

Industrial Relations and Other Legislation Amendment Bill 2026

Explanatory Notes

Short title

The short title of the Bill is the Industrial Relations and Other Legislation Amendment Bill 2026 (the Bill).

Policy objectives and the reasons for them

The primary objective of the Bill is to support workplace productivity and a fair, balanced and sustainable workers' compensation scheme. The Bill does this by giving effect to certain recommendations arising from the 2026 industrial relations and workers' compensation scheme review (the review) as outlined in the government response to the review report.

By way of further background, on 24 March 2026, the Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations announced a review of the *Industrial Relations Act 2016* (IR Act) and *Workers' Compensation and Rehabilitation Act 2003* (WCR Act) to consider emerging workplace and workers' compensation scheme trends. The review was completed by independent reviewers, Mr Glenn Ferguson AM and Mr Gary Black who sought submissions and met with a range of stakeholders representing employers, unions, workers, insurers and other key interest groups to inform their findings and recommendations.

For the industrial relations framework, the review found problems with the existing system including dual wage setting mechanisms; differences between the federal and state systems and a lack of consideration of Government being the primary employer in the jurisdiction.

For the workers' compensation scheme, the review found that emerging trends will have long-term financial impacts on the sustainability of the scheme if not managed carefully. Six key areas requiring action were identified to support the scheme's long-term sustainability, including:

- ensuring the scheme provides appropriate coverage of psychological injury claims;
- improving the consistency and quality of insurer decision making and claims management practices, with a particular focus on primary and secondary psychological injuries, rehabilitation and return to work;
- strengthening insurer capability, including through access to appropriately qualified specialist medical expertise and robust clinical governance;
- ensuring the Workers' Compensation Regulator has the appropriate tools to drive continuous improvement and respond effectively to insurer non-compliance;
- expanding the range of tools available to prevent, detect and respond appropriately to fraud and related offending; and
- streamlining processes for assessing degree of permanent impairment and reviewing insurer decisions.

The review of the workers' compensation scheme was completed under section 584A of the WCR Act, which requires the responsible Minister to ensure a review of the scheme is completed at least once every five years.

Other amendments

The Bill also includes amendments to:

- the *Brisbane Olympic and Paralympic Games Arrangements Act 2021* (BOPGA Act) to address an unintended consequence in relation to noise restrictions that may apply to venues defined in the BOPGA Act, and to facilitate a minor boundary realignment for the Gabba Entertainment and Housing Precinct project to commence in a timely manner
- the *Planning and Environment Court Act 2016* (P&E Court Act) to establish a new position of Planning and Environment Court (P&E Court) Judge Administrator within the Planning and Environment Court, reflecting a similar existing position under the *District Court of Queensland Act 1967*, to facilitate more efficient administration and improve transparency regarding the governance structure.

Achievement of policy objectives

The Bill achieves its objective of implementing certain recommendations arising from the review.

Industrial Relations Act 2016

Amendments to the IR Act provide greater consistency and alignment with relevant *Fair Work Act 2009* (Cth) (FW Act) requirements; increased rigour and transparency in the operation of registered organisations such as publishing union rules and a new 'fit and proper person' test for authorised officers; improves collective bargaining practices, allowing faster resolution of bargains by increasing the notice period for protected industrial action and not providing for protected industrial action during conciliation, providing the opportunity for wage increases to be realised sooner, and allows faster access to arbitration and prescribing factors that balance the role of the State of Queensland as an employer and provider of services in making arbitration determinations. The Bill streamlines the process for the annual State Wage Case and restores parties' right to engage legal representation in matters before the Queensland Industrial Relations Commission (QIRC) to promote freedom of choice and the efficient operation of the Commission.

The Bill achieves its objective by amending the IR Act to:

- ensure productive workplaces and providing adequate protections and fair conditions for employees is a main purpose of the Act;
- balance freedom of association with the rule of law and a robust regulatory scheme for unions
- introduce changes to collective bargaining that promote fair and ethical conduct, including changes to balloting, protected industrial action and scope orders
- harmonise the Queensland industrial relations framework with the Commonwealth's Fair Work Act for national consistency and to minimise regulatory burden
- support effective wage-setting mechanisms that provide for productivity and genuine bargaining; and

- support the efficient operation of the QIRC and the Industrial Court of Queensland (ICQ).

Balance freedom of association with the rule of law and a robust regulatory scheme for unions (Recommendations 9, 11, 41).

The Bill addresses concerns that the Queensland industrial relations framework does not adequately support freedom of association by allowing workers and employers to be represented by the organisation of their choice. The Bill promotes freedom of association by providing for legal representation in proceedings before the QIRC where the QIRC gives leave and by restoring a worker's ability to choose their legal representative in proceedings clauses 84 and 85). For example, a worker may choose to be represented by a private lawyer, a lawyer acting for the worker's union, or a lawyer acting for another association or entity. The Bill also removes the prohibition on a party to a proceeding being represented by an employee or officer acting for an entity that is not an organisation under the IR Act. This reverses prior amendments to the IR Act which limited the right to represent a party to proceedings to an employee or officer of an organisation registered under the Act, or by a lawyer in limited circumstances.

The Bill also achieves its policy objective to create a more robust regulatory scheme for unions by introducing protections for whistleblowers who make a disclosure regarding the misconduct of a registered organisation (clause 63), requiring a publicly available register of registered organisations and those organisations' rules to be maintained by the QIRC (clause 93) and requiring organisations to prepare a general purpose financial report showing total expenditure incurred by a reporting unit during the financial year (clause 102). The new whistleblower protections and the requirement to prepare a comprehensive financial report are modelled on provisions of the FW Act for greater consistency between jurisdictions and to promote transparency and ethical and appropriate conduct.

Introduce changes to collective bargaining that promote fair and ethical conduct (Recommendations 23-28, 30, 32, 33, 34).

The Bill achieves its policy objectives by introducing changes to protected industrial action that achieve a fair balance between the rights of employers and employees to use industrial action to support and advance their position in negotiations and the public interest. The Bill increases the required notice period for protected industrial action where the industrial action is responding to or occurring after industrial action taken by another party to a proposed instrument to three working days, consistent with the FW Act requirements (clause 50). The Bill also provides that an employer may deduct pay for a partial withdrawal of labour consistent the Commonwealth's FW Act provisions (clause 52). The Bill also provides that an employee is not entitled to payment for protected industrial action that amounts to a full withdrawal of labour (clause 52). Further, the Bill achieves its objectives by authorising the Minister to make a written declaration terminating protected industrial action for a proposed agreement in specific circumstances where the action is contrary to the public interest (clause 54) and introduces further avenues to apply to the QIRC for suspension or termination of the action where public services are significantly impacted or the action is contrary to the public interest (clause 53). These amendments will ensure essential public services are maintained across all sectors like transport, health, and community safety where the action would otherwise be contrary to the public interest.

The Bill provides for the direct balloting of employees for a proposed agreement by an employer in the absence of agreement from all negotiating parties on conclusion of the peace obligation period to address protracted bargaining and the potential for deliberate frustration of negotiations by uncooperative parties. The ability to conduct a direct ballot will be contingent on agreement being reached with one or more employee organisations. This will provide for

greater worker engagement where a majority may support the agreement for increased wages (clause 27).

The Bill introduces a requirement for the QIRC to consider the impacts of a proposed scope order on an employer, particularly potential adverse impacts on the business or operational needs of the employer (clause 37).

The Bill introduces matters the QIRC is required to consider when making an arbitration determination that are broadly aligned with factors considered by the Fair Work Commission (FWC) in making a workplace determination under the FW Act while taking into consideration the scope of the jurisdiction (clause 36). This amendment aims to address discrepancies between wage outcomes in negotiated agreements and arbitrated outcomes. The Bill also provides for the referral of matters to arbitration with limited prospects of reaching agreement otherwise to support the timely resolution of disputes (clause 34) and clarifies the date conciliation begins for the purposes of the IR Act (clause 31).

Harmonise the Queensland industrial relations framework with the Fair Work jurisdiction for national consistency and to minimise regulatory burden (Recommendations 11, 15, 16, 17, 23, 24, 25, 27, 30, 32).

The Bill achieves its policy objectives by harmonising the Queensland industrial relations framework with the Commonwealth's Fair Work Act through the introduction of the following amendments:

- protections for whistleblowers modelled on protections in the *Fair Work (Registered Organisations) Act 2009* (Cth) (clause 63);
- requiring the publication of union rules to promote transparency and ethical conduct as in the Fair Work Act (clause 93);
- a new 'fit and proper person' test for issuing an authority under the IR Act modelled on the 'fit and proper person' test for an entry permit under the Commonwealth's FW Act (clause 65);
- new requirements for right of entry to inspect time and wages that are consistent with requirements in the Commonwealth's FW Act (clauses 68, 69);
- allowing the direct balloting of employees for a proposed agreement where in-principle agreement cannot be achieved between all negotiating parties, as in the Commonwealth's FW Act (clause 27);
- requiring at least three working days' notice before taking industrial action in response to or occurring after industrial action taken by another party to a proposed instrument, as in the Commonwealth's FW Act (clause 50);
- harmonising consequences for industrial action in the IR Act with those in the Commonwealth's FW Act (clause 52);
- requiring the QIRC consider the impacts of a proposed scope order on an employer when considering whether to make such an order, as in the Commonwealth's FW Act (clause 37);
- matters the commission must consider when making an arbitration determination in proceedings for a negotiated agreement similar to matters the Fair Work Commission must consider in making a workplace determination under the Commonwealth's FW Act while taking into account the scope of the jurisdiction (clause 36).

Support effective wage-setting mechanisms that provide for productivity and genuine bargaining (Recommendations 36-38).

The Bill achieves its policy objectives by removing sections 145 and 146 of the IR Act, which previously expressly provided a process for conditions from certified agreements and directives to flow on to award provisions on application from a party to a modern award (clause 22). This amendment addresses concerns about the ‘leapfrogging’ of wages, which has resulted in modern award rates consistently exceeding certified agreement rates. The Bill further achieves its objectives by reflecting the importance of ensuring workplace productivity and providing fair conditions in the main purpose of the Act.

The Bill also allows the Full Bench of the QIRC to automatically adopt the outcome of the Commonwealth Fair Work Commission’s Annual Wage Review in the State Wage Case, where there is no objection, to minimise the burden on parties, particularly as State Wage Case decisions each year have generally reflected the decisions of the Annual Wage Review (clause 82).

Support the efficient operation of the Queensland Industrial Relations Commission and the Industrial Court (Recommendations 41, 43, 44, 45, 47, 48, 49, 50, 51, 53, 54, 55).

The Bill achieves its policy objectives by providing for legal representation in proceedings before the QIRC, as outlined above (clauses 84 and 85). Further, the Bill extends the jurisdiction of the court and commission so that either on application or acting on its own volition, the court or commission may dismiss a matter, or refrain from hearing a matter, further hearing or deciding the matter if the Court or Commission considers that further proceedings are not necessary or desirable in the public interest (clause 87). The Bill also permits an application for long service leave to be paid out on application of an employee to an employer if no state or federal industrial instrument provides for this entitlement only if the employee and employer agree by a signed agreement the payment may be made (clause 21), allowing the QIRC to redirect its resources to resolving disputes. The Bill also empowers the Commission to punish a person for contempt of the tribunal (clause 79) and broadens the Court’s and Commission’s discretion to award costs, including where costs were incurred due to unreasonable acts or the pursuit of proceedings without reasonable prospects of success (clause 88).

The Bill introduces further changes clarifying that the vice-president or deputy president of the Industrial Court is a judge of the Industrial Court (clause 73), providing that a deputy president may be appointed by way of commission by the Governor-in-Council (clause 76) and clarifying the conditions and qualifications for appointment of members of the Industrial Court (clause 77). Further, the Bill allows for the vice-president of the Court to act as president when the president is temporarily unavailable to perform the functions of office in circumstances where the Governor in Council does not appoint a person who is a Supreme Court Judge to act as President. The Bill also clarifies who is responsible for administration of the Court including for ensuring the orderly and expeditious exercise of the jurisdiction and powers of the court (clause 74 and 75).

Workers' Compensation and Rehabilitation Act 2003

Amendments to the WCR Act support a fair, balanced and sustainable workers' compensation scheme by:

- ensuring workers' compensation coverage for psychological injuries is appropriately connected to employment;
- strengthening the scheme's ability to detect, prevent and respond to workers' compensation fraud;
- establishing strong clinical governance arrangements and efficient permanent impairment assessment pathways;
- enhancing the regulatory tools available to the Workers' Compensation Regulator (Regulator) to improve insurer performance;
- increasing alignment between WorkCover Queensland and licensed self-insured employers;
- providing consistent coverage for firefighters in relation to presumptive post-traumatic stress disorder (PTSD) and presumed cancer provisions by extending coverage to Queensland Parks and Wildlife Service employees who undertake firefighting duties that are substantially similar to those performed by firefighters already covered by the provisions;
- supporting fair and effective dispute resolution processes;
- supporting informed employment and workplace risk management decisions; and
- improving the efficiency and administration of the scheme.

Ensuring workers' compensation coverage for psychological injuries is appropriately connected to employment (Recommendations 1 and 2).

Psychological injury claims have had continuous growth over the last five years and often arise from a combination of work related and non-work-related factors. The Bill (clause 121) strengthens the causal connection required between employment and a psychological injury, while providing fair compensation for workers where employment is the major significant contributing factor to the injury. This supports the scheme's objectives of providing fair and responsive benefits to injured workers while maintaining an affordable and viable scheme for employers. This amendment aligns Queensland with other jurisdictions such as New South Wales and Victoria, in their efforts to deal with the complex nature of psychological injuries.

The Bill (clause 121) also amends the reasonable management action exclusion for psychological injuries to clarify the meaning of reasonable management action. This includes clarifying that reasonable management action is not required to be perfect, provided the management action is reasonable overall. These amendments reflect the principles already recognised and applied by courts. This will support more consistent decision making and reduce claims and disputes arising from uncertainty about the meaning and application of reasonable management action.

Strengthening the scheme's ability to detect, prevent and respond to workers' compensation fraud (Recommendations 8-12).

The Bill achieves its policy objectives by strengthening the legislative framework for detecting, preventing and responding to fraud within the scheme. It does this by promoting compliance with legislative obligations and maintains the integrity and sustainability of the scheme to ensure it is able to support workers with legitimate entitlements.

The Bill strengthens compliance by requiring workers to provide regular declarations in an approved form regarding any return to work or engagement in a calling (clause 138). Penalties for fraud and related offences are also increased to better align with comparable offences under Queensland and Commonwealth criminal legislation (clauses 151 and 152).

The Bill provides persons authorised by the Regulator with powers to stay lump sum compensation and common law pre-proceedings, or end compensation in appropriate circumstances where there is a reasonable belief of fraud (clause 154). It also stays lump sum compensation and common law pre-proceedings and proceedings on the Regulator commencing a proceeding for a fraud offence (clause 154).

The Bill also extends the timeframes for commencing proceedings for fraud and other offences to more closely align with similar types of fraud and other offending (clause 179). The Bill also strengthens the prosecution framework for fraud offences by allowing proceedings to be taken, at the election of the prosecution, on indictment or commenced summarily before a Magistrate under the *Justices Act 1886* (clause 179).

Collectively, these amendments reinforce the Queensland Government's zero-tolerance stance on fraudulent workers' compensation claims, protecting small and family businesses against illegitimate claims.

Establishing strong clinical governance arrangements and efficient permanent impairment assessment pathways (Recommendations 5 and 31).

The Bill achieves its policy objectives by aligning the degree of permanent impairment (DPI) assessment process for psychological injuries with the existing process for physical injuries.

Under the amendments, workers with psychological injuries will be subject to the same DPI assessment and review pathways that apply to workers with physical injuries (clause 141). This establishes greater consistency in assessing DPI, reduces delays in claims management, improves administrative efficiency and protects the review rights of workers.

The Bill also allows for a centralised register of authorised independent medical examination (IME) providers and assessors (clauses 136, 137, 141, 146 and 147). To undertake IME services or DPI assessments for the purposes of the WCR Act a medical practitioner will be required to be on the register. The register is intended to strengthen clinical governance arrangements by supporting the quality, independence and consistency of medical examinations. The amendments also provide a transparent framework for the oversight of IME providers and DPI assessors, promoting confidence in examinations relied upon in workers' compensation claims and disputes.

Enhancing the regulatory tools available to the Workers' Compensation Regulator to improve insurer performance (Recommendations 14, 22, 23, 25)

The Bill achieves its policy objectives by strengthening the regulatory tools available to the Regulator to support risk-based regulation, promote insurer compliance and performance and support the integrity and sustainability of the scheme.

The Bill strengthens the Regulator's ability to respond to systemic non-compliance and promote consistent compliance with legislative obligations across the scheme. The Bill clarifies the operation of compliance notices to ensure they can be used effectively to address and enforce all forms of insurer non-compliance where there is evidence that a type of contravention is continuing or likely to be repeated (clause 156). The Bill also introduces enforceable undertakings as an additional regulatory tool available to the Regulator (clause 157). Enforceable undertakings provide a flexible and proportionate mechanism for addressing insurer non-compliance and support improvements in claims management, rehabilitation and return to work practices where systemic issues have been identified.

The Bill further provides that prosecutions for offences under the scheme are to be initiated, managed and directed exclusively by the Regulator (clause 179) to support a consistent and rigorous prosecutorial approach that is aligned with the principles set out in the Queensland Director of Public Prosecutions Guidelines and the public interest.

The Bill also extends the maximum self-insurance licence renewal period from four years to five years for demonstrated very high-performing self-insurers (clause 127 and 128). This supports a risk-based regulatory approach and reduces administrative burden for very high-performing self-insurers.

Increasing alignment between WorkCover Queensland and licensed self-insured employers (Recommendation 24).

The Bill achieves its policy objectives by increasing consistency in the legislative obligations and tools used for regulatory oversight of insurers.

The Bill broadens the application of the existing requirements for self-insurers in the WCR Act relating to the keeping of records and the provision of documents and information to the Regulator, to all insurers (clauses 174). This strengthens the Regulator's oversight of financial performance, claims management, rehabilitation and return to work outcomes for WorkCover Queensland and supports the timely investigation of complaints and emerging issues.

Providing consistent coverage for firefighters in relation to presumptive post-traumatic stress disorder (PTSD) and presumed cancer provisions (Recommendation 30).

The Bill achieves its policy objectives by extending the presumptive PTSD and presumed cancer provisions to Queensland Parks and Wildlife Service (QPWS) employees who undertake firefighting duties that are substantially similar to those performed by firefighters already covered by the provisions (clauses 122 and 185).

The amendments recognise that employees of QPWS who undertake firefighting duties perform substantially similar work and face similar risks of developing PTSD or specified cancers arising from those exposures. This promotes consistent treatment of workers engaged in firefighting duties and ensures fair and equitable access to workers' compensation and timely access to benefits

Supporting fair and effective dispute resolution processes (Recommendations 34, 36, 37).

The Bill achieves its policy objectives by improving the timeliness, efficiency and effectiveness of dispute resolution processes to improve confidence in scheme decision making and the efficient administration of the scheme.

The Bill reduces the timeframe for lodging an application for review of an insurer's decision with the Regulator from three months to 20 business days and increases the timeframe for lodging an appeal against a review decision to 30 business days (clauses 160 and 166). This promotes earlier engagement with the review process, reduces periods of uncertainty, supports the currency of medical and factual evidence and more timely access to treatment, rehabilitation and return to work supports. The amendments align with the administrative and non-adversarial nature of a review process and the judicial nature of the appeals process. The Bill does not change the ability for an applicant to ask for an extension of time to apply, or to extend the time the Regulator has to make a decision to allow them to give the Regulator further information.

