

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



Legislative Assembly Chamber,
Brisbane,

M. L. Rieis
The Clerk of the Parliament.
25 May 2020.

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

Naheed Dosani
Government House,
Brisbane,

25 May 2020



Queensland

No. 15 of 2020

A BILL for

An Act to amend the Acts Interpretation Act 1954, the Anti-Discrimination Act 1991, the Appeal Costs Fund Act 1973, the Civil Proceedings Act 2011, the Commercial Arbitration Act 2013, the Coroners Act 2003, the Corrective Services Act 2006, the Crime and Corruption Act 2001, the Criminal Code, the Criminal Law (Rehabilitation of Offenders) Act 1986, the Criminal Proceeds Confiscation Act 2002, the Dangerous Prisoners (Sexual Offenders) Act 2003, the District Court of Queensland Act 1967, the Drugs Misuse Act 1986, the Evidence Act 1977, the Guardianship and Administration Act 2000, the Human Rights Act 2019, the Introduction Agents Act 2001, the Judges (Pensions and Long Leave) Act 1957, the Land Court Act 2000, the Legal Profession Act 2007, the Legal Profession Regulation 2017, the Magistrates Courts Act 1921, the Mineral Resources Act 1989, the Ombudsman Act 2001, the Peace and Good Behaviour Act 1982, the Penalties and Sentences Act 1992, the Penalties and Sentences Regulation 2015, the Personal Injuries Proceedings Act 2002, the Personal Injuries Proceedings Regulation 2014, the Property Law Act 1974, the Property Law Regulation 2013, the Queensland Civil and Administrative Tribunal Act 2009, the Retail Shop Leases Act 1994, the Second-hand Dealers and Pawnbrokers Act 2003, the Succession Act 1981, the Surrogacy Act 2010, the Tourism Services Act 2003 and the legislation mentioned in schedule 1 for particular purposes



Queensland

Justice and Other Legislation Amendment Bill 2020

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2020

A Bill

for

An Act to amend the *Acts Interpretation Act 1954*, the *Anti-Discrimination Act 1991*, the *Appeal Costs Fund Act 1973*, the *Civil Proceedings Act 2011*, the *Commercial Arbitration Act 2013*, the *Coroners Act 2003*, the *Corrective Services Act 2006*, the *Crime and Corruption Act 2001*, the Criminal Code, the *Criminal Law (Rehabilitation of Offenders) Act 1986*, the *Criminal Proceeds Confiscation Act 2002*, the *Dangerous Prisoners (Sexual Offenders) Act 2003*, the *District Court of Queensland Act 1967*, the *Drugs Misuse Act 1986*, the *Evidence Act 1977*, the *Guardianship and Administration Act 2000*, the *Human Rights Act 2019*, the *Introduction Agents Act 2001*, the *Judges (Pensions and Long Leave) Act 1957*, the *Land Court Act 2000*, the *Legal Profession Act 2007*, the *Legal Profession Regulation 2017*, the *Magistrates Courts Act 1921*, the *Mineral Resources Act 1989*, the *Ombudsman Act 2001*, the *Peace and Good Behaviour Act 1982*, the *Penalties and Sentences Act 1992*, the *Penalties and Sentences Regulation 2015*, the *Personal Injuries Proceedings Act 2002*, the *Personal Injuries Proceedings Regulation 2014*, the *Property Law Act 1974*, the *Property Law Regulation 2013*, the *Queensland Civil and*

Administrative Tribunal Act 2009, the Retail Shop Leases Act 1994, the Second-hand Dealers and Pawnbrokers Act 2003, the Succession Act 1981, the Surrogacy Act 2010, the Tourism Services Act 2003 and the legislation mentioned in schedule 1 for particular purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Justice and Other Legislation Amendment Act 2020*.

2 Commencement

Parts 17, 20 and 24 commence on a day to be fixed by proclamation.

Part 2 Amendment of Acts Interpretation Act 1954

3 Act amended

This part amends the *Acts Interpretation Act 1954*.

4 Amendment of s 39A (Meaning of service by post etc.)

Section 39A(4)—
omit.

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

(1) Section 48(6)(a), after ‘relevant website’—
insert—

or a website (a *related website*) accessible through the relevant website

[s 6]

- (2) Section 48(6)(b), after ‘relevant website’—
insert—
or a related website
- (3) Section 48(7)—
omit.
- (4) Section 48(8) to (10)—
renumber as section 48(7) to (9).

Part 3 Amendment of Anti-Discrimination Act 1991

6 Act amended

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

7 Amendment of s 4 (Definitions)

Section 4, ‘the schedule’—
omit, insert—
schedule 1

8 Amendment of s 138 (Time limit on making complaints)

Section 138(2)—
omit, insert—

- (2) If a complaint is made more than 1 year after the alleged contravention of the Act, the commissioner must decide—
 - (a) to accept the complaint, but only if the commissioner is satisfied the complainant has shown good cause; or
 - (b) otherwise—not to accept the complaint.

(3) Subsection (2) applies subject to section 141A.

9 Amendment of s 141 (Time limit on acceptance or rejection of complaints)

Section 141—

insert—

(3) This section applies subject to section 141A.

10 Insertion of new s 141A

After section 141—

insert—

141A Deferral of acceptance of complaint for out-of-time contravention

(1) This section applies if—

(a) a complaint relates to—

(i) at least 1 alleged contravention of the Act that happened within 1 year before the complaint was made (a *within-time contravention*); and

(ii) at least 1 alleged contravention of the Act that happened more than 1 year before the complaint was made (an *out-of-time contravention*); and

(b) the commissioner decides to accept the complaint under section 141 to the extent it relates to the within-time contravention.

(2) The commissioner may defer deciding under section 138(2) whether or not to accept the complaint to the extent it relates to the out-of-time contravention until the commissioner has tried to resolve the complaint by conciliation under division 3.

[s 11]

11 Amendment of s 142 (Reasons for rejected complaints)

Section 142—

insert—

(4) To remove any doubt, it is declared that a reference in this section to rejecting a complaint includes a reference to deciding not to accept a complaint under section 137(1) or 138(2)(b).

(5) In this section—

complaint includes a complaint mentioned in section 141A to the extent it relates to an out-of-time contravention.

12 Amendment of s 158 (Conciliation of complaints)

Section 158—

insert—

(2) Subsection (1) applies in relation to a complaint even if the commissioner has, under section 141A(2), deferred deciding whether or not to accept the complaint under section 138(2) to the extent it relates to an out-of-time contravention.

13 Amendment of s 164A (Right of complainant to seek referral to tribunal after conciliation conference)

(1) Section 164A—

insert—

(4A) If the commissioner has, under section 141A(2), deferred deciding whether or not to accept the complaint under section 138(2) to the extent it relates to an out-of-time contravention, the commissioner must make that decision before acting under subsection (3).

(2) Section 164A(4A) to (6)—

renumber as section 164A(5) to (7).

14 Amendment of schedule (Dictionary)

(1) Schedule—

insert—

out-of-time contravention see section
141A(1)(a)(ii).

(2) Schedule—

number as schedule 1.

**Part 4 Amendment of Appeal Costs
Fund Act 1973**

15 Act amended

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

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

(1) Section 22(2)(c), ‘and the presiding judge, magistrate or justice’—

omit, insert—

and the relevant judge, relevant magistrate or
relevant justice

(2) Section 22(2)(c), ‘certificate the presiding judge, magistrate or justice’—

omit, insert—

certificate the relevant judge, relevant magistrate
or relevant justice

(3) Section 22—

insert—

[s 16]

(6) In this section—

relevant judge, in relation to a civil or criminal proceeding, means—

- (a) the presiding judge of the court in which the proceeding was heard; or
- (b) another judge of the court, if—
 - (i) it is not reasonably practicable for the presiding judge to grant a certificate under subsection (2)(c) because of illness; or
 - (ii) the presiding judge has stopped being a judge of the court or has died.

relevant justice means—

- (a) the presiding justice; or
- (b) another justice, if—
 - (i) it is not reasonably practicable for the presiding justice to grant a certificate under subsection (2)(c) because of illness; or
 - (ii) the presiding justice has stopped being a justice or has died.

relevant magistrate means—

- (a) the presiding magistrate; or
- (b) another magistrate, if—
 - (i) it is not reasonably practicable for the presiding magistrate to grant a certificate under subsection (2)(c) because of illness; or
 - (ii) the presiding magistrate has stopped being a magistrate or has died.

Part 5 Amendment of Civil Proceedings Act 2011

17 **Act amended**

This part amends the *Civil Proceedings Act 2011*.

18 **Amendment of s 59 (Interest after money order)**

Section 59(4)(b), ‘assessment’—

omit, insert—

ascertainment of the costs

19 **Amendment of s 76 (Definitions for division)**

(1) Section 76, definition *assessor*—

omit.

(2) Section 76—

insert—

account assessor means an account assessor under the rules.

costs assessor means a costs assessor under the rules.

trial assessor means an assessor chosen under the rules, chapter 13, part 7.

20 **Amendment of s 77 (Protection and immunity)**

(1) Section 77, heading, after ‘immunity’—

insert—

for costs assessors and account assessors

(2) Section 77(1), ‘assessor, an assessor’—

omit, insert—

[s 21]

a costs assessor or an account assessor, a costs assessor or an account assessor

21 Amendment of s 78 (Preservation of confidentiality)

Section 78(1), ‘an assessor’—

omit, insert—

a costs assessor or an account assessor

22 Amendment of s 79 (Preservation of privilege)

Section 79, ‘an assessor’—

omit, insert—

a costs assessor or an account assessor

23 Insertion of new s 79AA

After section 79—

insert—

79AA Protection and immunity for trial assessors

In performing the functions of a trial assessor, a trial assessor has the same protection and immunity as a witness attending before the Supreme Court.

24 Amendment of sch 1 (Dictionary)

(1) Schedule 1, definition *assessor*—

omit.

