

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

*Legislative Assembly Chamber, The Clerk of the Parliament.
Brisbane,*

19 September 2024

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

Government House,

Brisbane, 19th September 2024.



Queensland

**No. 47 of 2024
A BILL for**

An Act to amend the Anti-Discrimination Act 1991, the Corrective Services Act 2006, the Criminal Code, the District Court of Queensland Act 1967, the Human Rights Act 2019, the Judicial Remuneration Act 2007, the Magistrates Act 1991, the Penalties and Sentences Act 1992, the Queensland Civil and Administrative Tribunal Act 2009, the Supreme Court of Queensland Act 1991, the Youth Justice Act 1992 and the legislation mentioned in schedule 2 for particular purposes



Queensland

Respect at Work and Other Matters Amendment Bill 2024

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2024

A Bill

for

An Act to amend the *Anti-Discrimination Act 1991*, the *Corrective Services Act 2006*, the Criminal Code, the *District Court of Queensland Act 1967*, the *Human Rights Act 2019*, the *Judicial Remuneration Act 2007*, the *Magistrates Act 1991*, the *Penalties and Sentences Act 1992*, the *Queensland Civil and Administrative Tribunal Act 2009*, the *Supreme Court of Queensland Act 1991*, the *Youth Justice Act 1992* and the legislation mentioned in schedule 2 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Respect at Work and Other Matters Amendment Act 2024*.

2 Commencement

- (1) The following provisions commence on 1 December 2024—
 - (a) part 2, heading;
 - (b) sections 3, 28(1), 31, 37, 38 and 46 to 48;
 - (c) section 51, to the extent it inserts—
 - (i) chapter 11, part 10, heading; and
 - (ii) sections 282 and 285;
 - (d) section 52(2), to the extent it inserts definitions *class member* and *registered employee organisation*;
 - (e) section 52(3).
- (2) The following provisions commence on 1 July 2025—
 - (a) the provisions of part 2 that are not in force on 30 June 2025;
 - (b) part 3;
 - (c) sections 56 to 59;
 - (d) part 6;
 - (e) schedule 1.
- (3) Part 11 and schedule 2 commence immediately after the commencement of the *Administrative Review Tribunal Act 2024* (Cwlth), section 8.

Part 2 **Amendment of Anti-Discrimination Act 1991**

3 **Act amended**

This part and schedule 1 amend the *Anti-Discrimination Act 1991*.

4 **Amendment of long title**

(1) Long title, ‘equality of opportunity’—

omit, insert—

equal opportunity and equitable outcomes

(2) Long title, after ‘harassment’—

insert—

, harassment on the basis of sex

5 **Amendment of preamble**

(1) Preamble, paragraph 7, ‘equality of opportunity’—

omit, insert—

equal opportunity and equitable outcomes

(2) Preamble, paragraph 7, after ‘harassment’—

insert—

, harassment on the basis of sex

6 **Amendment of s 6 (Act’s anti-discrimination purpose and how it is to be achieved)**

Section 6(1), ‘equality of opportunity’—

omit, insert—

equal opportunity and equitable outcomes

[s 7]

7 Amendment of s 7 (Discrimination on the basis of certain attributes prohibited)

- (1) Section 7(c), after ‘pregnancy’—
insert—
or potential pregnancy
- (2) Section 7(n)—
omit, insert—
(n) sexual orientation;
- (3) Section 7(p)—
omit, insert—
(p) family, carer or kinship responsibilities;
(pa) subsection to domestic or family violence;
(pb) homelessness;
(pc) physical appearance;
(pd) expunged conviction;
(pe) irrelevant criminal record;
(pf) irrelevant medical record;
- (4) Section 7—
insert—
(r) a combination of 2 or more of any of the above attributes.
- (5) Section 7(pa) to (r)—
renumber as section 7(q) to (x).

7A Amendment of s 8 (Meaning of *discrimination on the basis of an attribute*)

Section 8—

insert—

- (2) Also, *discrimination on the basis of an attribute*

of a person who has 2 or more attributes includes discrimination in relation to—

- (a) any of the attributes; or
- (b) 2 or more of the attributes; or
- (c) the combined effect of 2 or more of the attributes.

7B Replacement of ss 10 and 11

Sections 10 and 11—

omit, insert—

10 Meaning of *direct discrimination*

- (1) ***Direct discrimination*** on the basis of an attribute happens if a person treats, or proposes to treat, another person unfavourably because the other person has an attribute.
- (2) For subsection (1), it does not matter—
 - (a) whether the person’s attribute is only 1 of the reasons for the unfavourable treatment; or
 - (b) whether the person who discriminates considers the treatment is unfavourable.

11 Meaning of *indirect discrimination*

- (1) ***Indirect discrimination*** on the basis of an attribute happens if a person imposes, or proposes to impose, a condition, requirement or practice that—
 - (a) has, or is likely to have, the effect of disadvantaging another person because the other person has an attribute; and
 - (b) is not reasonable.
- (2) Creating an environment in which a person with

[s 7B]

an attribute is disadvantaged is taken to be imposing a condition, requirement or practice under subsection (1)(a).

- (3) For subsection (1), the person imposing or proposing to impose the condition, requirement or practice has the onus of proving, on the balance of probabilities, the condition, requirement or practice is reasonable.
- (4) In deciding whether a condition, requirement or practice is reasonable, the following matters may be considered—
 - (a) the nature and extent of the disadvantage resulting from the imposition, or proposed imposition, of the condition, requirement or practice;
 - (b) whether the disadvantage is proportionate to the result sought by the person who imposes, or proposes to impose, the condition, requirement or practice;
 - (c) whether any adjustment could be made to the condition, requirement or practice to reduce the disadvantage caused;
 - (d) whether there is an alternative condition, requirement or practice that would achieve the result sought by the person imposing, or proposing to impose, the condition, requirement or practice and would result in less disadvantage;
 - (e) the cost of any adjustment or any alternative condition, requirement or practice;
 - (f) the financial circumstances of the person imposing, or proposing to impose, the condition, requirement or practice;
 - (g) any other relevant matter.

11A When does a person discriminate against another person

- (1) A person discriminates against another person if the person directly or indirectly discriminates against the other person on the basis of an attribute.
- (2) For subsection (1), it does not matter—
 - (a) whether the discrimination is only direct discrimination, only indirect discrimination or both direct discrimination and indirect discrimination; or
 - (b) whether the person who discriminates is aware of the discrimination; or
 - (c) whether the discrimination happens because the person does an act or makes an omission.
- (3) Also, a person’s motive for discriminating against another person is irrelevant.

8 Amendment of s 19 (Discrimination by industrial, professional, trade or business organisation in pre-membership area)

Section 19(2), from ‘if’ to ‘applies’—

omit, insert—

under the *Industrial Relations Act 2016*, chapter 12, part 9, division 2 or part 10

9 Amendment of s 20 (Discrimination by industrial, professional, trade or business organisation in membership area)

Section 20(2), from ‘if’ to ‘applies’—

omit, insert—

under the *Industrial Relations Act 2016*, chapter

[s 10]

12, part 9, division 2 or part 10

10 Amendment of s 21 (Discrimination by qualifying body in pre-qualification area)

(1) Section 21, from ‘extend’ to ‘business’—

omit, insert—

extend a professional, trade or business
qualification or authorisation

(2) Section 21(a) and (b), before ‘qualification’—

insert—

professional, trade or business

11 Amendment of s 22 (Discrimination by qualifying body in qualification area)

(1) Section 22, from ‘extend’ to ‘business’—

omit, insert—

extend a professional, trade or business
qualification or authorisation

(2) Section 22(a), (b) and (c), before ‘qualification’—

insert—

professional, trade or business

12 Amendment of s 45A (Non-application of s 46 to provision of assisted reproductive technology services)

Section 45A(1), ‘sexuality’—

omit, insert—

sexual orientation

13 Replacement of s 106 (Acts done in compliance with legislation etc.)

Section 106—

omit, insert—

106 Compliance with legislation or court or tribunal orders

A person may discriminate against another person if the discrimination is necessary to comply with—

- (a) another Act or an Act of the Commonwealth; or
- (b) an order of a court or tribunal.

14 Amendment of ch 3, hdg (Sexual harassment prohibited by this Act (complaint))

Chapter 3, heading, after ‘harassment’—

insert—

and harassment on the basis of sex

15 Replacement of ch 3, pt 1, hdg (Act’s freedom from sexual harassment purpose)

Chapter 3, part 1, heading—

omit, insert—

Part 1 Preliminary

16 Amendment of s 117 (Act’s freedom from sexual harassment purpose and how it is to be achieved)

- (1) Section 117, heading, after ‘harassment’—

insert—

and harassment on the basis of sex

[s 17]

(2) Section 117(1), from ‘equality’—

omit, insert—

equal opportunity and equitable outcomes for everyone by protecting them from sexual harassment and harassment on the basis of sex.

(3) Section 117(2)(a), after ‘harassment’—

insert—

and harassment on the basis of sex

(4) Section 117(2)(b), after ‘harassed’—

insert—

or harassed on the basis of sex

17 Amendment, relocation and renumbering of s 120 (Meaning of relevant circumstances)

(1) Section 120, after heading—

insert—

(1) This section applies in relation to determining whether conduct of a person constitutes sexual harassment or harassment on the basis of sex of another person.

(2) Section 120—

relocate to part 1 and *renumber* as section 117A.

18 Insertion of new ch 3, pt 3

Chapter 3—

insert—

Part 3

Prohibition of harassment on the basis of sex

Division 1 Preliminary

120 Meaning of *harassment on the basis of sex*

- (1) *Harassment on the basis of sex* happens if a person—
 - (a) engages in unwelcome conduct of a demeaning nature in relation to another person; and
 - (b) engages in the conduct on the basis of—
 - (i) the other person’s sex; or
 - (ii) a characteristic that a person of the other person’s sex generally has; or
 - (iii) a characteristic that is often imputed to a person of the other person’s sex; or
 - (iv) a sex the other person is presumed to be, or to have been at any time, by the person engaging in the conduct; or
 - (v) a sex the other person has been, even if the person is not that sex at the time of the conduct; and
 - (c) engages in the conduct—
 - (i) with the intention of offending, humiliating or intimidating the other person; or
 - (ii) in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.
- (2) For subsection (1), it does not matter whether the other person’s sex is only one of the reasons for the person engaging in the conduct.

[s 18]

120AA Relationship with other conduct

To remove any doubt, it is declared that this part does not limit any other provision of this Act that prohibits conduct of a person that is the same as or similar to conduct prohibited under division 2, whether the conduct is engaged in on the basis of, or in relation to, sex or any other attribute.

