

*I hereby certify that this PUBLIC BILL has finally passed the  
Legislative Assembly of Queensland.*

*Legislative Assembly Chamber,  
Brisbane,*

*The Clerk of the Parliament.*

*30 March 2017*

*In the name and on behalf of the Queen, I assent to this Bill.*

*Paul de Jersey*

*Government House,*

*Brisbane,*

*30 March 2017*



Queensland

No. *6* of 2017

**A BILL for**

**An Act to amend the Bail Act 1980, the Criminal Code, the Criminal Proceeds Confiscation Act 2002, the Director of Public Prosecutions Act 1984, the Drugs Misuse Act 1986, the Evidence Act 1977, the Jury Act 1995, the Justices Act 1886, the Penalties and Sentences Act 1992, the Recording of Evidence Act 1962 and the Telecommunications Interception Act 2009 and the Acts mentioned in schedule 1 for particular purposes**





## Queensland

# Criminal Law Amendment Bill 2017

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# 2017

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## A Bill

for

**An Act to amend the *Bail Act 1980*, the Criminal Code, the *Criminal Proceeds Confiscation Act 2002*, the *Director of Public Prosecutions Act 1984*, the *Drugs Misuse Act 1986*, the *Evidence Act 1977*, the *Jury Act 1995*, the *Justices Act 1886*, the *Penalties and Sentences Act 1992*, the *Recording of Evidence Act 1962* and the *Telecommunications Interception Act 2009* and the Acts mentioned in schedule 1 for particular purposes**

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[s 1]

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Criminal Law Amendment Act 2017*.

## **Part 2 Amendment of Bail Act 1980**

### **2 Act amended**

This part amends the *Bail Act 1980*.

### **3 Amendment of s 7 (Power of police officer to grant bail)**

(1) Section 7(1)(a), after ‘charge of an offence,’—

*insert—*

or under a warrant issued under the *Penalties and Sentences Act 1992*, section 33AC.

(2) Section 7(1)(c)—

*omit, insert—*

(c) a prescribed police officer is satisfied it is not practicable to bring the person before a court promptly.

(3) Section 7(2)—

*omit, insert—*

(2) The prescribed police officer must investigate whether or not the person may be granted bail under this Act.

*Notes—*

- 1 See section 13 for when only the Supreme Court or a judge of the Supreme Court may grant a person bail.
  - 2 See section 16 for when the prescribed police officer must refuse to grant a person bail.
- (2A) If the prescribed police officer is satisfied the person may be granted bail under this Act, the officer must—
- (a) grant bail to the person and release the person from custody; or
  - (b) issue and serve on the person a notice to appear and release the person from custody.
- (4) Section 7(5), ‘subsection (4)’—  
*omit, insert—*  
subsection (5)
- (5) Section 7(2A) to (9)—  
*renumber* as section 7(3) to (10).

**4 Amendment of s 14 (Release of persons apprehended on making deposit of money as security for appearance)**

Section 14(5)—

*insert—*

*Note—*

If an order is made under this subsection, an order may also be made under the *Justices Act 1886*, section 150A to end the complaint in relation to the matter for which the person was granted bail.

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

- (1) Section 28A(1)(c), ‘7(2)(b)’—

*omit, insert—*

[s 6]

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7(3)(a)

- (2) Section 28A(1)(d), ‘14 or’—  
*omit.*

**6 Amendment of s 34BA (Varying bail on registry committal)**

Section 34BA(1)—  
*omit, insert—*

- (1) This section applies if—
- (a) under a registry committal under the *Justices Act 1886*, the clerk of the court at a place orders a defendant charged with an indictable offence to be committed to be tried or sentenced for the offence; and
  - (b) immediately before the registry committal, the defendant is on bail.

## **Part 3 Amendment of Criminal Code**

**7 Code amended**

This part amends the Criminal Code.

**8 Amendment of s 89 (Public officers interested in contracts)**

- (1) Section 89(1), after ‘is employed’—  
*insert—*

(the *relevant department*)

- (2) Section 89—  
*insert—*

(1A) However, the person does not commit an offence

against subsection (1) if, before the person acquires or starts to hold the private interest—

(a) the person discloses the nature of the interest to the chief executive of the relevant department; and

(b) the chief executive of the relevant department authorises the person, in writing, to acquire or hold the interest.

(1B) In a proceeding against a person for an offence against subsection (1), proof of the matters mentioned in subsection (2) lies on the person.

(1C) The chief executive of a department may delegate the chief executive's function under subsection (2) to an appropriately qualified person.

(3) Section 89—

*insert—*

(3) In this section—

*function* includes power.

(4) Section 89(1A) to (3)—

*renumber* as section 89(2) to (6).

## **9 Replacement of s 236 (Misconduct with regard to corpses)**

Section 236—

*omit, insert—*

### **236 Misconduct with regard to corpses**

(1) A person who, without lawful justification or excuse, the proof of which lies on the person, neglects to perform any duty imposed on the person by law, or undertaken by the person, whether for reward or otherwise, touching the burial or other disposition of a human body or human remains is guilty of a misdemeanour.

[s 10]

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Maximum penalty—2 years imprisonment.

- (2) A person who, without lawful justification or excuse, the proof of which lies on the person, improperly or indecently interferes with, or offers any indignity to, any dead human body or human remains, whether buried or not, is guilty of a crime.

Maximum penalty—5 years imprisonment.

## 10 Amendment of s 304 (Killing on provocation)

- (1) Section 304(2), (3) and (6), ‘a most extreme and’—

*omit, insert—*

an

- (2) Section 304—

*insert—*

- (3A) Further, subsection (1) does not apply, other than in circumstances of an exceptional character, if the sudden provocation is based on an unwanted sexual advance to the person.

- (6A) For proof of circumstances of an exceptional character mentioned in subsection (4), regard may be had to any history of violence, or of sexual conduct, between the person and the person who is unlawfully killed that is relevant in all the circumstances.

- (9) In this section—

***unwanted sexual advance***, to a person, means a sexual advance that—

- (a) is unwanted by the person; and  
(b) if the sexual advance involves touching the person—involves only minor touching.

---

*Examples of what may be minor touching depending on all the relevant circumstances—*

patting, pinching, grabbing or brushing against the person, even if the touching is an offence against section 352(1)(a) or another provision of this Code or another Act

- (3) Section 304(3A) to (9)—  
*renumber* as section 304(4) to (11).

## **11 Amendment of s 552I (Procedure under section 552B)**

- (1) Section 552I, heading, ‘section 552B’—  
*omit, insert—*

### **s 552B**

- (2) Section 552I(4) to (7)—  
*renumber* as section 552I(6) to (9).
- (3) Section 552I—  
*insert—*
- (4) If the defendant is legally represented and there is more than 1 charge before the Magistrates Court, a plea to any number of the charges may, with the consent of the defendant, be taken at the same time on the basis that the plea to 1 charge will be treated as a plea to any number of the charges if the court is satisfied—
- (a) the defendant has obtained legal advice in relation to each of the charges; and
- (b) the defendant is aware of the substance of each of the charges.
- (5) If the Magistrates Court takes a plea under subsection (4), the court is not required to state the substance of any charge before the court to the defendant.

