

Queensland



**CONSUMER LAW AND  
OTHER JUSTICE  
LEGISLATION  
(MISCELLANEOUS  
PROVISIONS) ACT 1996**

**Act No. 56 of 1996**



Queensland



**CONSUMER LAW AND OTHER JUSTICE  
LEGISLATION (MISCELLANEOUS  
PROVISIONS) ACT 1996**

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Queensland



**Consumer Law and Other Justice Legislation  
(Miscellaneous Provisions) Act 1996**

**Act No. 56 of 1996**

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**An Act to amend various consumer law Acts and other Acts administered by the Attorney-General and Minister for Justice, and for other purposes**

*[Assented to 20 November 1996]*

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The Parliament of Queensland enacts—

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Consumer Law and Other Justice Legislation (Miscellaneous Provisions) Act 1996*.

### Commencement

2. Sections 151 and 192 commence on a day to be fixed by proclamation.

## PART 2—AMENDMENT OF ASSOCIATIONS INCORPORATION ACT 1981

### Act amended in pt 2

3. This part amends the *Associations Incorporation Act 1981*.

### Amendment of s 2 (Definitions)

4.(1) Section 2, definition “parent association”—

*omit, insert—*

“parent association”, of a branch, means the central entity of the branch if the entity is—

- (a) formed or carried on for a purpose other than providing financial gain for its members; and
- (b) incorporated under—

- (i) this or another Act; or
- (ii) a Commonwealth law or another State's law; or
- (iii) royal charter.'

(2) Section 2, definition "**branch**", 'body'—

*omit, insert—*

'entity'.

**Amendment of s 4 (Whether association is formed or carried on for the purpose of financial gain for its members)**

5. Section 4(1)(f)(ii), 'of'—

*omit.*

**Amendment of s 5 (Eligibility for incorporation)**

6. Section 5(1)(a)—

*omit, insert—*

'(a) has less than 7 members; or'.

**Amendment of s 15 (Certificate of incorporation)**

7. Section 15—

*insert—*

'(2) The certificate is conclusive evidence that the requirements of this Act about the association's registration and matters preceding or incidental to the registration have been complied with.'

**Amendment of s 17 (Registered office)**

8. Section 17(4), '14 days'—

*omit, insert—*

'1 month'.

---

**Amendment of s 32 (Name of incorporated association to appear on documents)**

9. Section 32, at the end—

*insert—*

‘Maximum penalty—5 penalty units.’.

**Amendment of s 35 (Incorporated association may apply to change its name)**

10. Section 35(3)(a), ‘14 days’—

*omit, insert—*

‘1 month’.

**Amendment of s 45 (Associations may be allowed to have undesirable names)**

11. Section 45(1), ‘may, by special resolution, decide to make an’—

*omit, insert—*

‘may make a written’.

**Amendment of s 46 (Registration of incorporated association’s rules)**

12. Section 46—

*insert—*

‘(5) An entry in the register stating an association’s rules are its own rules does not validate, or cure any defect in, the rules.’.

**Amendment of s 48 (Application to register amendment of rules)**

13. Section 48—

*insert—*

‘(2A) Within 1 month after the special resolution mentioned in subsection (1) is passed, the association must give the application to the

chief executive.

Maximum penalty—1 penalty unit.’.

### **Amendment of s 63 (Meetings of management committee)**

**14.(1)** Section 63, ‘2’—

*omit, insert—*

‘4’.

**(2)** Section 63—

*insert—*

‘**(2)** The management committee may hold meetings, or allow members to take part in its meetings, by telephone, video link or another form of communication.’.

### **Amendment of s 64 (Tenure of members of management committee)**

**15.** Section 64(2)(c) and (d)—

*omit, insert—*

‘(c) becomes a patient within the meaning of the *Mental Health Act 1974*; or

(d) is—

(i) convicted of an offence under this Act; or

(ii) convicted of an indictable offence or an offence punishable on summary conviction for which the person is sentenced to imprisonment, other than in default of payment of a fine.’.

### **Amendment of s 65 (When secretary must be elected or appointed)**

**16.** Section 65(2) and (3), ‘14 days’—

*omit, insert—*

‘1 month’.

---

**Amendment of s 66 (Management committee to ensure association has appropriate individual as secretary)**

17. Section 66(1), ‘the State’—

*omit, insert—*

‘Queensland, or in another State but not more than 65 km from the Queensland border.’.

**Amendment of s 68 (Notification of certain office holders)**

18.(1) Section 68, ‘14 days’—

*omit, insert—*

‘1 month’.

(2) Section 68(4), ‘writing’—

*omit, insert—*

‘the approved form’.

**Amendment of s 69 (Office of secretary)**

19.(1) Section 69(2)(c) and (d)—

*omit, insert—*

‘(c) becomes a patient within the meaning of the *Mental Health Act 1974*; or

(d) is—

(i) convicted of an offence under this Act; or

(ii) convicted of an indictable offence or an offence punishable on summary conviction for which the person is sentenced to imprisonment, other than in default of payment of a fine.’.

(2) Section 69(2)(f), ‘the State’—

*omit, insert—*

‘Queensland, or in another State but not more than 65 km from the Queensland border’.

---

**Amendment of s 70 (Insurance)**

**20.(1)** Section 70(1), from ‘the prescribed’ to ‘\$100 000’—

*omit, insert—*

‘at least \$1 000 000’.

**(2)** Section 70(2), ‘14 days’—

*omit, insert—*

‘1 month’.

**Amendment of s 80 (Members may resolve to incorporate)**

**21.(1)** Section 80, heading, ‘**incorporate**’—

*omit, insert—*

‘**amalgamate**’.

**(2)** Section 80—

*insert—*

‘**(2)** Within 1 month after the resolution is passed, the association must give notice of it, in the approved form, to the chief executive.

Maximum penalty—1 penalty unit.’.

**Amendment of s 89 (Voluntary winding-up)**

**22.** Section 89(2), ‘14 days’—

*omit, insert—*

‘1 month’.

**Amendment of s 91 (Application of Corporations Law to winding-up)**

**23.** Section 91(1), ‘or to a defunct or dissolved association’—

*omit.*

**Amendment of s 92 (Distribution of surplus assets)**

**24.(1)** Section 92(2)(e), ‘pursuant to paragraph (d)’—  
*omit, insert—*

‘under this subsection’.

**(2)** Section 92(2)(e)—  
*renumber* as section 92(2)(d).

**Amendment of s 94 (Vesting of property on cancellation)**

**25.** Section 94(d), ‘pursuant to paragraph (d)’—  
*omit, insert—*

‘under this section’.

**Amendment of s 97 (Notice about special resolutions)**

**26.** Section 97(2), ‘14 days’—  
*omit, insert—*

‘1 month’.

**Insertion of new s 97A**

**27.** After section 97—  
*insert—*

**‘Society to have president and treasurer before applying for transfer of incorporation**

‘**97A.** An application can not be made by, and a certificate of incorporation can not be issued to, an eligible friendly society that does not have a president and a treasurer.’.

**Amendment of s 98 (Application)**

**28.** Section 98(4)(c)—

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*omit, insert—*

- ‘(c) a copy of the society’s proposed rules and a statutory declaration by the society’s secretary stating that the rules comply with this Act; and’.

**Replacement of s 104 (Secretary of former society becomes secretary of incorporated association)**

**29.** Section 104—

*omit, insert—*

**‘Office holders of former society become office holders of incorporated association**

‘**104.** On the transfer day for an incorporated association, the president, treasurer and secretary of the former society become the president, treasurer and secretary, respectively, of the incorporated association.’.

**Amendment of s 105 (Rules)**

**30.** Section 105(1), words after ‘association’, second mention—

*omit, insert—*

‘under this Act’.

**Replacement of s 142 (Validation of incorporation of certain branches)**

**31.** Section 142—

*omit, insert—*

**‘Validation of incorporation of certain branches**

‘**142.(1)** This section applies if, before the commencement of this section—

- (a) a branch of an entity was purportedly incorporated under this Act; and
- (b) at the time of the purported incorporation, the branch’s central

entity was not an incorporated association.

‘(2) If, at the time of the purported incorporation, the branch’s central entity was incorporated under—

- (a) another Act; or
- (b) a Commonwealth law or another State’s law; or
- (c) royal charter;

the branch is taken to have been as validly incorporated as if, at the time of the purported incorporation, its central entity was an incorporated association.’.

### **Amendment of s 143 (Expiry)**

**32.** Section 143, ‘2 years after the commencement’—

*omit, insert—*

‘on 8 September 1997’.

## **PART 3—AMENDMENT OF BILLS OF SALE AND OTHER INSTRUMENTS ACT 1955**

### **Act amended in pt 3**

**33.** This part amends the *Bills of Sale and Other Instruments Act 1955*.

### **Insertion of new ss 48 and 49**

**34.** After section 47—

*insert—*

### **‘Validation of acts etc. by Supreme Court registrars at Rockhampton and Townsville**

‘**48.(1)** An act, matter or thing done by the Supreme Court registrar at

Rockhampton or Townsville (the “**court registrar**”), before the commencement of this section, in the purported exercise of the registrar’s powers under part 2, is taken to be, and always have been, as validly done and effective as if the court registrar were the registrar under this Act.

‘(2) This section expires the day after it commences.

**‘Registrar is registrar for repealed State Securities Registration Act 1925**

‘**49.(1)** To the extent the repealed Act continues to apply,<sup>1</sup> the registrar under this Act is the registrar for the purposes of the repealed Act.

‘(2) An act, matter or thing required to be done by the registrar within the meaning of the repealed Act and done by the registrar within the meaning of this Act after the repeal of the *Administration of Commercial Laws Act 1962*<sup>2</sup> and before the commencement of this section is taken to be, and always have been, as validly done as if it had been done by the registrar within the meaning of the repealed Act.

‘(3) Subsection (2) and this subsection expire the day after they commence.

‘(4) In this section—

‘**“repealed Act”** means the *State Securities Registration Act 1925*.’.

**PART 4—AMENDMENT OF BUSINESS NAMES ACT  
1962**

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<sup>1</sup> Under the *Statute Law (Miscellaneous Provisions) Act 1991*, schedule 4, section 3, the Act continues to apply to securities registered under it immediately before 1 September 1992.

<sup>2</sup> The *Administration of Commercial Laws Act 1962* was repealed on 1 July 1995.

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**Act amended in pt 4**

**35.** This part amends the *Business Names Act 1962*.

**Insertion of new ss 7A and 7B**

**36.** After section 7—

*insert—*

**‘Application not made until prescribed fee paid**

**‘7A.** If an application for registration of a business name is not accompanied by the prescribed fee, the application is taken not to have been made until the fee is paid to the registrar.

**‘Registrar’s power to ask applicant for further information**

**‘7B.(1)** The registrar may, by written notice given to an applicant for registration of a business name under section 7(1),<sup>3</sup> ask the applicant to give to the registrar, within a stated reasonable time, another document or further information the registrar reasonably believes is necessary—

- (a) to enable the registrar to decide whether to register, or refuse to register, the business name;<sup>4</sup> or
- (b) to satisfy the registrar that the applicant is carrying on, or will carry on, the business in the State.

**‘(2)** If the applicant fails to comply with the request within the stated time, the applicant is taken to have withdrawn the application.’.

**Replacement of s 16 (Verification of particulars)**

**37.** Section 16—

*omit, insert—*

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<sup>3</sup> Section 7 (Registration of business names)

<sup>4</sup> For grounds for refusal of registration see, for example, sections 7(6) and (7) and 16.

**‘Registrar’s powers about statements that are incomplete etc.**

‘**16.(1)** This section applies if the registrar reasonably believes that a statement required to be lodged by a person under this Act—

- (a) contains—
  - (i) an alteration or erasure; or
  - (ii) matter contrary to law; or
- (b) is incomplete because of an omission from, or misdescription in, it; or
- (c) does not comply with this Act.

