

Queensland



**JUSTICE LEGISLATION  
(MISCELLANEOUS  
PROVISIONS) ACT 1996**

**Act No. 79 of 1996**



Queensland



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(MISCELLANEOUS PROVISIONS) ACT  
1996**

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Queensland



**Justice Legislation (Miscellaneous Provisions)  
Act 1996**

**Act No. 79 of 1996**

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**An Act to amend a number of Acts administered by the  
Attorney-General and Minister for Justice, and for other  
purposes**

*[Assented to 12 December 1996]*

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **Short title**

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

### **Commencement**

2. Other than as expressly provided, this Act commences on a day to be fixed by proclamation.

## **PART 2—AMENDMENT OF COOPERATIVE AND OTHER SOCIETIES ACT 1967**

### **Act amended in pt 2**

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

### **Replacement of s 8 (Annual report by registrar)**

4. Section 8—

*omit, insert—*

#### **‘Annual report on operation of Act**

‘8. The department’s annual report for a financial year must include a report on the operation of this Act during the year.’.

## **PART 3—AMENDMENT OF CORONERS ACT 1958**

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

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

### **Amendment of title**

6. Title, after ‘coroners’—

*insert—*

‘, to regulate the process of cremation,’.

### **Insertion of new s 59C**

7. After section 59B—

*insert—*

#### **‘Regulation-making power**

‘59C. The Governor in Council may make regulations under this Act.’.

### **Insertion of new s 61A**

8. After section 61—

*insert—*

#### **‘References to Cremation Act**

‘61A. In an Act or document, a reference to the *Cremation Act 1913* may, if the context permits, be taken to be a reference to this Act.’.

## PART 4—AMENDMENT OF COURT FUNDS ACT 1973

### Act amended in pt 4

9. This part amends the *Court Funds Act 1973*.

### Amendment of s 4 (Definitions)

10.(1) Section 4, definitions “**Court**”, “**order**” and “**registrar**”—  
*omit.*

(2) Section 4—  
*insert—*

‘ “**court**” means the Supreme Court or a District Court or Magistrates Court into which an amount that is money in court is paid.

“**order**”, of a court, includes—

- (a) a judgment of the court, a Supreme Court or District Court judge or a magistrate; and
- (b) a report, certificate or direction of the court, a Supreme Court or District Court judge, a magistrate or an officer of a court prescribed under a regulation.

“**registrar**” means—

- (a) for the Supreme Court—the registrar or deputy registrar of the court at Brisbane, Rockhampton, Townsville or a district registry of the court; or
- (b) for a District Court or Magistrates Court—the registrar of the court.

“**suitors fund**” see section 5.’.

### Replacement of ss 5 and 6

11. Section 5 and 6—  
*omit, insert—*

**‘Court Suitors Fund**

**‘5.(1)** A Court Suitors Fund (the **“suitors fund”**) is established.

**‘(2)** Amounts paid to a court to the credit of a cause, matter, or an account relating to a proceeding in the court must be paid into the suitors fund at the times and in the way prescribed under a regulation.

**‘(3)** Payment, delivery and transfer of amounts from the suitors fund must be made in accordance with this Act.’.

**Amendment of s 7 (Dealings with money in Court)**

**12.** Section 7(2), after ‘shall’—

*omit, insert—*

‘apply to the suitors fund.’.

**Amendment of s 9 (Interest on money in Funds)**

**13.(1)** Section 9, heading, **‘in Funds’**—

*omit.*

**(2)** Section 9(a), from ‘into’—

*omit, insert—*

‘into the suitors fund; and’.

**Insertion of new s 17**

**14.** After section 16—

*insert—*

**‘Transitional**

**‘17.(1)** On the commencement of this section, the Treasurer must transfer amounts held to the credit of the Supreme Court Suitors’ Fund and the District Courts Suitors’ Fund (**“former funds”**) immediately before the commencement, to the Courts Suitors Fund (the **“new fund”**).

**‘(2)** An amount payable, but unpaid, from a former fund before the

commencement may be paid from the new fund.

‘(3) This section expires 6 months after it commences.’.

## **PART 5—AMENDMENT OF CREMATION ACT 1913**

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

**15.** This part amends the *Cremation Act 1913*.

### **Amendment of s 5 (Conditions of cremation)**

**16.(1)** Section 5(1), from ‘a government medical officer’—

*omit, insert—*

‘a doctor other than the doctor who completed the medical certificate of the cause of death required for registration of the death under the *Registration of Births, Deaths and Marriages Act 1962*.’.

**(2)** Section 5(1A), ‘prescribed form’—

*omit, insert—*

‘approved form’.

