

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

Legislative Assembly Chamber,
Brisbane,

The Clerk of the Parliament.

5 June

2017

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

Paul de Jersey

Government House,

Brisbane,

5 June 2017



Queensland

No. 17 of 2017 A BILL for

An Act to amend the Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984, the Acts Interpretation Act 1954, the Anti-Discrimination Act 1991, the Appeal Costs Fund Act 1973, the Civil Proceedings Act 2011, the Classification of Computer Games and Images Act 1995, the Classification of Films Act 1991, the Classification of Publications Act 1991, the Court Funds Act 1973, the Criminal Code, the Evidence Act 1977, the Information Privacy Act 2009, the Invasion of Privacy Act 1971, the Justices of the Peace and Commissioners for Declarations Act 1991, the Land Court Act 2000, the Legal Aid Queensland Act 1997, the Legal Profession Act 2007, the Magistrates Act 1991, the Ombudsman Act 2001, the Penalties and Sentences Act 1992, the Professional Standards Act 2004, the Property Law Act 1974, the Prostitution Act 1999, the Public Guardian Act 2014, the Queensland Civil and Administrative Tribunal Act 2009, the Retail Shop Leases Act 1994, the Right to Information Act 2009, the Succession Act 1981, the Supreme Court Library Act 1968, the Trusts Act 1973, the Vexatious Proceedings Act 2005 and the legislation mentioned in schedule 1 for particular purposes, and to repeal the Classification of Publications (Approval of Codes of Conduct) Order 1992, the Companies (Acquisition of Shares) (Application of Laws) Act 1981, the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act

1981, the Companies (Application of Laws) Act 1981, the Futures Industry (Application of Laws) Act 1986, the Land Court (Transitional) Regulation 2017, the Retail Shop Leases (Transitional) Regulation 2016 and the Securities Industry (Application of Laws) Act 1981



Queensland

Court and Civil Legislation Amendment Bill 2017

Contents

	Page
Part 1	Preliminary
1	Short title 17
2	Commencement 17
Part 2	Amendment of Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984
3	Act amended 18
4	Amendment of s 20 (Membership) 18
Part 3	Amendment of Acts Interpretation Act 1954
5	Act amended 19
6	Amendment of s 48 (Forms—notification and availability) 19
7	Insertion of new ss 52A and 52B 21
	52A Evidentiary provision 21
	52B Regulation-making power 22
8	Insertion of new pt 14, div 3 22
	Division 3 Transitional provision for Court and Civil Legislation Amendment Act 2017
	58 Form approved or made available, but not notified in gazette, before commencement 22
Part 4	Amendment of Anti-Discrimination Act 1991
9	Act amended 23
10	Amendment of s 119 (Meaning of sexual harassment) 23
10A	Amendment of schedule (Dictionary) 23
Part 5	Amendment of Appeal Costs Fund Act 1973
11	Act amended 24
12	Amendment of s 5 (Appeal Costs Fund) 24
13	Amendment of s 22 (Abortive proceedings and new trials after proceedings discontinued) 24

Contents

14	Insertion of new s 31	25
31	Court and Civil Legislation Amendment Act 2017 ...	25
Part 6	Amendment of Civil Proceedings Act 2011	
15	Act amended	26
16	Amendment of s 71 (Definitions for pt 11)	26
17	Amendment of s 72 (Damages for personal injury)	26
18	Amendment of s 73 (Right of contribution)	26
19	Amendment of s 74 (Other damages)	27
20	Amendment of s 75 (No statutory presumption of fault)	27
21	Amendment of s 88 (Enforcement against property of a business)	27
22	Amendment of s 89 (Variation of order in relation to a business name)	27
23	Amendment of sch 1 (Dictionary)	27
Part 7	Amendment of Classification of Computer Games and Images Act 1995	
24	Act amended	28
25	Replacement of s 2A (Exempt computer game excluded from Act)	28
2A	Application of Act	28
26	Amendment of s 3 (Definitions and dictionary)	28
27	Omission of ss 4–8	28
28	Amendment of s 8A (Calling in computer game for reclassification by board)	29
29	Amendment of s 8B (Obtaining copies for review)	29
30	Amendment of s 8C (Calling in unclassified computer game for classification)	29
31	Amendment of s 10 (Restriction on public demonstration of MA 15+ or R 18+ computer game)	30
32	Amendment of s 10A (Prohibition against demonstration of certain classified computer games)	30
33	Amendment of s 10B (Computer game available for playing on pay and play basis to bear determined markings and consumer advice) .	30
34	Amendment of s 12 (Advertisement to contain determined markings and consumer advice)	31
35	Amendment of s 13 (False advertising of computer games)	32
36	Amendment of s 13B (Power to require certain advertisements to be submitted for approval)	32
37	Amendment of s 13C (Defence to prosecution under section 13B)	32
38	Amendment of s 14 (Markings and consumer advice on containers)	32

39	Amendment of s 15 (Display of classifications notices)	33
40	Amendment of s 21 (Sale of improperly marked classified computer games)	33
41	Amendment of s 21A (Prohibition against selling certain classified computer games)	34
42	Amendment of s 29 (No liability in certain circumstances)	34
43	Replacement of s 42 (Additional power of inspector to seize computer games)	34
	42 Additional power of inspector to seize computer games	34
44	Omission of pt 7 (Exemptions)	35
45	Amendment of s 62 (Evidentiary provisions)	35
46	Amendment of s 63 (Indictable offences and summary offences)	36
47	Amendment of s 66 (Classified computer games not indecent or obscene)	36
48	Omission of s 68 (Delegation by computer games classification officer)	37
49	Amendment of s 69A (Protection of officials from criminal liability)	37
50	Insertion of new pt 9, div 4	37
	Division 4 Court and Civil Legislation Amendment Act 2017	
	83 Definition for division	38
	84 Classification of computer games under repealed s 5	38
	85 Application of particular modifications of computer games for ss 10A and 21A	38
	86 Ending of exemptions given under repealed s 58 or 59	39
51	Amendment of sch 2 (Dictionary)	39
Part 8	Amendment of Classification of Films Act 1991	
52	Act amended	40
53	Replacement of s 2A (Exempt film excluded from Act)	40
	2A Application of Act	40
54	Amendment of s 3 (Definitions)	41
55	Amendment of s 4 (Inspectors and films classification officer) . .	42
56	Omission of s 4A (Delegation by films classification officer)	42
57	Amendment of s 21 (Prohibition against exhibition of certain films in public places)	42
58	Amendment of s 25CA (Calling in unclassified film for classification)	43
59	Amendment of s 25CB (Calling in film for reclassification)	44
60	Amendment of s 25CC (Obtaining copies for review)	44
61	Amendment of s 25D (Power to require certain advertisements to be	

Contents

	submitted for approval)	44
62	Amendment of s 25E (Defence to prosecution under section 25D)	44
63	Amendment of s 27 (Advertisement to contain determined markings and consumer advice)	44
64	Amendment of s 28 (False advertising of films prohibited)	45
65	Amendment of s 29 (Markings and consumer advice on containers)	46
66	Amendment of s 36 (Display and sale of improperly marked classified films)	46
67	Amendment of s 36A (Prohibition against sale of certain films) .	47
68	Replacement of s 52 (Additional power of inspector to seize films)	47
	52 Additional power of inspector to seize films	47
69	Omission of pt 7 (Exemptions)	48
70	Amendment of s 60 (Evidentiary provisions)	48
71	Amendment of s 61 (Indictable offences and summary offences)	49
72	Amendment of s 64 (Certain classified films not indecent or obscene)	49
73	Amendment of s 66A (Protection of officials from liability)	50
74	Insertion of new pt 9, div 6	50
	Division 6 Court and Civil Legislation Amendment Act 2017	
	81 Application of particular modifications of films for ss 21 and 36A	50
	82 Ending of exemptions given under repealed s 57 or 59A	51
75	Insertion of new sch 1	51
Part 9	Amendment of Classification of Publications Act 1991	
76	Act amended	51
77	Insertion of new s 2A	51
	2A Application of Act	52
78	Amendment of s 3 (Definitions)	52
79	Omission of s 4 (Classification under Commonwealth Act)	53
80	Amendment of s 5 (Inspectors)	53
81	Omission of ss 6–8	53
82	Omission of s 9 (Classification of publications)	53
83	Amendment of s 9A (Power to require publisher to submit application for classification of a publication)	53
84	Amendment of s 9B (Power to require certain advertisements to be submitted for approval)	54
85	Amendment of s 9C (Defence to prosecution under section 9A or 9B)	

	54
86	Omission of ss 10 and 11	55
87	Omission of pt 2A (Protection of children and families by conditions for displaying certain unrestricted publications)	55
88	Amendment of s 12 (Sale etc. of prohibited publication or child abuse photograph)	55
89	Amendment of s 14 (Possession of child abuse publication or child abuse photograph)	55
90	Amendment of s 15 (Exhibition or display of prohibited publication or child abuse photograph)	55
91	Amendment of s 16 (Leaving prohibited publication or child abuse photograph in or on public place)	55
92	Amendment of s 18 (Procurement of minor for RC publication or child abuse photograph)	56
93	Replacement of s 19 (Distributors, retail sellers and advertisers not liable in certain circumstances)	56
	19 Advertisers not liable in certain circumstances	56
94	Amendment of s 20 (Leaving prohibited publication or child abuse photograph in or on private premises)	56
95	Omission of s 20C (Offence to contravene a display order for an unrestricted publication)	56
96	Amendment of s 20E (Consumer advice for unrestricted publications)	56
97	Replacement of s 28 (Additional power of inspector to seize publications)	57
	28 Additional power of inspector to seize publications ..	57
98	Amendment of s 32 (Evidentiary provisions)	57
99	Amendment of s 33 (Indictable offences and summary offences)	58
100	Amendment of s 34 (Forfeiture)	59
101	Amendment of s 35 (Return of seized publications or photographs)	59
102	Amendment of s 36 (Unrestricted publication not indecent or obscene)	59
103	Omission of s 37 (Exemptions)	60
104	Amendment of s 39 (Protection of officials from liability)	60
105	Insertion of new pt 6, div 4	60
	Division 4 Court and Civil Legislation Amendment Act 2017	
45	Definition for division	60
46	Classification of publications under repealed s 9 ...	61
47	Ending of exemption given under repealed s 37	61

Contents

106	Insertion of new sch 1	61
Part 10	Amendment of Court Funds Act 1973	
107	Act amended	62
108	Amendment of long title	62
109	Amendment of s 4 (Definitions)	62
Part 11	Amendment of Criminal Code	
110	Code amended	62
111	Amendment of s 1 (Definitions)	62
112	Amendment of s 207A (Definitions for this chapter)	63
113	Amendment of s 228E (Defences for ss 228A–228DC)	63
114	Amendment of s 228H (Possession etc. of child exploitation material by law enforcement officer)	64
Part 12	Amendment of Evidence Act 1977	
115	Act amended	65
116	Amendment of s 58 (Proof of letters patent)	65
Part 13	Amendment of Information Privacy Act 2009	
117	Act amended	66
118	Amendment of s 45 (Making access or amendment applications for children)	66
119	Amendment of s 53 (Noncompliance with application requirement)	66
120	Amendment of s 88 (Deletion of irrelevant information)	66
121	Amendment of s 89 (Deletion of exempt information)	66
122	Amendment of s 90 (Deletion of contrary to public interest information)	67
123	Amendment of s 94 (Internal review)	67
124	Amendment of s 95 (Decisions that may not be reviewed)	67
125	Amendment of s 115 (Requiring a search)	67
126	Amendment of s 127 (Vexatious applicants)	68
127	Amendment of s 135 (Performance monitoring and support functions)	68
128	Amendment of sch 3, s 2 (IPP 2—Collection of personal information (requested from individual))	68
129	Amendment of sch 3, s 11 (IPP 11—Limits on disclosure)	69
130	Amendment of sch 5 (Dictionary)	69
Part 14	Amendment of Invasion of Privacy Act 1971	
131	Act amended	70
132	Amendment of s 43 (Prohibition on use of listening devices) ...	70

Part 15	Amendment of Justices of the Peace and Commissioners for Declarations Act 1991	
133	Act amended	72
134	Amendment of s 3 (Interpretation)	72
135	Amendment of s 21 (Registration of justices of the peace and commissioners for declarations)	73
136	Amendment of s 23 (Resignation)	73
137	Amendment of s 24 (Revocation of appointment)	73
138	Amendment of s 25 (Prohibition on acting in office)	74
139	Amendment of s 26 (Notification of cessation of office)	75
Part 16	Amendment of Land Court Act 2000	
140	Act amended	75
141	Amendment of s 7A (Land Court has power of the Supreme Court)	75
142	Insertion of new s 28A	76
	28A Acting judicial registrars	76
143	Amendment of s 37 (ADR process applies to proceedings started under this part)	76
144	Insertion of new pt 2, div 12	77
	Division 12 Application of Act to Land Court for recommendatory provisions	
	52A Meaning of recommendatory provision	78
	52B Application of Act	78
145	Insertion of new s 57A	80
	57A Costs	80
146	Amendment of s 72 (Application of certain provisions of pt 2 to Land Appeal Court)	80
Part 17	Amendment of Legal Aid Queensland Act 1997	
147	Act amended	81
148	Amendment of s 45 (General powers)	81
149	Amendment of s 55 (Delegation of board's powers)	81
150	Amendment of s 65 (Qualifications for appointment)	81
151	Amendment of s 67 (Chief executive officer's responsibilities) ..	81
152	Amendment of s 71 (External employment)	82
153	Insertion of new s 73A	82
	73A Holding of practising certificates	82
154	Amendment of s 82 (Secrecy)	83
155	Amendment of schedule (Dictionary)	85

Contents

Part 18	Amendment of Legal Profession Act 2007	
156	Act amended	85
157	Amendment of s 9 (Suitability matters)	86
158	Amendment of s 12 (Meaning of government legal officer and engaged in government work and related matters)	86
159	Amendment of s 311 (Exceptions to requirement for disclosure)	86
160	Amendment of s 330 (Bills)	86
161	Amendment of s 517 (Power of receiver to take possession of regulated property)	87
162	Amendment of s 684 (Membership of law society)	87
163	Amendment of s 706 (Duty of relevant entities to report suspected offences)	87
164	Insertion of new ch 10, pt 6	88
	Part 6 Transitional provisions for Court and Civil Legislation Amendment Act 2017	
	784 Application of s 9(1) and additional obligation to disclose suitability matter	88
	785 Application of amended show cause event definition and additional obligation to give notice and statement ...	89
165	Amendment of sch 2 (Dictionary)	89
Part 19	Amendment of Magistrates Act 1991	
166	Act amended	90
167	Amendment of s 6 (Appointment of acting magistrates)	90
168	Amendment of s 21 (Transfer policy)	91
169	Insertion of new pt 10, div 9	91
	Division 9 Transitional provisions for Court and Civil Legislation Amendment Act 2017	
	71 Application of s 6(11), definition retired magistrate ..	91
	72 Prescribed regional experience before commencement	91
Part 20	Amendment of Ombudsman Act 2001	
170	Act amended	92
171	Amendment of s 5 (Objects of Act)	92
172	Amendment of s 6 (How objects are to be achieved)	92
173	Amendment of s 12 (Functions of ombudsman)	92
174	Amendment of s 24 (Investigations generally)	93
175	Amendment of s 30 (Compliance with investigation requirement)	93
176	Amendment of s 38 (Contempt of ombudsman)	94
177	Amendment of s 47 (Protection of person helping ombudsman)	94

178	Replacement of s 48 (Inadmissibility of particular document given under investigation requirement)	95
	48 Inadmissibility of particular information in proceedings	95
179	Amendment of s 49 (Investigations to which div 1 applies)	95
180	Replacement of s 50 (Report and recommendation)	95
	50 Report and recommendations	96
181	Amendment of s 51 (Action after report making recommendations)	98
182	Insertion of new ss 78A–78C	98
	78A Restriction on employment or secondment of person	99
	78B Criminal history report	99
	78C Confidentiality of criminal history information	100
183	Amendment of s 83 (Strategic review of ombudsman office)	101
184	Amendment of s 91 (Prohibiting publication of information)	101
185	Insertion of new s 92A	102
	92A Protection in particular proceedings	102
186	Insertion of new pt 12, div 4	102
	Division 4 Provision for Court and Civil Legislation Amendment Act 2017	
	111 Application of s 48	103
187	Amendment of sch 3 (Dictionary)	103
Part 21	Amendment of Penalties and Sentences Act 1992	
188	Act amended	104
189	Amendment of s 12A (Convictions for offences relating to domestic violence)	104
Part 22	Amendment of Professional Standards Act 2004	
190	Act amended	105
191	Amendment of s 15 (Commencement of schemes)	106
192	Amendment of s 16 (Challenges to schemes)	106
193	Amendment of s 18 (Amendment and revocation of schemes)	106
194	Amendment of s 18A (Notice of revocation of scheme)	106
195	Amendment of s 18B (Termination of operation of interstate schemes in this jurisdiction)	106
196	Amendment of s 33 (Duration of scheme)	107
197	Amendment of s 43 (Functions of council)	107
Part 23	Amendment of Property Law Act 1974	
198	Act amended	107
199	Amendment of s 57A (Effect of Act or statutory instrument)	107