‘**(2)** The registrar may, by written notice, ask the person to—

- (a) amend or complete the statement and relodge it; or
- (b) lodge another statement in its place.

‘**(3)** If the registrar makes a request under subsection (2), the statement is taken not to have been lodged until the person complies with the request.

**‘Verification of information**

‘**16A.(1)** If the registrar believes it is necessary in a particular case, the registrar may ask a person who gives the registrar information under this Act to verify the information by a statutory declaration made by the person.

‘**(2)** The registrar may refuse to act on the information until the verification is made.’.

**Amendment of s 18 (Notice of proposed cancellation)**

**38.** Section 18—

*insert—*

‘**(3)** The registrar may ask a person to whom a notice is sent under subsection (1) to give the registrar documentary proof, including specified documentary proof, showing the business is being carried on in the State by the person under the business name stated in the register.’.

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**Insertion of new s 19A**

**39.** After section 19—

*insert—*

**‘Cancellation for nonpayment of prescribed fee**

**‘19A.(1)** The registrar may cancel the registration of a business name if—

- (a) the application for the registration was accompanied by a cheque for the prescribed fee that is not paid on presentation; and
- (b) 21 days have passed since the application was made.

**‘(2)** If the registrar cancels a registration under subsection (1), the registrar must give to the applicant for the registration written notice of the cancellation.

**‘(3)** The notice must—

- (a) state that the registration has been cancelled for nonpayment of the prescribed fee; and
- (b) be posted to the applicant at the place mentioned in section 31.<sup>5</sup>.

**Amendment of s 25 (Authority of registrar to destroy documents)**

**40.(1)** Section 25(1)(a), ‘3 years’—

*omit, insert—*

‘1 year’.

**(2)** Section 25(1)(ba), ‘12 years’—

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<sup>5</sup> Section 31 (As to service of notices and lodging of statements)

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*omit, insert—*

‘7 years’.

## **PART 5—AMENDMENT OF CLASSIFICATION OF COMPUTER GAMES AND IMAGES (INTERIM) ACT 1995**

### **Act amended in pt 5**

**41.** This part amends the *Classification of Computer Games and Images (Interim) Act 1995*.

### **Amendment of s 1 (Short title)**

**42.** Section 1, *‘(Interim)’—*

*omit.*

### **Amendment of s 4 (Classification under ordinance)**

**43.(1)** Section 4, heading, **‘ordinance’—**

*omit, insert—*

**‘the Commonwealth Act’.**

**(2)** Section 4(1)—

*omit, insert—*

**‘4.(1)** Subject to subsection (1A), if a computer game is not classified under this Act but is classified under the Commonwealth Act, its classification under the Commonwealth Act has effect for this Act.

**‘(1A)** If a computer game is a film for the Commonwealth Act and is classified under the Commonwealth Act, its classification for this Act is—

- (a) for a computer game that, under the Commonwealth Act, is a film classified G—G; or

- (b) for a computer game that, under the Commonwealth Act, is a film classified PG—G(8+); or
- (c) for a computer game that, under the Commonwealth Act, is a film classified M—M(15+); or
- (d) for a computer game that, under the Commonwealth Act, is a film classified MA—MA(15+); or
- (e) for a computer game that, under the Commonwealth Act, is a film classified R, X or RC—RC.’.

(3) Section 4(2), ‘ordinance’—

*omit, insert—*

‘Commonwealth Act’.

(4) Section 4(2)(a), ‘or is refused classification’—

*omit.*

**Amendment of s 5 (Classification of computer games by computer games classification officer)**

44.(1) Section 5(1), from ‘or refuse’ to ‘game’—

*omit.*

(2) Section 5(3) and (4)—

*omit, insert—*

‘(3) For this section, the following provisions of the Commonwealth Act apply, with all necessary changes, as if they were part of this Act—

- section 7(3)
- section 9
- section 11
- section 20
- schedule (to the extent it relates to computer games)

- definitions relevant to the provisions, unless the term is defined in this Act or the *Acts Interpretation Act 1954*.<sup>6</sup>.

### **Amendment of s 6 (Reclassification of computer games)**

**45.(1)** Section 6(1), from ‘classified,’—

*omit, insert—*

‘classified under section 5 should have a different classification.’.

**(2)** Section 6(2), from ‘classification,’—

*omit, insert—*

‘classification aside and again classify the game under section 5.’.

### **Amendment of s 7 (Production of computer game for classification or reclassification)**

**46.(1)** Section 7(4), ‘or refused approval for classification’—

*omit.*

**(2)** Section 7(5), ‘refused approval for classification if’—

*omit, insert—*

‘classified RC because’.

### **Insertion of new s 7A**

**47.** After section 7—

*insert—*

#### **‘Reclassification notice**

**‘7A.(1)** If the computer games classification officer reclassifies a computer game under section 6, the officer must give written notice of the

<sup>6</sup> Section 7(3) (Types of classifications)  
Section 9 (Classification in accordance with the Code)  
Section 11 (Matters to be considered in classification)  
Section 20 (Board to decide consumer advice for films and computer games)

reclassification to—

- (a) the applicant for the reclassification; or
- (b) if there was no applicant for the reclassification—the person who the officer reasonably believes has an interest in the matter, whether as the computer game’s publisher or otherwise.

‘(2) The reclassification takes effect on the day the officer gives the notice.’.

**Amendment of s 8 (Appeal to appeal body against classification of, or refusal to approve classification of, computer game)**

**48.(1)** Section 8, heading, ‘, or refusal to approve classification of,’—  
*omit.*

**(2)** Section 8, ‘, or refuses to approve the classification of,’—  
*omit.*

**Amendment of s 9 (Prohibition against demonstration of unclassified computer game)**

**49.** Section 9(1), penalty, paragraph (c), from ‘that’—  
*omit, insert—*

‘that, if it were classified, would be classified as an RC computer game.’.

**Amendment of s 10 (Restriction on demonstration of MA(15+) computer game)**

**50.** Section 10—  
*insert—*

‘(3) A person must not demonstrate, or attempt to demonstrate, in a public place an MA(15+) computer game unless the determined markings for the game are displayed before the game is demonstrated.

Maximum penalty—10 penalty units.’.

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**Insertion of new s 10A**

**51.** In part 3, after section 10—

*insert—*

**‘Prohibition against demonstration of certain classified computer games**

**‘10A.(1)** A person must not demonstrate, or attempt to demonstrate, a classified computer game in a public place unless it is demonstrated with the same title as the title under which it is classified.

Maximum penalty—20 penalty units.

**‘(2)** A person must not demonstrate, or attempt to demonstrate, a classified computer game in a public place unless it is demonstrated in the form, without alteration or addition, in which it is classified.

Maximum penalty—20 penalty units.’.

**Amendment of s 11 (Use of advertisements)**

**52.(1)** Section 11, heading ‘Use of’—

*omit, insert—*

**‘Publishing’.**

**(2)** Section 11(1)—

*omit, insert—*

**‘11.(1)** A person must not use, or attempt to use, an advertisement for a computer game if, under the Commonwealth Act—

(a) an application for approval of the advertisement—

(i) has not been made; and

(ii) if it were made, would be refused; or

(b) approval of the advertisement has been refused.

Maximum penalty—60 penalty units.’.

**(3)** Section 11(2) and (3), ‘use’—

*omit, insert—*

‘publish’.

(4) Section 11(2) and (3), ‘ordinance’—

*omit, insert—*

‘Commonwealth Act’.

### **Replacement of s 12 (Advertisement to bear determined markings)**

**53.** Section 12—

*omit, insert—*

#### **‘Advertisement to contain determined markings and consumer advice**

**‘12.(1)** A person must not publish an advertisement for a classified computer game unless its determined markings and consumer advice (if any) are—

- (a) contained in the advertisement; and
- (b) displayed—
  - (i) in the way the director decides under the Commonwealth Act;<sup>7</sup> and
  - (ii) so they are clearly visible, having regard to the advertisement’s size and nature.

Maximum penalty—10 penalty units.

**‘(2)** If a computer game is reclassified, display of the determined markings and consumer advice applicable to the game before reclassification is sufficient compliance with subsection (1) for the 30 day period immediately after the reclassification takes effect.<sup>8</sup>’.

### **Amendment of s 13 (False advertising of computer games)**

**54.** Section 13(1), ‘ordinance’—

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<sup>7</sup> See the Commonwealth Act, section 8 (Markings for classifications).

<sup>8</sup> See this Act, section 7A (Reclassification notice) and the Commonwealth Act, section 26 (Notice of decisions).

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*omit, insert—*

‘Commonwealth Act’.

### **Insertion of new ss 13A, 13B and 13C**

**55.** After section 13—

*insert—*

#### **‘Prohibition against advertising certain computer games**

**‘13A.(1)** A person must not publish, or attempt to publish, an advertisement for an unclassified computer game.

Maximum penalty—60 penalty units.

**‘(2)** A person must not publish, or attempt to publish, an advertisement for a computer game that, under the Commonwealth Act, is a film classified R, X or RC.

Maximum penalty—60 penalty units.

#### **‘Director’s power to require certain advertisements to be submitted for approval**

**‘13B.(1)** The director may, by written notice given to the publisher of a computer game that is being published in Queensland, or that the director reasonably believes will be published in Queensland, require the publisher to submit to the board for approval a copy of each advertisement used or intended to be used in connection with the publication.

**‘(2)** A person to whom a notice under this section is given must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.

#### **‘Defence to prosecution under section 13B**

**‘13C.** It is a defence to a prosecution for an offence under section 13B, in relation to a computer game the director reasonably believes will be published in Queensland, for the defendant to prove that the defendant did

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not intend to publish, or authorise or cause someone else to publish, the publication in the State.’.

### **Amendment of s 14 (Markings on containers)**

**56.(1)** Section 14, heading, after ‘**Markings**’—

*insert—*

‘**and consumer advice**’.

**(2)** Section 14, after ‘classification’—

*insert—*

‘and its consumer advice (if any)’.

### **Replacement of s 15 (Display of information about classification)**

**57.(1)** Section 15—

*omit, insert—*

#### **‘Display of classifications notices**

**‘15.(1)** A person who sells, or attempts to sell, a classified computer game in a public place must keep a classifications notice for computer games, or, if the computer game is a film under the Commonwealth Act, a classifications notice for films, displayed prominently in the public place so it is clearly visible to the public.

Maximum penalty—10 penalty units.

**‘(2)** In this section—

**“classifications notice”** means a notice, in the form approved by the director and published in the Commonwealth gazette, about—

- (a) for computer games—the classifications for computer games; or
- (b) for films—the classifications for films.’.

### **Amendment of s 19 (Sale of unclassified computer games prohibited)**

**58.** Section 19(1), penalty, paragraph (c), ‘refused approval for

classification’—

*omit, insert*—

‘classified RC’.

### **Insertion of new s 21A**

**59.** In part 4, after section 21—

*insert*—

#### **‘Prohibition against selling certain classified computer games**

**‘21A.(1)** A person must not sell a classified computer game in a public place unless it is sold with the same title as the title under which it is classified.

Maximum penalty—60 penalty units.

**‘(2)** A person must not sell a classified computer game in a public place unless it is sold in the form, without alteration or addition, in which it is classified.

Maximum penalty—60 penalty units.’.

### **Amendment of s 45 (Return of seized things)**

**60.(1)** Section 45(1)(a), ‘60 days’—

*omit, insert*—

‘1 year’.

**(2)** Section 45(1)(b), ‘60 days’—

*omit, insert*—

‘year’.

### **Amendment of s 62 (Evidentiary provisions)**

**61.(1)** Section 62(4)(a), ‘or refused approval for classification’—

*omit.*

(2) Section 62(4)(c), from ‘or’ to ‘refusal’—

*omit, insert—*

‘and, if it would be classified RC, stating whether or not it is a child abuse computer game’.