The Bill also allows an insurer to review a worker's ongoing entitlement to compensation where material information is identified that was not known by or reasonably available to the insurer at the time they allowed the worker's application for compensation (clause 139). The amendment supports the integrity and fairness of the scheme by only providing compensation to workers with legitimate entitlements.

The Bill further provides that all appeals of reviewable and non-reviewable decisions under Chapter 13 are to be heard by the Queensland Industrial Relations Commission (clause 164). This establishes a single appeal pathway for all workers' compensation matters and promotes greater efficiency by ensuring disputes are determined by an established tribunal with expertise in workplace matters.

Supporting informed employment and workplace risk management decisions (Recommendation 39).

The Bill achieves its policy objectives by allowing prospective employers to request a high-level claims history summary from the Regulator with consent of a prospective worker (clause 177).

This amendment assists prospective employers, together with self-disclosure from a prospective worker (including under existing section 571B), in making informed employment decisions including by identifying any workplace risk management considerations relevant to the duties of a position to ensure the inherent requirements of the role can be safely performed. The amendment also ensures access to and use of claims history information is subject to appropriate privacy safeguards.

Improve the efficiency and administration of the scheme (Recommendations 33, 41).

The Bill achieves its policy objectives by removing administrative requirements that no longer reflect the contemporary operation of the scheme.

The Bill removes the requirement for rehabilitation and return to work coordinators and persons performing self-insurer functions to be based in Queensland (clauses 127, 128, 129, 132, 144). The amendment provides insurers and self-insurers with greater flexibility in delivering claims management, rehabilitation and return to work services.

The Bill also removes the requirement for employers to provide an information statement to workers on commencement of employment (clauses 125 and 184). This reduces unnecessary administrative requirements business (including small and family businesses) while recognising information about workers' compensation entitlements and the operation of the scheme is readily available through a range of sources, including information published by the Regulator, WorkCover Queensland and insurers.

Other amendments

Brisbane Olympic and Paralympic Games Arrangements Act 2021

These amendments progress the intent of previous amendments made to the BOPGA Act by the Planning (Social Impact and Community Benefit) and Other Legislation Amendment Act 2025 and Major Sports Facilities and Other Legislation Amendment Act 2025, to facilitate the delivery of the designated Games venues, villages and Games-related transport infrastructure to satisfy the State's obligations for the Games; and ensure Queensland's readiness to successfully host, and maximise the legacy and benefits from, the Games.

The inclusion of a new provision in the BOPGA Act allowing specified venues to benefit from equivalent relaxations in noise restrictions to those afforded to licensed premises in special entertainment precincts under the *Liquor Act 1992* (Qld) will resolve an unintended consequence of s 53DD of the BOPGA Act.

The minor boundary realignment for the Gabba Arena will ensure site readiness for project delivery.

Planning and Environment Court Act 2016

The amendments to the P&E Court Act recognise the importance of timely and robust technical decisions in this area of law which impacts planning and development in Queensland. The role of P&E Court Judge Administrator will assist with court administrative processes and general oversight. This will facilitate efficient administration and timely resolution of planning matters and clarify and improve transparency for court stakeholders about judge seniority and line of communication.

Alternative ways of achieving policy objectives

The policy objectives are best achieved through legislative means as the proposed reforms amend provisions governing decision-making processes, regulatory obligations, and statutory rights and entitlements under the IR Act and WCR Act.

It is noted for the amendments to the BOPGA Act that legislation is the most suitable approach to achieve the Government's commitment to deliver venues, villages and Games-related transport infrastructure required for the Games. These amendments build upon, clarify and give effect to the existing provisions in the BOPGA Act.

There are no alternative ways to achieve the policy objectives for the P&E Court Act amendments.

Estimated cost for government implementation

While there are no direct cost implications to Government with the remaining provisions of the Bill, the following reforms will be accommodated within existing agency resources:

Industrial Relations Act 2016

There are no direct financial impacts anticipated from the proposed IR amendments, noting the next round of wages policy and bargaining outcomes are not known. The appointment of additional Commissioners or additional resourcing for the Queensland Industrial Relations Commission if required in light of the new functions, would be a cost to be funded through the realignment of existing resources.

Workers' Compensation and Rehabilitation Act 2003

All Queensland employers must hold a workers' compensation policy with WorkCover unless they are a licensed self-insurer. Employers insured with WorkCover (including government departments) pay an annual premium. This premium covers liability for income replacement and medical treatment, rehabilitation and return to work support, injury prevention activities and scheme administration. The actual premium paid by an employer varies according to wages paid, claims experience and the employer's industry.

Costs arising from these legislative amendments will be met from existing agency resources. Any funding required beyond existing agency resources will be subject to normal budget processes.

Other amendments

There are no additional financial impacts are anticipated from the BOPGA Act amendments.

For the P&E Court amendments, as the proposal retitles an existing role, there are no financial implications as additional funding or judicial appointments are not required. An existing judge will be appointed to the revised position.

Consistency with fundamental legislative principles

The Bill has been drafted having regard to the fundamental legislative principles (FLPs) in the *Legislative Standards Act 1992* (LS Act). The Bill is generally consistent with fundamental legislative principles. Potential breaches of FLPs associated with the Bill are addressed below.

Industrial Relations Act 2016

Amendments in relation to the IR Act are generally consistent with FLPs. Potential impacts on FLPs are raised in implementing recommendations 11, 16, 27, 28, 29, 43 and 44 of the Review Report, and in relation to the inclusion of a transitional regulation making power, and are addressed below.

Fit and proper person test for right of entry authorisation (recommendation 16)

Section 338A(1)(j) and section 338A(2) infringe on the FLP requiring legislation to have sufficient regard to the rights and liberties of individuals to a greater extent than some of the other matters the registrar must have regard to (*Legislative Standards Act 1992* (Qld), s 4(2)(a)).

Clause 65 of the Bill introduces a fit and proper person assessment to determine whether to issue a right of entry permit, taking into account the considerations in section 338A. The revised section 337 in the Bill confers the registrar discretion to issue an *authorised officer's authority* – that is a right of entry permit to an official of a registered organisation to lawfully enter a workplace to inspect employee records or enquire into wages, hours and employment

conditions covered by the IR Act or other relevant instrument – if the registrar is satisfied the official is a fit and proper person to hold a permit.

Section 338A, provides the criteria the registrar must consider when determining whether the person is fit and proper to hold an authorised officer's authority. This includes whether the person has received appropriate training within the last 3 years (section 338A(1)(a)); whether the person has previously held an authorised officer's or an equivalent authority (section 338A(1)(b)) and if the authority has been revoked or suspended (section 338A(1)(c)(i)) or subject to any conditions (section 338A(1)(c)(ii)); whether the person is disqualified from applying for an equivalent authority (section 338A(1)(f)); whether the person has been convicted of an offence against an industrial law (section 338A(1)(g)), or against a law of another jurisdiction involving unlawful entry into premises (section 338A(1)(h)(i)), or fraud or dishonesty (section 338A(1)(h)(ii)), or violence (section 338A(1)(h)(iii)); whether the person has been liable to pay a penalty for the contravention of an industrial law (section 338A(1)(i)); and any other matter the registrar considers relevant (section 338A(1)(k)).

The Bill also includes additional criteria the registrar must consider to determine whether the person is a fit and proper person to hold an authorised officer's authority. This includes whether, under a scheme established under section 876E(2)(a) of the IR Act, the person has been suspended or removed from holding office of the Construction and General (C&G) Division of the CFMEU (section 338A(1)(j)(i), or been subject of disciplinary action against the person as a member, officer or former officer of the C&G division (section 338A(1)(j)(ii), or been an employee of the C&G division and had their employment terminated (section 338A(1)(j)(iii)); and whether the person is under the control of, or substantially influenced by, another person whom the registrar considers is not a fit and proper person to hold authority section 338A(2). The conduct of the CFMEU has been at the centre of serious criminal, systemic and industrial allegations across Australia and have exposed connections to organised crime, extortion, intimidation and defying industrial law.

While the registrar has discretion under section 338A(1)(k) to consider any other matter the registrar considers relevant to determine whether a person is a fit and proper person to hold an authorised officer's authority, the additional criteria in section 338A(1)(j) and 338A(2) are matters expressly affiliated with certain types of serious conduct or wrongdoing.

Section 338A(2) is modelled from the fit and proper person assessment criteria in section 27 of the *Labour Hire Licensing Act 2017* (Qld) (LHL Act) and permits the registrar to consider whether an applicant is under control of, or substantially influenced by, another person alleged to be closely linked/associated or related to an influencing or controlling person.

Although the elements under 338A(1)(j) and 338A(2) are more restrictive and permit additional weight or influence to determine whether a person is a fit and proper person to hold an authorised officer's authority, the amendments are considered to be justified as the prevailing public interest is to allow the registrar to have regard to an appropriately broad range of characteristics and relevant information to give proper consideration and weight to determine whether the applicant demonstrates a sufficient level of due diligence to be vested with statutory right of entry powers pursuant to section 348 of the IR Act. A decision of the registrar on whether to grant a person an authorised officer's authority can also be appealed to the full bench of the QIRC under section 560 of the IR Act.

The new ‘fit and proper person’ test for issuing an authority under the IR Act is modelled on the ‘fit and proper person’ test for an entry permit under the Commonwealth’s FW Act also, to ensure consistency with the federal jurisdiction.

Overall, a fit and proper assessment places onus on the applicant being able to demonstrate their adherence to the duties, obligations, limitations and conditions bestowed upon them and provide confidence to the registrar as the decision maker that the applicant will exercise their powers in a manner expected of authorised officers.

Protection from criminal and civil liability for making a protected disclosure (recommendation 11)

Section 4(3)(h) of the LS Act provides that when deciding if legislation has sufficient regard to the rights and liberties of individuals under section 4(2)(a), it is relevant to consider whether the legislation confers immunity from proceeding or prosecution without adequate justification.

Clause 63 of the Bill provides that if a person makes a protected disclosure under Chapter 8, Part 1A, the person is not subject to any civil or criminal liability for making the disclosure. Further, no contractual or other remedy or right may be enforced or exercised on the basis of the disclosure.

A ‘protected disclosure’ is a disclosure made about a registered organisation by someone who has been engaged with the organisation.

The amendments conferring immunity from civil or criminal liability for making a protected disclosure are considered justified as they incentivise ethical conduct by members and employees of registered organisations, allow witnesses to wrongdoing and misconduct to make a report without fear of reprisal and support the investigation of unethical and illegal conduct by an organisation. The need for additional whistleblower protections has been demonstrated by the findings of the Commission of Inquiry into the CFMEU.

Suspension or termination of protected industrial action if serious disruption to delivery of public services (recommendation 28) and Minister may make a written declaration terminating protected industrial action (recommendation 27)

Section 4(2)(a) of the LS Act provides that legislation must have sufficient regard to the rights and liberties of individuals. Under section 4(3)(a), it is relevant to consider whether rights and liberties are only dependent on administrative power that is sufficiently defined and subject to appropriate review.

Clause 53 of the Bill provides that the Commission must suspend or terminate protected industrial action only if satisfied the industrial action is causing or threatening to cause serious disruption to the delivery of a public service and harm to persons not covered by the proposed instrument, and the action is contrary to the public interest. These powers of the Commission are enlivened on application by a negotiating party for the proposed bargaining instrument, the Minister or a person prescribed by regulation. Additional factors are prescribed to assist the Commission in determining if the action is contrary to the public interest. They are in addition to the Commission’s existing powers to suspend or terminate protected industrial action under sections 240 and 241 of the IR Act if satisfied it will cause or threaten significant economic harm or life, property, health or welfare is endangered.

Clause 54 of the Bill also empowers the Industrial Relations Minister to make a written declaration terminating protected industrial action for a proposed enterprise agreement if satisfied that the industrial action is a threat to life, personal safety or health, or the Queensland economy, or would significantly disrupt the delivery of a public service and the disruption is contrary to public interest; or where the action would otherwise have a significant effect that is contrary to the public interest. This amendment will ensure alignment with the Commonwealth's FW Act.

The amendments in clauses 53 and 54 place limitations on the rights of workers to take protected industrial action. It is considered appropriate however to impose further restrictions on protected industrial action in circumstances where the action has threatened or will threaten to seriously or significantly disrupt the delivery of essential public services or cause harm to individuals not covered by the proposed agreement.

The Review identified concerns about the very high threshold for suspension or termination of protected industrial action and the absence of an effective mechanism to challenge industrial action on the basis that it would be contrary to the public interest or impact critical frontline service delivery noting the scope of the jurisdiction. Stakeholders raised significant concerns that current arrangements for protected industrial action are affecting the ability of public sector employers to deliver essential frontline services to the community and highlighted the limited avenues available to employers or the Queensland Government to address this. The reported impacts of disruption caused by industrial action on the community include, for example, restricted access to health and local government services.

These amendments achieve an appropriate balance between the rights of workers and employers to take protected industrial action, and the public interest by establishing specific circumstances in which the Commission's and Minister's powers can be exercised. This includes significant harm a third party or damage to a third party as well as endangering life, health and safety. These powers and parameters also reflect existing ministerial and tribunal powers provided in the Commonwealth's FW Act. This is intended to mitigate the impact of limiting the rights of employees to engage in protected industrial action, while recognising the unique role that state and local governments have as both employers and providers of essential public services, so that critical delivery of public services to the Queensland community can be maintained.

The new ministerial power presents a greater inconsistency with the considerations of section 4(3)(a) of the LS Act than the powers of the Commission to suspend or terminate protected industrial action. While the criteria for the Minister's consideration are substantially the same as those required of the Commission (in both the new clause 53 and the Commission's existing powers under sections 240 and 241) the Commission's power must be exercised on application while the ministerial power is not. Furthermore, a decision of the Commission to suspend or terminate protected industrial action can be appealed to the Industrial Court under section 557 of the IR Act. By contrast, a declaration made by the Minister under this new power is not appealable, although may be subject to judicial review. However, clause 54 is modelled on the same powers given to the federal industrial relation minister under section 431 of the Commonwealth's FW Act. So in addition to promoting consistency with the national jurisdiction, clause 54 also reflects the high bar or option of last resort that section 431 does in the FW Act, given how rarely these provisions are used under the Commonwealth's FW Act.

Disallowing protected industrial action during conciliation and arbitration (recommendation 29)

Clause 49 of the Bill provides that industrial action is not protected under the IR Act during conciliation or arbitration for a proposed instrument.

Section 4(2)(a) of the LS Act provides that legislation must have sufficient regard to the rights and liberties of individuals. Amendments introduced by clause 49 enliven section 4(2)(a) insofar as the right of workers and employers to take protected industrial action is restricted.

These amendments are considered to be justified as they achieve an appropriate balance between the need to ensure good faith negotiations, and the rights of workers and employers to advance their interests through industrial action. The purpose of the Bill's amendments to the timeframes for protected industrial action, including the standard three-day notice period at clause 50, is to assist in the ability to plan for and mitigate impacts of industrial action and promote fair and ethical conduct in negotiations and while ensuring the general public is not adversely affected. The amendments introduced by clause 49 will protect against the use of industrial action as a tactic to delay negotiations and encourage parties to approach conciliation or arbitration with a genuine view to pursuing agreement without protracted negotiations. Limiting protected industrial action in these ways still allows for both employees and employers to exercise their rights prior to the conciliation stage while ensuring good faith bargaining practices and the appropriate management of any disruption to public services.

Dismissal of matters by Court or commission where not necessary or desirable in the public interest (recommendation 43 and to deal with vexatious litigants (recommendation 44))

Section 4(2)(a) of the LS Act provides that legislation must have sufficient regard to the rights and liberties of individuals, which may include consideration of whether the legislation is consistent with the principles of natural justice (section 4(3)(b)).

Clause 87 of the Bill allows the court or commission to make an order that an applicant must not make a further application to the court or commission of a kind stated in the order without the permission of the court or commission. This amendment is intended to promote the efficient use of resources by avoiding multiple frivolous or vexatious applications. These amendments enliven sections 4(2)(a) and 4(3)(b) insofar as they limit access to a fair hearing of an applicant's industrial cause before the court or commission.

These amendments are considered to be justified as the ability to make such an order will allow the Commission to effectively manage vexatious litigants. The current legislative framework does not provide the Commission with the power to prevent a person from repeatedly filing applications without merit. This places an unnecessary and ongoing burden on court resources and respondent parties and diverts attention from legitimate claims.

Transitional regulation making power

Clause 112 of the Bill includes a transitional regulation making power. Section 4(4)(a) of the *Legislative Standards Act 1992* provides that legislation should allow the delegation of legislative power only in appropriate cases and to appropriate persons.

The inclusion of a transitional regulation making power is considered justified because there are a range of operational and administrative amendments which may require amendment to respond to issues identified in the lead up to or shortly after commencement. Providing for these matters by way of transitional regulation provides the necessary flexibility to implement the intended government policy and changes, without the need for

Workers' Compensation and Rehabilitation Act 2023

Amendments in relation to the WCR Act are generally consistent with FLPs. Potential impacts on FLPs are raised in implementing recommendations 1, 8, 10, 11, 12, 30, 31, 34, and 39 of the review.

Workers must regularly notify engagements in work or callings without a reasonable excuse (recommendation 11)

Section 4(2)(a) of the LS Act provides that legislation must have sufficient regard to the rights and liberties of individuals. Whether legislation has sufficient regard to the rights and liberties of individuals, includes consideration as to whether the legislation limits the right to privacy, access to statutory rights generally, freedom of speech and imposes an obligation to report, and the common law right to silence.

Clause 138 requires workers to regularly report whether they are engaging in work or another calling where they are receiving or entitled to receive compensation. This is a recurrent requirement to provide information about their activities and may limit their rights to privacy.

This requirement is justified having regard to the objectives of the scheme. A worker's demonstrated capacity to engage in work or a calling is directly relevant to the assessment of their entitlements, rehabilitation, recovery and return to work. Information about the worker's engagement in work or a calling is necessary for insurers to make accurate and effective decisions and discharge their obligations under the WCR Act.

This requirement does not restrict workers' autonomy in engaging in these activities. Working and engaging in a calling during a period of entitlement to compensation is not an offence under the WCR Act and workers are encouraged to participate in or return to work.

Clause 138 also provides that a failure to notify the insurer, without reasonable excuse, within the prescribed timeframes is an offence, and that the insurer may suspend the entitlement to compensation. This prevents compensation overpayments, reduces the need for recovery action and prevents against fraud.

The suspension of a right to compensation may engage an FLPs by limiting the right of access to compensation under the WCR Act, and may limit the common law right to silence. This is justified for the purpose of ensuring that compliance with the duty to notify.

The impact of these amendments on existing rights and liberties is limited, given the former obligation on workers to notify their engagements within 10 business days of engaging in a calling.

Regulator appointed authorised persons may suspend lump sum compensation and stay common law pre-proceedings (recommendation 8)

Section 4(2)(a) of the LS Act provides that legislation must have sufficient regard to the rights and liberties of individuals. Whether legislation has sufficient regard to the rights and liberties of individuals includes consideration as to whether the legislation abrogates established statute law rights and liberties.

Section 4(3)(a) of the LS Act provides that legislation must have sufficient regard to the rights and liberties of individuals which may depend on whether administrative power is sufficiently defined and subject to appropriate review.

Section 4(3)(b) of the LS Act provides that legislation must have sufficient regard to the rights and liberties of individuals which may depend on whether the legislation is consistent with the principles of natural justice. Included in this, is the right of action and principle of access to the courts.

Clause 154 of the Bill empowers a Regulator appointed authorised person (authorised person) to direct that a payment of lump sum compensation be suspended and pre-proceedings for common law damages be stayed where the authorised person reasonably believes that the person has contravened a fraud offence under section 533 of the WCR or relevant Criminal Code provisions. This operates to limit the financial impact of fraud on the scheme and the potential scope of offending of a person.