Division 2 Prohibition of harassment on the basis of sex

120A Person conducting business or undertaking

A person conducting a business or undertaking must not harass on the basis of sex—

- (a) a worker in the business or undertaking; or
- (b) a person seeking work in the business or undertaking; or
- (c) any other person in connection with conducting the business or undertaking.

120B Worker in business or undertaking

A worker in a business or undertaking must not harass on the basis of sex—

- (a) another worker in the business or undertaking; or
- (b) a person seeking work in the business or undertaking; or
- (c) any other person in connection with the person's work in the business or undertaking.

120C Other person dealing with business or undertaking

A person must not harass on the basis of sex—

- (a) a person conducting a business or undertaking; or
- (b) a worker in a business or undertaking.

120D Industrial, professional, trade or business organisation

A member of an organisation of workers, employers, or people who carry on an industry, profession, trade or business must not harass on the basis of sex—

- (a) another member of the organisation; or
- (b) a person seeking membership of the organisation.

120E Qualifying body

A person who has power to grant, renew or extend a professional, trade or business qualification or authorisation must not harass on the basis of sex a person seeking the grant, renewal or extension of the qualification or authorisation.

19 Amendment of s 121 (Act's freedom from associated objectionable conduct purpose and how it is to be achieved)

Section 121(1), 'equality of opportunity'—

omit, insert—

equal opportunity and equitable outcomes

[s 20]

20 Amendment of s 124 (Unnecessary information)

Section 124(2) to (4), and example—

omit, insert—

- (2) Subsection (1) does not apply to a request that is necessary to comply with—
 - (a) another Act or an Act of the Commonwealth; or
 - (b) an order of a court or tribunal.
- (3) It is a defence to a complaint about an alleged contravention of subsection (1) if the respondent proves, on the balance of probabilities, that the information was reasonably required for a purpose that did not involve discrimination.

21 Replacement of ch 4, pt 4 (Racial and religious vilification)

Chapter 4, part 4—

omit, insert—

Part 4 Vilification on grounds of age, gender identity, impairment, race, religion, sex, sex characteristics or sexual orientation

124A References to attribute of a person

In this part, a reference to a person's age, gender identity, impairment, race, religion, sex, sex characteristics or sexual orientation (a *relevant attribute*), in relation to conduct engaged in by a person, includes a reference to—

- (a) a characteristic that a person with the relevant attribute generally has; or
- (b) a characteristic that is often imputed to a person with the relevant attribute; or
- (c) a relevant attribute that a person is presumed to have, or to have had at any time, by the person engaging in the conduct; or
- (d) a relevant attribute that a person had, even if the person did not have it at the time the conduct was engaged in.

124B Meaning of *public act*

- (1) In this part, *public act*—
 - (a) includes the following conduct—
 - (i) any form of communication, including speaking, writing, displaying notices, playing of recorded material, broadcasting and communicating through social media and other electronic methods, to the public;
 - (ii) any conduct, including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia, observable by the public;
 - (iii) the distribution or dissemination of any matter to the public; but
 - (b) does not include the distribution or dissemination of any matter by a person to the public if the person does not know, and could not reasonably be expected to know, the content of the matter.
- (2) Conduct mentioned in subsection (1) may be a *public act* even if it happens on private land or in a place that is not ordinarily accessed by the

[s 21]

general public.

Examples of places for subsection (2)—

a place of work, an educational facility

124C Hateful, reviling, seriously contemptuous, or seriously ridiculing conduct

- (1) A person must not, because of the age, gender identity, impairment, race, religion, sex, sex characteristics or sexual orientation of another person or a group of persons, engage in a public act that a reasonable person would consider hateful towards, reviling, seriously contemptuous of, or seriously ridiculing the other person or members of the group.
- (2) For subsection (1), ***reasonable person*** means a reasonable person who has the same age, gender identity, impairment, race, religion, sex, sex characteristics or sexual orientation as the other person or members of the group.
- (3) Subsection (1) does not make unlawful—
 - (a) the publication of a fair report of a public act mentioned in subsection (1); or
 - (b) the publication of material in circumstances in which the publication would be subject to a defence of absolute privilege in proceedings for defamation; or
 - (c) a public act, done reasonably and in good faith, for academic, artistic, scientific or research purposes or for other purposes in the public interest, including public discussion or debate about, and expositions of, any act or matter.

124D Inciting hatred, serious contempt or severe ridicule

- (1) A person must not, in a public act, engage in conduct that is likely to incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the basis of the age, gender identity, impairment, race, religion, sex, sex characteristics or sexual orientation of the person or members of the group.

Note—

See also the Criminal Code, section 52A.

- (2) Subsection (1) does not make unlawful—
- (a) the publication of a fair report of a public act mentioned in subsection (1); or
 - (b) the publication of material in circumstances in which the publication would be subject to a defence of absolute privilege in proceedings for defamation; or
 - (c) a public act, done reasonably and in good faith, for academic, artistic, scientific or research purposes or for other purposes in the public interest, including public discussion or debate about, and expositions of, any act or matter.

22 Insertion of new ch 4, pt 5

Chapter 4—

insert—

Part 5

Work environment that is hostile on the basis of sex

[s 22]

124E Work environment that is hostile on the basis of sex

- (1) A person must not subject another person to a work environment that is hostile on the basis of sex.
- (2) A person (the *first person*) subjects another person (the *second person*) to a work environment that is hostile on the basis of sex if—
 - (a) the first person engages in conduct in a place where the first person or second person, or both, work; and
 - (b) the second person is at the place at the time or after the conduct is engaged in; and
 - (c) a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the conduct would create a work environment that would be offensive, humiliating or intimidating to a person of the second person's sex on the basis of—
 - (i) the sex of the second person; or
 - (ii) a characteristic that a person of the second person's sex generally has; or
 - (iii) a characteristic that is often imputed to a person of the second person's sex.
- (3) For subsection (2), it does not matter whether the conduct would create a work environment that would be offensive, humiliating or intimidating to a person for 2 or more reasons, as long as 1 of the reasons is the person's sex or a characteristic mentioned in subsection (2)(c)(ii) or (iii).
- (4) To remove any doubt, it is declared that this section does not limit any other provision of this Act that prohibits conduct of a person that is the same as or similar to conduct prohibited under this section, whether the conduct is engaged in on

the basis of, or in relation to, sex or any other attribute.

124F Relevant circumstances

For section 124E(2)(c), the circumstances that are relevant in determining whether a reasonable person would have anticipated that conduct would create a work environment that would be offensive, humiliating or intimidating to a person include—

- (a) the seriousness of the conduct; and
- (b) whether the conduct was continuous or repetitive; and
- (c) the role, influence or authority of the person engaging in the conduct; and
- (d) any other relevant circumstance.

23 Amendment of s 125 (Act's freedom from associated highly objectionable conduct purpose and how it is to be achieved)

Section 125(1), 'equality of opportunity'—

omit, insert—

equal opportunity and equitable outcomes

24 Amendment of s 130 (Meaning of victimisation)

Section 130(1)(a)(ii), from 'an act'—

omit, insert—

an act, or made an omission, that would amount to a contravention of the Act or the positive duty; or

[s 25]

25 Insertion of new ch 5C

After chapter 5B—

insert—

Chapter 5C Positive duty

131H Act's positive duty purpose and how it is to be achieved

- (1) One of the purposes of this Act is to promote equal opportunity and equitable outcomes for everyone by providing for the taking of positive action—
 - (a) to prevent, as far as possible, contraventions of the Act; and
 - (b) to help promote, as far as possible, the achievement of substantive equality.
- (2) The purpose is to be achieved by—
 - (a) imposing a positive duty on certain persons to eliminate, as far as possible, discrimination, sexual harassment, harassment on the basis of sex and certain other objectionable conduct; and
 - (b) providing for investigation into, and enforcement of, a person's compliance with the positive duty under chapter 7, part 1A.

Note—

A contravention of the positive duty is not a contravention of the Act for which a complaint may be made under chapter 7, part 1—see schedule 1, definition *contravention*.

131I Duty to eliminate discrimination, sexual harassment, harassment on the basis of sex and other objectionable conduct

- (1) This section applies to a person who, under chapter 2, 3, 4 or 5, must not engage in discrimination, sexual harassment, harassment on the basis of sex or other objectionable conduct.
- (2) However, this section applies to an individual only if the individual is a person conducting a business or undertaking.
- (3) The person must take reasonable and proportionate measures to eliminate the discrimination, sexual harassment, harassment on the basis of sex or other objectionable conduct as far as possible.
- (4) To remove any doubt, it is declared that the duty under subsection (3) does not limit, and applies to the person in addition to, the prohibitions applying to the person under chapter 2, 3, 4 or 5.

Note—

See also the *Human Rights Act 2019*, section 58 for other obligations applying to a public entity under that Act.

131J Deciding whether measure is reasonable and proportionate

In deciding whether a measure taken by a person to comply with the duty under section 131I(3) is reasonable and proportionate, the following matters must be considered—

- (a) the size, nature and circumstances of the person's business or undertaking or operations;
- (b) the resources of the person, whether financial or otherwise;

[s 26]

- (c) the practicability and the cost of the measure;
- (d) the person's business and operational priorities;
- (e) any other relevant matter.

26 Amendment of s 132 (Act's vicarious liability purpose and how it is to be achieved)

Section 132(1), 'equality of opportunity'—

omit, insert—

equal opportunity and equitable outcomes

27 Amendment of ch 7, pt 1, hdg (What the Queensland Human Rights Commission may do)

Chapter 7, part 1, heading, from 'Queensland'—

omit, insert—

commission may do—complaints

28 Amendment of s 134 (Who may complain)

(1) Section 134(1)—

insert—

Note—

See also section 146 in relation to representative complaints.

(2) Section 134—

insert—

- (1A) However, for a complaint that wholly or partly relates to a work-related matter, a person's agent for subsection (1)(b) can not be an employee or officer of, or acting for, an entity (other than a registered organisation) that purports to represent

the industrial interests of employees or employers.

- (3) Section 134(5)—

insert—

registered organisation means an organisation of employees or employers registered under the *Industrial Relations Act 2016* or the *Fair Work (Registered Organisations) Act 2009* (Cwlth).

- (4) Section 134(5), definition *relevant alleged contravention*, ‘section 124A’—

omit, insert—

section 124C or 124D

- (5) Section 134(5), definition *relevant entity*, ‘sexuality’—

omit, insert—

sexual orientation

- (6) Section 134(1A) to (5)—

renumber as section 134(2) to (6).

29 **Amendment of s 138 (Time limit on making complaints)**

- (1) Section 138(1), from ‘within’—

omit, insert—

within 2 years after the alleged contravention of the Act (the **complaint period**).