### **Amendment of s 63 (Indictable offences and summary offences)**

**62.** Section 63—

*insert—*

‘(4) A complaint under the *Justices Act 1886* for a summary offence against this Act may be made only by—

- (a) the computer games classification officer; or
- (b) someone else with the Minister’s written authority.’.

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

**63.** Section 66—

*insert—*

‘(2) This section does not apply to a computer game classified RC.’.

### **Replacement of ss 70 and 71**

**64.** Sections 70 and 71—

*omit, insert—*

#### **‘Transitional—games refused classification**

‘**70.(1)** A computer game refused classification under this Act or the Commonwealth Act before the commencement of this section is taken to be a computer game classified as RC under this Act or the Commonwealth Act, respectively, immediately after the commencement.

‘(2) This section expires 3 months after it commences.’.

---

**Amendment of sch 2 (Dictionary)**

**65.(1)** Schedule 2, definitions, “**computer game**”, “**determined markings**” and “**ordinance**”—

*omit.*

(2) Schedule 2—

*insert—*

‘ **“board”** means the Classification Board established under the Commonwealth Act.

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

**“Commonwealth gazette”** means the Commonwealth of Australia gazette.

**“computer game”** means—

(a) a computer program and associated data, capable of generating a display on a computer monitor, television screen, liquid crystal display or similar medium; or

(b) a computer generated image; or

(c) an interactive film;

but does not include—

(d) a bulletin board; or

(e) a business, accounting, professional, scientific or educational computer program or computer generated image, other than a program or image containing a computer game that would, if classified, be classified as an MA(15+) or RC computer game; or

(f) a film that is not an interactive film.

**“consumer advice”** means—

(a) for a computer game (other than a computer game that is a film under the Commonwealth Act)—the consumer advice about the computer game decided by the board under the Commonwealth Act; or

(b) for a computer game that is a film under the Commonwealth

Act—the consumer advice about the film decided by the board under the Commonwealth Act.

**“determined markings”** means—

- (a) for a computer game (other than a computer game that is a film under the Commonwealth Act)—the markings for the computer game determined under the Commonwealth Act; or
- (b) for a computer game that is a film under the Commonwealth Act—the markings for the film determined under the Commonwealth Act.<sup>9</sup>

**“director”** means the director of the board.

**“interactive film”** means a film in which the way the film proceeds and the result achieved at various stages of the film is decided in response to the decisions, inputs and direct involvement of the user of the film.’.

(3) Schedule 2, definition **“advertisement”**, paragraph (a), ‘(other than an item of clothing)’—

*omit.*

(4) Schedule 2, definition **“classified”**, ‘ordinance’—

*omit, insert—*

‘Commonwealth Act’.

(5) Schedule 2, definition **“objectionable computer game”**, ‘an unclassified computer game, or an unapproved’—

*omit, insert—*

‘a computer game, or an’.

(6) Schedule 2, definition **“objectionable computer game”**, paragraph (d)—

*omit, insert—*

‘(d) is unsuitable for a minor to view or play; or

<sup>9</sup> See Commonwealth Act, section 8 (Markings for classifications).

- (e) for a computer game—is classified RC; or
- (f) for an advertisement—is refused approval.’.

## **PART 6—AMENDMENT OF CLASSIFICATION OF FILMS ACT 1991**

### **Act amended in pt 6**

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

### **Replacement of s 2 (Commencement)**

**67.** Section 2—

*omit, insert—*

#### **‘Object of Act**

**‘2.(1)** The object of this Act is to give effect to the scheme for the classification of publications, films and computer games mentioned in the Commonwealth Act, section 3,<sup>10</sup> but only to the extent that the scheme relates to films.

**‘(2)** The object is to be achieved by—

- (a) providing for the enforcement of classification decisions for films made under the Commonwealth Act; and
- (b) prohibiting the publication of certain films.’.

### **Amendment of s 3 (Definitions)**

**68.(1)** Section 3, definitions “**appeal censor**”, “**approved**”, “**censor**”, “**chief censor**”, “**determined manner and form**”, “**determined markings**”, “**exhibition**”, “**objectionable film**”, “**Ordinance**” and

<sup>10</sup> Section 3 (Purpose)

---

**“unapproved”**—

*omit.*

(2) Section 3—

*insert—*

‘ **“approved”**, for an advertisement, means approved under the Commonwealth Act.<sup>11</sup>

**“board”** means the Classification Board established under the Commonwealth Act.<sup>12</sup>

**“classification certificate”** means a certificate issued under the Commonwealth Act.<sup>13</sup>

**“classifications notice”** means a notice, in the form approved by the director and published in the Commonwealth gazette, about the classifications for films.

**“classified”** means classified or reclassified under the Commonwealth Act.

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

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<sup>11</sup> See the Commonwealth Act, section 29 (Approval of advertisements).

<sup>12</sup> See the Commonwealth Act, section 45 (Establishment of Classification Board).

<sup>13</sup> See Commonwealth Act, section 25 (Classification certificates).

**“computer game”** see *Classification of Computer Games and Images Act 1995*, schedule 2.<sup>14</sup>

**“computer program”** see *Classification of Computer Games and Images Act 1995*, schedule 2.<sup>15</sup>

**“consumer advice”**, for a film, means the consumer advice about the film decided by the board under the Commonwealth Act.<sup>16</sup>

**“determined markings”**, for a film, means the markings for the film determined under the Commonwealth Act.<sup>17</sup>

**“director”** means the director of the board.

**“exhibit”**, a film, means project or screen the film.

**“objectionable film”** means—

- (a) a film classified “X” or “RC”; or
- (b) a film that—
  - (i) is not classified, or has become unclassified under the

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<sup>14</sup> The *Classification of Computer Games and Images Act 1995*, schedule 2, defines **“computer game”** as—

- (a) a computer program and associated data, capable of generating a display on a computer monitor, television screen, liquid crystal display or similar medium; or
  - (b) a computer generated image; or
  - (c) an interactive film;
- but does not include—
- (d) a bulletin board; or
  - (e) a business, accounting, professional, scientific or educational computer program or computer generated image, other than a program or image containing a computer game that would if classified, be classified as an MA(15+) or RC computer game; or
  - (f) a film that is not an interactive film.

<sup>15</sup> The *Classification of Computer Games and Images Act 1995*, schedule 2, defines **“computer program”** as a set of statements or instructions to be used directly or indirectly in a computer to bring about a certain result.

<sup>16</sup> See Commonwealth Act, section 20 (Board to decide consumer advice for films and computer games).

<sup>17</sup> See Commonwealth Act, section 8 (Markings for classifications).

Commonwealth Act;<sup>18</sup> and

(ii) if it were classified, would be classified “X” or “RC”.

“**publish**” includes demonstrate, display, distribute, exhibit, let on hire, offer for sale, and sell.

“**reclassified**” means reclassified under the Commonwealth Act.’.

(3) Section 3, definition “**advertisement**”, paragraph (a), ‘(other than an item of clothing)’—

*omit.*

(4) Section 3, definition “**film**”, words after ‘produced;’—

*omit, insert—*

‘but does not include—

- (c) a computer game; or
- (d) a computer program; or
- (e) an advertisement for a computer game, film or publication; or
- (f) a recording for business, accounting, professional, scientific or educational purposes, unless it contains a visual image likely to cause the recording to be classified “MA”, “R”, “X” or “RC”.’.

### Omission of pt 2 (Classification of films)

69. Part 2—

*omit.*

### Replacement of s 20 (Classification of film to be shown before exhibition)

70. Section 20—

*omit, insert—*

<sup>18</sup> See the Commonwealth Act, section 21 (Declassification of classified films or computer games).

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**‘Display of classifications notice**

‘20. A person who exhibits a film in a public place must keep a classifications notice displayed prominently in the public place so it is clearly visible to the public.

Maximum penalty—10 penalty units.’.

**Amendment of s 21 (Prohibition against exhibition of unclassified films)**

71.(1) Section 21, heading—

*omit, insert—*

**‘Prohibition against exhibition of certain films in public places’.**

(2) Section 21, penalty, paragraph (d)—

*omit, insert—*

‘(d) in the case of an objectionable film—300 penalty units or 2 years imprisonment.’.

(3) Section 21—

*insert—*

‘(2) A person must not exhibit, or attempt to exhibit, a film in a public place unless the film is exhibited with the same title as the title under which it is classified.

Maximum penalty—50 penalty units.

‘(3) A person must not exhibit, or attempt to exhibit, a film in a public place unless the film is exhibited in the form, without alteration or addition, in which it is classified.

Maximum penalty—50 penalty units.’.

**Amendment of s 21A (Classified films—exhibiting advertisements for other films)**

72.(1) Section 21A(a), (b) and (c), ‘or “R” ’—

*omit, insert—*

‘, “R”, “X” or “RC” ’.

(2) Section 21A(d), after “R”—

*insert—*

‘, “X” or “RC” ’.

(3) Section 21A(e), ‘an unclassified film’—

*omit, insert—*

‘a film classified as an “X” or “RC” film or an unclassified film’.

### **Amendment of s 24 (Minors not to be present at exhibition of certain films—offence by minor)**

73. Section 24, words after ‘ “R” film’—

*omit.*

### **Insertion of new ss 25D and 25E**

74. In part 4, after section 25C—

*insert—*

### **‘Director’s power to require certain advertisements to be submitted for approval**

‘25D.(1) The director may, by written notice given to the publisher of a classified film that is being published in Queensland, or that the director reasonably believes will be published in Queensland, require the publisher to submit to the board for approval a copy of each advertisement used or intended to be used in connection with the publication.

‘(2) A person to whom a notice under this section is given must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.

### **‘Defence to prosecution under section 25D**

‘25E. It is a defence to a prosecution for an offence under section 25D, in

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relation to a classified film the director reasonably believes will be published in Queensland, for the defendant to prove that the defendant did not intend to publish, or authorise or cause someone else to publish, the publication in Queensland.’.

### **Replacement of ss 26 and 27**

**75.** Sections 26 and 27—

*omit, insert—*

#### **‘Prohibition against publishing certain advertisements**

**‘26.(1)** A person must not publish, or attempt to publish, an advertisement for an unclassified film.

Maximum penalty—

- (a) for an objectionable film—60 penalty units; or
- (b) for another film—10 penalty units.

**‘(2)** Subsection (1) does not apply to an advertisement for a film in relation to which a certificate of exemption has been given under the Commonwealth Act.<sup>19</sup>

**‘(3)** A person must not publish an advertisement for a film if, under the Commonwealth Act—

- (a) an application for approval of the advertisement—
  - (i) has not been made; and
  - (ii) if it were made, would be refused; or
- (b) approval of the advertisement is refused.

Maximum penalty—60 penalty units.

**‘(4)** A person may publish an advertisement for a film only in the form in which it is approved under the Commonwealth Act.

Maximum penalty—60 penalty units.

**‘(5)** If an advertisement for a film is approved under the Commonwealth

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<sup>19</sup> See the Commonwealth Act, part 3, division 2.

Act on conditions, a person may publish the advertisement only in accordance with the conditions.

Maximum penalty—60 penalty units.

**‘Advertisement to contain determined markings and consumer advice**

**‘27.(1)** A person must not publish an advertisement for a classified film unless its determined markings and consumer advice (if any) are—

- (a) contained in the advertisement; and
- (b) displayed—
  - (i) in the way the director determines under the Commonwealth Act;<sup>20</sup> and
  - (ii) so they are clearly visible, having regard to the advertisement’s size and nature.

Maximum penalty—10 penalty units.

**‘(2)** If a film is reclassified, display of the determined markings and consumer advice applicable to the film before reclassification is sufficient compliance with subsection (1) for the 30 day period immediately after the reclassification takes effect.<sup>21</sup>’.

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

**76.(1)** Section 28(1)(b), ‘Part 2’—

*omit, insert—*

‘the Commonwealth Act’.

**(2)** Section 28—

*insert—*

**‘(1A)** If a film is reclassified, display of the determined markings and consumer advice applicable to the film before reclassification is sufficient

<sup>20</sup> See the Commonwealth Act, section 8 (Markings for classifications).