Contents

200	Insertion of new pt 24	108
	Part 24 Transitional provisions for Court and Civil Legislation Amendment Act 2017	
357	Application of s 57A	108
358	Saving provision for s 57A	110
Part 24	Amendment of Prostitution Act 1999	
201	Act amended	110
202	Amendment of s 46 (Variation of certificate)	110
203	Amendment of s 64E (Development approval suspended until review decided)	110
204	Amendment of s 102 (Membership)	111
205	Amendment of s 103 (Term of appointment)	112
206	Amendment of s 104 (Remuneration)	112
207	Amendment of s 106 (Vacation of office)	112
208	Insertion of new s 106A	112
	106A Acting chairperson	112
209	Amendment of s 107 (Meetings)	113
210	Replacement of s 139 (Approval of forms)	113
	139 Approved forms	113
211	Insertion of new pt 9, div 8	113
	Division 8 Provision for Court and Civil Legislation Amendment Act 2017	
	164 Application of Act to application for variation not decided before commencement	114
212	Amendment of sch 4 (Dictionary)	114
Part 25	Amendment of Public Guardian Act 2014	
213	Act amended	114
214	Amendment of s 52 (When is a child a relevant child)	114
215	Amendment of s 113 (Duration of appointment as community visitor)	117
Part 26	Amendment of Queensland Civil and Administrative Tribunal Act 2009	
216	Act amended	117
217	Replacement of ss 131 and 132	117
	131 Monetary decisions	117
	132 Non-monetary decisions	118
218	Amendment of sch 2 (Subject matter for rules)	119

Part 27	Amendment of Retail Shop Leases Act 1994	
219	Act amended	119
220	Amendment of s 21F (Lessor's failure to comply with disclosure obligation)	119
221	Amendment of s 27 (Timing and bases of rent reviews)	120
222	Insertion of new pt 12, div 4	120
	Division 4 Provision for Court and Civil Legislation Amendment Act 2017	
	154 Particular leases continue to be retail shop leases ..	120
Part 28	Amendment of Right to Information Act 2009	
223	Act amended	121
224	Amendment of s 33 (Noncompliance with application requirement)	121
225	Amendment of s 38 (Transfer of application)	121
226	Amendment of s 59 (No processing charge for personal information)	121
227	Amendment of s 70 (Precautions)	122
228	Amendment of s 73 (Deletion of irrelevant information)	122
229	Replacement of ss 74 and 75	122
	74 Deletion of exempt information	122
	75 Deletion of contrary to public interest information ...	123
	75A Deletion of contrary to child's best interests information	123
	75B Deletion of contrary to applicant's best interests information—relevant healthcare information	123
230	Amendment of s 80 (Internal review)	124
231	Amendment of s 81 (Decisions that may not be reviewed)	124
232	Amendment of s 102 (Requiring a search)	124
233	Amendment of s 107 (Information commissioner to ensure proper disclosure and return of documents)	125
234	Amendment of s 114 (Vexatious applicants)	125
235	Amendment of s 128 (Support functions)	125
236	Amendment of s 186 (Strategic review of office)	126
237	Insertion of new ch 7, pt 5	126
	Part 5 Transitional provision for Court and Civil Legislation Amendment Act 2017	
	206B Application of sch 1, s 16	126
238	Amendment of sch 1 (Documents to which this Act does not apply)	126
	16 Particular documents relating to judicial appointments	127

Contents

239	Amendment of sch 3, s 12 (Information disclosure of which prohibited by Act)	127
240	Amendment of sch 4 (Factors for deciding the public interest) . .	127
241	Amendment and renumbering of sch 6 (Dictionary)	128
Part 29	Amendment of Succession Act 1981	
242	Act amended	129
243	Amendment of s 5AA (Who is a person's spouse)	130
244	Amendment of s 13 (How a will may be revoked)	130
245	Amendment of s 15A (Effect of end of civil partnership on a will)	130
246	Insertion of new s 15B	130
	15B Effect of end of de facto relationship on a will	130
247	Amendment of s 40A (Meaning of stepchild)	131
Part 30	Amendment of Supreme Court Library Act 1968	
248	Act amended	132
249	Insertion of new s 13B	133
	13B Protection from liability of members	133
Part 31	Amendment of Trusts Act 1973	
250	Act amended	133
251	Amendment of s 56 (Power to delegate trusts)	133
252	Amendment of s 67 (Protection of trustees by means of advertisements)	133
253	Insertion of new pt 13	134
	Part 13 Validation provision for Court and Civil Legislation Amendment Act 2017	
	123 Validation of execution of power of attorney for s 56	134
Part 32	Amendment of Vexatious Proceedings Act 2005	
254	Act amended	135
255	Amendment of s 12 (Dismissing application for leave)	135
256	Insertion of new pt 4A	135
	Part 4A Transitional provision for Court and Civil Legislation Amendment Act 2017	
	16A Application of Act to applications not decided before commencement	136
Part 33	Repeals	
257	Repeals	136
Part 34	Other amendments	
258	Legislation amended	137

Schedule 1	Legislation amended	138
	Appeal Costs Fund Regulation 2010	138
	Child Protection (Offender Reporting) Act 2004	138
	Corrective Services Act 2006	139
	Crime and Corruption Act 2001	139
	Criminal Code	139
	Criminal Proceeds Confiscation Act 2002	140
	Disability Services Act 2006	140
	Justices Act 1886	141
	Legal Profession Act 2007	141
	Magistrates Act 1991	142
	Penalties and Sentences Act 1992	142
	Police Powers and Responsibilities Act 2000	142
	Public Service Act 2008	143
	Right to Information Act 2009	143
	State Penalties Enforcement Regulation 2014	144
	Supreme Court Library Act 1968	144
	Transport Operations (Passenger Transport) Act 1994	145
	Working with Children (Risk Management and Screening) Act 2000	145

2017

A Bill

for

An Act to amend the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, the *Acts Interpretation Act 1954*, the *Anti-Discrimination Act 1991*, the *Appeal Costs Fund Act 1973*, the *Civil Proceedings Act 2011*, the *Classification of Computer Games and Images Act 1995*, the *Classification of Films Act 1991*, the *Classification of Publications Act 1991*, the *Court Funds Act 1973*, the Criminal Code, the *Evidence Act 1977*, the *Information Privacy Act 2009*, the *Invasion of Privacy Act 1971*, the *Justices of the Peace and Commissioners for Declarations Act 1991*, the *Land Court Act 2000*, the *Legal Aid Queensland Act 1997*, the *Legal Profession Act 2007*, the *Magistrates Act 1991*, the *Ombudsman Act 2001*, the *Penalties and Sentences Act 1992*, the *Professional Standards Act 2004*, the *Property Law Act 1974*, the *Prostitution Act 1999*, the *Public Guardian Act 2014*, the *Queensland Civil and Administrative Tribunal Act 2009*, the *Retail Shop Leases Act 1994*, the *Right to Information Act 2009*, the *Succession Act 1981*, the *Supreme Court Library Act 1968*, the *Trusts Act 1973*, the *Vexatious Proceedings Act 2005* and the legislation mentioned in schedule 1 for particular purposes, and to repeal

the Classification of Publications (Approval of Codes of Conduct) Order 1992, the Companies (Acquisition of Shares) (Application of Laws) Act 1981, the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981, the Companies (Application of Laws) Act 1981, the Futures Industry (Application of Laws) Act 1986, the Land Court (Transitional) Regulation 2017, the Retail Shop Leases (Transitional) Regulation 2016 and the Securities Industry (Application of Laws) Act 1981

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Court and Civil Legislation Amendment Act 2017*.

2 Commencement

- (1) Section 220 is taken to have commenced on 25 November 2016.
- (2) Section 203 commences on the commencement of the *Planning (Consequential) and Other Legislation Amendment Act 2016*, section 363.
- (3) The following provisions commence on a day to be fixed by proclamation—
 - (a) part 2;
 - (b) sections 149 to 151;
 - (c) section 153;
 - (d) section 155;
 - (e) section 252.

Part 2

Amendment of Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984

3 Act amended

This part amends the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*.

4 Amendment of s 20 (Membership)

(1) Section 20(1A)—

omit, insert—

(1A) The Minister—

- (a) may appoint the members of a community justice group by publishing notice of the appointments on the Queensland Courts website; and
- (b) must give each member written notice of the member's appointment.

(2) Section 20(4A)—

omit, insert—

(4A) If the Minister decides a member of a community justice group is no longer eligible or suitable for appointment to the membership of the community justice group, the Minister must—

- (a) revoke the member's appointment by written notice given to the member; and
- (b) publish notice of the revocation on the Queensland Courts website.

(3) Section 20(5)—

insert—

Queensland Courts website means—

- (a) www.courts.qld.gov.au; or
- (b) another website authorised by the chief executive for this section.

- (4) Section 20(1A) to (5)—
renumber as section 20(2) to (7).

Part 3 Amendment of Acts Interpretation Act 1954

5 Act amended

This part amends the *Acts Interpretation Act 1954*.

6 Amendment of s 48 (Forms—notification and availability)

- (1) Section 48(5), after ‘in the gazette’—
insert—

or on a relevant website
- (2) Section 48(6)—
omit, insert—
 - (6) Subsection (5) may be complied with by—
 - (a) publishing in the gazette or on a relevant website—
 - (i) the form or the new version; or
 - (ii) a notice stating—
 - (A) the approval or availability of the form or the new version; and
 - (B) the heading, number and version number of the form or the new version; and

[s 6]

- (C) a place or places where copies of the form or the new version are available; and
 - (b) if the form or the new version, or the notice, is published on a relevant website—stating on the website the date on which it is first published.
 - (6A) For subsection (5), a form, a new version of a form or a notice is published on a relevant website if it is published on, or accessible through, the website.
- (3) Section 48—
- insert—*
- (9) In this section—
- relevant department***, in relation to an entity that approves or makes available forms under an authorising law, means the department in which the authorising law is administered.
- relevant website*** means—
- (a) for publication in relation to a form, or a new version of a form, approved or made available by a local government—the local government’s website; or
 - (b) for publication in relation to a form, or a new version of a form, approved or made available by another entity—
 - (i) the whole-of-government website; or
 - (ii) the entity’s website; or
 - (iii) if the entity does not have a website—
 - (A) the relevant department’s website;
 - or

- (B) a website identified on the relevant department's website as a website for this purpose.

whole-of-government website means—

- (a) www.qld.gov.au; or
- (b) another website prescribed by regulation.

- (4) Section 48(6A) to (9)—
renumber as section 48(7) to (10).

7 Insertion of new ss 52A and 52B

Part 13—

insert—

52A Evidentiary provision

- (1) A certificate purporting to be signed by or for an approving entity and stating any of the following matters is evidence of the matter—
 - (a) a stated form—
 - (i) was approved or made available by the entity under a stated authorising law on a stated day; and
 - (ii) was first notified under section 48(5) on a stated relevant website on a stated day in a stated way;
 - (b) a stated document is a copy of a stated form that was first notified under section 48(5) on a stated relevant website on a stated day in a stated way.
- (2) An approving entity may, in writing, authorise a person to issue certificates under subsection (1) for the entity.
- (3) In this section—

approving entity means an entity authorised

[s 8]

under an authorising law to approve forms or make forms available.

authorising law see section 48(1).

form includes a new version of a form.

52B Regulation-making power

The Governor in Council may make regulations under this Act.

8 Insertion of new pt 14, div 3

Part 14—

insert—

Division 3 Transitional provision for Court and Civil Legislation Amendment Act 2017

58 Form approved or made available, but not notified in gazette, before commencement

- (1) This section applies if before the commencement—
 - (a) a form was approved or made available by an entity under an authorising law; and
 - (b) there had been no notification of the approval or availability of the form under previous section 48(5).
- (2) On or after the day of commencement, the entity may notify the approval or availability of the form under amended section 48.
- (3) In this section—

amended section 48 means section 48 as in force after the commencement.

authorising law see section 48(1).

form includes a new version of a form.

previous section 48(5) means section 48(5) as in force immediately before the commencement.

Part 4 Amendment of Anti-Discrimination Act 1991

9 Act amended

This part amends the *Anti-Discrimination Act 1991*.

10 Amendment of s 119 (Meaning of *sexual harassment*)

- (1) Section 119, examples, ‘Examples of subsection (1)(a)’—
omit, insert—

Examples for paragraph (a)

- (2) Section 119, examples, ‘Example of subsection (1)(b)’—
omit, insert—

Example for paragraph (b)

- (3) Section 119, examples, ‘Examples of subsection (1)(c)’—
omit, insert—

Examples for paragraph (c)

- (4) Section 119, examples, ‘Examples of subsection (1)(d)’—
omit, insert—

Examples for paragraph (d)

10A Amendment of schedule (Dictionary)

Schedule—

insert—

[s 11]

order, of the tribunal, in relation to an agreement, the terms of which are recorded in a document filed under section 164 or 189, means—

- (a) if the document is filed with the industrial relations commission—a decision of the commission under the IR Act; or
- (b) if the document is filed with QCAT—a final decision of QCAT in a proceeding under the QCAT Act.

Part 5 Amendment of Appeal Costs Fund Act 1973

11 Act amended

This part amends the *Appeal Costs Fund Act 1973*.

12 Amendment of s 5 (Appeal Costs Fund)

- (1) Section 5(3), ‘subsections (7) and (8) of this section,’—
omit, insert—
 subsection (6) and
- (2) Section 5(4) to (7)—
omit.
- (3) Section 5(1A) to (9)—
renumber as section 5(2) to (7).

13 Amendment of s 22 (Abortive proceedings and new trials after proceedings discontinued)

- (1) Section 22(1)(b)—
omit, insert—

- (b) an appeal on a question of law, or on the ground there was a miscarriage of justice, against the conviction of a person (the ***appellant***) convicted on indictment succeeds, and a new trial is ordered; or
- (2) Section 22(1), from ‘such costs’—
omit, insert—
the costs the board considers have been thrown away or partly thrown away by the person or on the person’s behalf in the proceedings.
- (3) After section 22(1)—
insert—
 - (1B) For subsection (2), costs ***thrown away*** in relation to proceedings include costs that are reasonably incurred before, but are wasted when—
 - (a) the proceedings are rendered abortive; or
 - (b) the conviction is quashed; or
 - (c) the hearing of the proceedings is discontinued.
- (4) Section 22(1A) to (3)—
renumber as section 22(1) to (5).

14 Insertion of new s 31

After section 30—

insert—

31 Court and Civil Legislation Amendment Act 2017

- (1) This section applies if, before the commencement—
 - (a) a person had an entitlement to a payment from the fund under section 22; and

[s 15]

- (b) the board had not decided the amount of the payment.
- (2) Section 22, as amended by the *Court and Civil Legislation Amendment Act 2017*, applies in relation to the person's entitlement.

Part 6 Amendment of Civil Proceedings Act 2011

15 Act amended

This part amends the *Civil Proceedings Act 2011*.

16 Amendment of s 71 (Definitions for pt 11)

Section 71, definition *owner*, note—
omit.

17 Amendment of s 72 (Damages for personal injury)

Section 72, note 1, '*Navigation Act 1912* (Cwlth), see section 260'—

omit, insert—

Navigation Act 2012 (Cwlth), see section 176(3)(a)

18 Amendment of s 73 (Right of contribution)

Section 73, note, '*Navigation Act 1912* (Cwlth), see section 261'—

omit, insert—

Navigation Act 2012 (Cwlth), see section 176(3)(c)

19 Amendment of s 74 (Other damages)

Section 74, note, '*Navigation Act 1912* (Cwlth), see section 259'—

omit, insert—

Navigation Act 2012 (Cwlth), see section 176(3)(b)

20 Amendment of s 75 (No statutory presumption of fault)

Section 75, note, '*Navigation Act 1912* (Cwlth), see section 263'—

omit, insert—

Navigation Act 2012 (Cwlth), see section 179

21 Amendment of s 88 (Enforcement against property of a business)

Section 88(1)(a) and (b), 'or style'—

omit.