This amendment may enliven 4(3)(a) and 4(3)(b) of the LS Act insofar as it limits access to rights to compensation and taking pre-proceedings steps to progress a common law damages claim on an administrative decision of an authorised person.

These amendments are limited to where the authorised person reasonably believes that a person has contravened a fraud offence. Reasonable belief is an objective standard and does not solely rely on a suspicion or belief, and that the facts and evidence before the authorised person must be capable of inducing the belief in a reasonable person.

Where a direction by an authorised person suspends a worker's rights to receive lump sum compensation, it does not impact on a person's entitlement to that lump sum compensation. Where the direction stays pre-proceedings processes for damages extensions to impacted timeframes have also been included. These limitations on statute rights are considered to be reasonable and justified to limit the impact of fraud on the workers' compensation scheme.

A review right is not provided for the direction to suspend compensation or stay common law pre-proceedings as the amendment maintains a persons' entitlements and rights, operates for a limited timeframe (3 months), is able to be revoked by the authorised person and a review of the direction may be prejudicial to an investigation or person.

To the extent that these provisions limit the FLP's under section 4(3)(a) and 4(3)(b) it is considered necessary and proportionate due to the nature of the directions.

Authorised person may direct compensation be ended (recommendation 8)

The Bill may enliven 4(2)(a), 4(3)(a) and 4(3)(b) of the LS Act insofar as it limits access to rights to compensation on an administrative decision of an authorised person.

Clause 154 of the Bill provides that an authorised person may direct an insurer to end compensation, where the authorised person reasonably believes that a person has contravened a fraud offence and that compensation will be paid because of the conduct. This is to allow for the ending of compensation where there is sufficient and compelling evidence that an offence has been committed, and the person will continue to benefit from the fraudulent conduct. This operates to limit the financial impact of fraud on the scheme and the potential scope of offending of a person.

Importantly, a direction to stop compensation by an authorised person does not impact a claimant's ability to pursue common law damages.

A direction by an authorised person to end compensation is reviewable and appealable, providing individuals avenues to challenge administrative decisions of the authorised person to end compensation.

These amendments are considered to be reasonable and justified to limit the impact of fraud on the workers' compensation scheme.

Automatic suspension of lump sum compensation and stay of damages pre-proceedings and proceedings where a proceeding for an offence of fraud has commenced (recommendation 8)

Sections 4(2)(a) and 4(3)(b) of the LS Act provides that legislation must have sufficient regard to the rights and liberties of individuals which may depend on whether it is consistent with principles of natural justice.

Clause 154 of the Bill amends the WCR Act to automatically stay a proceeding for damages if the Regulator has commenced proceedings for a fraud offence. This operates to limit the financial impact of fraud on the scheme and the potential scope of offending of a person where there is sufficient and compelling evidence that an offence has been committed. This may enliven Section 4(3)(b) and the right to action through limiting access to courts and the common law under the WCR Act.

The principle of right of access to the courts may be engaged by the staying of proceedings for damages. These limitations are only engaged where there is a prosecution commenced for an offence of fraud. Where the proceedings against the person do not result in a conviction of a fraud offence, the proceedings are preserved and able to be re-commenced.

The suspension of a worker receiving lump sum compensation does not impact on a person's entitlement to that lump sum compensation, and where pre-proceedings processes for damages are impacted extensions of timeframes have also been included.

These amendments are considered reasonable and justified to limit the impact of fraud on the workers' compensation scheme and preserves access to compensation and common law where a proceeding does not result in a verdict of guilt.

Amendments to maximum penalties for fraud and false and misleading documents or information, and expanding the scope of the application of notification of engaging in a calling (recommendation 10)

Section 4(2)(a) of the LS Act provides that legislation must have sufficient regard to the rights and liberties of individuals. Whether a penalty imposed by legislation is proportionate and relevant to the offence are considerations in the assessment of whether legislation has sufficient regard to the rights and liberties of individuals.

Clauses 151 and 152 of the Bill increase the maximum penalties for fraud (under section 533 of the WCR Act), and false and misleading information or documents (under section 534 of the WCR Act) from 5 to 10 years and 1 to 2 years respectively. These changes may be considered to engage FLPs under section 4(2)(a) of the LS Act, by making the person liable to a greater criminal sanction.

It is noted that the maximum financial penalty provided for fraud under section 533(1) is omitted by the Bill under Clause 151. In the absence of a prescribed financial penalty for the offence, a fine is determined by the *Penalties and Sentences Act 1992* which gives the courts discretion, within bounds, to apply a fine in addition to, or in place of a sentence.

The amendments to the maximum penalties for fraud and false and misleading information and documents are designed to enhance consistency with similar offences in other jurisdictions. These amended maximum penalties are considered proportionate and relevant to the conduct. Offences of defrauding and deceiving the scheme pose a significant risk to the scheme's

integrity, and it is appropriate the maximum penalties reflect the seriousness of the offending and meet community expectations. Importantly, courts will retain discretion to determine the appropriate sentence up to the maximum penalty considering the circumstances of each case.

Clause 138 of the Bill additionally amends the operation of section 136 of the WCR Act to provide that claimants must regularly disclose their working status and whether they are engaged in a calling. Failure to notify the insurer of their status is an offence, carrying a maximum penalty of 50 penalty units. This aligns with the existing offence for section 136 and is proportionate to the nature of the offence.

Clause 177 of the Bill also inserts a maximum penalty of 100 penalty units if a prospective employer discloses a worker's claims history information to another person, or use the claims history information, other than in the ways provided under the provision. This aligns with the existing similar offence for section 572A (Access to particular employment documents prohibited) and is proportionate to the nature of the offence.

Failure to notify a return to work or engagement in a calling in certain circumstances taken to be fraud (recommendation 11)

Section 4(3)(d) of the LS Act provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, among other things, the legislation reverses the onus of proof in criminal proceedings without adequate justification.

In the current and new sections 136 and 535, the “without reasonable excuse” exception is an essential ingredient of the grounds for the offence. The exception effectively forms a “negative element” of the offence and the onus of disproving the exception beyond reasonable doubt remains with the prosecution. Therefore, these sections do not operate to reverse the onus of proof because the prosecution is still required to prove each element of the offence, including the negative element of “without reasonable excuse.”

Clause 153 amends section 535 as a consequence of the amendments to section 136 (Clause 138) which requires workers to provide a regular notification of whether they have or have not returned to work or engaged in a calling during the relevant period. The intent of the clause 153 amendments is to replicate the existing provision in light of the amendments by clause 138.

This preserves the intent of existing provision section 535, which departs from section 4(3)(d) of the LS Act by relieving the prosecution of having to prove that each payment of compensation was made on account of the conduct. The rationale for this is that due to the conduct, the insurer has been deprived of the ability to properly consider the extent to which compensation was payable and/or the worker has obtained a benefit to which they are not entitled.

To the extent this departs from FLPs, it is a reasonable and justifiable departure given that the provision applies only in a specific class of cases involving a failure to notify the insurer without a reasonable excuse, or knowingly giving a false or misleading notice, about their return to work or engaging in a calling. When considered in conjunction with the amendments to section 136, the departure from FLPs is further limited given these changes support workers to discharge their obligation to notify the insurer about any return to work or engagement in a calling.

The intent of the provision is to ensure the integrity and financial sustainability of the scheme.

Definition of Injury (recommendations 1 and 2)

Section 4(2)(a) of the LS Act provides that legislation must have sufficient regard to the rights and liberties of individuals. Whether legislation has sufficient regard to the rights and liberties of individuals includes consideration as to whether the legislation abrogates established statute law rights and liberties.

The Bill amends the WCR Act (Clause 121) to reduce the scope of the definition of injury in relation to psychological and psychiatric injuries. For a psychological or psychiatric injury (or aggravation of a preexisting injury) to be an injury within the meaning of the amended definition of injury, the injury must have arisen out of, or in the course of, employment and the employment must be the major significant contributing factor to the injury. This compares to the current definition where employment need only be a significant contributing factor.

The Bill's amendment to the definition of injury is justified as the purpose of the scheme is to provide for injuries sustained by workers in their employment. Psychological and psychiatric injuries are complex and multifactorial and frequently have multiple aetiologies. This means a psychological or psychiatric injury may arise out of multiple significant contributing factors, including factors unrelated to the employment. Consequently, psychological and psychiatric injuries where employment is only one of many significant contributing factors may satisfy the current definition of injury under the WCR Act, despite the major significant contributing factor being unrelated to the work.

Access to summary of worker's claims history for prospective employers (recommendation 39)

Section 4(2)(a) of the LS Act provides that legislation must have sufficient regard to the rights and liberties of individuals. Whether legislation has sufficient regard to the rights and liberties of individuals includes consideration as to whether information requirements are relevant and proportionate to the interests being protected.

Clause 177 introduces an amendment to the WCR Act allowing prospective employers to request a claims history summary of a prospective worker from the Regulator. This request must have the prospective worker's consent, and the prospective employer must not disclose the contents of or give access to, the document to anyone else.

This amendment may raise potential FLP concerns in relation to information requirements. To limit the potential departure from the FLP, information provided to employers is limited to a high level summary only.

The amendment requires that a workers' consent be provided to the sharing of the information. It is noted that consent is given in the context of being considered for employment, which may operate to reduce the free provision of that consent in limited circumstances.

The potential departure in consistency with the above FLP is reasonable and justified considering the purpose of supporting legitimate workplace risk management objectives where there is consent and it is supported by self-disclosure (including under s571B).

Offence of fraud prior to commencement may be dealt with under the amending provisions, with limitations (recommendation 9)

Section 4(3)(b) of the LS Act provides that legislation must have sufficient regard to the rights and liberties of individuals which may depend on whether it adversely affects rights and liberties, or imposes obligations, retrospectively.

Clause 179 of the Bill, which extends the timeframe to commence proceedings for fraud offences committed prior to the commencement of the Bill, may enliven (4)(3)(g) of the LS Act which provides that the legislation has sufficient regard to not adversely affect rights and liberties, or impose obligations, retrospectively.

To balance the enlivening of this FLP, proceedings for offences committed prior to the commencement of the Bill, may only be brought under the proposed amendments if—

- the commission of the offence did not come to the knowledge of the Regulator prior to the commencement of the amending Act, and the prosecution elects to proceed in a summary way for the offence; or
- if the offending continued after the commencement of the amending provisions.

The scope of the retrospective application of the amending provisions is narrow, and reduces uncertainty as to whether a proceeding on a continuing offence commences on the former or amended Act. In limiting a prosecution to proceed on the amending provisions only if the prosecution elects to proceed in a summary way, ensures that the maximum penalty for the offence is identical to the maximum penalty under the existing provisions.

The extent to which the FLP is enlivened is limited to the prosecution's ability to bring proceedings for an offence under section 533 at any time, rather than within two years of the commission of the offence or 6 months after the offence comes to the knowledge of the Regulator, or where the offending continued after the commencement of the provisions. This potential limitation of FLPs is considered reasonable and justified.

Presumptive coverage for Queensland Parks and Wildlife Service firefighters (recommendation 30)

Section 4(2)(a) of the LS Act provides that legislation must have sufficient regard to the rights and liberties of individuals. Whether legislation has sufficient regard to the rights and liberties of individuals includes consideration as to whether the legislation provides for equality under the law.

Clause 122 and 185 of the Bill extends presumptive firefighter and PTSD provisions (presumptive provisions) to QPWS employees who undertake firefighting duties. The presumptive provisions provide an alternative pathway for firefighters to apply for compensation which presumes the work-related nature of their injuries based on the nature of their duties, unless there is evidence to the contrary. This may limit equality before the law insofar as other persons are excluded from access to the alternative pathway.

This potential limitation of FLPs is reasonable and justified considering the amendments' purpose of facilitating QPWS employees who undertake firefighting duties access to their entitlements under the WCR Act. Given the unique occupational risks in managing and preventing wildfires, presumptive provisions provide greater certainty of entitlement and accessibility to compensation and reduce administrative burden in determining claims related to established occupational injuries.

Register of authorised independent medical examiners and assessors (recommendation 31)

Section 4(2)(a) of the LS Act provides that legislation must have sufficient regard to the rights and liberties of individuals. Whether legislation has sufficient regard to the rights and liberties of individuals includes consideration as to whether the legislation unduly restricts the right to conduct business without interference.

Clauses 145, 146 and 147 of the Bill introduces a register of authorised independent medical examiners and assessors to be managed by the Regulator. For a medical professional to conduct independent medical examinations or assess a worker's permanent impairment, the medical professional must be authorised by the Regulator to conduct the relevant examination or assessment and registered on the register. This may limit the right for insurers and medical professionals to choose and conduct business without interference.

This is considered reasonable and justified to support the provision of consistent quality medical examinations and assessments, which in turn supports fair workers' compensation claim outcomes.

Reduction in the timeframe to lodge an application for review by the Regulator (recommendation 34)

Section 4(3)(b) of the LS Act provides that legislation should be consistent with the principles of natural justice. Whether legislation is consistent with the principles of natural justice includes whether adequate notice is provided to prepare and present the person's case.

Clause 160 of the Bill amends the WCR Act to generally limit the timeframe to lodge an application for review with the Regulator from 3 months to 20 business days. The reduction in the timeframe to lodge an application for review to 20 business days may engage with the principles of natural justice by limiting the period a person has to consider whether to seek and prepare for a review by the Regulator.

Of importance the Bill does not change or limit the ability for an applicant to ask for an extension of time to apply, or to extend the time the Regulator has to make a decision to allow them to give the Regulator further information. The amendments also align with the administrative and non-adversarial nature of a review process. This potential limitation of FLPs is considered reasonable and justified.

Other amendments

The amendments to the BOPGA Act are consistent with fundamental legislative principles.

There are no potential breaches of FLPs associated with amendments to the P&E Court Act. While the P&E Court Judge Administrator's functions may relate to court practice and procedure the role is intended to promote fundamental principles such as the right to be heard or procedural fairness by facilitating access to justice and ensuring that the P&E Court continues to operate smoothly.

Consultation

Extensive consultation was held with stakeholders, including but not limited to employers, registered employee and employer organisations and peak councils, and the legal profession, which helped inform understanding of the main issues. The independent reviewers sought written submissions from the public consultation from 24 March to 31 May 2026. The reviewers also met with stakeholders from 16 June to 21 July 2026.

A total of 97 submissions were received from stakeholders representing employers, unions, workers, insurers, the legal profession, government and other key interest groups. Submissions to the review were confidential and not published and are broadly outlined in the 2026 review report.

Government agencies which participated in the consultation for the Bill include the Department of Education, Department of Trade, Employment and Training, Public Sector Commission, Queensland Health, Queensland Police Service, Department of Housing and Public Works, Queensland Corrective Services, and Department of Justice.

Other amendments

Consultation on the amendments to the BOPGA Act was not undertaken as these amendments are minor and technical in nature.

The Chief Judge of the District Court was consulted on the amendments to the P&E Court Act.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland. The Bill's consistency with comparable reforms introduced by other jurisdictions is discussed below.

Industrial Relations Act 2016

Whistleblower protections (recommendation 11)

The Bill amends the IR Act to protect whistleblowers who make a protected disclosure about a registered organisation from a reprisal. The Bill defines “disclosable conduct” as an act or omission that contravenes a relevant industrial law or constitutes an offence against a law of the State or Commonwealth. A disclosure is a “protected disclosure” under the IR Act if the person making the disclosure has engaged with the organisation in some way, e.g. as an officer, employee or member (or a lawyer acting on the discloser's behalf) and the disclosure is made to the registrar or an inspector. Section 337A of the *Fair Work (Registered Organisations) Act 2009* (Cth) (FW(RO) Act) creates a similar category of protected disclosures about a registered organisation. The provisions included in this Bill do not limit other protections a person may have. For example, if a person makes a disclosure to the (current at the time of introduction) Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry, they have the protections available to them under the *Commissions of Inquiry Act 1950* (Qld).

Industrial organisations to represent eligible members (recommendation 14)

New section 293B of the Bill provides a new misrepresentation provision and penalty, in response to this recommendation, to clarify that an industrial organisation may only represent the industrial interests of individuals who are members or eligible to be members of the industrial organisation. New section 293B provides that an organisation, or an officer or employee of the organisation, must not knowingly make a false or misleading representation to another person that the organisation has the right to represent the industrial interests of a person who is not eligible to be a member of the organisation. This is a civil penalty provision, with the same civil penalty treatment as the other misrepresentation provisions in the same Part (see Chapter 8 penalty provisions in Schedule 3). This amendment ensures union officials exercise their statutory rights (such as right of entry) in relevant workplaces and only represent or seek to represent employees consistent with the union's callings. It also mitigates conflicts over demarcation disputes.

No comparable provision has been identified in the Commonwealth jurisdiction, however it is noted that section 158 of the FWRO Act imposes eligibility restrictions on the alteration of its rules if another organisation can more conveniently and effectively represent a particular class

or groups of employees and provides that a change to an organisation's eligibility rules does not take effect without the consent of the FWC.

Publication of union rules (recommendation 15)

The Bill introduces a new provision requiring the official publication of the rules of all registered organisations on the Queensland Industrial Relations Commission website. The provision requires the Queensland Industrial Relations Commission to host and maintain a publicly available register of all organisations registered under the IR Act and rules of each organisation. This is consistent with the federal jurisdiction and, state jurisdictions in South Australia, New South Wales and Western Australia, where a registered organisation's rules are published and publicly available. The publication of union rules supports transparency, accountability and compliance in the operation of registered organisations. It is noted many organisations registered under the IR Act have counterpart federal bodies that are already subject to these requirements.

'Fit and proper person' test for becoming an authorised officer (recommendation 16)

The Bill introduces a new requirement for the registrar to be satisfied that a person applying to become an authorised officer under the IR Act is a 'fit and proper person' to hold the authority. The Bill provides a list of matters the registrar must have regard to in deciding whether the person is fit and proper, which include considering whether the person has received appropriate training, held a previous authority that was revoked, suspended or made subject to conditions, or been convicted of a relevant offence.

The 'fit and proper person' test was modelled on provisions such as section 27 of the *Labour Hire Licensing Act 2017* (Qld), section 513 of the Commonwealth's FW Act and section 49P of the *Industrial Relations Act 1979* (WA) and is consistent with the 'fit and proper person' tests under these Acts.

Notice for right of entry to inspect time and wages records (recommendation 17)

The Bill amends the notice requirements for the exercise of an authorised officer's right of entry for consistency with the Commonwealth's FW Act. The amendments provide that an authorised officer must give written notice to the employer of an intention to enter the workplace at least 24 hours but not more than 14 days before the entry, and the notice must contain particulars including the premises proposed for entry, day of the entry, name of the authorised officer and employing organisation and the provision of the IR Act under which entry is sought.

Section 495 of the Commonwealth's FW Act provides that a permit holder must not exercise a State or Territory OHS right to inspect or access an employee record unless the permit holder has given the occupier of the premises and any affected employee a written notice of intention to exercise the right and reasons for doing so, and the notice is given at least 24 hours before exercising the right.

Requiring authorised officers to provide 24 hours' notice before entering a workplace to exercise their rights and investigate suspected contraventions of time and wages matters also aligns the IR Act with state workplaces laws in New South Wales, South Australia and Western Australia.

Further transparency requirements for organisations (recommendation 19)

The Bill introduces additional financial reporting requirements for registered organisations to show the total expenditure incurred by reporting units in relation to remuneration, advertising, operating costs, donations to political parties and legal costs of the financial year. These reporting requirements are modelled on the elements in section 765 of the FW(RO) Act and again it is noted many organisations registered under the IR Act have counterpart federal bodies that are already subject to these requirements.

Conduct of industrial ballots (recommendation 20)

The Bill amends the IR Act to allow employer organisations (corporations) with an option to use Electoral Commission of Queensland for industrial ballots (employee organisations are already mandated in this respect). This is broadly consistent with the approach under the FW(RO) Act which requires the Australian Electoral Commission (AEC) to conduct industrial ballots in the Federal and Victorian jurisdictions. An entity requesting the ballot will be required to pay the associated costs, ensuring no extra burden will be placed on the taxpayer.