[s 12]

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**12 Insertion of new pt 9, ch 97**

Part 9—

*insert—*

**Chapter 97 Transitional provision  
for Criminal Law  
Amendment Act 2017**

**739 Application of amendment Act**

- (1) This Code, as amended by the amendment Act, section 10, applies to a proceeding for an offence only if the offence was committed after the commencement of that section.

- (2) In this section—

*amendment Act* means the *Criminal Law Amendment Act 2017*.

**Part 4 Amendment of Criminal  
Proceeds Confiscation Act  
2002**

**13 Act amended**

This part amends the *Criminal Proceeds Confiscation Act 2002*.

**14 Replacement of s 52 (Contravention of restraining order)**

Section 52—

*omit, insert—*

**52 Contravention of restraining order**

- (1) A person who does, or attempts to do, an act or



makes an omission in relation to restrained property in contravention of a restraining order commits a crime.

Maximum penalty—

- (a) for a financial institution—2500 penalty units or the value of the restrained property, whichever is the higher amount; or
- (b) otherwise—
  - (i) 1000 penalty units or the value of the restrained property, whichever is the higher amount; or
  - (ii) 7 years imprisonment.
- (2) It is a defence to a charge of an offence against subsection (1) for the person to prove that the person had no notice the property was restrained under a restraining order and no reason to suspect it was.
- (3) However, the defence under subsection (2) is not available to the extent the restrained property is—
  - (a) a motor vehicle, boat or outboard motor the subject of a restraining order registered under the *Personal Property Securities Act 2009* (Cwlth); or
  - (b) land over which a caveat in relation to the restraining order is registered under the *Land Title Act 1994*.

*Note—*

See section 51(5) for the obligation of the registrar of titles to register the caveat.

- (4) Subsection (1) does not prevent the prosecution and punishment of a person who does, or attempts to do, an act or makes an omission mentioned in that subsection for contempt of court or another offence under this Act or another Act.

[s 15]

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- (5) A dealing with property in contravention of subsection (1) is void unless the dealing was in favour of a person who—
  - (a) did not know, and could not reasonably be expected to have known, that the property was restrained under a restraining order; and
  - (b) acted in good faith; and
  - (c) provided sufficient consideration for the dealing.
- (6) Subsection (5) applies whether or not any person is convicted of an offence in relation to the restraining order.

## **15 Replacement of s 60 (Dealing with forfeited property prohibited)**

Section 60—

*omit, insert—*

### **60 Dealing with forfeited property prohibited**

- (1) A person who does, or attempts to do, an act or makes an omission in relation to property that is the subject of a forfeiture order that directly or indirectly defeats the operation of the order commits a crime.

Maximum penalty—

- (a) for a financial institution—2500 penalty units or the value of the forfeited property, whichever is the higher amount; or
- (b) otherwise—
  - (i) 1000 penalty units or the value of the forfeited property, whichever is the higher amount; or
  - (ii) 7 years imprisonment.
- (2) It is a defence to a charge of an offence against

subsection (1) for the person to prove that the person had no notice the property was the subject of a forfeiture order and no reason to suspect it was.

- (3) However, the defence under subsection (2) is not available to the extent the property is—
  - (a) a motor vehicle, boat or outboard motor the subject of a forfeiture order registered under the *Personal Property Securities Act 2009* (Cwlth); or
  - (b) land over which a caveat in relation to the forfeiture order is registered under the *Land Title Act 1994*.
- (4) Subsection (1) does not prevent the prosecution and punishment of a person who does, or attempts to do, an act or makes an omission mentioned in that subsection for contempt of court or another offence under this Act or another Act.
- (5) A dealing with property in contravention of subsection (1) is void unless the dealing was in favour of a person who—
  - (a) did not know, and could not reasonably be expected to have known, that the property was forfeited under a forfeiture order; and
  - (b) acted in good faith; and
  - (c) provided sufficient consideration for the dealing.
- (6) Subsection (5) applies whether or not any person is convicted of an offence in relation to the forfeiture order.

## 16 Replacement of s 93ZT (Contravention of restraining order)

Section 93ZT—

[s 16]

---

*omit, insert—*

### **93ZT Contravention of restraining order**

- (1) A person who does, or attempts to do, an act or makes an omission in relation to restrained property in contravention of a restraining order commits a crime.

Maximum penalty—

- (a) for a financial institution—2500 penalty units or the value of the restrained property, whichever is the higher amount; or
- (b) otherwise—
- (i) 1000 penalty units or the value of the restrained property, whichever is the higher amount; or
- (ii) 7 years imprisonment.
- (2) It is a defence to a charge of an offence against subsection (1) for the person to prove that the person had no notice the property was restrained under a restraining order and no reason to suspect it was.
- (3) However, the defence under subsection (2) is not available to the extent the restrained property is—
- (a) a motor vehicle, boat or outboard motor the subject of a restraining order registered under the *Personal Property Securities Act 2009* (Cwlth); or
- (b) land over which a caveat in relation to the restraining order is registered under the *Land Title Act 1994*.

*Note—*

See section 93ZS(5) for the obligation of the registrar of titles to register the caveat.

- (4) Subsection (1) does not prevent the prosecution and punishment of a person who does, or attempts

to do, an act or makes an omission mentioned in that subsection for contempt of court or another offence under this Act or another Act.

- (5) A dealing with property in contravention of subsection (1) is void unless the dealing was in favour of a person who—
  - (a) did not know, and could not reasonably be expected to have known, that the property was restrained under a restraining order; and
  - (b) acted in good faith; and
  - (c) provided sufficient consideration for the dealing.
- (6) Subsection (5) applies whether or not any person is convicted of an offence in relation to the restraining order.

**17 Amendment of s 93ZZB (Making of serious drug offender confiscation order)**

- (1) Section 93ZZB(3)—

*insert—*

*Example—*

Assume a person has been convicted of the qualifying offence of trafficking in dangerous drugs and the Supreme Court has made an unexplained wealth order against the person because the court was satisfied there was a reasonable suspicion, based on the person's conviction, that the person had engaged in at least 1 serious crime related activity. The court may not make a serious drug offender confiscation order against the person based on the same conviction.

- (2) Section 93ZZB—

*insert—*

- (3A) Subsection (3) does not limit the value of the property that may be forfeited to the State under a serious drug offender confiscation order.

[s 18]

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- (3) Section 93ZZB(6), ‘Subsection (5)’—  
*omit, insert—*

Subsection (6)

- (4) Section 93ZZB(3A) to (6)—  
*renumber* as section 93ZZB(4) to (7).

