

Queensland



**STATUTE LAW (MINOR  
AMENDMENTS) ACT (No. 2)  
1995**

**Act No. 51 of 1995**

# Queensland



## STATUTE LAW (MINOR AMENDMENTS) ACT (No. 2) 1995

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Queensland



**Statute Law (Minor Amendments) Act (No. 2)  
1995**

**Act No. 51 of 1995**

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**An Act to make minor amendments of certain Acts**

*[Assented to 22 November 1995]*

**The Parliament of Queensland enacts—****Short title**

1. This Act may be cited as the *Statute Law (Minor Amendments) Act (No. 2) 1995*.

**Purpose**

2. The purpose of this Act is to improve the quality of the statute law of Queensland by making amendments that are concise, of a minor nature and non-controversial.

**Commencement**

3. Provisions in the schedule providing for particular amendments to commence on a day other than the day of assent have effect.

**Amended Acts**

4. The schedule amends the Acts mentioned in it.

**Explanatory notes**

5. Explanatory notes to the provisions of this Act do not form part of the Act.

## SCHEDULE

### MINOR AMENDMENTS

section 4

### ACTS INTERPRETATION ACT 1954

#### Amendment

#### 1. After section 9—

*insert—*

#### ‘Declaration of validity of certain laws

‘9A. Each provision of an Act enacted, or purporting to have been enacted, before the commencement of the Australia Acts has (and always has had) the same effect as it would have had, and is (and always has been) as valid as it would have been, if the Australia Acts had been in operation at the time of its enactment or purported enactment.’

#### Explanatory note

This amendment validates State laws enacted before the *Australia Act 1986* (Cwlth and Imp.) that might otherwise be invalid because of repugnance with Imperial law (or their extra-territorial operation).

Before the enactment of the Australia Acts, a State Parliament’s legislative power was subject to the doctrine of repugnance. The doctrine was abolished in relation to Commonwealth legislation by the *Statute of Westminster 1931* (Imp.), section 2(2). It was abolished in relation to State legislation by the Australia Acts, section 3(2). That subsection provides—

‘(2) No law and no provision of any law made after the commencement of this Act by the Parliament of a State shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of the Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of a State shall include the power to repeal or amend any such Act, order, rule or regulation in so far as it is part of the law of the State.’ (emphasis added)

## SCHEDULE (continued)

Thus, State legislation enacted after the Australia Acts cannot be challenged because of repugnance. However, because of the terms of the subsection, earlier State legislation technically remains open to challenge.

No challenge has been made to State legislation on the basis of repugnance since the enactment of the Australia Acts and it is unlikely that a challenge would ever be made. Nevertheless, it is desirable that the validity of earlier State legislation should be put beyond doubt. Similar legislation has been enacted by other States (*Interpretation Act 1987* (NSW), section 34A, *Acts Interpretation Act 1915* (S.A.), section 22B and *Acts Interpretation Act 1931* (Tas.), section 46C).

**ASSOCIATIONS INCORPORATION ACT 1981****Amendment****1. Section 76 (as inserted by the Associations Incorporation Amendment Act 1995, section 19)—**

*relocate* to part 9 and *renumber* as section 75A.

**2. At the end—**

*insert—*

**‘Declaration about amending Act’s assent**

‘**77.(1)** To remove any doubt, it is declared that the *Associations Incorporation Amendment Act 1995* is, and always has been, valid, and in particular that the assent purportedly given to that Act on 5 April 1995 is, and always has been, valid.

‘**(2)** To remove any doubt, it is also declared that the *Associations Incorporation Amendment Act 1995* has effect, and has always had effect, as if the following change had been made to the Act from immediately before assent—

## SCHEDULE (continued)

**‘Clause 6, proposed new section 14—***omit, insert—***‘Chief executive to make decision about application**

**‘14.(1)** After considering the association’s application for incorporation and any objections properly made to the application, the chief executive must—

- (a) grant the application; or
- (b) refuse the application.

**‘(2)** This section is a law to which the *Acts Interpretation Act 1954*, section 20A applies.

**‘(3)** This section expires on the day on which it commences.’.

**Explanatory note**

Amendment 1 corrects a renumbering error.

Amendment 2 relates to the *Associations Incorporation Amendment Bill 1995*. The text of the Bill that was assented to included an amendment to clause 6 that was moved in, but not passed by, the Assembly. The amendment ensures that the Bill was validly assented to and that the text of the resulting Act accords with the Bill as passed by the Assembly.

**BUILDING UNITS AND GROUP TITLES ACT 1980****Amendment****1. Section 9(8)(a), ‘eaves or guttering project’—***omit, insert—*

‘a part of the building projects’.

**Explanatory note**

This amendment widens the scope of building projections that may be included in a registered surveyor’s certificate under section 9(8)(a) of the Act. The certificate

## SCHEDULE (continued)

must state that there is an appropriate easement or consent for the projection beyond the external boundaries of the parcel. As the section stands, the certificate can only be given for the projection of eaves and guttering.

## CLASSIFICATION OF COMPUTER GAMES AND IMAGES (INTERIM) ACT 1995

### Amendment

#### 1. After section 70—

*insert—*

#### **‘Operation of Act after commencement of new Commonwealth Act**

**‘71.(1)** This Act was drafted on the basis of a classification scheme under the *Classification of Publications Ordinance 1983* (A.C.T.) (the **“ordinance”**).