<sup>21</sup> See the Commonwealth Act, section 26 (Notice of decisions).

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compliance with subsection (1) for the 30 day period immediately after the reclassification takes effect.<sup>22</sup>.

### **Amendment of s 29 (Markings on containers)**

**77.(1)** Section 29, heading, after ‘**Markings**’—

*insert—*

‘**and consumer advice**’.

**(2)** Section 29, after ‘classification’—

*insert—*

‘and its consumer advice (if any)’.

### **Amendment of s 30 (Display of information about classification)**

**78.** Section 30(1), words after ‘keep’—

*omit, insert—*

‘a classifications notice displayed in accordance with subsection (2).’.

### **Amendment of s 31 (Classified films containing advertisements for other films)**

**79.(1)** Section 31(a), (b) and (c), ‘or “R” ’—

*omit, insert—*

‘, “R”, “X” or “RC” ’.

**(2)** Section 31(d), after “R”—

*insert—*

‘, “X” or “RC” ’.

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<sup>22</sup> See the Commonwealth Act, section 26 (Notice of decisions).

(3) Section 31(e), ‘an unclassified film’—

*omit, insert—*

‘a film classified as an “X” or “RC” film or an unclassified film’.

### **Amendment of s 34 (Display and sale of unclassified films prohibited)**

80.(1) Section 34, heading, after ‘of’—

*insert—*

**‘objectionable and’.**

(2) Section 34, ‘an unclassified’—

*omit, insert—*

‘an objectionable or unclassified’.

(3) Section 34(a) to (c), ‘in the case of’—

*omit, insert—*

‘for’.

(4) Section 34, penalty, paragraph (d), from ‘in’ to ‘film’, second mention—

*omit, insert—*

‘for an “X” film or an unclassified film that, if classified, would be an “X” film’.

(5) Section 34, penalty, paragraph (e), from ‘in’ to ‘classification’—

*omit, insert—*

‘for an “RC” film or an unclassified film that, if classified, would be an “RC” film’.

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

81. Section 36, ‘Part 2’—

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*omit, insert—*

‘the Commonwealth Act’.

**Amendment of s 39 (Display and sale of objectionable film prohibited)**

**82.** Section 39, penalty, paragraph (a), ‘Ordinance’—

*omit, insert—*

‘Commonwealth Act’.

**Amendment of s 40 (Keeping together of classified and objectionable films prohibited)**

**83.** Section 40, penalty, paragraph (a), ‘Ordinance’—

*omit, insert—*

‘Commonwealth Act’.

**Amendment of s 41 (Possession of objectionable film)**

**84.** Section 41(1), penalty, paragraph (a), ‘Ordinance’—

*omit, insert—*

‘Commonwealth Act’.

**Amendment of s 44 (No liability in certain circumstances)**

**85.(1)** Section 44(1)—

*omit.*

**(2)** Section 44(2), ‘the kind mentioned in paragraph (a) of the definition of “objectionable film” ’—

*omit, insert—*

‘a kind mentioned in subsection (3)’.

**(3)** Section 44(2)(b), after ‘classified’—

*insert—*

‘other than “X” or “RC” ’.

(4) Section 44—

*insert—*

‘(3) For subsection (2), the kinds of objectionable film are—

- (a) a film that would be classified “RC” because it depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in a way that it offends against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that it should not be classified; and
- (b) a film that would be classified “X” because it—
  - (i) explicitly depicts sexual activity between adults, where there is no sexual violence, coercion or nonconsent of any kind, in a way that it is likely to offend a reasonable adult; and
  - (ii) is unsuitable for a minor to view.’.

### **Amendment of s 47 (Entry and search—evidence of offences)**

86. Section 47(2)(b), from ‘the inspector’ to ‘60 days’—

*omit, insert—*

‘subject to section 63,<sup>23</sup> the inspector may keep the evidence for 1 year’.

### **Amendment of s 60 (Evidentiary provisions)**

87.(1) Section 60(1), ‘censor’—

*omit, insert—*

‘director’.

(2) Section 60(1)(a), ‘or refused classification’—

*omit.*

<sup>23</sup> Section 63 (Return of seized films)

(3) Section 60(1)(c), from ‘(and’ to ‘refusal’—

*omit, insert—*

‘as a stated classification and, for a film that would, if classified, be classified “RC”, specifying the grounds for classifying it “RC” ’.

(4) Section 60(2)—

*omit, insert—*

‘(2) In a proceeding for an offence against this Act, it is not necessary to prove the complainant’s authority to start the proceeding.’.

### **Amendment of s 64 (Classified films not indecent or obscene)**

**88.(1)** Section 64, heading, ‘**Classified**’—

*omit, insert—*

‘**Certain classified**’.

(2) Section 64—

*insert—*

‘(2) This section does not apply to a film classified “X” or “RC”.’.

### **Replacement of s 69 (Operation of Act after commencement of new Commonwealth Act)**

**89.** Section 69—

*omit, insert—*

#### **‘Existing classifications**

‘**69.(1)** A film classified “G”, “PG”, “M”, “MA”, “R” or “X” under this Act before the commencement of this section is taken, from the commencement, to be, for the purposes of this Act, a film classified as “G”, “PG”, “M”, “MA”, “R” or “X”, respectively, under the Commonwealth Act.

‘(2) A film refused classification under this Act before the commencement of this section is taken, from the commencement, to be, for the purposes of this Act, a film classified as “RC” under the

Commonwealth Act.

‘(3) If, under this Act and before the commencement of this section, an advertisement for a film—

- (a) is approved—the advertisement is taken, from the commencement, to be, for the purposes of this Act, an advertisement approved under the Commonwealth Act for the film; or
- (b) is not approved—the advertisement is taken, from the commencement, not to be, for the purposes of this Act, an advertisement approved under the Commonwealth Act for the film immediately after the commencement.

‘(4) If an application for classification or approval is made under this Act and is not decided before the commencement of this section, the application is taken, from the commencement, to be, for the purposes of this Act, an application made under the Commonwealth Act.’

## **PART 7—AMENDMENT OF CLASSIFICATION OF PUBLICATIONS ACT 1991**

### **Act amended in pt 7**

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

### **Amendment of s 3 (Definitions)**

**91.(1)** Section 3, definitions “**Ordinance**” and “**refused classification publication**”—

*omit.*

**(2)** Section 3—

*insert—*

‘ **“board”** means the Classification Board established under the

Commonwealth Act.<sup>24</sup>

“**classification guidelines**” means the guidelines published under the Commonwealth Act,<sup>25</sup> to the extent they relate to publications.

“**Code**” means the National Classification Code under the Commonwealth Act.

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

“**determined markings**”, for a publication, means the markings for the publication determined under the Commonwealth Act.<sup>26</sup>

“**director**” means the director of the board.

“**RC publication**” means a publication that is, or, if classified, would be, classified as RC.

“**submittable publication**” means an unclassified publication that, having regard to the Code and the classification guidelines, contains depictions or descriptions of sexual matters, drugs, nudity or violence that are likely to offend a reasonable adult to the extent that the publication should not be sold as an unrestricted publication.’.

(3) Section 3, definition “**child abuse publication**”, ‘a refused classification publication’—

*omit, insert—*

‘an RC publication’.

(4) Section 3, definition “**classified**”, ‘Ordinance’—

*omit, insert—*

‘Commonwealth Act’.

(5) Section 3, definition “**prohibited publication**”, paragraph (b), ‘a refused classification publication’—

*omit, insert—*

<sup>24</sup> See the Commonwealth Act, section 45 (Establishment of Classification Board)

<sup>25</sup> See the Commonwealth Act, section 12 (Classification guidelines).

<sup>26</sup> See Commonwealth Act, section 8 (Markings for classifications).

‘an RC publication’.

(6) Section 3, definition “**publish**”, after ‘display’—

*insert—*

‘, demonstrate’.

(7) Section 3, definition “**restricted publication**”, words after ‘would’—

*omit, insert—*

‘be classified as category 1 restricted or category 2 restricted.’.

(8) Section 3, definition “**unrestricted publication**”, ‘an unrestricted publication’—

*omit, insert—*

‘unrestricted’.

#### **Amendment of s 4 (Classification under Ordinance)**

92.(1) Section 4, ‘Ordinance’—

*omit, insert—*

‘Commonwealth Act’.

#### **Amendment of s 9 (Classification of publications)**

93.(1) Section 9(1)(a) to (d)—

*omit, insert—*

- ‘(a) unrestricted; or
- (b) category 1 restricted; or
- (c) category 2 restricted; or
- (d) RC.’.

(2) Section 9(2), ‘Ordinance’—

*omit, insert—*

‘Commonwealth Act’.

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(4) Section 9(4), ‘a refused classification publication’—  
*omit, insert—*  
‘an RC publication’.

### **Insertion of new ss 9A, 9B and 9C**

**94.** After section 9—

*insert—*

#### **‘Director’s power to require publisher to submit application for classification of a publication**

**‘9A.(1)** If—

- (a) the director reasonably believes a publication is a submittable publication; and
- (b) it is being published in the State, or the director reasonably believes it will be published in the State;

the director may, by written notice given to its publisher, require the publisher to submit an application for classification of the publication, or its subsequent issues, by the board.

**‘(2)** The director must cause notice of a decision under subsection (1) to be published in the Commonwealth gazette.

**‘(3)** A person to whom a notice under this section is given must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.

#### **‘Director’s power to require certain advertisements to be submitted for approval**

**‘9B.(1)** The director may, by written notice given to the publisher of a publication that—

- (a) the director reasonably believes is a submittable publication; and
- (b) is being published in Queensland, or the director reasonably believes will be published in Queensland;

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require the publisher to submit to the board for approval a copy of each advertisement used or intended to be used in connection with the publication.

‘(2) A person to whom a notice under this section is given must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.

**‘Defence to prosecution under section 9A or 9B**

‘9C. In relation to a publication the director reasonably believes is a submittable publication that will be published in Queensland, it is a defence to a prosecution for an offence under section 9A or 9B for the defendant to prove that the defendant did not intend to publish, or authorise or cause someone else to publish, the publication in Queensland.’.

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

95. Section 12, penalty, paragraph (b), ‘a refused classification publication’—

*omit, insert—*

‘an RC publication’.

**Amendment of s 13 (Possession of prohibited publication)**

96. Section 13, penalty, paragraph (b), ‘a refused classification publication’—

*omit, insert—*

‘an RC publication’.

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

97. Section 15, penalty, paragraph (b), ‘a refused classification publication’—

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*omit, insert—*

‘an RC publication’.

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

**98.** Section 16, penalty, paragraph (b), ‘a refused classification publication’—

*omit, insert—*

‘an RC publication’.

**Amendment of s 17 (Producing prohibited publication)**

**99.(1)** Section 17(1), penalty, paragraph (b), ‘a refused classification publication’—

*omit, insert—*

‘an RC publication’.

**(2)** Section 17(2), penalty, paragraph (b), ‘a refused classification publication’—

*omit, insert—*

‘an RC publication’.

**Amendment of s 18 (Procurement of minor for refused classification publication or child abuse photograph)**

**100.(1)** Section 18, heading, ‘refused classification publication’—

*omit, insert—*

**‘RC publication’.**

**(2)** Section 18, ‘a refused classification publication’—

*omit, insert—*

‘an RC publication’.

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

**101.** Section 20, penalty, paragraph (b), ‘a refused classification publication’—

*omit, insert—*

‘an RC publication’.

**Insertion of new ss 20A and 20B**

**102.(1)** In part 3, after section 20—

*insert—*

**‘Offence to publish a publication classified unrestricted without its determined markings**

**‘20A.** A person must not publish, or attempt to publish, a publication classified unrestricted unless it bears its determined markings.

Maximum penalty—25 penalty units.