## **18 Replacement of s 93ZZH (Dealing with forfeited property prohibited)**

Section 93ZZH—

*omit, insert—*

### **93ZZH Dealing with property forfeited under serious drug offender confiscation order prohibited**

- (1) A person who does, or attempts to do, an act or makes an omission in relation to property forfeited under a serious drug offender confiscation order that directly or indirectly defeats the operation of the order commits a crime.

Maximum penalty—

- (a) for a financial institution—2500 penalty units or the value of the forfeited property, whichever is the higher amount; or
- (b) otherwise—
- (i) 1000 penalty units or the value of the forfeited property, whichever is the higher amount; or
- (ii) 7 years imprisonment.
- (2) It is a defence to a charge of an offence against subsection (1) for the person to prove that the person had no notice the property was forfeited under a serious drug offender confiscation order and no reason to suspect it was.

- (3) However, the defence under subsection (2) is not available to the extent the property is—
  - (a) a motor vehicle, boat or outboard motor the subject of a serious drug offender confiscation order registered under the *Personal Property Securities Act 2009* (Cwlth); or
  - (b) land over which a caveat in relation to the serious drug offender confiscation order is registered under the *Land Title Act 1994*.
- (4) Subsection (1) does not prevent the prosecution and punishment of a person who does, or attempts to do, an act or makes an omission mentioned in that subsection for contempt of court or another offence under this Act or another Act.
- (5) A dealing with property in contravention of subsection (1) is void unless the dealing was in favour of a person who—
  - (a) did not know, and could not reasonably be expected to have known, that the property was the subject of a serious drug offender confiscation order; and
  - (b) acted in good faith; and
  - (c) provided sufficient consideration for the dealing.
- (6) Subsection (5) applies whether or not any person is convicted of an offence in relation to the serious drug offender confiscation order.

## 19 Replacement of s 143 (Contravention of restraining order)

Section 143—

*omit, insert—*

### **143 Contravention of restraining order**

- (1) A person who does, or attempts to do, an act or makes an omission in relation to restrained property in contravention of a restraining order commits a crime.

Maximum penalty—

- (a) for a financial institution—2500 penalty units or the value of the restrained property, whichever is the higher amount; or
- (b) otherwise—
- (i) 1000 penalty units or the value of the restrained property, whichever is the higher amount; or
- (ii) 7 years imprisonment.
- (2) It is a defence to a charge of an offence against subsection (1) for the person to prove that the person had no notice the property was restrained under a restraining order and no reason to suspect it was.
- (3) However, the defence under subsection (2) is not available to the extent the restrained property is—
- (a) a motor vehicle, boat or outboard motor the subject of a restraining order registered under the *Personal Property Securities Act 2009* (Cwlth); or
- (b) land over which a caveat in relation to the restraining order is registered under the *Land Title Act 1994*.

*Note—*

See section 142(5) for the obligation of the registrar of titles to register the caveat.

- (4) Subsection (1) does not prevent the prosecution and punishment of a person who does, or attempts to do, an act or makes an omission mentioned in



that subsection for contempt of court or another offence under this Act or another Act.

- (5) A dealing with property in contravention of subsection (1) is void unless the dealing was in favour of a person who—
  - (a) did not know, and could not reasonably be expected to have known, that the property was restrained under a restraining order; and
  - (b) acted in good faith; and
  - (c) provided sufficient consideration for the dealing.
- (6) Subsection (5) applies whether or not any person is convicted of an offence in relation to the restraining order.

## **20 Replacement of s 171 (Dealing with forfeited property prohibited)**

Section 171—

*omit, insert—*

### **171 Dealing with forfeited property prohibited**

- (1) A person who does, or attempts to do, an act or makes an omission in relation to property that is the subject of a forfeiture order that directly or indirectly defeats the operation of the order commits a crime.

Maximum penalty—

- (a) for a financial institution—2500 penalty units or the value of the forfeited property, whichever is the higher amount; or
- (b) otherwise—
  - (i) 1000 penalty units or the value of the forfeited property, whichever is the higher amount; or

[s 20]

---

- (ii) 7 years imprisonment.
- (2) It is a defence to a charge of an offence against subsection (1) for the person to prove that the person had no notice the property was the subject of a forfeiture order and no reason to suspect it was.
- (3) However, the defence under subsection (2) is not available to the extent the property is—
  - (a) a motor vehicle, boat or outboard motor the subject of a forfeiture order registered under the *Personal Property Securities Act 2009* (Cwlth); or
  - (b) land over which a caveat in relation to the forfeiture order is registered under the *Land Title Act 1994*.
- (4) Subsection (1) does not prevent the prosecution and punishment of a person who does, or attempts to do, an act or makes an omission mentioned in that subsection for contempt of court or another offence under this Act or another Act.
- (5) A dealing with property in contravention of subsection (1) is void unless the dealing was in favour of a person who—
  - (a) did not know, and could not reasonably be expected to have known, that the property was forfeited under a forfeiture order; and
  - (b) acted in good faith; and
  - (c) provided sufficient consideration for the dealing.
- (6) Subsection (5) applies whether or not any person is convicted of an offence in relation to the forfeiture order.

**21 Amendment of s 249 (Communication of information by financial institutions to particular officers)**

(1) Section 249(1)(a)—

*insert—*

(iii) a matter for which an order may be made under chapter 2A; or

(2) Section 249(3)—

*omit, insert—*

(3) The institution may give the information to a commission officer if the information relates to—

(a) an investigation of a serious crime related activity or another matter for which an order may be made under chapter 2; or

(b) a matter for which an order may be made under chapter 2A.

**22 Insertion of new ch 12, pt 6**

Chapter 12—

*insert—*

**Part 6 Transitional provisions  
for Criminal Law  
Amendment Act 2017**

**296 Definition for part**

In this part—

*amendment Act* means the *Criminal Law Amendment Act 2017*.

### **297 Restraining orders made before commencement**

For sections 52, 93ZT and 143, as inserted by the amendment Act—

- (a) a reference to restrained property is a reference to property restrained under a restraining order, whether before or after the commencement; and
- (b) a reference to a restraining order is a reference to a restraining order, whether made before or after the commencement.

### **298 Forfeiture orders made before commencement**

For sections 60 and 171, as inserted by the amendment Act—

- (a) a reference to forfeited property is a reference to property forfeited, whether before or after the commencement; and
- (b) a reference to a forfeiture order is a reference to a forfeiture order, whether made before or after the commencement.

### **299 Serious drug offender confiscation orders made before commencement**

For section 93ZZH, as inserted by the amendment Act—

- (a) a reference to forfeited property is a reference to property forfeited, whether before or after the commencement; and
- (b) a reference to a serious drug offender confiscation order is a reference to a serious drug offender confiscation order, whether made before or after the commencement.

**23 Amendment of sch 6 (Dictionary)**

Schedule 6, definition *applicant*, paragraph (c), ‘chapter 4’—  
*omit, insert—*  
chapter 3

**Part 5 Amendment of Director of  
Public Prosecutions Act 1984**

**24 Act amended**

This part amends the *Director of Public Prosecutions Act 1984*.