(2) Schedule 1—

insert—

account assessor, for part 12, division 1, see section 76.

costs assessor, for part 12, division 1, see section 76.

trial assessor, for part 12, division 1, see section 76.

Part 6 Amendment of Commercial Arbitration Act 2013

25 Act amended

This part amends the *Commercial Arbitration Act 2013*.

26 Amendment of s 27H (The Court may prohibit disclosure of confidential information in certain circumstances)

Section 27H(1)(a), ‘and’—

omit, insert—

or

Part 7 Amendment of Coroners Act 2003

27 Act amended

This part amends the *Coroners Act 2003*.

28 Insertion of new s 11AA

After section 11—

insert—

11AA Preliminary examinations

- (1) After a police officer reports a person’s death to a coroner under section 7(4), an examination for the

[s 28]

deceased person's body (a ***preliminary examination***) may be performed under this section.

- (2) The purpose of the preliminary examination is to assist a coroner in the performance of the coroner's functions under this Act relating to the person's death.

Example of a coroner's function—

deciding whether a death is a reportable death

- (3) The preliminary examination may include only the following procedures performed for the deceased person's body, alone or in combination—
- (a) a visual examination of the body, including a dental examination;
 - (b) the collection and review of relevant information, including personal and health information relating to the deceased person or the death of the person;
 - (c) the taking, including by making an incision in the body, of samples of bodily fluid from the body, including blood, urine, saliva, mucus and vitreous humour samples, and the testing of those samples;
 - (d) the imaging of the body, including the use of computed tomography (CT scan), magnetic resonance imaging (MRI scan), x-ray, ultrasound and photography;
 - (e) the taking of samples from the surface of the body, including swabs from wounds and inner cheek, hair samples and samples from under fingernails and from the skin, and the testing of those samples;
 - (f) the fingerprinting of the body.
- (4) A doctor who is listed in the guidelines as a doctor

approved by the State Coroner to perform preliminary examinations (an *examiner*), or a suitably qualified person under the general supervision of an examiner, may perform the preliminary examination for the person's body.

Example of a suitably qualified person—

a coronial nurse

- (5) Before the examiner, or a person supervised by the examiner, performs the preliminary examination for the person's body, the examiner must, whenever practicable, consider at least the following—
 - (a) that in some cases the person's family may be distressed by the procedures to be performed in the examination, including, for example, because of cultural traditions or spiritual beliefs;
 - (b) any concerns raised by a family member, or another person with a sufficient interest, in relation to the procedures to be performed for the examination.
- (6) As soon as practicable after the preliminary examination is completed, the examiner must—
 - (a) prepare a preliminary examination report; and
 - (b) give the report to a coroner.
- (7) In this section—

preliminary examination report means a written report containing information about a preliminary examination performed for a deceased person, including, for example, information about the following—

- (a) the results of any procedures or tests that were performed as part of the preliminary examination;

[s 29]

(b) the cause of the person's death, if known.

29 Amendment of s 12 (Deaths not to be investigated or further investigated)

(1) Section 12, heading—

omit, insert—

12 Not investigating or stopping investigation of particular deaths

(2) Section 12—

insert—

(4) A coroner may stop investigating a death if—

- (a) the death was a reportable death only under section 8(2) and (3)(e); and
- (b) an autopsy has been conducted and an autopsy certificate has been given to the coroner under section 24A(3)(b); and
- (c) the coroner, having regard to the circumstances of the death and the autopsy certificate, is satisfied the death was a natural death.

30 Amendment of s 14 (Guidelines and directions for investigations)

(1) Section 14(3)—

insert—

(ba) list the doctors who are approved by the State Coroner to perform preliminary examinations, either by name or by reference to particular qualifications; and

(2) Section 14(3)(ba) and (c)—

renumber as section 14(3)(c) and (d).

(3) Section 14(4), after paragraph (a)—

insert—

(aa) a preliminary examination for section 11AA;

(4) Section 14(4)(aa) to (d)—

renumber as section 14(4)(b) to (e).

31 Amendment of s 19 (Order for autopsy)

(1) Section 19(2)—

omit, insert—

(2) A coroner may order a doctor to perform an autopsy if the coroner considers an autopsy is necessary for the investigation of a death or to find out whether a body is that of a stillborn child.

(2) Section 19(7), after ‘guidelines’—

insert—

as a doctor who is approved by the State Coroner to conduct particular types of autopsies

32 Amendment of s 26 (Control of body)

Section 26(2)(c), ‘or (d)’—

omit, insert—

or (d) or (4)

33 Amendment of s 40 (Exhibits)

Section 40(2), ‘The registrar’—

omit, insert—

A registrar

[s 34]

34 Amendment of s 54 (Access to investigation documents for other purposes)

- (1) Section 54(2)(b), ‘the registrar’—
omit, insert—
a registrar
- (2) Section 54(2)—
insert—
(c) otherwise—another coroner nominated by the State Coroner.

35 Amendment of s 84 (Registrar)

- (1) Section 84(1), ‘the registrar’—
omit, insert—
a registrar
- (2) Section 84(2), ‘The registrar’—
omit, insert—
Each registrar

36 Amendment of s 86 (Delegation of duties or powers to registrar or deputy registrar)

- (1) Section 86(1)(a), (2)(a), (3)(a), (4) and (6), ‘the registrar’—
omit, insert—
a registrar
- (2) Section 86(8), definition *appropriately qualified—*
omit.
- (3) Section 86(8), definition *power*, paragraph (a)—
omit, insert—
(a) includes—

-
- (i) the power to issue a permission to cremate under the *Cremations Act 2003*; and
 - (ii) the power to consent to the removal of tissue under the *Transplantation and Anatomy Act 1979*, section 24(2) or (3); but
- (4) Section 86(8), definition *power*, paragraph (b)(ii)—
omit.
- (5) Section 86(8), definition *power*, paragraph (b)(iii)—
renumber as paragraph (b)(ii).

37 Amendment of s 94 (Evidentiary aids)

Section 94, ‘a coroner, the registrar or a deputy registrar’—
omit, insert—
a coroner, registrar or deputy registrar

38 Replacement of pt 6 hdg and pt 6, div 1, hdg

Part 6, heading and part 6, division 1, heading—
omit, insert—

Part 6

**Transitional and
declaratory provisions**

Division 1

**Transitional provisions for
Act as enacted and as
amended by the Justice
and Other Legislation
Amendment Act 2020**

[s 39]

39 Insertion of new ss 99A and 99B

Part 6, division 1—

insert—

99A Definitions for division

In this division—

former section 100 means section 100 as in force before the commencement of this section.

unfinished repealed Act inquest see section 99B.

99B Meaning of *unfinished repealed Act inquest*

An *unfinished repealed Act inquest* is an inquest within the meaning of the repealed *Coroners Act 1958*, section 5, that—

- (a) started under the repealed Act or the repealed Act as applied under former section 100; and
- (b) had not concluded before the commencement of this section.

40A Omission of s 100 (When repealed Act still applies)

Section 100—

omit.

41 Insertion of new ss 100A–100E

Part 6, division 1—

insert—

100A Application of repealed Act to unfinished repealed Act inquest

The repealed *Coroners Act 1958* continues to apply to an unfinished repealed Act inquest unless the inquest is, under section 100B, stopped and

reopened as an inquest under this Act.

100B Stopping and reopening an unfinished repealed Act inquest

- (1) A coroner who is holding an unfinished repealed Act inquest may, on his or her own initiative—
 - (a) stop the inquest, without a finding being given under the repealed *Coroners Act 1958*, section 43; and
 - (b) reopen the inquest as an inquest under this Act.
- (2) Also, the State Coroner may, on his or her own initiative, direct another coroner to stop and reopen an unfinished repealed Act inquest under subsection (1)(a) and (b).

100C Reopening finished repealed Act inquest

- (1) Sections 50 and 50A apply for reopening a finished repealed Act inquest as if the references in the sections to an inquest included references to a finished repealed Act inquest.
- (2) In this section—

finished repealed Act inquest means an inquest, within the meaning of the repealed *Coroners Act 1958*, section 5, that has concluded under the repealed Act or the repealed Act as applied under former section 100.

100D Effect on rights and privileges

- (1) Sections 100B and 100C have effect—
 - (a) despite any right or privilege acquired by, or accrued to, a person under the repealed *Coroners Act 1958*; and

[s 41]

- (b) despite the *Acts Interpretation Act 1954*, section 20.
- (2) Without limiting subsection (1), to remove any doubt, it is declared that this Act applies in relation to a person giving evidence at an inquest reopened under section 100B, or section 50 or 50A as applied under section 100C, even if the person has claimed the privilege against self-incrimination or incrimination of the person's spouse under the repealed *Coroners Act 1958*, section 33(2) or that section as applied under former section 100.

100E Application of s 24(7) to specimen tissue

- (1) This section applies if—
 - (a) before 1 December 2003—
 - (i) during an autopsy of a body, tissue was removed from the body for testing; and
 - (ii) the tissue was turned into specimen tissue; or
 - (b) on or after 1 December 2003 and before the commencement of this section—
 - (i) during an autopsy of a body under the repealed *Coroners Act 1958* as applied under former section 100, tissue was removed from the body for testing; and
 - (ii) the tissue was turned into specimen tissue.
- (2) To remove any doubt, it is declared that section 24(7) does not apply, and never has applied, in relation to the specimen tissue.
- (3) Subsection (4) applies if—

- (a) an inquest into the death of a person is reopened under section 100B or section 50 or 50A as applied under section 100C; and
 - (b) before the inquest is reopened, tissue has been removed from the person's body and turned into specimen tissue; and
 - (c) immediately before the inquest is reopened, the specimen tissue is still being kept.
- (4) Despite subsection (2), section 24(7) applies in relation to the specimen tissue.
- (5) In this section—

autopsy includes a post-mortem examination under the repealed *Coroners Act 1958* or that Act as applied under former section 100.

specimen tissue see the *Transplantation and Anatomy Act 1979*, section 29(8).

42 Amendment of sch 2 (Dictionary)

- (1) Schedule 2—

insert—

preliminary examination see section 11AA.

