provided by this section.

- (2) A Bill for any purpose within subsection (1) of this section shall not be presented to the Governor for the reservation thereof for the signification of His Majesty's pleasure, or for the Governor's Assent, or be in any other way assented to, until the Bill has been approved by the electors in accordance with this section.
- (3) On a day not sooner than two months after the passage of the Bill through the Legislative Assembly, the question for the approval or otherwise of the Bill shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly according to the provisions of "*The Elections Acts, 1915 to 1932*," or any Act amending the same or in substitution therefor.

Such day shall be appointed by the Governor in Council.

- (4) When the Bill is submitted to the electors the vote shall be taken in such manner as the Legislature prescribes.
- (5) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for the reservation thereof for the signification of His Majesty's pleasure.
- (6) The provisions of this section shall extend to any Bill for the repeal or amendment of this section.

Attachment 3

section 6

Constitution Act Amendment Act 1934, section 3

The Constitution Act Amendment Act 1934—

3 Parliament not to be altered in the direction of re-establishing the Legislative Council or other body except in accordance with this section

- (1) The Parliament of Queensland (or, as sometimes called, the Legislature of Queensland), constituted by His Majesty the King and the Legislative Assembly of Queensland in Parliament assembled shall not be altered in the direction of providing for the restoration and/or constitution and/or establishment of another legislative body (whether called the “Legislative Council,” or by any other name or designation, in addition to the Legislative Assembly) except in the manner provided in this section.
- (2) A Bill for any purpose within subsection one of this section shall not be presented to the Governor for the reservation thereof for the signification of His Majesty’s pleasure, or for the Governor’s Assent, or be in any other way assented to, until the Bill has been approved by the electors in accordance with this section.
- (3) On a day not sooner than two months after the passage of the Bill through the Legislative Assembly, the question for the approval or otherwise of the Bill shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly according to the provisions of “*The Elections Acts, 1915 to 1932,*” or any Act amending the same or in substitution therefor.

Such day shall be appointed by the Governor in Council.

- (4) When the Bill is submitted to the electors the vote shall be taken in such manner as the Legislature prescribes.
- (5) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for the reservation thereof for the signification of His Majesty's pleasure.
- (6) The provisions of this section shall extend to any Bill for the repeal or amendment of this section.

Attachment 4

section 69

Constitution Act 1867, sections 30 and 40

The Constitution Act 1867—

30 Legislature empowered to make laws regulating sale and other disposal of waste lands

Subject to the provisions contained in the Imperial Act of the 18th and 19th Victoria chapter 54 and of an Act of the 18th and 19th years of Her Majesty entitled *An Act to repeal the Acts of Parliament now in force respecting the Disposal of the Waste Lands of the Crown in Her Majesty's Australian Colonies and to make other provisions in lieu thereof* which concern the maintenance of existing contracts it shall be lawful for the legislature of this State to make laws for regulating the sale letting disposal and occupation of the waste lands of the Crown within the said State.

.....

40 The entire management of Crown lands and all revenues thence arising to be vested in the local legislature

The entire management and control of the waste lands belonging to the Crown in the said State and also the appropriation of the gross proceeds of the sales of such lands and all other proceeds and revenues of the same from whatever source arising within the said State including all royalties mines and minerals shall be vested in the legislature of the said State.

1 Index to endnotes

- 2 Key
- 3 Table of reprints
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2 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amd	= amendment	prov	= provision
t			
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	renu	= renumbered
		m	
ins	= inserted	rep	= repealed
lap	= lapsed	(retro	= retrospectively
)	
notf	= notified	rv	= revised version
d			
num	= numbered	s	= section

Key	Explanation	Key	Explanation
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
		m	
prev	= previous		

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3237 0466 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments to	Effective	Reprint date
1	2001 Act No. 80	6 June 2002	7 June 2002

Reprint No.	Amendments included	Effective	Notes
1A	2004 Act No. 53	29 November 2004	
1B	2008 Act No. 40	11 June 2008	
1C	2009 Act No. 9	1 July 2009	
1D	2010 Act No. 3	25 February 2010	R1D withdrawn, see R2
2	—	25 February 2010	
2A	2009 Act No. 17	1 July 2010	
2B	2012 Act No. 6	18 May 2012	

Current as at	Amendments included	Notes
9 August 2013 rv	2013 Act No. 32	RA ss 27, 35, 44A

4 List of legislation

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date of assent 3 December 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 6 June 2002 (see s 2)

amending legislation—

Constitution of Queensland 2001 No. 80 ss 1–2, 94 sch 2

date of assent 3 December 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 6 June 2002 (see s 2)

Statute Law (Miscellaneous Provisions) Act 2004 No. 53

date of assent 29 November 2004

commenced on date of assent

Justice and Other Information Disclosure Act 2008 No. 40 ss 1, 20–21

date of assent 11 June 2008

commenced on date of assent

Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (see 2009 SL No. 80)

Local Government Act 2009 No. 17 ss 1, 2(4), 331 sch 1

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (2010 SL No. 122)

Constitution (Preamble) Amendment Act 2010 No. 3

date of assent 25 February 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 25 February 2010 (2010 SL No. 29)

Parliament of Queensland and Other Acts Amendment Act 2012 No. 6 pts 1–2

date of assent 18 May 2012

commenced on date of assent

Queensland Independent Remuneration Tribunal Act 2013 No. 32 ss 1–2, pt 7 div 2

date of assent 13 August 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 9 August 2013 (see s 2)

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**PART 2—TRANSITIONAL PROVISION FOR PARLIAMENT OF QUEENSLAND
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pres s 94 ins 2012 No. 6 s 8

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