**25 Insertion of new s 23A**

Part 3—  
*insert—*

**23A Delegation by director**

The director may delegate the director’s functions and powers under this Act or another Act to an appropriately qualified person.

**Part 6 Amendment of Drugs Misuse  
Act 1986**

**26 Act amended**

This part amends the *Drugs Misuse Act 1986*.

**27 Amendment of s 128 (Analyst’s certificate)**

(1) Section 128(1), ‘made by the analyst’—  
*omit.*

[s 28]

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(2) Section 128(1)—

*insert—*

- (d) the laboratory at which the thing was analysed or examined;
- (e) that the analyst examined the laboratory's records about the analysis or examination of the thing, including the records about any analysis or examination done by someone other than the analyst;

## **28 Insertion of new pt 7, div 10**

Part 7—

*insert—*

### **Division 10 Provision for Criminal Law Amendment Act 2017**

#### **146 Validation of analysts' certificates signed before commencement**

- (1) This section applies to a certificate signed by an analyst under section 128 before the commencement.
- (2) The certificate is taken to be, and to have always been, as valid and effective as it would have been if it were signed after the commencement.

## **Part 7 Amendment of Evidence Act 1977**

### **29 Act amended**

This part amends the *Evidence Act 1977*.

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*Note—*

See also the amendments in schedule 1.

### **30 Amendment of s 21A (Evidence of special witnesses)**

- (1) Section 21A(2)(e), (5) and (5A), ‘video-taped recording’—

*omit, insert—*

videorecording

- (2) Section 21A(2)(e), ‘video-taped evidence’—

*omit, insert—*

videorecorded evidence

- (3) Section 21A(6), all words before paragraph (a)—

*omit, insert—*

A videorecording made under this section of evidence given by a special witness, or a lawfully edited copy of the videorecording—

- (4) Section 21A—

*insert—*

- (6A) A reference in subsection (6) to a videorecording made under this section includes a reference to a copy of the videorecording on a separate data storage medium if—

(a) the videorecording is a digital recording; and

(b) the copy of the videorecording on the separate data storage medium has been made by—

(i) the principal registrar of a court; or

(ii) a person authorised by the principal registrar of a court to copy the videorecording onto the separate data storage medium.

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## **31 Insertion of new s 21AAA**

Part 2, division 4, after section 21A—

*insert—*

### **21AAA Exclusion of particular persons while videorecording or usable soundtrack being presented**

- (1) This section applies if the evidence of a special witness contained in either of the following is to be presented at a proceeding—
  - (a) a videorecording made under section 21A, or a lawfully edited copy of the videorecording;
  - (b) the usable soundtrack of a videorecording, or a lawfully edited copy of a videorecording, mentioned in paragraph (a), or a lawfully edited copy of the usable soundtrack.

*Note—*

See part 2, division 4AA in relation to the use of soundtracks from particular recordings.

- (2) The court may, on its own initiative or on an application made by a party to the proceeding, order that, while the evidence is being presented at the proceeding, all persons other than those specified by the court be excluded from the room in which it is sitting.
- (3) However, if the evidence is to be presented at a criminal proceeding, the court may not, under subsection (2), exclude the person charged.

*Notes—*

- 1 See section 21A(2)(a) and (b), (4) and (5) in relation to the court's power to exclude particular persons while a special witness is giving evidence under that section.



- 2 See the *Child Protection Act 1999*, section 193 for restrictions on disclosing identifying information about a special witness who is a child.

### **32 Amendment of s 21AM (Use of prerecorded evidence)**

- (1) Section 21AM(1), from ‘videotaped’ to ‘the recording’—

*omit, insert—*

videorecording made under this subdivision for a proceeding, or in a lawfully edited copy of the videorecording

- (2) Section 21AM—

*insert—*

- (3) A reference in subsection (1) to a videorecording made under this subdivision for a proceeding includes a reference to a copy of the videorecording on a separate data storage medium if—

- (a) the videorecording is a digital recording; and
- (b) the copy of the videorecording on the separate data storage medium has been made by—
  - (i) the principal registrar of a court; or
  - (ii) a person authorised by the principal registrar of a court to copy the videorecording onto the separate data storage medium.

### **33 Amendment of s 21AQ (Audio visual links or screening arrangements must be used)**

- (1) Section 21AQ(4), from ‘video-taping’—

*omit, insert—*

videorecording, the child’s evidence must be

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---

videorecorded.

- (2) Section 21AQ(6), from ‘A video-taped’ to ‘the recording’—  
*omit, insert—*

A videorecording of the child’s evidence made  
under this section, or a lawfully edited copy of the  
videorecording

- (3) Section 21AQ—  
*insert—*

- (7) A reference in subsection (6) to a videorecording  
made under this section includes a reference to a  
copy of the videorecording on a separate data  
storage medium if—

- (a) the videorecording is a digital recording;  
and
- (b) the copy of the videorecording on the  
separate data storage medium has been  
made by—
  - (i) the principal registrar of a court; or
  - (ii) a person authorised by the principal  
registrar of a court to copy the  
videorecording onto the separate data  
storage medium.

### **34 Amendment of s 21AU (Exclusion of public)**

Section 21AU(1) to (3)—

*omit, insert—*

- (1) This section applies if—
- (a) an affected child is to give evidence under  
subdivision 3 or 4 in a relevant proceeding;  
or

- (b) the evidence of an affected child contained in either of the following is to be presented at a relevant proceeding—
  - (i) a videorecording made under subdivision 3 or 4, or a lawfully edited copy of the videorecording;
  - (ii) the usable soundtrack of a videorecording, or a lawfully edited copy of a videorecording, mentioned in subparagraph (i), or a lawfully edited copy of the usable soundtrack.

*Note—*

See part 2, division 4AA in relation to the use of soundtracks from particular recordings.

- (2) The court must make an order excluding from the room in which it is sitting all persons, other than essential persons, while—
  - (a) the child is giving the evidence mentioned in subsection (1)(a); or
  - (b) the evidence mentioned in subsection (1)(b) is being presented.
- (3) However, subsection (2) does not apply if—
  - (a) the evidence to be given by the child, or presented at the proceeding, is other than in relation to an offence of a sexual nature; and
  - (b) the court is satisfied that the interests of justice require the evidence to be heard in open court.

*Note—*

See the *Child Protection Act 1999*, section 193 for restrictions on disclosing identifying information about the affected child.

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**35 Amendment of s 21AW (Instructions to be given to jury)**

Section 21AW(1)(b), after ‘evidence’—

*insert—*

or a videorecording, or usable soundtrack of a videorecording, containing the evidence of an affected child is presented

**36 Insertion of new pt 2, div 4AA**

After section 21AX—

*insert—*

**Division 4AA Use of soundtracks from particular videorecordings**

**21AXA Definition for division**

In this division—

*relevant witness* see section 21AXC(1)(a).