Balloting methods (recommendation 21)

The Bill amends the IR Act to expand the types of balloting methods permitted for all industrial ballots. This amendment supports the facilitation of all industrial ballots by the Electoral Commission of Queensland (ECQ) by providing flexibility as to how the ECQ conducts the ballots. This approach is consistent with that taken by the FW Act.

Time and wages records (recommendation 22)

The Bill amends the IR Act to clarify the policy intention behind certain limitation on an authorised officers' right to enter and be provided access to time and wages records, to ensure access to records is relevant to the statutory purpose for which access is sought. The purpose of the amendment is to ensure that the exercise of any right is not made vexatiously or to subvert existing privacy or right to information schemes or legal discovery processes in proceedings. This approach is consistent with that taken by the FW Act.

Balloting – ability to direct ballot employees (recommendation 23)

The Bill amends the IR Act to provide that where an application for certification of a negotiated agreement is made to the Commission, the agreement may be put to employee ballot provided there has been agreement of at least one employee organisation, in circumstances where any other union parties are withholding agreement. This provision ensures that employees are afforded an opportunity to consider and vote on the terms of a proposed agreement provided one or more union parties agrees, even where agreement is not reached with all union parties. Where an employee organisation that elects to withdraw as a party to the agreement, the direct ballot agreement will not cover the employee organisation. The Bill also amends the IR Act to provide that an application to certify an agreement may be made if the agreement has been approved by a valid majority of the relevant employees at the time in a properly conducted ballot. This amendment is consistent with the approach taken in section 240A and 240B of the FW Act.

Protected industrial action – increased notice period (recommendation 24)

The Bill amends the IR Act to increase the notice period for taking protected industrial action to a minimum of three working days before the intended protected action is taken. A person intending to take protected industrial action must give written notice of the intention to all of

the negotiating parties for the proposed bargaining instrument at least three days before the day the intended action starts. This amendment aligns the existing notice requirement for initial and subsequent protected industrial action in the IR Act and is consistent with section 414 and 443(5) of the FW Act, which provide that a period of notice must be at least three working days or if the proposed enterprise agreement is a multi-enterprise agreement, 120 hours.

Consequences of protected industrial action (recommendation 25)

The Bill introduces amendments mandating particular financial consequences if an employee engages in protected industrial action, where labour is not fully withdrawn. If an employee engages in protected industrial action that involves a partial withdrawal of labour, such as refusal to work overtime or perform some of the employee's normal duties, the employer may refuse to pay wages, or reduce the wages paid to the employee, to the extent permitted under common law. Where the employer refuses to pay or reduces an employee's wages on this basis, the employer must give written notice to the employee.

This is consistent with section 471 of the FW Act which provides that where an employee engages in protected industrial action against the employer that involves a partial work ban, the employer may reduce the employee's wages if written notice is given to the employee outlining the specifics of the wage reduction.

Payment for strikes (recommendation 26)

The Bill amends the IR Act to require deductions of an employee's wages during periods that the employee has engaged in strike action, where labour is fully withdrawn. Where the employer refuses to pay an employee's wages on this basis, the employer must give written notice to the employee.

This is consistent with the position taken in section 470 of the FW Act in relation to payment relating to period of protected industrial action. Under this section, if an employee engages in protected industrial action against an employer on a particular day, the employer must not make a payment to the employee in relation to the total duration of the industrial action on that day. Section 143 of New South Wales's *Industrial Relations Act 1996* (NSW) which prohibits an employer to pay remuneration to an employee in respect of time spent by the employee engaging in industrial action.

Ministerial declaration terminating industrial action (recommendation 27)

The Bill allows for the Minister for Industrial Relations to terminate protected industrial action if satisfied there is a sufficient public interest justification. For example, protected industrial action may be terminated by declaration if it would threaten to endanger the life, personal safety, health or welfare of the State's population or part of it, or cause significant damage to the State's economy or an important part of it.

Section 431 of the FW Act similarly provides that the Minister may make a declaration terminating protected industrial action for a proposed enterprise agreement if satisfied that the industrial action is threatening or would threaten to endanger the life, personal safety or health, or welfare of the population or a part of it or cause significant damage to the Australian economy or an important part of it.

Applications for suspension or termination of protected industrial action (recommendation 28)

The Bill introduces a provision to reduce the burden on employer applicants and facilitate the granting of applications by the Commission for suspension or termination of protected

industrial action for a proposed bargaining instrument, where the commission is satisfied the action is or may cause or is threatening to cause serious disruption to the delivery of a public service, significant harm to persons who will not be covered by the proposed instrument and the industrial action is contrary to the public interest.

The amendment is broadly aligned with the Fair Work jurisdiction which provides that the FWC may suspend or terminate protected industrial action if the FWC is satisfied the action is causing, or is threatening to cause, significant economic harm to the employer or any of the employers that will be covered by the agreement and any of the employees who will be covered by the agreement (section 423 of the FW Act) or significant harm to a third party (section 426 of the FW Act).

Protected industrial action in conciliation (recommendation 29)

The Bill amends the IR Act to clarify that parties may not engage in protected industrial action during conciliation, with the intention to support good faith bargaining and assist in the resolution of matters. The amendment provides that industrial action is not protected industrial action during conciliation or arbitration for the proposed instrument. This is not expressly provided for in other Australian jurisdictions.

Considerations for scope orders (recommendation 30)

The Bill introduces amendments requiring the Commission to consider the impacts of a proposed scope order on an employer when considering whether to make such an order. Specifically, the Commission must be satisfied that that making the order is reasonable in all the circumstances, meaning the order will promote the fair and efficient conduct of the negotiations, and will not adversely affect the business or operational needs of any employer to be covered by the proposed bargaining instruments.

Section 238(4) of the FW Act requires the Fair Work Commission to be satisfied that, among other matters, it is reasonable in all the circumstances to make the order. This includes consideration of the proposed order's effect on the employer(s) proposed to be covered by the order.

Matters considered in making arbitration determination (recommendation 32)

The Bill provides that the Commission must consider particular matters when making an arbitration determination in proceedings for a negotiated agreement. Matters the Commission must take into account include the merits of the case, interests of the employers and employees to be covered by the proposed agreement, the public interests, impacts on productivity, the conduct of the bargaining representatives during negotiations, and incentives to bargain at a later time.

These amendments were modelled on section 369 of the FW Act, which provides for the factors the FWC must take into account in deciding which terms to include in a workplace determination while reflecting the nature and scope of this jurisdiction which predominantly covers workers involved in the delivery of services through the State and Local Governments.

Date of conciliation (recommendation 33)

The Bill introduces a provision to section 175 of the IR Act to clarify that the date conciliation begins is taken to be the day a negotiating party asks the Commission to help the parties reach agreement. Currently, the IR Act does not define the 'day' that conciliation commences for the

purposes of referral to arbitration. A point at which conciliation may be referred to arbitration will assist with clarity on timelines.

Referral to arbitration (recommendation 34)

The Bill amends the IR Act to provide that the conciliating member in a matter may refer to the arbitration either three months from the nominal expiry date of a certified agreement or bargaining award that applies to the parties, or if satisfied that the parties are unlikely to reach agreement, at any time from the day conciliation of the matter started. The FW Act also provides timeframes for referral to an intractable bargaining dispute, whilst the NSW IR Act (ss 135-136) allows the Commission to move to arbitration once conciliation has been attempted.

Procedure for agreement certification (recommendation 35)

The Bill amends the IR Act to reduce the burden on the parties in an application for certification or termination of an agreement by allowing the Commission to be satisfied that the requirements for deciding an application to certify or terminate an agreement have been met, in circumstances where no submission has been made that the requirements have not been met.

Award variation and agreement rates (recommendation 36)

The Bill amends the IR Act to provide that the Commission must not make an award variation where it proposes to incorporate certified agreement rates into the parent award. The Bill also amends the IR Act to omit the ability of a party to apply to the Commission for the inclusion of provisions from a directive into an award, despite current or prior application of the directive to the parties to the award. This provision is unique to Queensland's industrial relations jurisdiction and is not provided for in other jurisdictions.

Interactions between awards and agreements (recommendation 37)

The Bill amends the IR Act to provide that a main purpose of the Act is to provide for a framework for cooperative industrial relations that encourages productivity in workplaces and supports fair wages and employment conditions. This is broadly consistent with the objects of the FW Act, which are to provide a balanced framework for cooperative and productive workplace relations that promotes national economic prosperity and social inclusion.

Adopt outcome of Annual Wage Review (recommendation 38)

The Bill amends the IR Act to enable the Full Bench of the Commission to adopt the outcome of the Annual Wage Review (AWR) in the State Wage Case without receiving evidence or submissions or conduct a hearing, in the absence of an objection from an interested party. If a party objects, the Commission should hear the matter *de novo*.

This approach is modelled on and broadly consistent with section 100A of the South Australian *Fair Work Act 1994* (SA) which provides that a Full Bench of the South Australian Employment Tribunal must conduct a state wage case within three months of the conclusion of the AWR and may adopt the outcomes of the AWR without receiving evidence or submissions, or conducting a hearing, if there is no objection from an interested party.

Legal representation in the Commission (recommendation 41)

The Bill amends the IR Act to enable representation of parties by legal practitioners in any proceedings before the Commission or the Industrial Court of Queensland (ICQ). The current

provisions of the IR Act restrict parties' ability to engage external legal representation in matters before the Commission. In particular matters, such as public sector appeals and arbitration, the IR Act does not permit the Commission to grant access to external legal representation.

This amendment promotes freedom of choice by restoring a worker's ability to choose their legal representative in proceedings and allowing a worker to choose to be represented by a private lawyer, a lawyer acting for the worker's union, or a lawyer acting for another association or entity. The presence of legal representation often provides for a more effective and timely resolution of disputes than where parties are not legally represented. Consideration to this amendment was given to harmonise with relevant provisions in section 596 of the FW Act. The FWC permits lawyers or paid agents to take part in a conference or hearing if it would make the running of a complex case more efficient, it would be unfair not to because the worker is unable to represent themselves effectively or it would be unfair not to, when considering the fairness between the worker and other people in the same case.

In South Australia, a legal practitioner can be appointed but only by leave of South Australian Employment Tribunal. Similarly, the Tasmania Industrial Commission allows an appointment by a legal practitioner with the leave of the Commission. In the Western Australian jurisdiction, parties can be represented by a legal practitioner and are classified as 'industrial practitioners' regulated by the Registrar of the Western Australian Industrial Relations Commission.

Appeal from a Full Bench of the QIRC (recommendation 42)

The Bill amends the IR Act to provide that an appeal from a Full Bench of the Commission where at least one of the members is a presidential member lies directly to the Court of Appeal. This amendment reduces inconsistencies in the IR Act between appeals involving presidential members of the Commission.

In the Western Australian jurisdiction, parties that are not satisfied with a decision of the Full Bench or the Commission may be able to appeal the decision to the Industrial Appeal Court.

Exercise of powers by Industrial Court and Commission – Decisions (recommendation 43)

This Bill amends the IR Act to extend to the entire jurisdiction of the Court and Commission to have the power, either on application or acting on its own volition, to dismiss a matter, or refrain from hearing a matter, further hearing, or deciding the matter, if the Court or Commission considers that further proceedings by the Court or Commission are not necessary or desirable in the public interest.

In Western Australia, the Western Australian Industrial Relations Commission may, in relation to any matter before it and at any stage of the proceedings, dismiss the matter or any part of it, or refrain from further hearing or determining the matter if it is satisfied that further proceedings are not necessary or desirable in the public interest. In the Fair Work jurisdiction, the FWC may dismiss an application if the application has no reasonable prospects of success and may dismiss an application on its own initiative.

Vexatious litigants (recommendation 44)

The Bill amends the IR Act to empower the Commission to make orders to deal with vexatious litigants and improve efficiencies in relation to these matters. The current legislative framework does not provide the Commission with the power to prevent a person from repeatedly filing unmeritorious applications. The amendments are modelled on section 587 of the FW Act which provides that the FWC may dismiss an application if the application is frivolous or vexatious.

In the New South Wales jurisdiction, the Industrial Relations Commission may dismiss at any stage any proceedings before it if it considers the proceedings are frivolous or vexatious.

Paying out of long service leave (recommendation 45)

To support the effective operation of the Queensland Industrial Relations Commission, the Bill amends section 110 of the IR Act to allow an employee with an entitlement to long service leave to make application to their employer to be paid the long service leave, instead of taking the leave, with any dispute conciliated and arbitrated by the Commission (where no industrial instrument or federal industrial instrument applies). This is broadly consistent with Western Australia, Tasmania and South Australia, where payment of long service leave can be applied only once the employee has completed the necessary period of consistent employment period and made in writing by agreement with the employer.

References to members of the Industrial Court (recommendation 47)

The Bill amends section 409 of the IR Act to provide that members of the ICQ are judges of the court. This is broadly consistent with the approach adopted by the South Australian Employment Tribunal and the New South Wales Industrial Court.

Appointments to the Industrial Court and Commission (recommendation 48)

The Bill amends the IR Act to provide that members of the QIRC and ICQ are to be appointed by commission. There is no consistent approach for how comparable appointments are given effect across Australian jurisdictions, with the process being administrative and having no impact on the nature of the appointments.

Exercise of powers by Industrial Court – Appointment of the Vice-President and a Deputy President (Court) (recommendation 49)

The Bill aligns the criteria for appointment for judicial members of the ICQ for consistency with other judicial officers in Queensland by harmonising with the *Constitution of Queensland 2001*. There does not appear to be a consistent approach among other Australian jurisdictions in relation to the qualifications required of a judicial member of an industrial court.

Exercise of powers by Industrial Court – Acting President (recommendation 50)

The Bill amends the IR Act to allow the Vice-President of the ICQ to act as the President, when the President is temporarily unable to perform the functions of the office. This is consistent with the *Industrial Relations Act 1996* (NSW). Other Australian jurisdictions do not expressly provide for this to occur.

Exercise of powers by Industrial Court – President (recommendation 51)

The Bill amends the IR Act to clarify that the Vice-President of the ICQ is responsible to the President for the administration of the court. This is not expressly provided for in other Australian jurisdictions.

Punishment of contempt (recommendation 54)

The Bill amends the IR Act to enable the QIRC to punish a person for contempt of the tribunal. This is consistent with the contempt powers of the Industrial Relations Commission of New South Wales and the Western Australian Industrial Appeal Court.

Discretion to award costs (recommendation 55)

The Bill amends the IR Act to broaden the discretion of the ICQ or Commission to award costs, including where costs were incurred due to unreasonable acts or pursuit of proceedings without reasonable prospects of success. This is consistent with the powers of the FWC and the NSW Industrial Relations Commission.

Industrial disputes and public sector appeals (recommendation 56)

The Bill amends the definition of an industrial matter to clarify that it does not include a matter that affects or relates to a conversion decision under section 129 of the *Public Sector Act 2022*. For the avoidance of doubt, the use of the term ‘under’ in this provision refers to a decision ‘within the meaning of’ section 129 of the *Public Sector Act 2022* consistent with the term ‘under’ as defined in subsection d of schedule 1 of the *Acts Interpretation Act 1954*. Concurrent statutory claims under related legislation (recommendation 57)

The Bill amends the IR Act to improve the QIRC’s discretion to handle concurrent or overlapping proceedings arising from the same factual matrix. This is consistent with the powers of the respective employment tribunals across various Australian industrial relations jurisdictions, including the FWC, the NSW Industrial Relations Commission, and the South Australian Employment Tribunal.

Workers’ Compensation and Rehabilitation Act 2023*Connection of employment to primary psychological injuries (recommendation 1)*

The Bill (Clause 121) amends the definition of injury under the WCR Act to require that for a psychiatric or psychological injury, employment is the ‘major significant’ contributing factor to the injury. All jurisdictions have tests for determining whether a psychiatric or psychological injury is work-related. New South Wales, Victoria, and South Australia specifically limit access to the scheme for psychological and psychiatric injuries.

In the New South Wales jurisdiction, Section 80 of the *Workers Compensation Act 1987* (NSW) provides that no compensation is payable for a primary psychological injury to a worker unless a relevant event or a series of relevant events cause the primary psychological injury, there is a real and direct connection between the relevant event or series of relevant events and the worker’s employment, and employment is the main contributing factor to the primary psychological injuries.

In the Victorian jurisdiction, section 39 of the *Workplace Injury Rehabilitation and Compensation Act* (Vic) provides that a worker is entitled to compensation if a worker sustains a mental injury predominantly arising out of or in the course of any employment.

In the South Australian jurisdiction, section 7 of the *Return to Work Act 2014* (SA) provides that an injury arises from employment if, in the case for a psychiatric injury, the psychiatric injury arises out of or in the course of employment and the employment was the significant contributing cause to the injury. In contrast, physical injuries in the South Australian scheme require that the employment was a significant contributing cause to the injury.

Suspension or ending compensation where there is a reasonable belief a fraud offence has been committed (recommendation 8)

The Bill (Clause 154) introduces the ability for an authorised person to direct the suspension of the payment of lump sum compensation or end a workers’ entitlement to compensation

where the authorised person reasonably believes that an offence of fraud has been committed, or suspension of the payment of lump sum compensation on the commencement of proceedings for a fraud offence.

These provisions provide a similar power to those found in Victoria, where sections 183 and 233 of the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic) allows for the Authority or a self-insurer to terminate payments for weekly compensation and professional services where the authority or a self-insurer determines that the payments were obtained by a worker fraudulently.

Maximum Penalties for offences of fraud and related offending (recommendation 10)

The Bill (Clause 151) amends the maximum penalties for offences of fraud under section 533 of the WCR Act from 5 to 10 years imprisonment and is generally consistent with the legislation of other jurisdictions. The amended penalty appropriately recognises the significance of the offending and provides an appropriate deterrent to fraud in the scheme.

Some other jurisdictions use general criminal fraud provisions to prosecute offences of fraud against their workers' compensation schemes. This includes NSW, which prosecutes workers' compensation fraud against section 192E of the *Crimes Act 1900* (NSW) attracting a maximum penalty of 10 years imprisonment.

Equivalent offences against Commonwealth schemes (including Comcare and Centrelink fraud) are engaged through the *Criminal Code Act 1995* (Cth). For deliberate and more serious Centrelink fraud offences, section 134.2 provides for a maximum penalty attracting 10 years imprisonment. Less serious offences are prosecuted against obtaining financial advantage under 135.2, and offences relating to providing false or misleading information under (section 137.1), which are consistent with the current offences under the WCR Act.

The maximum penalty for the offence of fraud under section 408C of the *Criminal Code Act 1899* (Qld) is 20 years. Fraud under the WCR Act is confined within a legislated scheme with sophisticated insurers and alternative tools available to insurers and the Regulator to prevent, detect and respond to fraud. The nature of the scheme means that the type of fraud experienced generally excludes abuse of position of trust, vulnerable cohorts and organised criminal activity captured under the Criminal Code, and more closely aligns with other insurance and social security offences.

Presumptive coverage for parks and wildlife service employees engaged in firefighting (recommendation 30)

In relation to presumptive coverage of firefighters (clause 122) New South Wales, Victoria, Western Australia and Tasmania extend presumptive coverage for deemed diseases to parks and wildlife service (PWS) workers engaged in firefighting.

For presumptive PTSD provisions (clause 185), several other jurisdictions, including Western Australia and Tasmania extend presumptive coverage for PTSD to PWS workers engaged in firefighting.

Summary of prospective workers' claims history available to employers (recommendation 39)

In relation to the provision of workers claim history summaries (clause 177) most jurisdictions, including Queensland, workers are entitled to seek copies of their claims history from their respective agencies. Subject to the worker's consent, those records may be provided to

prospective employers by the prospective worker. There are generally no legislative restrictions on a worker voluntarily sharing their own claim information.

