



Queensland

Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010

Act No. 26 of 2010



Queensland

Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010

Contents

		Page
Part 1	Preliminary	
1	Short title	12
2	Commencement	12
Part 2	Amendment of Bail Act 1980	
3	Act amended	12
4	Amendment of s 15A (Applications for bail in special circumstances)	12
5	Insertion of new s 15B	13
	15B Application for bail by remote communication device outside district or division	13
6	Amendment of s 28A (Other warrants for apprehension of defendant)	13
7	Insertion of new ss 34BA and 34BB	14
	34BA Varying bail on registry committal	14
	34BB Varying bail for charge for indictable offence referred to clerk of the court under Justices Act 1886	15
Part 3	Amendment of Body Corporate and Community Management Act 1997	
8	Act amended	16
9	Amendment of s 229 (Exclusivity of dispute resolution provisions)	16
10	Insertion of new s 229A	16
	229A Disputes about particular debts	16
11	Amendment of s 241 (Rejecting application)	17
12	Amendment of s 252H (Referral back to commissioner)	18
13	Amendment of s 270 (Dismissal of applications)	18
14	Amendment of sch 6 (Dictionary)	18

Contents

Part 4	Amendment of Criminal Code	
15	Code amended	19
16	Amendment of s 1 (Definitions)	19
17	Replacement of ss 552A and 552B	19
	552A Charges of indictable offences that must be heard and decided summarily on prosecution election	19
	552B Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial	20
	552BA Charges of indictable offences that must be heard and decided summarily	22
	552BB Excluded offences	22
18	Amendment of s 552D (When Magistrates Court must abstain from jurisdiction)	29
19	Amendment of s 552E (Charge may be heard and decided where defendant arrested or served)	29
20	Amendment of s 552F (Time for prosecution)	29
21	Amendment of s 552G (Value of property affecting jurisdiction to be decided by Magistrates Court)	30
22	Amendment of s 552H (Maximum penalty for indictable offences dealt with summarily)	30
23	Amendment of s 552J (Appeals against decision to decide charge summarily)	30
24	Amendment of s 590AA (Pre-trial directions and rulings)	30
25	Insertion of new s 590AAA	30
	590AAA Noncompliance with direction about disclosure	31
26	Amendment of s 590AC (Chapter division does not have particular consequences)	32
27	Amendment of s 590AD (Definitions for ch div 3)	32
28	Amendment of s 590AH (Disclosure that must always be made)	33
29	Amendment of s 590AI (When mandatory disclosure must be made)	35
30	Amendment of s 590AK (When requested disclosure must be made)	35
31	Amendment of s 590AN (Limit on disclosure of things accused person already has)	36
32	Amendment of s 590AO (Limit on disclosure of sensitive evidence)	36
33	Amendment of s 590AS (Viewing particular evidence)	36
34	Amendment of s 590AV (Disclosure directions)	36

35	Insertion of new ch 62, ch div 4A	37
	Chapter division 4A Disclosure obligation directions	
	590D Purpose and scope of ch div 4A.	37
	590E Definitions for ch div 4A	37
	590F Subject matter for disclosure obligation direction.	38
	590G Application for disclosure obligation direction.	39
36	Amendment of s 651 (Court may decide summary offences if a person is charged on indictment)	40
37	Insertion of new s 706A	40
	706A Development of administrative arrangements	40
38	Insertion of new ch 87	42
	Chapter 87 Transitional provisions for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010	
	724 Definitions for ch 87	42
	725 New disclosure provisions apply only to prosecutions commenced after commencement	42
	726 New summary disposition provisions apply only to prosecutions commenced after commencement	43
Part 5	Amendment of Criminal Practice Rules 1999	
39	Rules amended	44
40	Amendment of r 5 (Application of rules to Magistrates Courts)	44
41	Amendment of ch 9, hdg	44
42	Insertion of new ch 9A	44
	Chapter 9A Disclosure obligation directions	
	43A Purpose and scope of ch 9A	44
	43B Definitions for ch 9A	45
	43C Procedure applying before filing of application for disclosure obligation direction	46
	43D Filing of application for disclosure obligation direction	47
	43E Disposal of application for disclosure obligation direction	48
43	Amendment of r 59 (Application of ch 14)	49
44	Amendment of r 62 (Verdict and judgment record).	49
45	Insertion of new ch 17	49
	Chapter 17 Transitional provisions	
	123 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010	50

Contents

46	Amendment of sch 6 (Dictionary)	50
Part 6	Amendment of District Court of Queensland Act 1967	
47	Act amended	51
48	Amendment of s 61 (Criminal jurisdiction if maximum penalty more than 14 years)	51
49	Amendment of s 68 (Civil jurisdiction)	52
50	Amendment of s 69 (Powers of District Court)	52
51	Amendment of s 75 (When a jury may be summoned)	53
52	Amendment of s 77 (Removal of proceedings from Supreme Court to District Court)	53
53	Amendment of s 78 (Removal of proceedings from the District Court to a Magistrates Court)	53
54	Amendment of s 118 (Appeal to the Court of Appeal in certain cases)	53
55	Insertion of new ss 145 and 146	54
	145 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010—civil jurisdiction	54
	146 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010—criminal jurisdiction	54
Part 7	Amendment of Drug Court Act 2000	
56	Act amended	55
57	Amendment of s 8 (What is a relevant offence)	55
58	Amendment of s 36 (Final sentence to be decided on completion or termination of rehabilitation program)	55
59	Amendment of s 37 (Immunity from prosecution)	55
60	Insertion of new pt 7, div 3	56
	Division 3 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010	
	52 Amendments apply only to prosecutions commenced after commencement	56
Part 8	Amendment of Drugs Misuse Act 1986	
61	Act amended	57
62	Insertion of new s 14	57
	14 Other offences that may be dealt with summarily if no commercial purpose alleged	57
63	Amendment of s 127 (No costs to be awarded)	58
64	Insertion of new pt 7, div 7	58

	Division 7	Provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010	
	142	New summary disposition provisions apply only to prosecutions commenced after commencement	59
Part 9		Amendment of Evidence Act 1977	
65		Act amended	59
66		Amendment of s 21AF (Evidence-in-chief).	60
Part 10		Amendment of Financial Accountability Act 2009	
67		Act amended	60
68		Amendment of s 97 (Treasurer's unclaimed moneys fund)	60
Part 11		Amendment of Justices Act 1886	
69		Act amended	61
70		Amendment of s 4 (Definitions)	61
71		Amendment of s 22C (Appointment of clerks of the court)	61
72		Insertion of new s 22D	61
	22D	Principal clerk of courts	62
73		Insertion of new ss 23EB and 23EC.	62
	23EB	Management by clerk of the court of charge pending finalisation of proceeding under ex officio indictment.	62
	23EC	Magistrate for other district or division authorised to grant bail may also adjourn a hearing for offence	64
74		Amendment of s 30 (Stipendiary magistrates)	64
75		Amendment of s 41 (Prosecution disclosure).	65
76		Amendment of s 52 (Limitation of proceedings).	65
77		Amendment of s 56 (Service of summonses)	66
78		Amendment of s 83A (Direction hearing)	66
79		Insertion of new s 83B and new pt 4, div 10B	67
	83B	Noncompliance with direction about disclosure	67
	Division 10B	Disclosure obligation directions	
	83C	Purpose and scope of div 10B	69
	83D	Definitions for div 10B.	69
	83E	Subject matter for disclosure obligation direction.	70
	83F	Application for disclosure obligation direction.	71
80		Amendment of s 84 (Remand of defendant)	72
81		Insertion of new s 88A	72
	88A	Use of verdict and judgment record	72

Contents

82	Amendment of s 102C (Application for dismissal of frivolous or vexatious complaints)	72
83	Amendment of s 102D (Appeal to Supreme Court from magistrate's decision)	72
84	Amendment of s 102E (Further proceedings on a dismissed or struck out complaint prohibited)	73
85	Insertion of new s 103B	73
	103B Magistrate supervisory role	73
86	Amendment of s 104 (Proceedings upon an examination of witnesses in relation to an indictable offence)	73
87	Amendment of s 110A (Use of tendered statements in lieu of oral testimony in committal proceedings)	74
88	Insertion of new ss 110B and 110C	77
	110B Special provisions applying to a direction under s 83A(5AA)	77
	110C Limitation on cross-examination	79
89	Insertion of new pt 5, div 7A	80
	Division 7A Registry committals	
	114 Registry committal by clerk of court	80
	115 Process of clerk of the court for registry committal	82
	116 Limited application of divs 5 to 7 for registry committals	83
	117 Application of registry committals to indictable offences under other Acts	84
90	Insertion of new s 130	84
	130 Division applies also to registry committals	85
91	Amendment of s 142A (Permissible procedure in absence of defendant in certain cases)	85
92	Insertion of new pt 11, div 5	85
	Division 5 Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010	
	276 Definitions for div 5	85
	277 Particular amendments apply only to charges originated after commencement	86
	278 Particular provisions apply to proceeding whenever commenced	87
	279 Existing appointment as principal clerk of courts continues	87
Part 12	Amendment of Magistrates Act 1991	
93	Act amended	88

Contents

114	Insertion of new pt 22.	95
	Part 22 Transitional Provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010	
	353 Amendments do not affect existing matters	95
Part 17	Amendment of Public Trustee Act 1978	
115	Act amended	96
116	Amendment of s 25 (Unclaimed moneys fund)	96
117	Amendment of s 98 (Definitions)	96
118	Amendment of s 99A (Public trustee’s register of unclaimed moneys)	97
119	Amendment of s 102 (Unclaimed moneys to be paid to public trustee)	97
120	Insertion of new s 102B	97
	102B Unclaimed moneys to be paid to public trustee— money held or received by the State	98
121	Amendment of s 115 (Unclaimed moneys to be credited to fund)	98
122	Amendment of s 117A (Treasurer to pay claimant)	98
Part 18	Amendment of Queensland Civil and Administrative Tribunal Act 2009	
123	Act amended	99
124	Amendment of s 50 (Decision by default for debt)	99
125	Amendment of ch 7, hdg (Transitional provisions)	99
126	Insertion of new ch 8	99
	Chapter 8 Validating provision for particular decisions by default	
	280 Declaration and validation concerning particular decisions by default	100
Part 19	Amendment of State Penalties Enforcement Act 1999	
127	Act amended	100
128	Amendment of s 106 (General effect of suspension of driver licence)	100
129	Amendment of s 150A (Registrar may write off unpaid fine or other amount)	101
130	Amendment of s 150B (Guidelines)	101
131	Insertion of new pt 10, div 6	101
	Division 6 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010	

	182	Effect of provision disqualifying person from holding or obtaining driver licence	102
Part 20		Amendment of Supreme Court of Queensland Act 1991	
132		Act amended	102
133		Insertion of new s 139	102
	139	Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010	102
Part 21		Amendment of Uniform Civil Procedure Rules 1999	
134		Rules amended	103
135		Amendment of ch 2, pt 6, div 1, hdg.	103
136		Amendment of r 33 (Central registry of Supreme Court)	103
137		Replacement of ch 2, pt 6, div 2, hdg.	103
138		Replacement of r 34 (Application of div 2)	103
	34	Application of div 2	104
139		Amendment of r 283 (Judgment by default—debt or liquidated demand)	104
140		Amendment of r 286 (Judgment by default—recovery of possession of land)	104
141		Insertion of new ch 24, pt 4	105
	Part 4	Provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010	
	999	Transitional provision	105
142		Amendment of sch 3 (Scale of costs—Magistrates Courts)	105
143		Amendment of sch 4 (Dictionary)	112
Part 22		Amendment of Workers' Compensation and Rehabilitation Act 2003	
144		Act amended	112
145		Amendment of s 546 (Notice of review decision)	112
146		Amendment of s 548A (Meaning of appeal body)	112
147		Amendment of s 550 (Procedure for appeal)	113
148		Amendment of s 566 (Decision about payment of compensation)	113
149		Insertion of new ch 26	113
	Chapter 26	Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010	
	663	Appeals commenced before amendment of s 548A.	113

Contents

Part 23	Amendment of Youth Justice Act 1992	
150	Act amended	114
151	Amendment of s 8 (Meaning of serious offence)	114
152	Amendment of s 78 (Procedural elections under this Act in relation to an indictable offence replace other elections)	115
153	Amendment of s 160 (Copy of court order or decision to be given to child, parent etc.)	115
154	Amendment of s 176 (Sentence orders—serious offences).	115
155	Insertion of new pt 11, div 8	116
	Division 8 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010	
352	Particular amended provisions apply only to prosecutions commenced after commencement	117



Queensland

Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010

Act No. 26 of 2010

An Act to amend the Bail Act 1980, the Body Corporate and Community Management Act 1997, the Criminal Code, the Criminal Practice Rules 1999, the District Court of Queensland Act 1967, the Drug Court Act 2000, the Drugs Misuse Act 1986, the Evidence Act 1977, the Financial Accountability Act 2009, the Justices Act 1886, the Magistrates Act 1991, the Magistrates Courts Act 1921, the Penalties and Sentences Act 1992, the Police Service Administration Act 1990, the Property Law Act 1974, the Public Trustee Act 1978, the Queensland Civil and Administrative Tribunal Act 2009, the State Penalties Enforcement Act 1999, the Supreme Court of Queensland Act 1991, the Uniform Civil Procedure Rules 1999, the Workers' Compensation and Rehabilitation Act 2003 and the Youth Justice Act 1992, to reform and modernise civil and criminal jurisdiction and for other particular purposes

[Assented to 13 August 2010]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*.

2 Commencement

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

Part 2 Amendment of Bail Act 1980

3 Act amended

This part amends the *Bail Act 1980*.

4 Amendment of s 15A (Applications for bail in special circumstances)

Section 15A(6)—

omit, insert—

- ‘(6) The magistrate may decide the application only if the magistrate is satisfied—
- (a) it was necessary to make the application by a remote communication device; and
 - (b) the particular form of communication used to make the application was appropriate.’.

5 Insertion of new s 15B

After section 15A—

insert—

‘15B Application for bail by remote communication device outside district or division

- ‘(1) This section applies if—
- (a) a police officer has refused to grant bail to a person under section 7 for an offence; and
 - (b) a Magistrates Court is authorised under this Act to grant bail to the person for the offence; and
 - (c) having regard to all the circumstances, the person may not reasonably or practicably be brought personally before a court; and
 - (d) a practice direction made by the Chief Magistrate provides for the making of an application for bail if the circumstances mentioned in paragraphs (a) to (c) apply.
- ‘(2) An application for bail may be made under section 15A, whether or not that section would otherwise apply, to a magistrate constituting a Magistrates Court outside the district or division in which the application would otherwise be required to be made.
- ‘(3) However, section 15A(6) does not apply to the deciding of the application.
- ‘(4) The application must comply with the practice direction.
- ‘(5) In this section—

district means a district appointed under the *Justices Act 1886* for the purposes of a Magistrates Court.

division means a division appointed under the *Justices Act 1886* for the purposes of a Magistrates Court.’.

6 Amendment of s 28A (Other warrants for apprehension of defendant)

Section 28A(1)(e), ‘or 34B(2)’—

[s 7]

omit, insert—

‘, 34B(2), 34BA(2) or 34BB(2), or varied under section 34BA(3) or 34BB(5)’.