**‘Offence to publish a publication with a misleading or deceptive marking**

**‘20B.** A person must not publish an unclassified publication with a marking indicating the publication is classified.

Maximum penalty—20 penalty units.’.

**Amendment of s 23 (Entry and search—evidence of offences)**

**103.** Section 23(2)(b), from ‘the inspector’ to ‘60 days’—

*omit, insert—*

‘subject to section 35,<sup>27</sup> the inspector may keep the evidence for 1 year’.

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<sup>27</sup> Section 35 (Return of seized publications or photographs)

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**Amendment of s 32 (Evidentiary provisions)**

**104.** Section 32(1)(a), ‘or refused classification’—  
*omit.*

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

**105.** Section 33(1)(a), ‘section 18 (Procurement of minor for refused classification publication or child abuse photograph)’—

*omit, insert—*  
‘section 18<sup>28</sup>’.

**Replacement of s 41 (Operation of Act after commencement of new Commonwealth Act)**

**106.** Section 41—  
*omit, insert—*

**‘Existing classifications**

‘**41.** A publication refused classification under this Act or the Commonwealth Act before the commencement of this section is taken to be a publication classified as RC under this Act or the Commonwealth Act, respectively, immediately after the commencement.’.

**PART 8—AMENDMENT OF COOPERATIVE AND  
OTHER SOCIETIES ACT 1967****Act amended in pt 8**

**107.** This part amends the *Cooperative and Other Societies Act 1967*.

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<sup>28</sup> Section 18 (Procurement of minor for RC publication or child abuse photograph)

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**Omission of s 76 (Age limit for directors)**

**108.** Section 76—

*omit.*

**Amendment of s 101 (Inspection of books)**

**109.(1)** Section 101(2)—

*omit, insert—*

‘(2) The registrar, inspector, public service officer or accountant may require any of the following persons to give to the registrar the minutes, registers, books or documents of the society—

- (a) the director, or an officer, of the society;
- (b) someone else the registrar reasonably believes has custody or control of the society’s minutes, registers, books or documents.

‘(2A) A person required to give something to the registrar under subsection (2) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—4 penalty units.’.

**Amendment of s 117 (Protection from liability)**

**110.** Section 117(1)(c)—

*omit, insert—*

- ‘(c) a person (other than the registrar) who is—
- (i) a public service officer or accountant acting with the Minister’s approval under section 101;<sup>29</sup> or
  - (ii) an employee of the department; or’.

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<sup>29</sup> Section 101 (Inspection of books)

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## **PART 9—AMENDMENT OF CORONERS ACT 1958**

### **Act amended in pt 9**

**111.** This part amends the *Coroners Act 1958*.

### **Amendment of s 59 (Copies of depositions)**

**112.** Section 59(1), from ‘for the same’ to ‘prescribed’—  
*omit, insert—*  
‘of the fee prescribed under a regulation’.

## **PART 10—AMENDMENT OF HAWKERS ACT 1984**

### **Act amended in pt 10**

**113.** This part amends the *Hawkers Act 1984*.

### **Amendment of s 11 (Application for licence)**

**114.** Section 11(2) and (3)—  
*omit, insert—*  
‘(2) The application must be accompanied by the fee (if any) prescribed under a regulation.’.

### **Insertion of new s 14AA**

**115.** After section 14—  
*insert—*

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**‘Licensee to comply with local laws**

‘**14AA.** It is a condition of a licence that the licensee comply with relevant local laws.’.

**Amendment of s 14A (Conditions to be endorsed on licence)**

**116.** Section 14A(1)—

*omit, insert—*

‘**14A.(1)** A licence must be endorsed with the conditions (other than the condition mentioned in section 14AA) to which it is subject.’.

**Amendment of s 17 (Licence not transferable)**

**117.** Section 17(3) and (4)—

*omit, insert—*

‘**(3)** The application must be accompanied by the fee (if any) prescribed under a regulation.’.

## **PART 11—AMENDMENT OF JUVENILE JUSTICE LEGISLATION AMENDMENT ACT 1996**

**Act amended in pt 11**

**118.** This part amends the *Juvenile Justice Legislation Amendment Act 1996*.

**Commencement of pt 11**

**119.** This part is taken to have commenced on the date of assent of the *Juvenile Justice Legislation Amendment Act 1996*.

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**Amendment of s 103 (Insertion of new pt 6 and schedule)**

**120.(1)** Section 103, heading—

*omit, insert—*

**‘Insertion of new pt 5A’.**

**(2)** Section 103, **‘PART 6—TRANSITIONAL’**—

*omit, insert—*

**‘PART 5A—TRANSITIONAL ON ACT NO. 22 OF 1996’.**

**(3)** Section 103, **‘73’**—

*omit, insert—*

**‘72A’.**

**(4)** Section 103, ‘section 74(2)’—

*omit, insert—*

‘section 72B(2)’.

**(5)** Section 103, **‘74’**—

*omit, insert—*

**‘72B’.**

**(6)** Section 103, after inserted section 72B, as amended—

*insert—*

**‘Insertion of schedule**

**‘103A.** After section 74—

*insert—’.*

## PART 12—AMENDMENT OF LAND SALES ACT 1984

### Act amended in pt 12

**121.** This part amends the *Land Sales Act 1984*.

### Amendment of s 6 (Interpretation)

**122.** Section 6, definition “**agreement**”, paragraph (b), from ‘sale—’—  
*omit, insert—*

‘sale under which a sale or purchase is entered upon that is enforceable because of—

- (i) a memorandum or note satisfying the *Property Law Act 1974*, section 59; or
- (ii) the common law doctrine of part performance.’.

### Amendment of s 11 (Contractual requirement re holding of money)

**123.(1)** Section 11(1)—

*insert—*

‘(aa) a firm of solicitors practising in Queensland; or’.

**(2)** Section 11(1)—

*insert—*

‘(c) a real estate agency in which a person licensed under the *Auctioneers and Agents Act 1971* as a real estate agent carries on the business of real estate agent;’.

**(3)** Section 11(1A)—

*omit, insert—*

‘**(1A)** Moneys paid to an individual, firm or agency under subsection (1) must be held—

- (a) in the case of an individual—by the individual in a trust account kept for the purposes of this Act by—

- (i) the individual; or
- (ii) the firm or agency of which the individual is a member; and
- (b) in the case of a firm or agency—by the firm or agency in a trust account kept for the purposes of this Act by the firm or agency; and
- (c) in the case of the public trustee—by the public trustee in a trust account kept for the purposes of this Act by the public trustee;

and dealt with by the individual, firm, agency, or public trustee in accordance with this part and the law governing the operation of the individual's, firm's, agency's or public trustee's trust account.'

(4) Section 11(5), after 'solicitor'—

*insert—*

'or firm of solicitors'.

#### **Amendment of s 12 (Trustee's duty)**

124.(1) Section 12(1), after 'person'—

*insert—*

', firm or agency'.

(2) Section 12(1), after 'person's'—

*insert—*

', firm's or agency's'.

(3) Section 12(1), 'or the instrument in terms of which the money was paid'—

*omit.*

(4) Section 12—

*insert—*

'(1A) Subsection (1) applies despite anything in the instrument under which the money was paid.'

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**Amendment of s 19 (Exemption from part)**

**125.(1)** Section 19(1)—

*omit, insert—*

‘**19.(1)** Each of the following persons may apply to the registrar, in the approved form, for exemption from all or any of the provisions of this part in relation to land that is to be subdivided into not more than 5 subdivisional portions—

- (a) a person by or for whom the land is to be subdivided;
- (b) a vendor or purchaser of a proposed subdivisional portion.

‘**(1A)** However, a purchaser may apply for exemption only with the vendor’s consent.’.

**(2)** Section 19(2A), paragraph (a), before ‘condition’—

*insert—*

‘other’.

**(3)** Section 19—

*insert—*

‘**(2C)** An exemption under this section is given on the condition that the land is subdivided in accordance with the application, subject to any other condition specified in the exemption instrument.’.

**(4)** Section 19(3)—

*omit, insert—*

‘**(3)** The registrar, by written notice, may—

- (a) revoke an exemption given under this section if the conditions to which it is subject are not complied with; and
- (b) change a condition specified in the exemption instrument.’.

**(5)** Section 19(8), ‘made’—

*omit, insert—*

‘received by the registrar’.

---

**Insertion of new pt 3A**

**126.** After part 3—

*insert—*

**‘PART 3A—ENFORCEMENT**

*‘Division 1—Inspectors*

**‘Appointment**

**‘30.(1)** The chief executive may appoint employees of the department as inspectors.

**‘(2)** The chief executive may appoint a person as an inspector only if, in the chief executive’s opinion, the person has the necessary expertise or experience to be an inspector.

**‘Inspector’s identity card**

**‘30A.(1)** The chief executive must issue an identity card to each inspector.

**‘(2)** The identity card must—

- (a) contain a photograph of the inspector; and
- (b) be signed by the inspector.

**‘(3)** A person who stops being an inspector must return the identity card to the chief executive as soon as practicable after the person stops being an inspector, unless the person has a reasonable excuse for not returning it.

Maximum penalty for subsection (3)—10 penalty units.

**‘Production of inspector’s identity card**

**‘30B.(1)** An inspector may exercise a power under this Act in relation to a person only if the inspector first produces or displays the inspector’s identity card for inspection by the person.

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‘(2) If, for any reason, it is not practicable to comply with subsection (1), the inspector must produce the identity card for inspection by the person at the first reasonable opportunity.

### *‘Division 2—Inspectors’ powers*

#### **‘Entry of place by inspector**

‘30C. An inspector may enter a place if—

- (a) the occupier of the place consents to the entry; or
- (b) it is a public place and the entry is made when the place is open to the public; or
- (c) the entry is authorised by a warrant.

#### **‘Warrants**

‘30D.(1) An inspector may apply to a magistrate for a warrant for a place.

‘(2) The application must—

- (a) be sworn; and
- (b) set out the grounds on which the warrant is sought.

‘(3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

The magistrate may require that additional information supporting the application be given by a statutory declaration.

‘(4) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting that—

- (a) there is a particular thing (the “**evidence**”) that may provide evidence of the commission of an offence against this Act; and
- (b) the evidence is, or may be within the next 7 days, at the place.

‘(5) The warrant must state—

- (a) that the inspector is authorised, with assistance and force that may be necessary and reasonable—
  - (i) to enter the place; and
  - (ii) to exercise the inspector’s powers under this Act; and
- (b) the evidence for which the warrant is issued; and
- (c) the hours of the day when entry may be made; and
- (d) the day (within 14 days after the warrant’s issue) on which the warrant stops having effect.

**‘Warrants—applications made otherwise than in person**

‘30E.(1) An inspector may apply for a warrant by phone, fax, radio or another form of communication if the inspector considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the officer’s remote location.

‘(2) Before applying for the warrant, the inspector must prepare an application that sets out the grounds on which the warrant is sought.

‘(3) The inspector may apply for the warrant before the application is sworn.

‘(4) If the magistrate issues the warrant and it is reasonably practicable to fax a copy of it to the inspector, the magistrate must immediately fax the copy to the inspector.

‘(5) If the magistrate issues the warrant but it is not reasonably practicable to fax a copy of it to the inspector—

- (a) the magistrate must—
  - (i) tell the inspector what the terms of the warrant are; and
  - (ii) tell the inspector the date and time the warrant was signed; and

- 
- (iii) record the reasons for issuing the warrant on the warrant;  
and
  - (b) the inspector must—
    - (i) complete a form of warrant in the same terms as the warrant issued by the magistrate; and
    - (ii) write on the warrant form the name of the magistrate and the date and time the magistrate signed the warrant.

‘(6) The facsimile warrant, or the warrant form properly completed by the inspector, is authority for the entry and the exercise of the other powers authorised by the warrant issued by the magistrate.

‘(7) The inspector must send to the magistrate—

- (a) the sworn application; and
- (b) if a warrant form was completed by the inspector—the completed warrant form.