22 Amendment of s 89 (Variation of order in relation to a business name)

Section 89(1), 'or style'—

omit.

23 Amendment of sch 1 (Dictionary)

Schedule 1—

insert—

assessment, for part 12, see section 76.

assessor, for part 12, see section 76.

costs assessment, for part 12, see section 76.

[s 24]

Part 7

Amendment of Classification of Computer Games and Images Act 1995

24 Act amended

This part amends the *Classification of Computer Games and Images Act 1995*.

25 Replacement of s 2A (Exempt computer game excluded from Act)

Section 2A—

omit, insert—

2A Application of Act

- (1) This Act does not apply to a computer game that is an exempt computer game.
- (2) Also, this Act does not apply in relation to a relevant showing of a computer game to the extent the computer game is subject to a conditional cultural exemption in relation to the relevant showing.

26 Amendment of s 3 (Definitions and dictionary)

Section 3, heading, ‘and dictionary’—

omit.

27 Omission of ss 4–8

Sections 4 to 8—

omit.

28 Amendment of s 8A (Calling in computer game for reclassification by board)

Section 8A(2), ‘or the computer games classification officer’—

omit.

29 Amendment of s 8B (Obtaining copies for review)

Section 8B(2), ‘or the computer games classification officer’—

omit.

30 Amendment of s 8C (Calling in unclassified computer game for classification)

(1) Section 8C(1)—

omit, insert—

(1) This section applies if—

- (a) the director has reasonable grounds to believe an unclassified computer game is not an exempt computer game; and
- (b) the computer game is being published in Queensland, or the director has reasonable grounds to believe the computer game will be published in Queensland; and
- (c) if the computer game is being published in Queensland—the computer game is not subject to a conditional cultural exemption in relation to the publication.

(2) Section 8C(2), ‘or the computer games classification officer’—

omit.

(3) Section 8C(3)—

omit, insert—

[s 31]

- (3) The notice has effect only if it is published in the Commonwealth gazette.

31 Amendment of s 10 (Restriction on public demonstration of MA 15+ or R 18+ computer game)

- (1) Section 10(6)(b), after ‘section 22B(3)’—

insert—

or 22CH(1)

- (2) Section 10(7)—

insert—

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

32 Amendment of s 10A (Prohibition against demonstration of certain classified computer games)

Section 10A—

insert—

- (3) Subsection (2) does not apply in relation to an alteration or addition of a computer game that consists of a modification mentioned in the Commonwealth Act, section 20A(2)(a), (d) or (e) or 21(2)(a), (b), (ba) or (3).

33 Amendment of s 10B (Computer game available for playing on pay and play basis to bear determined markings and consumer advice)

- (1) Section 10B(3)(b)—

omit, insert—

- (b) the board revokes—

- (i) a classification or consumer advice for a computer game under the Commonwealth Act, section 22B(3); or
 - (ii) a classification for a computer game under the Commonwealth Act, section 22CH(1).
- (2) Section 10B(4)—
insert—

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

34 Amendment of s 12 (Advertisement to contain determined markings and consumer advice)

- (1) Section 12(2)(b)—
omit, insert—
 - (b) the board revokes—
 - (i) a classification or consumer advice for a computer game under the Commonwealth Act, section 22B(3); or
 - (ii) a classification for a computer game under the Commonwealth Act, section 22CH(1).
- (2) Section 12(3)—
insert—

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

[s 35]

35 Amendment of s 13 (False advertising of computer games)

- (1) Section 13(2)(b), after ‘section 22B(3)’—

insert—

or 22CH(1)

- (2) Section 13(3)—

insert—

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

36 Amendment of s 13B (Power to require certain advertisements to be submitted for approval)

Section 13B(1), ‘or the computer games classification officer’—

omit.

37 Amendment of s 13C (Defence to prosecution under section 13B)

- (1) Section 13C, heading, ‘section 13B’—

omit, insert—

s 13B

- (2) Section 13C, ‘or the computer games classification officer’—

omit.

38 Amendment of s 14 (Markings and consumer advice on containers)

- (1) Section 14(2)(b)—

omit, insert—

(b) the board revokes—

- (i) a classification or consumer advice for a computer game under the Commonwealth Act, section 22B(3); or
 - (ii) a classification for a computer game under the Commonwealth Act, section 22CH(1).
- (2) Section 14(3)—
insert—

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

39 Amendment of s 15 (Display of classifications notices)

Section 15(2), definition *classifications notice*—
omit, insert—

classifications notice, for computer games, means a notice in the form approved under the Commonwealth Act, section 8A about classifications for computer games.

40 Amendment of s 21 (Sale of improperly marked classified computer games)

- (1) Section 21(1), ‘this Act’—
omit, insert—
the Commonwealth Act
- (2) Section 21(2)(b), after ‘section 22B(3)’—
insert—
or 22CH(1)
- (3) Section 21(3)—
insert—

[s 41]

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

41 Amendment of s 21A (Prohibition against selling certain classified computer games)

Section 21A—

insert—

- (3) Subsection (2) does not apply in relation to an alteration or addition of a computer game that consists of a modification mentioned in the Commonwealth Act, section 20A(2)(a), (d) or (e) or 21(2)(a), (b), (ba) or (3).

42 Amendment of s 29 (No liability in certain circumstances)

Section 29(a), ‘under the ordinance’—

omit.

43 Replacement of s 42 (Additional power of inspector to seize computer games)

Section 42—

omit, insert—

42 Additional power of inspector to seize computer games

- (1) This section applies if—
- (a) a person makes representations to an inspector about a computer game; and
 - (b) the inspector reasonably believes the computer game is an objectionable computer game.
- (2) The inspector may seize the computer game from

any public place when the place is open to the public.

- (3) An inspector who seizes a computer game under subsection (2) must, as soon as practicable, submit the computer game to the board for classification.
- (4) If a computer game seized under subsection (2) is classified as a G, PG, M, MA 15+ or R 18+ computer game, the inspector must, as soon as practicable after it is classified, return the computer game to the person who appears to be entitled to it.

44 Omission of pt 7 (Exemptions)

Part 7—

omit.

45 Amendment of s 62 (Evidentiary provisions)

- (1) Section 62(2), ‘the computer games classification officer, the officer’s delegate and’—

omit.

- (2) Section 62(3), ‘computer games classification officer’—

omit, insert—

director or convenor

- (3) Section 62(4)—

omit, insert—

- (4) A document purporting to be a certificate given by the director or the convenor under the Commonwealth Act, section 25 or 87 and stating any of the following matters is evidence of the matter—

[s 46]

- (a) whether a stated computer game has been classified;
- (b) if a stated computer game has been classified—the classification given to the computer game;
- (c) whether a stated advertisement has been approved, or refused approval, under the Commonwealth Act, section 29.

46 Amendment of s 63 (Indictable offences and summary offences)

- (1) Section 63(4), from ‘only’—

omit, insert—

only by a person authorised in writing by the Minister.

- (2) Section 63—

insert—

- (5) For subsection (4), the Minister may authorise a person either generally or in relation to a stated complaint.

47 Amendment of s 66 (Classified computer games not indecent or obscene)

- (1) Section 66, heading—

omit, insert—

66 Particular computer games and advertisements not indecent or obscene

- (2) Section 66(2), ‘This section’—

omit, insert—

Subsection (1)

- (3) Section 66—

insert—

- (3) Also, to the extent a computer game is subject to a conditional cultural exemption in relation to a relevant showing, the computer game is not indecent or obscene material for the purposes of the Criminal Code.

48 Omission of s 68 (Delegation by computer games classification officer)

Section 68—

omit.

49 Amendment of s 69A (Protection of officials from criminal liability)

Section 69A(2), definition *official*—

omit, insert—

official means any of the following persons—

- (a) the convenor;
- (b) the director;
- (c) an inspector;
- (d) a public service employee assisting a person mentioned in paragraph (c).

50 Insertion of new pt 9, div 4

Part 9—

insert—

Division 4

**Court and Civil Legislation
Amendment Act 2017**

83 Definition for division

In this division—

repealed, if followed by a provision number, means the provision of that number as in force from time to time before the commencement.

84 Classification of computer games under repealed s 5

- (1) This section applies in relation to a computer game that, immediately before the commencement, had a classification (the *earlier classification*) given under repealed section 5.
- (2) From the commencement, the following are taken to have been given under the Commonwealth Act—
 - (a) the earlier classification of the computer game;
 - (b) any consumer advice (the *earlier consumer advice*) for the computer game determined under the Commonwealth Act, section 20, as applied under repealed section 5(3).
- (3) However, if the computer game is later classified, the earlier classification and the earlier consumer advice stop having effect from when the later classification takes effect.

85 Application of particular modifications of computer games for ss 10A and 21A

To remove any doubt, it is declared that, for sections 10A(3) and 21A(3), an alteration or addition of a computer game may consist of a modification mentioned in the Commonwealth Act, section 20A(2)(a), (d) or (e) or 21(2)(ba) or (3) only if the computer game is classified on or after 1 January 2013.

Note—

See the *Classification (Publications, Films and Computer Games) Amendment (Classification Tools and Other Measures) Act 2014* (Cwlth), schedule 4, part 2.

86 Ending of exemptions given under repealed s 58 or 59

- (1) This section applies if, immediately before the commencement, an exemption given under either of the following provisions was in force for an entity—
 - (a) repealed section 58;
 - (b) repealed section 59.
- (2) On the commencement, the exemption ends.

51 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *advertisement*, *classified*, *computer games classification officer*, *exempt computer game* and *review board*—
omit.
- (2) Schedule 2—
insert—

advertisement, for a computer game, has the meaning given by the Commonwealth Act, section 5, definition *advertisement*, to the extent the definition relates to an advertisement for a computer game.

classified means classified or reclassified under the Commonwealth Act.

exempt computer game see the Commonwealth Act, section 5.

inspector means a person appointed to be an inspector under section 30(1).

[s 52]

relevant showing has the meaning given by the Commonwealth Act, sections 6C and 6E.

review board see the Commonwealth Act, section 5.

subject to a conditional cultural exemption has the meaning given by the Commonwealth Act, section 5.

- (3) Schedule 2, definition *consumer advice*—
insert—

Note—

Under the Commonwealth Act, section 22CF(5), particular consumer advice determined by an approved classification tool is taken to be consumer advice determined by the board under section 20 of that Act.

Part 8 Amendment of Classification of Films Act 1991

52 Act amended

This part amends the *Classification of Films Act 1991*.

53 Replacement of s 2A (Exempt film excluded from Act)

Section 2A—

omit, insert—

2A Application of Act

- (1) This Act does not apply to a film that is an exempt film.
- (2) Also, this Act does not apply in relation to a relevant showing of a film to the extent the film is subject to a conditional cultural exemption in relation to the relevant showing.

54 Amendment of s 3 (Definitions)

- (1) Section 3, definitions *advertisement*, *classifications notice*, *exempt film*, *review board* and *synopsis*—

omit.

- (2) Section 3—

insert—

advertisement, for a film, has the meaning given by the Commonwealth Act, section 5, definition *advertisement*, to the extent the definition relates to an advertisement for a film.

classifications notice, for a film, means a notice in the form approved under the Commonwealth Act, section 8A about classifications for films.

exempt film see the Commonwealth Act, section 5.

inspector means a person appointed to be an inspector under section 4(1).

relevant showing has the meaning given by the Commonwealth Act, sections 6C and 6E.

review board see the Commonwealth Act, section 5.

subject to a conditional cultural exemption has the meaning given by the Commonwealth Act, section 5.

- (3) Section 3, definition *consumer advice*—

insert—

Note—

Under the Commonwealth Act, section 22CF(5), particular consumer advice determined by an approved classification tool is taken to be consumer advice determined by the board under section 20 of that Act.

- (4) Section 3, ‘In this Act—’—

omit, insert—

[s 55]

The dictionary in schedule 1 defines particular words used in this Act.

- (5) Section 3, all definitions—

relocate to schedule 1, as inserted by this Act.

55 Amendment of s 4 (Inspectors and films classification officer)

- (1) Section 4, heading, ‘and films classification officer’—

omit.

- (2) Section 4(5), penalty, ‘contravention of this subsection’—

omit, insert—

subsection (5)

- (3) Section 4(6) and (7)—

omit.

56 Omission of s 4A (Delegation by films classification officer)

Section 4A—

omit.

57 Amendment of s 21 (Prohibition against exhibition of certain films in public places)

Section 21(4)—

omit, insert—

- (4) Subsection (3) does not apply in relation to an alteration or addition of a film that consists of a modification mentioned in the Commonwealth Act, section 20A(2)(a) to (e) or 21(2)(a) to (d) or (3).

58 Amendment of s 25CA (Calling in unclassified film for classification)

(1) Section 25CA(1)—

omit, insert—

(1) This section applies if—

- (a) the director has reasonable grounds to believe an unclassified film is not an exempt film; and
- (b) the film is being published in Queensland, or the director has reasonable grounds to believe the film will be published in Queensland; and
- (c) if the film is being published in Queensland—the film is not subject to a conditional cultural exemption in relation to the publication.

(2) Section 25CA(2), ‘or the films classification officer’—

omit.

(3) Section 25CA—

insert—

(2A) The notice has effect only if it is published in the Commonwealth gazette.

(4) Section 25CA(4)—

omit.

(5) Section 25CA(5), ‘subsection (3)’—

omit, insert—

subsection (4)

(6) Section 25CA(2A) and (3)—

renumber as section 25CA(3) and (4).

[s 59]

59 Amendment of s 25CB (Calling in film for reclassification)

Section 25CB(2), ‘or the films classification officer’—
omit.

60 Amendment of s 25CC (Obtaining copies for review)

Section 25CC(2), ‘or the films classification officer’—
omit.

61 Amendment of s 25D (Power to require certain advertisements to be submitted for approval)

Section 25D(1), ‘or the films classification officer’—
omit.

62 Amendment of s 25E (Defence to prosecution under section 25D)

(1) Section 25E, heading, ‘section 25D’—
omit, insert—

s 25D

(2) Section 25E, ‘or the films classification officer’—
omit.

63 Amendment of s 27 (Advertisement to contain determined markings and consumer advice)

Section 27(2)—
omit, insert—

(2) Subsection (3) applies if—

- (a) the board reclassifies a film under the Commonwealth Act, section 39; or
- (b) the board revokes—

- (i) a classification or consumer advice for a film under the Commonwealth Act, section 22B(3); or
 - (ii) a classification for a film under the Commonwealth Act, section 22CH(1).
- (3) Display of the determined markings and consumer advice that applied to the film before the reclassification or revocation is sufficient compliance with subsection (1) for the period of 30 days after the day the reclassification or revocation takes effect.

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

64 Amendment of s 28 (False advertising of films prohibited)

Section 28(1A)—

omit, insert—

- (2) Subsection (3) applies if the board—
 - (a) reclassifies a film under the Commonwealth Act, section 39; or
 - (b) revokes a classification for a film under the Commonwealth Act, section 22B(3) or 22CH(1).
- (3) Indicating the film has the classification that applied to the film before the reclassification or revocation is sufficient compliance with subsection (1) for the period of 30 days after the day the reclassification or revocation takes effect.

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

[s 65]

65 Amendment of s 29 (Markings and consumer advice on containers)

Section 29—

insert—

- (2) Subsection (3) applies if—
 - (a) the board reclassifies a film under the Commonwealth Act, section 39; or
 - (b) the board revokes—
 - (i) a classification or consumer advice for a film under the Commonwealth Act, section 22B(3); or
 - (ii) a classification for a film under the Commonwealth Act, section 22CH(1).
- (3) Bearing the determined markings and consumer advice that applied to the film before the reclassification or revocation is sufficient compliance with subsection (1) for the period of 30 days after the day the reclassification or revocation takes effect.

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

66 Amendment of s 36 (Display and sale of improperly marked classified films)

Section 36—

insert—

- (2) Subsection (3) applies if the board—
 - (a) reclassifies a film under the Commonwealth Act, section 39; or

- (b) revokes a classification for a film under the Commonwealth Act, section 22B(3) or 22CH(1).
- (3) Indicating the film has the classification that applied before the reclassification or revocation is sufficient compliance with subsection (1) for the period of 30 days after the day the reclassification or revocation takes effect.

Note—

See the Commonwealth Act, sections 22CH(7) and 28 in relation to when the reclassification or revocation takes effect.