- (2) Section 138(2), from ‘more than’ to ‘of the Act’—

omit, insert—

after the complaint period has ended

30 **Amendment of s 141A (Deferral of acceptance of complaint for out-of-time contravention)**

Section 141A(1)(a)—

[s 31]

omit, insert—

- (a) a complaint relating to 2 or more alleged contraventions of the Act is made—
 - (i) within the complaint period for at least 1 of the alleged contraventions (a *within-time contravention*); and
 - (ii) after the complaint period for at least 1 of the alleged contraventions (an *out-of-time contravention*); and

31 Replacement of ch 7, pt 1, div 1, sdiv 2 (Representative complaints)

Chapter 7, part 1, division 1, subdivision 2—

omit, insert—

Subdivision 2 Representative complaints

146 Who may make representative complaint

- (1) A person may make a complaint about an alleged contravention of the Act as a representative complaint on behalf of a class of persons of which the person is a member if—
 - (a) all members of the class may make a complaint under section 134(1)(a) about the alleged contravention; and
 - (b) all of the complaints the members of the class may make under section 134(1)(a) about the alleged contravention—
 - (i) relate to, or arise out of, conduct of the same person; and
 - (ii) relate to, or arise out of, the same, similar or related circumstances; and
 - (iii) give rise to a substantial common issue of law or fact.

- (2) Also, a registered employee organisation may make a representative complaint about an alleged contravention of the Act as a representative complaint on behalf of a class of persons if—
 - (a) all members of the class are members of the organisation; and
 - (b) the alleged contravention is a work-related matter; and
 - (c) subsection (1)(a) and (b) apply in relation to the members of the class.
- (3) A complaint may be made under subsection (1) or (2) on behalf of a class of persons without the consent of the members of the class.

147 Additional requirements for form of representative complaint

- (1) A representative complaint must—
 - (a) describe or otherwise identify the members of the class of persons for which the complaint is made; and
 - (b) specify the nature of the complaints made on behalf of the members of the class; and
 - (c) specify the nature of the relief sought.
- (2) In describing or otherwise identifying the members of the class of persons, it is not necessary to name them or specify how many there are.

148 Effect of representative complaint on persons who are members of class represented

- (1) A person who is a member of a class of persons to which a representative complaint relates—

[s 31]

- (a) may, by written notice given to the commissioner at any time before the complaint is finally dealt with by the commissioner, opt out of the representative complaint; and
 - (b) is not entitled to make a separate complaint in relation to the conduct constituting the alleged contravention of the Act to which the representative complaint relates, unless the person opts out under paragraph (a).
- (2) Subsection (1)(b) does not apply or stops applying to a class member for a representative complaint, other than the complainant, if—
- (a) the commissioner amends the representative complaint under section 151; or
 - (b) the representative complaint lapses under section 142 or 167(4)(c) or division 5.
- (3) Also, subsection (1)(b) does not apply to a class member for a representative complaint, other than the complainant, if—
- (a) the representative complaint is referred to the tribunal; and
 - (b) any of the following happens—
 - (i) the complaint lapses under section 193;
 - (ii) the tribunal decides not to deal with the complaint as a representative complaint under section 194;
 - (iii) the class member opts out of the representative complaint under section 195;
 - (iv) the tribunal orders that the representative complaint no longer continue as a representative complaint under section 198 or 199.

149 Effect of representative complaint on persons who are not members of class represented

- (1) The making of a representative complaint about an alleged contravention of the Act does not prevent a person who is not a member of the class of persons to which the representative complaint relates making a complaint in relation to the conduct constituting the alleged contravention.
- (2) To remove any doubt, it is declared that subsection (1) also applies to a person who has opted out of the representative complaint under section 148 or 195.

150 Complaint may be amended to be representative complaint

- (1) If the commissioner is satisfied that a complaint made by or on behalf of a number of persons could be dealt with as a representative complaint if the persons on whose behalf the complaint is made are increased, reduced or otherwise altered, the commissioner may amend the complaint so that the complaint can be dealt with as a representative complaint.
- (2) However, the commissioner may amend the complaint under subsection (1) only if the person who made the complaint consents to the amendment and to the complaint being dealt with as a representative complaint.

151 Representative complaint may be amended to be non-representative complaint

- (1) This section applies if the commissioner is satisfied—
 - (a) that a complaint has been wrongly made as a representative complaint; or

[s 31]

- (b) it is in the interests of justice that the matter the subject of a complaint made as a representative complaint be dealt with other than as a representative complaint because—
 - (i) the complaint will not provide an efficient and effective way of dealing with the complaints of the class members for the complaint; or
 - (ii) the complainant is not able to adequately represent the interests of the class members for the complaint.
- (2) The commissioner may amend the complaint so that the complaint can be dealt with as a complaint other than as a representative complaint.

152 Substitution of complainant

- (1) This section does not apply in relation to a representative complaint made by a registered employee organisation as provided under section 146(2).
- (2) If the complainant for a representative complaint gives the commissioner written notice under section 170 that the complainant does not want to continue with the complaint, the commissioner may substitute another class member as the complainant with the consent of the other class member.
- (3) If the commissioner considers that the complainant is not able to adequately represent the interests of the class members for the complaint, the commissioner may substitute another class member as the complainant with the consent of the other class member.

152A Commissioner may give directions

The commissioner may give directions about the conduct of a representative complaint while it is being dealt with by the commissioner.

32 Replacement of ch 7, pt 1, div 2, hdg (The investigation process)

Chapter 7, part 1, division 2, heading—

omit, insert—

Division 2 Investigation of complaint

33 Amendment of s 154A (Investigation of complaint)

Section 154A—

insert—

- (2) Part 1A, division 1, subdivision 2 applies in relation to the investigation.

34 Omission of ss 155 and 156

Sections 155 and 156—

omit.

35 Relocation and renumbering s 157 (Commissioner may obtain actuarial, statistical or other data)

Section 157—

relocate to chapter 7, part 1A, division 3 as inserted by this Act and *renumber* as section 173S.

36 Replacement of ch 7, pt 1, div 3, hdg (The conciliation process)

Chapter 7, part 1, division 3, heading—

[s 37]

omit, insert—

Division 3 Conciliation of complaint

37 Amendment of s 170 (Complainant may withdraw complaint)

Section 170—

insert—

- (6) If the complaint is a representative complaint and the commissioner substitutes another class member as the complainant for the complaint under section 152(2)—
 - (a) subsections (2) to (5) do not apply; and
 - (b) the commissioner must give the person seeking withdrawal of the complaint a written notice stating—
 - (i) the complaint has not been withdrawn; and
 - (ii) that another class member has been substituted as the complainant for the complaint; and
 - (iii) the person may opt out of the complaint under section 148.

38 Amendment of s 172 (Commissioner may extend time limits)

Section 172—

insert—

- (2) In this section, a reference to a party in relation to a representative complaint includes a reference to a class member for the complaint.

39 Insertion of new ch 7, pt 1A

After section 172—

insert—

**Part 1A What the commission
may do—investigations
and compliance**

**Division 1 Investigation by
commissioner**

Subdivision 1 Starting investigation

173 Application of subdivision

This subdivision does not apply in relation to a matter that is the subject of a complaint that the commissioner has accepted under section 141.

Note—

See section 154A in relation to investigations of complaints.

**173A When commissioner must conduct
investigation**

The commissioner must conduct an investigation if—

- (a) requested to do so by the Minister; or
- (b) QCAT or the industrial relations commission becomes aware of circumstances that may constitute a contravention of the Act and refers the matter to the commissioner.

173B When commissioner may conduct investigation

- (1) The commissioner may conduct an investigation—
 - (a) into a possible contravention of the Act against a class or group of persons discovered in the performance of the commission’s functions, if the matter is of public concern and the Minister agrees; or
 - (b) relating to an allegation of an offence against this Act made to the commission; or
 - (c) into a possible offence against this Act discovered in the performance of the commission’s functions.
- (2) Also, the commissioner may conduct an investigation into a person’s compliance with the positive duty if the commissioner suspects the person is not complying with duty.
- (3) Further, if the commissioner believes the investigation would help achieve the purposes of this Act, the commissioner may conduct an investigation into any matter relating to a contravention of the Act that is or is suspected to be systemic.
- (4) For subsection (3), a contravention of the Act is systemic if the contravention—
 - (a) affects a class or group of persons; and
 - (b) is continuous, repetitive or forms a pattern.

173C Commissioner must notify person about investigation

- (1) This section applies if an investigation under this subdivision relates to a particular person.
- (2) The commissioner must give the person written

notice of the investigation.

- (3) The notice must invite the person to make submissions in relation to the investigation within a stated reasonable time.

Subdivision 2 Conduct of investigation

173D Application of subdivision

This subdivision applies in relation to an investigation under section 154A or subdivision 1.

173E Conduct of investigation generally

- (1) The commissioner may conduct an investigation in the way the commissioner considers appropriate.
- (2) In conducting an investigation under section 173A or section 173B(1)(a), the commissioner has the same powers the commissioner has in dealing with a complaint about a contravention or alleged contravention of the Act.

173F Power to require information or document

- (1) This section applies if the commissioner believes a person may have information relevant to an investigation.
- (2) The commissioner may, by written notice, direct the person—
 - (a) to give the commissioner the information within a stated reasonable time; or
 - (b) to attend before the commissioner at a stated reasonable time and place to give the information to the commissioner.

[s 39]

- (3) For information in an electronic document, compliance with the direction requires the giving of a clear written reproduction of the information.
- (4) The person must comply with the direction unless the person has a reasonable excuse.
Maximum penalty—100 penalty units.
- (5) It is a reasonable excuse for the person to fail to comply with the direction because, for example, complying with the direction—
 - (a) would require the person to disclose information that is subject to legal professional privilege; or
 - (b) for an individual—might tend to incriminate the individual or make the individual liable to a penalty.
- (6) A person who attends before the commissioner under subsection (2)(b) is entitled to be paid by the commission an amount equivalent to the amount the person would receive under the *Supreme Court of Queensland Act 1991* if the person's attendance before the commissioner were attendance in a Magistrates Court as a witness.
- (7) In this section—
information includes a document.

173G Outcome of investigation

After conducting an investigation under this subdivision, the commissioner may—

- (a) decide to take no further action; or
- (b) take any other action the commissioner may take under this Act in relation to the matter the subject of the investigation.

Example of action for paragraph (b)—

After conducting an investigation relating to an offence against this Act under section 173B(1)(b) or (c), the commissioner may decide to start a proceeding under section 226 for the offence.

