

Queensland



PUBLIC RECORDS BILL 1999

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TABLE OF PROVISIONS

Section	Page
PART 1—PRELIMINARY	
1 Short title	6
2 Commencement	6
3 Purposes	6
4 Definitions	6
5 Act binds all persons	6
PART 2—PUBLIC RECORDS	
<i>Division 1—Preliminary</i>	
6 What is a public record	7
<i>Division 2—Making, managing, keeping and preserving public records</i>	
7 Making and keeping of public records	7
8 Custody and preservation of public records	8
9 Ownership of public records	8
10 Public records more than 25 years old	9
11 Transfer of other public records to archives	9
12 Special protection of public records over 30 years old	10
13 Disposal of public records	10
14 Public authority must ensure particular records remain accessible	10
<i>Division 3—Access to public records</i>	
15 Meaning of responsible public authority	11
16 Meaning of restricted access period	11
17 Application for access to public records	12
18 Public access to public records	12

19	Forms of access	13
----	---------------------------	----

PART 3—STATE ARCHIVIST AND QUEENSLAND STATE ARCHIVES

Division 1—General

20	State archivist and Queensland State Archives	14
21	Appointment of archivist	15
22	Terms and conditions of appointment	15
23	Resignation	15
24	Termination of appointment	15
25	Preservation of rights	16
26	Superannuation for archivist who was previously an officer of the public service	16
27	Acting archivist	16
28	Archives staff	17
29	Control of archives	17

Division 2—Functions and powers

30	Functions of archivist	17
31	Powers of archivist	18
32	Archivist may authorise disposal of public records	18
33	Independence in relation to disposal decisions	19
34	Arrangements for storage of records outside archives	19

Division 3—State Archives Board

35	State Archives Board	19
36	Application for review of archivist's decision about disposal	20
37	Archivist to provide reasons	20
38	Decision by board	21

Division 4—Miscellaneous

39	Delegation	21
----	----------------------	----

PART 4—POWERS OF ENFORCEMENT

Division 1—Authorised officers

40	Appointment of authorised officer	22
41	Identity card	22
42	Production or display of authorised officer's identity card	22

Division 2—General powers

43	Power of entry and inspection	23
44	Public authority to comply with request	23
45	Obstruction of authorised officer	24

Division 3—Specific powers

46	Recovery of public records	24
47	Reciprocal agreements	24

PART 5—MISCELLANEOUS

48	Secrecy provisions in other laws	25
49	Application of Act to certain of Governor's records	26
50	Protection against actions for defamation or breach of confidence	26
51	Protection from civil liability	26
52	Evidence in legal proceedings	26
53	Annual report	27
54	Regulation-making power	27
55	Libraries and Archives Act 1988 references	27

PART 6—TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

56	State archivist to continue in position	28
57	Notice for recovery of public records	28
58	Acts amended	28

SCHEDULE 1 29**AMENDMENTS**

AGRICULTURAL AND VETERINARY CHEMICALS (QUEENSLAND) ACT 1994	29
AMBULANCE SERVICE ACT 1991	29
BUSINESS NAMES ACT 1962	29
CITY OF BRISBANE MARKET ACT 1960	30
COOPERATIVES ACT 1997	30
CRIME COMMISSION ACT 1997	30
CRIMINAL LAW (REHABILITATION OF OFFENDERS) ACT 1986 . . .	30
EDUCATION (GENERAL PROVISIONS) ACT 1989	31
ELECTRICITY ACT 1994	31

EVIDENCE ACT 1977	31
FIRE AND RESCUE AUTHORITY ACT 1990	32
FISHERIES ACT 1994	32
FREEDOM OF INFORMATION ACT 1992	32
GLADSTONE POWER STATION AGREEMENT ACT 1993	33
GRAIN INDUSTRY (RESTRUCTURING) ACT 1991	33
LAND ACT 1994	34
LAND TITLE ACT 1994	34
LIBRARIES AND ARCHIVES ACT 1988	34
MEAT INDUSTRY ACT 1993	35
POLICE POWERS AND RESPONSIBILITIES ACT 1997	36
QUEENSLAND COMPETITION AUTHORITY ACT 1997	36
SCHOOL OF ARTS (WINDING UP AND TRANSFER) ACT 1960	36
SUGAR INDUSTRY ACT 1991	37
SCHEDULE 2	38
DICTIONARY	

1999

A BILL

FOR

**An Act about making, managing, keeping and preserving public
records in Queensland, and for other purposes**

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

1. This Act may be cited as the *Public Records Act 1999*.

4

Commencement

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2. This Act commences on a day to be fixed by proclamation.

6

Purposes

7

3. The main purposes of this Act are to ensure—

8

- (a) the public records of Queensland are made, managed, kept and, if appropriate, preserved in a useable form for the benefit of present and future generations; and

9

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11

- (b) public access to records under this Act is consistent with the principles of the *Freedom of Information Act 1992*.