7 Insertion of new ss 34BA and 34BB

After section 34B—

insert—

‘34BA Varying bail on registry committal

- ‘(1) This section applies if the clerk of the court at a place orders a person charged with an indictable offence to be committed to be tried or sentenced under a registry committal under the *Justices Act 1886*.
- ‘(2) The bail applying to the defendant immediately before the registry committal (the *summary bail*) is continued, and is taken to have been granted by the court (the *receiving court*) to which the defendant is committed for trial or sentence on the same conditions that applied immediately before the registry committal.
- ‘(3) However, the summary bail is taken to be varied to require the defendant to appear before the receiving court as required by the receiving court.
- ‘(4) Also, if the clerk of the court amends the charges under the *Justices Act 1886*, section 115(6), the summary bail is taken to be granted for the charges on which the defendant is committed for trial or sentence under the registry committal.
- ‘(5) An undertaking given for the purposes of the summary bail, including any promise of a surety, is, for the continuance of the summary bail, taken to have been given to the receiving court, and, to the greatest practicable extent, the provisions of this Act relating to undertakings continue to apply.

Example for subsection (4)—

The entitlement of a surety to apply to the receiving court for a discharge under section 23 (Application to court by surety for discharge) continues to apply.

‘34BB Varying bail for charge for indictable offence referred to clerk of the court under Justices Act 1886

‘(1) This section applies if a charge for an indictable offence is referred to the clerk of the court at a place under the *Justices Act 1886*, section 23EB.

Editor’s note—

Justices Act 1886, section 23EB (Management by clerk of the court of charge pending finalisation of proceeding under ex officio indictment)

‘(2) The bail applying to the defendant in relation to the charge (the **summary bail**) is continued, and is taken to have been granted by the court (the **receiving court**) in which the relevant indictment has been or is to be presented, on the same conditions that applied immediately before the referral of the charge to the clerk of the court.

‘(3) However, the summary bail is taken to be varied to require the defendant to appear before the receiving court as required by the receiving court.

‘(4) An undertaking given for the purposes of the summary bail, including any promise of a surety, is, for the continuance of the summary bail, taken to have been given to the receiving court, and, to the greatest practicable extent, the provisions of this Act relating to undertakings continue to apply.

Example for subsection (4)—

The entitlement of a surety to apply to the receiving court for a discharge under section 23 (Application to court by surety for discharge) continues to apply.

‘(5) If the clerk of the court, under the *Justices Act 1886*, section 23EB(3)(a)(ii), refers the charge back to the Magistrates Court, and the relevant indictment has not been presented, the bail is taken to be varied to require the defendant to appear at the time and place advised to the parties by the clerk of the court under the *Justices Act 1886*, section 23EB(6).

‘(6) In this section—

relevant indictment means the indictment mentioned in the *Justices Act 1886*, section 23EB(2)(b)(i) or (ii).’

- ‘(5) If—
- (a) a dispute resolution process has started for a debt dispute or a related dispute to a debt dispute; and
 - (b) a proceeding to recover the debt the subject of the debt dispute is subsequently started before QCAT or in a court of competent jurisdiction;
- the dispute resolution process is at an end.
- ‘(6) A dispute is a *related dispute* to a debt dispute if—
- (a) the subject matter of the dispute is related to the subject matter of the debt dispute; and
 - (b) there are proceedings in a court or before QCAT to recover the debt the subject of the debt dispute; and
 - (c) the commissioner considers that the dispute and the debt dispute are connected in a way that makes it inappropriate for the dispute to be dealt with by a dispute resolution process.
- ‘(7) In this section—
- debt dispute* means a dispute between a body corporate for a community titles scheme and the owner of a lot included in the scheme about the recovery, by the body corporate from the owner, of a debt under this Act.’

11 Amendment of s 241 (Rejecting application)

Section 241(1)—

insert—

- ‘(g) the subject of the application is a debt dispute, and a proceeding between the parties to the application has been started before QCAT or in a court of competent jurisdiction in relation to the subject matter of a debt dispute; or
- (h) the subject of the application is a related dispute to a debt dispute.’

[s 12]

12 Amendment of s 252H (Referral back to commissioner)

Section 252H(1)—

insert—

- ‘(f) the subject of the application is a debt dispute, and a proceeding between the parties to the application has been started before QCAT or in a court of competent jurisdiction in relation to the subject matter of a debt dispute; or
- (g) the subject of the application is a related dispute to a debt dispute.’.

13 Amendment of s 270 (Dismissal of applications)

Section 270(1)—

insert—

- ‘(f) the subject of the application is a debt dispute, and a proceeding between the parties to the application has been started before QCAT or in a court of competent jurisdiction in relation to the subject matter of a debt dispute; or
- (g) the subject of the application is a related dispute to a debt dispute.’.

14 Amendment of sch 6 (Dictionary)

Schedule 6—

insert—

‘debt dispute see section 229A(7).

related dispute, to a debt dispute, see section 229A(6).’.

[s 17]

- (a) an offence against any of the following provisions—
 - section 141
 - section 142
 - section 143
 - section 340;
 - (b) any offence involving an assault, not being of a sexual nature or accompanied by an attempt to commit a crime, if the maximum term of imprisonment for which the defendant is liable is more than 3 years but not more than 5 years;
 - (c) the offence of counselling or procuring the commission of an offence mentioned in paragraph (a) or (b);
 - (d) the offence of attempting to commit an offence mentioned in paragraph (a);
 - (e) the offence of becoming an accessory after the fact to an offence mentioned in paragraph (a).
- ‘(2) A charge to which this section applies must be heard and decided summarily if the prosecution elects to have the charge heard and decided summarily.
- ‘(3) This section is subject to section 552D.

‘552B Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial

- ‘(1) This section applies to a charge before a Magistrates Court of any of the following indictable offences—
- (a) an offence of a sexual nature without a circumstance of aggravation if—
 - (i) the complainant was 14 years of age or over at the time of the alleged offence; and
 - (ii) the defendant has pleaded guilty; and

-
- (iii) the maximum term of imprisonment for which the defendant is liable is more than 3 years;
 - (b) an offence against section 339(1);
 - (c) an offence involving an assault, other than an offence against section 339(1), if—
 - (i) the assault is—
 - (A) without a circumstance of aggravation; and
 - (B) is not of a sexual nature; and
 - (ii) the maximum term of imprisonment for which the defendant is liable is more than 3 years but not more than 7 years; and
 - (iii) a charge of the offence is not a charge to which section 552A applies;
 - (d) an offence against section 316A;
 - (e) an offence against section 328A(2);
 - (f) an offence against section 359E if the maximum term of imprisonment for which the defendant is liable is not more than 5 years;
 - (g) an offence against chapter 14, chapter division 2, if the maximum term of imprisonment for which the defendant is liable is more than 3 years;
 - (h) an offence against chapter 22A, if the maximum term of imprisonment for which the defendant is liable is more than 3 years;
 - (i) an offence against chapter 42A;
 - (j) the offence of counselling or procuring the commission of an offence mentioned in any of paragraphs (a) to (i);
 - (k) the offence of attempting to commit an offence mentioned in any of paragraphs (a) to (i), unless the offence is a relevant offence under section 552BA(4), definition *relevant offence*, paragraph (a);

[s 17]

- (l) the offence of becoming an accessory after the fact to an offence mentioned in any of paragraphs (a) to (i), unless the offence is a relevant offence under section 552BA(4), definition *relevant offence*, paragraph (a).
- ‘(2) A charge to which this section applies must be heard and decided summarily unless the defendant informs the Magistrates Court that he or she wants to be tried by jury.
- ‘(3) This section is subject to section 552D.

‘552BA Charges of indictable offences that must be heard and decided summarily

- ‘(1) This section applies to a charge before a Magistrates Court of any indictable offence against this Code if the offence is a relevant offence.
- ‘(2) A charge to which this section applies must be heard and decided summarily.
- ‘(3) This section is subject to section 552D.
- ‘(4) In this section—
relevant offence means—
 - (a) an offence against this Code, if the maximum term of imprisonment for which the defendant is liable is not more than 3 years; or
 - (b) an offence against part 6, other than—
 - (i) an offence mentioned in paragraph (a); or
 - (ii) an offence against chapter 42A; or
 - (iii) an offence that, under section 552BB, is an excluded offence.

‘552BB Excluded offences

- ‘(1) An offence is an *excluded offence* if the offence is—
 - (a) an offence against a provision listed in column 1 of the following table and—

-
- (i) no relevant circumstance is listed for the provision in column 3; or
 - (ii) both of the following apply—
 - (A) 1 or more relevant circumstances are listed for the provision in column 3;
 - (B) at least 1 of the relevant circumstances, or the relevant circumstance if only 1 relevant circumstance is listed, applies in relation to the offence; or
 - (b) the offence of—
 - (i) counselling or procuring the commission of an offence that is an excluded offence under paragraph (a); or
 - (ii) attempting to commit an offence that is an excluded offence under paragraph (a), unless the offence is a relevant offence under section 552BA(4), definition *relevant offence*, paragraph (a); or
 - (iii) becoming an accessory after the fact to an offence that is an excluded offence under paragraph (a), unless the offence is a relevant offence under section 552BA(4), definition *relevant offence*, paragraph (a).
- ‘(2) Column 2 of the following table gives the headings of the provisions mentioned in column 1, and is for information only.
- ‘(3) In this section—
prescribed value means \$30000.

[s 17]

Table of excluded offences

Column 1	Column 2	Column 3
Provision of Code	Provision heading	Relevant circumstance
section 398	Punishment of stealing	<ol style="list-style-type: none">1 The offender is liable to 14 years imprisonment under clause 1, the value of the yield to the offender, or the detriment caused, because of the stealing of the testamentary instrument is equal to or more than the prescribed value and the offender does not plead guilty.2 The total value of anything stolen, other than a testamentary instrument as mentioned in clause 1, and as provided for in the charge for the offence, is equal to or more than the prescribed value and the offender does not plead guilty.3 The offender is liable to imprisonment under clause 14 and a charge for the indictable offence mentioned in clause 14(b) is to be heard and decided on indictment or would be required to be heard and decided on indictment if the charge were laid.
section 399	Fraudulent concealment of particular documents	The offender is liable to 14 years imprisonment, the value of the yield to the offender, or the detriment caused, because of the concealment is equal to or more than the prescribed value and the offender does not plead guilty.
section 403	Severing with intent to steal	The value of the thing made moveable is equal to or more than the prescribed value and the offender does not plead guilty.
section 406	Bringing stolen goods into Queensland	The value of the property is equal to or more than the prescribed value and the offender does not plead guilty.
section 408A	Unlawful use or possession of motor vehicles, aircraft or vessels	<ol style="list-style-type: none">1 The value of the motor vehicle, aircraft or vessel is equal to or more than the prescribed value and the offender does not plead guilty.

Column 1 Provision of Code	Column 2 Provision heading	Column 3 Relevant circumstance
section 408C	Fraud	<p>2 The offender is liable to imprisonment for 10 years and a charge for the indictable offence mentioned in section 408A(1A) is to be heard and decided on indictment or would be required to be heard and decided on indictment if the charge were laid.</p> <p>3 The offender is liable to imprisonment for 12 years, the value of the destruction, damage, interference or detriment caused, or the value of the thing removed, (regardless of the value of the motor vehicle, aircraft or vessel involved) is equal to or more than the prescribed value and the offender does not plead guilty.</p> <p>The value of the property, the yield to the offender or the detriment caused is equal to or more than the prescribed value and the offender does not plead guilty.</p>
section 408E	Computer hacking and misuse	<p>The offender is liable to imprisonment for 10 years, the value of the detriment or damage caused, or benefit obtained, is equal to or more than the prescribed value and the offender does not plead guilty.</p>
chapter 38, other than sections 413 and 414	Stealing with violence—extortion by threats	
section 419(1)	Burglary	<p>1 The offender is liable to imprisonment for life under section 419(3)(b)(i) or (ii).</p> <p>2 The offender is liable to imprisonment for life under section 419(3)(b)(iv), the value of any damage caused to property is equal to or more than the prescribed value and the offender does not plead guilty.</p>

[s 17]

Column 1	Column 2	Column 3
Provision of Code	Provision heading	Relevant circumstance
section 419(4)	Burglary	A charge for the indictable offence mentioned in section 419(4) is to be heard and decided on indictment or would be required to be heard and decided on indictment if the charge were laid. For example, if the indictable offence committed in the dwelling entered by the offender is stealing, the total value of what is stolen is equal to or more than the prescribed value and the offender does not plead guilty to the stealing, a charge for the offence of stealing would be required to be heard and decided on indictment, and accordingly, the offence of entering the dwelling in contravention of section 419(4) would be an excluded offence.
section 421(2)	Entering or being in premises and committing indictable offences	A charge for the indictable offence mentioned in section 421(2) is to be heard and decided on indictment or would be required to be heard and decided on indictment if the charge were laid.
section 421(3)	Entering or being in premises and committing indictable offences	<ol style="list-style-type: none"> 1 A charge for the indictable offence mentioned in section 421(3) is to be heard and decided on indictment or would be required to be heard and decided on indictment if the charge were laid. 2 The value of any damage caused by the break is equal to or more than the prescribed value and the offender does not plead guilty.
section 427	Unlawful entry of vehicle for committing indictable offence	<ol style="list-style-type: none"> 1 The offender is liable to imprisonment for 14 years under section 427(2)(b)(i) or (ii). 2 The offender is liable to imprisonment for 14 years under section 427(2)(b)(iv), the value of any damage caused to property is equal to or more than the prescribed value and the offender does not plead guilty.

Column 1	Column 2	Column 3
Provision of Code	Provision heading	Relevant circumstance
section 430	Fraudulent falsification of records	The value of the yield to the offender because of the act or omission mentioned in section 430(a), (b), (c), (d) or (e), or the value of the detriment caused by that act or omission, is equal to or more than the prescribed value and the offender does not plead guilty.
section 433	Receiving tainted property	The value of the tainted property is equal to or more than the prescribed value and the offender does not plead guilty.
section 435	Taking reward for recovery of property obtained by way of indictable offences	The value of the benefit mentioned in section 435(b) is equal to or more than the prescribed value and the offender does not plead guilty.
chapter 44	Offences analogous to stealing relating to animals	The value of the animal the subject of the offence is equal to or more than the prescribed value and the offender does not plead guilty.
section 461	Arson	
section 462	Endangering particular property by fire	
section 463	Setting fire to crops and growing plants	
section 467	Endangering the safe use of vehicles and related transport infrastructure	
section 468	Injuring animals	The offender is liable to imprisonment for 7 years, the value of the animal the subject of the offence is equal to or more than the prescribed value and the offender does not plead guilty.
section 469	Wilful damage	The offender is liable to punishment under clause 1 (Destroying or damaging premises by explosion), 2 (Sea walls and other property), 5 (Railways), 6 (Aircraft) or 7 (Other things of special value).
section 469A	Sabotage and threatening sabotage	

[s 17]

Column 1	Column 2	Column 3
Provision of Code	Provision heading	Relevant circumstance
section 470	Attempts to destroy property by explosives	
section 471	Damaging mines	The value of the damage or interference caused is equal to or more than the prescribed value and the offender does not plead guilty.
section 472	Interfering with marine signals	The value of any damage or detriment directly attributable to the commission of the offence, including, for example, economic loss arising from disruption to shipping, is equal to or more than the prescribed value and the offender does not plead guilty.
section 473	Interfering with navigation works	The value of any damage or detriment directly attributable to the commission of the offence, including, for example, economic loss arising from disruption to shipping, is equal to or more than the prescribed value and the offender does not plead guilty.
section 474	Communicating infectious diseases to animals	The value of the animal or animals the subject of the offence is equal to or more than the prescribed value and the offender does not plead guilty.
section 488	Forgery and uttering	The offender is liable to 7 years or 14 years imprisonment, the value of the yield to the offender, or the detriment caused, involved in the forgery or uttering is equal to or more than the prescribed value and the offender does not plead guilty.
section 498	Falsifying warrants for money payable under public authority	The value of the yield to the offender, or the detriment caused, involved in the making out or delivering of the warrant is equal to or more than the prescribed value and the offender does not plead guilty.
section 514	Personation in general	The offender is liable to imprisonment for 14 years, the value of the property mentioned in section 514(2) is equal to or more than the prescribed value and the offender does not plead guilty.’