**‘(2)** The ordinance is to be repealed by the *Classification (Publications, Films and Computer Games) Act 1995* (Cwlth) (the **“new Commonwealth Act”**).

**‘(3)** The purpose of this section is to adapt the provisions of this Act to the provisions of the new Commonwealth Act to ensure that the provisions of this Act remain effective pending later amendment of the provisions of this Act to adapt them to the Commonwealth Act.

**‘(4)** After the commencement of section 7 of the new Commonwealth Act, this Act has effect as if—

- (a) a reference in this Act to the ordinance were a reference to the new Commonwealth Act; and
- (b) a reference in this Act to a provision of the ordinance were a reference to the corresponding provision of the new Commonwealth Act; and
- (c) a reference in this Act to a former office within the meaning of the table in section 95(1) of the new Commonwealth Act were a reference to the corresponding office under that table; and

## SCHEDULE (continued)

- (d) a reference in this Act to a computer game that is, has been or would be refused classification or approval for classification under the ordinance were a reference to a computer game that is, has been or would be classified RC (Refused Classification) under the new Commonwealth Act; and
- (e) all other changes to this Act necessary to adapt the provisions of this Act to the provisions of the new Commonwealth Act were made.

‘(5) This section expires 1 year after it commences.’

**Explanatory note**

This Act was drafted on the basis of the scheme under an A.C.T. ordinance. The scheme will be replaced by a scheme under the *Classification (Publications, Films and Computer Games) Act 1995* (Cwlth) when that Act commences. The purpose of this amendment is to ensure that the amended Act can continue to be enforced and administered pending detailed amendment of the Act early next year.

**CLASSIFICATION OF FILMS ACT 1991****Amendment****1. After section 68—**

*insert—*

**‘Operation of Act after commencement of new Commonwealth Act**

‘**69.(1)** This Act was drafted on the basis of a classification scheme under the *Classification of Publications Ordinance 1983* (A.C.T.) (the “**ordinance**”) and the *Film Classification Act 1971* (A.C.T. (the “**A.C.T. Act**”).

‘**(2)** The ordinance is to be repealed by the *Classification (Publications, Films and Computer Games) Act 1995* (Cwlth) (the “**new Commonwealth Act**”).

## SCHEDULE (continued)

‘(3) The purpose of this section is to adapt the provisions of this Act to the provisions of the new Commonwealth Act to ensure that the provisions of this Act remain effective pending later amendment of the provisions of this Act.

‘(4) After the commencement of section 7 of the new Commonwealth Act, this Act has effect as if—

- (a) a reference in this Act to the ordinance or A.C.T. Act were a reference to the new Commonwealth Act; and
- (b) a reference in this Act to a provision of the ordinance or A.C.T. Act were a reference to the corresponding provision of the new Commonwealth Act; and
- (c) a reference in this Act to a former office within the meaning of the table in section 95(1) of the new Commonwealth Act were a reference to the corresponding office under that table; and
- (d) a reference in this Act to film that is, has been or would be refused classification or approval for classification under the ordinance were a reference to a film that is, has been or would be classified RC (Refused Classification) under the new Commonwealth Act; and
- (e) a reference to the markings determined under the ordinance or A.C.T. Act were a reference to the markings determined under the new Commonwealth Act; and
- (f) a reference to the manner and form determined under the A.C.T. Act were a reference to the manner determined under the new Commonwealth Act; and
- (g) all other changes to this Act necessary to adapt the provisions of this Act to the provisions of the new Commonwealth Act were made.

‘(5) This section expires 1 year after it commences.’

**Explanatory note**

This Act was drafted on the basis of the scheme under an A.C.T. ordinance and Act. The scheme will be replaced by a scheme under the *Classification (Publications,*

## SCHEDULE (continued)

*Films and Computer Games) Act 1995* (Cwlth) when that Act commences. The purpose of this amendment is to ensure that the amended Act can continue to be enforced and administered pending detailed amendment of the Act early next year.

**CLASSIFICATION OF PUBLICATIONS ACT 1991****Amendment****1. After section 40—**

*insert—*

**‘Operation of Act after commencement of new Commonwealth Act**

**‘41.(1)** This Act was drafted on the basis of a classification scheme under the *Classification of Publications Ordinance 1983* (A.C.T.) (the **“ordinance”**).

**‘(2)** The ordinance is to be repealed by the *Classification (Publications, Films and Computer Games) Act 1995* (Cwlth) (the **“new Commonwealth Act”**).

**‘(3)** The purpose of this section is to adapt the provisions of this Act to the provisions of the new Commonwealth Act to ensure that the provisions of this Act remain effective pending later amendment of the provisions of this Act.