Subdivision 3 Action relating to contravention of the Act

173H Referral to tribunal

- (1) This section applies if the commissioner—
 - (a) conducts an investigation under section 173A or section 173B(1)(a) about a matter involving a contravention or alleged contravention of the Act; and
 - (b) believes the matter can not be resolved by conciliation.
- (2) The commissioner may refer the matter to the tribunal as if it were a complaint.
- (3) If the commissioner refers the matter to the tribunal, the commissioner is, for the purposes of the relevant tribunal Act, the applicant.

Subdivision 4 Action relating to compliance with positive duty

173I Action commissioner may take

- (1) This section applies in relation to an investigation under section 173B(2) relating to a person's compliance with the positive duty.
- (2) The commissioner may do 1 or more of the following—

[s 39]

- (a) help a person to whom the investigation relates to prepare an undertaking for the purposes of section 173J;
- (b) accept an undertaking from a person to whom the investigation relates under section 173J;
- (c) give a compliance notice to a person to whom the investigation relates under section 173L;
- (d) prepare a report about the investigation, and publish the report or give the report to the Minister, under section 173NA.

173J Undertakings

- (1) If the commissioner considers the person has contravened, is contravening, or is likely to contravene the positive duty, the commissioner may accept a written undertaking from the person under which the person undertakes to take, to stop taking, or not to take, stated action to comply with the duty.
- (2) If the commissioner refuses to accept a written undertaking from the person, the commissioner must give the person a written notice stating the commissioner's decision not to accept the undertaking and the reasons for the decision.
- (3) The commissioner and the person may agree to amend an undertaking at any time.
- (4) The commissioner may publish an undertaking under this section—
 - (a) on the commission's website; and
 - (b) in any other way the commissioner considers appropriate.

173K Compliance with undertaking

- (1) This section applies if the commissioner has accepted an undertaking from a person under section 173J.
- (2) If the person fails to comply with the undertaking the commissioner may apply to the tribunal for an order under subsection (3).
- (3) If the tribunal is satisfied the person has failed to comply with the undertaking, the tribunal may make—
 - (a) an order requiring the person to comply with the undertaking; and
 - (b) any other order the tribunal considers appropriate.

Note—

See the *Industrial Relations Act 2016*, section 544 in relation to enforcing orders of the industrial relations commission and the QCAT Act, section 132 in relation to enforcing orders of QCAT that are not monetary decisions.

- (4) If the person fails, or continues to fail, to comply with the undertaking after an order is made under subsection (3), the commissioner may withdraw the commissioner's acceptance of the undertaking.
- (5) Before withdrawing the commissioner's acceptance of the undertaking under subsection (4), the commissioner must give the person an opportunity to show, within a period of at least 14 days, to the commissioner's satisfaction that the person is complying with the undertaking.

173L Compliance notices

- (1) This section applies if—

[s 39]

- (a) after conducting the investigation, the commissioner considers the person has contravened, is contravening, or is likely to contravene the positive duty; and
- (b) either—
 - (i) the person has not offered an undertaking acceptable to the commissioner in relation to the contravention or likely contravention; or
 - (ii) the commissioner accepted an undertaking in relation to the contravention or likely contravention under section 173J but—
 - (A) the person has failed to comply with the undertaking as required by an order under section 173K(3)(a); and
 - (B) the commissioner has withdrawn the commissioner’s acceptance of the undertaking under section 173K(4).
- (2) The commissioner may issue a written notice (a ***compliance notice***) to the person requiring the person to take, to stop taking, or not to take, stated action to comply with the positive duty.
- (3) The compliance notice must state—
 - (a) the name of the person to whom the notice is issued; and
 - (b) the basis on which the commissioner considers the person has contravened, is contravening, or is likely to contravene the positive duty; and
 - (c) the nature of the contravention or likely contravention of the positive duty; and

- (d) the action the person is required to take, to stop taking, or not to take to comply with the positive duty; and
- (e) the time within which the person must comply with the notice; and
- (f) the further action the commissioner may take under this Act if the person does not comply with the notice; and
- (g) that the person may apply to the tribunal, under section 173N, for a review of the decision to issue the notice or the terms of the notice, and information about how and when the person may apply for the review under that section.

173M Compliance with compliance notice

- (1) This section applies if the commissioner has issued a compliance notice to a person under section 173L.
- (2) If the person fails to comply with the compliance notice, the commissioner may apply to the tribunal for an order under subsection (3).
- (3) If the tribunal is satisfied the person has failed to comply with the compliance notice, the tribunal may make—
 - (a) an order requiring the person to comply with the notice; and
 - (b) any other order the tribunal considers appropriate.

Note—

See the *Industrial Relations Act 2016*, section 544 in relation to enforcing orders of the industrial relations commission and the QCAT Act, section 132 in relation to enforcing orders of QCAT that are not monetary decisions.

[s 39]

173N Review of compliance notice

- (1) This section applies if the commissioner issues a compliance notice to a person under section 173L.
- (2) The person may apply to the tribunal for a review of the issuing of the compliance notice or any term of the compliance notice—
 - (a) within 28 days after receiving the compliance notice; and
 - (b) as provided under the relevant tribunal Act.
- (3) In deciding an application for a review under subsection (2), the tribunal may—
 - (a) confirm the compliance notice, with or without amendment; or
 - (b) withdraw the compliance notice.
- (4) If the tribunal confirms the compliance notice, the tribunal must consider whether the time for complying with the compliance notice should be amended.

173NA Report on investigation

- (1) A report about the investigation—
 - (a) may include the commissioner's recommendations for dealing with the matter the subject of the report; and
 - (b) must not include personal information about an individual unless the information has previously been published, or given for the purpose of publication, by the individual; and
 - (c) must not include an adverse comment about an entity unless—

- (i) the entity has been given an opportunity to make submissions in relation to the adverse comment; and
 - (ii) the submissions are fairly stated in the report.
- (2) For subsection (1)(c), an adverse comment does not include a statement that a respondent did not participate in resolving a complaint.
- (3) The commissioner may do either or both of the following—
 - (a) publish a copy of the report—
 - (i) on the commission’s website; and
 - (ii) in any other way the commissioner considers appropriate;
 - (b) give the report to the Minister.
- (4) If the Minister is given a report under subsection (3)(b), the Minister must table the report in the Legislative Assembly within 6 sitting days after the Minister receives the report.

Subdivision 5 Action relating to systemic contravention

1730 Action commissioner may take

- (1) This section applies in relation to an investigation under section 173B(3).
- (2) The commissioner may prepare a report about the investigation, and publish the report or give the report to the Minister, under section 173P.

173P Report on investigation

- (1) A report about the investigation—

[s 39]

- (a) may include the commissioner's recommendations for dealing with the matter the subject of the report; and
 - (b) must not include personal information about an individual unless the information has previously been published, or given for the purpose of publication, by the individual; and
 - (c) must not include an adverse comment about an entity unless—
 - (i) the entity has been given an opportunity to make submissions in relation to the adverse comment; and
 - (ii) the submissions are fairly stated in the report.
- (2) For subsection (1)(c), an adverse comment does not include a statement that a respondent did not participate in resolving a complaint.
- (3) The commissioner may do either or both of the following—
- (a) publish a copy of the report—
 - (i) on the commission's website; and
 - (ii) in any other way the commissioner considers appropriate;
 - (b) give the report to the Minister.
- (4) If the Minister is given a report under subsection (3)(b), the Minister must table the report in the Legislative Assembly within 6 sitting days after the Minister receives the report.

Division 2 Guidelines

173Q Commission guidelines

The commission—

- (a) must issue guidelines about how persons may comply with the positive duty; and
- (b) may issue guidelines about any other matter relating to this Act.

173R Publication of guidelines

The commission—

- (a) must publish any guidelines issued under this division on the commission's website; and
- (b) may publish the guidelines in any other way the commission considers appropriate.

Division 3 Other provisions

40 Relocation and renumbering of s 173 (Authentication of documents)

Section 173—

relocate and *renumber* as section 266A.

41 Relocation and renumbering of s 174 (Judicial notice of commissioner's signature)

Section 174—

relocate and *renumber* as section 266B.

42 Amendment of s 174A (Functions of QCAT)

(1) Section 174A—

insert—

[s 43]

- (aa) for contraventions of the positive duty, other than in relation to work-related matters—
 - (i) to make orders under section 173K about compliance with undertakings accepted under 173J; and
 - (ii) to make orders under section 173M about compliance with compliance notices issued under section 173L; and
 - (iii) to review, under section 173N, decisions of the commissioner to issue compliance notices under section 173L or the terms of the notices;
- (2) Section 174A(e), ‘to (d)’—
omit, insert—
to (e)
- (3) Section 174A(aa) to (e)—
renumber as section 174A(b) to (f).

43 Amendment of s 174B (Functions of industrial relations commission)

- (1) Section 174B—
insert—
 - (aa) for contraventions of the positive duty in relation to work-related matters—
 - (i) to make orders under section 173K about compliance with undertakings accepted under 173J; and
 - (ii) to make orders under section 173M about compliance with compliance notices issued under section 173L; and
 - (iii) to review, under section 173N, decisions of the commissioner to issue

compliance notices under section 173L
or the terms of the notices;

- (2) Section 174B(e), ‘to (d)’—
omit, insert—
to (e)
- (3) Section 174B(aa) to (e)—
renumber as section 174B(b) to (f).

44 Amendment of s 175 (Time limit on referred complaints)

- (1) Section 175(1), from ‘more than’—
omit, insert—
after the end of the complaint period for the
alleged contravention of the Act to which the
complaint relates.
- (2) Section 175(2), from ‘more than’ to ‘contravention’—
omit, insert—
after the end of the complaint period for the
alleged contravention of the Act to which the
complaint relates

45 Insertion of new s 176A

After section 176—
insert—

176A Representation—industrial relations commission

- (1) This section applies to a proceeding for a
complaint before the industrial relations
commission.
- (2) A party to the proceeding, or a person ordered or
permitted to appear or to be represented in the
proceeding, may be represented in the proceeding

[s 46]

only as provided under the *Industrial Relations Act 2016*, section 529.

46 Amendment of s 193 (Complainant may withdraw complaint)

Section 193—

insert—

- (4) Subsections (1) to (3) apply in relation to a representative complaint only if the tribunal approves the withdrawal of the complaint.
- (5) Also, for a representative complaint, subsections (1) to (3) do not apply if the tribunal—
 - (a) substitutes another class member as the complainant for the complaint under section 201(2); and
 - (b) notifies the person seeking withdrawal of the complaint—
 - (i) of the substitution; and
 - (ii) that the person may opt out of the complaint under section 195.

