



Governor In Council and Executive Council in Queensland

The term 'Governor in Council' means 'the Governor acting with the advice of the Executive Council'. The combination of the Governor and the Executive Councillors gives legal authority to actions to be taken or actions or decisions made under Acts of Parliament or the Constitution itself.

The Governor in Council exists primarily to put into official form decisions that have been made elsewhere. It is a body which gives formal advice to the Governor by way of seeking approval of a written submission.

The Executive Council exists to advise the Governor on the exercise of the powers of the Governor in Council. In Queensland, the Executive Council is established by Section 48 of the *Constitution of Queensland 2001*. The term 'Governor in Council' is defined as meaning 'the Governor acting with the advice of the Executive Council' by virtue of Section 27 of the *Constitution of Queensland 2001*.

Various Acts specify that certain administrative actions, such as appointments and making regulations, can only be carried out by the Governor in Council.

The Governor in Council, unlike Cabinet, does not deliberate over issues of Government policy; rather, it gives formal, legal effect to the decisions of Cabinet or individual Ministers.

Decisions of the Governor in Council are reviewable by the courts.

Membership

In Queensland, it is customary for Executive Councillors to be the same persons who comprise the Ministry and Cabinet; however, it requires a quorum of only the Governor and two Ministers for a meeting.

The Governor is not a member of the Executive Council but summons meetings on his/her authority and presides at all meetings of the Council unless otherwise prevented from doing so.

Matters considered by the Governor in Council

The following is a non-exhaustive list of matters which require consideration and approval by the Governor in Council. They include:

- issuing of Commissions;
- certain appointments including Judges, Magistrates, Chief Executives, members of some boards and statutory bodies, and Justices of the Peace;
- commencement of high value projects valued over the limits prescribed from time to time;
- the fixing of numbers and levels of Senior Executives to be employed in a Department under the Public Service Act 2008;
- Proclamations setting dates for the commencement of legislation;
- Orders in Council relating to acquisition of land;
- notices for the resumption of land and easements;
- Administrative Arrangements;
- new and amending subordinate legislation to be made or approved by the Governor in Council; and
- unforeseen expenditure.

A large proportion of the legislation enacted by the Queensland Parliament has delegated power to the Governor in Council which is the principal subordinate legislation instrumentality in the State.

Recommendations for approval are submitted to the Governor in Council in the form of Executive Council Minutes which include an explanatory memorandum outlining the background and purpose and consequence of the proposed action.

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Queensland Governor in Council Approval Process

There are two parts to the approval process:

- submission of the Minutes to the Executive Councillors at Cabinet; and
- submission of the Minutes to the Governor in Council.

Submission to Executive Councillors

The first part of the approval process involves the submission of Executive Council Minutes to Executive Councillors (ie. Ministers) for consideration.

Executive Council Minutes are lodged with the Executive Council Secretariat in the Department of the Premier and Cabinet by 1.00pm each Monday. These Minutes will be considered by the Governor in Council at a meeting held on the Thursday of the following week.

Following receipt of Minutes each Monday, the Executive Council Secretariat prepares a proposed Schedule of Minutes for consideration by Executive Councillors. Having scrutinised the Minutes for legislative compliance and consistency with Government Policy and settled upon the contents of the Schedule, copies are provided to the Cabinet Secretariat on the Thursday prior to the Cabinet meeting (the week prior to the meeting), and these are distributed to each Executive Councillor and each departmental Chief Executive Officer on the same day. No Minutes can be added to the Schedule once it is distributed with the Cabinet bag.

If Executive Councillors agree that the matters incorporated in the Schedule should proceed to the Governor in Council, the original Schedule (which is endorsed '*Executive Councillors recommend to His Excellency the Governor that the Minutes detailed in the enclosed Schedule be approved*') is initialled by each Executive Councillor at the regular Cabinet meeting (usually on the following Monday).

Submission to the Governor in Council

The second part of the approval process is the submission of the Minutes to the Governor in Council for approval. Meetings of the Executive Council are summoned by the Clerk of the Executive Council under the authority of the Governor and in the normal cycle are held on the Thursday following the Cabinet meeting.

Upon the return of the Minutes from Cabinet they are processed (numbered, dated and stamped) and delivered to the Governor on the Wednesday afternoon to allow the Governor time to peruse each Minute in detail.

The meeting is held each Thursday in the ordinary cycle. In compliance with quorum requirements, at least two Executive Councillors, exclusive of the Governor are present and assisting throughout the whole of the meeting. The Clerk of the Executive Council also attends. Each Minute is then signed by the Governor at the meeting. Special meetings are held from time to time to deal with urgent matters.

Governor's Function

The Governor cannot reject advice outright but seeks to ensure that advice is well founded, carefully considered and consistent with stable government. The Governor can perform this role by:

- asking questions;
- seeking full information; or
- calling for additional advice on any doubtful issue.