‘(8) The sworn application and any completed warrant form must be sent to the magistrate at the earliest practicable opportunity.

‘(9) On receipt of the application and any warrant form, the magistrate must attach them to the warrant issued by the magistrate.

‘(10) If—

- (a) it is material for a court to be satisfied that the exercise of a power was authorised by a warrant issued under this section; and
- (b) the warrant is not produced in evidence;

the court must assume the exercise of power was not authorised by a warrant, unless the contrary is proved.

### **‘Inspector’s general powers in a place**

‘30F.(1) After entering a place under section 30C,<sup>30</sup> an inspector may exercise a power mentioned in subsection (2) only if—

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<sup>30</sup> Section 30C (Entry of place by inspector)

- (a) the occupier of the place consents to the exercise of the power; or
- (b) the entry was authorised by a warrant.

‘(2) The inspector may—

- (a) search any part of the place; or
- (b) if entry was authorised by a warrant—seize the evidence for which the warrant was issued; or
- (c) in any case—seize a thing if the inspector believes on reasonable grounds that—
  - (i) the thing is evidence of the commission of an offence against this Act; and
  - (ii) the seizure is necessary to prevent—
    - (A) the concealment, loss or destruction of the thing; or
    - (B) the use of the thing in committing, continuing or repeating an offence against this Act; or
- (d) inspect, examine, photograph or film anything in or on the place; or
- (e) take extracts from, or make copies of, any documents in or on the place; or
- (f) take into or onto the place any person, equipment and materials that the inspector reasonably requires for the purpose of exercising any powers in relation to the place; or
- (g) require a person in or on the place, or the occupier of the place, to give the inspector reasonable help for the exercise of the powers mentioned in paragraphs (a) to (f).

‘(3) A person who is required by an inspector under subsection (2)(g) to give the inspector reasonable help for the exercise of a power must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—60 penalty units.

‘(4) If the help is required to be given by a person by—

- (a) answering a question; or

- (b) producing a document (other than a document required to be kept by the person under this Act);

it is not a reasonable excuse for the person to fail to comply with the requirement on the ground that the information or document might tend to incriminate the person.

‘(5) However, information or a document mentioned in subsection (4) is not admissible in evidence against the person—

- (a) for an individual—in any criminal proceedings; or
- (b) for a person other than an individual—in any criminal proceedings, other than proceedings under this Act.

#### **‘Power to require name and address**

‘**30G.(1)** An inspector may require a person to state the person’s name and address if the inspector—

- (a) finds the person committing an offence against this Act; or
- (b) finds the person in circumstances that lead, or has information that leads, the inspector to suspect on reasonable grounds that the person has committed, or assisted in the commission of, an offence against this Act.

‘(2) When making the requirement, the inspector must warn the person that it is an offence to fail to state the person’s name and address, unless the person has a reasonable excuse.

‘(3) The inspector may require the person to give evidence of the correctness of the person’s name or address if the inspector suspects, on reasonable grounds, that the name or address given is false.

‘(4) A person must comply with an inspector’s requirement under subsection (1) or (3), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—60 penalty units.

‘(5) The person does not commit an offence against this section if—

- (a) the inspector required the person to state the person’s name and address on suspicion of the person having committed an offence

against this Act; and

- (b) the person is not proved to have committed the offence.

### *Division 3—Other enforcement matters*

#### **‘Procedure after thing seized**

**‘30H.(1)** As soon as practicable after a thing is seized by an inspector under section 30F,<sup>31</sup> the inspector must give a receipt for it to the person from whom it was seized.

**‘(2)** The inspector must allow a person who would be entitled to the seized thing if it were not in the inspector’s possession—

- (a) to inspect it; or
- (b) if it is a document—to take extracts from it or make copies of it.

**‘(3)** The inspector must return the seized thing to the person at the end of—

- (a) 1 year; or
- (b) if a prosecution for an offence involving it is started within 1 year—the proceeding for the offence and any appeal from the proceeding.

**‘(4)** Despite subsection (3), the inspector must return the seized thing to the person if the inspector is satisfied that—

- (a) its retention as evidence is no longer necessary; and
- (b) its return is not likely to result in its use in repeating the offence.

#### **‘Obstructing etc. inspectors**

**‘30I.** A person must not obstruct, hinder or resist an inspector in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

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<sup>31</sup> Section 30F (Inspector’s general powers in a place)

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### **‘Compensation**

**‘30J.(1)** A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under this part.

**‘(2)** Payment of compensation may be claimed and ordered in a proceeding for—

- (a) compensation brought in a court of competent jurisdiction; or
- (b) an offence against this Act brought against the person making the claim for compensation.

**‘(3)** A court may order the payment of compensation for the loss or expense only if it is satisfied that it is just to make the order in the circumstances of the particular case.’.

## **PART 13—AMENDMENT OF LIENS ON CROPS OF SUGAR CANE ACT 1931**

### **Act amended in pt 13**

**127.** This part amends the *Liens on Crops of Sugar Cane Act 1931*.

### **Insertion of new s 24**

**128.** After section 23A—

*insert—*

### **‘Validation of acts etc. by Supreme Court registrars at Rockhampton and Townsville**

**‘24.(1)** An act, matter or thing done by the Supreme Court registrar at Rockhampton or Townsville (the **“court registrar”**), before the commencement of this section, in the purported exercise of the registrar’s powers under section 6, 7, 14 or 18, is taken to be, and always have been, as validly done and effective as if the court registrar were the registrar under

this Act.

‘(2) This section expires the day after it commences.’.

## **PART 14—AMENDMENT OF MOBILE HOMES ACT 1989**

### **Act amended in pt 14**

**129.** This part amends the *Mobile Homes Act 1989*.

### **Insertion of part heading**

**130.** Before section 1, as a heading—

*insert—*

**‘PART 1—PRELIMINARY’.**

### **Omission of s 2 (Commencement)**

**131.** Section 2—

*omit.*

### **Insertion of part heading**

**132.** Before section 4, as a heading—

*insert—*

**‘PART 2—PROVISIONS ABOUT MOBILE HOMES’.**

### **Insertion of new pt 3**

**133.** After section 11A—

*insert—*

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## **‘PART 3—ENFORCEMENT**

### *‘Division 1—Inspectors*

#### **‘Appointment**

**‘12.(1)** The chief executive may appoint employees of the department as inspectors.

**‘(2)** The chief executive may appoint a person as an inspector only if, in the chief executive’s opinion, the person has the necessary expertise or experience to be an inspector.

#### **‘Inspector’s identity card**

**‘12A.(1)** The chief executive must issue an identity card to each inspector.

**‘(2)** The identity card must—

- (a) contain a photograph of the inspector; and
- (b) be signed by the inspector.

**‘(3)** A person who stops being an inspector must return the identity card to the chief executive as soon as practicable after the person stops being an inspector, unless the person has a reasonable excuse for not returning it.

Maximum penalty for subsection (3)—10 penalty units.

#### **‘Production of inspector’s identity card**

**‘12B.(1)** An inspector may exercise a power under this Act in relation to a person only if the inspector first produces or displays the inspector’s identity card for inspection by the person.

**‘(2)** If, for any reason, it is not practicable to comply with subsection (1), the inspector must produce the identity card for inspection by the person at the first reasonable opportunity.

---

***‘Division 2—Inspectors’ powers***

**‘Entry of place by inspector**

**‘12C.** An inspector may enter a place if—

- (a) the occupier of the place consents to the entry; or
- (b) it is a public place and the entry is made when the place is open to the public; or
- (c) the entry is authorised by a warrant.

**‘Warrants**

**‘12D.(1)** An inspector may apply to a magistrate for a warrant for a place.

**‘(2)** The application must—

- (a) be sworn; and
- (b) set out the grounds on which the warrant is sought.

**‘(3)** The magistrate may refuse to consider the application until the inspector gives the magistrate all the information that the magistrate requires about the application in the way that the magistrate requires.

*Example—*

The magistrate may require that additional information supporting the application be given by a statutory declaration.

**‘(4)** The magistrate may issue a warrant only if the magistrate is satisfied that there are reasonable grounds for suspecting that—

- (a) there is a particular thing (the **“evidence”**) that may provide evidence of the commission of an offence against this Act; and
- (b) the evidence is, or may be within the next 7 days, at the place.

**‘(5)** The warrant must state—

- (a) that the inspector is authorised, with assistance and force that may be necessary and reasonable—
  - (i) to enter the place; and

- (ii) to exercise the inspector's powers under this Act; and
- (b) the evidence for which the warrant is issued; and
- (c) the hours of the day when entry may be made; and
- (d) the day (within 14 days after the warrant's issue) on which the warrant stops having effect.

**'Warrants—applications made otherwise than in person**

**'12E.(1)** An inspector may apply for a warrant by phone, fax, radio or another form of communication if the inspector considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the officer's remote location.

**'(2)** Before applying for the warrant, the inspector must prepare an application that sets out the grounds on which the warrant is sought.

**'(3)** The inspector may apply for the warrant before the application is sworn.

**'(4)** If the magistrate issues the warrant and it is reasonably practicable to fax a copy of it to the inspector, the magistrate must immediately fax the copy to the inspector.

**'(5)** If the magistrate issues the warrant but it is not reasonably practicable to fax a copy of it to the inspector—

- (a) the magistrate must—
  - (i) tell the inspector what the terms of the warrant are; and
  - (ii) tell the inspector the date and time the warrant was signed; and
  - (iii) record the reasons for issuing the warrant on the warrant; and
- (b) the inspector must—
  - (i) complete a form of warrant in the same terms as the warrant

issued by the magistrate; and

- (ii) write on the warrant form the name of the magistrate and the date and time the magistrate signed the warrant.

‘(6) The facsimile warrant, or the warrant form properly completed by the inspector, is authority for the entry and the exercise of the other powers authorised by the warrant issued by the magistrate.

‘(7) The inspector must send to the magistrate—

- (a) the sworn application; and
- (b) if a warrant form was completed by the inspector—the completed warrant form.

‘(8) The sworn application and any completed warrant form must be sent to the magistrate at the earliest practicable opportunity.

‘(9) On receipt of the application and any warrant form, the magistrate must attach them to the warrant issued by the magistrate.

‘(10) If—

- (a) it is material for a court to be satisfied that the exercise of a power was authorised by a warrant issued under this section; and
- (b) the warrant is not produced in evidence;

the court must assume the exercise of power was not authorised by a warrant, unless the contrary is proved.

### **‘Inspector’s general powers in a place**

‘12F.(1) After entering a place under section 12C,<sup>32</sup> an inspector may exercise a power mentioned in subsection (2) only if—

- (a) the occupier of the place consents to the exercise of the power; or
- (b) the entry was authorised by a warrant.

‘(2) The inspector may—

- (a) search any part of the place; or

---

<sup>32</sup> Section 12C (Entry of place by inspector)

- 
- (b) if entry was authorised by a warrant—seize the evidence for which the warrant was issued; or
  - (c) in any case—seize a thing if the inspector believes on reasonable grounds that—
    - (i) the thing is evidence of the commission of an offence against this Act; and
    - (ii) the seizure is necessary to prevent—
      - (A) the concealment, loss or destruction of the thing; or
      - (B) the use of the thing in committing, continuing or repeating an offence against this Act; or
  - (d) inspect, examine, photograph or film anything in or on the place; or
  - (e) take extracts from, or make copies of, any documents in or on the place; or
  - (f) take into or onto the place any person, equipment and materials that the inspector reasonably requires for the purpose of exercising any powers in relation to the place; or
  - (g) require a person in or on the place, or the occupier of the place, to give the inspector reasonable help for the exercise of the powers mentioned in paragraphs (a) to (f).

‘(3) A person who is required by an inspector under subsection (2)(g) to give the inspector reasonable help for the exercise of a power must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—60 penalty units.

‘(4) If the help is required to be given by a person by—

- (a) answering a question; or
- (b) producing a document (other than a document required to be kept by the person under this Act);

it is not a reasonable excuse for the person to fail to comply with the requirement on the ground that the information or document might tend to incriminate the person.