- (2) Schedule 2, definition *investigation*, before paragraph (a)—

insert—

(aa) a preliminary examination; and

- (3) Schedule 2, definition *investigation*, paragraphs (aa) to (b)—
renumber as paragraphs (a) to (c).

[s 49]

49 Amendment of s 359E (Punishment of unlawful stalking)

Section 359E(4), ‘the officer is’—

omit, insert—

the stalked person is a law enforcement officer

50 Amendment of s 463 (Setting fire to crops and growing plants)

(1) Section 463, heading, ‘crops and growing plants’—

omit, insert—

vegetation

(2) Section 463(d)—

omit, insert—

(d) any grass, other than grass mentioned in paragraph (b);

(e) any other vegetation;

51 Amendment of s 552BB (Excluded offences)

Section 552BB, table, entry for section 463, column 2, ‘crops and growing plants’—

omit, insert—

vegetation

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

Section 552D—

insert—

(1A) A Magistrates Court must abstain from dealing summarily with a charge under section 552BA if—

- (a) the charge has been laid against the defendant as an alternative to a charge for another offence (the *main offence*); and
- (b) the main offence is an indictable offence that is not required to be heard and decided summarily under this chapter.

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

Section 651(2)(b), ‘legal practitioner’—

omit, insert—

lawyer

54 Amendment of s 652 (Proceedings to transmit charge for summary offence)

(1) Section 652(2), ‘he or she’—

omit, insert—

the person

(2) Section 652(3)—

omit, insert—

(3) An application under subsection (2) must be a written statement containing at least the following information—

- (a) the charge to be transmitted;
- (b) the defendant’s intention to plead guilty to the offence charged;
- (c) that the defendant wishes to have the charge transmitted for no other reason than to plead guilty to the charge before the receiving court.

[s 55]

55 Insertion of new ch 103

Part 9—

insert—

Chapter 103 Transitional provisions for Justice and Other Legislation Amendment Act 2020

752 Application of s 359E(4)

- (1) Section 359E(4), as amended under the *Justice and Other Legislation Amendment Act 2020*, applies to the crime of unlawful stalking whether any of the acts constituting the unlawful stalking have been done before or after the commencement.
- (2) This section applies despite section 11(2) and the *Acts Interpretation Act 1954*, section 20C(3).

753 Application of ch 58A before and after amendment to particular charges

- (1) Chapter 58A, as in force immediately before the commencement, continues to apply in relation to a charge for an offence if an originating step for the proceeding for the charge was taken before the commencement.
- (2) Chapter 58A, as amended under the *Justice and Other Legislation Amendment Act 2020*, applies in relation to a charge for an offence if—
 - (a) no originating step for the proceeding for the charge was taken before the commencement; and

- (b) an originating step for the proceeding for the charge is taken on or after the commencement.
- (3) For subsection (2), it does not matter when the offence was committed.
- (4) In this section—
originating step, for a proceeding, means—
 - (a) the arrest of the defendant in the proceeding; or
 - (b) the making of a complaint under the *Justices Act 1886*, section 42 in relation to the defendant in the proceeding; or
 - (c) the serving of a notice to appear on the defendant in the proceeding under the *Police Powers and Responsibilities Act 2000*, section 382.

Part 11 **Amendment of Criminal Law (Rehabilitation of Offenders) Act 1986**

56 Act amended

This part amends the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

57 Amendment of s 12 (Offence provision)

Section 12(2) and (3)—
omit.

[s 58]

Part 12 **Amendment of Criminal Proceeds Confiscation Act 2002**

58 Act amended

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

59 Amendment of s 237 (Charge on property subject to filed interstate restraining order or interstate pecuniary penalty order)

(1) Section 237, heading, ‘or’—

omit, insert—

and

(2) Section 237(1)(a), ‘or’—

omit, insert—

and

(3) Section 237(2)—

omit, insert—

(2) When the orders are filed, a charge on the property restrained under the interstate restraining order is created to secure payment of the amount payable under the interstate pecuniary penalty order.

Part 13 Amendment of Dangerous Prisoners (Sexual Offenders) Act 2003

60 Act amended

This part amends the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

61 Amendment of s 2 (Definitions)

Section 2, ‘the schedule’—

omit, insert—

schedule 1

62 Amendment of s 5 (Attorney-General may apply for orders)

(1) Section 5(6), definition *prisoner*—

omit.

(2) Section 5(6)—

insert—

parole order means—

- (a) a parole order under the *Corrective Services Act 2006*; or
- (b) a statutory parole order under the *Youth Justice Act 1992*.

period of imprisonment includes—

- (a) a period of detention mentioned in the definition *prisoner*, paragraph (b); and
- (b) a term of imprisonment a person is liable to serve as mentioned in the definition *prisoner*, paragraph (c)(iii); and

[s 62]

- (c) a period a person is kept in a prison during a suspension period of a parole order as mentioned in the definition *prisoner*, paragraph (d)(iii).

prison see the *Corrective Services Act 2006*, schedule 4.

prisoner—

- (a) means a prisoner detained in custody who is serving a period of imprisonment for a serious sexual offence, or is serving a period of imprisonment that includes a term of imprisonment for a serious sexual offence, whether the person was sentenced to the term or period of imprisonment before or after the commencement of this section; and
- (b) includes a person who, as mentioned in the *Youth Justice Act 1992*, section 138(3), is serving a period of detention, and is being held in custody in a corrective services facility, for a child offence that is a serious sexual offence; and
- (c) includes a person who—
- (i) was serving a period of detention, in a detention centre under the *Youth Justice Act 1992*, for a serious sexual offence; and
- (ii) under part 8, division 2A, subdivision 1 of that Act, has been transferred to a corrective services facility and is being held in custody in the facility; and
- (iii) is liable, under section 276E of that Act, to serve a term of imprisonment for the offence equal to the period of detention the person remains liable to serve for the offence; and
- (d) includes a person who—

- (i) was serving a period of imprisonment mentioned in paragraph (a) or a period of detention mentioned in paragraph (b) or (c)(i); and
- (ii) is the subject of a parole order that has been suspended under the *Corrective Services Act 2006*; and
- (iii) is being kept in a prison during the suspension period.

63 Amendment of s 43AA (Contravention of relevant order)

Section 43AA(3), definition *corrective services facility*—
omit.

64 Replacement of s 51 (Parole)

Section 51—
omit, insert—

51 Parole

- (1) This section applies if—
 - (a) under section 8(1), the court has set a date for the hearing of an application for a division 3 order in relation to a prisoner and the application has not been discontinued or finally decided; or
 - (b) a prisoner is subject to a continuing detention order or interim detention order, whether or not the order has taken effect.
- (2) The prisoner is not eligible for parole under the *Corrective Services Act 2006* or the *Penalties and Sentences Act 1992* and can not be issued a parole order under those Acts.
- (3) Subsections (4) and (5) apply if the prisoner is the subject of a parole order under the *Corrective*

[s 65]

Services Act 2006 that—

- (a) has been suspended under that Act; and
 - (b) has neither been cancelled under that Act nor has expired.
- (4) For subsection (1)(a), if the suspension period for the parole order would, other than for this section, end before the application for the division 3 order is discontinued or finally decided, the suspension period is taken not to end before the application is discontinued or finally decided.
- (5) For subsection (1)(b), if the suspension period for the parole order would, other than for this section, end while the prisoner is subject to the continuing detention order or interim detention order, the suspension period is taken not to end while the prisoner is subject to the order.

65 Insertion of new pt 11

Before the schedule—

insert—

Part 11	Transitional and declaratory provisions for Justice and Other Legislation Amendment Act 2020
----------------	---

70 Pending application for division 3 order

- (1) This section applies if—
- (a) an application was made for an order or orders under section 8 and a division 3 order in relation to a person before the commencement; and

- (b) the application had not been discontinued or finally decided immediately before the commencement.
- (2) Section 5, as amended under the *Justice and Other Legislation Amendment Act 2020*, is taken to have applied in relation to the application from when the application was made.

71 Existing division 3 order

- (1) This section applies if —
 - (a) a division 3 order was made in relation to a person before the commencement; and
 - (b) the order was in force immediately before the commencement.
- (2) Section 5, as amended under the *Justice and Other Legislation Amendment Act 2020*—
 - (a) is taken to apply, and to have always applied, in relation to the division 3 order; and
 - (b) is taken to have applied in relation to—
 - (i) the application for an order or orders under section 8 and for the division 3 order in relation to the person; and
 - (ii) any order made under section 8(2) in relation to the person.
- (3) This section applies despite the *Acts Interpretation Act 1954*, section 20.

66 Amendment of schedule (Dictionary)

- (1) Schedule, definition *period of imprisonment*—
omit.
- (2) Schedule—

[s 67]

insert—

corrective services facility see the *Corrective Services Act 2006*, schedule 4.

period of imprisonment—

(a) generally—see the *Penalties and Sentences Act 1992*, section 4; and

(b) for part 2, division 1, 3, 3A or 5—see also section 5(6).

(3) Schedule—

number as schedule 1.

Part 14 Amendment of District Court of Queensland Act 1967

67 Act amended

This part amends the *District Court of Queensland Act 1967*.

68 Amendment of s 61 (Criminal jurisdiction if maximum penalty more than 20 years)

Section 61(2)(b), after ‘222,’—

insert—

228A, 228B,

69 Amendment of s 68 (Civil jurisdiction)

Section 68(3)(c)—

omit, insert—

(c) the following amounts must not be considered in calculating whether an amount, value or damage sought to be

recovered in an action exceeds the monetary limit—

- (i) an amount of interest that is payable as of right, whether because of a law, agreement or otherwise;
- (ii) an amount of interest that may be awarded by a court, including, for example, an amount of interest that may be awarded under the *Civil Proceedings Act 2011*, section 58.

Part 15 Amendment of Drugs Misuse Act 1986

70 Act amended

This part amends the *Drugs Misuse Act 1986*.