12

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Definitions

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4. The dictionary in schedule 2 defines particular words used in this Act.

15

Act binds the State

16

5. This Act binds the State.

17

PART 2—PUBLIC RECORDS

Division 1—Preliminary

What is a public record

6.(1) A “public record” is—

- (a) a record made for use by, or a purpose of, a public authority, other than a Minister; or
- (b) a record received or kept by a public authority, other than a Minister, in the exercise of its statutory, administrative or other public responsibilities or for a related purpose; or
- (c) a Ministerial record.

(2) A public record includes—

- (a) a copy of a public record; and
- (b) a part of a public record, or a copy of a part of a public record.

Division 2—Making, managing, keeping and preserving public records

Making and keeping of public records

7.(1) A public authority must—

- (a) make and keep full and accurate records of its activities; and
- (b) take all reasonable steps to comply with any relevant policy and standards set, or guidelines issued, by the archivist about the making and keeping of public records.

(2) The executive officer of a public authority must ensure the public authority complies with subsection (1).

(3) In this section—

“executive officer”, of a public authority, means—

- (a) if the public authority is a department—the chief executive of the department; or

Public Records

- (b) if the public authority is a local government—the chief executive of the local government; or 1
2
- (c) if the public authority is not an authority mentioned in paragraphs (a) and (b)—a person (whatever the person’s position is called) who is— 3
4
5
 - (i) a member of the governing body of the public authority; or 6
 - (ii) concerned with, or takes part in, the public authority’s management. 7
8

Custody and preservation of public records 9

8.(1) A public authority is responsible for ensuring the safe custody and preservation of records in its possession. 10
11

(2) Without limiting subsection (1), an arrangement between a public authority and another person for the person to have custody of a record of the public authority must include arrangements for the safe keeping, proper preservation and return of the record. 12
13
14
15

(3) If a public authority ceases to exist, the records of the public authority must be— 16
17

- (a) if the functions of the public authority are to be carried out by another public authority—given to the other public authority; or 18
19
- (b) if the functions of the public authority are not to be carried out by another public authority—given to the public authority that is the relevant public authority under a regulation; or 20
21
22
- (c) in any other case—given to the archives or disposed of in accordance with a decision of the archivist or the board. 23
24

(4) If a function or power of a public authority (the “**original public authority**”) is transferred to another public authority, the records of the original public authority relating to the function or power must be given to the other public authority. 25
26
27
28

Ownership of public records 29

9.(1) If a public record is a record of the State or a State instrumentality, ownership of the record vests in the State. 30
31

Public Records

(2) Ownership of public records of another public authority vests in— 1

(a) if the records are in the authority's possession—the authority; or 2

(b) in any other case—the State. 3

(3) In this section— 4

“State instrumentality” means a public authority other than a local 5
government. 6

Public records more than 25 years old 7

10.(1) If a public record in a public authority's possession is more than 8
25 years old, the authority must give written notice of the record's existence 9
to the archivist, unless excused under a regulation. 10

(2) The archivist may take possession of the record or give directions 11
about the storage of the record. 12

(3) A public record in the custody of the archives that is more than 25 13
years old may be removed from the archives only if the archivist is 14
satisfied— 15

(a) the record is reasonably needed by the public authority; or 16

(b) there is another adequate reason for allowing it to be removed. 17

(4) This section does not prevent the disposal of a public record by, or 18
under an authority given by, the archivist. 19

Transfer of other public records to archives 20

11.(1) This section applies to public records that are 25 years old or less. 21

(2) If a public authority no longer needs a public record to be readily 22
available in its own custody, it may give the record to the archives. 23

(3) The archivist must ensure all public records given to the archives by a 24
public authority are made available as reasonably needed by the public 25
authority. 26

Special protection of public records over 30 years old

12.(1) A person must not damage a public record more than 30 years old.

Maximum penalty—100 penalty units.

(2) This section applies to a public record whether or not it is in the custody of the archives.

(3) In subsection (1)—

“damage”, a public record, means—

- (a) change the record in a way that causes, or is likely to cause, damage to the record; or
- (b) neglect the record in a way that causes, or is likely to cause, damage to the record; or
- (c) otherwise damage the record.

Disposal of public records

13. A person must not dispose of a public record unless the record is disposed of under—

- (a) an authority given by the archivist or the board; or
- (b) other legal authority, justification or excuse.

Maximum penalty—165 penalty units.

Public authority must ensure particular records remain accessible

14.(1) This section applies if a public record is an article or material from which information can be produced or made available only with the use of particular equipment or information technology.

(2) The public authority controlling the record must take all reasonable action to ensure the information remains able to be produced or made available.

Division 3—Access to public records
Meaning of responsible public authority

15. The “**responsible public authority**”, for a public record, is—

- (a) the public authority that gave the public record to the archives; or
- (b) if the public authority that gave the record to the archives no longer exists, but there is another public authority carrying out the functions of the former authority—the other authority; or
- (c) if the record relates to a function or power of a public authority that has been transferred to another public authority—the other authority; or
- (d) in any other case—the public authority prescribed under a regulation for this definition.