67 Amendment of s 36A (Prohibition against sale of certain films)

- (1) Section 36A(3), ‘an unclassified’—

omit, insert—

a classified

- (2) Section 36A(4)—

omit, insert—

- (4) Subsection (3) does not apply in relation to an alteration or addition of a film that consists of a modification mentioned in the Commonwealth Act, section 20A(2)(a) to (e) or 21(2)(a) to (d) or (3).

68 Replacement of s 52 (Additional power of inspector to seize films)

Section 52—

omit, insert—

52 Additional power of inspector to seize films

- (1) This section applies if—

[s 69]

- (a) a person makes a complaint to an inspector about a film; and
 - (b) the inspector reasonably believes the film is an objectionable film.
- (2) The inspector may seize the film from any place the inspector may lawfully enter or board.
- (3) An inspector who seizes a film under subsection (2) must, as soon as practicable, submit the film to the board for classification.
- (4) If a film seized under subsection (2) is classified, the inspector must, as soon as practicable after it is classified, return the film to the person who appears to be entitled to it.
- (5) Subsection (4) does not apply if the film is classified as an X 18+ or RC film.

69 Omission of pt 7 (Exemptions)

Part 7—

omit.

70 Amendment of s 60 (Evidentiary provisions)

(1) Section 60(1)—

omit, insert—

- (1) In a proceeding for an offence against this Act, a document purporting to be a certificate given by the director or the convenor under the Commonwealth Act, section 25 or 87 and stating any of the following matters is evidence of the matter—
 - (a) whether a stated film has been classified;
 - (b) if a stated film has been classified—the classification given to the film;

- (c) whether a stated advertisement has been approved, or refused approval, under the Commonwealth Act, section 29.

- (2) Section 60(3) and (4)—

omit.

71 Amendment of s 61 (Indictable offences and summary offences)

- (1) Section 61(4), from ‘only’—

omit, insert—

only by a person authorised in writing by the Minister.

- (2) Section 61—

insert—

- (5) For subsection (4), the Minister may authorise a person either generally or in relation to a stated complaint.

72 Amendment of s 64 (Certain classified films not indecent or obscene)

- (1) Section 64(2), ‘This section’—

omit, insert—

Subsection (1)

- (2) Section 64—

insert—

- (3) Also, to the extent a film is subject to a conditional cultural exemption in relation to a relevant showing, the film is not indecent or obscene material for the purposes of the Criminal Code.

[s 73]

73 Amendment of s 66A (Protection of officials from liability)

- (1) Section 66A, heading, after ‘from’—

insert—

criminal

- (2) Section 66A(2), definition *official*—

omit, insert—

official means any of the following persons—

- (a) the convenor;
- (b) the director;
- (c) an inspector;
- (d) a public service employee assisting a person mentioned in paragraph (c).

74 Insertion of new pt 9, div 6

Part 9—

insert—

**Division 6 Court and Civil Legislation
Amendment Act 2017**

**81 Application of particular modifications of films
for ss 21 and 36A**

To remove any doubt, it is declared that, for sections 21(4) and 36A(4), an alteration or addition of a film may consist of a modification mentioned in the Commonwealth Act, section 20A(2)(a), (d) or (e) or 21(2)(ba) or (3) only if the film is classified on or after 1 January 2013.

Note—

See the *Classification (Publications, Films and Computer Games) Amendment (Classification Tools and Other Measures) Act 2014* (Cwlth), schedule 4, part 2.

82 Ending of exemptions given under repealed s 57 or 59A

- (1) This section applies if, immediately before the commencement, an exemption given under either of the following provisions was in force for an entity—
 - (a) repealed section 57;
 - (b) repealed section 59A.
- (2) On the commencement, the exemption ends.
- (3) In this section—

repealed, if followed by a provision number, means the provision of that number as in force from time to time before the commencement.

75 Insertion of new sch 1

After part 9—

insert—

Schedule 1 Dictionary

section 3

Part 9 Amendment of Classification of Publications Act 1991

76 Act amended

This part amends the *Classification of Publications Act 1991*.

77 Insertion of new s 2A

After section 2—

insert—

[s 78]

2A Application of Act

This Act does not apply in relation to a relevant showing of a publication to the extent the publication is subject to a conditional cultural exemption in relation to the relevant showing.

78 Amendment of s 3 (Definitions)

- (1) Section 3, definitions *advertisement*, *approved wholesaler*, *child abuse photograph*, *classification guidelines*, *classified*, *Code*, *code of conduct*, *interim prohibited publication*, *QCAT information notice*, *retail seller* and *submittable publication*—
omit.

- (2) Section 3—
insert—

advertisement, for a publication, has the meaning given by the Commonwealth Act, section 5, definition *advertisement*, to the extent the definition relates to an advertisement for a publication.

classified means classified or reclassified under the Commonwealth Act.

inspector means a person appointed to be an inspector under section 5(1).

relevant showing has the meaning given by the Commonwealth Act, sections 6C and 6E.

subject to a conditional cultural exemption has the meaning given by the Commonwealth Act, section 5.

submittable publication see the Commonwealth Act, section 5.

- (3) Section 3, definition *prohibited publication*, paragraph (c)—
omit.
- (4) Section 3, ‘In this Act—’—

omit, insert—

The dictionary in schedule 1 defines particular words used in this Act.

(5) Section 3, all definitions—

relocate to schedule 1, as inserted by this Act.

79 Omission of s 4 (Classification under Commonwealth Act)

Section 4—

omit.

80 Amendment of s 5 (Inspectors)

Section 5(5), penalty, ‘contravention of this subsection’—

omit, insert—

subsection (5)

81 Omission of ss 6–8

Sections 6 to 8—

omit.

82 Omission of s 9 (Classification of publications)

Section 9—

omit.

83 Amendment of s 9A (Power to require publisher to submit application for classification of a publication)

(1) Section 9A(1) and (2)—

omit, insert—

(1) This section applies if—

[s 84]

- (a) the director reasonably believes a publication is a submittable publication; and
 - (b) the publication is being published in Queensland, or the director reasonably believes the publication will be published in Queensland; and
 - (c) if the publication is being published in Queensland—the publication is not subject to a conditional cultural exemption in relation to the publication.
 - (2) The director may, by written notice given to the publisher of the publication, require the publisher to submit an application for classification of the publication, or of subsequent issues of the publication, by the board.
 - (2A) The notice has effect only if it is published in the Commonwealth gazette.
- (2) Section 9A(2A) and (3)—
renumber as section 9A(3) and (4).

84 Amendment of s 9B (Power to require certain advertisements to be submitted for approval)

Section 9B(1), ‘or the publications classification officer’—
omit.

85 Amendment of s 9C (Defence to prosecution under section 9A or 9B)

- (1) Section 9C, heading, ‘section 9A’—
omit, insert—

s 9A

- (2) Section 9C, ‘or the publications classification officer’—
omit.

86 Omission of ss 10 and 11

Sections 10 and 11—

omit.

87 Omission of pt 2A (Protection of children and families by conditions for displaying certain unrestricted publications)

Part 2A—

omit.

88 Amendment of s 12 (Sale etc. of prohibited publication or child abuse photograph)

Section 12, ‘or child abuse photograph’—

omit.

89 Amendment of s 14 (Possession of child abuse publication or child abuse photograph)

Section 14, ‘or child abuse photograph’—

omit.

90 Amendment of s 15 (Exhibition or display of prohibited publication or child abuse photograph)

Section 15, ‘or child abuse photograph’—

omit.

91 Amendment of s 16 (Leaving prohibited publication or child abuse photograph in or on public place)

Section 16, ‘or child abuse photograph’—

omit.

[s 92]

92 Amendment of s 18 (Procurement of minor for RC publication or child abuse photograph)

Section 18, ‘or child abuse photograph’—

omit.

93 Replacement of s 19 (Distributors, retail sellers and advertisers not liable in certain circumstances)

Section 19—

omit, insert—

19 Advertisers not liable in certain circumstances

A person who advertises a publication is not guilty of an offence against section 12 if the person does not know, and has no reason to suspect, the publication is a prohibited publication.

94 Amendment of s 20 (Leaving prohibited publication or child abuse photograph in or on private premises)

Section 20, ‘or child abuse photograph’—

omit.

95 Omission of s 20C (Offence to contravene a display order for an unrestricted publication)

Section 20C—

omit.

96 Amendment of s 20E (Consumer advice for unrestricted publications)

Section 20E—

insert—

Note—

Under the Commonwealth Act, section 22CF(5), particular consumer advice determined by an approved classification tool is taken to be consumer advice determined by the board under section 20 of that Act.

97 Replacement of s 28 (Additional power of inspector to seize publications)

Section 28—

omit, insert—

28 Additional power of inspector to seize publications

- (1) This section applies if—
 - (a) a person makes a complaint to an inspector about a publication; and
 - (b) the inspector reasonably believes the publication is a prohibited publication.
- (2) The inspector may seize the publication from any place the inspector may lawfully enter or board.
- (3) An inspector who seizes a publication under subsection (2) must, as soon as practicable, submit the publication to the board for classification.
- (4) If a publication seized under subsection (2) is classified as an unrestricted publication, the inspector must, as soon as practicable after it is classified, return the publication to the person who appears to be entitled to it.

98 Amendment of s 32 (Evidentiary provisions)

- (1) Section 32(1)—

omit, insert—

- (1) In a proceeding for an offence against this Act,

[s 99]

each of the following documents is evidence of the matters stated in it—

- (a) a document purporting to be a certificate given by the director or the convenor under the Commonwealth Act, section 25 or 87 and stating either of the following matters—
 - (i) whether a stated publication has been classified;
 - (ii) if a stated publication has been classified—the classification given to the publication;
- (b) a document purporting to be a certificate given by the director and stating whether a publication is a submittable publication.

(2) Section 32—

insert—

(3) In this section—

convenor means the convenor of the Classification Review Board established under the Commonwealth Act.

99 Amendment of s 33 (Indictable offences and summary offences)

(1) Section 33(1)(b), ‘or child abuse photograph’—

omit.

(2) Section 33(4), from ‘only’—

omit, insert—

only by a person authorised in writing by the Minister.

(3) Section 33—

insert—

(5) For subsection (4), the Minister may authorise a

person either generally or in relation to a stated complaint.

100 Amendment of s 34 (Forfeiture)

- (1) Section 34(1), ‘or child abuse photograph’—

omit.

- (2) Section 34(1) and (2), ‘, photograph’—

omit.

101 Amendment of s 35 (Return of seized publications or photographs)

- (1) Section 35, heading, ‘or photographs’—

omit.

- (2) Section 35(3)—

omit.

102 Amendment of s 36 (Unrestricted publication not indecent or obscene)

- (1) Section 36, heading, ‘Unrestricted publication’—

omit, insert—

Particular publications

- (2) Section 36—

insert—

- (2) Also, to the extent a publication is subject to a conditional cultural exemption in relation to a relevant showing, the publication is not indecent or obscene material for the purposes of the Criminal Code.

[s 103]

103 Omission of s 37 (Exemptions)

Section 37—

omit.

104 Amendment of s 39 (Protection of officials from liability)

(1) Section 39, heading, after ‘from’—

insert—

criminal

(2) Section 39(2), definition *official*—

omit, insert—

official means any of the following persons—

- (a) the director;
- (b) an inspector;
- (c) a public service employee assisting a person mentioned in paragraph (b).

105 Insertion of new pt 6, div 4

Part 6—

insert—

**Division 4 Court and Civil Legislation
Amendment Act 2017**

45 Definition for division

In this division—

repealed, if followed by a provision number, means the provision of that number as in force from time to time before the commencement.

46 Classification of publications under repealed s 9

- (1) This section applies in relation to a publication that, immediately before the commencement, had a classification (the *earlier classification*) given under repealed section 9(1).
- (2) From the commencement, the earlier classification of the publication is taken to have been given under the Commonwealth Act.
- (3) However, if the publication is later classified, the earlier classification stops having effect from when the later classification takes effect.

47 Ending of exemption given under repealed s 37

- (1) This section applies if, immediately before the commencement, an exemption given under repealed section 37 was in force for an entity.
- (2) On the commencement, the exemption ends.

106 Insertion of new sch 1

After part 6—

insert—

Schedule 1 Dictionary

section 3

[s 107]

Part 10 Amendment of Court Funds Act 1973

107 Act amended

This part amends the *Court Funds Act 1973*.

108 Amendment of long title

Long title, from ‘to amend’ to ‘District Court’—
omit, insert—

to provide for the custody and investment of money paid into the Supreme Court, the District Court and Magistrates Courts

109 Amendment of s 4 (Definitions)

Section 4, definition *court*—
omit, insert—

Court means the Supreme Court or the District Court, or a Magistrates Court into which an amount that is money in Court is paid.

Part 11 Amendment of Criminal Code

110 Code amended

This part amends the Criminal Code.

Note—

See also the amendments in schedule 1.

111 Amendment of s 1 (Definitions)

(1) Section 1, definition *classification officer*—

omit.

- (2) Section 1—

insert—

Commonwealth Classification Act, for chapter 22, see section 207A.

112 Amendment of s 207A (Definitions for this chapter)

- (1) Section 207A, definition *classification officer*—

omit.

- (2) Section 207A—

insert—

Commonwealth Classification Act means the *Classification (Publications, Films and Computer Games) Act 1995* (Cwlth).

113 Amendment of s 228E (Defences for ss 228A–228DC)

- (1) Section 228E(3)—

omit, insert—

- (3) It is a defence for the person to prove that, at the time of the alleged offence—

- (a) the material that is alleged to be child exploitation material was subject to a conditional cultural exemption in relation to a relevant showing; and
- (b) the person engaged in the conduct that is alleged to constitute the offence for the purpose of the relevant showing.

- (2) Section 228E(4), ‘(3)(b)(i)’—

omit, insert—

(3)(b)

[s 114]

- (3) Section 228E(8)—

omit, insert—

- (8) In this section—

certificate means a certificate under the Commonwealth Classification Act, section 25 or 87.

relevant showing has the meaning given by the Commonwealth Classification Act, sections 6C and 6E.

subject to a conditional cultural exemption has the meaning given by the Commonwealth Classification Act, section 5.

114 Amendment of s 228H (Possession etc. of child exploitation material by law enforcement officer)

- (1) Section 228H(1)(a), ‘classification officer or’—

omit.

- (2) Section 228H(1)(b), examples, second dot point, ‘a classification officer for classification’—

omit, insert—

the Classification Board established under the Commonwealth Classification Act for classification under that Act

- (3) Section 228H—

insert—

- (3) In this section—

law enforcement officer includes an inspector under any of the following Acts—

- (a) the *Classification of Computer Games and Images Act 1995*;
- (b) the *Classification of Films Act 1991*;

(c) the *Classification of Publications Act 1991*.

Part 12 **Amendment of Evidence Act 1977**

115 **Act amended**

This part amends the *Evidence Act 1977*.

116 **Amendment of s 58 (Proof of letters patent)**

(1) Section 58(1) and (3), after ‘(premiers)’—

insert—

or the State archivist

(2) Section 58(2), ‘officer’—

omit, insert—

appropriately qualified officer

(3) Section 58—

insert—

(2A) The State archivist may delegate the power under subsection (1) to an appropriately qualified officer of the State archives.

(4) Section 58(4)—

insert—

State archives means the Queensland State Archives established under the *Public Records Act 2002*, section 21(2).

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

(5) Section 58(2A) to (4)—

renumber as section 58(3) to (5).

[s 117]

Part 13 Amendment of Information Privacy Act 2009

117 Act amended

This part amends the *Information Privacy Act 2009*.

118 Amendment of s 45 (Making access or amendment applications for children)

Section 45(2), definition *parent*, paragraph 1, ‘is any’—
omit, insert—
 means any

119 Amendment of s 53 (Noncompliance with application requirement)

(1) Section 53—
insert—

 (4A) Subsection (4) does not limit section 52.

(2) Section 53(4A) to (6)—
renumber as section 53(5) to (7).

120 Amendment of s 88 (Deletion of irrelevant information)

Section 88(3)—
omit, insert—

(3) However, the agency or Minister may give access to the document under subsection (2) only if the agency or Minister considers it is reasonably practicable to give access to the copy.

121 Amendment of s 89 (Deletion of exempt information)

Section 89(c)—

omit.

122 Amendment of s 90 (Deletion of contrary to public interest information)

Section 90(c)—

omit.

123 Amendment of s 94 (Internal review)

Section 94—

insert—

- (4) Subsection (3) applies despite the *Acts Interpretation Act 1954*, section 27A.