**21AXB Meaning of *usable soundtrack***

A videorecording has a *usable soundtrack* if sound can be produced from the accompanying soundtrack of the videorecording, even if moving images can not be produced from the videorecording.

**21AXC Court may make order for presentation of usable soundtrack**

(1) This section applies if—

(a) a videorecording has been made—

(i) under section 21A of the evidence of a special witness (a *relevant witness*); or

- (ii) under division 4A, subdivision 3 or 4 of the evidence of an affected child (also a *relevant witness*); and
  - (b) the evidence of the relevant witness contained in the videorecording is admissible in a proceeding as mentioned in section 21A(6), 21AM or 21AQ(6); and
  - (c) moving images can not be produced from the videorecording or a lawfully edited copy of the videorecording; and
  - (d) the videorecording, or a lawfully edited copy of the videorecording, has a usable soundtrack.
- (2) The court may order that the usable soundtrack of the videorecording of the evidence of the relevant witness, or of the lawfully edited copy of the videorecording, may be presented at the proceeding.
- (3) The court may make an order under subsection (2)—
- (a) on the court's own initiative or on the application of a party to the proceeding; and
  - (b) only if the court is satisfied it would be in the interests of justice to make the order.

### **21AXD Use of usable soundtrack**

- (1) This section applies if the court makes an order under section 21AXC(2) that the usable soundtrack of either of the following may be presented at a proceeding—
- (a) a videorecording of the evidence of a relevant witness made under section 21A or division 4A, subdivision 3 or 4;

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- (b) a lawfully edited copy of a videorecording mentioned in paragraph (a).
- (2) If the relevant witness is a special witness, section 21A(6) applies as if the reference in the subsection to a videorecording made under that section were a reference to the usable soundtrack of the videorecording or of the lawfully edited copy of the videorecording.
- (3) If the relevant witness is an affected child whose evidence has been taken under division 4A, subdivision 3, section 21AM applies as if the reference in section 21AM(1) to a videorecording made under division 4A, subdivision 3 were a reference to the usable soundtrack of the videorecording or of the lawfully edited copy of the videorecording.
- (4) If the relevant witness is an affected child whose evidence has been taken under division 4A, subdivision 4, section 21AQ(6) applies as if the reference in the subsection to a videorecording of the child's evidence made under that section were a reference to the usable soundtrack of the videorecording or of the lawfully edited copy of the videorecording.

**37 Replacement of pt 2, div 4B, hdg (Dealing with a recording)**

Part 2, division 4B, heading—

*omit, insert—*

**Division 4B Dealings with, and  
destruction of, recordings**

**Subdivision 1 Preliminary**

**38 Amendment of s 21AY (Definitions for div 4B)**

(1) Section 21AY, definition *recording*—  
*omit.*

(2) Section 21AY—  
*insert—*

*authorised destruction day* see section 21AZF(1).

*minimum retention period* see section 21AZE(4)(a).

*recording* means—

- (a) a videorecording of a special witness's evidence made under section 21A; or
- (b) a videorecording of an affected child's evidence made under division 4A, subdivision 3 or 4; or
- (c) a copy of a videorecording mentioned in paragraph (a) or (b); or
- (d) the usable soundtrack of a videorecording mentioned in paragraph (a), (b) or (c).

**39 Insertion of new pt 2, div 4B, sdiv 2, hdg**

After section 21AY—  
*insert—*

**Subdivision 2 Dealings with recordings**

**40 Amendment of s 21AZB (Unauthorised possession of, or dealing with, recording)**

(1) Section 21AZB(2)(b)—  
*renumber* as section 21AZB(2)(c).

(2) Section 21AZB(2)—

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---

*insert—*

- (b) in the case of the principal registrar of a court—as authorised under a practice direction made under section 21AZE or section 21AZG; or

- (3) Section 21AZB—

*insert—*

- (3) In this section—  
*erase* includes destroy.

#### **41 Insertion of new pt 2, div 4B, sdiv 3**

Part 2, division 4B—

*insert—*

### **Subdivision 3 Destruction of recordings**

#### **21AZD Relationship with other Acts**

This subdivision applies despite the provisions of any other Act to the contrary.

#### **21AZE Making of practice directions authorising destruction**

- (1) The Chief Justice may make a practice direction authorising the principal registrar of the Supreme Court to destroy a recording held by or for the Supreme Court.
- (2) The Chief Judge may make a practice direction authorising the principal registrar of the District Court to destroy a recording held by or for the District Court.
- (3) The Chief Magistrate may make a practice direction authorising the principal registrar of Magistrates Courts to destroy a recording held by



or for a Magistrates Court.

- (4) A practice direction made under subsection (1), (2) or (3)—
  - (a) must state the period (the *minimum retention period*) during which a recording or class of recordings may not be destroyed under the practice direction; and
  - (b) may authorise the principal registrar of the court to destroy a recording only after—
    - (i) the minimum retention period stated for the recording has ended; and
    - (ii) if an order under section 21AZF has been made in relation to the recording—the authorised destruction day stated in the order has passed.

### **21AZF Court may make order about destruction**

- (1) The presiding judicial officer may make an order that a recording must not be destroyed before a stated day (the *authorised destruction day*).
- (2) The authorised destruction day must be after the end of the minimum retention period for the recording.

### **21AZG Destruction of particular digital recordings**

- (1) The principal registrar of a court may destroy a recording held by the court if the recording—
  - (a) is a digital recording; and
  - (b) has been copied onto a separate data storage medium.
- (2) Subsection (1) applies—

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---

- (a) even if a practice direction made under section 21AZE does not authorise the destruction of the recording; and
- (b) despite any order made under section 21AZF in relation to the recording.

### **21AZH Delegation by principal registrar**

- (1) The principal registrar of a court may delegate to an appropriately qualified public service employee the principal registrar's function under—
  - (a) a practice direction made under section 21AZE; or
  - (b) section 21AZG.
- (2) In this section—  
*function* includes power.

## **42 Amendment of s 95A (DNA evidentiary certificate)**

- (1) Section 95A—  
*insert—*
  - (1A) However, subsections (4), (5), (8) and (9) do not apply to a criminal proceeding if the proceeding is an examination of witnesses in relation to an indictable offence.
- (2) Section 95A(3)—  
*omit, insert—*
  - (3) If a party (the *relying party*) intends to rely on the certificate, the relying party must, at least 10 business days before the hearing day, give a copy of the certificate to each other party.
  - (3A) If, at least 5 business days before the hearing day, a party other than the relying party gives a written

notice to each other party that it requires the DNA analyst to give evidence, the relying party must call the DNA analyst to give evidence at the hearing.

- (3) Section 95A(5), ‘3 business days’—

*omit, insert—*

5 business days

- (4) Section 95A—

*insert—*

(8A) The court may at any time, on application by a party, make an order shortening or extending a period mentioned in this section.

(8B) Without limiting subsection (11), the court may waive the requirement for a party other than the relying party to give notice under subsection (5) that it requires the DNA analyst to give evidence.