‘(5) However, information or a document mentioned in subsection (4) is not admissible in evidence against the person—

- (a) for an individual—in any criminal proceedings; or
- (b) for person other than an individual—in any criminal proceedings, other than proceedings under this Act.

### **‘Power to require name and address**

‘**12G.(1)** An inspector may require a person to state the person’s name and address if the inspector—

- (a) finds the person committing an offence against this Act; or
- (b) finds the person in circumstances that lead, or has information that leads, the inspector to suspect on reasonable grounds that the person has committed, or assisted in the commission, an offence against this Act.

‘(2) When making the requirement, the inspector must warn the person that it is an offence to fail to state the person’s name and address, unless the person has a reasonable excuse.

‘(3) The inspector may require the person to give evidence of the correctness of the person’s name or address if the inspector suspects, on reasonable grounds, that the name or address given is false.

‘(4) A person must comply with an inspector’s requirement under subsection (1) or (3), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—60 penalty units.

‘(5) The person does not commit an offence against this section if—

- (a) the inspector required the person to state the person’s name and address on suspicion of the person having committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

---

***Division 3—Other enforcement matters***

**‘Procedure after thing seized**

‘**12H.(1)** As soon as practicable after a thing is seized by an inspector under section 12F,<sup>33</sup> the inspector must give a receipt for it to the person from whom it was seized.

‘**(2)** The inspector must allow a person who would be entitled to the seized thing if it were not in the inspector’s possession—

- (a) to inspect it; or
- (b) if it is a document—to take extracts from it or make copies of it.

‘**(3)** The inspector must return the seized thing to the person at the end of—

- (a) 1 year; or
- (b) if a prosecution for an offence involving it is started within 1 year—the proceeding for the offence and any appeal from the proceeding.

‘**(4)** Despite subsection (3), the inspector must return the seized thing to the person if the inspector is satisfied that—

- (a) its retention as evidence is no longer necessary; and
- (b) its return is not likely to result in its use in repeating the offence.

**‘Obstructing etc. inspectors**

‘**12I.** A person must not obstruct, hinder or resist an inspector in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

---

<sup>33</sup> Section 12F (Inspector’s general powers in a place)

---

**‘Compensation**

**‘12J.(1)** A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under this part.

**‘(2)** Payment of compensation may be claimed and ordered in a proceeding for—

- (a) compensation brought in a court of competent jurisdiction; or
- (b) an offence against this Act brought against the person making the claim for compensation.

**‘(3)** A court may order the payment of compensation for the loss or expense only if it is satisfied that it is just to make the order in the circumstances of the particular case.’.

**Insertion of part heading**

**134.** Before section 13, as a heading—

*insert—*

**‘PART 4—MISCELLANEOUS’.**

**Amendment of s 16 (Application to existing agreements)**

**135.** Section 16, ‘sections 7 and’—

*omit, insert—*

‘section’.

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## PART 15—AMENDMENT OF MOTOR VEHICLES SECURITIES ACT 1986

### Act amended in pt 15

136. This part amends the *Motor Vehicles Securities Act 1986*.

### Amendment of s 5 (Interpretation)

137. Section 5, heading—

*omit, insert—*

‘Definitions’.

### Amendment of s 6 (Register)

138. Section 6(2)(c), after ‘registered’—

*insert—*

‘or the registration is renewed’.

### Amendment of s 7 (Application for registration of security interest)

139.(1) Section 7, heading, after ‘**registration**’—

*insert—*

‘, or renewal of registration,’.

(2) Section 7(1), after ‘registration’—

*insert—*

‘, or renewal of registration,’.

### Amendment of s 7AA (Registration of security interest)

140.(1) Section 7AA, heading, after ‘**Registration**’—

*insert—*

‘, or renewal of registration,’.

(2) Section 7AA(1), after ‘register’, first mention—

*insert—*

‘, or renew the registration of’.

(3) Section 7AA(1), ‘the particulars’—

*omit, insert—*

‘the relevant particulars’.

(4) Section 7AA(2), after ‘registration’—

*insert—*

‘, or renewal of registration,’.

### Insertion of new ss 7AB and 7AC

141. After section 7AA—

*insert—*

#### ‘Expiry of registration

‘7AB.(1) A registration of a security interest after the commencement of this section expires on the earlier of the following days—

- (a) the day 5 years after the registration takes effect;
- (b) the day the security interest expires.

‘(2) A registration of a security interest not more than 1 year before the commencement of this section expires 5 years after the commencement.

‘(3) A registration of a security interest more than 1, but not more than 2, years before the commencement of this section expires 4 years after the commencement.

‘(4) A registration of a security interest more than 2, but not more than 3, years before the commencement of this section expires 3 years after the commencement.

‘(5) A registration of a security interest more than 3, but not more than 4, years before the commencement of this section expires 2 years after the

commencement.

‘(6) A registration of a security interest more than 4, but not more than 5, years before the commencement of this section expires 1 year after the commencement.

‘(7) A registration of a security interest more than 5 years before the commencement of this section expires 6 months after the commencement.

‘(8) Despite subsections (2) to (7), if the security interest expires on an earlier day, the registration expires on the earlier day.

‘(9) Subsections (2) to (8) and this subsection expire on 1 January 2003.’.

#### **‘Renewal of registration and expiry of renewed registration**

‘7AC.(1) The registration of a security interest may be renewed before the registration, or a renewal of the registration, expires.

‘(2) A renewal expires on the earlier of the following days—

- (a) the day 5 years after the day the renewal of registration takes effect;
- (b) the day the security interest expires.’.

#### **Amendment of s 10 (Registration becomes effective on next business day)**

142.(1) Section 10, ‘The registration of—’—

*omit, insert—*

‘The registration, or renewal of registration, of—’.

(2) Section 10, ‘the registration are’—

*omit, insert—*

‘the registration, or renewal of registration, are’.

---

**PART 16—AMENDMENT OF PARTNERSHIP  
(LIMITED LIABILITY) ACT 1988**

**Act amended in pt 16**

**143.** This part amends the *Partnership (Limited Liability) Act 1988*.

**Insertion of new ss 23A and 23B**

**144.** After section 23—

*insert—*

**‘Registrar’s power to cancel limited partnership’s registration**

**‘23A.(1)** This section applies if the registrar reasonably believes that a limited partnership registered under this Act has ceased to exist because the partnership’s business is not being carried on in the State under the partnership’s firm name, or by the partners, stated in the register.

**‘(2)** The registrar may, by written notice given to the person registered as the partnership’s general partner and to the partnership at its registered office stated in the register—

- (a) ask whether the partnership still exists; and
- (b) ask for documentary proof of its existence or nonexistence.

**‘(3)** The notice must state that the registrar may cancel the partnership’s registration unless the registrar is satisfied, within 1 month after the date of the notice, that the partnership still exists.

**‘(4)** The registrar must also, by public notice, notify the registrar’s intention to cancel the registration unless the registrar is satisfied, by the day that is 1 month after the date of the notice mentioned in subsection (2), that the limited partnership still exists.

**‘(5)** If the registrar is not satisfied within 1 month after the date of the notice mentioned in subsection (2) that the partnership still exists, the registrar may cancel the registration.

**‘(6)** If the registrar cancels the registration, the registrar must give written notice of the cancellation—

- (a) to the person registered as the partnership's general partner and to the partnership at its registered office stated in the register; and
- (b) by public notice.

'(7) In this section—

'**"public notice"** means a notice in a newspaper circulating throughout the State.'

### **'Registrar's power to revoke cancellation of registration**

'**23B.(1)** If, for any reason, the registrar reasonably believes it is appropriate, the registrar may revoke the cancellation of a registration made under section 23A.

'(2) If a cancellation is revoked under this section, the registration is taken not to have been cancelled.'

## **PART 17—AMENDMENT OF PAWNBROKERS ACT 1984**

### **Act amended in pt 17**

**145.** This part amends the *Pawnbrokers Act 1984*.

### **Amendment of s 6 (Interpretation)**

**146.** Section 6, heading—

*omit, insert—*

'**Definitions**'.

### **Amendment of s 11 (Application for licence)**

**147.(1)** Section 11(2) and (3)—

*omit, insert—*

---

‘(2) The application must be accompanied by the fee (if any) prescribed under a regulation.’.

(2) Section 11(5) and (6)—

*omit.*

### **Insertion of new s 14AA**

**148.** After section 14—

*insert—*

#### **‘Licensee to comply with local laws**

‘**14AA.** It is a condition of a licence that the licensee comply with relevant local laws.’.

### **Amendment of s 14A (Conditions to be endorsed on licence)**

**149.** Section 14A(1)—

*omit, insert—*

‘**14A.(1)** A licence or renewed licence must be endorsed with the conditions (other than the condition mentioned in section 14AA) to which it is subject.’.

### **Amendment of s 17 (Licence not transferable)**

**150.** Section 17(3) to (6)—

*omit, insert—*

‘(3) The application must be accompanied by the fee (if any) prescribed under a regulation.’.

### **Amendment of s 27 (Individual to be nominated to represent body corporate or firm)**

**151.(1)** Section 27(5)(b)—

*renumber* as section 27(5)(c).

---

(2) Section 27(5), as amended—

*insert—*

‘(b) not be a nominee for another licence; and’.

### **Amendment of s 35 (Sale of pledges)**

**152.** Section 35(4) ‘pursuant to subsection (4)’—

*omit.*

### **Amendment of s 41 (Pawnbroker may require information)**

**153.** Section 41(1)(a), ‘thereof’—

*omit, insert—*

‘of the person’s name and address’.

## **PART 18—AMENDMENT OF PRIMARY PRODUCERS’ COOPERATIVE ASSOCIATIONS ACT 1923**

### **Act amended in pt 18**

**154.** This part amends the *Primary Producers’ Cooperative Associations Act 1923*.

### **Amendment of s 3 (Interpretation)**

**155.(1)** Section 3, heading—

*omit, insert—*

‘**Definitions**’.

(2) Section 3, definition “**model rules**”—

---

*omit, insert—*

‘**“model rules”**’ means the model rules prescribed under a regulation.’.

### **Insertion of new s 4AA**

**156.** After section 4—

*insert—*

#### **‘Delegation by registrar**

**‘4AA.** The registrar may delegate the registrar’s powers under this Act to an appropriately qualified officer or employee of the department.’.

### **Amendment of s 5 (Formation of associations)**

**157.** Section 5(b), ‘Minister’—

*omit, insert—*

‘registrar’.

### **Amendment of s 10 (Submission of application to Minister and registration)**

**158.(1)** Section 10, heading—

*omit, insert—*

#### **‘Registration of association’.**

**(2)** Section 10(1)—

*omit.*

**(3)** Section 10(1A), from ‘The’ to ‘the registrar’—

*omit, insert—*

‘The registrar’.

**(4)** Section 10(1A)(b), ‘Minister’s office’—

*omit, insert—*

‘registry’.

(5) Section 10(3A)—

*omit, insert—*

‘(3A) However, the registrar may cancel the registration if the registrar has proof that it was obtained by fraud.’.

#### **Amendment of s 12 (Name of association and change of name)**

**159.** Section 12(1A) and (2), ‘Minister’—

*omit, insert—*

‘registrar’.

#### **Amendment of s 12A (Change of objects of association)**

**160.(1)** Section 12A(4) and (5), ‘Minister’—

*omit, insert—*

‘registrar’.

**(2)** Section 12A(6), ‘Minister’s’—

‘registrar’s’.

#### **Amendment of s 14 (Association may adopt model rules)**

**161.** Section 14(2), ‘Minister’—

*omit, insert—*

‘registrar’.

#### **Amendment of s 16 (Amendment of rules)**

**162.** Section 16(2)(d), ‘(subject to a power vested in the Minister of refusing to allow the amendment)’—

*omit.*

---

**Amendment of s 19B (Admission of new members into federation)**

**163.(1)** Section 19B(5) and (6)—

*omit.*

**(2)** Section 19B(7), from ‘If’ to ‘, the’—

*omit, insert—*

‘The’.

