



Co-operative Schemes (Administrative Actions) Act 2001

Current as at 23 September 2013

Information about this reprint

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A new reprint of the legislation will be prepared by the Office of the Queensland Parliamentary Counsel when any change to the legislation takes effect. This change may be because a provision of the original legislation, or an amendment to it, commences or because a particular provision of the legislation expires or is repealed.

When a new reprint is prepared, this reprint will become a historical reprint. Also, if it is necessary to replace this reprint before a new reprint is prepared, for example, to include amendments with a retrospective commencement, an appropriate note would be included on the cover of the replacement reprint and on the copy of this reprint at www.legislation.qld.gov.au.

The endnotes to this reprint contain detailed information about the legislation and reprint. For example—

- The table of reprints endnote lists any previous reprints and, 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.
- The list of legislation endnote gives historical information about the original legislation and the legislation which amended it. It also gives details of uncommenced amendments to this legislation. For information about possible amendments to the legislation by Bills introduced in Parliament, see the Queensland Legislation Current Annotations at www.legislation.qld.gov.au/Leg_Info/information.htm.
- The list of annotations endnote gives historical information at section level.

All Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints are not continued.



Queensland

Co-operative Schemes (Administrative Actions) Act 2001

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Co-operative Schemes (Administrative Actions) Act 2001

[as amended by all amendments that commenced on or before 23 September 2013]

An Act relating to administrative actions by Commonwealth authorities or officers of the Commonwealth under State co-operative scheme laws, and for other purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Co-operative Schemes (Administrative Actions) Act 2001*.

2 Main purpose of Act and its achievement

- (1) The main purpose of this Act is to validate certain invalid administrative actions taken by Commonwealth authorities or officers of the Commonwealth under certain State co-operative scheme laws.
- (2) The purpose is achieved primarily by giving the actions the effect they would have had if they had been taken by State authorities or officers of the State duly authorised to take the actions.

3 Definitions

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

[s 4]

4 Co-operative schemes to which Act applies—relevant State Acts

- (1) A *relevant State Act* means the following—
- (a) the *Agricultural and Veterinary Chemicals (Queensland) Act 1994*;
 - (b) the *National Crime Authority (State Provisions) Act 1985*;
 - (c) the *Classification of Computer Games and Images Act 1995*;
 - (d) the *Classification of Films Act 1991*;
 - (e) the *Classification of Publications Act 1991*;
 - (f) another Act declared by an Act to be a relevant State Act;
 - (g) a law applying as a law of the State by force of any Act mentioned in paragraph (a), (b), (c), (d), (e) or (f).
- (2) A regulation may declare the commencement time for a relevant State Act is a stated time of a stated day no later than the day the regulation is notified.
- (3) This Act has effect for a commencement time declared under subsection (2) whether or not it has already had effect for an earlier commencement time.
- (4) Subsections (2) and (3) apply despite the *Statutory Instruments Act 1992*, section 34.

5 Act binds all persons

This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.

6 Administrative functions and powers conferred on Commonwealth authorities and officers

- (1) A relevant State Act does not purport to confer a duty on a Commonwealth authority or an officer of the Commonwealth

to perform a function, or to exercise a power, in relation to a matter arising under the relevant State Act if the conferral of the duty would be beyond the legislative power of the Parliament of the State.

- (2) This section does not limit the operation of the *Acts Interpretation Act 1954*, section 9.

Part 2 Validation of invalid administrative actions

7 Invalid administrative actions to which pt 2 applies

This part applies to invalid administrative actions that have been taken, or have purportedly been taken, under a relevant State Act at or before the commencement time in relation to that Act.

8 Operation of pt 2

- (1) This part extends to rights or liabilities arising between parties to a proceeding started at or before the commencement time in relation to a relevant State Act if an allegedly invalid administrative action is or was the subject of or relevant to the proceedings.
- (2) However, this part does not affect rights or liabilities arising between parties to a proceeding heard and finally decided at or before the commencement time in relation to a relevant State Act to the extent to which the rights or liabilities arise from, or are affected by, an invalid administrative action.
- (3) This part extends to administrative actions as affected by the operation of the *Agricultural and Veterinary Chemicals (Queensland) Act 1994*, section 28B.

[s 9]

9 Effect of invalid administrative actions

Every invalid administrative action has, and is taken always to have had, the same effect for all purposes as it would have had if—

- (a) it had been taken, or purportedly taken, by a State authority or officer of the State; and
- (b) the relevant function or power had been duly conferred on that authority or officer.

10 Rights and liabilities declared in certain cases

- (1) Without limiting section 9, the rights and liabilities of all persons are declared to be, and always to have been, for all purposes the same as if—

- (a) every invalid administrative action had been taken, or purportedly taken, by a State authority or officer of the State; and
- (b) the relevant function or power had been duly conferred on the authority or officer.

- (2) A right or liability conferred or affected by subsection (1)—

- (a) is exercisable or enforceable; and
- (b) is taken to have been and to have always been exercisable or enforceable;

as if it were a right or liability conferred or affected by, or arising from, an administrative action of a State authority or officer of the State on which or whom the relevant function or power had been duly conferred.

- (3) Any act or thing done or omitted to be done at or before the commencement time in relation to a relevant State Act under or in relation to a right or liability conferred or affected by subsection (1)—

- (a) has the same effect, and gives rise to the same consequences, for the purposes of any written or other law; and

- (b) is taken to have had and to have always had the same effect, and given rise to the same consequences, for any written or other law;

as if it were done, or omitted to be done, to give effect to, or under the authority of, or in reliance on, an administrative action of a State authority or officer of the State on which or whom the relevant function or power had been duly conferred.