(8C) If the court makes an order under subsection (12), the relying party must call the DNA analyst to give evidence at the hearing.

- (5) Section 95A(1A) to (9)—

*renumber* as section 95A(2) to (14).

## **43 Insertion of new pt 9, div 8**

Part 9—

*insert—*

### **Division 8                      Criminal Law Amendment Act 2017**

#### **149 Definition for division**

In this division—

*amendment Act* means the *Criminal Law*

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*Amendment Act 2017.*

**150 Admissibility of particular copies of  
videorecordings made before commencement**

Sections 21A, 21AM and 21AQ, as amended by the amendment Act, apply, and are taken always to have applied, to a copy of a videorecording on a separate data storage medium that was made before the commencement.

**151 Destruction of recordings made before  
commencement**

Part 2, division 4B, subdivision 3, as inserted by the amendment Act, applies in relation to a recording whether the recording was made before or after the commencement.

**152 Application of DNA evidentiary certificate  
provision to proceedings started before  
commencement**

Section 95A, as amended by the amendment Act, applies to a criminal proceeding whether the proceeding was started before or after the commencement.

**44 Amendment of sch 3 (Dictionary)**

- (1) Schedule 3, definitions *lawfully edited copy*, *video-taped* and *video-taped recording*—  
*omit.*
- (2) Schedule 3—  
*insert—*

*authorised destruction day*, for part 2, division 4B, see section 21AZF(1).

***lawfully edited copy***—

- (a) of a videorecording of evidence given by a special witness or an affected child—means a copy of the videorecording that has been edited or otherwise changed under an approval given under section 21AZ; or
- (b) of a usable soundtrack of a videorecording containing the evidence of a special witness or an affected child—means a copy of the usable soundtrack of the videorecording that has been edited or otherwise changed under an approval given under section 21AZ.

***minimum retention period***, for part 2, division 4B, see section 21AZE(4)(a).

***principal registrar***, of a court, means—

- (a) for a Magistrates Court—the person holding appointment as the principal registrar of Magistrates Courts mentioned in the *Magistrates Courts Act 1921*, section 3A(2); or
- (b) for the District Court—the person appointed as the principal registrar under the *District Court of Queensland Act 1967*, section 36(1); or
- (c) for the Supreme Court—the person appointed as the principal registrar under the *Supreme Court of Queensland Act 1991*, section 69(1).

***relevant witness***, for part 2, division 4AA, see section 21AXC(1)(a).

***usable soundtrack***, of a videorecording, see section 21AXB.

***videorecorded*** means recorded as a videorecording.

***videorecording*** means a recording, including the

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accompanying soundtrack, on any medium from which a moving image may be produced by any means.

## Part 8                      Amendment of Jury Act 1995

### 45        Act amended

This part amends the *Jury Act 1995*.

### 46        Amendment of s 18 (Notice to prospective jurors)

(1) Section 18—

*insert—*

- (1A) Without limiting the ways the notice to prospective jurors may be given, the notice may be given by email or other electronic means.

(2) Section 18(2)—

*omit, insert—*

(2) The notice to prospective jurors must—

- (a) include or be accompanied by, or give instructions for accessing, the following documents—

(i) a questionnaire (a ***prospective juror questionnaire***) to find out whether the person is qualified to serve as a juror and, if the person claims not to be qualified to serve as a juror, the ground of the claim;

(ii) a form (an ***application form***) to enable the person to apply to be excused from jury service; and

- (b) state the ways the completed documents may be returned to the sheriff.

- (3) Section 18(6), penalty, ‘subsection (6)’—

*omit, insert—*

subsection (7)

- (4) Section 18(1A) to (6)—

*renumber* as section 18(2) to (7).

#### **47 Amendment of s 27 (Summons for jury service)**

- (1) Section 27—

*insert—*

- (1A) Without limiting the ways the summons may be given, the summons may be given by email or other electronic means.

- (2) Section 27(1A) to (5)—

*renumber* as section 27(2) to (6).

#### **48 Amendment of s 30 (Reproduction of list of persons summoned for jury service)**

Section 30(2), example, ‘or clerk’—

*omit.*

#### **49 Amendment of s 37 (Materials to be given by sheriff)**

- (1) Section 37(1), ‘or clerk’—

*omit.*

- (2) Section 37(1)(b)—

*omit, insert—*

- (b) 1 card (a *jury card*) for each member of the panel that states—

- (i) the name of, or a number representing, the member; and

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- (ii) the locality address and occupation of the member.

(3) Section 37—

*insert—*

(1A) The jury cards for the members of a panel—

- (a) may be given by electronic means; and
- (b) if not given by electronic means—must be of identical size and shape.

(4) Section 37(1A) to (3)—

*renumber* as section 37(2) to (4).

## 50 Amendment of s 41 (Procedure for jury selection)

(1) Section 41(1)(a)—

*omit, insert—*

- (a) a selection must be made, as directed by the judge, from among the members of the jury panel by random selection of jury cards, including, for example, by a computer programmed to make a random selection; and

(2) Section 41(3), ‘or clerk’—

*omit.*

## 51 Amendment of sch 3 (Dictionary)

(1) Schedule 3—

*insert—*

***jury card*** see section 37(1)(b).

(2) Schedule 3, definition *prospective juror questionnaire*, ‘18(2)(a)’—

*omit, insert—*



18(2)(a)(i)

## **Part 9                      Amendment of Justices Act 1886**

### **52        Act amended**

This part amends the *Justices Act 1886*.

### **53        Insertion of new s 43A**

After section 43—

*insert—*

#### **43A Court may order particular complaints to be heard together**

- (1) This section applies in relation to a complaint of a simple offence or breach of duty.
- (2) A court may order that 2 or more complaints against the same defendant be heard together if all the matters of complaint in the complaints are of a kind that could have been joined in 1 complaint under section 43.
- (3) Also, a court may order that 2 or more complaints against different defendants be heard together if the matters of complaint in the complaints are founded on—
  - (a) substantially the same facts; or
  - (b) facts so closely related that a substantial part of the facts is relevant to all the matters of complaint.

### **54        Amendment of s 83A (Direction hearing)**

Section 83A(5)—

[s 55]

---

*insert—*

- (ca) hearing complaints that have been ordered to be heard together under section 43A;

## **55 Insertion of new s 88B**

Part 4, division 11—

*insert—*

### **88B Continuation of remand on registry committal**

- (1) This section applies if—
  - (a) under a registry committal, the clerk of the court at a place orders a defendant to be committed to be tried or sentenced for an indictable offence; and
  - (b) immediately before the registry committal, the defendant is subject to an order made under section 84(1) (the *remand order*) providing for the remand of the defendant.
- (2) The remand order is continued, and is taken to have been made by the court (the *receiving court*) to which the defendant is committed for trial or sentence on the terms recorded for the order in the verdict and judgment record as required under the *Criminal Practice Rules 1999*.
- (3) However, the remand order is taken to be varied to require the defendant to be brought before the receiving court as required by the receiving court.
- (4) Also, if the clerk of the court amends the charges under section 115(6), the remand order is taken to be made in relation to the charges on which the defendant is committed for trial or sentence under the registry committal.