71 Amendment of s 4 (Definitions)

Section 4—

insert—

informer means a person who supplies information to a police officer in respect of the commission of an offence defined in part 2 on the basis that the person’s identity will be kept confidential.

72 Amendment of s 119 (Protection of informers)

Section 119(2), after ‘who’—

insert—

unlawfully

[s 73]

73 Amendment of s 120 (Source of information not to be disclosed)

(1) Section 120(1), from ‘any proceedings’ to ‘otherwise’—

omit, insert—

a relevant proceeding

(2) Section 120—

insert—

(3) In this section—

relevant proceeding means a proceeding under this Act or another Act, other than a proceeding for—

(a) an offence against section 119(2); or

(b) another offence under this or another Act in which it is alleged that a person has unlawfully disclosed the name of the informer or another particular that may be likely to lead to the informer’s identification.

Part 16 Amendment of Evidence Act 1977

74 Act amended

This part amends the *Evidence Act 1977*.

75 Amendment of s 21A (Evidence of special witnesses)

Section 21A(8), from ‘If evidence’ to ‘subsection (2)(a) to (e),’—

omit, insert—

If evidence is given or presented, or to be given or presented, in a proceeding on indictment under an

order or direction under subsection (2)(a) to (e) or
section 21AAA(2),

76 Amendment of s 21AAA (Exclusion of particular persons while videorecording or usable soundtrack being presented)

- (1) Section 21AAA, heading, ‘videorecording or usable soundtrack being’—

omit, insert—

particular evidence is

- (2) Section 21AAA(1), ‘either’—

omit, insert—

any

- (3) Section 21AAA(1)—

insert—

(c) a statement that, under section 93A, is
admissible as evidence in the proceeding.

- (4) Section 21AAA(2)—

insert—

Note—

See also section 21A(8) for the instructions that must be
given to a jury if an order is made under this subsection.

77 Amendment of s 21AU (Exclusion of public)

- (1) Section 21AU(1)(b), ‘either’—

omit, insert—

any

- (2) Section 21AU(1)(b)—

insert—

[s 78]

(iii) a statement that, under section 93A, is admissible as evidence in the proceeding.

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

Section 21AW(1)(b), from ‘or a videorecording’—

omit, insert—

or the evidence of an affected child is presented;

79 Insertion of new pt 9, div 11

Part 9—

insert—

**Division 11 Justice and Other
Legislation Amendment
Act 2020**

156 Proceedings started before commencement

Sections 21AAA and 21AU, as in force immediately before the commencement, continue to apply in relation to a proceeding started before the commencement as if the *Justice and Other Legislation Amendment Act 2020* had not been enacted.

**Part 17 Amendment of Guardianship
and Administration Act 2000**

80 Act amended

This part amends the *Guardianship and Administration Act 2000*.

81 Amendment of s 5 (Acknowledgements)

Section 5(c)(ii) and (iii)—
renumber as section 5(c)(i) and (ii).

Part 17A Amendment of Human Rights Act 2019

81A Act amended

This part amends the *Human Rights Act 2019*.

81B Amendment of s 41 (Human rights certificate for subordinate legislation)

(1) Section 41—

insert—

(1A) However, if there is more than 1 responsible Minister for the subordinate legislation, the human rights certificate for the legislation may be prepared by 1 of the responsible Ministers under the authority of the other responsible Ministers.

(2) Section 41(2)(a) and (b), ‘in the responsible Minister’s opinion’—

omit, insert—

in the opinion of the Minister preparing the certificate

(3) Section 41—

insert—

(4A) This section does not apply in relation to subordinate legislation that is—

(a) a proclamation or other instrument that fixes a single day for the commencement of all of

[s 82]

the provisions of an Act that are not in force;
or

(b) an instrument, other than a regulation, of a type prescribed by regulation.

(4B) The Minister may recommend to the Governor in Council the making of a regulation under subsection (4A)(b) only if the Minister is satisfied an instrument of that type will not directly or indirectly limit a human right.

Part 18 **Amendment of Introduction Agents Act 2001**

82 **Act amended**

This part amends the *Introduction Agents Act 2001*.

83 **Amendment of s 22 (Disqualifying criteria—corporations)**

(1) Section 22(1)(a), ‘an externally-administered body corporate’—

omit, insert—

a Chapter 5 body corporate under the Corporations Act

(2) Section 22(2)—

omit.

84 **Insertion of new pt 9, div 1, hdg**

Before section 100—

insert—

Division 1 **Transitional provisions for Act No. 59 of 2001**

85 Insertion of new pt 9, div 2

Part 9—

insert—

**Division 2 Transitional provision for
Justice and Other
Legislation Amendment
Act 2020**

103 Existing applications

- (1) This section applies in relation to the following applications made, but not decided, before the commencement—
 - (a) an application for a licence made under section 19;
 - (b) an application for the renewal of a licence made under section 25.
- (2) The chief executive must decide the application under part 3 as in force from the commencement.

**Part 19 Amendment of Judges
(Pensions and Long Leave) Act
1957**

86 Act amended

This part amends the *Judges (Pensions and Long Leave) Act 1957*.

87 Amendment of s 5 (Pension of judge retiring on account of ill health)

- (1) Section 5(1)(a)—

[s 88]

omit, insert—

- (a) a judge retires from office and both of the following apply—
 - (i) a specialist health practitioner certifies to the Minister that the judge's retirement is because of permanent disability or infirmity;
 - (ii) the Minister is satisfied the judge's retirement is because of permanent disability or infirmity; or

(2) Section 5—

insert—

(3) In this section—

specialist health practitioner see the Health Practitioner Regulation National Law (Queensland), section 5.

Part 20 Amendment of Land Court Act 2000

Division 1 Preliminary

88 Act amended

This part amends the *Land Court Act 2000*.

Division 2 Amendments relating to powers, appointments and other matters

89 Omission of pt 2, div 1A (Cultural heritage division)

Part 2, division 1A—

omit.

90 Amendment of s 12 (Power to rehear matters)

(1) Section 12—

insert—

(2A) The Land Court must not grant leave for the matter to be reheard unless satisfied the decision is based wholly or partly on a mistake of fact.

(2) Section 12(2A) to (3)—

renumber as section 12(3) to (4).

91 Amendment of s 16 (Appointment of president and other members of Land Court)

(1) Section 16(3A), ‘or under the *Land and Resources Tribunal Act 1999*, section 27A’—

omit.

(2) Section 16(4)—

omit, insert—

(4) A person may be appointed as a member only if the person is a lawyer of at least 5 years standing with extensive experience in 1 or more of the following—

- (a) land-related matters;
- (b) mining or petroleum issues;
- (c) indigenous issues;
- (d) another matter or issue the Governor in Council considers to have substantial relevance to the duties of a member.

(3) Section 16(5)—

omit.

[s 92]

- (4) Section 16(3A) and (4)—
renumber as section 16(4) and (5).

92 Replacement of s 22 (Directions)

Section 22—

omit, insert—

22 Orders and directions

- (1) The Land Court may make an order or direction about the conduct of a proceeding in the Land Court.
- (2) The president may make directions of general application about the Land Court's procedures.
- (3) In making an order or direction under this section, the interests of justice are paramount.
- (4) An order or direction made under this section may be inconsistent with a provision of the rules made under section 21.
- (5) If there is an inconsistency between an order or direction made under this section and a provision of the rules made under section 21, the order or direction prevails to the extent of the inconsistency.
- (6) The Land Court or the president may vary or revoke an order or direction made under this section.

93 Amendment of s 28A (Acting judicial registrars)

Section 28A(4)—

omit.

-
- 94 Amendment of pt 2, div 6B, hdg (Jurisdiction of Land Court in its cultural heritage division)**
Part 2, division 6B, heading, ‘in its cultural heritage division’—
omit, insert—
in relation to native title and cultural heritage matters
- 95 Amendment of s 32E (Jurisdiction under Commonwealth Native Title Act)**
Section 32E(2), ‘in its cultural heritage division’—
omit.
- 96 Amendment of s 32F (Jurisdiction for registered indigenous land use agreements)**
Section 32F(2), ‘in its cultural heritage division’—
omit.
- 97 Amendment of s 32G (Jurisdiction for negotiated agreements)**
Section 32G(2) and (3), ‘in its cultural heritage division’—
omit.
- 98 Amendment of s 32H (Jurisdiction for particular cultural heritage matters)**
Section 32H(2), ‘in its cultural heritage division’—
omit.
- 99 Amendment of s 39 (Leave of absence)**
Section 39(2)(a) and (b)—
omit, insert—

[s 100]

- (a) for leave of absence to the president—the Chief Justice; or
- (b) for leave of absence to another member—the president.

100 Replacement of s 47 (Preservation of rights)

Section 47—

omit, insert—

47 Preservation of rights

- (1) This section applies to a person appointed as a judicial registrar or acting judicial registrar if, immediately before the appointment, the person was an employee of a prescribed authority (the *relevant prescribed authority*).
- (2) The person keeps the rights the person has accrued because of employment by a prescribed authority, or that would accrue in the future to the person because of that employment, as if service as a judicial registrar or acting judicial registrar were a continuation of the person's service as an employee of the relevant prescribed authority.
- (3) Subsection (4) applies if the person stops being a judicial registrar or acting judicial registrar, other than because the person is removed from office under section 28(3).
- (4) The person is entitled to be appointed to a position in the relevant prescribed authority at the classification level of the substantive position in which the person was employed at the relevant prescribed authority immediately before the person's appointment as judicial registrar or acting judicial registrar.
- (5) Subsection (6) applies if the person stops being a judicial registrar or acting judicial registrar because the person is appointed to a position in a

prescribed authority.

(6) The person's service as judicial registrar or acting judicial registrar is taken to be service of a like nature with the prescribed authority for working out the person's rights as an employee of the prescribed authority.