Meaning of restricted access period

16.(1) The “**restricted access period**”, for a public record, is—

- (a) for a record classified by a public authority as containing potentially exempt matter mentioned in section 44¹ of the FOI Act—the period from the day the record is made to the last day of the year 100 years after the day of the last action on the record; or
- (b) for a record classified by a public authority as containing potentially exempt matter mentioned in section 42, 43 or 46² of the FOI Act—the period from the day the record is made to the last day of the year 65 years after the day of the last action on the record; or
- (c) for any other record—the period from the day the record is made to the last day of the year 30 years after the day of the last action on the record.

¹ *Freedom of Information Act 1992*, section 44 (Matter affecting personal affairs)

² *Freedom of Information Act 1992*, section 42 (Matter relating to law enforcement of public safety), 43 (Matter affecting legal proceedings) or 46 (Matter communicated in confidence)

(2) Subsections (1)(a) and (b) apply as if the public authority in all cases were an agency under the FOI Act.

Application for access to public records

17.(1) A person may apply to the archivist for access to a public record in the custody of the archives.

(2) The application must be accompanied by the fee prescribed under a regulation.

(3) For subsection (1), a public record is taken to be in the custody of the archives if the record is the subject of a direction by the archivist under section 10(2).³

Public access to public records

18.(1) If the restricted access period for a public record has ended, the archivist must allow the applicant access to the record.

(2) However, if the restricted access period has not ended, the applicant may have access to the public record only if—

- (a) access is obtained under the FOI Act; or
- (b) the responsible public authority classifies the record as a record to which unrestricted access is allowed.

(3) Also, the archivist may refuse to allow access to a public record—

- (a) if giving access to the record would be detrimental to its preservation; or
- (b) if the record is reasonably available for purchase by members of the community under arrangements made by a public authority; or
- (c) if information in the record can be produced or made available only with the use of particular equipment or information technology and the archives does not possess, and can not reasonably obtain access to, the equipment or information

³ Section 10 (Public records more than 25 years old)

Public Records

technology; or	1
(d) giving access to the record is restricted under a regulation under subsection (4).	2 3
(4) Access to a public record may be restricted under a regulation if—	4
(a) the record is more than 100 years old; and	5
(b) the record contains information concerning the personal affairs of a person; and	6 7
(c) access to the record would not, on balance, be in the public interest.	8 9
(5) The restriction may be given on conditions stated in the regulation.	10
Forms of access	11
19.(1) Access to a public record may be given to the applicant—	12
(a) by allowing the applicant a reasonable opportunity to inspect the record; or	13 14
(b) by giving the applicant a copy of the record; or	15
(c) if the record is one to which subsection (2), (3) or (4) applies—by the form of access stated in the subsection.	16 17
(2) Access may be given by making arrangements for the applicant to hear the sounds or view the images if the record is an article or material from which sounds or visual images are capable of being reproduced.	18 19 20
(3) Access may be given by giving the applicant a written transcript of the words recorded or contained in the record if the record is one—	21 22
(a) by which words are recorded in a way in which they are capable of being reproduced in the form of sound; or	23 24
(b) in which words are contained in the form of shorthand writing or in a codified form.	25 26
(4) Access may be given by giving the applicant a written document containing the information if—	27 28
(a) the record is not a written record; and	29
(b) the archivist or the responsible public authority could create a	30

written document containing the information in the record using
equipment that is usually available to it for retrieving or collating
electronically stored information.

(5) If the applicant asks for access in a particular way, access must be
given in that way.

(6) However, access may be given in another way decided by the
archivist if giving access to the record in the way requested by the
applicant—

- (a) would interfere unreasonably with the operations of the archives
or the responsible public authority; or
- (b) would be detrimental to the preservation of the record; or
- (c) would be inappropriate, having regard to the physical nature of the
record; or
- (d) would involve an infringement of copyright of a person other than
the State.

(7) The archivist may—

- (a) impose reasonable conditions on access to a public record; and
- (b) if access is given by way of a copy or transcript of a public
record—impose a reasonable charge for the copy or transcript.

(8) This section does not prevent the archivist giving access to a public
record in another form agreed to by the applicant.

PART 3—STATE ARCHIVIST AND QUEENSLAND STATE ARCHIVES

Division 1—General

State archivist and Queensland State Archives

20.(1) There is to be a State Archivist.