18 Amendment of s 552D (When Magistrates Court must abstain from jurisdiction)

(1) Section 552D(1), ‘552A or 552B’—

omit, insert—

‘552A, 552B or 552BA’.

(2) Section 552D(2)—

renumber as section 552D(3).

(3) Section 552D—

insert—

‘(2) A Magistrates Court must abstain from dealing summarily with a charge under section 552BA if satisfied, on an application made by the defence, that because of exceptional circumstances the charge should not be heard and decided summarily.

Examples of exceptional circumstances—

- 1 There is sufficient connection between the offence the subject of the charge, and other offences allegedly committed by the defendant and to be tried on indictment, to allow all the offences to be tried together.
- 2 There is an important issue of law involved.
- 3 An issue of general community importance or public interest is involved, or the holding of a trial by jury is justified in order to establish contemporary community standards.’.

19 Amendment of s 552E (Charge may be heard and decided where defendant arrested or served)

Section 552E, ‘or 552B’—

omit, insert—

‘, 552B or 552BA’.

20 Amendment of s 552F (Time for prosecution)

Section 552E, ‘or 552B’—

[s 21]

omit, insert—
, 552B or 552BA’.

21 Amendment of s 552G (Value of property affecting jurisdiction to be decided by Magistrates Court)

Section 552G, ‘552B’—

omit, insert—
‘552BB’.

22 Amendment of s 552H (Maximum penalty for indictable offences dealt with summarily)

Section 552H(1), ‘or 552B’—

omit, insert—
, 552B or 552BA’.

23 Amendment of s 552J (Appeals against decision to decide charge summarily)

Section 552J(1), ‘or 552B’—

omit, insert—
, 552B or 552BA’.

24 Amendment of s 590AA (Pre-trial directions and rulings)

Section 590AA(2)(ba)—

omit, insert—
‘(ba) disclosure under chapter division 3 or 4; or’.

25 Insertion of new s 590AAA

Chapter 62, chapter division 2, after section 590AA—
insert—

‘590AAA Noncompliance with direction about disclosure

- ‘(1) If it appears to the court that a person (the *directed person*) has not complied with a direction given under section 590AA(2)(ba), the court may order the directed person to file an affidavit, or give evidence in court, explaining and justifying the failure to comply.
- ‘(2) If the court requires the directed person to file an affidavit, a copy of the affidavit must be served on the person for whose benefit the direction was given (the *affected person*).
- ‘(3) An order under subsection (1) may be made—
- (a) on the court’s own initiative; or
 - (b) on the application of the affected person.
- ‘(4) If the court is not satisfied the directed person’s affidavit or evidence satisfactorily explains and justifies the noncompliance, the court may—
- (a) adjourn the proceeding to allow enough time for—
 - (i) the directed person to comply with the direction; and
 - (ii) the affected person to consider anything disclosed under the direction and take any necessary further action; and
 - (b) if the court is satisfied that the noncompliance was unjustified, unreasonable or deliberate—make, in relation to the adjournment, an award in favour of the affected person of an amount of costs the court considers just and reasonable; and
 - (c) if an award of costs is made under paragraph (b)—fix a time for the amount to be paid.
- ‘(5) This section does not limit the court’s power otherwise to deal with a failure to comply with a direction, including, for example, any power in the court to punish for contempt.
- ‘(6) The directed person is not excused from failing to file an affidavit or give evidence under this section on the ground that an affidavit or evidence explaining and justifying a failure to

[s 26]

comply with the direction given under section 590AA(2)(ba) might tend to incriminate the directed person because the directed person would be required to admit to the failure to comply.

- ‘(7) However, the affidavit or evidence is not admissible against the directed person in a criminal proceeding or a proceeding for contempt.
- ‘(8) Subsection (7) does not stop the affidavit or evidence from being admissible against the person—
- (a) in a perjury proceeding in relation to the affidavit or evidence; or
 - (b) for the purposes of making an order under subsection (4).
- ‘(9) In this section—

direction includes ruling.

perjury proceeding, in relation to an affidavit or evidence, means a proceeding in which the falsity or misleading nature of the affidavit or evidence is relevant.’.

26 Amendment of s 590AC (Chapter division does not have particular consequences)

- (1) Section 590AC(1)(a), ‘the disclosure of a thing it is unlawful to disclose’—
omit, insert—
‘disclosure that is unlawful’.
- (2) Section 590AC(1)(b), ‘a thing’—
omit, insert—
‘anything’.

27 Amendment of s 590AD (Definitions for ch div 3)

Section 590AD, definition *prescribed summary trial*—
omit, insert—

'prescribed summary trial' means a summary trial of—

- (a) a charge for an indictable offence that must be heard and decided summarily under section 552BA; or
- (b) a charge for an indictable offence if, under section 552A, the prosecution has elected that the charge be heard and decided summarily; or
- (c) a charge for an indictable offence to which section 552B applies unless the defendant has informed the Magistrates Court that he or she wants to be tried by jury; or
- (d) a charge for an indictable offence against a provision of the *Drugs Misuse Act 1986*, if—
 - (i) under that Act, proceedings for the charge may be taken summarily; and
 - (ii) the prosecution has elected that proceedings for the charge be taken summarily; or
- (e) a charge for an offence prescribed under a regulation for this definition.’.

28 Amendment of s 590AH (Disclosure that must always be made)

Section 590AH(2)—

omit, insert—

- ‘(2) For a relevant proceeding, the prosecution must give the accused person each of the following—
- (a) a copy of the bench charge sheet, complaint or indictment containing the charge against the person;
 - (b) a copy of the accused person’s criminal history in the possession of the prosecution;
 - (c) a copy of any statement of the accused person in the possession of the prosecution;
 - (d) for each proposed witness for the prosecution who is, or may be, an affected child—a written notice naming the

[s 28]

witness and describing why the proposed witness is, or may be, an affected child;

(e) for each proposed witness for the prosecution other than a proposed witness mentioned in paragraph (d)—

(i) a copy of any statement of the witness in the possession of the prosecution; or

Example—

a statement made by a proposed witness for the prosecution in an audio recording of an interview

(ii) if there is no statement of the witness in the possession of the prosecution—a written notice naming the witness;

(f) if the prosecution intends to adduce evidence of a representation under the *Evidence Act 1977*, section 93B, a written notice stating that intention and the matters mentioned in section 590C(2)(b) to (d);

(g) a copy of any report of any test or forensic procedure relevant to the proceeding in the possession of the prosecution;

Examples of a forensic procedure—

DNA, fingerprint or another scientific identification procedure

(h) a written notice describing any test or forensic procedure, including a test or forensic procedure that is not yet completed, on which the prosecution intends to rely at the proceeding;

(i) a written notice describing any original evidence on which the prosecution intends to rely at the proceeding;

(j) a copy of anything else on which the prosecution intends to rely at the proceeding;

(k) a written notice or copy of anything else in possession of the prosecution prescribed under a regulation.’

29 Amendment of s 590AI (When mandatory disclosure must be made)

- (1) Section 590AI(2)(a), ‘before evidence starts to be heard at the relevant proceeding’—

omit, insert—

‘before the date set by the court for the commencement of the hearing of evidence’.

- (2) Section 590AI(3)—

insert—

‘Note—

An administrative arrangement made under section 706A (Development of administrative arrangements) might provide for the prosecution’s agreement to a form of staged disclosure that will ensure an accused person is provided with at least part of the material that must be disclosed under section 590AH within a period stated in the arrangement that is shorter than the period stated in subsection (2).’.

- (3) Section 590AI—

insert—

- ‘(5) If the relevant proceeding is a committal proceeding, the court may set a date to have effect under subsection (2)(a) as the date for the commencement of hearing of evidence in the proceeding even if, having regard to the *Justices Act 1886*, section 110A, it will or may be the case that no witness will appear at the proceeding to give oral evidence.’.

30 Amendment of s 590AK (When requested disclosure must be made)

Section 590AK(1)(b)(ii) and (iii), ‘a thing’—

omit, insert—

‘the thing’.

[s 31]

31 Amendment of s 590AN (Limit on disclosure of things accused person already has)

Section 590AN, ‘any thing’—

omit, insert—

‘anything’.

32 Amendment of s 590AO (Limit on disclosure of sensitive evidence)

(1) Section 590AO(7)—

renumber as section 590AO(8).

(2) Section 590AO—

insert—

‘(7) If, under subsection (5), the court directs the prosecution to give the accused person a copy of the thing, the court may also direct that the accused person return the copy of the thing to the prosecution within the period stated in the direction to the accused person.’.

33 Amendment of s 590AS (Viewing particular evidence)

Section 590AS(1), ‘590AH(2)(e)’—

omit, insert—

‘590AH(2)(i)’.

34 Amendment of s 590AV (Disclosure directions)

Section 590AV, heading, after ‘directions’—

insert—

‘**under particular provisions**’.

35 Insertion of new ch 62, ch div 4A

After section 590C—

insert—

‘Chapter division 4A Disclosure obligation directions

‘590D Purpose and scope of ch div 4A

- ‘(1) This chapter division makes particular provision for disclosure obligation directions.
- ‘(2) This chapter division does not affect—
 - (a) any other power a court has in relation to a failure to comply with a disclosure obligation, including, for example, to exclude evidence if it would be unfair to an accused person to admit the evidence; or
 - (b) any other action that may be taken against a party in relation to a failure to comply with a disclosure obligation.
- ‘(3) This chapter division does not limit the making of practice directions by the Chief Justice or Chief Judge about disclosure in a proceeding.

‘590E Definitions for ch div 4A

‘In this chapter division—

arresting officer has the same meaning it has in chapter division 3.

disclosure obligation means—

- (a) the obligation of the prosecution, for the purposes of a relevant proceeding under chapter division 3, to comply with the requirements of that chapter division for disclosure, other than the obligation to comply with a disclosure direction as defined in section 590AV; or

[s 35]

- (b) the obligation of an accused person to comply with requirements of chapter division 4 for disclosure.

disclosure obligation direction means a direction or ruling under section 590AA(2)(ba), to the extent it relates to compliance with a disclosure obligation.

party, to a proceeding, means—

- (a) an accused person who is charged with an offence the subject of the proceeding; or
- (b) the prosecution in relation to an offence the subject of the proceeding.

prosecution has the same meaning it has in chapter division 3.

‘590F Subject matter for disclosure obligation direction

- ‘(1) A disclosure obligation direction may provide for any of the following—
 - (a) whether a party to a proceeding has a disclosure obligation in relation to another party to the proceeding;
 - (b) requiring that a particular thing must be disclosed;
 - (c) allowing the court to inspect a particular thing to decide whether the court should further direct that a party has a disclosure obligation in relation to the thing;
 - (d) allowing the court to examine the arresting officer to decide whether the prosecution has a disclosure obligation in relation to a particular thing;
 - (e) requiring that the arresting officer file an affidavit to allow the court to decide whether the prosecution has a disclosure obligation in relation to a particular thing;
 - (f) allowing the accused person or a lawyer acting for the accused person to cross-examine the arresting officer on an affidavit mentioned in paragraph (e) to allow the court to decide whether the prosecution has a disclosure obligation in relation to a particular thing;

-
- (g) how a disclosure obligation is to be complied with in a particular case;
 - (h) setting a timetable for compliance with a disclosure obligation.
- ‘(2) Subsection (1) does not limit section 590AA(2)(ba).
- ‘(3) The court may make a disclosure obligation direction on the conditions, whether about the circumstances of disclosure or otherwise, it considers appropriate.
- ‘(4) If a date is set for the commencement of the hearing of evidence in the proceeding, any examination or cross-examination allowed for in a disclosure obligation direction must be conducted before that date.
- ‘(5) If a person is examined by the court as provided for in subsection (1)(d), required to file an affidavit as provided for in subsection (1)(e) or cross-examined as provided for in subsection (1)(f), the person is not excused from failing to answer a question or file an affidavit on the ground that the answer or affidavit might tend to incriminate the person because the person would be required to admit to a failure to comply with a disclosure obligation.
- ‘(6) However, the answer or affidavit is not admissible against the person in a criminal proceeding, other than a perjury proceeding in relation to the answer or affidavit.
- ‘(7) In this section—
- perjury proceeding*, in relation to an answer or affidavit, means a proceeding in which the falsity or misleading nature of the answer or affidavit is relevant.

‘590G Application for disclosure obligation direction

- ‘(1) The procedures applying in relation to an application under section 590AA(1) by a party to a proceeding for a disclosure obligation direction are stated in the *Criminal Practice Rules 1999*, chapter 9A.

[s 36]

- ‘(2) To the greatest practicable extent, the procedures apply in addition to, and do not limit, the procedures applying under the *Criminal Practice Rules 1999*, chapter 9.
- ‘(3) The existence of the procedures mentioned in subsection (1) is not intended to stop either party to a proceeding from writing to, or otherwise communicating information to, the other party to resolve issues arising over a disclosure obligation.’

36 Amendment of s 651 (Court may decide summary offences if a person is charged on indictment)

Section 651(7), definition *summary offence*—

insert—

- ‘(c) an indictable offence against this Code if, under section 552A, the prosecution has elected to have a charge for the offence heard and decided summarily; or
- (d) an indictable offence against this Code if, under section 552BA, the charge for the offence must be heard and decided summarily.’

37 Insertion of new s 706A

Chapter 71—

insert—

‘706A Development of administrative arrangements

- ‘(1) An administrative arrangement can not affect—
 - (a) any power of a court, including any inherent power, to give a direction or make an order in a particular case, or generally; or
 - (b) the judicial independence of any court or judicial officer.
- ‘(2) However, a practice direction may be made to give effect to an administrative arrangement.
- ‘(3) In this section—

administrative arrangement means an arrangement entered into between 2 or more relevant agencies for the development of compatible business and operating processes to facilitate the efficient and timely resolution of proceedings under relevant laws.

relevant agency means any of the following—

- (a) the chief executive;
- (b) the chief executive (corrective services);
- (c) the chief executive of the department in which the *Youth Justice Act 1992* is administered;
- (d) the commissioner of the police service;
- (e) the director of public prosecutions;
- (f) the Chief Magistrate under the *Magistrates Act 1991*;
- (g) the Chief Judge of the District Court of Queensland under the *District Court of Queensland Act 1967*;
- (h) the Chief Justice of Queensland;
- (i) the chief executive officer, Legal Aid Queensland;
- (j) the president of the Queensland Law Society Incorporated;
- (k) the president of the Bar Association of Queensland;
- (l) if nominated by the chief executive—the chief executive officer of a publicly funded, non-profit corporation whose primary purpose as a corporation is to provide legal services to Aboriginal and Torres Strait Islander people.

relevant law means any of the following—

- (a) any law that includes provisions relating to criminal procedure, including in particular this Code and the *Justices Act 1886*;
- (b) any other law that operates in conjunction with, or whose operation is otherwise associated with, the operation of a law mentioned in paragraph (a);

[s 38]

- (c) practice directions relating to criminal practice and procedure for the purposes of the operation of a law mentioned in paragraph (a).’