(7) In this section—

classification level, at a prescribed authority, includes another level, however described, reflecting seniority at the prescribed authority.

employee, of a prescribed authority, means—

- (a) a public service officer employed by the prescribed authority; or
- (b) a police officer employed by the prescribed authority; or
- (c) a person, other than a person mentioned in paragraph (a) or (b) or a person employed on a temporary or casual basis, employed by the prescribed authority.

prescribed authority means—

- (a) a department; or
- (b) the Crime and Corruption Commission; or
- (c) Legal Aid Queensland; or
- (d) the Queensland Police Service; or
- (e) another entity prescribed by regulation.

101 Amendment of s 50 (Delegation by registrar)

(1) Section 50, 'a power of the registrar'—

omit, insert—

the registrar's functions or powers

(2) Section 50—

[s 102]

insert—

- (2) The registrar may, with the president's approval, delegate the registrar's functions or powers under this Act to an appropriately qualified officer of the Land Court.

102 Insertion of new s 50A

After section 50—

insert—

50A Associates

- (1) The president may appoint a person nominated by a member as an associate to the member.
- (2) An associate is to be paid the remuneration and allowances decided by the Governor in Council.
- (3) An associate holds office on the terms and conditions decided by the Governor in Council.
- (4) An associate is appointed under this Act and not under the *Public Service Act 2008*.

103 Replacement of pt 2, div 12, hdg (Application of Act to Land Court for recommendatory provisions)

Part 2, division 12, heading—

omit, insert—

Division 12 Provisions about recommendatory provisions

104 Amendment of s 52B (Application of Act)

Section 52B(1)(j)—

omit.

105 Insertion of new s 52C

After section 52B—

insert—

52C Costs in relation to performing functions and exercising powers under recommendatory provisions

- (1) This section applies if the Land Court is performing a function conferred on the court under a recommendatory provision.
- (2) Each party to the performance of the function must bear the party's own costs in relation to the performance of the function.
- (3) However, the Land Court may make an order for costs as it considers appropriate if a party has incurred costs in 1 or more of the following circumstances—
 - (a) for the performance of a function in relation to a relevant objection made by a party—the Land Court considers that all or part of the objection—
 - (i) is outside the Land Court's jurisdiction; or
 - (ii) is frivolous or vexatious; or
 - (iii) is an abuse of the Land Court's process;
 - (b) a party has not been given reasonable notice of an intention to apply for an adjournment of the performance of the function;
 - (c) a party is required to apply for an adjournment of the performance of the function because of the conduct of another party;

[s 105]

- (d) without limiting paragraph (c), a party has introduced, or sought to introduce, new material;
 - (e) a party has defaulted in the Land Court's procedural requirements;
 - (f) for a hearing under the *Mineral Resources Act 1989*, section 78 or 268 in relation to an application for the grant of a mining claim or mining lease under that Act—
 - (i) the applicant abandons the application or does not pursue the application at the hearing; or
 - (ii) a party who made an objection to the application under section 71 or 260 of that Act withdraws the objection or does not pursue the objection at the hearing.
- (4) In deciding the amount of costs, the Land Court may have regard to—
- (a) the scale of costs applying to another court; and
 - (b) any other matter the Land Court considers relevant.
- (5) Section 7B applies in relation to an order made under subsection (3).
- (6) In this section—
- perform***, a function, includes exercise a power.
- relevant objection*** means an objection made under—
- (a) the *Aboriginal Cultural Heritage Act 2003*, section 76 or 111; or
 - (b) the *Environmental Protection Act 1994*, section 182; or

- (c) the *Mineral Resources Act 1989*, section 71 or 260; or
- (d) the *Torres Strait Islander Cultural Heritage Act 2003*, section 76 or 111.

106 Amendment of s 77A (Annual report)

Section 77A(3)—
omit.

107 Insertion of new pt 6, div 6

Part 6—
insert—

Division 6 Transitional and saving provisions for Justice and Other Legislation Amendment Act 2020

97 Definitions for division

In this division—

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

new, for a provision of this Act, means the provision as in force from the commencement.

98 Existing applications for leave to rehear matters

- (1) This section applies in relation to an application for leave to have a matter reheard made under former section 12, but not decided, before the commencement.

[s 108]

- (2) New section 12 applies in relation to the application.

99 Existing directions

A direction made under former section 22 that was in effect immediately before the commencement continues in effect as if it were made under new section 22.

100 Existing performance of function or exercise of power under recommendatory provision

- (1) This section applies if, before the commencement, the Land Court had started, but not finished, performing a function or exercising a power conferred on the court under a recommendatory provision.
- (2) Former part 2 continues to apply in relation to the performance of the function or the exercise of the power as if the *Justice and Other Legislation Amendment Bill 2019* had not been enacted.

108 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *cultural heritage division*, *general division* and *LRT Act*—
omit.
- (2) Schedule 2—
insert—
recommendatory provision see section 52A.
rules, for part 2, division 6, means the rules of the Land Court made under section 21.
- (3) Schedule 2, definition *LRT*, after ‘Tribunal’—
insert—

established under the repealed *Land and Resources Tribunal Act 1999*

- (4) Schedule 2, definition *prescribed proceeding*, from ‘Court—
’—

omit, insert—

Court under—

- (a) the *Aboriginal and Torres Strait Islander Land Holding Act 2013*; or
- (b) the *Aboriginal Cultural Heritage Act 2003*;
or
- (c) the *Torres Strait Islander Cultural Heritage Act 2003*; or
- (d) part 2, division 6B.

Division 3 Amendments relating to structure of Act

109 Amendment of s 12 (Power to rehear matters)

Section 12(1)—

insert—

Note—

For the power of the Land Court to rehear matters decided by a judicial registrar, see section 31.

110 Amendment of pt 2, div 3, hdg (Composition and appointments)

Part 2, division 3, heading, ‘and appointments’—

omit.

[s 111]

111 Insertion of new pt 2, div 3AA, hdg

After section 15—

insert—

**Division 3AA Appointment of president
and other members**

**112 Amendment of s 16 (Appointment of president and other
members of Land Court)**

Section 16(1)—

insert—

Notes—

- 1 For other provisions relating to the appointment of members, see division 9.
- 2 For the privileges, protection and immunity of members, see section 52D.

**113 Omission of pt 2, div 3A, hdg (Powers and
responsibilities of president)**

Part 2, division 3A, heading—

omit.

**114 Amendment, relocation and renumbering of s 20A
(Arrangement of business)**

(1) Section 20A, heading—

omit, insert—

20A Powers and responsibilities of president

(2) Section 20A—

relocate to part 2, division 3AA and *renumber* as section 17A.

115 Amendment of s 26 (Stay of proceedings)

Section 26, heading, ‘proceedings’—

omit, insert—

decisions—applications for leave to rehear matters

116 Insertion of new pt 2, div 5A, hdg

After section 27—

insert—

Division 5A Proceedings

117 Insertion of new pt 2, div 6, sdiv 1, hdg

Before section 28—

insert—

Subdivision 1 Appointment of judicial registrars

118 Amendment of s 28 (Judicial registrars)

Section 28(1)—

insert—

Notes—

- 1 For other provisions relating to the appointment of judicial registrars, see division 10.
- 2 For the privileges, protection and immunity of judicial registrars, see section 52D.

119 Insertion of new pt 2, div 6, sdiv 2, hdg

After section 28A—

insert—

[s 120]

Subdivision 2 Powers of judicial registrars

120 Insertion of new pt 2, div 6, sdiv 3, hdg

Before section 31—

insert—

Subdivision 3 Leave to rehear matters decided by judicial registrars

121 Relocation and renumbering of s 32 (Judicial registrar may exercise certain judicial or quasi-judicial powers)

Section 32—

relocate to part 2, division 6, subdivision 2 and *renumber* as section 30A.

122 Amendment of s 32F (Jurisdiction for registered indigenous land use agreements)

Section 32F(2)(a), ‘division 8’—

omit, insert—

section 27C

123 Omission of pt 2, div 7, hdg (General matters)

Part 2, division 7, heading—

omit.

124 Relocation and renumbering of s 33 (Land Court may make declarations)

Section 33—

relocate to part 2, division 2 and *renumber* as section 12A.

125 Relocation and renumbering of s 34 (Costs)

Section 34—

relocate to part 2, division 5A and *renumber* as section 27A.

126 Relocation and renumbering of s 35 (Privileges, protection and immunity)

Section 35—

relocate to part 2, division 13 and *renumber* as section 52D.

127 Relocation and renumbering of s 36 (Preliminary conference)

Section 36—

relocate to part 2, division 5A and *renumber* as section 27B.

128 Omission of pt 2, div 8, hdg (Alternative dispute resolution)

Part 2, division 8, heading—

omit.

129 Amendment, relocation and renumbering of s 37 (ADR process applies to proceedings started under this part)

(1) Section 37(1) and (4), ‘under this Act’—

omit, insert—

under this part

(2) Section 37(2), ‘section 34’—

omit, insert—

section 27A

(3) Section 37—

relocate to part 2, division 5A and *renumber* as section 27C.

[s 130]

130 Amendment of s 52B (Application of Act)

(1) Section 52B(1)—

insert—

(ca) section 12A;

(2) Section 52B(1)(i)—

omit.

(3) Section 52B(1)(k)—

omit, insert—

(k) section 27B;

(4) Section 52B(1)(l), ‘section 37’—

omit, insert—

section 27C

(5) Section 52B(1)(ca) to (o)—

renumber as section 52B(1)(d) to (n).

(6) Section 52B—

insert—

(1A) For subsection (1), section 27C applies to the Land Court in the performance of a function mentioned in the subsection as if a reference in section 27C(2) to section 27A were a reference to section 52C.

(7) Section 52B(1A) to (3)—

renumber as section 52B(2) to (4).

131 Insertion of new pt 2, div 13, hdg

After section 52C as inserted by this Act—

insert—

Division 13 Miscellaneous

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

Section 72(1), from ‘Sections’ to ‘apply’—

omit, insert—

Sections 7A to 9, 12A(5), 21 and 22 apply

133 Insertion of new s 101

After section 100 as inserted by this Act—

insert—

101 Proceedings and declarations under former s 33

- (1) A proceeding started under former section 33 before the commencement may continue to be heard and decided by the Land Court under new section 12A.
- (2) A declaration made under former section 33 that was in effect immediately before the commencement is taken to be a declaration made under new section 12A.