**Amendment of s 20A (Amalgamation with foreign association)**

**164.(1)** Section 20A, ‘Minister’—

*omit, insert—*

‘registrar’.

**(2)** Section 20A, ‘Minister’s’—

*omit, insert—*

‘registrar’s’.

**(3)** Section 20A(7)—

*omit.*

**Amendment of s 20B (Registration of amalgamated association in Queensland)**

**165.** Section 20B(1)(i), ‘Minister’—

*omit, insert—*

‘registrar’.

**Amendment of s 28 (Registration of securities given by an association)**

**166.** Section 28(2), ‘Department of Primary Industries, Brisbane,’—

*omit.*

---

**Insertion of new s 32A**

**167.** After section 32—

*insert—*

**‘Protection from liability**

**‘32A.(1)** In this section—

**“official”** means—

- (a) the chief executive; or
- (b) the registrar or a deputy registrar; or
- (c) an officer or employee of the department.

**‘(2)** An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

**‘(3)** If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to the State.’.

**Omission of schedule**

**168.** Schedule—

*omit.*

**PART 19—AMENDMENT OF REGISTRATION OF  
BIRTHS, DEATHS AND MARRIAGES ACT 1962****Act amended in pt 19**

**169.** This part amends the *Registration of Births, Deaths and Marriages Act 1962*.

**Amendment of s 26 (Late registrations of birth)**

**170.(1)** Section 26(1) and (2B), ‘and on payment of the prescribed

fee’—

*omit.*

(2) After section 26(3)—

*insert—*

‘(4) If the registrar general receives the prescribed form mentioned in subsection (1)(a) or (b), or a copy of the court order mentioned in subsection (2B), about a child, whether before or after the commencement of this subsection, the registrar general may register the child’s birth after the commencement even though the fee prescribed under a regulation for the registration has not been paid.’.

**Amendment of s 27D (Request in respect of child’s registered surname where father registered pursuant to s 25 on or after prescribed date)**

171. Section 27D(1)(c), from ‘to one formed’ to ‘hyphen’—

*omit, insert—*

‘to—

- (i) the child’s father’s surname, as at the child’s date of birth; or
- (ii) the child’s mother’s surname, as at the child’s date of birth;  
or
- (iii) one formed by combining the surnames, as at the child’s date of birth, of the child’s mother and the person registered as the child’s father in any separated order, whether or not joined by a hyphen.’.

**Amendment of s 28 (Registration of name after registration of birth)**

172.(1) Section 28(1), after ‘this Act’—

*insert—*

‘or the *Adoption of Children Act 1964*’.

(2) Section 28(1A), ‘the birth’, second mention—

*omit, insert—*

‘the child’s birth or adoption’.

### **Amendment of s 31 (Post-mortem examination certificate)**

**173.(1)** Section 31, ‘medical practitioner’—

*omit, insert—*

‘doctor’.

**(2)** Section 31, ‘medical practitioner’s’—

*omit, insert—*

‘doctor’s’.

**(3)** Section 31—

*insert—*

‘**(2)** Despite subsection (1), another doctor (the “**certifying doctor**”) may complete and lodge the certificate as to the cause of death with the registrar general if—

- (a) it is impractical, for any reason, for the doctor who made the post-mortem examination (the “**examining doctor**”) to complete and lodge the certificate; and
- (b) the certifying doctor completes the certificate on the basis of the clinical notes made by the examining doctor.’.

## **PART 20—AMENDMENT OF ROMAN CATHOLIC CHURCH LANDS ACT 1985**

### **Act amended in pt 20**

**174.** This part amends the *Roman Catholic Church Lands Act 1985*.

**Amendment of sch 1 (Land vesting in the Corporation of the Trustees of the Roman Catholic Archdiocese of Brisbane)**

**175.** Schedule 1, after last entry—

*insert—*

Freehold Title reference 13502237	Stanley	Bulimba	Brisbane One undivided half share of lots 2 and 3 on Registered Plan No. 97641	James Hugh O'Sullivan and James Paul Meehan as trustees under nomination of trustees No. B19200
Freehold Title reference 15504106	Stanley	Bulimba	Brisbane Lot 3 on Registered Plan No. 142145	Kevin Ignatius McMahon as trustee under nomination of trustees No. B601626 and the Corporation of the Trustees of the Roman Catholic Archdiocese of Brisbane as tenants in common in equal shares'.

**PART 21—AMENDMENT OF ROMAN CATHOLIC  
CHURCH (NORTHERN LANDS) VESTING ACT 1941**

**Act amended in pt 21**

**176.** This part amends the *Roman Catholic Church (Northern Lands) Vesting Act 1941*.

**Amendment of sch 1**

**177.** Schedule 1, after last entry—

*insert—*

‘Title reference	20002067 -	-	Cardwell	Ellerbeck	Cardwell	Lot 61 on Crown Plan C1041 (orig. portion allot. 1 of sec. 33)	John Murray’.
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## **PART 22—AMENDMENT OF SCOUT ASSOCIATION OF AUSTRALIA QUEENSLAND BRANCH ACT 1975**

### **Act amended in pt 22**

**178.** This part amends the *Scout Association of Australia Queensland Branch Act 1975*.

### **Commencement of pt 22**

**179.** This part commences on a day to be fixed by proclamation.

### **Replacement of s 2 (Interpretation)**

**180.** Section 2—

*omit, insert—*

#### **‘Definitions**

**‘2.** In this Act—

**“corporation”** means the Scout Association of Australia, Queensland Branch Inc, incorporated under the *Associations Incorporation Act 1981*.

**“former corporation”** means the Scout Association of Australia Queensland Branch, incorporated by letters patent dated 15 August 1974 under the repealed *Religious Educational and Charitable Institutions Act 1861*.’.

### **Amendment of s 3 (Construction of references)**

**181.(1)** Section 3(1)(a), before ‘Boy’, first mention—

*insert—*

‘former corporation, the’.

**(2)** Section 3—

*insert—*

‘**(3A)** A legal proceeding by or against the former corporation that has not been finished before the commencement of this subsection may be continued and finished by or against the corporation.’.

### **Amendment of s 4 (Vesting of property)**

**182.(1)** Section 4, heading, ‘**property**’—

*omit, insert—*

‘**assets etc.**’.

**(2)** Section 4—

*insert—*

‘**(2)** On the commencement of this subsection, the assets, rights and liabilities of the former corporation vest in the corporation.’.

### **Amendment of s 5 (Registration procedure)**

**183.(1)** Section 5, before ‘Boy’, first and third mention—

*insert—*

‘former corporation, the’.

**(2)** Section 5—

*insert—*

‘**(2)** If land or an interest in land is vested in the corporation under this Act, within 2 months after the corporation is incorporated under the *Associations Incorporation Act 1981*, the corporation must—

- 
- (a) give the registrar of titles or anyone else who is required to keep a register about dealings in land a document mentioned in subsection (1); and
  - (b) comply with a requirement of the registrar of titles or other person about the registration or notification amendment mentioned in subsection (1).

Maximum penalty—10 penalty units.’.

## **PART 23—AMENDMENT OF SECOND-HAND DEALERS AND COLLECTORS ACT 1984**

### **Act amended in pt 23**

**184.** This part amends the *Second-hand Dealers and Collectors Act 1984*.

### **Amendment of s 6 (Interpretation)**

**185.(1)** Section 6, heading—

*omit, insert—*

**‘Definitions’.**

**(2)** Section 6—

*insert—*

‘ **“location”** includes a place where an antique fair, antique market, flea market or trash and treasure market is conducted.’.

**(3)** Section 6, definition **“dealer”**—

*insert—*

‘(cc)is a local government; or’.

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**Amendment of s 7 (Application of Act)**

**186.** Section 7, from ‘apply to’—

*omit, insert—*

‘apply to—

- (a) the collecting, buying, selling or dealing in second-hand goods by or for a charity registered under the *Collections Act 1966*; or
- (b) an organisation formed for a community purpose, or a charity or religious denomination, within the meaning of the *Collections Act 1966*.’.

**Amendment of s 11 (Application for licence)**

**187.(1)** Section 11(2) and (3)—

*omit, insert—*

‘(2) The application must be accompanied by the fee (if any) prescribed under a regulation.’.

**(2)** Section 11(5) and (6)—

*omit.*

**Insertion of new s 14AA**

**188.** After section 14—

*insert—*

**‘Licensee to comply with local laws**

‘**14AA.** It is a condition of a licence that the licensee comply with relevant local laws.’.

**Amendment of s 14A (Conditions to be endorsed on licence)**

**189.** Section 14A(1)—

*omit, insert—*

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‘**14A.(1)** A licence must be endorsed with the conditions (other than the condition mentioned in section 14AA) to which it is subject.’.

**Amendment of s 17 (Licence not transferable)**

**190.** Section 17(3) to (6)—

*omit, insert—*

‘**(3)** The application must be accompanied by the fee (if any) prescribed under a regulation.’.

**Replacement of s 26 (Endorsement of premises and locations on dealer’s licence)**

**191.(1)** Section 26—

*omit, insert—*

**‘Endorsement of premises and locations on dealer’s licence**

‘**26.** A dealer’s licence—

- (a) must be endorsed with the premises at which the dealer is authorised to carry on business as a dealer; and
- (b) may be endorsed with the locations at which the dealer is authorised to carry on business as a dealer.’.

**Amendment of s 27 (Individual to be nominated to represent body corporate or firm)**

**192.(1)** Section 27(5)(b)—

*renumber* as section 27(5)(c).

**(2)** Section 27(5), as amended—

*insert—*

‘(b) not be a nominee for another second-hand dealer’s licence; and’.

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**Amendment of s 48 (Dealer may require information)**

**193.** Section 48(1)(a), ‘thereof’—

*omit, insert—*

‘of the person’s name and address’.

**Insertion of new s 51A**

**194.** After section 51—

*insert—*

**‘Separating parts of second-hand goods to avoid entering details in register of transactions**

‘**51A.** A licensed dealer must not separate parts of second-hand goods to avoid the dealer’s obligation under section 44<sup>34</sup> to enter the prescribed particulars in the register of transactions.

Maximum penalty—

- (a) for a first offence—8 penalty units or 3 months imprisonment; or
- (b) for a subsequent offence—16 penalty units or 6 months imprisonment.’.

**Amendment of s 62 (Proceedings for offences)**

**195.** Section 62(2)—

*omit, insert—*

‘(2) A prosecution for an offence against this Act must be started within the later of—

- (a) 1 year after the offence is committed; or
- (b) 6 months after the complainant first knows of its commission, but not later than 2 years after its commission.’.

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<sup>34</sup> Section 44 (Dealer to keep register)

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## **PART 24—AMENDMENT OF TRAVEL AGENTS ACT 1988**

### **Act amended in pt 24**

**196.** This part amends the *Travel Agents Act 1988*.

### **Amendment of s 6 (Definitions)**

**197.** Section 6, definition “**trust deed**”, before ‘approved’—

*insert—*

‘, including any amendment to the trust deed.’.

### **Insertion of new ss 36A and 36B**

**198.** After section 36—

*insert—*

#### **‘Validation of certain amendments**

‘**36A.** To remove any doubt, it is declared that a trust deed amendment, approved before the commencement of this section but not gazetted, is taken to be, and always have been, as valid and effective as if the amendment had been gazetted.

#### **‘Validation of certain acts etc.**

‘**36B.** To remove any doubt, it is declared that all acts, matters and things done in reliance on a trust deed amendment, approved before the commencement of this section but not gazetted, are taken to be, and always have been, as valid and effective as if the amendment had been gazetted.’.

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## **PART 25—REPEAL**

### **Repeal**

**199.** The *Associations Incorporation Amendment Act 1995* is repealed.