38 Insertion of new ch 87

Part 9—

insert—

‘Chapter 87 Transitional provisions for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010

‘724 Definitions for ch 87

‘In this chapter—

amending Act means the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*.

originating step, for a proceeding, means—

- (a) the arrest of the defendant in the proceeding; or
- (b) the making of a complaint under the *Justices Act 1886*, section 42 in relation to the defendant in the proceeding; or
- (c) the serving of a notice to appear on the defendant in the proceeding under the *Police Powers and Responsibilities Act 2000*, section 382.

‘725 New disclosure provisions apply only to prosecutions commenced after commencement

- ‘(1) Chapter 62, chapter divisions 2, 3, 4 and 4A, as amended or inserted by the amending Act, apply to a proceeding for an offence only if an originating step for the proceeding is taken on or after the commencement of this section.

‘(2) For subsection (1), it does not matter when the offence was committed.

‘726 New summary disposition provisions apply only to prosecutions commenced after commencement

‘(1) Chapter 58A, as amended by the amending Act, applies in relation to a charge for an offence only if an originating step for the proceeding for the charge is taken on or after the commencement of this section.

‘(2) For subsection (1), it does not matter when the offence was committed.

‘(3) Subsection (4) applies if—

(a) an originating step for a proceeding for a charge for an old offence is taken against a person on or after the commencement of this section in relation to circumstances that happened before the repeal of the provision providing for the old offence; and

(b) the proceeding for the old offence is not prevented under section 11(1).

‘(4) The issue of whether the charge for the old offence must be heard and decided summarily must, to the greatest practicable extent, be decided according to whether a charge for the new offence could be, or would be required to be, heard and decided summarily.

‘(5) In this section—

new offence means the offence that, for the purposes of section 11(1), is the offence under the law in force at the time when the person is charged with the old offence.

old offence means an offence against a provision of this Code that was repealed at any time before the commencement of this section.’.

- (b) a party to a relevant proceeding seeking, at a direction hearing under the *Justices Act 1886*, section 83A, a disclosure obligation direction.

‘43B Definitions for ch 9A

‘In this chapter—

applicant means a party to a proceeding who—

- (a) applies for a disclosure obligation direction under the Code, section 590AA(1); or
- (b) seeks, at a direction hearing under the *Justices Act 1886*, section 83A, a disclosure obligation direction.

applicant’s communication means the applicant’s communication to the respondent under rule 43C.

disclosure obligation means a disclosure obligation under—

- (a) the Code, chapter 62, chapter division 4A; or
- (b) the *Justices Act 1886*, part 4, division 10B.

disclosure obligation direction means a disclosure obligation direction under—

- (a) the Code, chapter 62, chapter division 4A; or
- (b) the *Justices Act 1886*, part 4, division 10B.

nominated time see rule 43C(2)(d).

party, to a proceeding, means—

- (a) an accused person who is charged with an offence the subject of the proceeding; or
- (b) the prosecution in relation to an offence the subject of the proceeding.

prosecution has the same meaning it has for the Code, chapter 62, chapter division 3.

relevant proceeding means a relevant proceeding under the Code, chapter 62, chapter division 3.

[s 42]

respondent means a party to a proceeding against whom a disclosure obligation direction is sought.

respondent's response means the respondent's response under rule 43C.

‘43C Procedure applying before filing of application for disclosure obligation direction

- ‘(1) This rule provides for the procedures that apply before the filing of an application for a disclosure obligation direction.
- ‘(2) The applicant must, by letter, or by email or some other electronic form of written communication—
- (a) advise the respondent of the following—
 - (i) what the applicant says the respondent should have done, but has not done, in relation to the disclosure obligation that is to be the subject of the disclosure obligation direction to be sought by the applicant;
 - (ii) the disclosure obligation direction to be sought by the applicant; and
 - (b) give the respondent a brief statement about what the applicant considers the respondent should give the applicant to satisfy the applicant that the respondent has complied with the disclosure obligation; and
 - (c) advise the respondent whether the applicant is asking for the court—
 - (i) to require the parties to the proceeding to attend before the court and make oral submissions in relation to the application; or
 - (ii) to decide the application based on the material to be placed before the court in the absence of the parties; and
 - (d) nominate a time (the *nominated time*) for the respondent to respond to the applicant's communication.
- ‘(3) The nominated time must be—

-
- (a) the time set by the court or by a practice direction; or
 - (b) if there is no time set by the court or by a practice direction—a time that is reasonable in the circumstances, but in any event not less than 7 days.
- ‘(4) The response must—
- (a) state that the response is a response to the applicant’s communication; and
 - (b) advise the applicant of what the respondent intends to do in response to the applicant’s communication; and
 - (c) advise the applicant whether the respondent wishes the court—
 - (i) to require the parties to the proceeding to attend before the court and make oral submissions in relation to the application; or
 - (ii) to decide the application based on the material to be placed before the court in the absence of the parties.

‘43D Filing of application for disclosure obligation direction

- ‘(1) The applicant may file the application for a disclosure obligation direction if—
- (a) the applicant receives a respondent’s response but the response is not satisfactory to the applicant; or
 - (b) the applicant does not receive a respondent’s response within the nominated time.
- ‘(2) The applicant must file all of the following documents with the application—
- (a) a copy of the applicant’s communication;
 - (b) if the respondent gave a respondent’s response—a copy of the response;
 - (c) a copy of any other relevant correspondence exchanged between the applicant and the respondent.

[s 42]

- ‘(3) The application must be filed, and served on each other party to the relevant proceeding—
- (a) if the relevant proceeding is a prescribed summary trial or a committal proceeding as mentioned in the Code, section 590AD, definition *relevant proceeding*—not later than the day before the date set by the court for the commencement of the hearing of evidence in the proceeding; or
 - (b) if the relevant proceeding is a trial on indictment as mentioned in the Code, section 590AD, definition *relevant proceeding*—
 - (i) if the trial starts less than 28 days after presentation of the indictment—before evidence starts to be heard at the trial; or
 - (ii) otherwise—not more than 28 days after presentation of the indictment.
- ‘(4) Unless the court otherwise directs, the material before the court in relation to an application for a disclosure obligation direction must include the application for the disclosure obligation direction and the documents mentioned in subrule (2).

‘43E Disposal of application for disclosure obligation direction

‘The court may dispose of an application for a disclosure obligation direction without requiring the parties to the proceeding to attend before the court, and without oral submissions being made, unless the applicant has, in the applicant’s communication, or the respondent has, in the respondent’s response, stated that the party wishes to make an oral submission in relation to the application.’.

43 Amendment of r 59 (Application of ch 14)

Rule 59—

insert—

‘(3) Rule 62 also applies to a proceeding in a Magistrates Court.’.

44 Amendment of r 62 (Verdict and judgment record)

(1) Rule 62(2)(c), after ‘judge’—

insert—

‘, magistrate or justice’.

(2) Rule 62(3)—

omit, insert—

‘(3) A copy of the record must be given to the chief executive (corrective services) if—

(a) an Act provides for it to be given; or

(b) the person is being committed into, or remanded in, custody; or

(c) the record is otherwise relevant to the functions and powers of the chief executive (corrective services).’.

(3) Rule 62—

insert—

‘(5) The proper officer may amend the record if it is inaccurate in any respect and, if a copy of an inaccurate record has been given to the chief executive (corrective services), the proper officer must replace the copy with a copy of the record as amended.’.

45 Insertion of new ch 17

After rule 122—

insert—

‘Chapter 17 Transitional provisions

‘123 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010

- ‘(1) On the commencement of this rule, rules 59 and 62, and schedule 6, definition *court*, as amended by the amending Act, and the relevant rule 5 amendment, have effect in relation to a proceeding, regardless of when the proceeding was commenced.
- ‘(2) To remove any doubt, it is declared that chapter 9A, as inserted by the amending Act, applies to a proceeding only if the Criminal Code, chapter 62, chapter division 4A or the *Justices Act 1886*, part 4, division 10B applies to the proceeding.
- ‘(3) In this rule—
- amending Act* means the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*.
- relevant rule 5 amendment* means the amendment of rule 5 by the amending Act to the extent the amendment inserts a reference to chapter 14.’

46 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *chief executive (corrective services)* and *respondent*—
- omit.*
- (2) Schedule 6—
- insert—*
- ‘*applicant*, for chapter 9A, see rule 43B.
- applicant’s communication*, for chapter 9A, see rule 43B.
- disclosure obligation*, for chapter 9A, see rule 43B.
- disclosure obligation direction*, for chapter 9A, see rule 43B.

[s 49]

omit, insert—

‘20 years’.

- (2) Section 61(1) and (2), ‘14 years’—

omit, insert—

‘20 years’.

- (3) Section 61(2)(b), ‘210(3) or (4),’—

omit.

- (4) Section 61(2)(b), ‘398, 409,’—

omit.

49 Amendment of s 68 (Civil jurisdiction)

- (1) Section 68(2), definition *monetary limit*, ‘\$250000’—

omit, insert—

‘\$750000’.

- (2) Section 68(3)(b), ‘in the case of proceedings falling within subsection (1)(b)(iii), (xi) or (xii)—’—

omit.

50 Amendment of s 69 (Powers of District Court)

- (1) Section 69(1), after ‘authorities of the Supreme Court,’—

insert—

‘including the powers and authorities conferred on the Supreme Court by an Act,’.

- (2) Section 69(1)—

insert—

‘Example of power conferred on the Supreme Court by an Act—

the power of the Supreme Court under the *Land Title Act 1994*, section 127 (Removing a caveat) to order that a caveat be removed’.

51 Amendment of s 75 (When a jury may be summoned)

(1) Section 75(a), (b) and (c), ‘\$10000’—

omit, insert—

‘the Magistrates Courts jurisdictional limit’.

(2) Section 75—

insert—

‘(2) In this section—

Magistrates Courts jurisdictional limit means the amount applying under the *Magistrates Courts Act 1921*, section 4(a), as the limit of the amount claimed in a personal action.’.

52 Amendment of s 77 (Removal of proceedings from Supreme Court to District Court)

Section 77—

insert—

‘(7) The reference in subsection (1)(b) to an Act amending the jurisdiction of the District Court does not include reference to the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*.’.

53 Amendment of s 78 (Removal of proceedings from the District Court to a Magistrates Court)

Section 78—

insert—

‘(7) The reference in subsection (1)(b) to an Act amending the jurisdiction of Magistrates Courts does not include reference to the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*.’.

54 Amendment of s 118 (Appeal to the Court of Appeal in certain cases)

Section 118(2), after ‘final’—

[s 55]

insert—

‘or interlocutory’.

55 Insertion of new ss 145 and 146

After section 144—

insert—

‘145 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010—civil jurisdiction

‘Sections 68, 75 and 118, as amended by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*, apply only to actions, matters or proceedings commenced after the commencement of this section.

‘146 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010—criminal jurisdiction

- ‘(1) Section 61, as amended by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*, applies in relation to a charge for an offence only if an originating step for the proceeding for the charge is taken on or after the commencement of this section.
- ‘(2) For subsection (1), it does not matter when the offence was committed.
- ‘(3) In this section—
- originating step***, for a proceeding, means—
- (a) the arrest of the defendant in the proceeding; or
 - (b) the making of a complaint under the *Justices Act 1886*, section 42 in relation to the defendant in the proceeding; or
 - (c) the serving of a notice to appear on the defendant in the proceeding under the *Police Powers and Responsibilities Act 2000*, section 382.’.

Part 7 **Amendment of Drug Court Act 2000**

56 Act amended

This part amends the *Drug Court Act 2000*.

57 Amendment of s 8 (What is a *relevant offence*)

Section 8(1)(b)—

omit, insert—

‘(b) an indictable offence being dealt with summarily;

Examples of provisions requiring or permitting indictable offences to be dealt with summarily—

- Criminal Code, section 552A (Charges of indictable offences that must be heard and decided summarily on prosecution election)
- Criminal Code, section 552B (Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial)
- Criminal Code, section 552BA (Charges of indictable offences that must be heard and decided summarily)
- *Drugs Misuse Act 1986*, section 13 (Certain offences may be dealt with summarily) or 14 (Other offences that may be dealt with summarily if no commercial purpose alleged)’.

58 Amendment of s 36 (Final sentence to be decided on completion or termination of rehabilitation program)

Section 36(4), note, ‘552A or 552B’—

omit, insert—

‘552A, 552B or 552BA’.

59 Amendment of s 37 (Immunity from prosecution)

(1) Section 37(3)(b), ‘552B’—

[s 60]

omit, insert—

‘552A, 552B or 552BA’.

- (2) Section 37(3)(b), ‘13’—

omit, insert—

‘13 or 14’.

- (3) Section 37(3)—

insert—

‘Editor’s note—

Criminal Code, section 552A (Charges of indictable offences that must be heard and decided summarily on prosecution election), 552B (Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial) or 552BA (Charges of indictable offences that must be heard and decided summarily) or *Drugs Misuse Act 1986*, section 13 (Certain offences may be dealt with summarily) or 14 (Other offences that may be dealt with summarily if no commercial purpose alleged)’.

60 Insertion of new pt 7, div 3

After section 51—

insert—

‘Division 3 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010

‘52 Amendments apply only to prosecutions commenced after commencement

- ‘(1) Sections 8 and 37, as amended by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*, apply in relation to a charge for an offence only if an originating step for the proceeding for the charge is taken on or after the commencement of this section.

[s 63]

Note—

It is open to the director of public prosecutions to issue guidelines for deciding whether to take proceedings summarily under subsection (1). (See the *Director of Public Prosecutions Act 1984*, section 11 (Powers of director).)

- ‘(2) Proceedings may not be taken summarily if the prosecution alleges that the possession the subject of the charge was for a commercial purpose.
- ‘(3) A person against whom proceedings are taken summarily under this section is liable, on conviction, to not more than 3 years imprisonment.’.

63 Amendment of s 127 (No costs to be awarded)

Section 127—

insert—

- ‘(2) Subsection (1) does not apply to costs awarded under a relevant provision in relation to a failure to comply with a direction about disclosure.
- ‘(3) In this section—
relevant provision means—
 - (a) the Criminal Code, section 590AAA; or
 - (b) the *Justices Act 1886*, section 83B.’.

64 Insertion of new pt 7, div 7

After section 141—

insert—

**‘Division 7 Provision for Civil and Criminal
Jurisdiction Reform and
Modernisation Amendment Act
2010**

**‘142 New summary disposition provisions apply only to
prosecutions commenced after commencement**

- ‘(1) Section 14, as inserted by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*, applies in relation to a charge for an offence only if an originating step for the proceeding for the charge is taken on or after the commencement of this section.
- ‘(2) For subsection (1), it does not matter when the offence was committed.
- ‘(3) In this section—
originating step, for a proceeding, means—
- (a) the arrest of the defendant in the proceeding; or
 - (b) the making of a complaint under the *Justices Act 1886*, section 42 in relation to the defendant in the proceeding; or
 - (c) the serving of a notice to appear on the defendant in the proceeding under the *Police Powers and Responsibilities Act 2000*, section 382.’.