Western Australia is the only jurisdiction which expressly prohibits the disclosure of claim information for pre-employment purposes. Section 506 of the *Workers Compensation and Injury Management Act 2023* (WA) prohibits the disclosure of information about a worker's claim for compensation to another person for the purpose of providing information to that person about the worker's suitability for employment with a prospective employer. Additionally, a person cannot, for the purpose of selection for employment, be required to disclose information about any claim for compensation by the person.

Other amendments

The BOPGA Act is specific to the State of Queensland and is not uniform with any current legislation of the Commonwealth or another State or Territory. However, approaches in other jurisdictions for previous editions of the Olympic and Paralympic Games, including the Sydney 2000 and London 2012 Olympic and Paralympic Games, were taken into consideration during the drafting of the amendments.

Other jurisdictions have differing arrangements to manage the administration of courts. The amendments to the P&E Court Act to provide for a P&E Court Judge Administrator role reflects the *District Court of Queensland Act 1967* providing for a Judge Administrator role.

Notes on provisions

Part 1 Preliminary

Clause 1 sets out the short title of the Act as the *Industrial Relations and Other Legislation Amendment Act 2026*.

Clause 2 set outs details for the commencement of various provisions in the Bill.

Part 2 Amendment of *Brisbane Olympic and Paralympic Games Arrangements Act 2021*

Clause 3 provides this part amends the *Brisbane Olympic and Paralympic Games Arrangements Act 2021*.

Clause 4 inserts new s53DFAA which applies to ‘relevant venues’ listed in sch 4AA. The section applies where:

- a liquor licence is issued under the *Liquor Act 1992* relating to premises comprising all or part of the relevant venue; and
- the relevant venue is being used for a ‘games-related use’ or ‘legacy use’.

The section provides that, if the licence is subject to a noise condition, the noise condition does not apply in relation to noise from amplified music at the premises. The section further provides that sections 46, 46A and 187 of the *Liquor Act 1992* do not apply in relation to noise from amplified music played at the premises.

Clause 5 inserts a minor consequential amendment to the heading of ch 3A, pt 2A, div 2.

Clause 6 inserts new ch 3A, pt 2A, div 2A which provides for the vesting of land in the Cross River Rail Delivery Authority to enable the timely delivery of the Gabba Arena. Insertion of new clauses includes:

Insertion of s 53DFEA Definitions for division

This section inserts new definitions for the division.

Insertion of s 53DFEB Lodgement of plan of survey for lot 1291 on SP149280

This section requires the chief executive to ensure a plan of survey for:

- the land comprising part of Lot 1291 on SP149280 that is identified as the ‘new lot area’ in sch 4AB (the ‘arena-related land’); and
- the land comprising the remainder of Lot 1291 on SP149280 (the ‘remainder of lot 1291’),

is lodged before 31 December 2026. This section further provides for the creation of 2 separate lots for the ‘arena-related land’ and the ‘remainder of lot 1291’ upon lodgement of the survey plan.

Insertion of s 53DFEC Vesting of new lot for arena-related land in Cross River Rail Delivery Authority

This section provides for the vesting of the new lot for the arena-related land in Cross River Rail Delivery Authority as an estate in fee simple, to facilitate the development of the Gabba Arena. This section further provides for the extinguishment of current existing tenure and interests (unless preserved by the amendments), for the revocation of certain declarations over the arena-related land, for no fees to be payable in relation to the vesting of the land or recording of particulars on relevant registers, and for no compensation to be payable in relation to any cancellation of interests in the land.

Insertion of s 53DFED Effect of creation of new lot for remainder of lot 1291

This section relates to the lot created for the remainder of lot 1291 under section 53DFEB. This section clarifies that the land comprising the lot continues to be dedicated as a reserve under the Land Act (on the same terms as the dedication of the land as a reserve immediately before the lot was created) and continues to be subject to State-controlled road and motorway declarations. In addition, this section provides for the adjustment of the reserve boundary.

Clause 7 inserts an amendment to the definition of ‘arena land’ in sch 2, pt 1, s 1. This amendment provides for the new lot created for the arena-related land to be included in the definition of ‘arena land’, and for Lot 1291 on SP149280 to be removed from that definition, once the new lot vests in Cross River Rail Delivery Authority.

Clause 8 inserts new schedules 4AA and 4AB to support the amendments made in Clauses 4 and 6. Schedule 4AA includes a list of ‘relevant venues’ for variation of noise condition (for s 53DFAA). Schedule 4AB includes a plan of the proposed new lot to vest in Cross River Rail Delivery Authority (for s 53DFEA).

Clause 9 inserts a minor consequential amendment to the heading of sch 4A.

Clause 10 amends sch 6 to include definitions for ‘arena-related land’ and ‘remainder of lot 1291’.

Part 3 Amendment of *Building and Construction Industry (Portable Long Service Leave) Act 1991*

Clauses 11 and 12 amend the *Building and Construction Industry (Portable Long Service Leave) Act 1991* (BCI Act). Clause 12 amends section 56 (Application for entitlement to long service leave or payment instead of long service leave) of the BCI Act in light of the amended approach to payment for long service leave instead of taking the leave as provided for in other clauses of this Bill (see Clauses 21, 112) with these clauses amending the separate portable long service leave legislation to reflect this amendment where the worker and the portable long service leave authority (QLeave) may agree by signed agreement, that the worker be paid for all or part of their entitlement to portable long service leave subject to the provisions of the BCI Act.

Part 4 Amendment of *Community Services Industry (Portable Long Service Leave) Act 2020*

Clause 13, 14 and 15 (Other) provides that the Bill amends the *Community Services Industry (Portable Long Service Leave) Act 2020* (CSI Act). Clause 15 amends section 72 (Application for long service leave entitlement by registered worker) of the CSI Act to replace subsections (2) and (3) with new subsections (2) and (3), which provide that an application for entitlement to long service leave or payment of long service leave is permitted if an industrial instrument provides for the registered worker to be paid instead of taking long service leave if provided for in the instrument, and if the registered worker has accrued 2,555 days of service. As for the previous and following clauses, this change is to provide for the amended approach in the Bill for a worker reach agreement with their employer (or QLeave) for payment of their long service leave rather than taking the leave. The registered worker must have entered into a written agreement with the authority and the registered worker's employer to be paid all or part of the entitlement. Previously, payment for long service leave was granted by order of the commission on application by an eligible employee under section 110 of the IR Act 2016.

Part 5 Amendment of *Contract Cleaning Industry (Portable Long Service Leave) Act 2005*

Clauses 16 and 17 amends the *Contract Cleaning Industry (Portable Long Service Leave) Act 2005* (CCI Act). Clause 17 amends section 71 (Application for long service leave entitlement) of the CCI Act to replace subsections (2) and (3) with new subsections (2) and (3), which provide that an application for entitlement to long service leave or payment of long service leave is permitted if an industrial instrument provides for the registered worker to be paid instead of taking long service leave if provided for in the instrument, and if the registered worker has accrued 3,650 days of service. Further, the registered worker must have entered into a written agreement with the authority and the registered worker's employer to be paid all or part of the entitlement. Previously, payment for long service leave was granted by order of the commission on application by an eligible employee under section 110 of the IR Act 2016.

Part 6 Amendment of *Industrial Relations Act 2016*

Clause 18 provides that part 2 of the Bill amends the *Industrial Relations Act 2016*.

Clause 19 amends section 3 (Main purpose of Act) to insert a new main purpose of the *Industrial Relations Act 2016* (IR Act) to encourage productivity in workplaces and support fair wages and employment conditions.

Clause 20 amends section 9 (What is an *industrial matter*) to clarify that a matter is not an industrial matter if it affects or relates to a conversion decision within the meaning of section 129 of the *Public Sector Act 2022* (PS Act).

Clause 21 amends section 110 (Payment instead of long service leave) so that if no relevant industrial instrument or federal instrument provides for an employee with a long service leave entitlement to be paid for all or part of the entitlement, the payment may be made only if the employee and employer agree by a signed agreement the payment may be made. Section 110 previously provided that a long service leave payment could only be made in these circumstances if the payment was ordered by the commission on application by the employee.

Allowing an employee to make this application directly to the employer will reduce the volume of administrative work managed by the commission and allow members to devote more time to resolving disputes.

Clause 22 (Omission of ss 145 and 146) omits sections 145 and 146 from the IR Act to remove the ability for provisions from certified agreements or a directive to be incorporated into award provisions. This is intended to address concerns about inflated modern award rates exceeding certified agreement rates.

Clause 23 amends section 163 (Purpose of chapter) so that the purpose of chapter 4 includes providing for the commission to help the parties reach agreement or reduce the matters in dispute, for the matter to be arbitrated by the commission if conciliation is not successful, and for the balloting of employees by the employer in particular circumstances despite 1 or more negotiating parties not reaching agreement. Clause 23 also amends section 163 to allow for the commission to make an order on application by an employer for certification without the agreement of all negotiating parties. Section 174A is inserted under clause 26 and allows for an employer to conduct a direct ballot of employees for approval of a proposed agreement with the agreement of at least one employee organisation that is a negotiating party. Previously, it was necessary for section 165 for all negotiating parties to agree before a proposed agreement could to be put to employee ballot.

Clause 24 amends section 165 (Who may make certified agreements) to insert a reference to section 174A (Direct ballot agreements) in a note under section 165(b)(i). Section 165(b)(i) provides that a certified agreement may be made between 1 or more employee organisations that represent, or are entitled to represent, any employees of the employer who are, or are eligible to be, members of the organisation. Section 174A is a new provision introduced by clause 24 that provides for direct balloting of employees despite a lack of agreement from all negotiating parties on the proposed agreement in circumstances where agreement has been reached with at least one employee organisation.

Clause 25 amends section 168 (Definitions for chapter) to provide references to the new definition of ‘direct ballot agreement’ in section 174A(3) and ‘non-approving party’ in section 174A(5). This is a consequential amendment required to give effect to direct balloting provisions.

Clause 26 inserts section 170A (Relevant employee entitlement to representation) to provide that where an employee asks a relevant employee organisation to represent the employee in negotiating about the proposed bargaining instrument, the employer must give the employee organisation a reasonable opportunity to represent the employee in negotiations before making a direct ballot application under part 5.

Clause 27 inserts section 171 (Proposed bargaining instrument to be given to employees for approval) to allow for direct balloting of employees despite the employer not reaching agreement with all negotiating parties by outlining the necessary conditions for direct balloting to occur.

Clause 28 amends section 173 (Parties must negotiate in good faith) to clarify that the requirement to negotiate in good faith does not require a negotiating party to make concessions or reach agreement during negotiations. The amendment also clarifies that if the employer asks the relevant employees to approve a proposed agreement by direct ballot, this request itself

does not contravene the requirement to negotiate in good faith. This is a consequential amendment giving effect to direct balloting provisions.

Clause 29 amends section 174 (Peace obligation period to assist negotiations) to provide that an employer may not conduct a direct ballot of employees for approval of a proposed agreement during the peace obligation period in the circumstances mentioned in section 171(1A). Clause 29 further amends section 174 (Peace obligation period to assist negotiations) to clarify the peace obligation period for circumstances where a scope order for a proposed bargaining instrument comes into operation for a ‘scoped out instrument’.

Clause 30 inserts section 174A (Direct ballot agreements) to provide that an employer may ask the relevant employees to approve a proposed agreement despite a lack of agreement from all negotiating parties on the proposed agreement in circumstances where agreement has been reached with 1 or more employee organisations. Previously, certification of a proposed agreement would require the agreement of all negotiating parties under the IR Act.

Clause 31 amends section 175 (Application of division) to provide that the day conciliation of a matter starts is the day the negotiating party asks the commission to help the parties reach agreement. It provides that this request can only occur 28 days after the last day of the peace obligation period. This addresses the previous uncertainty about the application of part 3, division 1.

Clause 32 amends section 176 (Commission’s role in conciliation) to omit section 176(4), which provides that the commission may suspend or terminate protected industrial action taken during conciliation only under part 8, division 4. This supports changes to disallow negotiating parties to take protected industrial action once an application for conciliation has been made noting that as part of the amendment proposed at clause 31 such an application can only be made 28 days after the last day of the peace obligation period.

Clause 33 inserts section 176A (Direct ballot may be conducted during conciliation) to extend the new right to request a direct employee ballot to the conciliation stage in circumstances where agreement has been reached with at least 1 employee organisation consistent with the proposed amendments at clause 30.

Clause 34 amends section 177 (Referral to arbitration by conciliating member) to provide that the commissioner may refer a matter to arbitration if the commissioner is satisfied that 3 months from the nominal expiry date of an existing bargaining instrument or arbitration determination has passed, or where there is no reasonable likelihood that further conciliation or negotiation will result in the negotiating parties reaching agreement on the matters at issue within a reasonable period.

Clause 35 amends a cross reference in section 178 (Consent application for arbitration) to replace the words ‘section 173(5)’ in the third dot point of the examples note and with the words ‘section 173(7)’. This reflects amendments to section 173.

Clause 36 amends section 180 (Commission to arbitrate disputed matters) to provide an updated list of matters the commission must consider in determining the matters in dispute. This updated list includes specific considerations for a matter involving a public sector employer, including the state’s financial position and fiscal strategy. For what is a public sector employer, clause 36 refers to the *Fair Work (Commonwealth Powers) and Other Provisions Act 2009*, section 3(1). This is intended to include Queensland Government employers

including employers who represent or employ on behalf of the Queensland Government such as Legal Aid Queensland, TAFE Queensland, Trade and Investment Queensland and Tourism and Events Queensland. As part of the updated list of matters to be considered in making an arbitration determination, the commission is also required to consider the merits of the case; the significance to the employees or employers of particular terms of an existing bargaining instrument or arbitration determination; the public interest; the extent to which the proposed arbitration determination will support workplace productivity; the reasonableness of the conduct of the parties and their compliance with the requirements to negotiate in good, as well as incentives to continue to negotiate in future.

Clause 37 amends section 185 (Making scope orders) to qualify the circumstances in which the commission may be satisfied that making a scope order in relation to a proposed bargaining instrument is reasonable in all the circumstances. The commission must be satisfied that the proposed order will promote the fair and efficient conduct of the negotiations and will not adversely affect the business or operational needs of any employer to be covered by the instrument. Section 185 is also amended to provide that in considering the impact of the proposed scope order on the business or operational needs of the employer, the commission must have regard to the nature of the work performed and the likely financial effects of the order on the employer, including effects on productivity.

Clause 38 inserts new section 187A (Order to be made about peace obligation period in particular circumstances) to provide that the commission must make an order about the starting day of the peace obligation for a scoped out instrument if only some of the employees who received the notice of intention for negotiations are stated in the scope order, and the employees stated in the order will not be covered by the relevant proposed bargaining instrument because of the scope order. The starting day must be the day after the scope order comes into operation if the commission considers this appropriate, or the day notice of intention was given. There is also a note that section 187A does not limit section 187 (Powers to make or vary other orders etc.).

Clause 39 amends section 189 (Application for certification of agreement) to provide for certification of an agreement despite one or more relevant employee organisations not agreeing on the terms of the agreement. Section 189 previously required the agreement of all parties to negotiations for an application for certification of the proposed agreement to be made.

Clause 40 inserts section 189A (Commission may make order simplifying application process) to provide that the commission may make an order on application by a party to an agreement providing that a form requirement is taken to be satisfied for the purposes of an application to certify the agreement. The commission may make such an order only if satisfied that none of the parties to the agreement objects to the order, and the commission will be sufficiently informed to enable it to certify the agreement if the order is complied with.

Clause 41 amends section 192 (Entities that may be heard on application) to allow a non-approving party in relation to a direct ballot agreement to be heard on an application under part 5. This is necessary to give effect to the direct balloting of employees.

Clause 42 amends section 195 (Compliance with bargaining process requirements) to provide that the commission must be satisfied the things required by section 170A were done in relation to a bargaining process, in addition to the things required by sections 169, 171 and 172. Section 170A provides for an employee's entitlement to representation, including allowing the relevant

employee organisation a reasonable opportunity before an application is made for a direct ballot agreement.

Clause 43 amends section 196 (Proposed bargaining instrument to be in writing and signed by parties) to provide that the requirement for the commission to be satisfied that a proposed bargaining instrument was signed by or for all parties does not apply if the proposed bargaining instrument is a direct ballot agreement and certain conditions for a direct ballot agreement are met. It also clarifies for the avoidance of doubt, that a party may sign the proposed bargaining instrument by electronic signature.

Clause 44 amends section 200 (Agreements—requirements about parties) to provide that certain requirements for parties to an agreement do not apply in relation to a direct ballot agreement if the commission is satisfied a relevant employee organisation has withdrawn as a party to the agreement under section 174A(2)(b).

Clause 45 amends section 221 (Who is covered by a bargaining instrument) to provide that a bargaining instrument covers an employee organisation if the instrument is a direct ballot agreement and the organisation is a non-approving party. This is a consequential amendment that gives effect to provisions allowing for a direct balloting agreement.

Clause 46 amends section 223 (Extension of nominal expiry date) to replace the words ‘the 1 or more organisations’ with ‘1 or more of the organisations’. This is a consequential amendment that gives effect to provisions allowing for a direct balloting agreement.

Clause 47 amends section 225 (Amendment on application) to replace the words ‘and the organisations’ in subsection (1)(a) with ‘and 1 or more of the organisations’. This is a consequential amendment giving effect to direct balloting provisions.

Clause 48 amends section 233 (When industrial action is protected industrial action) to omit section 233(6). This removes the ability for parties to engage in industrial action during conciliation for a proposed bargaining agreement. This clause also renumbers section 233(7) as section 233(6).

Clause 49 amends section 234 (When industrial action is not protected industrial action) to provide that under section 234(1), industrial action is not protected industrial action if engaged in during conciliation (or arbitration) for a proposed instrument, while an order of the commission suspending or terminating the industrial action is in effect, or while a declaration the Minister terminating the industrial action is in effect.

Clause 50 amends section 236(1) (Notice of industrial action must be given) to provide that a person or employer intending to take protected industrial action must give written notice at least 3 working days before any protected industrial action is intended to start. Previously the requirement to provide at least 3 working days’ notice was limited to the first instance that a party sought to take protected industrial action while subsequent or retaliatory action required notice only ‘before the day the intended action starts’.

Clause 51 amends section 238 (Employer must not prejudice employee for engaging in protected industrial action) to provide that an employer reducing an employee’s pay as a result of the employee taking protected industrial action is allowed under division 3A.

Clause 52 inserts new chapter 4, part 8, division 3A (Payment of employees engaging in protected industrial action) to provide that an employee who has engaged in protected industrial action that involves a failure or refusal to attend for work or perform any work at all is not entitled to be paid for the duration of the industrial action (section 239B), and an employer may reduce the amount paid to an employee who has engaged in or proposes to engage in a partial work ban by a proportion that is reasonable given the nature and extent of the partial work ban (section 239C). It provides steps to be undertaken to calculate the proportion the employer may reduce the amount paid to the employee for each relevant day by firstly identifying the work that is the subject of the protected industrial action; secondly estimating the time the employee would usually spend performing the work during the relevant day; and calculating the time estimated as a percentage of the employee's usual hours of work for the relevant day. Section 239D of clause 52 requires the employer to give the employee written notice before refusing to make or reducing payment in response to industrial action. In circumstances where the notice states the amount paid to the employee will be reduced by a stated proportion, the notice must also state the basis on which the proportion has been worked out.