(2) An office called the Queensland State Archives is established.	1
(3) The archives consists of the archivist and the staff of the archives.	2
Appointment of archivist	3
21.(1) The archivist is to be appointed by the Governor in Council.	4
(2) The archivist is appointed for the term specified in the instrument of appointment and is eligible for reappointment.	5 6
(3) The specified term must not be longer than 5 years.	7
(4) The <i>Public Service Act 1996</i> does not apply to the appointment of the archivist.	8 9
Terms and conditions of appointment	10
22.(1) The archivist is appointed on terms decided by the Governor in Council.	11 12
(2) The archivist is entitled to be paid the remuneration and allowances decided by the Governor in Council.	13 14
Resignation	15
23. The archivist may resign by signed notice given to the Minister.	16
Termination of appointment	17
24. The Governor in Council may terminate the appointment of the archivist if the archivist—	18 19
(a) is convicted of an indictable offence; or	20
(b) is guilty of misconduct that could warrant dismissal from the public service if the archivist were a public service officer; or	21 22
(c) becomes incapable of satisfactorily performing the archivist's functions.	23 24

Preservation of rights

25.(1) This section applies if a public service officer is appointed as the archivist.

(2) The person retains and is entitled to all rights that have accrued to the person because of employment as a public service officer, or that would accrue in the future to the person because of that employment, as if service as archivist were a continuation of service as a public service officer.

(3) At the end of the person's term of appointment or on resignation—

- (a) the person is entitled to be appointed to a position in the public service at a salary level not less than the current salary level of an office equivalent to the position the person held before being appointed as archivist; and
- (b) the person's service as archivist is to be regarded as service of a like nature in the public service for the purpose of deciding the person's rights as a public service officer.

Superannuation for archivist who was previously an officer of the public service

26.(1) This section applies if a public service officer is appointed as the archivist and immediately before the appointment the public service officer was a member of the superannuation scheme.

(2) The person—

- (a) continues to be a member of the superannuation scheme; and
- (b) for paragraph (a), is taken to be eligible for membership of the superannuation scheme under the *Superannuation (State Public Sector) Act 1990*.

(3) In this section—

“superannuation scheme” means the State Public Sector Superannuation Scheme.

Acting archivist

27. The Governor in Council may appoint a person to act as archivist—

-
- | | |
|---|---|
| (a) during a vacancy in that office; or | 1 |
| (b) during any period, or during all periods, when the archivist is | 2 |
| absent from duty or cannot, for another reason, perform the | 3 |
| functions of that office. | 4 |

Archives staff	5
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28. The staff of the archives are to be employed under the <i>Public Service Act 1996</i> .	6
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Control of archives	8
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29. Subject to the Minister and the chief executive, the archivist is to control the archives.	9
	10

<i>Division 2—Functions and powers</i>	11
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Functions of archivist	12
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30. The archivist has the following functions—	13
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- | | |
|--|----|
| (a) to develop and promote efficient and effective methods, | 14 |
| procedures and systems for making, managing, keeping, storing, | 15 |
| disposing of, preserving and using public records; | 16 |
| (b) to identify public records of enduring value and require that they | 17 |
| be retained in a useable form, whether or not the records are in the | 18 |
| custody of the archives; | 19 |
| (c) to make decisions about the disposal of public records; | 20 |
| (d) to manage, keep and preserve records for public authorities and | 21 |
| other entities; | 22 |
| (e) to provide public access to public records; | 23 |
| (f) to conduct research and give advice about the making, managing, | 24 |
| keeping and preserving of public records; | 25 |
| (g) to perform another function given to the archivist under this or | 26 |
| another Act; | 27 |

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- | | |
|--|--------|
| (h) to do anything else— | 1 |
| (i) incidental, complementary or helpful to the archivist's other functions; or | 2
3 |
| (ii) likely to enhance the effective and efficient performance of the archivist's other functions. | 4
5 |

Powers of archivist 6

31.(1) The powers of the archivist include the following— 7

- | | |
|--|----------------|
| (a) to establish and manage repositories and other facilities to store, preserve, exhibit and make available for use public records and other materials; | 8
9
10 |
| (b) to copy public records and other materials; | 11 |
| (c) to publish public records and other materials; | 12 |
| (d) to acquire records by purchase, gift, bequest or loan; | 13 |
| (e) to authorise the disposal of particular public records or classes of public records; | 14
15 |
| (f) to set policy and standards, and issue guidelines, about the making, keeping, preserving, managing and disposing of public records. | 16
17
18 |

(2) This section does not limit the archivist's powers as a part of the executive government of the State.⁴ 19
20

Archivist may authorise disposal of public records 21

32.(1) The archivist may authorise the disposal of particular public records or classes of public records if the public authority that has control of the records has applied for, or consented to, the disposal of the records. 22
23
24

(2) In authorising the disposal of the records, the archivist must have regard to— 25
26

⁴ See *Acts Interpretation Act 1954*, part 12 (The Executive Government of the State).