**Part 9 Amendment of Evidence Act
1977**

65 Act amended

This part amends the *Evidence Act 1977*.

[s 66]

66 Amendment of s 21AF (Evidence-in-chief)

(1) Section 21AF(3)(a), ‘(5)(a) and (d)’—

omit, insert—

‘(5), (6), (6B)’.

(2) Section 21AF(3)(b)(i), ‘(5)’—

omit, insert—

‘(5), (6), (6B), (6C)’.

Part 10 Amendment of Financial Accountability Act 2009

67 Act amended

This part amends the *Financial Accountability Act 2009*.

68 Amendment of s 97 (Treasurer’s unclaimed moneys fund)

Section 97—

insert—

‘(3) The Treasurer may withdraw moneys transferred to the consolidated fund under subsection (2)(b) and pay them to a person who proves to the Treasurer’s satisfaction that the moneys are the property of the person.’.

Part 11 Amendment of Justices Act 1886

69 Act amended

This part amends the *Justices Act 1886*.

70 Amendment of s 4 (Definitions)

(1) Section 4—

insert—

‘arresting officer, for part 4, division 10B, see section 83D.

disclosure obligation, for part 4, division 10B, see section 83D.

disclosure obligation direction, for part 4, division 10B, see section 83D.

party, for part 4, division 10B, see section 83D.

prosecution, for part 4, division 10B, see section 83D.

registry committal means a committal by the clerk of a court under an order under part 5, division 7A.’

(2) Section 4, definition *justices* or *justice*, ‘stipendiary’—

omit.

71 Amendment of s 22C (Appointment of clerks of the court)

Section 22C(1), ‘, by gazette notice,’—

omit.

72 Insertion of new s 22D

After section 22C—

insert—

[s 73]

‘22D Principal clerk of courts

- ‘(1) The Governor in Council may appoint a principal clerk of courts.
- ‘(2) The principal clerk of courts is appointed under the *Public Service Act 2008*.
- ‘(3) The principal clerk of courts is appointed for all Magistrates Courts in Queensland.
- ‘(4) The appointment of a person as principal clerk of courts is for the whole of Queensland, and the person must not be appointed for any particular place.
- ‘(5) The principal clerk of courts may, for any place for which a clerk of the court or assistant clerk of the court is appointed under section 22C, discharge all the functions the clerk of the court or assistant clerk of the court may discharge.
- ‘(6) The principal clerk of courts may give directions to each clerk of the court and assistant clerk of the court appointed under section 22C, and to any other officer employed in a registry of a Magistrates Court, about the discharge of the functions of the clerk of the court, assistant clerk of the court or other officer.’.

73 Insertion of new ss 23EB and 23EC

Part 3, division 2A—

insert—

‘23EB Management by clerk of the court of charge pending finalisation of proceeding under ex officio indictment

- ‘(1) A court may, under this section, refer to the clerk of the court a charge before the court, but only if the defendant in relation to the charge—
 - (a) is represented by a lawyer; and
 - (b) is not in custody; and
 - (c) is not in breach of any condition of the undertaking on which the defendant was granted bail.

-
- ‘(2) A charge (the **relevant charge**) may be referred to the clerk of the court if—
- (a) it is a charge for an indictable offence; and
 - (b) the prosecution and the defendant advise the court they are agreed that—
 - (i) an indictment for the offence the subject of the relevant charge has been or is to be presented under the Criminal Code, section 561; or
- Editor’s note—*
- Criminal Code, section 561 (Ex officio indictments)
- (ii) an indictment for another indictable offence (the **other offence**) has been or is to be presented under the Criminal Code, section 561, and the other offence arises out of the same set of circumstances alleged in relation to the relevant charge.
- ‘(3) If the relevant charge is referred under this section—
- (a) the clerk of the court has the following functions—
 - (i) keeping the relevant charge under review;
 - (ii) referring the relevant charge back to the court if—
 - (A) the clerk of the court considers this should be done to ensure the hearing of the relevant charge is not unnecessarily delayed; or
 - (B) the prosecution or the defendant asks the clerk of the court to do so; and
 - (b) the registrar of the court in which the indictment mentioned in subsection (2)(b)(i) or (ii) is presented must, within 1 calendar month after the relevant charge or the charge for the other offence is disposed of in that court, advise the clerk of the court of the fact.
- ‘(4) If the clerk of the court is advised under subsection (3)(b), no further appearance is required in the Magistrates Court by any party to the proceeding for the relevant charge.

[s 74]

- ‘(5) The functions of the clerk of the court under this section do not include any function in relation to bail.

Note—

See the *Bail Act 1980*, section 34BB (Varying bail for charge for indictable offence referred to clerk of the court under Justices Act 1886).

- ‘(6) If the relevant charge is referred back to the court under subsection (3)(a)(ii), the clerk of the court must give reasonable notice, in writing, to all parties to the proceeding—
- (a) advising that the relevant charge has been referred back to the court; and
 - (b) stating the time and place for the next hearing of the proceeding in the court.

‘23EC Magistrate for other district or division authorised to grant bail may also adjourn a hearing for offence

- ‘(1) This section applies if an application for bail is made under the *Bail Act 1980*, section 15A, as applied under section 15B of that Act, to a magistrate constituting a Magistrates Court (the *bail court*) for a district or division outside the district or division in which the application would otherwise be required to be made.
- ‘(2) At the hearing, the magistrate, as well as deciding the application for bail, may—
- (a) adjourn the proceeding for the offence to a stated time and place; or
 - (b) adjourn the proceeding without stating a time and place, and order that the time and place be decided by a Magistrates Court, whether or not the bail court, for a stated district or division.’

74 Amendment of s 30 (Stipendiary magistrates)

- (1) Section 30, heading, ‘Stipendiary magistrates’—
omit, insert—

‘Magistrates’.

- (2) Section 30(1) and (2), ‘stipendiary’—
omit.

75 Amendment of s 41 (Prosecution disclosure)

Section 41, before ‘are’—

insert—

‘for a relevant proceeding as defined in the Criminal Code, section 590AD’.

76 Amendment of s 52 (Limitation of proceedings)

Section 52—

insert—

- ‘(2) However, if in relation to the matter of complaint—
- (a) a proceeding was previously commenced for an indictable offence against the Criminal Code or the *Drugs Misuse Act 1986*; and
 - (b) the proceeding has been discontinued, or is to be discontinued by a Crown Law Officer as defined in the Criminal Code;

complaint must be made within 2 years from the time when the matter of the complaint arose.

- ‘(3) Also, subsection (1) does not apply to an offence if, under the Act providing for the offence, the Magistrates Court has jurisdiction for the offence regardless of when the matter of complaint arose.

Example for subsection (3)—

The Criminal Code, section 552F gives jurisdiction to a Magistrates Court that hears and decides a charge summarily under section 552A, 552B or 552BA of that Code despite the time that has elapsed from the time when the matter of complaint of the charge arose.’.

[s 77]

77 Amendment of s 56 (Service of summonses)

Section 56(5), ‘stipendiary’—
omit.

78 Amendment of s 83A (Direction hearing)

(1) Section 83A(5)(aa)—

omit, insert—

‘(aa) disclosure under the Criminal Code, chapter 62, chapter division 3;’.

(2) After section 83A(5)—

insert—

‘(5AA) A magistrate may also, at a direction hearing, give a direction under this section requiring the prosecution to call the maker of a written statement tendered or to be tendered by the prosecution under section 110A(3)—

- (a) to attend before the court as a witness to give oral evidence; or
- (b) to be made available for cross-examination on the written statement.

‘(5AB) Subsection (5AA)—

- (a) applies subject to section 110B; and
- (b) does not apply to a written statement given by an affected child under the *Evidence Act 1977*, part 2, division 4A, subdivision 2.

‘(5AC) Also, a direction can not be given under subsection (5AA) if it would provide for a cross-examination that is not otherwise permitted.

Example—

The *Evidence Act 1977*, section 21N provides that a person charged may not cross-examine a protected witness in person.’

(3) Section 83A(8), after ‘proceeding’—

insert—

‘, except to the extent they are awarded under section 83B arising out of noncompliance with a direction given under subsection (5)(aa)’.

- (4) Section 83A(9)—

renumber as section 83A(10).

- (5) Section 83A—

insert—

- ‘(9) A direction hearing for a disclosure obligation direction under division 10B, or for a direction under subsection (5AA), may be held on the date set by the court for the commencement of the hearing of evidence in the proceeding the subject of the direction.’.

79 Insertion of new s 83B and new pt 4, div 10B

After section 83A—

insert—

‘83B Noncompliance with direction about disclosure

- ‘(1) If it appears to the court that a person has not complied with a direction given under section 83A(5)(aa), the court may order the person to file an affidavit, or give evidence in court, explaining and justifying the failure to comply.
- ‘(2) If the court requires the person to file an affidavit, a copy of the affidavit must be served on the defendant.
- ‘(3) An order under subsection (1) may be made—
- (a) on the court’s own initiative; or
 - (b) on the application of the defendant.
- ‘(4) If the court is not satisfied the person’s affidavit or evidence satisfactorily explains and justifies the noncompliance, the court may—
- (a) adjourn the proceeding to allow enough time for—

[s 79]

- (i) the person to comply with the disclosure direction; and
 - (ii) the defendant to consider anything disclosed under the disclosure direction and obtain any necessary further evidence; and
 - (b) if the court is satisfied that the noncompliance was unjustified, unreasonable or deliberate—make, in relation to the adjournment, an award in favour of the defendant of an amount of costs the court considers just and reasonable; and
 - (c) if an award of costs is made under paragraph (b)—fix a time for the amount to be paid.
- ‘(5) This section does not limit the court’s power otherwise to deal with a failure to comply with a direction of any kind given under section 83A, including, for example, any power in the court to punish for contempt.
- ‘(6) A person is not excused from failing to file an affidavit or give evidence under this section on the ground that an affidavit or evidence explaining and justifying a failure to comply with the direction given under section 83A(5)(aa) might tend to incriminate the person because the person would be required to admit to the failure to comply.
- ‘(7) However, the affidavit or evidence is not admissible against the person in a criminal proceeding or a proceeding for contempt.
- ‘(8) Subsection (7) does not stop the affidavit or evidence from being admissible against the person—
- (a) in a perjury proceeding in relation to the affidavit or evidence; or
 - (b) for the purposes of making an order under subsection (4).
- ‘(9) In this section—
- perjury proceeding*, in relation to an affidavit or evidence, means a proceeding in which the falsity or misleading nature of the affidavit or evidence is relevant.

‘Division 10B Disclosure obligation directions

‘83C Purpose and scope of div 10B

- ‘(1) This division makes particular provision for disclosure obligation directions.
- ‘(2) This division does not affect—
 - (a) any other power a court has in relation to a failure to comply with a disclosure obligation, including, for example, the court’s power to exclude evidence if it would be unfair to a defendant to admit the evidence; or
 - (b) any other action that may be taken against the prosecution in relation to a failure to comply with a disclosure obligation.
- ‘(3) This division does not limit the making of practice directions by the Chief Magistrate about disclosure in a proceeding.

‘83D Definitions for div 10B

In this division—

arresting officer has the same meaning it has in the Criminal Code, chapter 62, chapter division 3.

disclosure obligation means the obligation of the prosecution, for the purposes of a relevant proceeding under the Criminal Code, chapter 62, chapter division 3, to comply with the requirements of that chapter division for disclosure to a defendant, other than the obligation to comply with a disclosure direction as defined in the Criminal Code, section 590AV.

disclosure obligation direction means a direction under section 83A, to the extent it relates to compliance with a disclosure obligation.

party, to a proceeding, includes—

- (a) a defendant who is charged with an offence the subject of the proceeding; and

[s 79]

- (b) the prosecution in relation to an offence the subject of the proceeding.

prosecution has the same meaning it has in the Criminal Code, chapter 62, chapter division 3.

'83E Subject matter for disclosure obligation direction

- '(1) A disclosure obligation direction may provide for any of the following—
 - (a) whether the prosecution has a disclosure obligation in relation to a defendant;
 - (b) requiring that a particular thing must be disclosed;
 - (c) allowing the court to inspect a particular thing to decide whether the court should further direct that the prosecution has a disclosure obligation in relation to the thing;
 - (d) allowing the court to examine the arresting officer to decide whether the prosecution has a disclosure obligation in relation to a particular thing;
 - (e) requiring that the arresting officer file an affidavit to allow the court to decide whether the prosecution has a disclosure obligation in relation to a particular thing;
 - (f) allowing the defendant or a lawyer acting for the defendant to cross-examine the arresting officer on an affidavit mentioned in paragraph (e) to allow the court to decide whether the prosecution has a disclosure obligation in relation to a particular thing;
 - (g) how a disclosure obligation is to be complied with in a particular case;
 - (h) setting a timetable for compliance with a disclosure obligation.
- '(2) Subsection (1) does not limit section 83A(5)(aa).

-
- ‘(3) The court may make a disclosure obligation direction on the conditions, whether about the circumstances of disclosure or otherwise, it considers appropriate.
- ‘(4) Any examination or cross-examination allowed for in a disclosure obligation direction—
- (a) must be conducted before the date set for the commencement of the hearing of evidence in the proceeding; and
 - (b) can not affect any restrictions applying under part 5, division 5 on the calling and cross-examination of witnesses at a committal proceeding.
- ‘(5) If a person is examined by the court as provided for in subsection (1)(d), required to file an affidavit as provided for in subsection (1)(e) or cross-examined as provided for in subsection (1)(f), the person is not excused from failing to answer a question or file an affidavit on the ground that the answer or affidavit might tend to incriminate the person because the person would be required to admit to a failure to comply with a disclosure obligation.
- ‘(6) However, the answer or affidavit is not admissible against the person in a criminal proceeding, other than a perjury proceeding in relation to the answer or affidavit.
- ‘(7) In this section—
- perjury proceeding*, in relation to an answer or affidavit, means a proceeding in which the falsity or misleading nature of the answer or affidavit is relevant.

‘83F Application for disclosure obligation direction

- ‘(1) The procedures applying in relation to a defendant seeking, at a direction hearing under section 83A, a disclosure obligation direction are stated in the *Criminal Practice Rules 1999*, chapter 9A.
- ‘(2) To the greatest practicable extent, the procedures apply in addition to, and do not limit, the procedures applying under section 83A.

[s 80]

‘(3) The existence of the procedures mentioned in subsection (1) is not intended to stop a party to a proceeding from writing to, or otherwise communicating information to, another party to resolve issues arising over a disclosure obligation.’.

80 Amendment of s 84 (Remand of defendant)

Section 84(1), ‘by their warrant’—
omit.

81 Insertion of new s 88A

Part 4, division 11—
insert—

‘88A Use of verdict and judgment record

‘An order under section 84(1) providing for the remand of a defendant, or under section 88(2)(a) providing for the committal of a defendant, may be issued by a clerk of the court, acting as a proper officer under the *Criminal Practice Rules 1999*, in the form of a verdict and judgment record as provided for under the rules.’.

82 Amendment of s 102C (Application for dismissal of frivolous or vexatious complaints)

Section 102C, ‘stipendiary’—
omit.

83 Amendment of s 102D (Appeal to Supreme Court from magistrate’s decision)

Section 102D(1) and (2), ‘stipendiary’—
omit.

84 Amendment of s 102E (Further proceedings on a dismissed or struck out complaint prohibited)

Section 102E, ‘stipendiary’—
omit.