**56 Amendment of s 114 (Registry committal by clerk of court)**

Section 114(1)(d)—

*omit, insert—*

- (d) the defendant, if an individual—
  - (i) is not in custody, and is not in breach of any condition of the undertaking on which the defendant was granted bail; or
  - (ii) is remanded in custody for the indictable offence;

**57 Amendment of s 115 (Process of clerk of the court for registry committal)**

Section 115(10), note—

*omit, insert—*

*Notes for subsection (10)—*

- 1 If, immediately before the registry committal, the defendant is subject to an order made under section 84(1) providing for the remand of the defendant, section 88B provides for the automatic continuation of the order.
- 2 If, immediately before the registry committal, the defendant is on bail, the *Bail Act 1980*, section 34BA provides for the automatic continuation of the defendant's bail.

**58 Amendment of s 142 (Proceedings in absence of defendant)**

Section 142(1)—

*insert—*

*Note—*

See section 150A for when the justices may, instead of dealing with the complaint under this division, make an order ending the complaint.

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**59 Amendment of s 144 (Both parties appearing)**

Section 144—

*insert—*

*Note—*

See section 150A for when the justices may, instead of dealing with the complaint under this division, make an order ending the complaint.

**60 Amendment of s 145 (Defendant to be asked to plead)**

(1) Section 145(2)—

*renumber* as section 145(4).

(2) Section 145—

*insert—*

- (2) If the defendant is legally represented and there is more than 1 complaint before the Magistrates Court, a plea to any number of the complaints may, with the consent of the defendant, be taken at the same time on the basis that the plea to 1 complaint will be treated as a plea to any number of the complaints if the court is satisfied—
  - (a) the defendant has obtained legal advice in relation to each of the complaints; and
  - (b) the defendant is aware of the substance of each of the complaints.
- (3) If the Magistrates Court takes a plea under subsection (2), the court is not required to state the substance of any complaint before the court to the defendant.

**61 Insertion of new s 148A**

Part 6, division 3—

*insert—*

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### **148A Admissions of fact**

(1) This section applies in relation to a complaint of—

- (a) a simple offence, other than a simple offence that is an indictable offence punishable on summary conviction; or

*Note—*

See the Criminal Code, section 644 in relation to the admission of a fact on the hearing of a complaint that relates to an indictable offence being heard and decided summarily.

- (b) a breach of duty.

(2) On the hearing of the complaint—

- (a) the defendant may, personally or by the defendant's lawyer, admit any fact alleged against the defendant; and
- (b) the complainant may, personally or by the complainant's lawyer, admit any fact relevant to the hearing, but only if the defendant consents to the making of the admission.

(3) An admission of a fact made under subsection (2) is sufficient proof of the fact without other evidence.

## **62 Insertion of new pt 6, div 4A**

Part 6—

*insert—*

### **Division 4A      Ending of complaint if police cash bail granted**

#### **150A Justices may order that complaint is ended**

(1) This section applies if—

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- (a) a defendant has been granted bail under the *Bail Act 1980*, section 14 in relation to the matter of a complaint; and
- (b) any of the following applies—
  - (i) the defendant fails to appear before the justices in accordance with the bail and the justices, under the *Bail Act 1980*, section 14(5), order the forfeiture of the deposit of money made by the defendant in connection with the bail;
  - (ii) the defendant does not appear before the justices in accordance with the bail, but the defendant's lawyer applies to the justices for an adjournment of the hearing of the complaint;
  - (iii) the defendant appears before the justices in accordance with the bail.
- (2) The justices may, instead of dealing with the complaint under division 2 or 3, order that the complaint is ended.
- (3) On making an order under subsection (2)—
  - (a) the complaint ends; and
  - (b) the justices must take no further action in relation to the complaint.
- (4) To remove any doubt, it is declared that subsection (3) does not affect the making of an order under the *Bail Act 1980*, section 14(6).

## **63 Insertion of new pt 11, div 8**

Part 11—

*insert—*

### **Division 8**

### **Criminal Law Amendment Act 2017**

**282 Orders for particular complaints made before commencement to be heard together**

Section 43A, as inserted by the *Criminal Law Amendment Act 2017*, applies to a complaint of a simple offence or breach of duty, whether the complaint was made before or after the commencement.

**283 Admissions of fact in hearings of complaints made before commencement**

Section 148A, as inserted by the *Criminal Law Amendment Act 2017*, applies to the hearing of a complaint mentioned in that section, whether the complaint was made before or after the commencement.

## **Part 10                      Amendment of Penalties and Sentences Act 1992**

**64            Act amended**

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

*Note—*

See also the amendments in schedule 1.

**65            Amendment of s 4 (Definitions)**

Section 4, definition *original order*—

*omit, insert—*

*original order*—

(a) for part 3, division 3AA—see section 33AA(a); or

(b) for part 4, division 2—see section 52.

[s 66]

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**66 Insertion of new pt 3, div 3AA**

Part 3, after division 3—

*insert—*

**Division 3AA Offenders failing to enter  
into recognisances before  
leaving court**

**33AA Application of division**

This division applies if—

- (a) a court makes an order under section 19(1)(b), 24(1)(b), 30(1)(a), 31 or 32(1) that an offender be released if the offender enters into a recognisance (the *original order*); and
- (b) the offender leaves the precincts of the court without entering into the recognisance.

**33AB Proper officer of court may give offender notice**

- (1) The proper officer of the court may give the offender a written notice that—
  - (a) requires the offender, by a stated date, to attend the registry of the court at a stated place to enter into the recognisance; and
  - (b) informs the offender that, if the offender fails to comply with the requirement, a warrant may be issued to arrest the offender and bring the offender before the court to be dealt with according to law.
- (2) The notice must be given to the offender—
  - (a) personally; or
  - (b) by post to the address of the offender last known to the proper officer of the court; or



- (c) electronically, including, for example, by email.

### **33AC Court may issue warrant**

- (1) This section applies if the court is satisfied—
  - (a) the offender has been given a notice under section 33AB ; and
  - (b) the offender has failed to comply with the notice.
- (2) The court may issue a warrant directed to all police officers to arrest the offender and bring the offender before the court, or a court of like jurisdiction, to be dealt with according to law.

### **33AD Orders for offender appearing before court**

- (1) This section applies if the offender is arrested under a warrant issued under section 33AC and either of the following applies—
  - (a) the offender is brought before a court under the warrant or a warrant issued under another Act;
  - (b) the offender is granted bail under the *Bail Act 1980*, section 7 and appears before a court in accordance with the bail.
- (2) The court may—
  - (a) confirm the original order; or
  - (b) revoke the original order and sentence the offender for the offence with which the offender was originally charged.
- (3) If the court revokes the original order under subsection (2)(b) and a conviction has not previously been recorded for the offence mentioned in that subsection, the court may also

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record a conviction for the offence.