-
- (a) any relevant professional standards; and 1
 - (b) the purposes of this Act. 2

Independence in relation to disposal decisions 3

33.(1) The archivist, and the staff of the archives, are not subject to the 4
control or direction of a Minister or a department in relation to making 5
decisions about the disposal of public records. 6

(2) Subsection (1) has effect despite section 29.⁵ 7

Arrangements for storage of records outside archives 8

34. The archivist may make arrangements with public authorities and 9
other entities about the storage of public records in a place other than the 10
archives. 11

Examples of arrangements archivist may make— 12

1. The archivist may make an arrangement with a public authority that the 13
authority will store its electronic records at its premises rather than the archives. 14

2. The archivist may make an arrangement with a public authority that creates its 15
own permanent archives that the authority may store its public records in its archives 16
rather than the archives. 17

Division 3—State Archives Board 18

State Archives Board 19

35.(1) The Minister must establish a State Archives Board. 20

(2) The board has the following functions— 21

- (a) to advise the archivist and the Minister about issues affecting the 22
administration or enforcement of this Act; and 23
- (b) to hear appeals by public authorities from decisions made by the 24
archivist not to authorise the disposal of particular public records 25
or classes of public records. 26

⁵ See section 29 (Control of archives).

(3) The board is to consist of the following members—	1
(a) 1 person nominated by the Minister who administers the <i>Local Government Act 1993</i> ;	2 3
(b) 1 person nominated by the Chief Justice;	4
(c) 1 person nominated by the Speaker of the Legislative Assembly;	5
(d) 1 person nominated by the Minister for the department in which the <i>Public Service Act 1996</i> is administered;	6 7
(e) 1 person who has knowledge of, and experience in, the management of information and records nominated by the Minister;	8 9 10
(f) 4 persons who have knowledge of, and experience in, any area considered by the Minister to be relevant to the functions of the committee.	11 12 13
(4) A member of the board may be paid the remuneration and allowances decided by the Governor in Council.	14 15
 Application for review of archivist's decision about disposal	 16
36.(1) A public authority may make written application to the board for a review of a decision made by the archivist refusing to authorise the disposal of particular public records or classes of public records.	17 18 19
(2) The application for review must be made to the board within 14 days after the public authority is notified of the archivist's decision or, if the board allows a further period in which to make the application, the further period.	20 21 22 23
(3) On receiving the application, the board must give written notice of it to the archivist.	24 25
 Archivist to provide reasons	 26
37. Within the period stated in the board's notice, the archivist must give the board written reasons for refusing to authorise the disposal of the particular public records or classes of public records.	27 28 29

Decision by board

- 38.(1)** After reviewing the archivist's decision, the board may—
- (a) confirm or amend the decision; or
 - (b) revoke the decision and substitute a new decision.
- (2)** The board's decision is taken to be a decision of the archivist.
- (3)** However, a decision mentioned in subsection (2) can not be reviewed under section 36.⁶

Division 4—Miscellaneous**Delegation**

- 39.(1)** The archivist may delegate the archivist's powers under this Act to—
- (a) an appropriately qualified member of the archives' staff; or
 - (b) an appropriately qualified officer or employee of a public authority.
- (2)** In subsection (1)—
- “appropriately qualified”**, for a member of the archives' staff or an officer or employee of a public authority, includes having the qualifications, experience or standing appropriate to exercise the power.
- Example of ‘standing’—*
- The staff member's classification level in the archives or public authority.

⁶ Section 36 (Application for review of archivist's decision about disposal)

PART 4—POWERS OF ENFORCEMENT

Division 1—Authorised officers

Appointment of authorised officer

40. The archivist may appoint a member of the staff of the archives as an authorised officer.

Identity card

41.(1) The archivist must give each authorised officer an identity card and may issue an identity card to himself or herself.

(2) The identity card must—

- (a) contain a recent photograph of the authorised officer; and
- (b) be signed by the officer; and
- (c) identify the person as an authorised officer for this Act; and
- (d) include an expiry date.

(3) A person who ceases to be an authorised officer must return the person's identity card to the archivist as soon as practicable (but within 21 days) after the person ceases to be an authorised officer, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

Production or display of authorised officer's identity card

42.(1) An authorised officer may exercise a power in relation to someone else only if—

- (a) the authorised officer first produces his or her identity card for the person's inspection; or
- (b) the authorised officer has the officer's identity card displayed so it is clearly visible to the other person.

(2) However, if for any reason it is not practicable to comply with

subsection (1) before exercising the power, the authorised officer must
produce the identity card for inspection by the person as soon as it is
practicable.

Division 2—General powers

Power of entry and inspection

43.(1) For the administration and enforcement of this Act, an authorised officer is entitled to full and free access, at all reasonable times, to all public records in a public authority's possession.

(2) Without limiting subsection (1), an authorised officer may—

- (a) enter a public authority's premises; and
- (b) examine the public authority's procedures for the making, management, keeping and preservation of its public records; and
- (c) examine the public authority's records.