85 Insertion of new s 103B

Part 5, division 5—
insert—

‘103B Magistrate supervisory role

- ‘(1) A magistrate has an overall supervisory responsibility for any committal proceeding coming before a Magistrates Court at a place where the magistrate is appointed to constitute a Magistrates Court.
- ‘(2) The supervisory responsibility includes setting timetables for the committal proceeding to the extent not otherwise provided for under an Act or practice direction.
- ‘(3) Subsections (1) and (2) do not affect—
 - (a) the powers of a justice or justices to act in relation to the examination of witnesses in relation to an indictable offence; or
 - (b) any other power of the court to control a proceeding or of a magistrate to give a direction under section 83A; or
 - (c) the operation of the provisions of this division relating to registry committals; or
 - (d) the duty of a magistrate to comply with directions or requirements given or made by the Chief Magistrate.’.

86 Amendment of s 104 (Proceedings upon an examination of witnesses in relation to an indictable offence)

Section 104(2)(b), after ‘to call witnesses’—
insert—
‘for the defence’.

[s 87]

87 Amendment of s 110A (Use of tendered statements in lieu of oral testimony in committal proceedings)

(1) Section 110A(1) to (6)—

omit, insert—

- ‘(1) This section applies if justices are conducting a proceeding with a view to determining whether a defendant should be committed for trial or sentence for an indictable offence.
- ‘(2) If a written statement of a witness is tendered to them by the defence, the justices may, subject to the provisions of this section being satisfied, admit the statement as evidence without the witness appearing before them to give evidence or make a statement.
- ‘(3) If a written statement of a witness is tendered to them by the prosecution, the justices—
- (a) must, subject to the provisions of this section being satisfied, admit the statement as evidence; and
 - (b) must not require the witness to appear before them to give evidence or make a statement unless the witness is required to be called by the prosecution because a direction has been issued under section 83A(5AA).
- ‘(4) However, if the defendant is not represented by a lawyer, subsection (3) does not apply unless the justices are satisfied that all of the following are true—
- (a) the defendant understands what the proceeding is about and the possible consequences for the defendant arising out of the proceeding;
 - (b) the defendant is aware that the defendant—
 - (i) is entitled to be legally represented; and
 - (ii) may apply for legal assistance;
 - (c) the defendant has been made aware that the defendant has a right to apply for a direction under section 83A(5AA) that the witness attend the proceeding to give oral evidence;

(d) the defendant has been given an explanation of the requirements that apply under this division for making an application as mentioned in paragraph (c).

‘(5) Subsection (3)(b) does not stop the prosecution and the defence agreeing that the witness will be present to be cross-examined.

Note—

It is open to the director of public prosecutions to issue guidelines for the giving of agreement under subsection (5). (See the *Director of Public Prosecutions Act 1984*, section 11 (Powers of director).)

‘(6) If a witness is cross-examined because of an agreement under subsection (5) or because of a direction given under section 83A(5AA), the justices must consider both the witness’s written statement and the oral evidence given by the witness.

‘(6A) If a written statement is admitted as evidence under subsection (2) or (3), the statement—

(a) is taken to be evidence given or a statement made under section 104 upon an examination of witnesses in relation to an indictable offence; and

(b) is admissible as evidence to the same extent as it would be if the contents of the statement had been given by the oral evidence of the person who made the written statement.

‘(6B) A written statement tendered by the defence must not be admitted unless—

(a) the prosecution agrees to its admission; and

(b) no other party to the proceeding objects, before the written statement is admitted in evidence, to the statement being admitted under this section.

‘(6C) A written statement tendered by the defence or the prosecution must not be admitted unless—

(a) a copy of it has been made available, by or on behalf of the party proposing to tender it, to the other party or parties; and

[s 87]

- (b) when the copy was made available, the party proposing to tender it advised that the copy was being made available with the intention that the written statement be admitted under this section; and
 - (c) it is signed by the person making it and contains a declaration by the person under the *Oaths Act 1867*, or a written acknowledgement by the person, to the effect that—
 - (i) the statement is true to the best of the person’s knowledge and belief; and
 - (ii) the person made the statement knowing that the person may be liable to prosecution for stating in it anything that the person knew was false.
- ‘(6D) Subsections (6E) and (6F) apply if—
- (a) all the evidence before the justices, whether for the prosecution or the defence, without reference to other evidence by way of exhibits, comprises written statements admitted in accordance with this section; and
 - (b) the lawyer for the defendant consents to the defendant being committed for trial, or consents to the defendant being committed for sentence, without consideration of the contents of the written statements.
- ‘(6E) The justices must, without deciding under section 104(2) whether the evidence is sufficient to put the defendant upon trial for an indictable offence, but subject otherwise to section 104 with necessary changes—
- (a) formally charge the defendant; and
 - (b) order the defendant to be committed for trial or for sentence.
- ‘(6F) Subsection (6E) may be applied to commit the defendant for trial or sentence even if, before the lawyer for the defendant consented under subsection (6D)(b), 1 or more unsuccessful applications were made to the court for a direction under section 83A(5AA) to require a person to attend a proceeding to give oral evidence.

Note—

Subsection (6E) could not be applied if any application of the type mentioned in this subsection were successful because in that case, the requirement stated in subsection (6D)(a) would not be satisfied.’.

- (2) Section 110A(8), after ‘A written statement’—

insert—

‘tendered by the defence’.

- (3) Section 110A(9), ‘prosecution case or as part of the’—

omit.

- (4) Section 110A(10), after ‘for sentence,’—

insert—

‘or the defendant is not legally represented,’.

- (5) Section 110A(14), ‘subsection (5)’—

omit, insert—

‘subsection (6C)’.

88 Insertion of new ss 110B and 110C

After section 110A—

insert—

‘110B Special provisions applying to a direction under s 83A(5AA)

- ‘(1) A magistrate at a direction hearing must not give a direction under section 83A(5AA) in relation to the maker of a written statement unless the magistrate is satisfied there are substantial reasons why, in the interests of justice, the maker should attend to give oral evidence or be made available for cross-examination on the written statement.

Note—

Under section 83A a magistrate, on the magistrate’s own initiative, may direct the parties to a proceeding to attend at a direction hearing. Also, under that section, a party to the proceeding may apply to a court, in the approved form, for a direction hearing.

[s 88]

- ‘(2) An application in relation to the maker of a particular written statement may be made only once unless a magistrate gives leave for a subsequent application to be made on the basis of special reasons considered by the magistrate to exist.
- ‘(3) An application for a direction under section 83A(5AA) may be made only if—
- (a) the defendant has, by letter, or by email or some other electronic form of written communication (the ***defendant’s communication***) advised the prosecution of the following—
 - (i) the name of the maker of the written statement the subject of the application;
 - (ii) the general issues relevant to the making of the application;
Examples of general issues—
identification evidence, expert opinion evidence
 - (iii) the reasons to be relied on to justify the calling of the maker of the written statement to give oral evidence;
 - (iv) a time (the ***nominated time***) for the prosecution to respond to the defendant’s communication; and
 - (b) the prosecution’s response to the defendant’s communication (the ***prosecution’s response***) has been received, or it has not been received within the nominated time; and
 - (c) there is filed with the application—
 - (i) a copy of the defendant’s communication; and
 - (ii) the prosecution’s response, if it has been received.
- ‘(4) The nominated time must be—
- (a) the time set by the court or by a practice direction; or
 - (b) if there is no time set by the court or by a practice direction—a time that is reasonable in the circumstances, but in any event not less than 7 days.

-
- ‘(5) The prosecution’s response may state whether the prosecution agrees to the calling of the maker of the statement, and any conditions attaching to the prosecution’s agreement.

Note—

Section 110A(5) (Use of tendered statements in lieu of oral testimony in committal proceedings) allows for agreement between the prosecution and defence about the maker of a written statement being present for cross-examination.

- ‘(6) A magistrate must give reasons for the magistrate’s decision at a direction hearing about an application for a direction under section 83A(5AA).
- ‘(7) An application for a direction under section 83A(5AA) must be filed and served on the other party or parties before the date set by the court or by practice direction, and in any event, if the court sets a date for the commencement of the hearing of evidence in the committal proceeding, not later than that date.
- ‘(8) A direction given under section 83A(5AA) on the application of the defendant may be withdrawn, on the application of the prosecution, if the defendant or the defendant’s lawyer does not appear at the hearing.

‘110C Limitation on cross-examination

- ‘(1) If a witness attends before the justices because of a direction given, on application by the defendant, under section 83A(5AA) requiring the prosecution to call the witness, the justices must not allow the person to be cross-examined about an issue that is not relevant to the reasons given by the magistrate for requiring the person to attend.
- ‘(2) However, the justices may allow cross-examination that is otherwise not permitted under subsection (1) if the justices are satisfied there are substantial reasons why, in the interests of justice, the cross-examination should be allowed.
- ‘(3) The prosecution may re-examine a witness who is cross-examined.

[s 89]

‘(4) The limitations on cross-examination provided for in subsections (1) and (2) are additional to, and do not affect the operation of, any other law limiting cross-examination.

Examples of other laws that operate to limit cross-examination—

- 1 The *Evidence Act 1977*, section 9E states principles for dealing with child witnesses.
- 2 The *Evidence Act 1977*, section 20 provides for the court to disallow particular questions as to credit.
- 3 The *Evidence Act 1977*, section 21 provides for the court to disallow questions the court considers improper.
- 4 The *Evidence Act 1977*, part 2, division 6 provides for the cross-examination of protected witnesses.’.

89 Insertion of new pt 5, div 7A

Part 5—

insert—

‘Division 7A Registry committals

‘114 Registry committal by clerk of court

- ‘(1) The clerk of the court at a place may order a defendant to be committed to be tried or sentenced for an indictable offence, if all of the following apply—
- (a) the indictable offence is not to be heard and decided summarily;
 - (b) all evidence of witnesses for the prosecution (including the evidence of any affected child under the *Evidence Act 1977*, part 2, division 4A, given under the requirements of that division) is intended to be given in written statements;
 - (c) the written statements have been filed in the court and copies given to the defendant by the prosecution;
 - (d) the defendant, if an individual, is not in custody, and is not in breach of any condition of the undertaking on which the defendant was granted bail;

-
- (e) the defendant is represented by a lawyer;
 - (f) the lawyer has, by written notice, or by email or some other electronic form of written communication, given a notice to the clerk of the court—
 - (i) stating that the defendant does not intend to give evidence or call any witness in relation to the defendant’s committal for the indictable offence; and
 - (ii) acknowledging that the functions of the clerk of the court for a registry committal do not include considering or deciding whether the evidence before the clerk of the court is sufficient to put the defendant on trial for the indictable offence; and
 - (iii) stating whether the defendant wishes to be committed for trial, or to be committed for sentence;
 - (g) the notice given under paragraph (f) is given to the clerk of the court not later than the date set by the court or by practice direction;
 - (h) the defendant has served on the prosecution a copy of the notice given under paragraph (f) not later than the day it is given to the clerk of the court.
- ‘(2) If the notice under subsection (1)(f) states that the defendant wishes to be committed for sentence, the defendant’s lawyer must also have filed with the clerk of the court a written statement signed by the defendant stating that the defendant pleads guilty to the offence and that the defendant acknowledges that the defendant is not obliged to enter any plea and has nothing to hope from any promise, and nothing to fear from any threat, that may have been held out to induce the defendant to make any admission or confession of guilt.
- ‘(3) After the defendant is ordered to be committed to be tried or sentenced, there must not be any examination of any person in relation to the committal of the defendant for trial or sentence for the indictable offence.

[s 89]

- ‘(4) A document required to be served under subsection (1)(h) may be served electronically.
- ‘(5) An order under subsection (1) has effect as if it were an order of justices.
- ‘(6) For subsection (1)—
 - (a) it is not necessary for the written statements to have been filed in the court as mentioned in subsection (1)(c) if the defendant’s lawyer has, in the notice mentioned in subsection (1)(f), included a statement consenting to the written statements not being filed; and
 - (b) it is not necessary for the written statements to have been given to the defendant as mentioned in subsection (1)(c) if the defendant’s lawyer has, in the notice mentioned in subsection (1)(f), included a statement consenting to the written statements not being given.

‘115 Process of clerk of the court for registry committal

- ‘(1) The functions of the clerk of the court for a registry committal do not include considering or deciding whether the evidence before the clerk of the court is sufficient to put the defendant on trial for the indictable offence.
- ‘(2) However, if under a registry committal a clerk of the court orders a defendant who is an individual to be committed to be tried for an indictable offence, the clerk of the court must give notice to the defendant to the same effect as the warning required to be given to a defendant under section 104(5).
- ‘(3) The notice under subsection (2) may be given electronically.
- ‘(4) Nothing in this part is taken to require the defendant or any other party to appear at a registry committal.
- ‘(5) A registry committal must be conducted by the clerk of the court on the basis of the charges of indictable offences as agreed to by the prosecution and the defence.
- ‘(6) For the purposes of subsection (5), the clerk of the court has the same power a magistrate would have to amend, including

to withdraw, charges to ensure the defendant is committed for trial or for sentence on charges as agreed, rather than charges on which the defendant may have initially been brought before the court.

- ‘(7) Subsection (8) applies if the parties agree that circumstances applying in relation to a registry committal are circumstances that—
 - (a) for a committal for trial under section 108, would permit the making of an order under section 108(2); or
 - (b) for a committal for sentence under section 113, would permit the making of an order under section 113(4).
- ‘(8) The clerk of the court must make an order for committal for trial or sentence of the type mentioned in subsection (7).
- ‘(9) An order under subsection (8) has effect as if it were an order of justices ordering the committal of the defendant for trial or sentence under section 108 or 113 as appropriate.
- ‘(10) The functions of the clerk of the court for a registry committal do not include remanding the defendant in custody, or any function in relation to bail.

Note for subsection (10)—

The *Bail Act 1980*, section 34BA (Varying bail on registry committal) provides for the automatic continuation of the defendant’s bail. It is taken to have been granted by the court to which the defendant is committed for trial or sentence.

‘116 Limited application of divs 5 to 7 for registry committals

- ‘(1) If there is a registry committal, subject to subsection (2), it takes the place of the procedures relating to committal for trial or sentence that would otherwise apply, or would otherwise continue to apply, under divisions 5, 6 and 7.
- ‘(2) Section 110A(12) to (15), and any other provision of this or another Act directly or indirectly referred to in section 110A(12) to (15), have effect for a registry committal, to the greatest practicable extent, as if a reference to a written

[s 90]

statement admitted in accordance with section 110A were a reference to a written statement given in evidence for the registry committal (other than the evidence of any affected child under the *Evidence Act 1977*, part 2, division 4A, given under the requirements of that division).

‘117 Application of registry committals to indictable offences under other Acts

- ‘(1) This section applies to an offence against a provision of another Act if—
- (a) the Act (the *other Act*) provides that the offence is an indictable offence; and
 - (b) whether or not the other Act allows for the summary conviction of a person charged with the offence, it makes provision, whether or not by reference to this Act, for the court to proceed by way of a committal proceeding in relation to the offence.

Example—

Under the *Property Agents and Motor Dealers Act 2000*, section 589, a charge for an indictable offence under that Act, depending on circumstances as provided for in the section, at the level of a Magistrates Court, either could be heard and decided summarily, or could be the subject of a committal proceeding, effectively as provided for under this Act.