124 Amendment of s 95 (Decisions that may not be reviewed)

- (1) Section 95, after ‘access’—

insert—

or amendment

- (2) Section 95(b), after ‘principal officer’—

insert—

personally

- (3) Section 95(c), after ‘Minister’—

insert—

personally

125 Amendment of s 115 (Requiring a search)

Section 115(1), ‘or further searches’—

omit, insert—

or to conduct further searches

[s 126]

126 Amendment of s 127 (Vexatious applicants)

- (1) Section 127(8), definition *abuse of process*, paragraph (a), after ‘access’—

insert—

or amendment

- (2) Section 127(8), definition *abuse of process*, paragraph (b), ‘actions’—

omit, insert—

or amendment action

127 Amendment of s 135 (Performance monitoring and support functions)

Section 135(1)(b)—

insert—

- (vi) without limiting subparagraph (v), identify and comment on legislative and administrative changes that would improve the administration of this Act; and

128 Amendment of sch 3, s 2 (IPP 2—Collection of personal information (requested from individual))

Schedule 3, section 2(5)—

omit, insert—

- (5) However, the agency is not required to act under subsection (3) if the personal information is collected in the context of the delivery of an emergency service.

Example—

personal information collected during a triple 0 emergency call or during the giving of treatment or assistance to a person in need of an emergency service

129 Amendment of sch 3, s 11 (IPP 11—Limits on disclosure)

(1) Schedule 3, section 11(1)—

insert—

(ea) all of the following apply—

- (i) ASIO has asked the agency to disclose the personal information;
- (ii) an officer or employee of ASIO authorised in writing by the director-general of ASIO for this paragraph has certified in writing that the personal information is required in connection with the performance by ASIO of its functions;
- (iii) the disclosure is made to an officer or employee of ASIO authorised in writing by the director-general of ASIO to receive the personal information; or

(2) Schedule 3, section 11(3), ‘to the agency’—

omit, insert—

by the agency

130 Amendment of sch 5 (Dictionary)

(1) Schedule 5—

insert—

ASIO means the Australian Security Intelligence Organisation established under the *Australian Security Intelligence Organisation Act 1979* (Cwlth).

director-general, of ASIO, means the person appointed as the Director-General of Security under the *Australian Security Intelligence Organisation Act 1979* (Cwlth).

(2) Schedule 5, definition *reviewable decision*, paragraph (b), ‘section 53(5)’—

[s 131]

omit, insert—

section 53(6)

- (3) Schedule 5, definition *reviewable decision*, paragraph (f),
'access to a document'—

omit, insert—

access to all or part of a document

- (4) Schedule 5, definition *reviewable decision*, paragraph (j), ' , 89
or 90'—

omit.

Part 14 Amendment of Invasion of Privacy Act 1971

131 Act amended

This part amends the *Invasion of Privacy Act 1971*.

132 Amendment of s 43 (Prohibition on use of listening devices)

- (1) Section 43(2)—

insert—

- (e) to or in relation to the use of a listening device that is a government network radio, activated by a communications centre operator for a public safety entity, in circumstances in which—
 - (i) an officer of the entity has activated a duress alarm; or
 - (ii) an officer of the entity has contacted the communications centre operator to ask for assistance; or

- (iii) the communications centre operator has reasonable grounds to believe there may be a risk to the life, health or safety of an officer of the entity.

Example for subparagraph (iii)—

A communications centre operator for a public safety entity has lost contact with an officer of the entity and the officer does not respond to normal radio communication.

(2) Section 43—

insert—

(7) In this section—

communications centre operator, for a public safety entity, means a person who is employed or otherwise engaged by the entity, whether on a paid or voluntary basis, to maintain radio contact with officers of the entity.

government network radio means a radio that—

- (a) uses a secure digital radio communications network to enable a communications centre operator for a public safety entity and an officer of the entity to communicate with each other; and
- (b) may be fitted to a vehicle or carried by a person.

officer, of a public safety entity, means a person who is employed or otherwise engaged by the entity, whether on a paid or voluntary basis.

public safety entity means—

- (a) the Queensland Ambulance Service established under the *Ambulance Service Act 1991*; or
- (b) the Queensland Police Service; or

[s 133]

- (c) any of the following entities established under the *Fire and Emergency Services Act 1990*—
 - (i) the Queensland Fire and Emergency Service;
 - (ii) the State Emergency Service;
 - (iii) an emergency service unit; or
- (d) a rural fire brigade registered under the *Fire and Emergency Services Act 1990*.

Part 15

Amendment of Justices of the Peace and Commissioners for Declarations Act 1991

133 Act amended

This part amends the *Justices of the Peace and Commissioners for Declarations Act 1991*.

134 Amendment of s 3 (Interpretation)

- (1) Section 3, heading—

omit, insert—

3 Definitions

- (2) Section 3—

insert—

Queensland Government website means—

- (a) www.qld.gov.au; or
- (b) another website prescribed by regulation.

135 Amendment of s 21 (Registration of justices of the peace and commissioners for declarations)

Section 21(5)—

omit, insert—

- (5) The registrar must publish, on the Queensland Government website, notice of the appointment and registration of a person as a justice of the peace or commissioner for declarations.

136 Amendment of s 23 (Resignation)

Section 23(2) and (3)—

omit, insert—

- (2) On receiving the person's written resignation, the registrar must—
 - (a) publish notice of the resignation on the Queensland Government website; and
 - (b) remove the person's registered particulars from the register.
- (3) The person ceases to hold office as a justice of the peace or commissioner for declarations when the person's written resignation is given to the registrar.

137 Amendment of s 24 (Revocation of appointment)

- (1) Section 24(1), ' , by notification published in the gazette, may'—

omit, insert—

may, by notice given to the registrar,

- (2) Section 24(2)—

omit, insert—

- (2) On receiving a notice under subsection (1) in

[s 138]

relation to a person, the registrar must—

- (a) give the person a copy of the notice; and
 - (b) publish the notice on the Queensland Government website; and
 - (c) remove the person's registered particulars from the register.
- (3) The person ceases to hold office as a justice of the peace or commissioner for declarations when the notice is published on the Queensland Government website.

138 Amendment of s 25 (Prohibition on acting in office)

- (1) Section 25(1) to (4)—

omit, insert—

- (1) The Governor in Council may, by notice given to the registrar, prohibit an appointed justice of the peace or an appointed commissioner for declarations from acting in the office for a period stated in the notice.
- (2) The Governor in Council may act under subsection (1) for the reasons the Governor in Council considers appropriate.
- (3) On receiving a notice under subsection (1) in relation to a person, the registrar must—
 - (a) give the person a copy of the notice; and
 - (b) publish the notice on the Queensland Government website; and
 - (c) make the following changes to the register—
 - (i) at the start of the period stated in the notice—remove the person's registered particulars from the register;

- (ii) at the end of the period stated in the notice—enter in the register the registered particulars that were removed under subparagraph (i).
- (4) A person prohibited from acting as a justice of the peace or commissioner for declarations under a notice given under subsection (1)—
 - (a) ceases to hold the office from the start of the period stated in the notice; and
 - (b) resumes the office from the end of the period stated in the notice.
- (2) Section 25(5), ‘subsection (3)(b)’—
omit, insert—
subsection (4)(b)

139 Amendment of s 26 (Notification of cessation of office)

Section 26(2)(a)—

omit, insert—

- (a) publish notice of the cessation of office on the Queensland Government website; and

Part 16 Amendment of Land Court Act 2000

140 Act amended

This part amends the *Land Court Act 2000*.

141 Amendment of s 7A (Land Court has power of the Supreme Court)

- (1) Section 7A(2), ‘subsection (2)’—

omit, insert—

[s 142]

subsection (1)

(2) Section 7A(4), ‘subsection (4)’—

omit, insert—

subsection (3)

142 Insertion of new s 28A

After section 28—

insert—

28A Acting judicial registrars

- (1) The Governor in Council may appoint a person to act as a judicial registrar—
 - (a) during any period when a judicial registrar is absent from duty or can not, for another reason, perform the functions of a judicial registrar; or
 - (b) if the conduct of the business of the Land Court, in the opinion of the Governor in Council, requires the appointment.
- (2) An acting judicial registrar is appointed on a part-time or full-time basis for the term, of not more than 2 years, stated in the person’s instrument of appointment.
- (3) The provisions of this Act applying to judicial registrars also apply to an acting judicial registrar to the extent the application is possible.
- (4) The rights of a public service officer appointed as an acting judicial registrar may be preserved under a regulation.

143 Amendment of s 37 (ADR process applies to proceedings started under this part)

(1) Section 37—

insert—

(2A) Without limiting subsection (1), for a relevant ADR process—

- (a) each party to a proceeding who participates in the ADR process must be prepared to identify and discuss the issues in dispute in an attempt to negotiate a settlement; and
- (b) if a party is represented in the ADR process by a lawyer or agent—
 - (i) the lawyer or agent must have authority to settle the matter or any issue discussed; or
 - (ii) if it is not practicable for the lawyer or agent to have the authority mentioned in subparagraph (i)—the lawyer or agent must have the authority to make a recommendation to the party about settling the matter or any issue discussed.

(2) Section 37—

insert—

(4) In this section—

relevant ADR process means an ADR process within the meaning of the *Civil Proceedings Act 2011*, section 39, other than to the extent the section refers to case appraisal.

(3) Section 37(2A) to (4)—

renumber as section 37(3) to (5).

144 Insertion of new pt 2, div 12

Part 2—

insert—

Division 12 Application of Act to Land Court for recommendatory provisions

52A Meaning of *recommendatory provision*

In this division—

recommendatory provision means—

- (a) section 32F; or
- (b) the *Aboriginal Cultural Heritage Act 2003*, part 6, division 5 and part 7, division 6; or
- (c) the *Environmental Protection Act 1994*, chapter 5, part 5, division 3, subdivision 3; or
- (d) the following provisions of the *Mineral Resources Act 1989*—
 - (i) sections 72 and 75 to 78;
 - (ii) sections 265, 268 and 269;
 - (iii) section 318BC; or
- (e) the *Petroleum and Gas (Production and Safety) Act 2004*, sections 320 and 363I; or
- (f) the *Torres Strait Islander Cultural Heritage Act 2003*, part 6, division 5 and part 7, division 6; or
- (g) another provision of this Act or another Act that confers an administrative function on the Land Court.

52B Application of Act

- (1) The following provisions of this Act apply to the Land Court in the performance of a function conferred on the court under a recommendatory

provision, with all necessary changes, as if the performance of the function under the recommendatory provision were a proceeding—

- (a) section 5;
 - (b) section 7A(2)(a) and (c) and (3);
 - (c) section 9;
 - (d) section 16;
 - (e) section 22;
 - (f) section 24;
 - (g) section 25;
 - (h) section 27;
 - (i) section 33;
 - (j) section 34;
 - (k) section 36;
 - (l) section 37, other than to the extent the *Civil Proceedings Act 2011*, part 6 refers to case appraisal;
 - (m) section 42;
 - (n) section 46;
 - (o) section 52.
- (2) Sections 32A, 32C and 32D of this Act apply to the Land Court in the performance of a function conferred on the court under the following recommendatory provisions, with all necessary changes, as if the performance of the function under the recommendatory provision were a proceeding—
- (a) the *Aboriginal Cultural Heritage Act 2003*, part 6, division 5 and part 7, division 6;

[s 145]

(b) the *Torres Strait Islander Cultural Heritage Act 2003*, part 6, division 5 and part 7, division 6.

(3) In this section—

performance, of a function, includes the exercise of a power.

145 Insertion of new s 57A

Part 3, division 2—

insert—

57A Costs

- (1) The Land Appeal Court may order costs for an appeal to the court as it considers appropriate.
- (2) Without limiting subsection (1), the Land Appeal Court may order costs for the proceeding in which the decision appealed against was made, whether or not the court or tribunal that made the decision made, or had power to make, an order for costs for the proceeding.
- (3) If the Land Appeal Court does not make an order under subsection (1), each party to the appeal must bear the party's own costs for the appeal.
- (4) This section is subject to the provisions of this Act or another Act to the contrary.

146 Amendment of s 72 (Application of certain provisions of pt 2 to Land Appeal Court)

Section 72(1), '8, 9, 21, 22 and 34'—

omit, insert—

7A, 7B, 8, 9, 21, 22 and 33(5)

Part 17 Amendment of Legal Aid Queensland Act 1997

147 **Act amended**

This part amends the *Legal Aid Queensland Act 1997*.

148 **Amendment of s 45 (General powers)**

(1) Section 45(2), ‘but subject to subsection (4),’—

omit.

(2) Section 45(4) and (6)—

omit.

(3) Section 45(5)—

renumber as section 45(4).

149 **Amendment of s 55 (Delegation of board’s powers)**

Section 55(1), after ‘Act’—

insert—

, other than under section 73A,

150 **Amendment of s 65 (Qualifications for appointment)**

Section 65, from ‘is a lawyer’—

omit, insert—

is appropriately qualified to perform the functions
of the chief executive officer.

151 **Amendment of s 67 (Chief executive officer’s responsibilities)**

Section 67(b) and (c)—

omit, insert—

[s 152]

- (b) ensuring legal services are provided to legally assisted persons under this Act; and
- (c) for legal services mentioned in paragraph (b) provided by Legal Aid lawyers, ensuring—
 - (i) arrangements are made for the provision of the legal services; and
 - (ii) the legal services are supervised.

152 Amendment of s 71 (External employment)

Section 71, ‘paid employment’—

omit, insert—

other legal work

153 Insertion of new s 73A

After section 73—

insert—

73A Holding of practising certificates

- (1) If the board recommends the appointment, as chief executive officer, of a person who is not a lawyer, the board must nominate—
 - (a) a Legal Aid lawyer (the ***primary holder***) to hold a relevant practising certificate; and
 - (b) another Legal Aid lawyer (a ***reserve holder***) to hold a relevant practising certificate, on the condition the certificate comes into force only if the primary holder ceases to be a Legal Aid lawyer.
- (2) Also, the board must nominate a Legal Aid lawyer (also a ***reserve holder***) to hold a relevant practising certificate on the condition mentioned in subsection (1)(b) if—

- (a) a person who is not a lawyer is appointed as the chief executive officer; and
 - (b) during the person's term of office, the primary holder or a reserve holder (including a reserve holder nominated under this subsection) ceases to be a Legal Aid lawyer.
- (3) The board may nominate a Legal Aid lawyer under subsection (1) or (2) only if—
- (a) the lawyer has appropriate seniority and experience; and
 - (b) the nomination is approved by the Attorney-General.
- (4) If the relevant practising certificate held by a reserve holder comes into force, the holder is taken, for this section, to be the primary holder in relation to the certificate.
- (5) The *Legal Profession Act 2007*, section 45(3) does not apply to a local practising certificate held by a reserve holder under this section or otherwise.
- (6) In this section—
- local practising certificate* see the *Legal Profession Act 2007*, schedule 2.
- relevant practising certificate* means a local practising certificate as a principal for the law firm that is Legal Aid.

154 Amendment of s 82 (Secrecy)

- (1) Section 82(1)—
- insert—*

[s 154]

- (d) a law student who is allowed by Legal Aid to participate in providing legal assistance under this Act; or
- (e) a person who is not a Legal Aid employee and who is approved by Legal Aid to assist in performing Legal Aid's functions; or
- (f) a person appointed under a review mechanism established under section 21 to review decisions made by Legal Aid about legal assistance; or
- (g) a person approved by Legal Aid to access information and documents held by Legal Aid for the purpose of conducting research.

(2) Section 82(5), after 'prevent a person'—

insert—

mentioned in subsection (1)(a) to (c)

(3) Section 82(5)—

insert—

- (f) if the document or information is about the affairs of a legally assisted person—
 - (i) an entity to which the legally assisted person has, in writing, directed the document or information to be given; or
 - (ii) an entity to which the legally assisted person has, in writing, consented to the document or information being given.

(4) Section 82—

insert—

(5A) Also, subsection (2) does not prevent a person mentioned in subsection (1)(d) to (g) from giving a document or information to a person or entity mentioned in subsection (5)(a) to (f) at the

direction, or with the authority, of a Legal Aid employee.

- (5) Section 82(6), after ‘subsection (5)’—
insert—

or (6)

- (6) Section 82(7), ‘subsection (6)’—
omit, insert—

subsection (7)

- (7) Section 82(8), from ‘subsection (5)’ to ‘subsection (6)’—
omit, insert—

subsection (5) or (6) must comply with any condition imposed under subsection (7)

- (8) Section 82(5A) to (9)—
renumber as section 82(6) to (10).

155 Amendment of schedule (Dictionary)

Schedule, definition *appropriately qualified*—
omit.

Part 18 Amendment of Legal Profession Act 2007

156 Act amended

This part amends the *Legal Profession Act 2007*.