**‘(4)** After the commencement of section 7 of the new Commonwealth Act, this Act has effect as if—

- (a) a reference in this Act to the ordinance were a reference to the new Commonwealth Act; and
- (b) a reference in this Act to a provision of the ordinance were a reference to the corresponding provision of the new Commonwealth Act; and
- (c) a reference in this Act to a former office within the meaning of the table in section 95(1) of the new Commonwealth Act were a reference to the corresponding office under that table; and

## SCHEDULE (continued)

- (d) a reference in this Act to a publication that is, has been or would be refused classification or approval for classification under the ordinance were a reference to a publication that is, has been or would be classified RC (Refused Classification) under the new Commonwealth Act; and
- (e) all other changes to this Act necessary to adapt the provisions of this Act to the provisions of the new Commonwealth Act were made.

‘(5) This section expires 1 year after it commences.’

**Explanatory note**

This Act was drafted on the basis of the scheme under an A.C.T. ordinance. The scheme will be replaced by a scheme under the *Classification (Publications, Films and Computer Games) Act 1995* (Cwlth) when that Act commences. The purpose of this amendment is to ensure that the amended Act can continue to be enforced and administered pending detailed amendment of the Act early next year.

**EVIDENCE ACT 1977****Amendment****1. Section 42—**

*omit, insert—*

**‘Signatures of holders of public offices etc. to be judicially noticed**

‘**42.(1)** Judicial notice must be taken of—

- (a) the signature of a person who is or has been the holder of a public office; and
- (b) the fact that the person holds or has held the office.

‘**(2)** For subsection (1), the following offices are public offices—

- (a) the office of Governor;
- (b) the office of a Minister;

## SCHEDULE (continued)

- (c) the office of a judge, magistrate or warden;
- (d) the office of an official of a court;
- (e) the office of a justice of the peace or commissioner for declarations;
- (f) another office of a public nature established under an Act;
- (g) an office prescribed under an Act for this section.

‘(3) Schedule 1 provides examples of offices of a public nature established under an Act.’

‘(4) This section is in addition to, and does not limit, the common law, another provision of this Act or a provision of another Act.’

**‘Certain seals to be judicially noticed, etc.**

‘42A.(1) Judicial notice must be taken of the imprint of any seal of an office or entity established under an Act, and a document on which the imprint appears must be presumed to have been properly sealed unless the contrary is established.

‘(2) This section is in addition to, and does not limit, the common law, another provision of this Act or a provision of another Act.’

**2. Section 43—**

*omit, insert—*

**‘Acts and statutory instruments to be judicially noticed**

‘43. Judicial notice must be taken of the following—

- (a) every Act;
- (b) every statutory instrument;
- (c) the time when every Act or statutory instrument commenced, and every provision of every Act or statutory instrument commenced.’

## SCHEDULE (continued)

**3. Section 46, heading—**

*omit, insert—*

**‘Proof of printing by government printer etc.’.**

**4. Section 46—**

*insert—*

**‘(1A) The production of a document purporting to be authorised by the parliamentary counsel is evidence that the document was authorised by the parliamentary counsel.’.**

**5. Section 46(1) and (1A), as amended by this Act—**

*renumber* as section 46(1) and (2).

**6. Section 46(2), as heading—**

*insert—*

**‘Presumption of accuracy of copy of legislation’.**

**7. Section 46(2), after ‘State’—**

*insert—*

**‘, or authorised by the parliamentary counsel’.**

**8. Section 46—**

*insert—*

**‘(3) A document purporting to be—**

- (a) a copy of an item of subordinate legislation or a copy of an item of subordinate legislation incorporating amendments to a stated date; and

## SCHEDULE (continued)

- (b) printed by the government printer or by the authority of the Government of the State, or authorised by the parliamentary counsel;

is to be taken to be a correct copy of the subordinate legislation or of the subordinate legislation as amended to that date, as the case may be, unless the contrary is established, and the date stated on the document as the date when the subordinate legislation was made or approved is evidence of that date.’.

**9. Section 46(2) and (3), as amended by this Act—**

*renumber* as section 46A(1) and (2).

**10. Section 47, heading, after ‘Legislature’—**

*insert—*

‘and of legislative material’.

**11. Section 47(1), after ‘Legislature’ (second mention)—**

*insert—*

‘or copies of legislative material’.

**12. Section 47(1), after ‘State’—**

*insert—*

‘or, for documents purporting to be legislative material, authorised by the parliamentary counsel’.

## SCHEDULE (continued)

**13. Section 47(2)—***insert—***‘“legislative material”** includes—

- (a) a Bill, an amendment of a Bill or an explanatory note for a Bill, introduced into, moved in, tabled in, or circulated to members of, the Legislative Assembly; or
- (b) an explanatory note or regulatory impact statement for subordinate legislation.’.

**14. Section 48, before ‘may be given’—***insert—*

‘; or

- (ba) other subordinate legislation;’.

**15. Section 48—***insert—*

‘(da)for subordinate legislation—by the production of a document purporting to be a copy of it, and purporting to be authorised by the parliamentary counsel; or’.

**16. Section 48(a) to (f)—***renumber.***17. Section 49, words before ‘adopts’—***omit, insert—***‘Proof of standard rules, codes and specifications****‘49. If an Act, or statutory instrument’.**

## SCHEDULE (continued)

**18. Section 49(c) and (d)—**

*renumber* as section 49(a) and (b).