- ‘(2) To remove any doubt, it is declared that if a person is charged with the offence, and the offence is not to be heard and decided summarily, the person may be committed for trial or sentence on the basis of a registry committal.
- ‘(3) If there is a registry committal, it takes the place of any committal proceeding otherwise provided for in the other Act.’.

90 Insertion of new s 130

Part 5, division 8—

insert—

‘130 Division applies also to registry committals

- ‘(1) This division applies to registry committals, to the greatest practicable extent, in the same way it applies to committals by justices for trial or sentence.
- ‘(2) For applying subsection (1), a reference in section 126, 127 or 129 to the committing justices, however described, is taken to include a reference to a clerk of the court who, under division 7A, ordered a defendant to be committed to be tried or sentenced for an indictable offence.’.

91 Amendment of s 142A (Permissible procedure in absence of defendant in certain cases)

Section 142A(13), ‘stipendiary’—

omit.

92 Insertion of new pt 11, div 5

After section 275—

insert—

**‘Division 5 Civil and Criminal Jurisdiction
Reform and Modernisation
Amendment Act 2010**

‘276 Definitions for div 5

‘In this division—

amending Act means the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*.

originating step, for a proceeding, means—

- (a) the arrest of the defendant in the proceeding; or
- (b) the making of a complaint under the *Justices Act 1886*, section 42 in relation to the defendant in the proceeding;
- or

[s 92]

- (c) the serving of a notice to appear on the defendant in the proceeding under the *Police Powers and Responsibilities Act 2000*, section 382.

‘277 Particular amendments apply only to charges originated after commencement

- ‘(1) The relevant provisions, as amended or inserted by the amending Act, apply in relation to a charge for an offence only if an originating step for the proceeding for the charge is taken on or after the commencement of this section.
- ‘(2) For subsection (1), it does not matter when the offence was committed.
- ‘(3) For applying this section to section 52(2) as inserted by the amending Act—
 - (a) the complaint that must be made within 2 years from the time when the matter of the complaint arose, as mentioned in the inserted section 52(2), is, for this section, the originating step that must be taken on or after the commencement of this section; but
 - (b) it does not matter if the commencement of the previously commenced proceeding, as mentioned in the inserted section 52(2), happened before or after the commencement of this section.
- ‘(4) In this section—

relevant provisions means—

 - (a) section 23EB; and
 - (b) section 52; and
 - (c) section 83A; and
 - (d) section 83B; and
 - (e) part 4, division 10B; and
 - (f) the provisions of this Act relating to committals of persons for trial or sentence for indictable offences, including part 5, division 7A.

Editor's note—

part 5 (Proceedings in case of indictable offences), division 7A
(Registry committals)

'278 Particular provisions apply to proceeding whenever commenced

'On the commencement of this section, sections 23EC, 84 and 88A, as amended or inserted by the amending Act, have effect in relation to a proceeding, regardless of when the proceeding was commenced.

'279 Existing appointment as principal clerk of courts continues

'If immediately before the commencement of this section a person held appointment under the *Public Service Act 2008* as Court Administrator, Magistrates Courts Branch, Department of Justice and Attorney-General, the person—

- (a) without further appointment, is taken to hold the appointment of the principal clerk of courts under the *Justices Act 1886*, section 22D; and

Note—

Because of the person's appointment as principal clerk of courts as provided for in paragraph (a), the person will also be the principal registrar of Magistrates Courts as provided for in the *Magistrates Courts Act 1921*, section 3A.

- (b) continues to hold the appointment in accordance with the terms of the person's appointment under the *Public Service Act 2008*.'

[s 93]

Part 12 **Amendment of Magistrates Act 1991**

93 Act amended

This part amends the *Magistrates Act 1991*.

94 Amendment of s 41 (Functions of magistrates generally)

Section 41(1), ‘direction given to, or requirement made by,’—
omit, insert—
‘direction or requirement given or made to the magistrate by’.

95 Amendment of s 53J (Practice direction)

- (1) Section 53J(1)(d)—
omit.
- (2) Section 53J(1)(e)—
renumber as section 53J(1)(d).
- (3) Section 53J(2)(c)—
omit.

96 Insertion of new pt 10, div 6

Part 10—
insert—

**‘Division 6 Transitional provision for Civil and
Criminal Jurisdiction Reform and
Modernisation Amendment Act
2010**

**‘64 Continuing operation of practice direction for judicial
registrars**

‘(1) This section applies to—

- (a) an application that, immediately before the commencement of this section, was in the course of being heard and decided by a judicial registrar under a practice direction given under section 53J(1)(d); or
- (b) a matter for which, immediately before the commencement of this section, a judicial registrar constituted a Magistrates Court under a practice direction given under section 53J(2)(c).

‘(2) The judicial registrar may continue—

- (a) to hear and decide the application; or
- (b) to constitute, and exercise all the jurisdiction and powers of, a Magistrates Court for the matter.’.

**Part 13 Amendment of Magistrates
Courts Act 1921**

97 Act amended

This part amends the *Magistrates Courts Act 1921*.

[s 98]

98 Amendment of s 2 (Definitions)

Section 2—

insert—

‘prescribed limit means \$150000.’.

99 Insertion of new s 3A

Part 1—

insert—

‘3A Principal clerk of courts is principal registrar

‘(1) There is to be a principal registrar of Magistrates Courts.

‘(2) The principal clerk of courts appointed under the *Justices Act 1886*, section 22D also holds appointment as the principal registrar of Magistrates Courts.

‘(3) The principal registrar of Magistrates Courts may—

(a) discharge the powers and functions of each registrar mentioned in section 3; and

(b) give directions to each registrar mentioned in section 3, and to any other officer employed in a registry of a Magistrates Court, about the discharge of the functions of the registrar or other officer.’.

100 Amendment of s 4 (Jurisdiction of Magistrates Courts)

Section 4, ‘\$50000’—

omit, insert—

‘the prescribed limit’.

101 Insertion of new s 4AA

After section 4—

insert—

4AA Proceeding commenced in central registry

- (1) Despite section 4, if under the rules a proceeding that may be started in a Magistrates Court is started in a registry for a Magistrates Court that is a central registry, that Magistrates Court has jurisdiction for the proceeding.
- (2) Subsection (1) does not prevent the proceeding being transferred to another Magistrates Court under the rules.

Examples—

Rule 40 (Change of venue by court order) of the rules allows a proceeding to be sent for trial to, or to be dealt with by, another court if the first court is satisfied the proceeding can be more conveniently or fairly heard or dealt with in the other court. Rule 41 (Change of venue by agreement) of the rules allows the court to transfer a proceeding on the agreement of the parties.’.

102 Amendment of s 5 (Abandonment of excess etc.)

Section 5, ‘\$50000’—

omit, insert—

‘the prescribed limit’.

103 Amendment of s 6 (Splitting debt by giving bills etc.)

Section 6, ‘\$50000’—

omit, insert—

‘the prescribed limit’.

104 Amendment of s 45 (Appeal)

- (1) Section 45(1) and (2), ‘\$5000’—

omit, insert—

‘the minor civil dispute limit’.

- (2) Section 45—

insert—

[s 105]

‘(5) In this section—

minor civil dispute limit means the amount that is, for the time being, the prescribed amount under the *Queensland Civil and Administrative Tribunal Act 2009*.’

105 Insertion of new s 60

After section 59—

insert—

‘60 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010

‘Sections 4, 4AA, 5, 6 and 45, as amended or inserted by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*, apply only to actions or proceedings commenced after the commencement of this section.’

Part 14 Amendment of Penalties and Sentences Act 1992

106 Act amended

This part amends the *Penalties and Sentences Act 1992*.

107 Amendment of s 152A (Proper officer to give chief executive (corrective services) record of order of imprisonment)

Section 152A(3), ‘for a court other than a Magistrates Court,’—

omit.

108 Insertion of new s 218

Part 14—

insert—

‘218 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010

‘On the commencement of this section, section 152A, as amended by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*, has effect in relation to a proceeding, regardless of when the proceeding was commenced.’.

Part 15 Amendment of Police Service Administration Act 1990

109 Act amended

This part amends the *Police Service Administration Act 1990*.

110 Amendment of s 4.8 (Commissioner’s responsibility)

Section 4.8(2)—

insert—

- ‘(u) in relation to a proceeding against a person charged by a police officer for an offence—
- (i) taking part in conferences with the person’s legal representative about the conduct of the proceeding in order to narrow issues or help in the timely resolution of the proceeding; and
 - (ii) without limiting the actions that may be taken as a result of the conferences mentioned in subparagraph (i)—

[s 111]

- (A) amending, substituting or withdrawing the charge; and
- (B) deciding the facts to be presented to the court; and
- (C) if there is a prosecution election available, in relation to the charge, as to the charge being heard summarily—deciding whether to exercise the election; and
- (D) in exercising an election mentioned in sub-subparagraph (C)—having regard to any guidelines under the *Director of Public Prosecutions Act 1984*, section 11 that apply to the commissioner and to any other relevant considerations and requirements; and
- (E) deciding the submissions that will be made to the court by the prosecution in the sentencing of the offender.’.

Part 16 **Amendment of Property Law Act 1974**

111 Act amended

This part amends the *Property Law Act 1974*.

112 Amendment of s 147 (Arrears of rent etc.)

Section 147(5), ‘\$40000’

omit, insert—

‘\$150000’.

113 Amendment of s 259 (Definitions for pt 19)

- (1) Section 259, definition, *monetary limit*, paragraph (a), editor's note, '\$250000'—

omit, insert—

'\$750000'.

- (2) Section 259, definition *monetary limit*, paragraph (b)—

omit, insert—

'(b) for a Magistrates Court—means the prescribed limit under the *Magistrates Courts Act 1921*.

Editor's note—

Magistrates Courts Act 1921, section 2 (Definitions)—

prescribed limit means \$150000.'

114 Insertion of new pt 22

After section 352—

insert—

'Part 22 Transitional Provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010

'353 Amendments do not affect existing matters

- '(1) The amendment of section 147(5) by the amending Act does not apply in relation to a further matter of complaint as mentioned in section 147(5) if the proceeding in relation to the complaint was commenced before the commencement of this section.
- '(2) The change to the monetary limit for part 19 brought into effect by amendments of this Act, the *Magistrates Courts Act 1921* and the *District Court of Queensland Act 1967* by the

[s 115]

amending Act does not apply to a proceeding commenced before the commencement of this section.

‘(3) In this section—

amending Act means the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*.’

Part 17 Amendment of Public Trustee Act 1978

115 Act amended

This part amends the *Public Trustee Act 1978*.

116 Amendment of s 25 (Unclaimed moneys fund)

(1) Section 25(2)—

omit, insert—

‘(2) As soon as reasonably practicable after the end of each financial year, the public trustee must pay to the consolidated fund all amounts that, as at the end of the financial year, have been credited to the unclaimed moneys fund for 6 years or more.’

(2) Section 25(3), ‘also’—

omit.

117 Amendment of s 98 (Definitions)

(1) Section 98, definition *unclaimed moneys*, paragraph (b)—
renumber as paragraph (c).

(2) Section 98, definition *unclaimed moneys*—
insert—

-
- ‘(b) all principal and interest moneys and all dividends, bonuses, profits, and other sums of money that—
- (i) are held by the State; and
 - (ii) have been in the possession of the State for 1 year or more after they have become payable to the owner; and’.

118 Amendment of s 99A (Public trustee’s register of unclaimed moneys)

Section 99A—

insert—

- ‘(4) The public trustee may remove from the register the details mentioned in subsection (2) in relation to an amount held for a person if the amount held remains unclaimed for 25 years.

Note—

After 6 years, the amount will be transferred from the fund to the consolidated fund, but the register will continue to record the details of the amount for 25 years from the date on which the moneys were received into the unclaimed moneys fund.’.

119 Amendment of s 102 (Unclaimed moneys to be paid to public trustee)

Section 102, heading, after ‘trustee’—

insert—

‘**by accountable person**’.

120 Insertion of new s 102B

Part 8, division 1, subdivision 2—

insert—

[s 121]

‘102B Unclaimed moneys to be paid to public trustee—money held or received by the State

- ‘(1) All unclaimed moneys that remain unclaimed must be paid to the public trustee.
- ‘(2) In this section—
unclaimed moneys means an amount mentioned in section 98, definition *unclaimed moneys*, paragraph (b).’.

121 Amendment of s 115 (Unclaimed moneys to be credited to fund)

Section 115, after ‘section 102’—

insert—

‘or 102B’.

122 Amendment of s 117A (Treasurer to pay claimant)

- (1) Section 117A(2)—
renumber as section 117A(3).
- (2) Section 117A(1)—
omit, insert—
- ‘(1) If—
- (a) a person (the *claimant*) claims to be entitled to receive an amount paid into the consolidated fund under section 25(2); and
- (b) the public trustee is satisfied the claimant is entitled to receive the amount claimed;
- the public trustee must pay the amount claimed to the claimant.
- ‘(2) The Treasurer must reimburse the public trustee out of the consolidated fund for the amount paid by the public trustee under subsection (1) if the Treasurer is advised by the public trustee that the public trustee has paid the amount claimed to the claimant.’.

Part 18 **Amendment of Queensland Civil and Administrative Tribunal Act 2009**

123 Act amended

This part amends the *Queensland Civil and Administrative Tribunal Act 2009*.

124 Amendment of s 50 (Decision by default for debt)

Section 50(2)(b) to (d)—

omit, insert—

‘(b) interest on the amount claimed at the rate the tribunal considers appropriate; and

(c) either—

(i) for an application for a minor civil dispute—costs stated in the rules as costs that may be awarded for minor civil disputes under section 102; or

(ii) for an application other than for a minor civil dispute—

(A) the fee paid for the application; and

(B) legal costs based on a scale stated in the rules.’.

125 Amendment of ch 7, hdg (Transitional provisions)

Chapter 7, heading, after ‘provisions’—

insert—

‘for Act No. 23 of 2009’.

126 Insertion of new ch 8

After section 279—

insert—

‘Chapter 8 Validating provision for particular decisions by default

‘280 Declaration and validation concerning particular decisions by default

‘(1) Section 50, as amended by the amending Act, is taken always to have applied during the transitional period in relation to a non-legal costs decision by default.

‘(2) In this section—

amending Act means the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*.

non-legal costs decision by default means a decision by default, relating to a minor civil dispute, that does not include an amount for legal costs.

transitional period means the period starting at the beginning of 1 December 2009 and ending at the end of the day before the commencement of this section.’

Part 19 Amendment of State Penalties Enforcement Act 1999

127 Act amended

This part amends the *State Penalties Enforcement Act 1999*.

128 Amendment of s 106 (General effect of suspension of driver licence)

(1) Section 106(2) and (3), ‘this section’—

omit, insert—

‘section 105’.

- (2) Section 106(4), from ‘all’—

omit, insert—

‘the person pays the unpaid amount or the amount is otherwise discharged under this Act.’.

129 Amendment of s 150A (Registrar may write off unpaid fine or other amount)

Section 150A(2)—

omit, insert—

- ‘(2) However, a fine or other amount that has been written off may be reinstated if—
- (a) the fine or other amount was incorrectly identified for writing off; or
 - (b) the reinstatement is permitted under a guideline issued by the Minister under section 150B.
- ‘(3) The fine or other amount—
- (a) stops being payable from the time it is written off; and
 - (b) starts being payable again from the time it is reinstated.’.

130 Amendment of s 150B (Guidelines)

Section 150B(1), after ‘writing off’—

insert—

‘or reinstatement’.