Note—

See also the amendments in schedule 1.

[s 157]

157 Amendment of s 9 (Suitability matters)

(1) Section 9(1)—

insert—

(ba) whether the person is or has been a legal practitioner director of an incorporated legal practice while the practice is or was an externally-administered body corporate under the Corporations Act;

(2) Section 9(1)(ba) to (n)—

renumber as section 9(1)(c) to (o).

158 Amendment of s 12 (Meaning of *government legal officer* and *engaged in government work* and related matters)

Section 12(1)(a)—

insert—

Note—

Under the *Public Service Act 2008*, section 22, this Act applies to a public service office mentioned in schedule 1 of that Act and its public service employees as if the office were a department.

159 Amendment of s 311 (Exceptions to requirement for disclosure)

Section 311(1)(c)—

insert—

(ix) a trustee within the meaning of the *Bankruptcy Act 1966* (Cwlth), section 5(1), definition *the trustee*, paragraphs (a) to (c);

160 Amendment of s 330 (Bills)

Section 330(7), ‘requests the bill to be’—

omit, insert—

consents to the bill being

161 Amendment of s 517 (Power of receiver to take possession of regulated property)

Section 517(7), ‘manager’—

omit, insert—

receiver

162 Amendment of s 684 (Membership of law society)

(1) Section 684(1) and (2), ‘individuals’—

omit, insert—

persons

(2) Section 684(2)—

insert—

(d) an incorporated legal practice.

163 Amendment of s 706 (Duty of relevant entities to report suspected offences)

Section 706(1)(c)—

omit, insert—

(c) an offence against part 2.2 committed by either of the following persons if the relevant entity considers the person committed the offence inadvertently—

(i) a person employed by, or appointed to, a government entity who is engaged in legal practice for the entity;

(ii) a person who is employed by a corporation, other than an incorporated legal practice, and who provides only

[s 164]

in-house legal services to the corporation or a related body corporate.

164 Insertion of new ch 10, pt 6

Chapter 10—

insert—

**Part 6 Transitional provisions
for Court and Civil
Legislation
Amendment Act 2017**

**784 Application of s 9(1) and additional obligation
to disclose suitability matter**

- (1) This section applies if, before the commencement, a person had applied to a regulatory authority for the grant or renewal of a local practising certificate under section 49 and the regulatory authority had not decided the application under section 51.
- (2) Section 9(1)(c), as in force after the commencement (*new section 9(1)(c)*), applies to the person for the application.
- (3) If the person is or has been a legal practitioner director of an incorporated legal practice as mentioned in new section 9(1)(c), the person must, within 7 days after the day of commencement, give the regulatory authority a notice about that fact.

785 Application of amended *show cause event* definition and additional obligation to give notice and statement

- (1) This section applies to a person who is a local legal practitioner, or a locally registered foreign lawyer, and who—
 - (a) on the commencement, is a legal practitioner director of an incorporated legal practice that is an externally-administered body corporate under the Corporations Act; or
 - (b) at any time before the commencement, was a legal practitioner director of an incorporated legal practice while it was an externally-administered body corporate under the Corporations Act.
- (2) It is declared that the matter mentioned in subsection (1)(a) or (b) is a show cause event that has happened in relation to the person.
- (3) The person must comply with the following for the show cause event—
 - (a) if the person is a local legal practitioner—section 68;
 - (b) if the person is a locally registered foreign lawyer—section 193.
- (4) For subsection (3), the show cause event is taken to have happened on the commencement.

165 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *show cause event*—
insert—

- (ca) the person being a legal practitioner director of an incorporated legal practice that

[s 166]

becomes an externally-administered body
corporate under the Corporations Act; or

- (2) Schedule 2, definition *show cause event*, paragraphs (ca) and (d)—
renumber as paragraphs (d) and (e).

Part 19 Amendment of Magistrates Act 1991

166 Act amended

This part amends the *Magistrates Act 1991*.

Note—

See also the amendments in schedule 1.

167 Amendment of s 6 (Appointment of acting magistrates)

- (1) After section 6(2)—

insert—

- (2AA) An appointment under subsection (1)(g) must be
for a specified period ending not later than the day
the retired magistrate attains the age of 75.

- (2) Section 6(5), definition *retired magistrate*—

omit, insert—

retired magistrate means a person who—

- (a) ceases to be a magistrate under section
42(a), (b) or (d); and
(b) has not attained the age of 75.

- (3) Section 6(1A) to (5)—

renumber as section 6(2) to (11).

168 Amendment of s 21 (Transfer policy)

Section 21(6), definition *regional Queensland*, ‘Gympie,’—
omit.

169 Insertion of new pt 10, div 9

Part 10—

insert—

**Division 9 Transitional provisions for
Court and Civil Legislation
Amendment Act 2017**

**71 Application of s 6(11), definition *retired
magistrate***

A reference in section 6(11), definition *retired magistrate* to a person who ceases to be a magistrate under section 42(d) includes a person who had ceased, before the commencement, to be a magistrate under section 42(d).

**72 Prescribed regional experience before
commencement**

- (1) This section applies in relation to a magistrate who, before the commencement, constituted a Magistrates Court in the Gympie Magistrates Courts district for 1 or more periods.
- (2) For applying section 21(6), definitions *magistrates without prescribed regional experience* and *magistrates with prescribed regional experience*, the magistrate is taken to have constituted a Magistrates Court at a place in regional Queensland for each period during which the magistrate constituted the court.

[s 170]

Part 20 Amendment of Ombudsman Act 2001

170 Act amended

This part amends the *Ombudsman Act 2001*.

171 Amendment of s 5 (Objects of Act)

Section 5(b), ‘practice’—

omit, insert—

practices and procedures

172 Amendment of s 6 (How objects are to be achieved)

Section 6(b)(ii)—

omit, insert—

- (ii) to make recommendations to agencies, generally or in particular cases, about ways of improving the quality of decision-making and administrative practices and procedures; and
- (iii) to provide advice, training, information or other help to agencies, generally or in particular cases, about ways of improving the quality of decision-making and administrative practices and procedures.

173 Amendment of s 12 (Functions of ombudsman)

- (1) Section 12(d)—

renumber as section 12(e).

- (2) Section 12(c)—

omit, insert—

- (c) to consider the administrative practices and procedures of agencies generally, and to make recommendations or provide advice, training, information or other help to the agencies about ways of improving the quality of administrative practices and procedures; and
- (d) to provide advice, training, information or other help to agencies, in particular cases, about ways of improving the quality of administrative practices and procedures; and

174 Amendment of s 24 (Investigations generally)

Section 24—

insert—

- (2) If an investigation is being conducted informally under subsection (1)(a), the principal officer of the agency to which the investigation relates must give the ombudsman reasonable help in the conduct of the investigation.

175 Amendment of s 30 (Compliance with investigation requirement)

Section 30—

insert—

- (4) It is not a reasonable excuse for subsection (1) that complying with the investigation requirement might tend to incriminate the person.

Note—

See section 48 for the restrictions on the admissibility in a proceeding of information given, or derived from information given, under subsection (1).

[s 176]

176 Amendment of s 38 (Contempt of ombudsman)

(1) Section 38(1)(g)—

omit.

(2) Section 38—

insert—

(1A) Also, if the ombudsman orders under section 91 that information or the contents of a document must not be published, a person is in contempt of the ombudsman if the person publishes, or permits or allows to be published, the information or the contents of the document.

(3) Section 38(1A) and (2)—

renumber as section 38(2) and (3).

177 Amendment of s 47 (Protection of person helping ombudsman)

Section 47(1) and (2)—

omit, insert—

(1) A person must not cause, or threaten, attempt or conspire to cause, detriment to another person because, or in the belief that, any person—

(a) has made, or may make, a complaint to the ombudsman; or

(b) has given, or may give, the ombudsman information or a document or other thing for the purposes of a preliminary inquiry or an investigation.

Maximum penalty—100 penalty units.

(2) An attempt to cause detriment includes an attempt to induce a person to cause detriment.

178 Replacement of s 48 (Inadmissibility of particular document given under investigation requirement)

Section 48—

omit, insert—

48 Inadmissibility of particular information in proceedings

- (1) This section applies if an individual gives information to the ombudsman under an investigation requirement.
- (2) The following information is not admissible in any proceeding as evidence against the individual—
 - (a) the information given by the individual under the investigation requirement and the fact of that giving (*primary evidence*);
 - (b) any information obtained as a direct or indirect result of primary evidence (*derived evidence*).
- (3) Subsection (2) does not prevent primary evidence or derived evidence being admitted in evidence in criminal proceedings about the falsity or misleading nature of the primary evidence.
- (4) In this section—
information includes a document.

179 Amendment of s 49 (Investigations to which div 1 applies)

Section 49(1), after ‘applies to an investigation’—

insert—

of an administrative action of an agency

180 Replacement of s 50 (Report and recommendation)

Section 50—

[s 180]

omit, insert—

50 Report and recommendations

- (1) This section applies if the ombudsman considers—
 - (a) the administrative action should be referred to the agency for further consideration; or
 - (b) action can be, and should be, taken to rectify, mitigate or change the effects of, the administrative action; or
 - (c) a practice under which the administrative action was taken should be changed; or
 - (d) any law under which, or on the basis of which, the administrative action was taken should be reconsidered; or
 - (e) reasons, or further reasons, should be given for the administrative action; or
 - (f) any other steps should be taken.
- (2) The ombudsman may—
 - (a) give the principal officer of the agency a report that—
 - (i) states the action the ombudsman considers should be taken; and
 - (ii) makes recommendations the ombudsman considers appropriate; and
 - (b) if the agency is a local government—direct the principal officer to table the report at a meeting of the local government; and
 - (c) if subsection (3) does not apply—give a copy of the report to the responsible Minister for the agency.
- (3) If, during or after the investigation, the ombudsman considers there is evidence of a breach of duty or misconduct on the part of an

officer of the agency, the ombudsman—

- (a) must give the principal officer of the agency a report that—
 - (i) states the nature of the breach of duty or misconduct; and
 - (ii) makes recommendations the ombudsman considers appropriate; and
- (b) if the agency is a local government—may direct the principal officer to table the report at a meeting of the local government; and
- (c) may, if the ombudsman considers it appropriate in the circumstances, give a copy of the report to—
 - (i) the responsible Minister for the agency; and
 - (ii) if the agency is a local government—the local government’s mayor.

Note—

The ombudsman must also, under the *Crime and Corruption Act 2001*, section 38, notify the Crime and Corruption Commission of any matters involving, or possibly involving, corrupt conduct under that Act.

- (4) If the principal officer of a local government is given a report under subsection (2)(a) or (3)(a), the principal officer must—
 - (a) give a copy of the report to all the members, however named, of the local government; and
 - (b) if the principal officer is given a direction under subsection (2)(b) or (3)(b) to table a copy of the report at a meeting of the local government—table the report as directed.

[s 181]

181 Amendment of s 51 (Action after report making recommendations)

(1) Section 51(1), ‘to’—

omit.

(2) Section 51(2) and (3)—

omit, insert—

(2) The ombudsman may ask the principal officer of the agency to give the ombudsman, within a stated time, comments about—

(a) the steps taken or proposed to be taken to give effect to the recommendations; or

(b) if no steps, or only some steps, have been or are proposed to be taken to give effect to the recommendations—the reasons for not taking steps, or all the steps, necessary to give effect to the recommendations.

(3) The ombudsman may give the Premier a copy of the report and a copy of any comments made by or for the principal officer of the agency if—

(a) it appears to the ombudsman that no steps the ombudsman considers appropriate have been taken within a reasonable time after giving the principal officer the report; and

(b) within that time, the ombudsman has considered any comments made by or for the principal officer; and

(c) the ombudsman considers it appropriate.

182 Insertion of new ss 78A–78C

Part 8, division 2—

insert—

78A Restriction on employment or secondment of person

A person may not be employed under section 76 or 78, or seconded under section 77, unless the person has given the ombudsman written consent to obtain the information mentioned in section 78B(1)(a) and (b) in relation to the person's criminal history.

78B Criminal history report

- (1) To decide if a person is suitable to be employed under section 76 or 78, or seconded under section 77, the ombudsman may ask the commissioner of the police service for—
 - (a) a written report about the criminal history of the person; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) However, the ombudsman may make the request only if the person has given the ombudsman written consent for the request.
- (3) The commissioner of the police service must comply with the request.
- (4) However, the duty to comply applies only to information in the commissioner's possession or to which the commissioner has access.
- (5) Before using information obtained under subsection (1) to decide if the person should be employed or seconded, the ombudsman must—
 - (a) disclose the information to the person; and
 - (b) allow the person a reasonable opportunity to make representations to the ombudsman about the information.

78C Confidentiality of criminal history information

- (1) This section applies to a person who possesses criminal history information because the person is or was the ombudsman or an officer of the ombudsman.
- (2) The person must not, directly or indirectly, disclose the criminal history information to another person unless the disclosure is permitted under subsection (3).

Maximum penalty—100 penalty units.

- (3) The person may disclose the criminal history information to another person—
 - (a) to the extent necessary to perform the person's functions under this Act; or
 - (b) if the disclosure is authorised under an Act; or
 - (c) if the disclosure is otherwise required or permitted by law; or
 - (d) if the person to whom the information relates consents to the disclosure; or
 - (e) if the disclosure is in a form that does not identify the person to whom the information relates; or
 - (f) if the information is, or has been, lawfully accessible to the public.
- (4) The ombudsman must ensure the criminal history information is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- (5) In this section—

criminal history information means a report or information given to the ombudsman under section 78B.

183 Amendment of s 83 (Strategic review of ombudsman office)

- (1) Section 83(2) and (3), ‘5 years’—

omit, insert—

7 years

- (2) Section 83—

insert—

- (4A) For subsection (4), a corporation is an appropriately qualified person if a director, employee or other staff member of the corporation is appropriately qualified to undertake the review.

- (3) Section 83(4A) to (8)—

renumber as section 83(5) to (9).

184 Amendment of s 91 (Prohibiting publication of information)

Section 91, from ‘information given’—

omit, insert—

the following must not be published—

- (a) information given to the ombudsman, or the contents of a document produced to the ombudsman, in performing a function under this Act;
- (b) information, or the contents of a document, given to an agency or a person by the ombudsman in performing a function under this Act.

Note—

See section 38(2) in relation to contempt of the ombudsman.

[s 185]

185 Insertion of new s 92A

After section 92—

insert—

92A Protection in particular proceedings

- (1) A person who is, or was, an officer of the ombudsman may not be called to give evidence or produce a document in a proceeding in relation to a matter coming to the person's knowledge while performing functions under this Act.
- (2) However, this section does not apply in relation to—
 - (a) a proceeding under section 17 or 39; or
 - (b) a proceeding for a relevant offence; or
 - (c) a proceeding against the ombudsman under the *Judicial Review Act 1991*.

- (3) In this section—

officer of the ombudsman includes the ombudsman.

relevant offence means—

- (a) an offence against this Act; or
- (b) an offence against the Criminal Code, section 120, 123 or 126 to 130, as applied under section 44 of this Act.

186 Insertion of new pt 12, div 4

Part 12—

insert—

Division 4

**Provision for Court and
Civil Legislation
Amendment Act 2017**

111 Application of s 48

- (1) Section 48, as inserted by the amendment Act, section 178, applies only in relation to information given under an investigation requirement made on or after the commencement.
- (2) Section 48, as in force from time to time before the commencement, continues to apply in relation to a document given under an investigation requirement made before the commencement, as if the amendment Act, section 178 had not been enacted.
- (3) In this section—

amendment Act means the *Court and Civil Legislation Amendment Act 2017*.

187 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

criminal history, of a person, means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, and—

- (a) despite section 6 of that Act, includes a conviction of the person to which the section applies; and
- (b) despite section 5 of that Act, includes a charge made against the person for an offence.

[s 188]

Part 21

Amendment of Penalties and Sentences Act 1992

188 Act amended

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

Note—

See also the amendments in schedule 1.

189 Amendment of s 12A (Convictions for offences relating to domestic violence)

(1) Section 12A(1) and (2)—

omit, insert—

(1) Subsections (2) to (4) apply if—

- (a) a complaint or an indictment for a charge for an offence states the offence is also a domestic violence offence; and
- (b) the offender is convicted of the offence.

(2) If a conviction is recorded in relation to the offence, it must also be recorded as a conviction for a domestic violence offence.

(2A) If no conviction is recorded in relation to the offence, the offence must be entered in the offender's criminal history as a domestic violence offence.