11 Part applies to administrative actions as purportedly in force from time to time

- (1) The purpose of this section is to ensure this part operates to give to an invalid administrative action that has subsequently been affected by another action or process no greater effect than it would have had if the administrative action, or any other relevant administrative action, had not been invalid on constitutional grounds (arising from the circumstances referred to in paragraphs (a) and (b) of the definition of *invalid administrative action* in the dictionary).
- (2) If administrative action taken by a Commonwealth authority or an officer of the Commonwealth was affected, whether by way of modification, revocation or otherwise, at or before the commencement time in relation to a relevant State Act by any later administrative action or by any judicial process or by any administrative review process, this part applies to the administrative action as so affected from time to time.
- (3) In this section, a reference to administrative action taken includes reference to administrative action purportedly taken, and a reference to administrative action affected in any way includes a reference to administrative action purportedly affected in that way.

Part 3 Miscellaneous provisions

12 Corresponding authorities or officers

It is immaterial, for the purposes of this Act, that a Commonwealth authority or an officer of the Commonwealth does not have a counterpart in the State, or that the powers and functions of a counterpart State authority or a counterpart officer of the State do not correspond exactly or substantially with a Commonwealth authority or the officer of the Commonwealth.

13 Act not to give rise to liability against the State

- (1) The State is not liable to any action, claim, demand or liability arising from the enactment, commencement or operation of this Act or the making, publication or operation of a regulation under section 4.
- (2) Without limiting subsection (1), no proceeding lies against the State in relation to an administrative action affected by this Act, other than to the extent the proceeding would lie had this Act not been enacted or a regulation under section 4 not been made.
- (3) In this section—
the State includes the following—
 - (a) a State authority;
 - (b) an officer of the State;
 - (c) the Government of the State;
 - (d) a Minister;
 - (e) a statutory corporation, or other body, representing the State.

14 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may contain provisions of a savings or transitional nature consequent on the enactment of this Act or the making of a regulation under section 4.
- (3) A regulation made under subsection (2)—
 - (a) must declare it is a savings or transitional regulation; and
 - (b) expires 1 year after it commences.

Schedule Dictionary

section 3

administrative action means an act or omission of an administrative or legislative nature, and includes any act or omission of an administrative nature that is done or omitted in the course of or ancillary to or preliminary to or subsequent to judicial proceedings, civil or criminal.

commencement time means, except as provided by section 4(2) and (3)—

- (a) for the *Agricultural and Veterinary Chemicals (Queensland) Act 1994* or the *National Crime Authority (State Provisions) Act 1985*—the time when section 4(1) commences; or
- (b) for another relevant State Act—the time when it becomes a relevant State Act under section 4(1).

Commonwealth authority means an authority or body, whether incorporated or not, established or continued in existence by or under an Act of the Commonwealth, but does not include the Federal Court of Australia, the Family Court of Australia or the Federal Magistrates Court.

confer includes impose.

invalid administrative action means an administrative action of a Commonwealth authority or an officer of the Commonwealth taken, or purportedly taken—

- (a) pursuant to a function or power conferred, or purportedly conferred, by or under a relevant State Act (the ***relevant function or power***); and
- (b) in circumstances where the relevant function or power could not have been conferred on the authority or officer by a law of the Commonwealth the operation of which in the relevant respect was based on the legislative powers of the Parliament of the Commonwealth, including, for example, circumstances where the

authority or officer was, or purportedly was, under an express or implied duty to perform the function or exercise the power;

that was invalid because of the circumstances referred to in paragraphs (a) and (b), whether or not it was also invalid on any other ground.

liability includes a duty or obligation.

officer of the Commonwealth has the same meaning as in section 75(v) of the Constitution of the Commonwealth.

relevant function or power means a function or power referred to paragraph (a) of the definition *invalid administrative action*.

relevant State Act see section 4.

right includes an interest or status.

Endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the *Reprints Act 1992*, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 23 September 2013. Future amendments of the *Co-operative Schemes (Administrative Actions) Act 2001* may be made in accordance with this reprint under the *Reprints Act 1992*, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised version
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2012
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 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	none	19 December 2001	19 December 2001
Reprint No.	Amendments included	Effective	Notes
1A	2003 Act No. 94	3 December 2003	

Current as at	Amendments included	Notes
23 September 2013	2013 Act No. 39	

5 List of legislation

Co-operative Schemes (Administrative Actions) Act 2001 No. 96

date of assent 19 December 2001

commenced on date of assent

amending legislation—

Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2003 No. 94 s 1, pt 9

date of assent 3 December 2003

commenced on date of assent

Treasury and Trade and Other Legislation Amendment Act 2013 No. 39 ss 1, 110(3) sch 3 pt 3

date of assent 23 September 2013

commenced on date of assent

6 List of annotations

Co-operative schemes to which Act applies—relevant State Acts

s 4 amd 2003 No. 94 s 36; 2013 No. 39 s 110(3) sch 3 pt 3

7 Forms notified or published in the gazette

Lists of forms are no longer included in reprints. Now see the separate forms document published on the website of the Office of the Queensland Parliamentary Counsel at <www.legislation.qld.gov.au> under Information—Current annotations. This document is updated weekly and the most recent changes are marked with a change bar.