Clause 53 inserts section 241A (Suspension or termination if serious disruption to delivery of public services) to provide further grounds for the commission to make an order to suspend or terminate industrial action for a proposed bargaining agreement. The new section 241A provides that the commission must, on application by a relevant person, make an order to suspend or terminate protected industrial action on application only if satisfied that the industrial action is causing or threatening to cause serious disruption to the delivery of a public service; and the disruption is causing, or would cause, harm to persons who will not be covered by the proposed instrument; and the industrial action is contrary to the public interest. Additional factors are prescribed to assist the Commission in determining if the action is contrary to the public interest.

Clause 54 inserts chapter 4, part 8, division 5 (Termination by Minister) to provide for the Minister to make a declaration terminating protected industrial action under particular circumstances. Under section 241B (Power of Minister to terminate protected industrial action), the Minister must be satisfied that the industrial action is being engaged in, or is threatened, impending or probable, and the industrial action is threatening or would threaten to endanger the life, personal safety or health, or welfare of the State's population or part of it, cause significant damage to the State's economy or part of it, disrupt the delivery of services to the public by a class of employees prescribed by regulation and the disruption is not in the public interest, or otherwise have an effect that is not in the public interest. The new division 5 also inserts sections 241C (Publishing declaration etc.), 241D (Ministerial directions related to declaration) and 241E (Contravention of Ministerial direction. Section 241E includes a note indicating that this section is a civil penalty provision.

Clause 55 amends section 242 (Certificate as to requested representation) to replace 'section 171' with 'section 170A(1)' in subsection (1), and replace 'section 171(5)' with 'section 170A(3)' in subsection (2).

Clause 56 inserts new section 243A (Conduct of ballot by electoral commission) to provide that the electoral commission may conduct an employer ballot for a proposed bargaining instrument, with costs payable by the relevant party who made the request.

Clause 57 amends section 244 (Coercion) to replace ‘section 171(2)(c) with ‘section 170A(1)’ and insert a note under section 244 to see also chapter 6, part 4 in relation to particular disputes relating to industrial action.

Clause 58 amends section 268 (Payment for strikes not compellable) and renames the section 268 heading with ‘268 Industrial action taken with intention to coerce payment’. This clause also omits subsection (1), replaces the words ‘a strike’ in subsections (2) and (3) with the words ‘industrial action’, replaces ‘make the payment’ in subsections (2) and (3) with ‘pay the employee for a period when the employee engages in industrial action’, replaces subsection (7) with new subsection (7) to provide that section 268 applies subject to chapter 4, part 8 and inserts a note under section 268 to see also chapter 4, part 8, division 3A in relation to the payment of an employee who is engaging in protected industrial action.

Clause 59 amends section 269 (Orders for contravention of s 268) to replace the word ‘strike’ in subsections (2)(c) and (3)(b) with the words ‘industrial action’.

Clause 60 amends section 270 (Commission must not deal with claims for payments for strikes) to omit section 270.

Clause 61 amends section 293A (Misrepresentations—right to represent) to insert, after ‘represent’, ‘entity other than organisation’.

Clause 62 inserts new section 293B (Misrepresentations—person ineligible to be member (organisation)) to provide that an organisation or officer or employee of the organisation must not knowingly make a false or misleading representation to another person that the organisation has the right to represent the individual interests of a person who is not eligible to be a member of the organisation. New section 293B is a civil penalty provision.

Clause 63 inserts Chapter 8, Part 1A (Protection for whistleblowers). This part provides for whistleblower protections from reprisal for persons who make a protected disclosure about the conduct of the organisation or a branch of the organisation or an officer or employee of the organisation or branch of the organisation. Chapter 8, Part 1A:

- provides for the purpose and application of part 1A (section 314A, section 314B).
- defines ‘disclosable conduct’ (section 314C) and ‘protected disclosure’ (section 314D).
- provides a dual pathway for the investigation of protected disclosures where a person may make a protected disclosure to the registrar (section 314E) or an inspector (section 314F) and sets out the process for the investigation.
- provides for the meaning of ‘reprisal’ and unlawful grounds for a reprisal (section 314G).
- creates an offence for taking reprisal with a maximum penalty of 200 penalty units (section 314H).
- provides that a reprisal is a tort and a person who takes a reprisal is liable in damages to the person who suffers a detriment (section 314I).
- provides for the commission to make orders to prevent, stop or remedy the effects of reprisal (section 314J).
- provides for civil penalties where a person contravenes an injunctive order under section 314J(2)(d) (section 314K).

- provides for protections from liability and reprisal if a person makes a protected disclosure (section 314L).

The provisions included in this Bill do not limit other protections a person may have. For example, if a person makes a disclosure to the (current at the time of introduction) Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry, they have the protections available to them under the *Commissions of Inquiry Act 1950* (Qld). If a person makes a disclosure to the registrar or an inspector under the new Chapter 8, Part 1A provisions, they engage these IR Act protections. For clarity, a person does not have protection under the IR Act for a disclosure to a Commission of Inquiry (or other inquiry or regulator) unless they also make a disclosure under this Act.

Clause 64 amends section 336 (Definitions for part) to define ‘authorised officer’ as a person who holds an authority under section 337. Section 336 previously contained a reference to section 337(3).

Clause 65 replaces chapter 9, part 1, division 2 (Authorised officers) with new chapter 9, part 1, division 2 to provide that the registrar must be satisfied that the officer or employee nominated to hold an authority on application by an organisation is a fit and proper person to hold the authority. Clause 65 provides factors for consideration in determining whether the person is a fit and proper person to hold an authority (section 338A); inquiries by the registrar about whether the person is fit and proper (section 338B); a request by the registrar for an applicant’s criminal history (section 338C) or other information (section 338D); the term of an authorised officer’s authority (section 338E); an application by an employer to revoke or suspend an authority (section 338F); revocation or suspension of an authority on the commission’s initiative (section 338G); requirements that must be satisfied before the commission decides to revoke, suspend or impose conditions on an authority (section 338H); surrender of an authority if requested by the relevant organisation or if the person ceases to be an officer or employee of the organisation (338I); return of the authority to the registrar (section 338J); application for renewal of an authority (section 338K); the term of the authority after renewal (section 338L); and the requirement to maintain a register of authorised officers (section 338M).

Clause 66 amends section 340 (Time and wages record—non-industrial instrument employees) to replace the reference to ‘Section 458(2)’ in subsection (2) with a reference to ‘Section 458(1)(b)’. This reflects amendments to section 458.

Clause 67 omits section 345 (Right to request information about outworkers under code—authorised officer) as these provisions are now considered obsolete, having not been used in the Queensland industrial relations jurisdiction since before the commencement of the current IR Act.

Clause 68 amends section 348 (Right of entry). This section provides the right of entry framework for an authorised officer to access time and wages records for inspection. Clause 68 introduces a requirement to ensure the exercise of the power is for an appropriate purpose, and a new prescribed condition (a notice period) that must be met requiring the authorised officer to provide at least 24 hours’ notice, but not more than 14 days before the authorised officer intends to enter premises. These new requirements in section 348 balance the rights of employees to have their representatives investigate suspected contraventions in the workplace on their behalf and hold a reasonable belief that a contravention has or is occurring and, employers the right to conduct their business with minimal disruption and ensure they have

sufficient time to access records for inspection. Section 348 also preserves the penalties and consequences for failure to comply with the requirements of the provision.

Clause 69 amends section 350 (Right to inspect particular records) to clarify that an authorised officer may inspect applicable records (only) for a member employee or a person who is eligible to become a member employer.

Clause 70 amends section 355 (Definitions for part) to omit the definitions of *mine*, *mortgagee* and *mortgagor*.

Clause 71 amends section 380 (Enforcement of magistrate's orders) to omit the definition of 'employer' in subsection (6).

Clause 72 omits chapter 9, part 4, divisions 4 and 5. These divisions, for recovery of wages for clothing outworkers and for wages in rural and mining industries respectively, are considered obsolete, as they have not been used since the commencement of the IR Act. There are other consequential amendments as a result included in the Bill.

Clause 73 amends section 409 (Membership) to provide that each member of the court is a judge of the court. This reflects the status of the Industrial Court as a superior court of record in Queensland and is consistent with the approach adopted by the South Australian Employment Tribunal and the New South Wales Industrial Court.

Clause 74 amends section 416 (Acting president) to provide that if the Governor in Council does not appoint a Supreme Court judge to act as the president while the president is temporarily unable to perform the functions of office, the vice-president of the court may act as the president. This will better support the continued operation of the court during periods where the president is temporarily unavailable.

Clause 75 amends section 417 (Functions of vice-president) to provide that subject to section 412 (Functions of the president), the vice-president is responsible to the president for the administration of the court and for ensuring the orderly and expeditious exercise of the jurisdiction and powers of the court. This amendment is modelled on section 51(1) of the *Supreme Court of Queensland Act 1991* and will support the orderly and expeditious exercise of the jurisdiction and powers of the Commission.

Clause 76 amends section 418 (Appointment of vice-president) to provide that the vice-president of the court is appointed 'by commission'. Section 418 previously provided that the vice-president was appointed 'by gazette notice'. This amendment brings the appointment processes for the court further into alignment with the process for appointment as a judge of the Supreme and District Courts. It also clarifies that to be appointed to the position of vice-president a person must have suitable experience, qualifications and standing in the community; whereas previously an appointee was required to have either suitable experience, qualifications and standing in the community or high-level experience in business or industry or in a relevant entity.

Clause 77 amends section 421 (Deputy presidents (court)) to provide that the deputy presidents of the court are appointed 'by commission, as in the amended section 418. Section 421 is also amended to change the requirements for appointment as a deputy president of the court. Section 421 previously required the person to have either high-level experience in business or industry or in a relevant entity, or suitable experience, qualifications and standing in the community to

be appointed as a deputy president (court). The amended section 421 provides that a person will only be eligible where they have suitable experience, qualifications and standing in the community to be appointed as a deputy president of the court under subsection (b).

Clause 78 amends section 428(1) (Contempt of court) to provide jurisdiction for the court for contempt of court.

Clause 79 inserts new section 456A (Consolidation of proceedings) and section 456B (Punishment of contempt). Section 456A allows the commission to consolidate 2 or more proceedings that involve related facts or circumstances, or where the decision in one proceeding will decide or affect the other proceeding or proceedings. Section 456B provides that the commission has the same powers relating to contempt of court as the Supreme Court. These amendments provide for the efficient resolution of disputes and appropriate use of the commission's resources.

Clause 80 amends section 458 (Power to make general rulings) by inserting a note under subsection (1) to see subdivision 1A for provisions about the State wage case, omit subsection (2), insert subsection (4) to provide that section 458 applies subject to subdivision 1A and renumber subsections (3) and (4) as subsections (2) and (3).

Clause 81 amends, relocates and renumbers section 459A (Provisions about general ruling for State wage case) to replace the words 'general ruling for State wage case' in the section 459A heading with new word 'increase of wages in relation to particular employees'. This clause also relocates section 459A as amended to chapter 11, part 2, division 4, subdivision 1A, renumbered as section 460C.

Clause 82 inserts new chapter 11, part 2, division 4, subdivision 1A (State wage case) to provide for the adoption of outcomes of the Fair Work Commission Annual Wage Review by the Queensland Industrial Relations Commission for the State Wage Case without receiving evidence or submissions or conducting a hearing, in the absence of any objection from an interested party. In the absence of objections, the Commission will hear the matter de novo. Generally, State Wage Case outcomes will mirror the Annual Wage Review, however under the existing scheme the Commission is required to be in receipt of evidence and conduct a hearing in order to discharge its evaluative functions. The proposed amendments will better support the efficient use of the Commission's time and resources by only requiring a hearing and evidence in circumstances where an interested party objects. The amendments mirror provisions in the South Australian jurisdiction.

Clause 83 amends section 476 (Requirements for application) to omit '386' from subsection (3). This is a consequential amendment as a result of the removal from the IR Act of Chapter 9, Part 2, Division 4 (see also clause 72 note).

Clause 84 amends section 529 (Representation of parties generally) to omit the prohibition on a party or person being represented by an entity other than a registered organisation that purports to represent the industrial interests of employees or employers. This amendment supports the freedom of employees and employers to be represented in an industrial proceeding by the agent or entity of their choice. Clause 84 also retains the prohibition in section 529 on a party or person being represented by a paid agent in industrial proceedings. This approach is intended to provide a balance between promoting the freedom of individuals to choose who represents them in proceedings and protecting workers from unethical and underqualified paid agents.

Clause 85 amends section 530 (Legal representation) to clarify that under subsection (1)(b), a party or person permitted to be represented in proceedings may only be represented by a lawyer if the “industrial tribunal” gives leave; or where all parties consent; or where the proceedings are for the prosecution of an offence. The term ‘industrial tribunal’ is defined in the amended section to mean the Court of Appeal, court, full bench, commission or Industrial Magistrates Court; or for proceedings before the registrar including interlocutory proceedings – the registrar; or for proceedings before a conciliator – the conciliator. Section 530(1)(b) previously provided that the party or person may only be represented by a lawyer if the “court” gives leave. This amendment allows the commission to grant leave for a party or person to access external legal representation in proceedings. Section 530(2) is also amended to omit the prohibition on a person or party being represented by a lawyer if the party is a negotiating party to arbitration proceedings before the commission under chapter 4, part 3, division 2. These amendments will better support access to representation in proceedings and the efficient use of the tribunal’s time and resources.

Clause 86 amends section 531 (Decisions of the commission and magistrates) to remove ‘386’ from the definition ‘relevant amount’ under subsection (6).

Clause 87 replaces section 541 (Decisions generally) with new section 541 (Decisions generally) and section 541A (Orders about further applications after dismissal). Section 541 broadens the discretionary powers of the court and commission to dismiss a matter, or refrain from hearing a matter, further hearing, or deciding the matter if the court or commission decide this is not necessary or desirable in the public interest or where the applicant has unreasonably failed to discontinue the proceeding after a settlement agreement has been concluded; or where the proceeding is frivolous or vexatious. Previously the powers were limited to circumstances where the cause was trivial; or further proceedings by the court or commission were not necessary or desirable in the public interest. Section 541A allows the court or commission to make an order that the applicant in the proceeding must not make a further application to the court or commission of a particular kind without the permission of the court or commission. These new provisions are intended to improve the systemic efficiency of the court and commission by allowing members to dispose of matters with minimal prospects of success at an earlier stage in the proceeding and address frivolous or vexatious claims.

Clause 88 amends section 545 (General power to award costs) to provide that the court or commission may order a party to pay another party’s costs if satisfied the costs were incurred because of an unreasonable act or omission by the party. In making such an order, the commission must be constituted by a full bench and must not make an order unless the applicant has been given a reasonable opportunity to make submissions in relation to whether the order should be made; and the commission or commission has taken into account any such submissions made. This will support earlier resolution of disputes at an earlier stage by incentivising litigants to resolve claims through settlement or conciliation without proceeding to trial.

Clause 89 amends section 547B (Definitions for division) to omit ‘386’ from definition *unpaid amount claim*. Section 386 is a recovery of unpaid wages provision for outworkers and is being removed from the IR Act under clause 72.

Clause 90 amends section 554 (Appeals from court or commission in certain circumstances) to provide that a person may appeal a decision of the full bench constituted by at least 1 member who is a presidential member to the Court of Appeal on certain grounds. Section 554 previously

provided that a person may appeal to the Court of Appeal a decision of the full bench “constituted by the president and 2 more other members” on certain grounds.

Clause 91 amends section 557 (Appeal from commission) to provide that *commission* is defined as “at least 1 member who is a presidential member” for the purposes of an appeal from the commission. The effect of this amendment is to align requirements for the constitution of the commission for an appeal with the requirements for constitution of the Full Bench for an appeal.

Clause 92 amends section 595 (Definitions for chapter) to define the term ‘register’ to mean a register of organisations and a copy of each organisation’s rules kept by the registrar under section 614(1).

Clause 93 amends section 614 (Registrar’s functions for register and rules) to introduce a new requirement for the registrar to maintain a publicly available register of all organisations and the rules of each organisation on the Queensland Industrial Relations Commission website. This amendment mirrors similar provisions of the *Fair Work (Registered Organisations) Act 2009* (Cth). It also supports transparency in the governance and operation of organisations and the accessibility of information held by the Registrar without seeking these from the Registrar and making payment of a fee prescribed in the rules of court. Section 614 also preserves the existing conditions of registration which requires the Registrar to keep a register of organisations and a copy of the rules of each organisation.

Clause 94 amends section 616 (Organisation must have complying rules) and inserts a note into section 616 consequential to the insertion of the new requirement by section 614 for the registrar to maintain and make publicly available a register of all organisations and the rules of each organisation on the Queensland Industrial Relations Commission website. Further consequential amendments to section 616, removes the requirement for an organisation to provide a copy of its rules to any person who asks for it, and pays the fee prescribed by a regulation but preserves the requirement for an organisation to have rules.

Clause 95 amends section 633 (Required contents—ballots) to modernise and broaden the industrial balloting methods used to conduct union elections. The amendments will permit the use of secret electronic balloting as an appropriate voting method in addition to the current voting method of secret postal ballots and provides the Electoral Commission of Queensland with a flexible framework to administer industrial ballots effectively and efficiently. This amendment is to commence at a later date by proclamation.

Clause 96 replaces section 668 (Part does not apply to corporations) with the new section 668 (Applications of part) and provides that divisions 1 to 4 do not apply to a corporation.

Clause 97 amends section 671 (Electoral commission to conduct elections) to permit the Electoral Commission to conduct all industrial ballots. Allowing the Electoral Commission to conduct all industrial ballots increases transparency and confidence in the Queensland industrial relations system.

Clause 98 amends section 672 (Organisation’s rules generally to be complied with) to omit sections 672 and 673 and insert a new clause, section 672A. The amendments in this clause are to commence at a later date by proclamation.

Clause 99 inserts section 672A (Prescribed procedures for electronically assisted voting) which permits the Electoral Commission of Queensland to make procedures about how an elector may cast an electronically assisted vote for an election and sets out the process and requirements under which this is to be undertaken. This clause will commence on a day to be fixed by proclamation.

Clause 100 replaces section 677 (Payment of election costs) with new section 677 (Payment of election costs) to provide that the costs of an election or a step in the election conducted by the Electoral Commission of Queensland under this part are payable by the organisation or branch of the organisation for the which the election or the step in the election is conducted.

Clause 101 inserts new chapter 12, part 7, division 5 (Election may be conducted for corporation). Division 5 contains new section 685A (Corporation may request election be conducted) to provide that the electoral commission may conduct an election for a corporation on request, with the cost of the election payable by the corporation.

Clause 102 amends section 763 (Reporting unit to prepare a general purpose financial report) to provide for a more comprehensive reporting framework requiring a reporting unit to provide total expenditure financial statements. The statements must also cover remuneration and other employment related expenses in relation to employees, advertising costs, operating costs, donations to political parties and legal costs in addition to existing requirements. The amendments align with obligations applicable to registered industrial organisations under the *Fair Work (Registered Organisations) Act 2009 (Cth)* and provide for greater transparency and accountability of a reporting units expenditure.

Clause 103 amends section 765 (Reporting guidelines) to require the registrar to produce and publish in the Gazette reporting guidelines which relates to the organisation's reporting requirements.

Clause 104 amends section 785 (Organisations with receipts of less than a particular amount) to omit sections 785(5) and 765(3)(b) and insert section 765(3)(b) and (c).

Clause 105 omits chapter 12, part 12, division 2 (Exemptions from requirement that electoral commission conduct election). Section 20A of the *Acts Interpretation Act 1954 (Qld)*, section 20A applies in relation to the repeal of offences in Chapter 12, part 12, division 2.

Clause 106 amends section 824 (Cancellation grounds) to omit sections 824(2)(c) and 824(2)(e).

Clause 107 amends section 827 (Limitation on validations if substantial injustice) to omit the words 'to 831' from subsection (2) and insert the words 'and 830'.

Clause 108 omits section 831 (Election not invalid because of contravention of part 12, division 2, subdivision 2). For this clause, section 20A of the *Acts Interpretation Act 1954 (Qld)*, s 20A is considered to apply.