(2B) However, a matter must not be recorded or entered under subsection (2) or (3) in relation to the offence if the court makes an order to the effect it is not satisfied the offence is also a domestic violence offence.

Note—

See the *Evidence Act 1977*, section 132C, which provides for the sentencing judge or magistrate in any

sentencing procedure in a criminal proceeding to act on allegations of fact.

- (2) Section 12A(3), ‘makes an order under subsection (2) or convicts an offender’—

omit, insert—

convicts an offender of an offence for which a matter must be recorded or entered under subsection (2) or (3) or

- (3) Section 12A(5), ‘subsection (6)’—

omit, insert—

subsection (8)

- (4) Section 12A—

insert—

- (9) For this section, proof that an offence is a domestic violence offence lies on the prosecutor.

- (10) To remove any doubt, it is declared that this section does not require a matter to be recorded or entered in an offender’s traffic history under the *Transport Operations (Road Use Management) Act 1995*.

- (5) Section 12A(2A) to (10)—

renumber as section 12A(3) to (12).

Part 22 Amendment of Professional Standards Act 2004

190 Act amended

This part amends the *Professional Standards Act 2004*.

[s 191]

191 Amendment of s 15 (Commencement of schemes)

Section 15(1) and (2), ‘gazetted’—

omit, insert—

notified

192 Amendment of s 16 (Challenges to schemes)

Section 16(1), ‘gazetted’—

omit, insert—

notified

193 Amendment of s 18 (Amendment and revocation of schemes)

Section 18(6), note—

omit, insert—

Note—

Under section 13, as applied under subsection (4), an instrument that amends a scheme operating in this jurisdiction and another jurisdiction must be given to the Minister administering the corresponding law of the other jurisdiction with a view to notice being given of the instrument. Notice of an instrument made under the corresponding law of another jurisdiction that amends an interstate scheme must be notified under section 14.

194 Amendment of s 18A (Notice of revocation of scheme)

Section 18A(1), ‘gazettal’—

omit, insert—

notification

195 Amendment of s 18B (Termination of operation of interstate schemes in this jurisdiction)

Section 18B(5) and (6), ‘gazetted’—

omit, insert—

notified

196 Amendment of s 33 (Duration of scheme)

Section 33(2), ‘council’—

omit, insert—

Minister

197 Amendment of s 43 (Functions of council)

Section 43(1)(a)(i), ‘the publication in the gazette’—

omit, insert—

notification, or the publication in the gazette,

Part 23 Amendment of Property Law Act 1974

198 Act amended

This part amends the *Property Law Act 1974*.

199 Amendment of s 57A (Effect of Act or statutory instrument)

(1) Section 57A(1)—

omit, insert—

- (1) A statutory instrument, other than prescribed subordinate legislation, does not and can not—
 - (a) render void or unenforceable any contract or dealing concerning property that is made, entered into or effected contrary to the statutory instrument; or

[s 200]

- (b) for a contract for the sale of land—give a party to the contract a right to terminate the contract for a failure by another party to the contract to comply with the statutory instrument.

- (2) Section 57A(3)—

omit, insert—

- (3) In this section—

prescribed subordinate legislation means subordinate legislation that is prescribed by regulation.

- (3) Section 57A—

insert—

Note—

See section 357 in relation to the application of this section.

200 Insertion of new pt 24

After part 23—

insert—

Part 24

Transitional provisions for Court and Civil Legislation Amendment Act 2017

357 Application of s 57A

- (1) For a statutory instrument other than subordinate legislation, amended section 57A—
 - (a) applies from the commencement, regardless of when the statutory instrument was made; but

- (b) does not apply in relation to a contract or dealing concerning property mentioned in that section if the contract or dealing was made, entered into or effected before the commencement.
- (2) For subordinate legislation, amended section 57A—
 - (a) applies on and from the relevant day, regardless of when the subordinate legislation was made; but
 - (b) does not apply in relation to a contract or dealing concerning property mentioned in that section if the contract or dealing was made, entered into or effected before the relevant day.
- (3) Section 57A, as in force immediately before the commencement, continues to apply in relation to subordinate legislation during the transitional period as if the section had not been amended by the *Court and Civil Legislation Amendment Act 2017*.
- (4) In this section—
 - amended section 57A*** means section 57A as amended by the *Court and Civil Legislation Amendment Act 2017*.
 - relevant day*** means the earlier of the following—
 - (a) the day that is 1 year after the commencement;
 - (b) the day prescribed by regulation.
 - transitional period*** means the period—
 - (a) starting on the commencement; and
 - (b) ending immediately before the relevant day.

[s 201]

358 Saving provision for s 57A

Section 57A(3), as in force immediately before the commencement, is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies.

Part 24 Amendment of Prostitution Act 1999

201 Act amended

This part amends the *Prostitution Act 1999*.

202 Amendment of s 46 (Variation of certificate)

Section 46(3)—

omit, insert—

- (3) The Authority must consider the application for variation and either—
 - (a) vary the certificate; or
 - (b) refuse to vary the certificate.
- (4) If the Authority decides to vary the certificate, the Authority must promptly vary the certificate.
- (5) If the Authority decides to refuse to vary the certificate, the Authority must give the applicant a notice stating—
 - (a) the decision; and
 - (b) subject to section 138, the reasons for the decision.

203 Amendment of s 64E (Development approval suspended until review decided)

Section 64E, ‘any matter stated in the approval’—

omit, insert—

a provision of the development approval

204 Amendment of s 102 (Membership)

(1) Section 102(1)—

omit, insert—

(1) The Authority consists of the following persons appointed as members by the Governor in Council—

- (a) the chairperson, who is an independent and appropriately qualified member of the community nominated by the Premier;
- (b) the commissioner, or a police officer of at least the rank of superintendent nominated by the commissioner;
- (c) the chairperson, or the senior executive officer (crime), of the Crime and Corruption Commission;
- (d) a health practitioner who has at least 5 years experience in the practitioner's profession;
- (e) a lawyer who has been admitted for at least 5 years and has knowledge of or experience in administrative law, company law or criminal law;
- (f) a person who represents local government;
- (g) 2 persons who represent community interests.

(2) Section 102(2), 'appointed members'—

omit, insert—

members

(3) Section 102(3), 'subsection (1)(b)(vii)'—

omit, insert—

[s 205]

subsection (1)(g)

205 Amendment of s 103 (Term of appointment)

Section 103, ‘An appointed’—

omit, insert—

A

206 Amendment of s 104 (Remuneration)

Section 104, ‘Appointed members’—

omit, insert—

Members

207 Amendment of s 106 (Vacation of office)

(1) Section 106(1), ‘an appointed’—

omit, insert—

a

(2) Section 106(1)(d), ‘an appointed’—

omit, insert—

a

(3) Section 106(2), definition *meeting*, ‘appointed’—

omit.

208 Insertion of new s 106A

After section 106—

insert—

106A Acting chairperson

The Governor in Council may appoint a member
of the Authority to act as the chairperson—

- (a) during a vacancy in the office of chairperson; and
- (b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

209 Amendment of s 107 (Meetings)

Section 107(2), ‘half the number of members plus 1’—

omit, insert—

5 members

210 Replacement of s 139 (Approval of forms)

Section 139—

omit, insert—

139 Approved forms

- (1) The Authority may approve a form for use under this Act, other than under section 108D(1), 110KC(1) or 110R(3).
- (2) The chief executive of the department may approve a form for use under section 108D(1), 110KC(1) or 110R(3).

211 Insertion of new pt 9, div 8

Part 9—

insert—

Division 8

**Provision for Court and
Civil Legislation
Amendment Act 2017**

[s 212]

164 Application of Act to application for variation not decided before commencement

- (1) An application made under the pre-amended Act, section 46 but not decided before the commencement must be dealt with as if it had been made under section 46 as in force after the commencement.
- (2) Without limiting subsection (1), if, before the commencement, the Authority had given the commissioner particulars of the application under applied section 39(1) and the commissioner had not reported to the Authority under applied section 39(3), the commissioner's obligations under applied section 39 end.
- (3) In this section—

applied section 39 means section 39 as applied under the pre-amended Act, section 46(3).

pre-amended Act means this Act as in force before the commencement.

212 Amendment of sch 4 (Dictionary)

Schedule 4, definition *appointed member*—
omit.

Part 25 Amendment of Public Guardian Act 2014

213 Act amended

This part amends the *Public Guardian Act 2014*.

214 Amendment of s 52 (When is a child a *relevant child*)

Section 52(1) to (3)—

omit, insert—

- (1) A child is a ***relevant child*** if—
 - (a) the child is subject to any of the following—
 - (i) a temporary assessment order under the Child Protection Act, section 27(1);
 - (ii) a court assessment order under the Child Protection Act, section 44;
 - (iii) a temporary custody order under the Child Protection Act, section 51AE;
 - (iv) a child protection order under the Child Protection Act, section 61, including a child protection order that continues in force—
 - (A) under a transition order made under section 65A of that Act; or
 - (B) by operation of section 65A(4) of that Act;
 - (v) an intervention, with the child's parents' agreement, by the chief executive (child safety) under the Child Protection Act, chapter 2, part 3B, division 2;
 - (vi) a care agreement under the Child Protection Act, section 51ZE; or
 - (b) the child is the subject of an application for an order mentioned in subsection (1)(a)(i) to (iv).
- (2) A child stops being a ***relevant child*** if—
 - (a) subject to subsection (3)—
 - (i) the child stops being subject to an order, intervention or agreement mentioned in subsection (1)(a)(i) to (vi); or

[s 214]

- (ii) if the child is the subject of an application mentioned in subsection (1)(b)—the application is withdrawn or refused; or
- (b) subject to subsection (4), the child turns 18.
- (3) A child to whom subsection (2)(a) refers continues to be a *relevant child* if—
 - (a) immediately before the child stopped being subject to the order, intervention or agreement, or the application in relation to the child was withdrawn or refused, the public guardian was providing particular help to the child and the public guardian believes—
 - (i) it is appropriate to finish providing the help to the child; or
 - (ii) the child—
 - (A) may be the subject of a further application for an order mentioned in subsection (1)(a)(i) to (iv) or a further intervention or agreement; and
 - (B) continues to be in need of particular help during the period before the application is made, the intervention starts or the agreement is entered into; or
 - (b) the public guardian believes the child requires particular help to review—
 - (i) a decision ending the order, intervention or agreement; or
 - (ii) a decision to withdraw or refuse an application mentioned in subsection (1)(b).

215 Amendment of s 113 (Duration of appointment as community visitor)

Section 113(6) and (7), ‘chief executive’—

omit, insert—

public guardian

Part 26 Amendment of Queensland Civil and Administrative Tribunal Act 2009

216 Act amended

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

217 Replacement of ss 131 and 132

Sections 131 and 132—

omit, insert—

131 Monetary decisions

- (1) This section applies to a final decision of the tribunal in a proceeding that is a monetary decision, to the extent the decision requires payment of an amount to a person.
- (2) A person may enforce the final decision by filing a copy of the decision in the registry of a court of competent jurisdiction.
- (3) On filing a copy of the final decision under subsection (2), the decision is taken to be a money order of the court in which it is filed and may be enforced accordingly.

Note—

See the *Uniform Civil Procedure Rules 1999*, chapter 19.

132 Non-monetary decisions

- (1) This section applies to a final decision of the tribunal in a proceeding that—
 - (a) is not a monetary decision; or
 - (b) is a monetary decision, to the extent the decision does not require payment of an amount to a person.
- (2) A person may enforce the final decision by filing a copy of the decision in the registry of the relevant court.
- (3) On filing a copy of the final decision under subsection (2), the decision is taken to be a non-money order of the relevant court in which it is filed and may be enforced accordingly.

Note—

See the *Uniform Civil Procedure Rules 1999*, chapter 20.

- (4) The Supreme Court may transfer to a lower court a proceeding for the enforcement of a non-money order pending in the Supreme Court if—
 - (a) the order is of a kind that may be made by the lower court; or
 - (b) the order is otherwise capable of being enforced in the lower court.
- (5) If a proceeding is transferred to a lower court under subsection (4)—
 - (a) the order is taken to be an order of the lower court and may be enforced accordingly; and
 - (b) the proceeding for the enforcement of the order is taken to have been started before the lower court when it was started in the Supreme Court.
- (6) In this section—

lower court means the District Court or a Magistrates Court.

relevant court means—

- (a) for a final decision of the tribunal relating to a minor civil dispute—a Magistrates Court; or
- (b) for another final decision of the tribunal—the Supreme Court.

218 Amendment of sch 2 (Subject matter for rules)

- (1) Schedule 2, section 4(2), ‘or style’—
omit.
- (2) Schedule 2, section 8(b), ‘or style’—
omit.

Part 27 Amendment of Retail Shop Leases Act 1994

219 Act amended

This part amends the *Retail Shop Leases Act 1994*.

220 Amendment of s 21F (Lessor’s failure to comply with disclosure obligation)

- (1) Section 21F—
insert—
 - (3A) The lessee can not terminate the lease under subsection (1) because a disclosure statement is a defective statement if—
 - (a) the lessor acted honestly and reasonably in giving the disclosure statement; and

[s 221]

(b) the lessee is in substantially as good a position as the lessee would be if the disclosure statement were not a defective statement.

(2) Section 21F(3A) to (6)—
renumber as section 21F(4) to (7).

221 Amendment of s 27 (Timing and bases of rent reviews)

Section 27(11), definition *year*, paragraph (c), ‘Editor’s note’—

omit, insert—

Note—

222 Insertion of new pt 12, div 4

Part 12—

insert—

Division 4 Provision for Court and Civil Legislation Amendment Act 2017

154 Particular leases continue to be retail shop leases

- (1) This section applies in relation to a lease if—
 - (a) immediately before the commencement, the lease was a retail shop lease; and
 - (b) but for subsection (2), the lease would not be a retail shop lease because of section 5A(2)(a) or (c).
- (2) Despite section 5A(2)(a) or (c), the lease is, and has always been, a retail shop lease.
- (3) In this section—

commencement means the commencement of the *Retail Shop Leases Amendment Act 2016*, section 5.

Part 28 Amendment of Right to Information Act 2009

223 Act amended

This part amends the *Right to Information Act 2009*.

Note—

See also the amendments in schedule 1.

224 Amendment of s 33 (Noncompliance with application requirement)

(1) Section 33—

insert—

(4A) Subsection (4) does not limit section 32.

(2) Section 33(4A) to (6)—

renumber as section 33(5) to (7).

225 Amendment of s 38 (Transfer of application)

Section 38(5) and (6), ‘information for’—

omit, insert—

information of

226 Amendment of s 59 (No processing charge for personal information)

Section 59, ‘information for’—

omit, insert—

[s 227]

information of

227 Amendment of s 70 (Precautions)

Section 70(1)(a), ‘information for’—

omit, insert—

information of

228 Amendment of s 73 (Deletion of irrelevant information)

Section 73(3)—

omit, insert—

- (3) However, the agency or Minister may give access to the document under subsection (2) only if the agency or Minister considers it is reasonably practicable to give access to the copy.

229 Replacement of ss 74 and 75

Sections 74 and 75—

omit, insert—

74 Deletion of exempt information

- (1) This section applies if—
 - (a) an access application is made for a document containing exempt information; and
 - (b) it is practicable to give access to a copy of the document from which the exempt information has been deleted.
- (2) The agency or Minister must give access to a copy of the document from which the exempt information has been deleted.
- (3) This section is subject to section 55.

75 Deletion of contrary to public interest information

- (1) This section applies if—
 - (a) an access application is made for a document containing contrary to public interest information; and
 - (b) it is practicable to give access to a copy of the document from which the contrary to public interest information has been deleted.
- (2) The agency or Minister must give access to a copy of the document from which the contrary to public interest information has been deleted.
- (3) This section is subject to section 55.

75A Deletion of contrary to child's best interests information

- (1) This section applies if—
 - (a) an access application is made by or for a child for a document containing personal information of the child, the disclosure of which would not be in the child's best interests under section 50; and
 - (b) it is practicable to give access to a copy of the document from which the personal information has been deleted.
- (2) The agency or Minister must give access to a copy of the document from which the personal information has been deleted.
- (3) This section is subject to section 55.

75B Deletion of contrary to applicant's best interests information—relevant healthcare information

- (1) This section applies if—

[s 230]

- (a) an access application is made for a document containing relevant healthcare information of the applicant, the disclosure of which might be prejudicial to the physical or mental health or wellbeing of the applicant under section 51; and
 - (b) it is practicable to give access to a copy of the document from which the relevant healthcare information has been deleted.
- (2) The agency or Minister must give access to a copy of the document from which the relevant healthcare information has been deleted.
- (3) This section is subject to section 55.