**19. Before schedule 2—**

*insert—*

**‘SCHEDULE 1****‘EXAMPLES OF OFFICES OF A PUBLIC NATURE  
ESTABLISHED UNDER AN ACT**

section 42

1. Auditor-General
2. Chair of the public sector management committee
3. Chairperson of the criminal justice commission
4. Chief executive of a department
5. Chief executive officer of a local government
6. Chief health officer (of the department in which the *Health Act 1937* is administered.
7. Clerk of the parliament
8. Commissioner for administrative discretions
9. Commissioner of the police service
10. Director of public prosecutions
11. Electoral commissioner
12. Information commissioner
13. Mayor of a local government
14. Parliamentary counsel

## SCHEDULE (continued)

15. Public trustee
16. Registrar-General
17. Registrar of titles
18. Solicitor-General'.

**Explanatory note**

Amendment 1 remakes section 42 of the Act, which deals with judicial notice being taken of official signatures and seals, and the fact that persons have held official offices. The Act presently contains a long list of specified offices to which the section applies and allows other offices to be prescribed by regulation. The list has never been kept properly up to date and there are numerous provisions scattered through Queensland legislation requiring judicial notice to be taken of matters dealt with by the section. The amendment replaces the existing section with 2 sections.

The replacement section about offices and signatures simplifies and rationalises the offices to which it applies. Judicial notice is required to be taken of the signature of anyone who is or has been Governor, Minister, judge or magistrate, officer of any court, justice of the peace or commissioner for declarations, or holds or held another office of a public nature established under an Act or an office prescribed by regulation for the section. Proposed schedule 1 provides examples of public offices established under an Act for the proposed section. The replacement section about seals requires judicial notice to be taken of any seal of an office or entity established under an Act. The section also includes a restatement of the presumption of regularity as it applies to official seals. The subsection will remove the need for similar provisions in individual Acts.

Amendment 2 revises section 43 of the Act in 2 respects. First, the revised section requires judicial notice to be taken of all statutory instruments (see *Statutory Instruments Act 1992*, section 7). The existing section only applies to statutory instruments made or purporting to be made by the Governor or Governor in Council. This excludes, for example, statutory instruments approved by the Governor in Council and statutory instruments (including subordinate legislation) made by other persons and entities. Second, the revised section requires judicial notice to be taken of the time when every Act or statutory instrument (or provision) commenced. The existing section only requires judicial notice to be taken of the day of commencement. Although it is not common, Acts and instruments occasionally commence at a particular time on a particular day.

Amendments 3, 5, 6 and 9 are consequential on amendments 4, 7 and 8.

## SCHEDULE (continued)

Amendment 4 is consequential on amendments 7, 8, 12 and 15. It makes a similar presumption of authority for documents purporting to be authorised by the parliamentary counsel as existing section 46(1) makes for documents purporting to be printed by the government printer.

Amendment 7 extend the presumption of correctness in existing section 46(2) to a copy of an Act authorised by the parliamentary counsel.

Amendment 11 extends the presumption of correctness in existing section 46(2) to copies of Acts authorised by the parliamentary counsel. This will allow the parliamentary counsel to authorise, for example, electronic copies of Acts that are not reprints (see *Reprints Act 1992*, section 47(2) for the authorisation of reprints that are not in printed form).

Amendment 8 inserts a subsection that makes provision for subordinate legislation equivalent to the provision made by existing section 46(2) (as amended by this Bill) for Acts. The proposed subsection requires a copy of subordinate legislation printed by the government printer or authorised by the parliamentary counsel to be taken to be a correct copy unless the contrary is established. The date of making or approval specified on the copy is also evidence of that date.

Amendment 10 is consequential on amendments 11 to 13.

Under the *Legislative Standards Act 1992*, section 7(l) and (m) the Office of the Queensland Parliamentary Counsel is responsible for making arrangements for the printing and publication of, and for access (in electronic form) to, Bills, Queensland legislation and information relating to Queensland legislation. Amendments 11 to 13 allow the parliamentary counsel to authorise “legislative material”, including Bills, amendment of Bills, explanatory notes for Bills, and explanatory notes and regulatory impact statements for subordinate legislation. Under section 47 of the Act these would be admissible on their production because of the amendments. Legislative materials are extrinsic materials available to assist in the interpretation of legislation (see *Acts Interpretation Act 1954*, section 14B and *Statutory Instruments Act 1992*, section 15). The Office of the Queensland Parliamentary Counsel already publishes an annual volume of explanatory notes to Queensland Acts and proposes to publish an annual volume of explanatory notes and regulatory impact statements for Queensland subordinate legislation.

Amendment 14 amends section 48 of the Act to extend the evidentiary provisions of the section to all subordinate legislation. The existing section applies to most, but not all, types of subordinate legislation.

Amendment 15 allows evidence of subordinate legislation to be given by production of a copy authorised by the parliamentary counsel.

Amendments 16 and 18 are consequential renumbering amendments.

## SCHEDULE (continued)

Amendment 17 revises the language of section 49 (which deals with proof of standard rules, codes and specifications) to bring it into line with the language of the *Statutory Instruments Act 1992*.

Amendment 19 includes a schedule of examples of offices of a public nature established under an Act. The schedule applies to replacement section 42.