131 Insertion of new pt 10, div 6

Part 10—

insert—

[s 132]

**‘Division 6 Transitional provision for Civil and
Criminal Jurisdiction Reform and
Modernisation Amendment Act
2010**

**‘182 Effect of provision disqualifying person from holding
or obtaining driver licence**

‘Section 106(4) as amended by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010* has effect in relation to a person whose licence is suspended under section 105 regardless of whether the suspension happened before or after the commencement of this section.’.

**Part 20 Amendment of Supreme Court
of Queensland Act 1991**

132 Act amended

This part amends the *Supreme Court of Queensland Act 1991*.

133 Insertion of new s 139

After section 138—

insert—

**‘139 Transitional provision for Civil and Criminal
Jurisdiction Reform and Modernisation Amendment
Act 2010**

‘The amendment of the *Criminal Practice Rules 1999* and the *Uniform Civil Procedure Rules 1999* by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010* does not affect the power of the Governor in Council to further amend the rules or to repeal them.’.

Part 21 **Amendment of Uniform Civil Procedure Rules 1999**

134 **Rules amended**

This part amends the *Uniform Civil Procedure Rules 1999*.

135 **Amendment of ch 2, pt 6, div 1, hdg**

Chapter 2, part 6, division 1, heading, ‘of Supreme Court’—
omit.

136 **Amendment of r 33 (Central registry of Supreme Court)**

(1) Rule 33, heading, ‘of Supreme Court’—

omit.

(2) Rule 33, ‘in the Supreme Court’—

omit, insert—

‘in a court’.

137 **Replacement of ch 2, pt 6, div 2, hdg**

Chapter 2, part 6, division 2, heading—

omit, insert—

‘Division 2 **Starting proceeding other than in
central registry’.**

138 **Replacement of r 34 (Application of div 2)**

Rule 34—

omit, insert—

[s 139]

‘34 Application of div 2

‘This division applies to the following courts if a person decides to start a proceeding other than in a central registry of a court—

- (a) the Supreme Court;
- (b) the District Court;
- (c) Magistrates Courts.’.

139 Amendment of r 283 (Judgment by default—debt or liquidated demand)

Rule 283—

insert—

- ‘(10) If the court as constituted by a registrar is considering whether to give judgment, the registrar is not required to consider the merits of the plaintiff’s claim against the defendant.

Note—

Under rule 982, the matter could be referred to a judge or magistrate for disposal, or for consideration and referral back, if the circumstances set out in that rule apply.’.

140 Amendment of r 286 (Judgment by default—recovery of possession of land)

Rule 286—

insert—

- ‘(5) If the court as constituted by a registrar is considering whether to give judgment, the registrar is not required to consider the merits of the plaintiff’s claim against the defendant.

Note—

Under rule 982, the matter could be referred to a judge or magistrate for disposal, or for consideration and referral back, if the circumstances set out in that rule apply.’.

141 Insertion of new ch 24, pt 4

Chapter 24—

insert—

**‘Part 4 Provision for Civil and Criminal
Jurisdiction Reform and
Modernisation Amendment Act
2010**

‘999 Transitional provision

‘Schedule 3, as amended by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*, applies only to proceedings commenced after the commencement of this section.’

142 Amendment of sch 3 (Scale of costs—Magistrates Courts)

(1) Schedule 3, part 1, item 1(3), ‘part 2’—

omit, insert—

‘part 2 or 3’.

(2) Schedule 3, part 2, heading, after ‘Costs’—

insert—

‘(up to \$50000)’.

(3) Schedule 3, part 2, column G, heading, ‘Over \$20 000’

omit, insert—

‘\$20 001 to \$50 000’.

(4) Schedule 3—

insert—

[s 142]

‘Part 3 Costs (over \$50000)

This part applies if the amount recovered by the plaintiff is over \$50000.

**\$
(including
GST)**

General care and conduct

- 1 In addition to an amount that is to be allowed under another item of this schedule, the amount that is to be allowed for a solicitor’s care and conduct of a proceeding is the amount the registrar considers reasonable having regard to the circumstances of the proceeding including, for example—
- (a) the complexity of the proceeding; and
 - (b) the difficulty and novelty of any question raised in the proceeding; and
 - (c) the importance of the proceeding to the party; and
 - (d) the amount involved; and
 - (e) the skill, labour, specialised knowledge and responsibility involved in the proceeding on the part of the solicitor; and
 - (f) the number and importance of the documents prepared or perused, without regard to the length of the documents; and
 - (g) the time spent by the solicitor; and
 - (h) research and consideration of questions of law and fact.

Registrar’s discretion

- 2 For a matter for which a cost is not provided for in this schedule, the amount to be allowed is the cost the registrar considers reasonable.

\$
(including
GST)

Costs on quarter-hourly basis

- 3 If, under an item of this schedule, costs in relation to a matter are allowable on a quarter-hourly basis, the amount to be allowed is—
- (a) for less than a quarter-hour spent on the matter—the cost of 1 quarter-hour; or
 - (b) for part of a quarter-hour after the first quarter-hour spent on the matter—a proportionate amount of the cost of 1 quarter-hour.

Drafting documents

- 4 Drafting a document—for each 100 words 14.00

Producing documents

- 5 Producing a document in final form—for each 100 words 3.60

Preparing exhibit certificates

- 6 Preparing an exhibit certificate—for each exhibit, including a paginated book 2.80

Copying documents

- 7 Copying a document—for each page 0.20

Perusing documents

- 8 Perusing a document—for each 100 words 2.80

Examining or comparing documents

- 9 Examining a document or comparing documents, if perusal is unnecessary—

[s 142]

	\$ (including GST)
(a) by a solicitor—for each quarter-hour	44.00
(b) by an employee—for each quarter-hour	14.00

Serving documents

10	Serving on a person 1 or more documents at the same time—	
	(a) personal service, by a solicitor or a solicitor’s employee, if personal service is required for 1 or more of the documents served	31.00
	However, if the registrar considers another amount is reasonable (having regard, for example, to the distance travelled, the time involved, and the number of attendances necessary to effect service), the amount the registrar considers reasonable.	
	(b) ordinary service	19.50
	(c) service by post	14.00
	(d) service by facsimile—	
	(i) for the first page	6.40
	(ii) for each extra page	0.80
	(e) service by email	6.40

Attendances

11	Attendance, if capable of being done by an employee—	
	(a) to file or deliver a document, obtain an appointment, insert an advertisement, or settle an order; or	
	(b) to search; or	
	(c) to do something of a similar nature	19.50
12	Attendance by telephone that does not involve the exercise of skill or legal knowledge.	13.00

	\$ (including GST)
13	Attendance in court, mediation or case appraisal, at a compulsory conference or before the registrar, by a solicitor who appears without a barrister—for each quarter-hour 49.50
14	Attendance for a hearing or trial held at a place other than the town where the solicitor lives or carries on business—
	(a) by the solicitor—
	(i) for the time spent in attendance at the hearing or trial—for each quarter-hour 44.00
	(ii) for the time the solicitor is absent from the solicitor’s place of business, including time used in travelling to or from the hearing or trial, other than in attendance at the hearing or trial—
	(A) for an absence of 4 hours or less 350.00
	(B) for an absence of more than 4 hours—for each quarter-hour to a maximum of 8 hours 21.50
	(iii) the expenses the registrar considers reasonable for each day of absence, including Saturdays and Sundays; and
	(iv) the actual expenses of transport to and from the hearing or trial the registrar considers reasonable; or
	(b) by the solicitor’s employee—the amount the registrar considers reasonable.
	However, if the solicitor’s absence is to attend more than 1 hearing or trial at the same place, the costs are to be divided proportionately.
15	Attendance at a call-over, to be apportioned if the attendance is for more than 1 proceeding 35.50

[s 142]

		\$ (including GST)
16	Other attendances—	
	(a) by a solicitor, involving skill or legal knowledge—for each quarter-hour	44.00
	(b) by an employee—for each quarter-hour	14.00
	However, the costs allowed under this item are to be reduced by 25% in relation to time necessarily spent at court before an appearance in court.	

Correspondence

17	(1) A short letter of a formal nature, written or received, or forwarding a document without comment.	10.50
	(2) An ordinary letter, written or received, including a letter between principal and agent.	26.00
	(3) A special letter involving skill or legal knowledge, including an allowance for drafting and producing.	28.50
	However, if the registrar considers a higher amount is reasonable for a special letter involving skill or legal knowledge, the amount the registrar considers reasonable.	
	(4) Correspondence between offices of the same firm of solicitors—the allowance that would have been allowable if an agent had been engaged and the engagement was normal and reasonable in the circumstances.	

Sending documents

18	Postage, carriage or transmission of documents, in addition to the other costs allowed under this schedule—	
	(a) for facsimile transmissions—	
	(i) for the first page.	6.40
	(ii) for each extra page.	0.80
	(b) for email transmissions	6.40

\$
(including
GST)

- (c) for the postage, carriage or transmission of any other document—the amount the registrar considers reasonable.

Electronic conduct of proceedings

19	(1) Printing an email, sent or received, or electronically scanning or imaging a document, other than a document mentioned in subitem (3)—for each page.	0.40
	(2) Examining an electronic document or comparing electronic documents, including emails, if perusal is unnecessary—for each 100 words.	0.80
	(3) Preparing a document for disclosure, or to be exchanged electronically, by—	
	(a) barcoding the document—for each page.	0.40
	(b) electronically scanning or imaging the document—for each page.	0.40
	(c) entering data about the document in a database, including delimiting the document to decide start and end pages, and carrying out quality control of the data, for example, to check for missing data and check spelling—for each document.	3.60
	(4) To the extent a proceeding is conducted electronically, costs, including the costs of any electronic service provider, to the extent the registrar considers the costs have been reasonably incurred and paid.	

Fixed cost items

20	Costs for issuing a claim	455.00
21	Costs for obtaining judgment under chapter 9, part 1, division 2	215.00
22	Costs for obtaining an enforcement warrant	160.00’.

[s 143]

143 Amendment of sch 4 (Dictionary)

Schedule 4, definition *central registry*—

omit, insert—

'central registry means—

- (a) for the Supreme Court—the registry of the court at Brisbane, Rockhampton, Townsville or Cairns; or
- (b) for the District Court—the registry of the court at Brisbane, Rockhampton, Townsville or Cairns; or
- (c) for a Magistrates Court—the registry of a Magistrates Court in the central division of the Brisbane District, or at Rockhampton, Townsville or Cairns.'

Part 22 Amendment of Workers' Compensation and Rehabilitation Act 2003

144 Act amended

This part amends the *Workers' Compensation and Rehabilitation Act 2003*.

145 Amendment of s 546 (Notice of review decision)

Section 546(3)(b), 'an industrial magistrate or'—

omit.

146 Amendment of s 548A (Meaning of *appeal body*)

- (1) Section 548A(1), from 'is'—

omit, insert—

'is the industrial commission.'

- (2) Section 548A(2), 'appeal body'—
omit, insert—
'appeal body'.

147 Amendment of s 550 (Procedure for appeal)

Section 550(3A)—
omit.

148 Amendment of s 566 (Decision about payment of compensation)

Section 566(1), 'the industrial magistrate,'—
omit.

149 Insertion of new ch 26

After section 662—
insert—

**'Chapter 26 Transitional provision for
Civil and Criminal
Jurisdiction Reform and
Modernisation Amendment
Act 2010**

'663 Appeals commenced before amendment of s 548A

'Chapter 13, part 3, as amended by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*, applies only to an appeal commenced after the commencement of this section.'

[s 150]

Part 23 **Amendment of Youth Justice Act 1992**

150 Act amended

This part amends the *Youth Justice Act 1992*.

151 Amendment of s 8 (Meaning of *serious offence*)

Section 8(2)—

omit, insert—

‘(2) An offence is not a serious offence if—

- (a) it is a relevant offence under the Criminal Code, section 552BA; or

Editor’s note—

Criminal Code, section 552BA (Charge of indictable offences that must be heard and decided summarily)

- (b) it is an offence that is the subject of a charge to which the Criminal Code, section 552A or 552B applies; or

Editor’s note—

Criminal Code, section 552A (Charges of indictable offences that must be heard and decided summarily on prosecution election) or 552B (Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial)

- (c) under the *Drugs Misuse Act 1986*, section 13, proceedings for a charge for the offence may be taken summarily; or

Editor’s note—

Drugs Misuse Act 1986, section 13 (Certain offences may be dealt with summarily)

- (d) under the *Drugs Misuse Act 1986*, section 14, proceedings for a charge for the offence may be taken summarily.

Note—

Proceedings for a charge for an offence may not be taken summarily under section 14 if the prosecution allegations include an allegation as to a commercial purpose.

Editor's note—

Drugs Misuse Act 1986, section 14 (Other offences that may be dealt with summarily if no commercial purpose alleged)

- (2A) If it is necessary for the purposes of subsection (2) to have reference to the table of excluded offences included in the Criminal Code, section 552BB, a reference in that table to the circumstance that the offender does not plead guilty to an offence is taken to be a reference to a child not admitting to committing the offence.’.

152 Amendment of s 78 (Procedural elections under this Act in relation to an indictable offence replace other elections)

Section 78, after ‘any other Act’—

insert—

‘or any provision of another Act that requires the indictable offence to be heard and decided summarily’.

153 Amendment of s 160 (Copy of court order or decision to be given to child, parent etc.)

Section 160(2)(a), after ‘prescribed form’—

insert—

‘or in the form of a verdict and judgment record under the *Criminal Practice Rules 1999*’.

154 Amendment of s 176 (Sentence orders—serious offences)

- (1) Section 176, heading, ‘serious’—

omit, insert—

[s 155]

‘life and other significant’.

(2) Section 176(1), (2) and (3), ‘serious offence’—

omit, insert—

‘relevant offence’.

(3) Section 176—

insert—

‘(9) In this section—

relevant offence means a life offence, or an offence of a type that, if committed by an adult, would make the adult liable to imprisonment for 14 years or more, but does not include any of the following offences—

(a) an offence of receiving if the value of the property, benefit or detriment is not more than \$5000;

(b) an offence against the Criminal Code, section 419 or 421, if—

(i) the offence involved stealing or an intent to steal, or an intent to destroy or damage property, or the damage or destruction of property; and

(ii) the offender was not armed or pretending to be armed when the offence was committed; and

(iii) the value of any property stolen, damaged or destroyed was not more than \$1000;

(c) an offence that, if committed by an adult, may be dealt with summarily under the *Drugs Misuse Act 1986*, section 13.’.

155 Insertion of new pt 11, div 8

Part 11—

insert—

**‘Division 8 Transitional provision for Civil and
Criminal Jurisdiction Reform and
Modernisation Amendment Act
2010**

**‘352 Particular amended provisions apply only to
prosecutions commenced after commencement**

- ‘(1) Sections 8, 78 and 176, as amended by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*, apply in relation to an offence only if an originating step for a proceeding for the offence is taken on or after the commencement of this section.
- ‘(2) For subsection (1), it does not matter when the offence was committed.
- ‘(3) In this section—
originating step, for a proceeding, means—
- (a) the arrest of the defendant in the proceeding; or
 - (b) the making of a complaint under the *Justices Act 1886*, section 42 in relation to the defendant in the proceeding;
or
 - (c) the serving of a notice to appear on the defendant in the proceeding under the *Police Powers and Responsibilities Act 2000*, section 382.’.