230 Amendment of s 80 (Internal review)

Section 80—

insert—

- (4) Subsection (3) applies despite the *Acts Interpretation Act 1954*, section 27A.

231 Amendment of s 81 (Decisions that may not be reviewed)

- (1) Section 81(b), after ‘principal officer’—

insert—

personally

- (2) Section 81(c), after ‘Minister’—

insert—

personally

232 Amendment of s 102 (Requiring a search)

Section 102(1), ‘further searches’—

omit, insert—

to conduct further searches

233 Amendment of s 107 (Information commissioner to ensure proper disclosure and return of documents)

Section 107—

insert—

- (2) Despite subsection (1)(b), if an agency or Minister gives the commissioner a copy of a document for an external review, the commissioner may destroy the copy at the end of the review.

234 Amendment of s 114 (Vexatious applicants)

Section 114(3), ‘information commission’—

omit, insert—

commissioner

235 Amendment of s 128 (Support functions)

- (1) Section 128(1)—

insert—

- (ea) commenting on any issues relating to the administration of right to information or privacy in the public sector environment; and

- (2) Section 128(1)(f), before ‘identifying’—

insert—

without limiting paragraph (f),

- (3) Section 128(1)(ea) and (f)—

renumber as section 128(1)(f) and (g).

[s 236]

236 Amendment of s 186 (Strategic review of office)

(1) Section 186—

insert—

(5A) For subsection (5), a corporation is an appropriately qualified person if a director, employee or other staff member of the corporation is appropriately qualified to undertake the review.

(2) Section 186(5A) to (9)—

renumber as section 186(6) to (10).

237 Insertion of new ch 7, pt 5

Chapter 7—

insert—

Part 5

**Transitional provision
for Court and Civil
Legislation
Amendment Act 2017**

206B Application of sch 1, s 16

- (1) Schedule 1, section 16 applies in relation to a document created, or received, on or after 15 July 2016.
- (2) A document to which schedule 1, section 16 applies is taken always to have been a document to which this Act does not apply.

238 Amendment of sch 1 (Documents to which this Act does not apply)

Schedule 1—

insert—

16 Particular documents relating to judicial appointments

Either of the following documents—

- (a) a document received by or for the Attorney-General, the justice department or a judicial appointments adviser that expresses a person's interest in being considered for judicial appointment in Queensland;
- (b) a document created, or received, by or for the Attorney-General, the justice department or a judicial appointments adviser for the purpose of—
 - (i) consulting on, or nominating, candidates for judicial appointment in Queensland; or
 - (ii) otherwise carrying out a function under a judicial appointments protocol.

239 Amendment of sch 3, s 12 (Information disclosure of which prohibited by Act)

Schedule 3, section 12(2), 'personal information for'—

omit, insert—

only personal information of

240 Amendment of sch 4 (Factors for deciding the public interest)

- (1) Schedule 4, part 2, item 9—

omit, insert—

- 9 The information relates to a person who has died and both of the following apply—
 - (a) the information would, if the person were alive, be personal information of the person;

[s 241]

- (b) the applicant is an eligible family member of the person.
- (2) Schedule 4, part 3, item 5—
omit, insert—
 - 5 The information relates to a person who has died and all of the following apply—
 - (a) the information would, if the person were alive, be personal information of the person;
 - (b) the applicant is an eligible family member of the person;
 - (c) the disclosure of the information could reasonably be expected, if the person were alive, to impact on the person's privacy.
- (3) Schedule 4, part 4, section 7(2), (3)(b) and (4), after 'person by'—
insert—

whom

241 Amendment and renumbering of sch 6 (Dictionary)

- (1) Schedule 6—
insert—

judicial appointments adviser means an entity that has a function under a judicial appointments protocol of—

 - (a) considering expressions of interest for judicial appointment in Queensland; and
 - (b) preparing, and presenting to the Attorney-General, a list of candidates who are suitable for judicial appointment in Queensland.

judicial appointments protocol means a protocol establishing a process for considering, consulting

on or recommending candidates for judicial appointment in Queensland.

justice department means the department in which the *Attorney-General Act 1999* is administered.

- (2) Schedule 6, definition *eligible family member*, paragraph 2(a), after ‘exist’—

insert—

or is deceased

- (3) Schedule 6, definition *reviewable decision*, paragraph (b), ‘section 33(5)’—

omit, insert—

section 33(6)

- (4) Schedule 6, definition *reviewable decision*, paragraph (e), ‘a document’—

omit, insert—

all or part of a document

- (5) Schedule 6, definition *reviewable decision*, paragraph (h), ‘, 74 or 75’—

omit.

- (6) Schedule 6—

renumber as schedule 5.

Part 29

Amendment of Succession Act 1981

242 Act amended

This part amends the *Succession Act 1981*.

[s 243]

243 Amendment of s 5AA (Who is a person's spouse)

Section 5AA(4), definition *dependent former husband or wife or civil partner*, paragraph (b)(i), 'section 18'—

omit, insert—

section 19

244 Amendment of s 13 (How a will may be revoked)

Section 13(a), 'or 15A'—

omit, insert—

, 15A or 15B

245 Amendment of s 15A (Effect of end of civil partnership on a will)

Section 15A(5), definition *termination*, 'section 18'—

omit, insert—

section 19

246 Insertion of new s 15B

After section 15A—

insert—

15B Effect of end of de facto relationship on a will

- (1) The ending of a testator's de facto relationship revokes—
 - (a) a disposition to the testator's former de facto partner made by a will in existence when the relationship ends; and
 - (b) an appointment, made by the will, of the former de facto partner as an executor, trustee, advisory trustee or guardian; and

- (c) any grant, made by the will, of a power of appointment exercisable by, or in favour of, the testator's former de facto partner.
- (2) However, the ending of a testator's de facto relationship does not revoke—
 - (a) the appointment of the testator's former de facto partner as trustee of property left by the will on trust for beneficiaries that include the former de facto partner's children; or
 - (b) the grant of a power of appointment exercisable by the testator's former de facto partner only in favour of children of whom both the testator and the former de facto partner are parents.
- (3) Subsection (1) does not apply if a contrary intention appears in the will.
- (4) If a disposition, appointment or grant is revoked by this section, the will takes effect as if the former de facto partner had died before the testator.
- (5) In this section—
former de facto partner, in relation to a testator, means the person who was the de facto partner of the testator immediately before the ending of the testator's de facto relationship.

247 Amendment of s 40A (Meaning of *stepchild*)

Section 40A(2) and (3)—

omit, insert—

- (2) The relationship of stepchild and step-parent stops on—
 - (a) the divorce of the deceased person and the stepchild's parent; or

[s 248]

- (b) the termination of the civil partnership between the deceased person and the stepchild's parent; or
 - (c) the ending of the de facto relationship between the deceased person and the stepchild's parent.
- (3) To remove any doubt, it is declared that the relationship of stepchild and step-parent does not stop merely because—
 - (a) the stepchild's parent died before the deceased person, if the marriage, civil partnership or de facto relationship between the deceased person and the parent subsisted when the parent died; or
 - (b) the deceased person remarried, entered into a civil partnership or formed a de facto relationship after the death of the stepchild's parent, if the marriage, civil partnership or de facto relationship between the deceased person and the parent subsisted when the parent died.
- (4) In this section—

termination, of a civil partnership, means termination under the *Civil Partnerships Act 2011*, section 14(1)(b) or 19.

Part 30

Amendment of Supreme Court Library Act 1968

248 Act amended

This part amends the *Supreme Court Library Act 1968*.

Note—

See also the amendments in schedule 1.

249 Insertion of new s 13B

After section 13A—

insert—

13B Protection from liability of members

- (1) A member of the committee is not civilly liable for an act done, or omission made, in good faith under this Act.
- (2) If subsection (1) prevents a civil liability attaching to a member, the liability attaches instead to the committee.

Part 31 Amendment of Trusts Act 1973

250 Act amended

This part amends the *Trusts Act 1973*.

251 Amendment of s 56 (Power to delegate trusts)

Section 56(1), ‘executed as a deed’—

omit.

252 Amendment of s 67 (Protection of trustees by means of advertisements)

- (1) Section 67(1)(a) and (b)—

omit, insert—

- (a) if the notice is included in a notice of intention to apply for a grant—a publication approved by the Chief Justice under a practice direction; or
- (b) otherwise—a newspaper circulating throughout the State and sold at least once each week;

[s 253]

(2) Section 67—

insert—

(5) In this section—

approved form see the *Supreme Court of Queensland Act 1991*, schedule 5.

grant see the *Succession Act 1981*, section 5.

notice, of intention to apply for a grant, means a notice in the approved form of intention to apply for a grant.

253 Insertion of new pt 13

After part 12—

insert—

Part 13

Validation provision for Court and Civil Legislation Amendment Act 2017

123 Validation of execution of power of attorney for s 56

(1) This section applies if—

- (a) before the commencement, a trustee purported to delegate, by power of attorney, the execution or exercise of a matter under previous section 56; and
- (b) the power of attorney was made in the approved form under the *Powers of Attorney Act 1998*, section 11.

(2) The power of attorney is taken to be, and to have always been, as valid as if it had been executed as a deed under previous section 56.

(3) In this section—

previous section 56 means section 56 as in force from time to time before the commencement.

Part 32 Amendment of Vexatious Proceedings Act 2005

254 Act amended

This part amends the *Vexatious Proceedings Act 2005*.

255 Amendment of s 12 (Dismissing application for leave)

Section 12(2)—

omit, insert—

(2) The Court may dismiss the application—

- (a) without an oral hearing; or
- (b) if the Court considers an oral hearing is necessary—even if the applicant does not appear at the hearing.

(3) If the Court dismisses the application, the Court must give the applicant a copy of—

- (a) the order dismissing the application; and
- (b) the Court's reasons.

256 Insertion of new pt 4A

After section 16—

insert—

Part 4A Transitional provision for Court and Civil Legislation Amendment Act 2017

16A Application of Act to applications not decided before commencement

- (1) This section applies if an application under section 11 was made, but not decided, before the commencement.
- (2) This Act continues to apply in relation to the application as if the *Court and Civil Legislation Amendment Act 2017*, section 255 had not been enacted.

Part 33 Repeals

257 Repeals

The following legislation is repealed—

- Classification of Publications (Approval of Codes of Conduct) Order 1992, SL No. 415
- Companies (Acquisition of Shares) (Application of Laws) Act 1981, No. 47
- Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981, No. 49
- Companies (Application of Laws) Act 1981, No. 110
- Futures Industry (Application of Laws) Act 1986, No. 47
- Land Court (Transitional) Regulation 2017, SL No. 2

- Retail Shop Leases (Transitional) Regulation 2016, SL No. 224
- Securities Industry (Application of Laws) Act 1981, No. 48.

Part 34 Other amendments

258 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Legislation amended

section 258

Appeal Costs Fund Regulation 2010

- 1 Section 6(b)(i), ‘section 22(1)(a)’—**
omit, insert—
section 22(2)(a)
- 2 Section 6(b)(ii), ‘section 22(1)(b)’—**
omit, insert—
section 22(2)(b)
- 3 Section 6(b)(iv), ‘section 22(1)(c)’—**
omit, insert—
section 22(2)(c)

Child Protection (Offender Reporting) Act 2004

- 1 Schedule 1, item 3, entries for sections 12 to 16, 18 and 20, ‘or child abuse photograph’—**
omit.

Corrective Services Act 2006

- 1** **Schedule 1, entry for *Classification of Publications Act 1991*, entries for sections 12, 14 to 16, 18 and 20, ‘or child abuse photograph’—**

omit.

Crime and Corruption Act 2001

- 1** **Schedule 2, definition *obscene material*, paragraph (b), ‘or child abuse photograph’—**

omit.

Criminal Code

- 1** **Section 564(3A), note—**

omit, insert—

Note—

See the *Penalties and Sentences Act 1992*, section 12A for when a conviction for the offence must also be recorded as a conviction for a domestic violence offence or entered in the offender’s criminal history as a domestic violence offence.

Criminal Proceeds Confiscation Act 2002

- 1 **Schedule 2, part 2, item 3, ‘, other than part 2A’—**
 omit.

Disability Services Act 2006

- 1 **Schedule 2, item 3, entry for *Classification of Publications Act 1991*, entry for section 12, ‘child abuse photograph’—**
 omit, insert—
 prohibited publication
- 2 **Schedule 2, item 3, entry for *Classification of Publications Act 1991*, entry for section 13, ‘or prohibited publication’—**
 omit.
- 3 **Schedule 2, item 3, entry for *Classification of Publications Act 1991*, entries for sections 14 to 16, 18 and 20, ‘or child abuse photograph’—**
 omit.
- 4 **Schedule 4, item 3, entry for *Classification of Publications Act 1991*, entries for sections 12, 14 to 16, 18 and 20, ‘or child abuse photograph’—**
 omit.

- 5** **Schedule 6, item 3, entry for *Classification of Publications Act 1991*, entry for section 18, ‘or child abuse photograph’—**

omit.

Justices Act 1886

- 1** **Section 47(9), note—**

omit, insert—

Note—

See the *Penalties and Sentences Act 1992*, section 12A for when a conviction for the offence must also be recorded as a conviction for a domestic violence offence or entered in the offender’s criminal history as a domestic violence offence.

Legal Profession Act 2007

- 1** **Section 430(5), ‘section 424’—**

omit, insert—

section 432

- 2** **Section 438(1), ‘section 453’—**

omit, insert—

section 437

Magistrates Act 1991

- 1 Section 3, definition *acting period*, ‘section 6(2A)’—**
omit, insert—
section 6(6)

Penalties and Sentences Act 1992

- 1 Section 9(6A)(c)(ii), ‘or child abuse photograph’—**
omit.

Police Powers and Responsibilities Act 2000

- 1 Particular references to child abuse photographs**
Each of the following provisions is amended by omitting ‘or child abuse photograph’—
- schedule 2, item 3, first dot point
 - schedule 2, item 3, third dot point
 - schedule 2, item 3, fourth dot point
 - schedule 2, item 3, fifth dot point
 - schedule 2, item 3, eighth dot point
 - schedule 2, item 3, ninth dot point
 - schedule 3, item 4, first dot point
 - schedule 3, item 4, third dot point
 - schedule 3, item 4, fourth dot point
 - schedule 3, item 4, fifth dot point

- schedule 3, item 4, sixth dot point

Public Service Act 2008

- 1 Section 149A(6), ‘systemic’—**
omit, insert—
systematic

Right to Information Act 2009

1 References to schedule 6

Each of the following provisions is amended by omitting ‘schedule 6’ and inserting ‘schedule 5’—

- section 10
- section 13, note
- section 24(1), notes 1 and 3
- section 25(1), note 2
- section 55(4), note
- section 80(1), note 1
- section 85, note 1

State Penalties Enforcement Regulation 2014

- 1 **Schedule 1, entry for *Classification of Computer Games and Images Act 1995*, column 1 and 2 entries for section 7(2)—**

omit.

- 2 **Schedule 1, entry for *Classification of Films Act 1991*, column 1 entry for section 25CA(3)—**

omit, insert—

s 25CA(4)

- 3 **Schedule 1, entry for *Classification of Publications Act 1991*, column 1 entry for section 9A(3)—**

omit, insert—

s 9A(4)

- 4 **Schedule 1, entry for *Classification of Publications Act 1991*, column 1 and 2 entries for section 20C(1)—**

omit.

Supreme Court Library Act 1968

- 1 **Section 14(3)(f), ‘convening’—**

omit, insert—

convening,

- 2 **Section 14(3)(g), ‘management’—**

omit, insert—

management,

3 Section 14(3)(h), ‘admission’—

omit, insert—

admission,

4 Section 14(3)(i), ‘use’—

omit, insert—

use,

5 Section 14(3)(i), ‘books’—

omit, insert—

books,

Transport Operations (Passenger Transport) Act 1994

1 Schedule 1A, part 1, division 1C, items 1, 3, 4, 5, 9 and 10, ‘or child abuse photograph’—

omit.

Working with Children (Risk Management and Screening) Act 2000

1 Schedule 2, item 3, entry for *Classification of Publications Act 1991*, entries for sections 12, 14 to 16, 18 and 20, ‘or child abuse photograph’—

omit.

Schedule 1

- 2** **Schedule 4, item 3, entry for *Classification of Publications Act 1991*, entries for sections 12, 14 to 16, 18 and 20, ‘or child abuse photograph’—**

omit.

- 3** **Schedule 6, item 3, entry for *Classification of Publications Act 1991*, entry for section 18, ‘or child abuse photograph’—**

omit.

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