47 Replacement of ch 7, pt 2, div 1, sdiv 2 (Representative complaints)

Chapter 7, part 2, division 1, subdivision 2—

omit, insert—

Subdivision 2 Representative complaints

194 Tribunal may deal with complaint as representative complaint

- (1) The tribunal may deal with a complaint referred to it as a representative complaint if—

- (a) before the referral, the complaint was being dealt with by the commissioner as a representative complaint; or
 - (b) the tribunal decides to deal with the complaint as a representative complaint.
- (2) The tribunal may decide to deal with a complaint made by or on behalf of a class of persons as a representative complaint if the tribunal is satisfied—
- (a) all members of the class may make a complaint under section 134(1)(a) about the alleged contravention to which the complaint relates; and
 - (b) all of the complaints the members of the class may make under section 134(1)(a) about the alleged contravention to which the complaint relates—
 - (i) relate to, or arise out of, conduct of the same person; and
 - (ii) relate to, or arise out of, the same, similar or related circumstances; and
 - (iii) give rise to a substantial common issue of law or fact; and
 - (c) either—
 - (i) the complainant is a member of the class; or
 - (ii) the alleged contravention to which the complaint relates is a work-related matter, the complainant is a registered employee organisation and all members of the class are members of the organisation.

[s 47]

195 Effect of representative complaint on persons who are members of class represented

- (1) A person who is a member of a class of persons to which a representative complaint before the tribunal relates—
 - (a) may, by giving written notice to the tribunal before the date fixed under subsection (3), opt out of the representative complaint; and
 - (b) is not entitled to make a separate complaint in relation to the conduct constituting the alleged contravention of the Act to which the representative complaint relates, unless the person opts out under paragraph (a).
- (2) Subsection (1)(b) is subject to section 148(3).
- (3) The tribunal must fix a date (the *opt-out date*) before which a person may opt out of a representative complaint under subsection (1).
- (4) On the application of the complainant, respondent or a class member for a representative complaint, the tribunal may fix a later date as the opt-out date.
- (5) Except by leave of the tribunal, the hearing of a representative complaint must not start earlier than the opt-out date.

196 Effect of representative complaint on persons who are not members of class represented

- (1) The tribunal dealing with a complaint as a representative complaint in relation to an alleged contravention of the Act does not prevent a person who is not a member of the class of persons to which the representative complaint relates making a complaint in relation to the conduct constituting the alleged contravention.
- (2) To remove any doubt, it is declared that

subsection (1) also applies to a person who has opted out of the representative complaint under section 195.

197 Tribunal may order complaint to be dealt with as representative complaint

If the tribunal is satisfied that a complaint made by or on behalf of a number of persons could be dealt with as a representative complaint if the persons on whose behalf the complaint is made are increased, reduced or otherwise altered, the tribunal may, by order, direct—

- (a) that the complaint be dealt with as a representative complaint; and
- (b) the complainant to amend the complaint to allow the complaint to be dealt with as a representative complaint.

198 Excessive distribution costs

- (1) This section applies if—
 - (a) the relief sought in a representative complaint is or includes payment of money to the class members for the complaint, other than for costs; and
 - (b) on application by the respondent, the tribunal considers it is likely that, if an order were to be made in favour of the complainant, the cost to the respondent of identifying the class members for the complaint and distributing to them the amounts ordered to be paid to them would be excessive, having regard to the likely total of those amounts.
- (2) The tribunal may, by order—

[s 47]

- (a) direct that the complaint no longer continue as a representative complaint; or
- (b) stay the complaint so far as it relates to relief of the kind mentioned in subsection (1)(a).

199 Tribunal may discontinue representative complaint in particular circumstances

- (1) The tribunal may, on application by the respondent or on its own initiative, order that a complaint no longer continue as a representative complaint if the tribunal considers it is in the interests of justice to do so because—
 - (a) the complaint will not provide an efficient and effective way of dealing with the complaints of the class members for the complaint; or
 - (b) the complainant is not able to adequately represent the interests of the class members for the complaint; or
 - (c) it is otherwise inappropriate that the complaint continue as a representative complaint.
- (2) If the tribunal dismisses an application by the respondent made under this section, the tribunal may order that no further application under this section may be made by the respondent in relation to the representative complaint except with the leave of the tribunal.
- (3) For subsection (2), leave may be granted subject to the conditions about costs the tribunal considers just.

200 Effect of representative complaint being discontinued

- (1) This section does not apply in relation to a

representative complaint made by a registered employee organisation as provided under section 146(2).

- (2) If the tribunal makes an order under section 198 or 199 that a complaint no longer continue as a representative complaint—
 - (a) the complaint may be continued as a complaint by the person who made the complaint on the person's own behalf against the respondent; and
 - (b) on the application of a class member for the complaint, the tribunal may order that the person be joined as a joint complainant in the continued complaint.

201 Substitution of complainant

- (1) This section does not apply in relation to a representative complaint made by a registered employee organisation as provided under section 146(2).
- (2) If the complainant for a representative complaint gives the tribunal written notice under section 193 that the complainant does not want to continue with the complaint, the tribunal may substitute another class member as the complainant with the consent of the other class member.
- (3) If the tribunal considers that the complainant is not able to adequately represent the interests of the class members for the complaint, the tribunal may substitute another class member as the complainant with the consent of the other class member.

[s 47]

202 Tribunal approval needed for settlement or withdrawal of representative complaint

- (1) A representative complaint may be settled or withdrawn only with the approval of the tribunal.
- (2) If the tribunal gives approval under subsection (1), the tribunal may make any orders it considers just for the distribution of money paid under a settlement or paid to the tribunal.

203 Notices for representative complaint

- (1) For a representative complaint, each class member for the complaint must be given notice of the following matters—
 - (a) the making of the complaint and the right of the member to opt out of the complaint before the date fixed by the tribunal under section 195;
 - (b) the giving of a written notice of not continuing with the complaint to the tribunal under section 193;
 - (c) an application to the tribunal for the dismissal of the complaint;
 - (d) an application to the tribunal for approval of a settlement of the complaint.
- (2) The notice must be given by the person, in the way and within the time directed by the tribunal.
- (3) The tribunal may, by order, direct the person who is required to give the notice to include other information in the notice.
- (4) A notice about a matter for which the tribunal's leave or approval is required must state the period within which a person may apply to the tribunal, or take some other step, in relation to the matter.
- (5) The tribunal may direct that notice be given by

publishing a notice on a website or in another place likely to be accessible to the class members for the representative complaint.

- (6) The tribunal must not direct that notice be given personally to each class member for the representative complaint unless the tribunal considers that giving personal notice to each class member would be reasonably practicable and not unduly expensive.
- (7) The failure of a class member for the representative complaint to receive or respond to a notice does not affect a step taken, or an order made, in the representative complaint.

203A Directions about conduct of representative complaint

The tribunal may give directions about the conduct of a representative complaint before the tribunal.

47A Replacement of ss 204–206

Sections 204 to 206—

omit, insert—

204 Burden of proof—general

- (1) In a complaint proceeding, if there are facts from which it could be decided, in the absence of any other explanation, that the respondent contravened the provision of the Act the subject of the alleged contravention, the respondent is taken to have contravened the provision.
- (2) Subsection (1) does not apply if the respondent proves, on the balance of probabilities, that the respondent did not contravene the provision.
- (3) Subsection (1) and (2) apply in addition to any

[s 48]

other provision of the Act that provides for who has the onus of proving a particular matter.

Note—

See, for example, section 11(3) and 205.

205 Burden of proof—exemption

(1) An exemption is a defence to discrimination, and the person seeking to rely on the exemption has the onus of proving, on the balance of probabilities, that the exemption applies.

(2) In this section—

exemption means an exemption under chapter 2, part 4 or 5 that applies to discrimination.

48 Amendment of s 209 (Orders the tribunal may make if complaint is proven)

(1) Section 209(1)(a), ‘the complainant or another person specified in the order’—

omit, insert—

an affected person

(2) Section 209(1)(b), ‘the complainant or another person’—

omit, insert—

an affected person

(3) Section 209(1)(c), ‘the complainant and another person’—

omit, insert—

an affected person

(4) Section 209(1)(g), ‘a party’—

omit, insert—

the respondent

(5) Section 209(2), ‘person on whose behalf a representative complaint was made’—

omit, insert—

class member for a representative complaint

- (6) Section 209(2), ‘the person’—

omit, insert—

the class member

- (7) Section 209(3)(b), ‘person on whose behalf the complaint was made’—

omit, insert—

class member for the complaint

- (8) Section 209(3), ‘the person’—

omit, insert—

the class member

- (9) Section 209(3), ‘the person’s’—

omit, insert—

the class member’s

- (10) Section 209—

insert—

(4A) The tribunal may order costs in a complaint as follows—

- (a) for a representative complaint—against the complainant or the respondent, but not against a class member for the complaint other than the complainant;
- (b) otherwise—as provided under the relevant tribunal Act.

- (11) Section 209(5)—

insert—

affected person, in relation to an order by the tribunal about a complaint, means—

- (a) the complainant; or

[s 49]

- (b) for a representative complaint, a class member for the complaint; or
 - (c) another person stated in the order.
- (12) Section 209(4A) and (5)—
renumber as section 209(5) and (6).

49 Amendment of s 223 (Contempt of commission)

Section 223(1), after ‘part 1’—

insert—

or 1A

50 Amendment of s 235 (Commission’s functions)

(1) Section 235(b)—

omit, insert—

- (b) to conduct investigations under section 154A and chapter 7, part 1A and, if appropriate, take action in relation to the investigations;

(2) Section 235(d), after ‘purposes of’—

insert—

and support compliance with

51 Insertion of new ch 11, pt 10

Chapter 11—

insert—

Part 10

**Transitional provisions
for Respect at Work
and Other Matters
Amendment Act 2024**

282 Definitions for part

In this part—

amendment Act means the *Respect at Work and Other Matters Amendment Act 2024*.

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

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

283 Time limit for making complaint

- (1) New section 138 does not apply in relation to an alleged contravention of the Act that happened more than 1 year before the commencement.
- (2) Former sections 138, 141A and 175 apply in relation to the alleged contravention.
- (3) This section does not affect—
 - (a) the commissioner accepting a complaint about the alleged contravention under former section 138(2) or dealing with the complaint under former section 141A; or
 - (b) the tribunal accepting a complaint about the alleged contravention under former section 175(2).

284 Existing complaints by unregistered industrial organisations

New section 134(2) does not apply in relation to a complaint made before the commencement.

[s 51]

285 Existing representative complaints

- (1) This section applies in relation to a complaint accepted by the commissioner before the commencement that, immediately before the commencement—
 - (a) was a representative complaint; and
 - (b) either—
 - (i) was still being dealt with by the commissioner; or
 - (ii) had been referred to the tribunal and was still being dealt with by the tribunal.
- (2) Former chapter 7, parts 1 and 2 continue to apply in relation to the complaint, and the complaint must continue to be dealt with under former chapter 7, parts 1 and 2, as if the amendment Act had not been enacted.
- (3) Subsection (2) does not prevent the commissioner giving directions under former section 150, or the tribunal giving directions under section former 198, that allows for the complaint to be dealt with in a way that is consistent with this Act as in force from the commencement.