Clause 109 amends section 854 (Costs of ballot conducted by electoral commission) to replace a reference to 'the State' with the words 'the entity for whom the ballot is conducted'. This reflects changes to the costs arrangements for ballots conducted under the IR Act by the electoral commission to a 'user pays' cost recovery model.

Clause 110 amends section 900 (Functions) to specify inspectors' new functions to investigate protected disclosures made or referred to the inspector under Chapter 8, part 1A, division 4. Existing inspector functions are preserved.

Clause 111 inserts new chapter 18, part 8 (Transitional provisions for Industrial Relations and Other Legislation Amendment Act 2026) to make provision for existing arrangements made prior to commencement of the IROLA Act 2026:

New section 1104 provides definitions for the part. New sections 1105 (Applications for flow-on of provisions made on or before introduction day) and 1106 (Flow-on applications made after introduction day taken to have been withdrawn) provide for existing applications made under existing sections 145 or 146.

New sections 1107 (Existing negotiations—commission not conciliating or arbitrating), 1108 (Existing negotiations in conciliation) and 1109 (Existing negotiations in arbitration) set out transitional treatment for negotiations on foot immediately before the commencement.

New sections 1110, 1111, 1112, 1113, 1114, 1115 and 1116 set out transitional provisions for the court appointments in place prior to commencement and for proceedings.

New section 1117 provides transitional treatment for the new registered organisation protected disclosures.

New sections 1118 to 1124 set out the transitional treatment for the new fit and proper person test and existing authorised officers, including for where an authority was in effect prior to the commencement, for where an application or suspension was in place, and in relation to the application of the 'fit and proper person' test.

New sections 1125 and 1126 provide transitional arrangements for existing exemptions and existing applications for exemption from the Chapter 12 requirement that the Electoral Commission of Queensland conduct elections, in light of the removal by the Bill of chapter 12, part 12, division 2.

New section 1127 provides transitional treatment in relation to changes in financial reporting requirements for Chapter 12, with the new requirements introduced in the Bill to apply from 1 July 2027 and for later financial years.

New section 1128 provides the new electoral commission section 677 applies only where the prescribed information is filed in the registry after commencement.

New section 1129 applies in relation to an offence against a relevant former provision committed by a person before the commencement. Without limiting the *Acts Interpretation Act 1954*, a proceeding may be continued or started and the person may be convicted of and punished for the offence, as if the 'relevant former provision' had not been repealed by the amendment Act. Subsection 2 of this section applies despite the Criminal Code, section 11. The 'relevant former provisions' for this section are former sections s337(5), 817(1), 818 and 819.

New section 1130 provides a transitional regulation-making power to make provision for or to facilitate the doing of anything to achieve the transition from the operation of the IR Act in force immediately before the commencement and the operation of the IR Act as in force from

the commencement, where the Act does not provide or sufficiently provide. A transitional regulation may have retrospective operation to a day not earlier than the day the section commences, and must declare it is a transitional regulation.

New section 1131 provides that this division (division 6 Other provisions) and any transitional regulation made under section 1130 will expire on the day that is one year after the day section 1131 commences.

Clause 112 amends schedule 1 (Industrial matters) to include payment for all or part of an entitlement to long service leave instead of taking the leave as an industrial matter. This supports the amendments to section 110 (Payment instead of long service leave) by removing the requirement to apply to the commission for an order for payment of long service leave where no industrial instrument provides for an entitlement for the employee to be paid long service leave.

Clause 113 amends schedule 3 (Civil penalties) to insert new entries for section 241E (Contravention of a Ministerial direction); section 293B (Misrepresentations – person ineligible to be member (organisation)); and section 314K (Contravention of injunctive order).

Clause 114 amends schedule 5 (Dictionary) to insert a definition for ‘authorised officer’s authority’ for chapter 9, part 1, and ‘detriment’, ‘disposable conduct’, ‘protected disclosure’ and ‘reprisal’ for chapter 8, part 1A, as well as to amend the definition of ‘industrial instrument’ and a cross reference for the definition of ‘violent offence’. Clause 114 also omits the definitions of ‘apparent employer’, ‘mine’, ‘mortgagee’, ‘mortgagor’, ‘referred claim’, ‘referred employer’, ‘superannuation contributions’ and ‘unpaid wages claim’.

Part 7 Amendment of *Planning and Environment Court Act 2016*

Clause 115 provides this part amends the *Planning and Environment Court Act 2016*.

Clause 116 amends Part 2 heading ‘Establishment and jurisdiction’ to include reference to ‘judges’.

Clause 117 inserts new Part 2, division 1A heading ‘Judges’.

Clause 118 inserts new sections 6A to 6F.

New section 6A (Seniority) includes a new provision relating to judge seniority. It provides that the P&E Court Judge Administrator is senior to all other P&E Court judges of the court apart from the Chief Judge, who is senior to all other judges of the P&E Court. The remaining P&E Court judges (including a reference to a P&E Court judge who has ceased to be a P&E Court Judge Administrator) have seniority in relation to each other according to the date on which their appointment as a P&E Court judge took effect.

In the event that the appointments of two or more P&E Court judges took effect on the same date, these judges have seniority to each other according to their seniority as judges of the District Court under section 10A of the *District Court of Queensland Act 1967*.

New section 6B (Appointment of P&E Court Judge Administrator) provides that a P&E Court Judge Administrator may be appointed by Governor in Council by gazette notice for a term of not less than 5 years, as stated in the notice and may be re-appointed. It provides that a P&E Court judge may be appointed as a P&E Court Judge Administrator when they were appointed as a P&E Court judge or at any time afterwards.

New section 6C (Appointment of acting P&E Court Judge Administrator) provides that if the P&E Court Judge Administrator is absent from duty or the State or is unable to perform the duties of office for another reason, Governor in Council may appoint, by gazette notice, a P&E Court judge to act as P&E Court Judge Administrator.

New section 6D (P&E Court Judge Administrator continues to be P&E Court judge) provides that the P&E Court Judge Administrator continues to be a P&E Court judge and may continue to sit and exercise any of the powers of a P&E Court judge.

New section 6E (P&E Court Judge Administrator continues in office while P&E Court judge) provides that the P&E Court Judge Administrator holds this office while also holding the office of a P&E Court judge. However, section 6E(2) provides that a P&E Court Judge Administrator vacates office if they are appointed as a Chief Magistrate, Chief Judge, judge of the Supreme Court or if their appointment for a stated term has ended. It also provides that the P&E Court Judge Administrator may resign from this position, without resigning from office as a P&E Court judge.

New section 6F (Functions of P&E Court Judge Administrator) provides that subject to section 6 of the P&E Court Act, the P&E Court Judge Administrator is responsible for the administration of the P&E Court and for ensuring the orderly and expeditious exercise of the jurisdiction and powers of the P&E Court.

It provides that the P&E Court Judge Administrator must consult with the Chief Judge when carrying out their functions under section 6F(1). It also provides that subject to this Act and other Acts, the P&E Court Judge Administrator has power to do all things necessary or convenient to be done for the administration of the P&E Court and for ensuring the orderly and expeditious exercise of the jurisdiction and powers of the P&E Court. For example, this may include listing matters for hearing.

Clause 119 inserts new Part 10, Division 4, Transitional provision for Industrial Relations and Other Legislation Amendment Act 2026

New section 84 provides that new section 6A, as in force from the commencement, applies in relation to a P&E Court judge holding office after commencement, whether the P&E Court judge was appointed before or after the commencement.

Part 8 Amendment of *Workers' Compensation and Rehabilitation Act 2003*

Clause 120 provides that Part 8 amends the *Workers' Compensation and Rehabilitation Act 2003*.

Clause 121 amends section 32 (Meaning of injury) to require that for an injury that is a psychiatric or psychological disorder or an aggravation of an existing psychiatric or psychological disorder, employment must be the major significant contributing factor to the injury to be compensable.

Section 32(5) is also amended to insert a new example of action *that may be reasonable management action taken in a reasonable way* under section 32(5) to include actions taken to investigate alleged misconduct. This additional example will improve clarity for workers and employers around the nature of the type of actions that are management actions.

A new subsection 32(6) is inserted to reflect the current case law that management action may remain reasonable despite imperfections, and that the existence of a blemish or blemishes does not, of itself, render management action unreasonable. The subsection provides that management action is not unreasonable merely because the employer incorrectly does or fails to do a thing that is minor with regard to the reasonableness of the management action and the way it is taken as a whole. This provides clarity to workers and employers as to the scope of reasonable management action, reduces disputes that turn on interpretive meaning and supports more consistent outcomes across the scheme.

Clause 122 amends section 36B (Definitions) under subdivision 3B(Injuries sustained by firefighters by stating the definition of firefighter includes a person appointed or employed by the department administering the *Nature Conservation Act 1992* whose employment duties include “*firefighting duties*” as defined in subsection (1). This will ensure QPWS firefighters are covered under the presumptive firefighter provisions. QPWS firefighters are routinely exposed to materially identical occupational environments as other firefighters that are covered by the presumptive firefighter provisions. Under clause 123 the definition of “relevant duties” is also relocated from section 36E (Deciding number of years) as “firefighting duties”.

Clause 123 amends section 36E (Deciding number of years) to omit the definition of “relevant duties” as a consequence of renaming the definition to “firefighting duties” moving the definition to 36B (Definitions) under clause 122.

Clause 124 amends section 36ED (Presumption of injury) to provide that the presumption of injury does not apply if it is proven that employment was not ‘the major significant contributing factor’ to the disorder as a consequential amendment to the amendment to section 32 (Meaning of injury) in clause 121.

Clause 125 omits section 46B (Employer must give worker information statement). This removes the requirement that employers must give a worker an information statement about the workers’ compensation scheme on commencement of employment. It is noted that the requirement for insurers to give an information statement about the workers’ compensation to be given to employers and workers on claim lodgement continues to apply under existing section 132AA (Insurer must give worker and employer information statement).

Clause 126 amends section 62 (Further additional premium payable after an appeal to the industrial Magistrate) to replace references to the industrial magistrate with the industrial commission. This is a consequential amendment to make the industrial commission the appeal body for all appeals relating to workers’ compensation matters, including decisions about employers’ policies and premium under clause 164.

Clause 127 amends sections 71 (Issue or renewal of licence to single employer) to remove the requirement that rehabilitation and return to work coordinators must be based in Queensland. The requirement is no longer contemporary and unnecessarily limiting, given the availability of telehealth and virtual collaboration technologies that facilitate effective remote support.

Clause 128 amends section 72 (Issue or renewal of licence to group employer) to remove the requirement that rehabilitation and return to work coordinators must be based in Queensland. The requirement is no longer contemporary and unnecessarily limiting, given the availability of telehealth and virtual collaboration technologies that facilitate effective remote support.

Clause 129 amends section 75 (Whether applicant fit and proper) to remove the requirement that the resources and systems that the single employer or group employer has for administering claims for compensation and managing rehabilitation of workers must be in Queensland. The requirement is no longer contemporary and unnecessarily limiting, given the availability of telehealth and virtual collaboration technologies that facilitate effective remote support.

Clause 130 amends section 78 (Duration of licence) to extend the maximum self-insurance licence renewal period from four to five years to support a risk based regulatory approach for very high performing self-insurers.

Clause 131 updates the heading of Chapter 2, Part 4, Division 4 (Powers, functions and obligations of self-insurers) to reflect this division relates to ‘functions and powers.’

Clause 132 amends section 92 (Powers of self-insurers) to update the heading to remove the reference to ‘powers’ as it is already reflected in the Division 4 heading. Clause 132 also amends section 92(4) to remove the requirement for a person that an insurer engages and employs under a contract to perform the self-insurer’s functions or exercise its powers to be based in Queensland. The requirement is no longer contemporary and unnecessarily limiting, given the availability of telehealth and virtual collaboration technologies that facilitate effective remote support.

Clause 133 amends section 92A (Powers of local government self-insurers) to update the heading to remove the reference to ‘powers’ as it is already reflected in the Division 4 heading, and to update section 92A(2) to include ‘local government’ to increase clarity.

Clause 134 removes sections 93 (Documents that must be kept by self-insurer) and 94 (Documents must be given to Regulator on request) as these are relocated to new sections that apply to all insurers in clause 174.

Clause 135 amends section 134 (Decision about application for compensation) to state the insurer must, as soon as practicable after notifying the claimant of its decision, give the claimant a copy of the approved form mentioned in section 136 (Periodic work notices by workers receiving compensation) and written notice of the day on which a work notice must be given to the insurer under section 136 for each month in which the claimant receives compensation (clause 138).

Clause 136 amends section 135 (Examination by registered person) to require personal examinations conducted by relevant specialists and audiologists are to be carried out by registered persons who are authorised the Regulator under section 329C (Authorisation to carry out examinations under s 135 or 135A or make assessments under s 179) to carry out the examination (clause 147).

Clause 137 amends section 135A (Examination of particular claimants by psychiatrist) to require an examination by a psychiatrist to be carried out by a psychiatrist authorised by the Regulator under section 329C (Authorisation to carry out examinations under s135 or s135A or make assessments under s179) to carry out the examination (clause 147).

Clause 138 replaces section 136 (Worker must notify return to work or engagement in a calling) to require a worker receiving compensation for any injury from an insurer to give the insurer one or more work notices on a specified day, unless the worker has a reasonable excuse. This section has a maximum penalty of 50 penalty units. The insurer may, by written notice given to the worker, suspend the worker's entitlement to compensation if the worker fails, without a reasonable excuse, to give the insurer a work notice on the specified day.

Clause 139 inserts a new section 168A (Review of ongoing compensation based on material information), to provide insurers with the ability to review a worker's ongoing entitlement to compensation if they obtain material information about the worker that was not known by or reasonably available to the insurer at the time the application for compensation was allowed.

The insurer may undertake this review only once during the period the worker is entitled to compensation and may decide to end the worker's ongoing entitlement to all compensation if satisfied the application would not have been allowed if they had considered the material information when the application was decided.

The insurer must not make this decision if they did not make reasonable enquiries to obtain the material information at the time of the decision to allow the application for compensation, or merely because the material information is medical information or opinion that is different from the information considered at the time the application was decided.

The worker has a right of review of the insurer's decision to end entitlement (clause 158). This decision does not impact on a worker's ability to access common law (clause 142).

Clause 140 amends section 170 (Recovery of compensation overpaid) to provide that the insurer may not recover an overpaid amount of compensation to a worker or another person that results from the insurer reviewing the worker's entitlement and ending the worker's entitlement to compensation under new section 168A (Review of ongoing compensation based on material information) (clause 139). However, the amendment does not prevent recovery of an overpayment to the worker that arose because the worker committed an offence under chapter 12, part 2.

Clause 141 amends section 179(2) (Assessment of permanent impairment) to require that the insurer must have the degree of permanent impairment (DPI) assessed by a psychiatrist authorised under section 329C (Authorisation to carry out examinations under s135 or s135A or make assessments under s179) for a psychiatric or psychological injury, an audiologist authorised under section 329C (Authorisation to carry out examinations under s135 or s135A or make assessments under s179) for industrial deafness and for any other injury, a relevant specialist authorised under section 329C (Authorisation to carry out examinations under s135 or s135A or make assessments under s179 (Assessment of permanent impairment) to make the assessment.

The amendment to section 179(2)(b) will align the DPI assessment process for psychological injuries with the process for physical injuries and establish greater consistency across the scheme in the process for assessing DPI. Aligning the DPI assessment process for

psychological injuries with that for physical injuries will provide workers with psychological injuries the same review rights, including the ability to seek a further assessment by a different medical practitioner agreed between the worker and the insurer and, if requested, referral to a Medical Assessment Tribunal.

Clause 142 inserts new section 183 (Assessment when entitlement to compensation ended or suspended). This provides that the ending of a person's entitlement to compensation under new sections 168A (Review of ongoing compensation based on material information) (clause 139) or 536D (Ending of entitlement to compensation) (clause 154) does not limit the making of an assessment under section 179 (Access to particular documents for employment purposes prohibited), the preparation or giving of a report of the assessment, and the giving of a notice of assessment for the injury, to preserve the person's ability to access common law. Under this section the person is not able to be offered any lump sum compensation under a notice of assessment for the injury.

This also provides that where an entitlement to lump sum compensation is suspended under section 536C (Suspension of entitlement to lump sum compensation or damages) (clause 154) this does not limit the making of an assessment under section 179 (Access to particular documents for employment purposes prohibited), the preparation or giving of a report of the assessment, and the giving of a notice of assessment for the injury. It also ensures that the notice of assessment is clear that entitlement to lump sum compensation being offered is currently suspended. As a result, if a suspension under 536C ends, the person's entitlement to lump sum compensation is restored, subject to the effect of another provision.

Clause 143 amends section 186 (Worker's disagreement with assessment of permanent impairment) to remove mention of the medical assessment tribunal in 186(1) as a consequential amendment to clause 141.

Clause 144 amends section 226 (Employers obligation to appoint a rehabilitation and return to work coordinator) to remove the requirement that an employer's rehabilitation and return to work coordinator must be in Queensland. This requirement is no longer contemporary and is unnecessarily limiting, given the availability of telehealth and virtual collaboration technologies that facilitate effective remote support.

Clause 145 inserts new section 326A (Insertion of new s 326A) which inserts a definition of relevant register by reference to the registers established under s329B (Scheme Registers).

Clause 146 amends section 329B (Scheme Registers) to provide for new registers for relevant specialists and audiologists authorised to carry out personal examinations under section 135 (Examination by a registered person) and a register of psychiatrists who have been authorised under section 329C (Authorisation to carry out examinations under s135 or s135A or make assessments under s179) to carry out examinations under section 135A (Examination of particular claimants by psychiatrist) which may be made publicly available on the Regulator's website or available by other means the Regulator considers appropriate. The clause amends the current section 329(1)(a) to make it clear that a relevant specialists and audiologists authorised under section 329C (Authorisation to carry out examinations under s135 or s135A or make assessments under s179) can carry out assessments of DPI under section 179 (Assessment of permanent impairment).

Clause 147 amends the Act by inserting new sections 329C (Authorisation to carry out examinations under s 135 or 135A or make assessments under s 179), 329D (Variation of

authorisation under section 329C) and 329E (Suspension or cancellation of authorisation under s 329C) to provide for the Regulator to prescribe by regulation a procedure for authorising examiners and DPI assessors to undertake independent medical examinations and permanent impairment assessments under the Act and the processes to vary, suspend or cancel an authorisation, including review rights. The amendments provide for authorisations to be limited to particular types of injuries or assessments. Where an authorisation is given, the Regulator must record details in the register, including the person's name, description of profession, specialty, type of examinations or assessments the person is authorised to carry out. A person's authorisation will take effect when entered into the relevant registry. The clause also provides for regulation making powers in relation to the authorisation process, suspension, cancellation and review of decisions.

Clause 148 amends section 336 (Functions of authorised persons) to include issuing directions under new section 536 (Powers of authorised persons in relation to fraud) as a function of authorised persons to give effect to the amendments under clause 154.

Clause 149 amends the Act to include a note under heading Chapter 8, Part 3 to confirm Chapter 14, part 1AA refers to obligations of insurers relating to documents (clause 174).

Clause 150 inserts new section 532ZD (Definitions for part) to insert the definition of *fraud offence* in this part as an offence against section 533 (Offences involving fraud) or an offence under section 123, 408C or 488 of the Criminal Code. This clause also inserts the definitions of *pre-proceeding process* and *time requirement* as a consequential amendment arising from clause 154.

Clause 151 amends section 533 (Offences involving fraud) by increasing the maximum penalty from “500 penalty units or five years imprisonment” to ten years imprisonment. This is intended to ensure the penalty reflects the seriousness of the offence and is consistent with other penalties, including with general fraud under the Queensland and Commonwealth Criminal Codes and provide an appropriate deterrent to offending in the scheme. In the absence of a maximum financial penalty for the offence, an offender may be fined in the way provided under the *Penalties and Sentence Act 1992* in addition to, or instead of any other sentence to which the offender is liable.