Public authority to comply with request

44.(1) An officer or employee of a public authority who is responsible for the management of the authority's records must, if asked by an authorised officer—

- (a) produce the authority's records, or a particular type or sample of records, for the officer's inspection; and
- (b) give the officer access to the authority's records, or a particular type or sample of records in the reasonable way requested by the officer; and
- (c) allow the officer to examine the authority's systems for making, keeping and preserving records.

(2) However, an authorised officer may exercise powers under this part in relation to the Governor's official residence, the Legislative Assembly or a court, only by agreement with the Governor's secretary, the clerk of the Legislative Assembly or the registrar or proper officer of the court.

(3) A person mentioned in subsection (2) must not unreasonably withhold agreement.

Obstruction of authorised officer

45. A person must not obstruct an authorised officer in the exercise of a power under this part, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Division 3—Specific powers

Recovery of public records

46.(1) This section applies if the archivist believes, on reasonable grounds, that a person is in unlawful possession of public records, including records to which an agreement under section 47 applies.

(2) The archivist may, by written notice given to the person, require the person to give the records to the archivist or someone else stated in the notice within the reasonable time stated in the notice.

(3) The person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(4) Also, if the person does not comply with the notice, the archivist may apply to a Magistrates Court for an order directing the person to comply with the notice.

(5) If the Magistrates Court is satisfied the person is in unlawful possession of public records, the court may order the person to give the records to the archivist.

(6) The person must comply with the court's order.

Maximum penalty for subsection (6)—100 penalty units.

Reciprocal agreements

47.(1) The archivist may enter into an agreement with an entity (the

“reciprocating entity”) with corresponding functions under a law of another State or the Commonwealth (the **“reciprocating jurisdiction”**).

(2) The agreement may provide for—

- (a) the archivist to take action in Queensland to recover public records of the reciprocating jurisdiction and give them to the reciprocating entity; and
- (b) the reciprocating entity to take action in the reciprocating jurisdiction to recover public records of Queensland and give them to the archives.

PART 5—MISCELLANEOUS

Secrecy provisions in other laws

48.(1) If another Act prohibits the disclosure of a matter contained in a public record or restricts access to a public record, the archivist and the staff of the archives must not disclose a matter in the public record or otherwise give access to the record, other than to the extent necessary to perform their official duties.

(2) However, subsection (1) does not apply to a public record, or a matter contained in a public record, if—

- (a) the record is more than 100 years old; and
- (b) access to the record is not restricted under a regulation under section 18(4).⁷

(3) For subsection (1)—

“official duties”, of the archivist and the staff of the archives, do not include allowing access to public records under section 18.

⁷ Section 18 (Public access to public records)

Application of Act to certain of Governor's records

49.(1) The following are not public records—

- (a) records that are correspondence between the Governor and the Sovereign; or
- (b) records that are correspondence between the Governor and the Governor-General; or
- (c) records that are correspondence between the Governor and the Governor of another State.

(2) However, the Governor may agree that a particular record of a type mentioned in subsection (1) is a public record.

Protection against actions for defamation or breach of confidence

50.(1) This section applies if access is given to a public record under this Act.

(2) No action for defamation or breach of confidence lies against—

- (a) the State or an official because of the giving of the access; or
- (b) the author of the public record or another person because the author or other person supplied the record to a public authority or the archives.

(3) This section does not limit the operation of section 51.

Protection from civil liability

51.(1) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to the official, the liability attaches instead to the State.

Evidence in legal proceedings

52.(1) This section applies if—

- (a) a public record, or information in a public record, is admissible in evidence in a legal proceeding on its production from proper

custody; and	1
(b) the public record is in the custody of the archives.	2
(2) If the archives produces the public record, or a copy of or extract from the public record, it is taken to have been produced from proper custody.	3 4 5
(3) The archivist, or a member of the staff of the archives authorised by the archivist, may give a certificate about the origin, history, nature or contents of a public record in the custody of the archives.	6 7 8
(4) The certificate is admissible in evidence in a legal proceeding as evidence of the matters stated in the certificate.	9 10
Annual report	11
53.(1) Within 4 months after the end of each financial year, the archivist must give to the Minister a report on the administration of this Act during the year.	12 13 14
(2) Without limiting subsection (1), the report may include details of the extent to which public authorities are complying with the Act, including, for example, instances of noncompliance, if any, and measures taken, or the archivist recommends be taken, to prevent, or reduce, noncompliance with the Act.	15 16 17 18 19
(3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after the Minister receives it.	20 21
Regulation-making power	22
54. The Governor in Council may make regulations under this Act.	23
Libraries and Archives Act 1988 references	24
55. In an Act or document, a reference (whether express or implied) to the <i>Libraries and Archives Act 1988</i> or provision of the Act that was repealed by, and remade as a provision of, this Act may, if the context permits, be taken to be a reference to this Act or the provision of this Act, as the case requires.	25 26 27 28 29

PART 6—TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

State archivist to continue in position

56.(1) This section applies to a person who, immediately before the commencement of this part, was the State archivist under the *Libraries and Archives Act 1988*.