### **33AE Orders for particular offender failing to appear before court**

- (1) This section applies if—
  - (a) the original order is made on the hearing of a complaint of a simple offence under the *Justices Act 1886*; and
  - (b) the offender—
    - (i) is arrested under a warrant issued under section 33AC; and
    - (ii) is granted bail under the *Bail Act 1980*, section 7; and
    - (iii) fails to appear before a court in accordance with the bail.
- (2) The court may, in the absence of the offender, revoke the original order and sentence the offender for the offence with which the offender was originally charged.
- (3) If the court revokes the original order under subsection (2) and a conviction has not previously been recorded for the offence mentioned in that subsection, the court may also record a conviction for the offence.
- (4) In sentencing the offender under subsection (2), the court may not—
  - (a) impose a term of imprisonment on the offender; or
  - (b) order that any licence, registration, certificate, permit or other authority held by the offender under any Act be cancelled or suspended; or
  - (c) order that the offender be disqualified from holding or obtaining any licence,

registration, certificate, permit or other authority under any Act.

### **33AF Evidentiary provision**

- (1) For section 33AC(1)(a), a document purporting to be a copy of a notice given to the offender under section 33AB and endorsed with a certificate purporting to be signed by a relevant officer stating the matters mentioned in subsection (2) is evidence—
  - (a) that the notice was given to the offender as stated in the certificate; and
  - (b) if the notice was given to the offender in the way mentioned in section 33AB(2)(b)—that the address appearing on the notice is the address of the offender last known to the proper officer of the court.
- (2) The matters are—
  - (a) the document is a copy of a notice given to the offender under section 33AB; and
  - (b) the notice was given to the offender in a stated way mentioned in section 33AB(2); and
  - (c) if the notice was given to the offender in a way mentioned in section 33AB(2)(a) or (c)—the date the notice was given to the offender; and
  - (d) if the notice was given to the offender in the way mentioned in section 33AB(2)(b)—
    - (i) the document was posted to the address appearing on the notice, which was the address of the offender last known to the proper officer of the court; and

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- (ii) in the ordinary course of post, the notice would be delivered on the date stated in the endorsement.
- (3) For section 33AC(1)(b), a certificate purporting to be signed by the proper officer of the court stating that the offender has not complied with a notice given to the offender under section 33AB is evidence the offender has not complied with the notice.
- (4) In this section—  
*relevant officer*, in relation to a notice given to an offender under section 33AB, means—
  - (a) if the notice was given to the offender in the way mentioned in section 33AB(2)(a)—the person who served the notice personally on the offender; or
  - (b) otherwise—the proper officer of the court.

**67 Amendment of s 43N (Commissioner may give copy of banning order to particular persons)**

- (1) Section 43N, heading, after ‘Commissioner’—  
*insert—*

**of police service**

- (2) Section 43N(1), after ‘The commissioner’—  
*insert—*

of the police service

**68 Amendment of s 159A (Time held in presentence custody to be deducted)**

Section 159A(10), definition *presentence custody certificate*,  
‘or an authorised corrective services officer’—  
*omit, insert—*

, an authorised corrective services officer or the commissioner of the police service

**69 Insertion of new pt 14, div 17**

Part 14—

*insert—*

**Division 17 Transitional provision for  
Criminal Law Amendment  
Act 2017**

**252 Warrant for arrest of offender failing to enter  
into recognisance under order made before  
commencement**

Part 3, division 3AA applies in relation to an original order whether the order was made before or after the commencement.

**70 Amendment of sch 1 (Serious violent offences)**

Schedule 1, entry for the Criminal Code—

*insert—*

14B section 236(2) (Misconduct with regard to corpses)

**Part 11 Amendment of Recording of  
Evidence Act 1962**

**71 Act amended**

This part amends the *Recording of Evidence Act 1962*.

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**72 Amendment of s 11A (Retention and destruction of records)**

- (1) Section 11A(6)(a), after ‘made;’—

*insert—*

or

- (2) Section 11A(6)(b)(ii)—

*omit, insert—*

- (ii) the record is of a legal proceeding in a Magistrates Court and the record may be disposed of under an authority given by the archivist under the *Public Records Act 2002*, section 26.

- (3) Section 11A(8)—

*insert—*

**archivist** means the State Archivist established under the *Public Records Act 2002*, section 21(1).

**Part 12 Amendment of  
Telecommunications  
Interception Act 2009**

**73 Act amended**

This part amends the *Telecommunications Interception Act 2009*.

**74 Amendment of s 14 (Eligible authority to keep documents connected with issue of warrants)**

- (1) Section 14—

*insert—*

- (ga) each appointment of an officer of the eligible authority to be an authorising officer

made under section 66(4) of the  
Commonwealth Act;

- (2) Section 14(h), after ‘chief officer’—

*insert—*

, or an authorising officer of the eligible authority,  
given

- (3) Section 14(ga) and (h)—

*renumber* as section 14(h) and (i).

## **Part 13                      Amendment of other Acts**

### **75        Acts amended**

Schedule 1 amends the Acts it mentions.

## **Schedule 1      Acts amended**

section 75

### **Evidence Act 1977**

**1      Section 21AG(8)(b), ‘video-taping’—**

*omit, insert—*

videorecording

**2      Section 21AK, heading, ‘Video-taping’—**

*omit, insert—*

**Videorecording**

**3      Section 21AK(1) and (5)(a), ‘video-taped’—**

*omit, insert—*

videorecorded

**4      Section 21AK(1)—**

*insert—*

*Note—*

See section 21AO for when a court may order that an affected child’s evidence not be taken and videorecorded under this subdivision.

**5      Section 21AK(2) and (7), ‘video-taped recording’—**

*omit, insert—*

videorecording



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**6      Section 21AK(5) and (9), definition *appropriately equipped place*, paragraph (a), ‘video-tape’—**

*omit, insert—*

videorecord

**7      Section 21AK(6), (8), example and (9), definition *appropriately equipped place*, ‘video-taping’—**

*omit, insert—*

videorecording

**8      Section 21AL(1) and (5), ‘video-taping’—**

*omit, insert—*

videorecording

**9      Section 21AO(2), ‘video-taped’—**

*omit, insert—*

videorecorded

**10     Section 21AO(3), example, ‘video-tape’—**

*omit, insert—*

videorecord

**11     Section 21AS(3), ‘video-taped’—**

*omit, insert—*

videorecorded

## **Penalties and Sentences Act 1992**

- 1 Part 14, division 13, second occurring—**  
*renumber* as part 14, division 15.
- 2 Section 240, second occurring—**  
*renumber* as section 242.

## **Youth Justice Act 1992**

- 1 Section 84(2), ‘145(2)’—**  
*omit, insert—*  
145(4)
- 2 Part 11, division 13, first occurring—**  
*renumber* as part 11, division 12A.
- 3 Section 369, first occurring—**  
*renumber* as section 368A.

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