**LAND ACT 1994****Amendment****1. Section 521—**

*insert—*

‘(1A) For the purpose of the continuing effect of section 30(2) of the repealed Act, the designation of a member of the Land Court as president of the court may be expressed to have effect for a stated period.’

**2. Section 521(1) to (3)—**

*renumber.*

**Explanatory note**

Amendment 1 allows the Governor in Council, when designating a member of the Land Court as the president of the court, to specify how long the designation is to last. The designation of a member of the court as its president, and other matters about the court, are provided for in the provisions of the *Land Act 1962*, part 2, divisions 5 to 7. These provisions continue to have effect under the *Land Act 1994*, section 521(1).

Amendment 2 is consequential on amendment 1.

## SCHEDULE (continued)

**PARLIAMENTARY COMMITTEES ACT 1995****Amendment****1. Section 16—***insert—*

‘(5) Subsection (4) does not limit or otherwise affect the privileges of the Legislative Assembly and its committees and members.’.

**Explanatory note**

This amendment was agreed between the Government and Opposition during the recent committee debate on the *Parliamentary Committees Bill 1995*.

**PARLIAMENTARY MEMBERS’ SALARIES ACT 1988****Amendment****1. Section 6—***omit.***2. Section 7(1), ‘Order in Council’—***omit, insert—*

‘gazette notice’.

**3. Section 7(2)—***omit.***4. Section 8—***omit.*

## SCHEDULE (continued)

**5. Section 9(1)(i) to (q)—**

*omit, insert—*

- ‘(i) the chairperson of a committee to which this section applies—a salary at the same rate per annum as applies to the government whip under paragraph (f); and
- (j) a member of a committee to which this section applies—a salary at the same rate per annum as applies to the government deputy whip under paragraph (h).’

**6. Section 9(2), words after ‘none of such members is’—**

*omit, insert—*

‘a Minister’.

**7. Section 9—**

*insert—*

‘(3) This section applies to—

- (a) a statutory committee, other than the standing orders committee, within the meaning of the *Parliamentary Committees Act 1995*; and
- (b) any other committee of the Legislative Assembly prescribed under a regulation.’

**8. Section 11—**

*omit.*

**9. Section 12—**

*omit.*

## SCHEDULE (continued)

**10. Section 13(1)(a) to (d), ‘Officer’—***omit, insert—*

‘Minister’.

**11. Section 13(2), words before ‘to whom’—***omit, insert—*

‘(2) A Minister who is authorised to act in the office of a Minister’.

**12. Section 15, ‘an Officer’—***omit, insert—*

‘a Minister’.

**13. Section 15, ‘paragraphs (a), (b), (c) and (d) of section 13’—***omit, insert—*

‘paragraphs of section 13(1)’.

**14. After section 15—***insert—***‘PART 5—MISCELLANEOUS****‘Regulation making power****‘15A.** The Governor in Council may make regulations under this Act.**‘Numbering and renumbering of Act****‘15B.** In the first reprint of this Act produced under the *Reprints Act 1992*, the provisions of this Act must be numbered and renumbered as permitted by the *Reprints Act 1992*, section 43.’.

## SCHEDULE (continued)

**Commencement**

Amendments 5 and 7 are taken to have commenced on 15 September 1995.

**Explanatory note**

Amendments 1, 3, 4 and 8 omit provisions that are no longer necessary.

Amendment 2 changes the instruments used under a section from an order in council to a gazette notice in order to make it clear that the instruments are not subordinate legislation.

Amendments 5 and 7 update committee references consequentially on the enactment of the *Parliamentary Committees Act 1995*. Additional salary is to be payable to chairpersons and other members of statutory committees (other than the standing orders committee) and any other committee prescribed under a regulation.

Amendments 6 and 10 to 12 update the language of provisions.

Amendment 9 is consequential on amendments 10 to 12.

Amendment 13 corrects a reference.

Amendment 14 inserts a regulation making power and a section requiring the Act to be renumbered in the first reprint.

**PARLIAMENTARY SERVICE ACT 1988****Amendment****1. Section 8, after ‘to the’—**

*insert—*

‘deputy speaker, the chairperson of committees, the’.

**Explanatory note**

This amendment was agreed between the Government and the Opposition in the recent committee debate on the *Parliamentary Committees Bill 1995*.

## SCHEDULE (continued)

**PETROLEUM ACT 1923****Amendment****1. Section 112(3)—**

*omit, insert—*

‘(3) The Minister may approve an indicative tariff schedule only if—

- (a) it is consistent with the facility’s tariff setting principles; and
- (b) in the Minister’s reasonable opinion, it gives the proposed facility user a reasonable amount of information about—
  - (i) the charging arrangements for the facility stated in the indicative tariff schedule; and
  - (ii) to the extent the charging arrangements for the facility are not stated—the methodology by which the charging arrangements are to be determined.

‘(3A) An indicative tariff schedule that includes a methodology by which charging arrangements are to be determined must also set out when, and the circumstances in which, the charging arrangements are to come into effect.

‘(3B) The determination or coming into effect of charging arrangements by a methodology stated in the indicative tariff schedule is not a review event and does not enable the review or amendment of a term of the access principles.’.

**2. Section 112(3A) to (8)—**

*renumber.*

**Explanatory note**

Amendment 1 inserts provisions enabling the charging arrangements for a gas or oil facility to be fixed according to a methodology set out in the tariff schedule if the charges are not stated in the schedule.