(2) On the commencement, the person is taken to be the archivist under this Act.

Notice for recovery of public records

57. A notice given to a person under the *Libraries and Archives Act 1988*, section 62(1),⁸ and in force immediately before the commencement of this part, is taken to be a notice given under section 46.⁹

Acts amended

58. Schedule 1 amends the Acts mentioned in it.

⁸ Section 62 (Recovery of public records improperly held)

⁹ Section 46 (Recovery of public records)

SCHEDULE 1	1
AMENDMENTS	2
section 58	3
AGRICULTURAL AND VETERINARY CHEMICALS (QUEENSLAND) ACT 1994	4 5
1. Section 31, ‘Libraries and Archives Act 1988’—	6
omit, insert—	7
‘Public Records Act 1999’.	8
AMBULANCE SERVICE ACT 1991	9
1. Section 20(1)(c)—	10
omit.	11
BUSINESS NAMES ACT 1962	12
1. Section 25(2), ‘Libraries and Archives Act 1988’—	13
omit, insert—	14
‘Public Records Act 1999’.	15

SCHEDULE 1 (continued)

CITY OF BRISBANE MARKET ACT 1960

1

1. Section 25(1)(d), ‘*Libraries and Archives Act 1988*’—

2

omit, insert—

3

‘Public Records Act 1999’.

4

COOPERATIVES ACT 1997

5

1. Section 439, ‘*Libraries and Archives Act 1988*’—

6

omit, insert—

7

‘Public Records Act 1999’.

8

CRIME COMMISSION ACT 1997

9

1. Section 81, ‘*Libraries and Archives Act 1988*’—

10

omit, insert—

11

‘Public Records Act 1999’.

12

**CRIMINAL LAW (REHABILITATION OF
OFFENDERS) ACT 1986**

13

14

1. Section 7(1)(d), ‘prescribed by or under the *Libraries and Archives Act 1988*’—

15

16

omit, insert—

17

‘under the Public Records Act 1999’.

18

SCHEDULE 1 (continued)

EDUCATION (GENERAL PROVISIONS) ACT 1989

1. Section 68, heading, ‘Libraries and Archives Act 1988’—

omit, insert—

‘Public Records Act 1999’.

2. Section 68, ‘Libraries and Archives Act 1988’—

omit, insert—

‘Public Records Act 1999’.

ELECTRICITY ACT 1994

1. Section 64R(d), ‘Libraries and Archives Act 1988’—

omit, insert—

‘Public Records Act 1999’.

EVIDENCE ACT 1977

1. Section 129—

omit, insert—

‘Public Records Act 1999 not affected

‘129. This part does not affect the *Public Records Act 1999*.’.

SCHEDULE 1 (continued)

FIRE AND RESCUE AUTHORITY ACT 1990

1. **Section 19A(1)(c)—**
omit.

FISHERIES ACT 1994

1. **Section 213(1)(d), ‘*Libraries and Archives Act 1988*’—**
omit, insert—
‘Public Records Act 1999’.

FREEDOM OF INFORMATION ACT 1992

1. **Section 17, heading—**
omit, insert—
‘Operation of Public Records Act 1999’.
2. **Section 17, ‘*Libraries and Archives Act 1988*’—**
omit, insert—
‘Public Records Act 1999’.
3. **Section 22(c), ‘in the Queensland State Archives or’—**
omit, insert—
*‘under the *Public Records Act 1999* or in’.*

SCHEDULE 1 (continued)

4. Section 24(1)(b), ‘in the Queensland State Archives’—	1
<i>omit, insert—</i>	2
‘under the <i>Public Records Act 1999</i> ’.	3
5. Section 24(2), ‘<i>Libraries and Archives Act 1988</i> (whether before or after the commencement of this part)’—	4
<i>omit, insert—</i>	5
‘ <i>Libraries Act 1988</i> (whether before or after the commencement of this part) or the <i>Public Records Act 1999</i> ’.	6
	7
	8
6. Section 30(6), ‘20’—	9
<i>omit, insert—</i>	10
‘25’.	11
 GLADSTONE POWER STATION AGREEMENT ACT	12
1993	13
 1. Section 28, ‘<i>Libraries and Archives Act 1988</i>’—	14
<i>omit, insert—</i>	15
‘ <i>Public Records Act 1999</i> ’.	16
 GRAIN INDUSTRY (RESTRUCTURING) ACT 1991	17
 1. Section 14(1)(c), ‘<i>Libraries and Archives Act 1988</i>’—	18
<i>omit, insert—</i>	19
‘ <i>Public Records Act 1999</i> ’.	20

SCHEDULE 1 (continued)