Part 21 Amendment of Legal Profession Act 2007

134 Act amended

This part amends the *Legal Profession Act 2007*.

135 Amendment of s 9 (Suitability matters)

- (1) Section 9(1)(c), ‘an externally-administered body corporate under the Corporations Act’—

omit, insert—

a chapter 5 body corporate

[s 136]

(2) Section 9(1)—

insert—

(ca) whether the person is or has been a director of a corporation while the corporation is or was a chapter 5 body corporate;

(3) Section 9(1)(ca) to (o)—

renumber as section 9(1)(d) to (p).

136 Insertion of new s 24A

After section 24—

insert—

24A Moving applications for admission

- (1) This section applies to a person who is both a government legal officer and an Australian lawyer, whether or not the person is an Australian legal practitioner.
- (2) Also, this section applies to—
 - (a) a person who—
 - (i) is an Australian lawyer employed by a corporation other than an incorporated legal practice; and
 - (ii) holds a practising certificate subject to a condition that the person must not engage in legal practice other than for providing in-house legal services; or
 - (b) a person who—
 - (i) is an Australian lawyer; and
 - (ii) is a volunteer at a community legal service; and
 - (iii) holds a practising certificate subject to a condition that the person must not

engage in legal practice other than as a volunteer at a community legal service.

- (3) Despite section 24(1), the person may move an application for admission if, and only if, the board has, under the admission rules, recommended the applicant's admission without conditions.
- (4) The person does not fail to comply with any of the following conditions of the person's practising certificate merely because the person moves an application for admission under subsection (3)—
 - (a) a condition that the person must not engage in legal practice other than as a government legal officer engaged in government work;
 - (b) a condition that the person may engage in legal practice other than as a government legal officer engaged in government work if the legal practice is limited to legal practice as a volunteer at a community legal service;
 - (c) a condition mentioned in subsection (2)(a)(ii) or (b)(iii).
- (5) In this section—

volunteer, at a community legal service, means a person who provides legal services for the community legal service under an arrangement that does not entitle the person to be paid an amount of money for the provision of the legal services.

137 Amendment of s 46 (Suitability to hold local practising certificate)

(1) Section 46(2)—

insert—

- (fa) whether the person is or was a legal practitioner director of an incorporated legal

[s 138]

practice while the practice is or was insolvent;

(fb) whether the person is or was a director of a corporation while the corporation is or was insolvent;

- (2) Section 46(2)(fa) to (g)—
renumber as section 46(2)(g) to (i).

138 Amendment of s 135 (External administration proceedings under Corporations)

- (1) Section 135, heading, after ‘Corporations’—
insert—

Act

- (2) Section 135(1)(a) and (b), ‘an externally-administered body corporate under that Act’—
omit, insert—
a chapter 5 body corporate

139 Amendment of s 231 (Rules other than legal profession rules)

- (1) Section 231(1), ‘subsection (2)’—
omit, insert—

subsection (2) or (3)

- (2) Section 231(2)(d), after ‘exempting’—
insert—

, indefinitely or for a particular period,

- (3) Section 231—
insert—

(2A) Without limiting subsection (2)(j), a regulatory authority may make rules setting fees for

assessing an application for an exemption mentioned in subsection (2)(d), (g) or (h).

- (4) Section 231(3), ‘subsection (2)’—
omit, insert—
subsection (2) or (3)
- (5) Section 231(5), example, ‘for subsection (5)’—
omit.
- (6) Section 231(2A) to (8)—
renumber as section 231(3) to (9).

140 Amendment of s 233 (Relationship of administration rules to this Act and regulation)

Section 233(1), ‘section 231(2)’—
omit, insert—
section 231(2) or (3)

141 Amendment of s 263 (Investigations)

- (1) Section 263(2)—
omit, insert—
 - (2) The investigation—
 - (a) may be in relation to a particular allegation or suspicion regarding trust money, trust property, a trust account or another aspect of the affairs of the law practice; or
 - (b) may be carried out as a routine investigation.
- (2) Section 263(5), ‘is a *trust account investigation*’—
omit, insert—
is a *part 3.3 investigation*
- (3) Section 263(5), note, ‘trust account investigation’—

[s 142]

omit, insert—

part 3.3 investigation

142 Amendment of s 707 (Protection from liability)

Section 707(3), ‘, 618’—

omit.

143 Insertion of new ch 10, pt 7

Chapter 10—

insert—

**Part 7 Transitional provision
for Justice and Other
Legislation
Amendment Act 2020**

**786 Application of ss 9 and 46 and additional
obligation to disclose suitability matters**

- (1) This section applies if, before the commencement—
 - (a) a person made an application to a regulatory authority for the grant or renewal of a local practising certificate under section 49; and
 - (b) the regulatory authority had not decided the application under section 51.
- (2) Sections 9(1) and 46(2), as in force from the commencement, apply to the person for the application.
- (3) Subsection (4) applies if the person—
 - (a) is or has been a legal practitioner director of an incorporated legal practice while the

practice is or was a chapter 5 body corporate; or

(b) is or has been a director of a corporation while the corporation is or was a chapter 5 body corporate.

(4) The person must, within 7 days after the commencement, give the regulatory authority written notice of the fact.

144 Amendment of sch 2 (Dictionary)

(1AA) Schedule 2, definitions *levy* and *trust account investigation*—
omit.

(1AB) Schedule 2—
insert—

chapter 5 body corporate means a Chapter 5 body corporate under the Corporations Act.

part 3.3 investigation see section 263(5).

(1) Schedule 2, definition *administration rules*, ‘section 231(3)’—

omit, insert—

section 231(4)

(2) Schedule 2, definition *indemnity rules*, ‘section 231(4)’—

omit, insert—

section 231(5)

(5) Schedule 2, definition *show cause event*, paragraph (d), ‘an externally-administered body corporate under the Corporations Act’—

omit, insert—

a chapter 5 body corporate

(6) Schedule 2, definition *show cause event*—

148 Amendment of s 4 (Jurisdiction of Magistrates Courts)

- (1) Section 4(a), ‘amount claimed’—

omit, insert—

amount, value or damage sought to be recovered

- (2) Section 4(a), after ‘otherwise’—

insert—

, including any claim for detention of goods or chattels

- (3) Section 4(c)—

omit, insert—

(c) every action in which a person has an equitable claim or demand against another person in respect of which—

(i) the only relief sought is—

(A) the recovery of a sum of money or of damages, whether liquidated or unliquidated; or

(B) the delivery of possession of goods or chattels in relation to a right, security interest, encumbrance, charge or lien; and

(ii) the amount, value or damage claimed is not more than the prescribed limit;

- (4) Section 4—

insert—

(2) For the purpose of determining whether a Magistrates Court has jurisdiction under subsection (1) for a claim for detention of goods or chattels, the amount claimed is taken to be the total of—

(a) the amount claimed for the value of the goods or chattels; and

[s 149]

- (b) any amount claimed for damages for the detention of the goods or chattels.

149 Insertion of new s 4AAA

After section 4—

insert—

4AAA Calculating whether amount, value, damage or sum is more than prescribed limit

In calculating whether, for this part, an amount, value, damage or sum claimed, or sought to be recovered, in an action is more than the prescribed limit, the following amounts must not be considered—

- (a) an amount of interest that is payable as of right whether because of a law, agreement or otherwise; or
- (b) an amount of interest that may be awarded by a court, including, for example, an amount of interest that may be awarded under the *Civil Proceedings Act 2011*, section 58.

150 Amendment of s 45 (Appeal)

- (1) Section 45(1)(a), ‘amount’—

omit, insert—

amount, value or damage

- (2) Section 45(1)(c), ‘amount claimed or the value of the goods in question’—

omit, insert—

amount or damages claimed, or the value of the goods in question,

- (3) Section 45(2)(a), ‘amount’—

omit, insert—

amount, damage or value

Part 24 Amendment of Mineral Resources Act 1989

151 Act amended

This part amends the *Mineral Resources Act 1989*.

152 Amendment of s 78 (Land Court's determination on hearing)

Section 78(4) and (5)—

omit.

153 Amendment of s 268 (Hearing of application for grant of mining lease)

(1) Section 268(8) and (9)—

omit.

(2) Section 268(10)—

renumber as section 268(8).

154 Insertion of new ch 15, pt 18

Chapter 15—

insert—

Part 18 Transitional provision for Justice and Other Legislation Amendment Act 2020

[s 155]

870 Particular existing applications

- (1) Former section 78 continues to apply in relation to an application made under section 61 for the grant of a mining claim that was referred to the Land Court under chapter 3, but not decided, before the commencement.
- (2) Former section 268 continues to apply in relation to an application made under section 245 for the grant of a mining lease that was referred to the Land Court under chapter 6, part 1, but not decided, before the commencement.
- (3) In this section—
former, for a provision of this Act, means the provision as in force from time to time before the commencement.

Part 25 Amendment of Ombudsman Act 2001

155 Act amended

This part amends the *Ombudsman Act 2001*.

156 Amendment of s 86 (Delegation)

Section 86(1), after ‘Act’—

insert—

or the *Human Rights Act 2019*, section 66

Part 26 **Amendment of Peace and Good Behaviour Act 1982**

157 Act amended

This part amends the *Peace and Good Behaviour Act 1982*.

158 Amendment of s 33 (Definitions for part)

(1) Section 33—

insert—

criminal activity means conduct that involves the commission of an offence.

(2) Section 33, definition *disorderly activity*—

insert—

(aa) criminal activity at the premises that is likely to pose a risk to the safety of a member of the public; or

(3) Section 33, definition *disorderly activity*, paragraphs (aa) to (f)—

renumber as paragraphs (b) to (g).