285A Burden of proof for complaints about pre-commencement conduct

- (1) This section applies in relation to—
 - (a) a complaint made before the commencement that, immediately before the commencement, had not been finally dealt with; or
 - (b) a complaint made after the commencement in relation to an alleged contravention of the Act that happened before the commencement.

-
- (2) New sections 204 and 205 do not apply in relation to the complaint.
 - (3) Former sections 204 to 206 continue to apply in relation to the complaint.

286 Existing investigation

- (1) An investigation under section 154A or former section 155 started but not finished before the commencement may be continued and finished under this Act.
- (2) Chapter 7, part 1A, division 1, subdivision 2 applies in relation to the investigation.
- (3) For subsection (2), an investigation started under former section 155 is taken to have been started under chapter 7, part 1A, division 1, subdivision 1.

287 Existing directions for information or documents

Former section 156 continues to apply in relation to a direction given under that section before the commencement, as if the amendment Act had not been enacted.

52 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definitions *family responsibilities*, *immediate family*, *race*, *relation* and *sexuality*—
omit.
- (2) Schedule 1—
insert—

class member, for a representative complaint, means each person named or otherwise identified in the complaint as a person on whose behalf the

[s 52]

complaint is made, other than a person who has opted out of the complaint under section 148 or 195.

complaint period, for an alleged contravention of the Act, see section 138(1).

conduct includes making a statement, whether the statement is made orally or in writing.

expunged conviction, in relation to a person, means a conviction of the person that has been expunged or extinguished, or whose effect has otherwise ended, under—

- (a) the *Criminal Law (Historical Homosexual Convictions Expungement) Act 2017*; or
- (b) a law of another State that provides for the same, or substantially the same, matter as the Act mentioned in paragraph (a).

harassment on the basis of sex see section 120.

homelessness, in relation to a person, includes the person not having adequate, safe and secure housing.

irrelevant criminal record, in relation to a person, means a record, or an imputation of a record, relating to an offence or alleged offence, if—

- (a) the person has been charged with the offence but—
 - (i) a proceeding for the offence is not finalised; or
 - (ii) the charge has lapsed, been withdrawn or discharged, or struck out; or
- (b) the person has been acquitted of the offence; or
- (c) the person has had a conviction for the offence quashed or set aside; or

-
- (d) the person is proceeded against for the offence only by way of an infringement notice under the *State Penalties Enforcement Act 1999*; or
 - (e) the person has a conviction for the offence, but the circumstances of the offence are not directly relevant to the situation in which the record is being considered; or
 - (f) the person has a spent conviction for the offence; or
 - (g) the offence was dealt with by way of—
 - (i) a caution administered to the person under the *Youth Justice Act 1992*, part 2, division 2; or
 - (ii) a restorative justice process under the *Youth Justice Act 1992*, part 2, division 3.

irrelevant medical record, in relation to a person, means the person's medical record, or a part of the person's medical record, that is not directly relevant to the situation in which the record or part of the record is being considered.

medical record, of a person, includes a record of applications or claims the person has made for compensation or other money to be paid under—

- (a) the workers' compensation scheme under the *Workers' Compensation and Rehabilitation Act 2003*; or
- (b) a similar scheme under another Act or a law of another State or the Commonwealth.

person conducting a business or undertaking see the *Work Health and Safety Act 2011*, section 5.

physical appearance, of a person, means—

- (a) the person's weight, size or height; or

[s 52]

- (b) the presence of a birth mark or scar on the person's face or body; or
- (c) any other characteristic of the person's face or body—
 - (i) that the person has because of another attribute of the person; or
 - (ii) that is not freely chosen.

positive duty means the duty under chapter 5C.

potential pregnancy, in relation to a person, includes—

- (a) the person's capability to become pregnant; and
- (b) the person's expressed desire to become pregnant; and
- (c) the person's likelihood, or perceived likelihood, to become pregnant; and
- (d) the person's undergoing of a medical treatment or other procedure that procures, or attempts to procure, pregnancy in the person other than by sexual intercourse.

professional, trade or business qualification or authorisation means a qualification or authorisation that (whether by itself or together with other qualifications or authorisations) is needed for, or facilitates, the practice of a profession or the carrying on of a trade or business.

public act, for chapter 4, part 4, see section 124B.

race includes—

- (a) colour; and
- (b) descent, ancestry or caste; and
- (c) ethnicity or ethnic origin; and

- (d) nationality or national origin; and
- (e) immigration or migration status.

registered employee organisation means an organisation of employees that is registered under the *Industrial Relations Act 2016* or the *Fair Work (Registered Organisations) Act 2009* (Cwlth).

relation, of a person, means—

- (a) a person who is related to the person by blood, spousal relationship, adoption or a foster relationship; or
- (b) a person on whom the person is completely or mainly dependent; or
- (c) a person who is completely or mainly dependent on the person; or
- (d) a person who is a member of the same household as the person; or
- (e) if the person is an Aboriginal person—a person who, under Aboriginal tradition, is regarded as a relative of the person; or
- (f) if the person is a Torres Strait Islander person—a person who, under Island custom, is regarded as a relative of the person.

sexual harassment see section 119.

sexual orientation, of a person, means the person's capacity, or lack of capacity, for emotional, affectional and sexual attraction to, or intimate or sexual relations with, persons of a different gender or the same gender or more than one gender.

subjection to domestic or family violence, in relation to a person, means the person is or has been subject to domestic violence within the meaning given by the *Domestic and Family*

[s 52]

Violence Protection Act 2012, section 8.

trade union activity means any of the following activities—

- (a) being, or not being, a member of a registered employee organisation;
 - (b) joining, not joining, or refusing to join a registered employee organisation;
 - (ba) being represented by, or seeking to be represented by, a registered employee organisation;
 - (c) establishing, or being involved in establishing, a registered employee organisation;
 - (d) organising or promoting, or proposing to organise or promote, a lawful activity on behalf of a registered employee organisation;
 - (e) encouraging, assisting or participating in, or proposing to encourage, assist or participate in, a lawful activity organised or promoted by a registered employee organisation;
 - (f) not participating in, or refusing to participate in, a lawful activity organised or promoted by a registered employee organisation;
 - (g) representing or advancing the views, claims or interests of members of a registered employee organisation.
- (3) Schedule 1, definition *complainant*, paragraph (a)—
- omit, insert—*
- (a) in relation to a representative complaint—
 - (i) the person who made the complaint; or

-
- (ii) if the complainant has been substituted under section 152 or 201—the substituted complainant; or
- (4) Schedule 1, definition *contravention*, paragraph (b), after ‘harassment’—
insert—
or harassment on the basis of sex
- (4A) Schedule 1, definition *discriminate—*
insert—
Note—
See also section 11A.
- (5) Schedule 1, definition *parent—*
insert—
- (e) for an Aboriginal person—a person who, under Aboriginal tradition, is regarded as a parent of the person; and
 - (f) for a Torres Strait Islander person—a person who, under Island custom, is regarded as a parent of the person.

Part 3 Amendment of Corrective Services Act 2006

53 Act amended

This part amends the *Corrective Services Act 2006*.

54 Amendment of s 319A (Definitions)

Section 319A, definition *relevant person—*
omit, insert—

relevant person, in relation to an offender, means

[s 54A]

a person who may make a complaint under the Anti-Discrimination Act, section 134 about an alleged contravention of that Act committed by a person in relation to the offender.

54A Amendment of s 319G (When treatment of offender by protected defendant is not direct discrimination)

Section 319G(1)—

omit, insert—

- (1) This section applies if a protected defendant treats, or proposes to treat, an offender unfavourably because the offender has an attribute.

54B Amendment of s 319H (When term imposed on offender by protected defendant is not indirect discrimination)

- (1) Section 319H(1)—

omit, insert—

- (1) This section applies if a protected defendant imposes, or proposes to impose, a term that has, or is likely to have, the effect of disadvantaging an offender because the offender has an attribute.

- (2) Section 319H(2), ‘section 11(1)(c)’—

omit, insert—

section 11(1)(b)

- (3) Section 319H(3), definition *term*—

omit, insert—

term means condition, requirement or practice.

Part 4 Amendment of Criminal Code

55 Code amended

This part amends the Criminal Code.

56 Amendment of s 1 (Definitions)

(1) Section 1, definition *sexuality*—
omit.

(2) Section 1—
insert—

impairment see the *Anti-Discrimination Act 1991*, schedule 1.

sexual orientation see the *Anti-Discrimination Act 1991*, schedule 1.

57 Amendment of s 52A (Offence of serious racial, religious, sexuality or gender identity vilification)

(1) Section 52A, heading—
omit, insert—

52A Offence of serious vilification on grounds of age, gender identity, impairment, race, religion, sex, sex characteristics or sexual orientation

(2) Section 52A(1), ‘race, religion, sexuality or gender identity’—

omit, insert—

age, gender identity, impairment, race, religion, sex, sex characteristics or sexual orientation

(3) Section 52A(2)—

omit, insert—

[s 58]

- (2) In this section, **public act**—
- (a) includes the following conduct—
- (i) any form of communication, including speaking, writing, displaying notices, playing of recorded material, broadcasting and communicating through social media and other electronic methods, to the public;
 - (ii) any conduct, including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia, observable by the public;
 - (iii) the distribution or dissemination of any matter to the public; but
- (b) does not include the distribution or dissemination of any matter by a person to the public if the person does not know, and could not reasonably be expected to know, the content of the matter.
- (3) Conduct mentioned in subsection (2)(a) may be a **public act** even if it happens on private land or in a place that is not ordinarily accessed by the general public.

Examples of places for subsection (3)—

a place of work, an educational facility

58 Amendment of s 52B (Circumstances of aggravation for particular offences)

Section 52B(1), ‘race, religion, sexuality, sex characteristics or gender identity’—

omit, insert—

age, gender identity, impairment, race, religion, sex, sex characteristics or sexual orientation

59 Amendment of s 52C (Prohibited symbols)

Section 52C(5), definition *relevant group*, ‘race, religion, sexuality, sex characteristics or gender identity’—

omit, insert—

age, gender identity, impairment, race, religion, sex, sex characteristics or sexual orientation

59A Amendment of s 340 (Serious assaults)

Section 340(3), definition *public officer*, paragraph (b)—

insert—

Example—

a person appointed as a health service employee to perform functions as a security officer, wardsperson, cleaner or food service worker

Part 5 Amendment of District Court of Queensland Act 1967

60 Act amended

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

60A Amendment of s 3 (Definitions)

Section 3—

insert—

reserve judge means a person appointed as a reserve judge of the District Court under section 18.

retired District Court judge means a person who—

(a) has been a judge of the District Court; and

[s 60B]

(b) has not reached 78 years of age.