Clause 152 amends section 534 (False or misleading information or documents) by increasing the maximum penalties from “150 penalty units or one year imprisonment” to 300 penalty units or 2 years imprisonment. This is intended to appropriately reflect the seriousness of the offence of providing false or misleading information or documents to the Regulator, insurer or registered person and provide an appropriate deterrent to offending in the scheme.

Clause 153 replaces section 535 (Particular acts taken to be fraud) as a consequential amendment to amendments to section 136 (Periodic work notices by workers receiving compensation) in clause 138. This section continues to operate to deem fraud in circumstances where a worker has returned to work or engaged in a calling and not correctly notified the insurer under section 136 or fails, without reasonable excuse, to give the insurer a work notice in the way required under section 136(2) for the month.

Clause 154 inserts new subsections 536–536D (Powers of authorised persons in relation to fraud offences) in Chapter 12, Part 2 (Fraud and false and misleading statements) to allow for an authorised person of the Regulator to issue a direction in the required way under section 536A (Requirements for directions) to stay pre-proceedings in a damages claims under 536B

(Stay of relevant proceedings for claims) and suspend lump sum compensation under 536C (Suspension of entitlement to lump sum compensation) for up to three months if they reasonably believe a fraud offence has been committed against an insurer. Where the Regulator commences proceedings for a fraud offence any common law pre-proceedings or proceedings are stayed under 536B (Stay of relevant proceedings for claims) and any entitlement to lump sum compensation is suspended under 536C (Suspension of entitlement to lump sum compensation). Where a matter is suspended or stayed, a workers' entitlement to compensation or to access common law damages remains unchanged.

This clause also allows an authorised person of the Regulator to end compensation entitlements under 536D (Ending of entitlement to compensation) where they have a reasonable belief of fraud committed by the worker against the insurer, and that compensation is being, or will be, paid for the injury. The ending of the entitlement to compensation does not limit access to the common law as the person may still obtain a notice of assessment (clause 142). This direction is able to be reviewed by the Regulator.

These amendments are intended to minimise any potential loss by the insurer of fraud and to limit the scope of fraud offending by a person.

Clause 155 amends section 537 (Fraud and related offences end entitlement to compensation and damages). It updates the heading of section 537 from "Fraud and related" to "Conviction for fraud" to reflect the new definition of *fraud offence* (clause 150). The clause also provides that the section applies to fraud offences against an insurer in relation to compensation or damages claims. The clause also amends section 537(3) to clarify the offence stated in the provision as a fraud offence.

Clause 156 amends section 537C (Compliance notice) to clarify the intended scope of compliance notices. The amendment clarifies that an authorised person appointed by the Regulator may give a compliance notice if satisfied on reasonable grounds that a person is contravening a provision of the Act, or has contravened a provision in circumstances that make it likely the contravention will continue or the person will, in the same or similar circumstances, contravene the provision again. The compliance notice may require the person to take stated action or refrain from taking stated action.

Clause 157 inserts a new part 5 (Enforceable Undertakings), in Chapter 12 (Enforcement) to allow for enforceable undertakings under the Act. Enforceable undertakings are a high-level sanction that provide an alternative to a court-imposed sanction, such as a fine, for an alleged contravention of legislation. Enforceable undertakings are a written, legally-binding commitment to deliver effective initiatives that provide tangible benefits for workers, industry, and the community.

Enforceable undertakings are currently effectively used in the *Work Health and Safety Act 2011* and the *Electrical Safety Act 2002*. The introduction of enforceable undertakings for insurers is intended to enhance the regulatory tools available to the Regulator to ensure insurers are delivering workers' compensation and rehabilitation and return to work initiatives, where systemic non-compliance has been identified.

Clause 158 amends section 540 (Application of pt 2) to make to include a decision of the insurer to end compensation under new section 168A (clause 139) as a reviewable decision. This clause also amends section 540 (Application of pt 2) to make a direction under new section 536(4) (clause 154) relating to the ending of the entitlement to compensation a reviewable

decision. The clause also updates section 540(2) and 540(4A) to include an authorised person in the provision.

Clause 159 amends section 541 (Who may apply for review) to limit who may apply for a review of an authorised person's direction to end compensation to be the person whose entitlement to compensation was ended.

Clause 160 amends section 542 (Applying for review) to change the timeframe to lodge an application for review to 20 business days. Reducing the timeframe to lodge a review application to 20 business days is intended to increase consistency with other claim process timeframes under the Act and encourage the prompt resolution of disputes while ensuring medical and factual evidence remains current, supporting more timely, efficient and effective decision making.

Clause 161 amends section 546 (Notice of review decision) to provide that the requirements to provide a notice of decision include matters relating to new section 540(1)(d) (clause 158). Clause 161 also amends section 546 (Notice of review decision) to require that a notice of review decision must state that the applicant may appeal against the decision within 30 business days after the applicant received the notice of the decision as a consequential amendment to clause 166. Section 546(4) is also amended to provide that the Regulator's failure to make a review decision within the legislative timeframe can be appealed by the applicant to the industrial commission.

Clause 162 amends section 546A (Matter returned to decision-maker) to include matters relating to new section 540(1)(d) (clause 158).

Clause 163 amends the heading of chapter 13, part 3, division 1 (Appeal to industrial magistrate or industrial commission) to omit the reference to the industrial magistrate, to reflect that the industrial commission will be the appeal body for worker's compensation appeals under chapter 13 (clause 164).

Clause 164 amends section 548A (Meaning of appeal body) to make the industrial commission the sole appeal body for all workers' compensation appeals under chapter 13, including for reviewable and non-reviewable decisions and for policy and premium matters. This establishes a single appeal pathway for all workers' compensation matters and promotes greater efficiency by ensuring disputes are determined by an established tribunal with expertise in workplace matters.

Clause 165 amends section 549 (Who may appeal). The clause states that only a person whose entitlement to compensation was ended by an authorised person may appeal the decision of a mentioned in new section 540(1)(d) (clause 158).

Clause 166 amends section 550 (Procedure for appeal) to update the timeframe to lodge an appeal to 30 business days for either a reviewable or non-reviewable decision. This will provide parties time to carefully consider the review decision, obtain legal or professional advice where required, and prepare the documentation to lodge an appeal.

The clause also includes consequential amendments that remove reference to the industrial magistrate in section 550(4A), (5), (8), (9) and (10) concerning filing the notice of appeal to reflect the amendment to make the industrial commission the sole appeal body for workers' compensation appeals under chapter 13 (clause 164).

The clause also includes consequential amendments to provide that an appeal must be served on the Regulator and the insurer in relation to an appeal against a decision of the Regulator to confirm, vary or set aside a decision of an authorised person mentioned in section 540(1)(d) (clause 158).

Clause 167 amends section 552 (Notice of time and place for hearing) to make a consequential amendment to reference to the Magistrates Court to reflect the amendment to make the industrial commission the sole appeal body for workers' compensation appeals under chapter 13 (clause 164).

Clause 168 amends section 555 (Adjourned hearing) to make consequential amendments to remove references to the industrial magistrate to reflect the amendment to make the industrial commission the sole appeal body for workers' compensation appeals under chapter 13 (clause 164).

Clause 169 amends section 558 (Powers of appeal body) to replace the reference to "insurer" to "decision-maker" in section 558(2).

Clause 170 amends section 560A (Application of div 1A) to make consequential amendments to remove references to the industrial magistrate to reflect the amendment to make the industrial commission the sole appeal body for workers' compensation appeals under chapter 13 (clause 164).

Clause 171 amends section 561 (Appeal to industrial court) to make consequential amendments to remove references to the industrial magistrate to reflect the amendment to make the industrial commission the sole appeal body for workers' compensation appeals under chapter 13 (clause 164).

Clause 172 amends section 562 (Powers of industrial court) to replace the reference to "insurer" to "decision-maker" in section 562(3).

Clause 173 amends section 565 (Decision about amount of premium) to make consequential amendments to remove references to the industrial magistrate to reflect the amendment to make the industrial commission the sole appeal body for workers' compensation appeals under chapter 13 (clause 164).

Clause 174 inserts a new chapter 14, part 1AA (Obligations of insurers relating to documents) that outlines particular documents to be kept by insurers and that may be requested by the Regulator. These new sections replace sections 93 and 94 and applies to all insurers in the scheme, including WorkCover. It is an offence for an insurer not to comply with a request for documents unless they have a reasonable excuse.

Clause 175 amends the heading of chapter 14, part 1, division 1 (Information and documents about pre-existing injuries and medical conditions of prospective worker) to include a reference to claims history (clause 177).

Clause 176 amends section 571A (Definitions for div 1) to insert a definition of claims history summary.

Clause 177 inserts new section 571D (Applying for claims history summary for prospective worker) to allow prospective employers to request a prospective worker's claims history

summary from the Regulator, only with the worker's written consent. Clause 177 also inserts new section 571E (Confidentiality of claims history information), which prohibits the employer from using or disclosing the prospective worker's claims history information to anyone else, other than for a purpose of the employment process permitted by law or to the extent disclosure is required by law. These amendments will, together with self-disclosure by prospective workers (including under existing section 571B), assist prospective employers with workforce risk management to ensure prospective workers are not placed in positions which may entail risk of reinjury or aggravation of pre-existing injury, while appropriately protecting a prospective worker's privacy.

Clause 178 makes a consequential amendment to section 572A (Access to particular documents for employment purposes prohibited) to clarify that the prohibition on persons obtaining or using a workers' compensation document about a worker for an employment purpose does not apply to prospective employers requesting a prospective worker's claims history summary.

Clause 179 replaces sections 578 (Proceedings for offences against ch 8) with 578 (Proceedings for offences) and 579 (Summary proceedings for offences other than against ch 8) with 579 (Limitations on hearings and deciding indictable offences summarily) to provide that proceedings for offences under the Act may only be taken by the Regulator, a person authorised for the purpose by the Regulator, or the Attorney-General, that proceedings be taken before a magistrate instead of an industrial magistrate, makes certain offences indictable offences (either crimes or misdemeanours), and aligns the timeframes for commencing proceedings with the nature of the offence. This aligns with the approach taken for similar types of offending under other regimes, including under the *Environmental Protection Act 1994*, the *Work Health and Safety Act 2011*, and the *Electrical Safety Act 2002*. It is noted that that indictable offences do not carry a limitation period consistent with fraud under the Criminal Code, to ensure coverage of circumstances where the offending doesn't come to light for many years or can't be proven until fresh and compelling evidence becomes available.

Clause 180 amends section 586 (Approval of forms) to include what must be in the work notices under new section 136 (Periodic work notices by workers receiving compensation) (clause 138).

Clause 181 inserts chapter 40 (Transitional provisions for Industrial Relations and Other Legislation Amendment Act 2026).

Section 755 (Definitions for chapter) provides the definitions for this chapter.

Section 756 (Requirement for employment to be major significant contributing factor to psychiatric or psychological disorder) confirms the former section 32 (Meaning of injury) continues to apply, as if the amending Act had not been enacted, in relation to a psychiatric or psychological disorder if the injury to which the disorder relates was sustained by a worker before the commencement.

Section 757 (Particular firefighters diagnosed with specified disease before commencement) confirms that section 36D (Presumption of injury) does not apply in relation to a specified disease of a relevant firefighter under section 36B (Definitions) if the person was diagnosed for the first time by a doctor before commencement of the new section 36B(f).

Section 758 (Definition for part) inserts a new definition of transitional period defined as 12 months from commencement of Part 3 (Examination and assessment requirements).

Section 759 (Assessment of psychiatric or psychological injuries by medical assessment tribunal) provides that where a referral under section 500(1)(e) (Reference to tribunals) for assessment of a worker's permanent impairment under section 179 (Assessment of permanent impairment) in relation to a psychiatric or psychological injury occurred before commencement, and the worker has not received a notice of assessment under section 185 (Insurer to give notice of assessment of permanent impairment) in respect of the injury, the former section 179 continues to apply.

Section 760 (Examinations under new s135 or 135A during transition period) provides every registered person who is a relevant specialist, and audiologist is taken to be authorised under the new section 329C (Authorisation to carry out examinations under s 135 or 135A or make assessments under s 179) to carry out a personal examinations under section 135 (Examination by registered person) and every psychiatrist is taken to be authorised to carry out an examination under section 135A (Examination by particular claimants by psychiatrist) during the transitional period.

Section 761 (Assessments under new s179 during transitional period) provides that each registered person in the former register, other than in relation to psychological injuries is taken to be authorised under section 329C (Authorisation to carry out examinations under s 135 or 135A or make assessments under s 179) to make an assessment of the type for which they were authorised immediately prior to commencement. Each psychiatrist who may under the scheme directions make an assessment of a psychiatric or psychological injury is taken to be authorised under the new section 329C (Authorisation to carry out examinations under s 135 or 135A or make assessments under s179) to make the assessment during the transitional period.

Section 762 (Existing applications for renewal of licences) provides for the treatment of existing applications for the renewal of self-insurer licences. The section applies to an application for renewal made, but not decided, before commencement. From commencement, new section 78 (Duration of licence) applies to the renewal application as if the application had been made on or after commencement.

Section 763 (Worker's disagreement with assessment of permanent impairment by medical assessment tribunal) provides that new section 186 (Worker's disagreement with assessment of permanent impairment) does not apply if a worker sustained an injury before the commencement and the worker's degree of permanent impairment is assessed by a medical assessment tribunal before or after the commencement.

Section 764 (Notice requirements for workers receiving compensation immediately before commencement) preserves the operation of former sections 136 (Worker must notify return to work or engagement in a calling) and 535 (Particular acts taken to be fraud) for workers who were receiving, or entitled to receive, compensation immediately before commencement. It also ensures that where a worker had returned to work or engaged in a calling before commencement but had not yet complied with former notice requirements, the former provisions continue to apply as if the relevant amendments had not commenced. This provides continuity and avoids uncertainty for pre-commencement claims and obligations.

Section 765 provides that the definition of *fraud offence* (clause 150) applies as if that redefinition included a reference to the provisions of the Criminal Code mentioned in section 655 (References in s 537 to Criminal Code offences). This gives continuity to the transitional provision provided for the *Criminal Code and Other Acts Amendment Act 2008*.

Section 766 provides that new sections 536 (Powers of authorised persons in relation to fraud), 536A (Requirements for directions), and 536B (Stay for relevant processes for claims) (clause 154) apply in relation to an application for compensation or a claim for damages or a proceeding stated in relation to a claim for damages for an injury whether the injury, application for compensation, or the proceeding in relation to a claim for damages was started before or after the commencement, and that new sections 536, 536A, 536C (Suspension of entitlement to lump sum compensation or damages) and 536D (Ending of entitlement to compensation) apply in relation to an entitlement a person has, or may have, to compensation or damages for an injury whether the injury or entitlement arose before or after the commencement.

Section 767 provides that proceedings for an offence under the WCR Act prior to commencement, but was not finally decided or had not otherwise ended, must continue under the former sections 578 (Proceedings for offences against ch 8) and 579 (Summary proceedings for offences other than against ch 8) as if the amendment Act had not been enacted. If a proceeding is started after the commencement, new sections 578 and 579 apply (clause 179), including for proceedings for an offence against section 533(1) (Offences involving fraud) started after the commencement, to which section 533(2) applies, if instance of the recurrent conduct constituting the offence occur both before and after the commencement. This will enable a proceeding for a fraud offence to be to be dealt with as a single charge particularised by the offending before and after the commencement. On conviction, consideration is to be given to the maximum penalties for the offending at the time the instances of offending occurred.

Section 768 (Existing compliance notices) ensures the continued operation of compliance notices issued under former section 537C (Compliance notice) that have not been complied with immediately before commencement. The provision provides that, from commencement, those notices continue to be enforceable against the person in relation to the original contravention as if the amendment Act had not been enacted.

Section 769 (Application of new s 537G to contraventions or alleged contraventions before commencement) confirms section 537G(1) applies to a contravention or alleged contravention of the Act, regardless of whether the contravention or alleged contravention occurred before or after commencement

Section 770 (Reviews under s 168A apply to applications allowed after commencement) provides that the insurer's power to review a worker's entitlement under section 168A (Review of ongoing compensation based on material information) only applies in relation to a worker's application for compensation decided after commencement.

Section 771 (Existing review periods) preserves the existing review period under section 542 (Applying for review) in place before commencement for persons who had not applied for review and whose review period had not ended immediately before commencement. This provides certainty about the applicable review period for persons with review rights before commencement.

Section 772 (Existing appeals) ensures an appeal body can continue to hear and decide an appeal that was started with the appeal body but not decided before commencement.

Section 773 (Existing appeal periods) preserves the existing appeal period under section 550 (Procedure for appeal) in place before commencement for persons who had not appealed and whose appeal period had not ended immediately before commencement. This provides

certainty about the applicable appeal period for persons with appeal rights before commencement.

Section 774 (Existing requests for documents, copies of documents or details from self-insurers) preserves the effect of notices issued under former section 94 (Documents must be given to Regulator on request) that had not been complied with before commencement. Such notices are taken to have been given under new section 571AB (Documents must be given to Regulator on request) from commencement, ensuring existing compliance actions continue uninterrupted.

Section 775 (Particular matters about requirements for the keeping and giving of documents) ensures the new record keeping and document production requirements apply to relevant documents in existence before commencement. It clarifies that documents previously required to be kept under former section 93 (Documents that must be kept by self-insurer), as well as other documents in an insurer's possession or control immediately before commencement, are captured by new section 571AA (Documents that must be kept by insurer). Section 775 further provides that an insurer cannot rely on the fact a document predates commencement as a reasonable excuse for failing to comply with a document production notice under new section 571AB(1).

Section 776 (Transitional regulation-making power) allows for a regulation to be made to make provision for anything necessary to allow or facilitate doing anything to achieve the transition from the WCR Act as in force immediately before the commencement to the WCR Act as in force from the commencement. Section 777 (Expiry of part and transitional regulation) states that any transitional regulation made will expire 1 year after the section commences.

Clause 182 amends schedule 6 (Dictionary) to insert a number of new definitions, including a definition of "claims history summary" for a prospective worker for chapter 14, part 1, division 1 (Information and documents about pre-existing injuries and medical conditions of prospective worker); "firefighting duties" for Chapter 1, part 4, division 6, subdivision 3B, section 36B (Definitions for sdiv 3B); "fraud offence", "pre-proceeding process" and "time requirement" for the purposes of chapter 12, part 2; "relevant register" for the purpose of Chapter 7 (The Workers' Compensation Regulator), part 2 (Functions and power), a new definition of "relevant specialist" to clarify that general practice is not a relevant speciality and a defined of "WCR undertaking" defined by reference to section 537G. Clause 183 makes consequential amendments to the definitions of "authorised person" and "compliance notice" to update references to provisions the Act and an update to the definition of "audiologist" to update to the relevant accreditation bodies.

Part 9 Amendment of Workers' Compensation and Rehabilitation Regulation 2025

Clause 183 provides that Part 9 amends the *Workers' Compensation and Rehabilitation Regulation 2025*.

Clause 184 amends section 209 (Information statements—Act, ss 46B and 132AA) to update the heading "ss 46B and 132AA" to "s 132AA". The clause also amends section 209(1) to remove mention of section 46B(3) as a consequential amendment to clause 125.

Clause 185 amends schedule 10 (First responders) to include a person appointed or employed by the department administering the *Nature Conservation Act 1992* whose employment duties include ‘firefighting duties’ under section 36B (Definitions) of subdivision 3B (Injuries sustained by firefighters) under the Act. This provides coverage of these persons under the presumptive pathway for post-traumatic stress disorder in section 36ED (Presumption of injury) in the Act.

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