159 Amendment of s 88 (Who may appeal)

Section 88(e), ‘refuse to make’—

omit, insert—

make, or refuse to make,

160 Insertion of new pt 8

After section 100—

insert—

Part 8

Transitional provisions for Justice and Other Legislation Amendment Act 2020

101 Existing applications for restricted premises orders

- (1) This section applies if, before the commencement—
 - (a) an application was made under section 34 to a court for a restricted premises order; and
 - (b) the court had not decided the application.
- (2) Section 33, definition *disorderly activity*, paragraph (b) does not apply in relation to—
 - (a) the making of the restricted premises order under section 36; or
 - (b) the imposition of conditions on the order under section 37.

102 Application of s 54 in relation to particular disorderly activities

- (1) This section applies in relation to the owner or occupier of premises if—
 - (a) immediately before the commencement, a restricted premises order was in effect for the premises; or
 - (b) on or after the commencement, a restricted premises order is made for the premises for an application in relation to which section 101 applies.
- (2) The owner or occupier does not commit a misdemeanour under section 54 in relation to a disorderly activity, mentioned in section 33,

definition *disorderly activity*, paragraph (b), taking place at the premises while the restricted premises order is in effect.

103 Appeals may not be made against particular decisions made before commencement

Section 88(e) does not apply in relation to a decision, made before the commencement, to make an order under section 51 for the return of a prohibited item.

161 Amendment of sch 1 (Dictionary)

Schedule 1—

insert—

criminal activity, for part 4, see section 33.

Part 27 Amendment of Penalties and Sentences Act 1992

162 Act amended

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

163 Amendment of s 9 (Sentencing guidelines)

Section 9(2)—

insert—

(pa) the principle that the court should not refuse to make a community based order for the offender merely because of—

(i) a physical, intellectual or psychiatric disability of the offender; or

[s 164]

- (ii) the offender's sex, educational level or religious beliefs; and

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

Section 159A(1), 'and for no other reason'—
omit.

165 Insertion of new pt 14, div 22

Part 14—
insert—

**Division 22 Transitional provision for
Justice and Other
Legislation Amendment
Act 2020**

**258 Application of ss 9 and 159A to sentencing
offenders after commencement**

Sections 9 and 159A, as amended by the *Justice and Other Legislation Amendment Act 2020*, apply in relation to the sentencing of an offender after the commencement whether the offence or conviction happened before or after the commencement.

**Part 28 Amendment of Penalties and
Sentences Regulation 2015**

166 Regulation amended

This part amends the *Penalties and Sentences Regulation 2015*.

167 Omission of s 4 (Principle prescribed—Act, s 9(2)(p))

Section 4—

omit.

Part 29 Amendment of Personal Injuries Proceedings Act 2002

168 Act amended

This part amends the *Personal Injuries Proceedings Act 2002*.

169 Amendment of s 8 (Definitions)

Section 8, ‘the schedule’—

omit, insert—

schedule 1

170 Amendment of s 22 (Duty of claimant to provide documents and information to respondent)

Section 22—

insert—

(9) In this section—

health care means any care, treatment, advice, service or goods provided in relation to the physical or mental health of a person.

health care claim means a claim against a health care provider in relation to personal injury caused entirely or partly by the fault of the health care provider in providing health care.

health care provider means—

[s 171]

- (a) a person who is registered under the Health Practitioner Regulation National Law in a health profession; or
- (b) a provider of a public sector health service as defined under the *Hospital and Health Boards Act 2011*, schedule 2; or
- (c) a licensee of a private health facility as defined under the *Private Health Facilities Act 1999*, section 8.

171 Amendment and numbering of schedule (Dictionary)

- (1) Schedule, definitions *health care*, *health care claim*, *health care provider* and *provider*—
omit.
- (2) Schedule—
number as schedule 1.

Part 30 Amendment of Personal Injuries Proceedings Regulation 2014

172 Regulation amended

This part amends the *Personal Injuries Proceedings Regulation 2014*.

173 Insertion of new s 2A

After section 2—

insert—

2A Definitions

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

174 Amendment of s 12 (Prescribed limits for particular definitions—Act, schedule)

(1) Section 12, heading, ‘schedule’—

omit, insert—

sch 1

(2) Section 12(1), ‘the schedule’—

omit, insert—

schedule 1

175 Insertion of new sch 1

After section 14—

insert—

Schedule 1 Dictionary

section 2A

health care claim see section 22(9) of the Act.

health care provider see section 22(9) of the Act.

Part 31 Amendment of Property Law Act 1974

176 Act amended

This part amends the *Property Law Act 1974*.

177 Insertion of new s 84A

After section 84—

insert—

[s 177]

84A Exercise of power of sale in relation to disclaimed properties

- (1) This section applies in relation to the mortgaged freehold property of a bankrupt that has been disclaimed by the trustee of the estate of the bankrupt under the *Bankruptcy Act 1966* (Cwlth), section 133(1) if—
 - (a) for property in relation to which section 133(3) of that Act applies—the trustee has given notice of the disclaimer under section 133(3) of that Act; and
 - (b) an application to a court for an order under section 133(9) of that Act in relation to the property—
 - (i) has not been made; or
 - (ii) has been finally dealt with by the court or withdrawn; and
 - (c) a court has not made an order in relation to the property under section 133(9) of that Act, other than an order vesting the property in the mortgagee.
- (2) Also, this section applies in relation to the mortgaged freehold property of a company that has been disclaimed by a liquidator of the company under the Corporations Act, section 568(1) if—
 - (a) the liquidator has complied with section 568A of that Act in relation to the disclaimer; and
 - (b) the disclaimer is in effect under that Act; and
 - (c) an application to a court under section 568E or 568F of that Act in relation to the property—
 - (i) has not been made; or

- (ii) has been finally dealt with by the court or withdrawn; and
 - (d) a court has not made an order in relation to the property under section 568F(1) of that Act, other than an order vesting the property in the mortgagee.
- (3) The disclaimer does not affect the right of the mortgagee to exercise the mortgagee's power of sale conferred by this Act or otherwise in relation to the property.
- (4) Despite section 84(1), the mortgagee may exercise the mortgagee's power of sale conferred by this Act or otherwise in relation to the property if the mortgagee has given notice, in the approved form, of the mortgagee's intention to exercise the power of sale to—
- (a) each person who has an interest in the property; and
 - (b) the registrar for recording in the land registry.
- (5) The mortgagee must not exercise the power of sale until 30 days after the last of the notices mentioned in subsection (4) has been given.
- (6) This section does not apply in relation to the exercise of a power of sale conferred on the mortgagee under the *Land Act 1994*.
- (7) In this section—

bankrupt see the *Bankruptcy Act 1966* (Cwlth), section 5(1).

company means a company registered under the Corporations Act.

[s 178]

178 Amendment of s 85 (Duty of mortgagee or receiver as to sale price)

Section 85(9), from ‘only to’—

omit, insert—

only in relation to the exercise of a power of sale if—

- (a) the exercise of the power arises upon or in consequence of a default, mentioned in section 84(1), that happens after the commencement of this Act; or
- (b) the power is being exercised under section 84A(4).

179 Amendment of s 88 (Application of proceeds of sale)

(1) Section 88—

insert—

(1A) However, if the money arises from the sale of mortgaged freehold property that has been disclaimed under the *Bankruptcy Act 1966* (Cwlth), section 133(1) or the Corporations Act, section 568(1), the residue of the money mentioned in subsection (1) must be paid into court.

(2) Section 88(1A) to (3)—

renumber as section 88(2) to (4).

180 Insertion of new pt 25

After section 358—

insert—

Part 25

Transitional provisions for Justice and Other Legislation Amendment Act 2020

359 Application of s 84A

Section 84A applies in relation to a mortgaged freehold property disclaimed under the *Bankruptcy Act 1966* (Cwlth), section 133(1) or the Corporations Act, section 568(1)—

- (a) whether the mortgage was made before or after the commencement; but
- (b) only if—
 - (i) for a disclaimer under the *Bankruptcy Act 1966* (Cwlth), section 133(1)—the disclaimer was made on or after the commencement; or
 - (ii) for a disclaimer under the Corporations Act, section 568(1)—the disclaimer took effect on or after the commencement.

360 Application of proceeds of sales that happened before commencement

Section 88(2), as inserted by the *Justice and Other Legislation Amendment Act 2020*, does not apply in relation to the sale of a mortgaged freehold property that happened before the commencement.

[s 181]

Part 32 **Amendment of Property Law Regulation 2013**

181 Regulation amended

This part amends the *Property Law Regulation 2013*.

182 Amendment of s 3 (Prescribed mortgages—Act, s 85)

(1) Section 3(2)(b), ‘the residence does’—

omit, insert—

if the power of sale is being exercised under section 84(1) of the Act in relation to a default mentioned in that section—the residence does

(2) Section 3(2)—

insert—

(c) if the power of sale is being exercised under section 84A of the Act—the residence does not stop being the mortgagor’s home only because the mortgagor stopped using the residence as the mortgagor’s home—

(i) when the residential land was disclaimed under the *Bankruptcy Act 1966* (Cwlth), section 133(1) or the Corporations Act, section 568(1); or

(ii) within 6 months before the disclaimer took effect.

(3) Section 3(3), definition *default*—

omit.

Part 33 **Amendment of Queensland Civil and Administrative Tribunal Act 2009**

183 Act amended

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

184 Insertion of new s 11A

After section 11—

insert—

11A Calculating whether amount, value, damage or sum is more than particular monetary limits

- (1) In determining whether the tribunal has original jurisdiction for a matter, the following amounts must not be considered in calculating whether an amount, value, damage or sum claimed, or sought to be recovered, in the matter is more than the monetary limit for the matter—
 - (a) an amount of interest that is payable as of right whether because of a law, agreement or otherwise;
 - (b) an amount of interest that may be awarded by the tribunal, including, for example, an amount of interest that may be awarded under section 14.
- (2) However, this section does not apply in relation to a matter the tribunal may decide under an enabling Act in the first instance if the enabling Act provides that an amount mentioned in subsection (1)(a) or (b) must or may be considered in making the calculation mentioned in subsection (1).