60B Amendment of s 17 (Acting judge)

Section 17(8)—

omit.

60C Insertion of new ss 18 and 18A

After section 17—

insert—

18 Reserve judges

- (1) The Governor in Council may, by commission, appoint as many reserve judges as are necessary for conducting the business of the court.

Note—

For the remuneration of a reserve judge engaged under section 18A, see the *Judicial Remuneration Act 2007*, section 9A.

- (2) A person is eligible for appointment as a reserve judge only if—
- (a) the person is a retired Supreme Court judge or retired District Court judge; or
 - (b) the person has not reached 70 years of age and has been—
 - (i) a judge of a supreme court, district court or county court of another State; or
 - (ii) a judge of the Federal Court of Australia.
- (3) A reserve judge's appointment ends on the earlier of—

- (a) the day, not more than 5 years after the appointment is made, stated in the person's commission; or
- (b) the day the reserve judge reaches the age of—
 - (i) if the person is a retired District Court judge—78 years; or
 - (ii) otherwise—70 years.
- (4) However, despite subsection (3), a reserve judge engaged under section 18A who, before the judge's commission ends, starts the hearing of a proceeding, remains a reserve judge for the purposes of finishing the proceeding.
- (5) A person may be re-appointed as a reserve judge.
- (6) In this section—
retired Supreme Court judge see the *Supreme Court of Queensland Act 1991*, schedule 5.

18A Engagement of reserve judges

- (1) The Chief Judge may, from time to time, by notice in writing, engage a reserve judge to undertake the duties of a judge on a full-time or sessional basis.
- (2) Each engagement under subsection (1) must not exceed 6 consecutive months.
- (3) A reserve judge engaged under this section—
 - (a) may be engaged more than once; and
 - (b) has, subject to the conditions stated in the judge's commission, the same powers, authority, immunities and protections as a judge.
- (4) A period of engagement of a reserve judge under this section is not to be counted as service for the purposes of the *Judges (Pensions and Long*

[s 61]

Leave) Act 1957.

61 Replacement of s 28AA (Protection for administrative acts)

Section 28AA—

omit, insert—

28AA Protection and immunity of judges

(1) A judge has, in the performance or exercise of a function or power of a judge, the same protection and immunity as a Supreme Court judge has in the performance or exercise of a function or power of a Supreme Court judge.

(2) In this section—

function or power includes an administrative function or power conferred under an Act.

Note—

For the protection and immunity of a Supreme Court judge in the performance or exercise of an administrative function or power conferred on the Supreme Court judge under an Act, see the *Supreme Court of Queensland Act 1991*, section 27.

62 Insertion of new s 152

After section 151—

insert—

152 Transitional provision for Respect at Work and Other Matters Amendment Act 2024

- (1) Amended section 28AA is taken to have always applied in relation to a judge's performance or exercise of a function or power as a judge.
- (2) However, subsection (1) does not apply for the purposes of a proceeding against a judge started before the introduction day.

(3) In this section—

amended section 28AA means section 28AA as amended by the *Respect at Work and Other Matters Amendment Act 2024*.

introduction day means the day the Bill for the *Respect at Work and Other Matters Amendment Act 2024* was introduced into the Legislative Assembly.

Part 6 Amendment of Human Rights Act 2019

63 Act amended

This part amends the *Human Rights Act 2019*.

64 Amendment of sch 1 (Dictionary)

Schedule 1, definition *discrimination*, note, ‘sexuality’—
omit, insert—
sexual orientation

Part 6A Amendment of Judicial Remuneration Act 2007

64A Act amended

This part amends the *Judicial Remuneration Act 2007*.

64B Amendment of s 5A (Retired acting Supreme Court judge)

(1) Section 5A, heading, ‘Retired’—
omit, insert—

[s 64C]

Reserve Supreme Court judge or retired

(2) Section 5A(1) and (2)—

omit, insert—

- (1) A reserve Supreme Court judge or retired acting Supreme Court judge engaged, or appointed to act, on a full-time basis is entitled to be paid, for a financial year, an amount equivalent to the amount payable to a Supreme Court judge under sections 5 and 21, less any amount the judge receives as a pension.
- (2) A reserve Supreme Court judge or retired acting Supreme Court judge engaged, or appointed to act, on a sessional basis is entitled to be paid an amount decided by the Governor in Council and stated in the judge's commission of appointment.

(3) Section 5A(4)—

insert—

pension includes a pension to which a person is entitled on retirement as a judge under an Act of the Commonwealth or another State.

reserve Supreme Court judge means a person appointed as a reserve judge under the *Supreme Court of Queensland Act 1991*, section 6A.

64C Amendment of s 9 (District Court judge other than the Chief Judge or retired acting District Court judge)

(1) Section 9, heading, 'or retired acting District Court judge'—

omit.

(2) Section 9, 'or a retired acting District Court judge'—

omit.

64D Amendment of s 9A (Retired acting District Court judge)

- (1) Section 9A, heading, ‘Retired’—

omit, insert—

Reserve District Court judge or retired

- (2) Section 9A(1) and (2)—

omit, insert—

- (1) A reserve District Court judge or retired acting District Court judge engaged, or appointed to act, on a full-time basis is entitled to be paid, for a financial year, an amount equivalent to the amount payable to a District Court judge under sections 9 and 21, less any amount the judge receives as a pension.
- (2) A reserve District Court judge or retired acting District Court judge engaged, or appointed to act, on a sessional basis is entitled to be paid an amount decided by the Governor in Council and stated in the judge’s commission of appointment.

- (3) Section 9A—

insert—

- (6) In this section—

pension includes a pension to which a person is entitled on retirement as a judge under an Act of the Commonwealth or another State.

reserve District Court judge means a person appointed as a reserve judge under the *District Court of Queensland Act 1967*, section 18.

retired acting District Court judge means a retired District Court judge appointed to act as a judge under the *District Court of Queensland Act 1967*, section 17(3).

[s 64E]

64E Amendment of sch 2 (Dictionary)

Schedule 2, definition *retired acting District Court judge*—
omit.

Part 7 Amendment of Magistrates Act 1991

65 Act amended

This part amends the *Magistrates Act 1991*.

66 Amendment of s 47 (Terms and conditions of employment—full-time and part-time magistrates)

(1) Section 47—

insert—

(3A) The terms and conditions mentioned in subsection (3) may include an entitlement to paid or unpaid parental leave.

(3B) Subsection (4) has effect despite subsections (1) and (2) and the *Judicial Remuneration Act 2007*.

(2) Section 47(3A) to (4)—

renumber as section 47(4) to (6).

67 Replacement of s 51 (Protection for administrative acts)

Section 51—

omit, insert—

51 Protection and immunity of magistrates

(1) A magistrate has, in the performance or exercise of a function or power of a magistrate, the same protection and immunity as a Supreme Court judge has in the performance or exercise of a

function or power of a Supreme Court judge.

(2) In this section—

function or power includes an administrative function or power conferred under an Act.

Note—

For the protection and immunity of a Supreme Court judge in the performance or exercise of an administrative function or power conferred on the Supreme Court judge under an Act, see the *Supreme Court of Queensland Act 1991*, section 27.

68 Insertion of new pt 10, div 12

Part 10—

insert—

Division 12 Transitional provision for Respect at Work and Other Matters Amendment Act 2024

75 Retrospective operation of amended s 51

- (1) Amended section 51 is taken to have always applied in relation to a magistrate's performance or exercise of a function or power as a magistrate.
- (2) However, subsection (1) does not apply for the purposes of a proceeding against a magistrate started before the introduction day.
- (3) In this section—

amended section 51 means section 51 as amended by the *Respect at Work and Other Matters Amendment Act 2024*.

introduction day means the day the Bill for the *Respect at Work and Other Matters Amendment Act 2024* was introduced into the Legislative

[s 69]

Assembly.

Part 8 **Amendment of Penalties and Sentences Act 1992**

69 Act amended

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

70 Amendment of s 9 (Sentencing guidelines)

Section 9—

insert—

- (10E) Subsection (10F) applies if—
 - (a) the court is sentencing an offender to whom subsection (2A) applies; and
 - (b) the offender committed the offence while the other person mentioned in subsection (2A) was performing, or because the person had performed, the functions of the person’s office or employment.
- (10F) In determining the appropriate sentence for the offender, the court must treat the fact that the offender committed the offence while the other person was performing, or because the person had performed, the functions of the person’s office or employment as an aggravating factor, unless the court considers it is not reasonable to do so because of the exceptional circumstances of the case.
- (10G) A reference in subsection (10E) or (10F) to a person performing the functions of the person’s office or employment includes a reference to a person performing work—
 - (a) in a relationship of employment; or

- (b) under a contract for services; or
- (c) under an appointment; or
- (d) on a voluntary or unpaid basis.

71 Amendment of s 10 (Court's reasons to be stated and recorded)

(1) Section 10(1)(c), 'cause'—

omit, insert—

if the chief executive (corrective services) requests a copy of the reasons—cause

(2) Section 10—

insert—

(3) The court need not comply with subsection (1)(b) if the reasons are recorded under the *Recording of Evidence Act 1962*.

72 Insertion of new pt 14, div 25

Part 14—

insert—

**Division 25 Transitional provision for
Respect at Work and Other
Matters Amendment Act
2024**

**262 Application of s 9 to sentencing offenders
after commencement**

Section 9, as amended by the *Respect at Work and Other Matters Amendment Act 2024*, applies to the sentencing of an offender after the commencement whether the offence or conviction happened before or after the

[s 73]

commencement.

Part 9

Amendment of Queensland Civil and Administrative Tribunal Act 2009

73 Act amended

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

74 Amendment of s 237 (Immunity of participants etc.)

Section 237(11)—

insert—

function, of an officer or other person on whom protection and immunity is conferred under subsection (1) to (6), includes an administrative function conferred on the officer or other person under an Act.

75 Insertion of new ch 10, pt 5

Chapter 10—

insert—

Part 5

Transitional provision for Respect at Work and Other Matters Amendment Act 2024

292 Retrospective operation of amended s 237

(1) Amended section 237 is taken to have always applied in relation to the performance of a

protected person's functions.