Amendment 2 is a consequential renumbering amendment.

## SCHEDULE (continued)

**PRIMARY PRODUCERS' COOPERATIVE  
ASSOCIATIONS ACT 1923**

**1. Section 3(1), definition “primary producer”, paragraph (g)—**  
*renumber* as paragraph (h).

**2. Section 3(1), definition “primary producer”—**  
*insert—*

‘(g) fisher, if the person holds a licence of the following type under the *Fisheries Act 1994*—

- (i) aquaculture licence;
- (ii) commercial fisher licence;
- (iii) primary commercial fishing boat licence; or’.

**Explanatory note**

Amendment 1 is a consequential renumbering amendment.

Amendment 2 reinserts a provision omitted from the Act by the *Fisheries Act 1994* in a form recognising the types of licences now issued under that Act. When the earlier amendment was made, the types of licences to be issued under the Fisheries Act were not known.

**PRISONERS (INTERSTATE TRANSFER) ACT 1982****Amendment**

**1. Section 4(1), definitions “State” and “Territory”—**  
*omit.*

## SCHEDULE (continued)

**2. Section 4(1)—**

*insert—*

‘**“State”** includes the Australian Capital Territory and Northern Territory.

**“Territory”** means—

- (a) the territory of Norfolk Island; or
- (b) the territory of Christmas Island; or
- (c) the territory of Cocos Island;

and includes a territory to which the *Transfer of Prisoners Act 1983* (Cwlth) is extended, but does not include the Australian Capital Territory or Northern Territory.’.

**Explanatory note**

These amendments enable the Australian Capital Territory to be treated as a State (like the Northern Territory) rather than a territory under the Act.

## **QUEENSLAND SMALL BUSINESS CORPORATION ACT 1990**

**Amendments****1. Section 6.2(1)—**

*omit, insert—*

‘**6.2.(1)** This Act expires on 30 June 2001.’.

**Explanatory note**

This amendment extends the date of expiry of the Act from 31 December 1995 to 30 June 2001 to allow proper consultation on the issues raised in the Queensland Small Business Corporation Review.

## SCHEDULE (continued)

**RESIDENTIAL TENANCIES ACT 1994****Amendment****1. Chapter 1, part 4, division 2, before section 21—***insert—***‘Contracts of sale and mortgages**

**‘20A.** To remove any doubt, it is declared that this Act does not apply to an agreement for a tenancy if the tenancy is created or arises—

- (a) between the parties to a contract of sale of residential premises under a term of the contract; or
- (b) between the parties to a mortgage of residential premises under a term of the mortgage.’.

**2. After section 23—***insert—***‘Rental purchase plan agreements**

**‘23A.** This Act does not apply to residential tenancy agreements that are rental purchase plan agreements.’.

**3. Section 42(2), ‘when the written agreement is given to the tenant for signing’—***omit, insert—*

‘as required by subsection (2A)’.

**4. Section 42—***insert—*

**‘(2A)** The lessor must give the copies to the tenant—

## SCHEDULE (continued)

- (a) if paragraph (b) does not apply—when the written agreement is given to the tenant for signing; or
- (b) if the tenant is not entitled to occupy the premises under the agreement until a day (the “**occupation day**”) that is later than the day the lessor gives the written agreement to the tenant for signing (the “**delivery day**”)—at a time in the period starting at the start of the delivery day and ending at the end of the occupation day.’.

**5. Section 42(3), ‘within 3 days after receiving the copies’—**

*omit, insert—*

‘within the required period’.

**6. Section 42—**

*insert—*

‘**(3A)** For subsection (3), the required period is—

- (a) if the copies of the report are given to the tenant under subsection (2A)(a)—the period ending 3 days after receiving the copies; or
- (b) if the copies of the report are given to the tenant under subsection (2A)(b)—the period ending 3 days after the occupation day.’.

**7. Section 42(2A) to (5)—**

*renumber.*

**8. Section 45, ‘1994’—**

*omit, insert—*

‘1980’.

## SCHEDULE (continued)

**9. Section 46—**

*insert—*

‘(4) This section does not stop the lessor and tenant under an agreement that creates a residential tenancy for a fixed term from entering into another agreement with each other for a tenancy of the premises starting at the end of the fixed term.’.

**10. Section 59—**

*insert—*

‘(2) Subsection (1) does not apply to a person to whom section 59A applies.’.

**11. After section 59—**

*insert—*

**‘Duty to pay rental bond instalments**

‘**59A.(1)** This section applies to a lessor who—

- (a) receives financial or other assistance from the State to supply rented accommodation to persons; and
- (b) enters into a residential tenancy agreement using the assistance; and
- (c) receives from the tenant a number of rental bonds for the agreement (the “**rental bond instalments**”).

‘(2) If the lessor has received all the rental bond instalments, the lessor must, within 10 days after receiving the last instalment—

- (a) pay the instalments to the authority; and
- (b) give the authority a notice, in the approved form, about the instalments.

Maximum penalty—40 penalty units.