[s 185]

(3) In this section—

monetary limit means—

- (a) for a minor civil dispute—the prescribed amount; or
- (b) for a matter the tribunal may decide under an enabling Act other than a minor civil dispute—an amount that, under the enabling Act, the amount, value, damage or sum claimed, or sought to be recovered, in the matter must not exceed.

185 Amendment of s 13 (Deciding minor civil dispute generally)

Section 13—

insert—

- (5) For subsection (3), the following amounts must not be considered in calculating whether an amount or value is more than the prescribed amount—
 - (a) an amount of interest that is payable as of right whether because of a law, agreement or otherwise;
 - (b) an amount of interest that may be awarded by the tribunal, including, for example, an amount of interest that may be awarded under section 14.

186 Amendment of s 183 (Appointment of senior members and ordinary members)

(1) Section 183(3)—

omit.

(2) Section 183(8), from ‘reappointed,’—

omit, insert—

reappointed.

- (3) Section 183(4) to (9)—
renumber as section 183(3) to (8).

187 Amendment of s 186 (Conditions of appointment)

Section 186(2), from ‘Council’—
omit, insert—
Council.

188 Amendment of s 191 (Acting senior members)

Section 191(2), ‘section 183(4)’—
omit, insert—
section 183(3)

189 Amendment of s 191A (Acting ordinary members)

Section 191A(2), ‘section 183(5)’—
omit, insert—
section 183(4)

190 Amendment of sch 3 (Dictionary)

Schedule 3, definition *minor civil dispute*, paragraph 1(a), ‘
with or without interest,’—
omit.

[s 191]

Part 34 **Amendment of Retail Shop Leases Act 1994**

191 Act amended

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

192 Replacement of s 95 (Mediators)

Section 95—

omit, insert—

95 Mediators

- (1) The chief executive may appoint an appropriately qualified person as a mediator for the term decided by the chief executive.
- (2) A mediator is to be paid the remuneration and allowances decided by the chief executive.
- (3) A mediator holds office on the terms and conditions, not provided for by this Act, decided by the chief executive.
- (4) A mediator is appointed under this Act and not the *Public Service Act 2008*.

193 Replacement of s 98 (Duration of appointment)

Section 98—

omit, insert—

98 Resignation

A mediator may resign by signed notice given to the chief executive.

194 Omission of s 99 (Conditions of appointment)

Section 99—

omit.

195 Amendment of s 100 (Removal from office)

Section 100, ‘Minister’—

omit, insert—

chief executive

196 Insertion of new pt 12, div 5

Part 12—

insert—

**Division 5 Transitional provision for
Justice and Other
Legislation Amendment
Act 2020**

155 Existing mediators

- (1) This section applies to a person who, immediately before the commencement, held an appointment as a mediator under former section 95.
- (2) The person’s appointment continues in force under new section 95 from the commencement—
 - (a) according to its terms and conditions; and
 - (b) for the remaining term of the appointment under former section 95.
- (3) In this section—

former section 95 means section 95 as in force from time to time before the commencement.

new section 95 means section 95 as in force from the commencement.

[s 197]

Part 35 **Amendment of Second-hand Dealers and Pawnbrokers Act 2003**

197 Act amended

This part amends the *Second-hand Dealers and Pawnbrokers Act 2003*.

198 Amendment of s 7 (Suitability of applicants and licensees)

(1) Section 7(1)(d), ‘an externally-administered body corporate’—

omit, insert—

a Chapter 5 body corporate under the Corporations Act

(2) Section 7(5), definition *externally-administered body corporate*—

omit.

199 Omission of pt 9, div 1 (Interpretation)

Part 9, division 1—

omit.

200 Insertion of new pt 9, div 6

Part 9—

insert—

Division 6 **Transitional provision for
Justice and Other
Legislation Amendment
Act 2020**

142 Existing applications

- (1) This section applies in relation to the following applications made, but not decided, before the commencement—
 - (a) an application for a licence made under section 10;
 - (b) an application for the renewal of a licence made under section 13;
 - (c) an application for the restoration of a licence made under section 14.
- (2) The chief executive must decide the application under part 3 as in force from the commencement.

Part 36 Amendment of Succession Act 1981

201 Act amended

This part amends the *Succession Act 1981*.

202 Amendment of s 21 (Court may authorise a will to be made, altered or revoked for person without testamentary capacity)

- (1) Section 21(2)(a) to (c)—

omit, insert—

 - (a) the person to whom the order relates (the ***relevant person***) lacks testamentary capacity and is alive when the order is made; and
 - (b) the court is satisfied—
 - (i) the applicant is the appropriate person to make the application; and

[s 203]

- (ii) adequate steps have been taken to allow representation of other persons with a proper interest in the application, including persons who have reason to expect a gift or benefit from the estate of the relevant person; and
 - (iii) the proposed will, alteration or revocation is or may be a will, alteration or revocation the relevant person would make if the person had testamentary capacity; and
 - (c) the court approves the proposed will, alteration or revocation.
- (2) Section 21(5)—
omit, insert—
- (5) The court may order that costs in relation to the application be paid out of the relevant person's assets.

203 Omission of s 22 (Leave to apply for s 21 order)

Section 22—
omit.

204 Amendment of s 23 (Information required by court in support of application for leave)

- (1) Section 23, heading, 'leave'—
omit, insert—

order under s 21

- (2) Section 23, from 'On the hearing' to 'otherwise—'—
omit, insert—

An application for the making of an order under

section 21 in relation to a person must be accompanied by the following information—

- (3) Section 23(a)—
omit, insert—
 - (a) the reasons for making the application;
- (4) Section 23(b), ‘satisfactory’—
omit.
- (5) Section 23(b), from ‘the person’—
omit, insert—

the person;
- (6) Section 23(c), ‘, or that can be discovered with reasonable diligence,’—
omit.
- (7) Section 23(d), ‘a reasonable’—
omit, insert—

an
- (8) Section 23(j) and (k), ‘, or that can be discovered with reasonable diligence,’—
omit.

205 Omission of s 24 (Matters court must be satisfied of before giving leave)

Section 24—

omit.

206 Amendment of s 25 (Hearing an application for leave or for an order)

- (1) Section 25, heading, from ‘leave’—

omit, insert—

[s 207]

an order under s 21

- (2) Section 25, ‘for leave under section 22 or’—
omit.

207 Amendment of s 26 (Execution of will or other instrument made under order)

- (1) Section 26(1), after ‘if’—
insert—

the will or other instrument

- (2) Section 26(1)(a), ‘it’—
omit.

- (3) Section 26(1)(b)—
omit, insert—

(b) is signed by the registrar, and stamped with the court’s seal, within—

- (i) 14 days of the order being made; or
(ii) another period stated by the court.

- (4) Section 26(1)—
insert—

Note—

For the holding of the will or other instrument by the registrar, see subdivision 4.

- (5) Section 26(2) and note—
omit, insert—

- (2) To remove any doubt, it is declared that the will or other instrument may be signed by the registrar, and stamped with the court’s seal, even if the person in relation to whom the order was made has died.

208 Amendment of s 28 (Relationship with Guardianship and Administration Act 2000 and Powers of Attorney Act 1998)

Section 28, ‘or for leave under section 22’—
omit.

209 Insertion of new pt 7, div 5

Part 7—
insert—

**Division 5 Transitional provisions for
Justice and Other
Legislation Amendment
Act 2020**

77 Definitions for division

In this division—

amending Act means the *Justice and Other Legislation Amendment Act 2020*.

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

78 Particular applications in relation to persons without testamentary capacity

Former part 2, division 4, subdivision 3 continues to apply in relation to the following applications as if the amending Act had not been enacted—

- (a) an application for leave made under former section 22, but not decided, before the commencement;

Part 38 Amendment of Tourism Services Act 2003

212 Act amended

This part amends the *Tourism Services Act 2003*.

213 Amendment of s 14 (When applicant is not a suitable person)

Section 14(e), from ‘an externally-administered’—
omit, insert—

a Chapter 5 body corporate under the
Corporations Act.

214 Amendment of pt 14, hdg (Transitional provision for Act No. 61 of 2003)

Part 14, heading, from ‘provision’—
omit, insert—

provisions

215 Insertion of new pt 14, div 1, hdg

Before section 101—
insert—

**Division 1 Transitional provision for
Act No. 61 of 2003**

216 Replacement of pt 15, hdg (Transitional provision for Fair Trading (Australian Consumer Law) Amendment Act 2010)

Part 15, heading—
omit, insert—

[s 217]

Division 2 **Transitional provision for
Fair Trading (Australian
Consumer Law)
Amendment Act 2010**

217 **Insertion of new pt 14, div 3**

Part 14—

insert—

Division 3 **Transitional provision for
Justice and Other
Legislation Amendment
Act 2020**

103 Existing applications

- (1) This section applies in relation to the following applications made, but not decided, before the commencement—
 - (a) an application for registration made under section 20;
 - (b) an application for the renewal of a registration made under section 22.
- (2) The commissioner must decide the application under part 3 as in force from the commencement.

Part 39 **Consequential amendments**

218 **Legislation amended**

Schedule 1 amends the legislation it mentions.

Schedule 1 Legislation amended

section 218

Criminal Practice Rules 1999

1 Schedule 3, form 288, heading, ‘a crop’—

omit, insert—

vegetation

2 Schedule 3, form 288, ‘crops and growing plants’—

omit, insert—

vegetation

Labour Hire Licensing Regulation 2018

1 Section 20(3), ‘section 48(5) to (7) of the Acts Interpretation Act 1954’—

omit, insert—

the Acts Interpretation Act 1954, section 48(5)
and (6)

Legal Profession Act 2007

- 1 Sections 264, 265(1)(a), 266(3)(a), 541, definition *investigation*, paragraph (b), 542(1) and 564(1)(a), ‘trust account investigation’—**

omit, insert—

part 3.3 investigation

- 2 Section 540(a), ‘trust account investigations’—**

omit, insert—

part 3.3 investigations

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