- (2) The rights and liabilities of a protected person in relation to the performance of a function of the protected person before the commencement are the same, and are taken to have always been the same, as they would be or would have been if amended section 237 had been in force at the time of the performance of the function.
- (3) However, subsections (1) and (2) do not apply for the purposes of a proceeding against a protected person started before the introduction day.
- (4) In this section—

amended section 237 means section 237 as amended by the *Respect at Work and Other Matters Amendment Act 2024*.

introduction day means the day the Bill for the *Respect at Work and Other Matters Amendment Act 2024* was introduced into the Legislative Assembly.

protected person means an officer or other person on whom protection and immunity is conferred under section 237(1) to (6).

Part 9A

Amendment of Supreme Court of Queensland Act 1991

75A Act amended

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

75B Amendment of s 6 (Acting judges)

Section 6(12)—

omit.

[s 75C]

75C Insertion of new ss 6A and 6B

After section 6—

insert—

6A Reserve judges

- (1) The Governor in Council may, by commission, appoint as many reserve judges as are necessary for conducting the business of the court.

Note—

For the remuneration of a reserve judge engaged under section 6B, see the *Judicial Remuneration Act 2007*, section 5A.

- (2) A person is eligible for appointment as a reserve judge only if—
 - (a) the person is a retired Supreme Court judge; or
 - (b) the person has not reached 70 years of age and has been—
 - (i) a judge of a supreme court of another State; or
 - (ii) a judge of the Federal Court of Australia.
- (3) A reserve judge's appointment ends on the earlier of—
 - (a) the day, not more than 5 years after the appointment is made, stated in the person's commission; or
 - (b) the day the reserve judge reaches the age of—
 - (i) if the person is a retired Supreme Court judge—78 years; or
 - (ii) otherwise—70 years.
- (4) However, despite subsection (3), a reserve judge engaged under section 6B who, before the judge's

commission ends, starts the hearing of a proceeding, remains a reserve judge for the purposes of finishing the proceeding.

- (5) A person may be re-appointed as a reserve judge.

6B Engagement of reserve judges

- (1) The chief justice may, from time to time, by notice in writing, engage a reserve judge to undertake the duties of a judge on a full-time or sessional basis.
- (2) Each engagement under subsection (1) must not exceed 6 consecutive months.
- (3) A reserve judge engaged under this section—
- (a) may be engaged more than once; and
 - (b) has, subject to the conditions stated in the judge's commission, the same powers, authority, immunities and protections as a judge.
- (4) A period of engagement of a reserve judge under this section is not to be counted as service for the purposes of the *Judges (Pensions and Long Leave) Act 1957*.

75D Amendment of sch 5 (Dictionary)

Schedule 5—

insert—

reserve judge means a person appointed as a reserve judge of the Supreme Court under section 6A.

retired Supreme Court judge means a person who—

- (a) has been a judge of the Supreme Court; and

[s 76]

(b) has not reached 78 years of age.

Part 10 Amendment of Youth Justice Act 1992

76 Act amended

This part amends the *Youth Justice Act 1992*.

77 Amendment of s 209 (Court’s reasons for detention order to be stated and recorded)

(1) Section 209—

insert—

(1A) However, a court need not comply with subsection (1)(b) if the reasons are recorded under the *Recording of Evidence Act 1962*.

(2) Section 209(2), ‘subsection (3)’—

omit, insert—

subsection (4)

(3) Section 209(1A) to (3)—

renumber as section 209(2) to (4).

Part 11 Amendments relating to Administrative Review Tribunal Act 2024 (Cwlth)

78 Legislation amended

Schedule 2 amends the legislation it mentions.

Schedule 1 Other amendments of Anti-Discrimination Act 1991

section 3

1 References to unfavourable treatment

Each provision mentioned in column 1 is amended by omitting the words mentioned in column 2 and inserting the words mentioned in column 3—

Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 15(1)(f)	treating a worker unfavourably in any way	subjecting a worker to any other detriment
section 15A(2)(d)	treating the worker unfavourably in any way	subjecting the worker to any other detriment
section 18(d)	treating another partner unfavourably in any way	subjecting another partner to any other detriment
section 20(1)(d)	treating a person unfavourably in any way	subjecting a person to any other detriment
section 22(c)	treating the other person unfavourably in any way	subjecting the other person to any other detriment
section 23(d)	treating a person seeking work or an employer seeking a worker unfavourably in any way	subjecting a person seeking work, or an employer seeking a worker, to any other detriment
section 39(d)	treating a student unfavourably in any way	subjecting a student to any other detriment

Schedule 1

Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 46(1)(d)	treating the other person unfavourably in any way	subjecting the other person to any other detriment
section 55(c)	treating the other person unfavourably in any way	subjecting the other person to any other detriment
section 57(c)	treating the other partner unfavourably in any way	subjecting the other partner to any other detriment
section 69(c)	treating the person unfavourably in any way	subjecting the person to any other detriment
section 71(c)	treating the other partner unfavourably in any way	subjecting the other partner to any other detriment
section 83(d)	treating the other person unfavourably in any way	subjecting the other person to any other detriment
section 95(e)	treating a member unfavourably in any way	subjecting a member to any other detriment

2 Section 131D, ‘, 204 and 205’—

omit, insert—

and 204

Schedule 2 Amendments relating to Administrative Review Tribunal Act 2024 (Cwlth)

section 78

Agricultural and Veterinary Chemicals (Queensland) Act 1994

1 Section 16(2), from ‘*Administrative*’ to ‘that section’—

omit, insert—

Administrative Review Tribunal Act 2024
(Cwlth), part 10, division 3, as that division

2 Section 19—

omit, insert—

**19 Construction of references to part 7 of
Commonwealth Administrative Review
Tribunal Act**

For section 16, a reference in a provision of the *Administrative Review Tribunal Act 2024* (Cwlth), as that provision applies as a law of this jurisdiction, to the whole or part of part 7 of that Act is taken to be a reference to the whole or part of that part as it has effect as a law of the Commonwealth.

**3 Schedule, definition *Commonwealth administrative laws*,
paragraph (a)(i)—**

omit, insert—

- (i) the *Administrative Review Tribunal Act 2024* (Cwlth), excluding part 7;

Competition Policy Reform (Queensland) Act 1996

1 Section 29, definition *Commonwealth administrative laws*, paragraph (a)(i)—

omit, insert—

- (i) the *Administrative Review Tribunal Act 2024* (Cwlth), excluding part 7;

2 Section 33A—

omit, insert—

33A Construction of references to part 7 of Commonwealth Administrative Review Tribunal Act

For sections 30 and 31, a reference in a provision of the *Administrative Review Tribunal Act 2024* (Cwlth), as that provision applies as a law of this jurisdiction, to the whole or part of part 7 of that Act is taken to be a reference to the whole or part of that part as it has effect as a law of the Commonwealth.

Corporations (Queensland) Act 1990

1 Section 3(1), definition *Commonwealth administrative laws*, paragraph (a)—

omit, insert—

- (a) the *Administrative Review Tribunal Act 2024* (Cwlth), excluding part 7;

2 Section 36A—

omit, insert—

36A Construction of references to part 7 of Commonwealth Administrative Review Tribunal Act

For sections 35 and 36, a reference in a provision of the *Administrative Review Tribunal Act 2024* (Cwlth), as that provision applies as a law of Queensland, to the whole or part of part 7 of that Act is taken to be a reference to the whole or part of that part as it has effect as a law of the Commonwealth.

Education and Care Services National Law (Queensland) Act 2011

1 Sections 39(1), 40(1) and 41(1), ‘Administrative Appeals Tribunal’—

omit, insert—

Administrative Review Tribunal

Gene Technology (Queensland) Act 2016

1 Section 5(1), definition *Commonwealth administrative laws*, paragraph (a)—

omit, insert—

(a) the *Administrative Review Tribunal Act 2024* (Cwlth), excluding part 7;

2 Section 15(3), from ‘Administrative’ to ‘part IVA’—

omit, insert—

Administrative Review Tribunal Act 2024 (Cwlth), as that provision applies as a law of this State, to the whole or part of part 7

Research Involving Human Embryos and Prohibition of Human Cloning for Reproduction Act 2003

1 Section 39, definition *Administrative Appeals Tribunal*—

omit.

2 Section 39—

insert—

Administrative Review Tribunal means the Administrative Review Tribunal established by the *Administrative Review Tribunal Act 2024* (Cwlth).

3 Section 39, definition *decision*, ‘Administrative Appeals Tribunal Act 1975 (Cwlth)’—

omit, insert—

Administrative Review Tribunal Act 2024 (Cwlth)

4 Section 40(1), ‘Administrative Appeals Tribunal’—

omit, insert—

Administrative Review Tribunal

5 Section 40(2), ‘Administrative Appeals Tribunal Act 1975 (Cwlth)’—

omit, insert—

Administrative Review Tribunal Act 2024 (Cwlth)

6 Section 40(3), from ‘Administrative’ to ‘part IVA’—

omit, insert—

Administrative Review Tribunal Act 2024 (Cwlth), other than part 7

7 Section 40(4)—

omit, insert—

- (4) For this section, a reference in a provision of the *Administrative Review Tribunal Act 2024* (Cwlth), as the provision applies as a law of this State, to the whole or part of part 7 of that Act is taken to be a reference to the whole or part of that part as it has effect as a law of the Commonwealth.

8 Schedule, definition *Administrative Appeals Tribunal*—

omit.

9 Schedule—

insert—

Administrative Review Tribunal, for part 3, division 6, see section 39.

Telecommunications Interception Act 2009

- 1 Sections 9, 10(1) and 15(1)(a)(i) and (ii), ‘AAT’—**
omit, insert—
ART

Therapeutic Goods Act 2019

- 1 Section 9(1)(a)—**
omit, insert—
(a) the *Administrative Review Tribunal Act 2024* (Cwlth);

Transport Operations (Marine Safety—Domestic Commercial Vessel National Law Application) Act 2016

- 1 Section 4(1), definition *Commonwealth administrative laws*, paragraph (a)—**
omit, insert—
(a) the *Administrative Review Tribunal Act 2024*, other than part 7;
- 2 Section 13(5)—**
omit, insert—
(5) For this section, a reference in a provision of the *Administrative Review Tribunal Act 2024* (Cwlth), as that provision applies as a law of this

State, to the whole or part of part 7 of that Act is taken to be a reference to the whole or part of that part as it has effect as a law of the Commonwealth.

Water Efficiency Labelling and Standards (Queensland) Act 2005

1 Section 5(1), definition *Commonwealth administrative laws*, paragraph (a)—

omit, insert—

- (a) the *Administrative Review Tribunal Act 2024* (Cwlth), other than part 7;

2 Section 15(5)—

omit, insert—

- (5) For this section, a reference in a provision of the *Administrative Review Tribunal Act 2024* (Cwlth), as that provision applies as a law of this State, to the whole or part of part 7 of that Act is taken to be a reference to the whole or part of that part as it has effect as a law of the Commonwealth.

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