## SCHEDULE (continued)

‘(3) If the agreement is terminated before the lessor receives all the rental bond instalments, the lessor must, within 10 days after the termination of the agreement—

- (a) pay the instalments received by the lessor to the authority; and
- (b) give the authority a notice, in the approved form, about the instalments.

Maximum penalty for subsection (3)—40 penalty units.’.

**12. Section 77(1), ‘more than, the maximum rental bond for the agreement’—**

*omit, insert—*

‘more than—

- (a) if paragraph (b) does not apply—the maximum rental bond for the agreement; or
- (b) if the lessor is the tenant’s employer and gives the tenant a rental subsidy—the amount fixed under subsection (1A).’.

**13. Section 77—**

*insert—*

‘(1A) For subsection (1)(b), the amount is the greater of the following amounts—

- (a) \$400; or
- (b) the amount equal to the rent payable under the agreement for the period of—
  - (i) for moveable dwelling premises—2 weeks; or
  - (ii) for other premises—4 weeks.’.

**14. Section 77(1A) and (2)—**

*renumber.*

## SCHEDULE (continued)

**15. Section 103—**

*insert—*

‘**(3A)** However, the lessor is not required to comply with subsection (2)(c) or (3)(a) for fixtures attached to premises, and inclusions supplied with premises, (the “**non-standard items**”) if—

- (a) the lessor is the State; and
- (b) the non-standard items are specified in the agreement and the agreement states the lessor is not responsible for their maintenance; and
- (c) the non-standard items are not necessary and reasonable to make the premises a fit place in which to live; and
- (d) the non-standard items are not a risk to health or safety; and
- (e) for fixtures—the fixtures were not attached to the premises by the lessor.’.

**16. Section 103(3A) and (4)—**

*renumber.*

**17. Section 151—**

*insert—*

‘**(1A)** A residential tenancy agreement terminates by written agreement of the lessor and tenant.’.

**18. Section 151(1A) to (4)—**

*renumber.*

**19. Schedule 3—**

*insert—*

‘**“approved form”** see section 320.

## SCHEDULE (continued)

**“rental purchase plan agreement”** means an agreement entered into between the State and someone else (the **“buyer”**) about residential premises—

- (a) under which the buyer agrees to buy, or after the buyer has bought, a part interest (a **“share”**) in the premises; and
- (b) under which the State gives the buyer the right to occupy the premises; and
- (c) under which the buyer is required to make payments to the State and—
  - (i) if the buyer is buying a share—the payments are divided by the State between the amount owing for the purchase of the share and rent for the right to occupy the premises; or
  - (ii) if the buyer has bought a share and is not buying a further share—the payments are payments of rent for the right to occupy the premises.’.

**Explanatory note**

These amendments generally deal with matters currently provided for in the *Residential Tenancies Regulation 1995* but which are more appropriately dealt with by the Act.

Amendment 1 inserts a provision to clarify that the Act does not apply to tenancy agreements arising under contracts of sale or mortgages of residential premises (section 4A of the regulation).

Amendment 2 inserts a provision to exclude rental purchase plan agreements from the Act’s application (section 5 of the regulation).

Amendments 3 to 6 change time limits for dealing with condition reports in certain cases (section 6A of the regulation).

Amendments 7, 14, 16 and 18 are consequential renumbering amendments.

Amendment 8 deals with the application of by-laws (section 6B of the regulation). The amendment omits the existing reference to the *Building Units and Groups Title Act 1994* because that Act is being repealed.

Amendment 9 inserts a provision to help clarify the scope of the application of section 46 dealing with the continuance of fixed term agreements (section 6C of the regulation).

## SCHEDULE (continued)

Amendments 10 is consequential on amendment 11.

Amendment 11 inserts a provision imposing special requirements for paying rental bonds received by way of instalments (section 7 of the regulation).

Amendments 12 and 13 change the maximum amount of rental bond that may be required to be paid in certain cases (section 9 of the regulation).

Amendment 15 inserts a provision to exclude “non-standard items” from the lessor’s general maintenance obligations in certain cases (section 10 of the regulation).

Amendment 17 inserts a provision to include another way of terminating residential tenancy agreements (section 10A of the regulation).

Amendment 19 is consequential on amendment 2. The amendment also inserts a standard definition of approved form.

**RETAIL SHOP LEASES ACT 1994****Amendment****1. Section 102(a)—**

*omit, insert—*

‘(a) 1 or more persons who—

- (i) have been Supreme or District Court judges; or
- (ii) are lawyers of at least 5 years standing; and’.

**2. Section 106(a), ‘the person’—**

*omit, insert—*

‘a person’.

**3. Section 107, ‘each tribunal’—**

*omit, insert—*

‘the tribunal to which the member is appointed’.

## SCHEDULE (continued)

**Explanatory notes**

Amendments 1 to 3 overcome a practical difficulty that has arisen in the operation of retail shop lease tribunals. As the Act is now, only 1 person may be appointed under section 102(a) and this person is the chairperson of all retail shop lease tribunals. The work load has become too great for 1 chairperson and these amendments allow for the appointment of additional chairpersons.

**RURAL LANDS PROTECTION ACT 1985****Amendment****1. After section 91—**

*insert—*

**‘Sale of declared plants in certain circumstances**

**‘91A.(1)** A person does not commit an offence under section 91 if the person sells a declared plant with the Minister’s permission.

