



The Separation of Powers in Queensland

In its purest sense, the doctrine of the separation of powers refers to the distinct separation of the three branches of Government - the Legislature, the Executive and the Judiciary.

The Legislature

The Legislature is the Parliament. The Parliament enacts the laws. In Queensland, the Parliament is made up of the 93 Members of the Legislative Assembly and the King who is represented by the Governor.

The Executive

The Executive administers the laws. The Executive in Queensland consists of the Governor representing the King and the Cabinet (the Premier and up to 18 other Ministers).

The Judiciary

The role of the Judiciary is to interpret and adjudicate upon the laws. In Queensland the Judiciary is made up of the Supreme Courts and other Courts with Queensland jurisdiction.

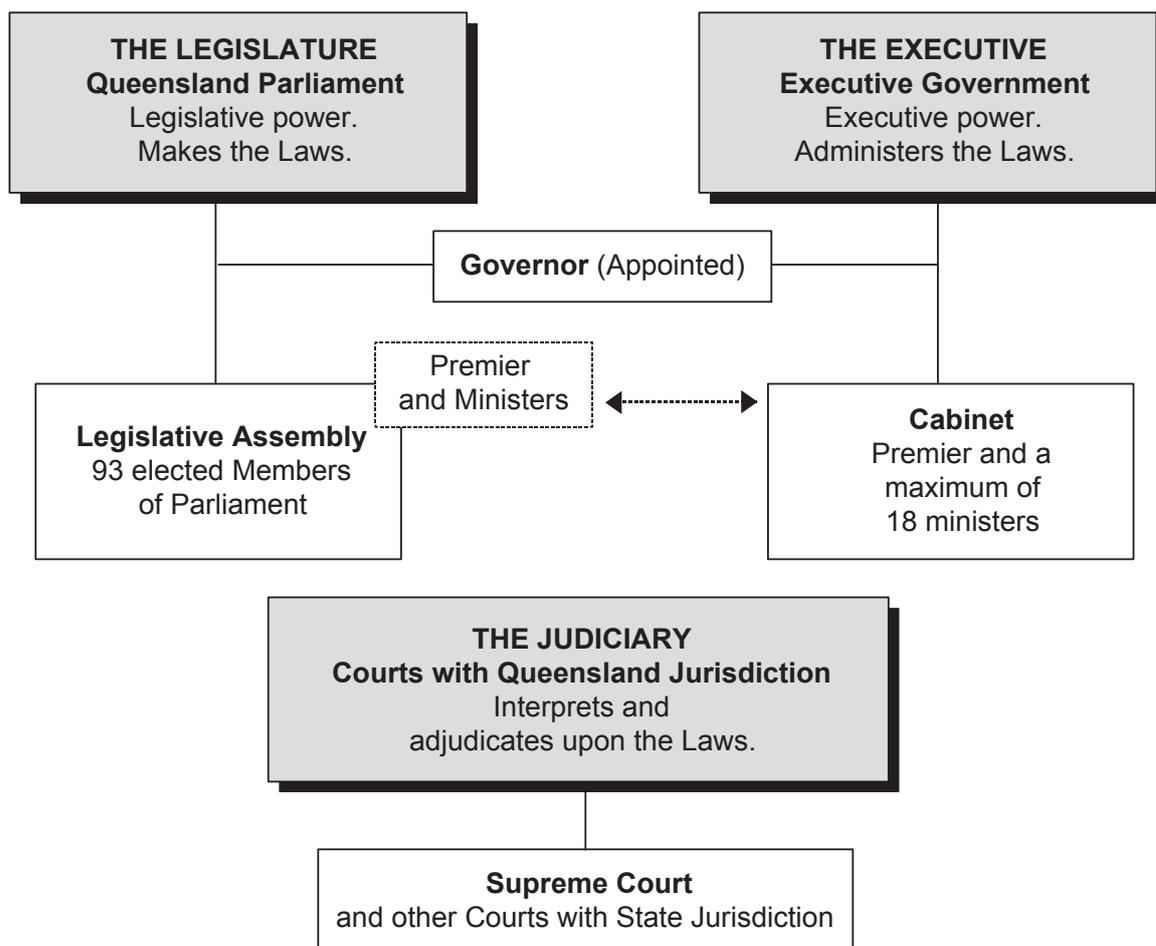


Diagram of the Doctrine of the Separation of Powers as applied in Queensland.

Queensland Parliament Factsheet

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Theoretically, each branch of government must be separate and not encroach upon the functions of the other branches. Furthermore, the persons who comprise these three branches must be kept separate and distinct. There is a complete separation as regards governmental powers, institutions and personnel.

The modern development of the doctrine of the separation of powers was formulated initially in the eighteenth century by the French philosopher Montesquieu, who argued that the doctrine would preserve the liberty of the individual by separating the powers of government.

In practice, the Westminster system of government in Queensland has partial separation. By convention, the members of the Executive, namely Ministers of the Crown including the Premier, must also be elected members of the Legislative Assembly and have the confidence of the Assembly to form a government. These persons exercise both legislative and executive power in the performance of their duties.

In Queensland, the third branch of Government, the Judiciary, is considered to be separate and independent from the other two branches of Government. Members of the Judiciary are not members of the other two branches of Government.

Members of the Judiciary hold office until retirement age. They may be removed for misbehaviour or incapacity, but this is a rare occurrence.