LAND ACT 1994**1. Section 315(5), ‘*Libraries and Archives Act 1988*’—***omit, insert—**‘Public Records Act 1999’.***LAND TITLE ACT 1994****1. Section 166(5), ‘*Libraries and Archives Act 1988*’—***omit, insert—**‘Public Records Act 1999’.***LIBRARIES AND ARCHIVES ACT 1988****1. Title—***omit, insert—***‘An Act about the State library and to promote libraries, and for related purposes’.****2. Section 1—***omit, insert—***‘Short title****‘1. This Act may be cited as the *Libraries Act 1988*.’.****3. Section 2, definition “public authority”—***omit.*

SCHEDULE 1 (continued)

4. Section 2(2) to (4)—	1
<i>omit.</i>	2
5. Section 20(1)(c), ‘and archives’—	3
<i>omit.</i>	4
6. Section 20(1)(h)—	5
<i>omit.</i>	6
7. Part 7—	7
<i>omit.</i>	8
8. Section 86(3) to (7)—	9
<i>omit.</i>	10
9. After section 89—	11
<i>insert—</i>	12
‘Libraries and Archives Act 1988 references	13
‘89A. In an Act or document, a reference (whether express or implied) to	14
this Act or a provision of this Act that was not repealed by the <i>Public</i>	15
<i>Records Act 1999</i> may, if the context permits, be taken to be a reference to	16
this Act or the provision of this Act, as the case requires.’	17
 MEAT INDUSTRY ACT 1993	 18
1. Section 46(1)(d), ‘<i>Libraries and Archives Act 1988</i>’—	19
<i>omit, insert—</i>	20
‘ <i>Public Records Act 1999</i> ’.	21

SCHEDULE 1 (continued)

2. Section 160(1)(d), *‘Libraries and Archives Act 1988’*— 1
omit, insert— 2
‘Public Records Act 1999’. 3

POLICE POWERS AND RESPONSIBILITIES ACT 4
1997 5

1. Section 67, *‘Libraries and Archives Act 1988’*— 6
omit, insert— 7
‘Public Records Act 1999’. 8

QUEENSLAND COMPETITION AUTHORITY ACT 9
1997 10

1. Section 229(d), *‘Libraries and Archives Act 1988’*— 11
omit, insert— 12
‘Public Records Act 1999’. 13

SCHOOL OF ARTS (WINDING UP AND TRANSFER) 14
ACT 1960 15

1. Section 2, *‘Libraries and Archives Act 1988’*— 16
omit, insert— 17
‘Libraries Act 1988’. 18

SCHEDULE 1 (continued)

SUGAR INDUSTRY ACT 1991

1

1. Section 230(b), ‘*Libraries and Archives Act 1988*’—

2

omit, insert—

3

‘Public Records Act 1999’.

4

5

SCHEDULE 2

1

DICTIONARY

2

section 4

3

“archives” means the Queensland State Archives.

4

“archivist” means the State Archivist.

5

“authorised officer” means—

6

(a) the archivist; or

7

(b) a person who is appointed under section 40 as an authorised officer.

8

9

“board” means the State Archives Board.

10

“convicted” means found guilty, or having a plea of guilty accepted by a court, whether or not a conviction is recorded.

11

12

“disposal”, of a record, includes—

13

(a) destroying or damaging the record, or part of it; or

14

(b) abandoning, transferring or selling the record, or part of it.

15

“FOI Act” means the *Freedom of Information Act 1992*.

16

“intergovernmental authority” means an entity established by the State and a local government.

17

18

“Ministerial record” means a record created or received by a Minister in the course of carrying out the Minister’s portfolio responsibilities but does not include—

19

20

21

(a) a record related to the Minister’s personal or party political activities; or

22

23

(b) a record the Minister holds in the Minister’s capacity as a member of the Legislative Assembly.

24

25

“official” means the archivist or a member of the staff of the archives.

26

 SCHEDULE 2 (continued)

“possession” , of a public record, includes having control of the record.	1
“public authority” means—	2
(a) the Governor in his or her official capacity; or	3
(b) the Executive Council; or	4
(c) the Legislative Assembly; or	5
(d) a Minister; or	6
(e) the registrar or other officer of a court dealing with official records of the court; or	7 8
(f) a commission of inquiry under the <i>Commissions of Inquiry Act 1950</i> ; or	9 10
(g) an entity that—	11
(i) is established by an Act; or	12
(ii) is created by the Governor in Council or a Minister; or	13
(h) a GOC; or	14
(i) a department; or	15
(j) an inter-governmental authority; or	16
(k) a local government; or	17
(l) an entity declared under a regulation to be a public authority for the purposes of this Act.	18 19
“record” means recorded information created or received by an entity in the transaction of business or the conduct of affairs that provides evidence of the business or affairs and includes—	20 21 22
(a) anything on which there is writing; or	23
(b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; or	24 25 26
(c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; or	27 28
(d) a map, plan, drawing or photograph.	29

SCHEDULE 2 (continued)

“responsible public authority”, for part 2, division 3, see section 15.

1

“restricted access period”, for part 2, division 3 see section 16.

2