**‘(2)** However, subsection (1) applies to a person only if the person complies with all conditions of the permission.

**‘(3)** A person may apply to the Minister for a permission under this section.

**‘(4)** The Minister may—

- (a) give the permission subject to the conditions the Minister considers appropriate; or
- (b) refuse to give the permission.

**‘(5)** Without limiting the issues the Minister may consider in deciding whether to give the permission, the Minister may consider whether giving the permission will—

- (a) promote reduction of the declared plant; or
- (b) help to contain the spread of the declared plant.

**‘(6)** Without limiting the conditions the Minister may impose under subsection (4)(a), the permission may—

## SCHEDULE (continued)

- (a) state how the declared plant must be harvested, transported, kept before sale and presented for sale; and
- (b) identify the persons or classes of persons to whom the declared plant—
  - (i) may be sold; or
  - (ii) must not be sold; and
- (c) specify conditions that must form part of a contract for selling the declared plant.

‘(7) Sections 92 and 93 do not apply to a declared plant being dealt with—

- (a) by a person under a permission given under this section; or
- (b) by a purchaser of the declared plant under a contract mentioned in subsection (6)(c).’.

**Explanatory note**

Amendment 1 inserts a new section under which a person can be permitted to sell a declared plant without committing an offence under section 91 (Person not to sell declared plant). The person must have the Minister’s permission under this section, and must comply with the conditions of the permission. The section does not specifically limit the Minister’s consideration of an application for permission, or the contexts in which the permission may be sought. However, the new section will allow the Minister to give permission in cases where harvesting and collection of a declared plant will promote the reduction of the plant or help to contain its spread. Conditions may be attached to the permission, including conditions about selling and on-selling the declared plant. The section also limits the application of 2 sections of the Act that might otherwise inhibit the proper operation of this section.

## SCHEDULE (continued)

**STATUTORY BODIES FINANCIAL  
ARRANGEMENTS ACT 1982****Amendment****1. Section 3—***insert—*

‘**“foreign society”** see Financial Institutions Code, section 3.’

**2. Section 48(1)(b), ‘bank’—***omit, insert—*

‘bank, building society, credit union or foreign society’.

**Explanatory note**

Amendment 1 inserts a definition for the purposes of the provision inserted by amendment 2. The other terms used in the provision inserted by amendment 2 are defined in the *Acts Interpretation Act 1954*, section 36.

Amendment 2 inserts a provision that widens the investment powers of statutory bodies under the Act to allow them to invest funds with building societies, credit unions and foreign societies as well as banks. This amendment is made in accordance with the Government’s policy of implementing legislative recognition of the enhanced status of building societies, credit unions and registered foreign societies.

## SCHEDULE (continued)

**STATUTORY INSTRUMENTS ACT 1992****Amendment****1. Section 46—***insert—*

‘(3) In subsection (1)(c)—

“**amendment**” includes relocation, and repeal and remaking, with or without changes.

‘(4) Subsection (3) and this subsection expire on 31 December 1996.’

**Explanatory note**

The Office of the Queensland Parliamentary Counsel (‘OQPC’) has several initiatives aimed at improving access to legislation, including an Acts review program and a subordinate legislation review program.

Part of the Acts review program is the rationalisation of the types of subordinate legislation. There are many different types of subordinate legislation in Queensland. The different types of instruments together with the practice of making a number of separate instruments under Acts makes access difficult.

OQPC’s preference is to call an instrument of a legislative character a ‘regulation’ if it is made by the Governor in Council. By using one type of subordinate instrument instead of several, it will be possible in the near future for most Acts to put all the subordinate legislation made under an Act into one instrument.

The subordinate legislation review program has recently been set up. In conjunction with OQPC’s strategy to rationalise subordinate legislation types, the review is relocating provisions from individual instruments to a single instrument, usually a regulation.

In some instances OQPC is using the program to remake instruments to bring them into line with current drafting practice.

Proposed section 46(3) makes clear that the relocating of provisions and the remaking of subordinate legislation to take account of current Queensland legislative drafting practice will not require the preparation of a regulatory impact statement under the *Statutory Instruments Act 1992*, part 5 (Guidelines for regulatory impact statements).

## SCHEDULE (continued)

The relocation of provisions of instruments could, in some cases, have the effect of extending the automatic expiry of the provisions under the *Statutory Instruments Act 1992*, part 7 (Staged automatic expiry of subordinate legislation). Accordingly, the relocation of instruments under the subordinate legislation review program would be done selectively and after appropriate consultation. The relocating instrument will, in any event, be subordinate legislation and subject to tabling and disallowance.

Because OQPC intends that its subordinate legislation review program will be completed no later than the end of 1996, the amendment will expire on 31 December 1996.

**SUGAR INDUSTRY ACT 1991****Amendment****1. Section 116—**

*omit.*

**Explanatory note**

This amendment omits a provision of the Act that is obsolete. The provision provides for a review by the sugar corporation of the rules for the calculation of differential net values per tonne of sugar included in 2 sugar pools and for a report to be made to the Minister within 5 years of the commencement of the section. That report has been provided. A comprehensive review of the sugar industry has since been considered by Cabinet.