**(3)** Section 5(2)(a)(i)—

*omit, insert—*

‘(i) a medical certificate of the cause of death required for registration of the death under the *Registration of Births, Deaths and Marriages Act 1962*; or’.

**(4)** Section 5(2A)—

*omit.*

**(5)** Section 5(3), from ‘in the prescribed form of a’—

*omit, insert—*

‘and—

(a) a medical certificate of the cause of death required for registration

of the death under the *Registration of Births, Deaths and Marriages Act 1962*; or

- (b) a certificate, under the *Registration of Births, Deaths and Marriages Act 1962*, section 39, of the receipt of a medical certificate of the cause of death; or
- (c) the coroner's certificate for the cremation of the body of the deceased.'.

(6) Section 5(4), 'for Health and Home Affairs'—

*omit.*

(7) Section 5(5)—

*omit, insert—*

'(5) Subsection (2) may be complied with for the cremation of the body of a person who died outside Queensland if there is given to a person authorised by subsection (1) to sign a permission and certificate to create a body—

- (a) a medical certificate of the cause of death given by a person who appears to the officer in charge, after appropriate inquiry, to be a doctor who personally attended the deceased at the place where the death happened; or
- (b) a certificate given by a person who appears to the officer in charge, after appropriate inquiry, to be a coroner, or to hold a position equivalent to a coroner, at the place where the death happened.'.

**Amendment of s 6 (Relatives etc. may object to cremation in cases where not directed by deceased person)**

17.(1) Section 6(3), from 'in the form'—

*omit, insert—*

'in the approved form'.

(2) Section 6(4), after 'deceased'—

*insert—*

‘or an agent of the executor or nearest surviving relative’.

### **Amendment of s 8 (Attorney-General may forbid cremation etc.)**

**18.** Section 8(1), from ‘, solicitor-general’ to ‘the *Coroners Act 1958*,’—

*omit, insert—*

‘or a coroner’.

### **Insertion of new s 8A**

**19.** After section 8—

*insert—*

#### **‘Duties of officer in charge of crematorium**

‘**8A.(1)** The officer in charge of a crematorium must ensure the ashes remaining after each cremation carried out at the crematorium are dealt with in accordance with the reasonable written directions, in the approved form, of the applicant for permission to cremate that accompany the permission and certificate to cremate, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

‘**(2)** However, if the person who is to take the ashes under a direction does not take the ashes within 28 days of the cremation, the officer in charge of the crematorium may dispose of the ashes by decent interment in a burial ground or land adjoining the crematorium and reserved for the burial of ashes remaining after a cremation.

‘**(3)** The officer in charge of the crematorium must keep a register containing particulars, prescribed under a regulation, of each cremation at the crematorium.

Maximum penalty—10 penalty units.’.

### **Relocation of certain provisions to Coroners Act 1958**

**20.(1)** Sections 5 and 8, as amended by this part—

*relocate* to the *Coroners Act 1958*, part 9, as sections 23A and 23E.

(2) Sections 5A, 6, 7 and 8A—

*relocate* to the *Coroners Act 1958*, part 9, as sections 23B, 23C, 23D and 23F.

## **PART 6—AMENDMENT OF CRIMES (CONFISCATION) ACT 1989**

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

**21.** This part amends the *Crimes (Confiscation) Act 1989*.

### **Amendment of s 4 (Definitions)**

**22.** Section 4, definition “**police officer**”—

*omit.*

## **PART 7—AMENDMENT OF CRIMINAL LAW (REHABILITATION OF OFFENDERS) ACT 1986**

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

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

### **Amendment of s 9A (Disclosure of particulars in special cases)**

**24.** Section 9A(1), table, column 2, item 6—

*omit, insert—*

‘**6.** Contraventions of any provision of law committed in Queensland or elsewhere.’.

## **PART 8—AMENDMENT OF CROWN PROCEEDINGS ACT 1980**

### **Act amended in pt 8**

**25.** This part amends the *Crown Proceedings Act 1980*.

### **Amendment of s 9 (Procedure)**

**26.** Section 9—

*insert—*

‘**(3)** To remove any doubt, it is declared that this section does not require the Crown to comply with a provision (other than a procedural provision) of an Act or law that does not otherwise bind the Crown.’.

## **PART 9—AMENDMENT OF DISPUTE RESOLUTION CENTRES ACT 1990**

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

**27.** This part amends the *Dispute Resolution Centres Act 1990*.

### **Amendment of s 33 (Representation by agent)**

**28.** Section 33(2)(a), ‘Companies (Queensland) Code’—

*omit, insert—*

‘Corporations Law’.

**Replacement of s 39 (Annual report)**

**29.** Section 39—

*omit, insert—*

**‘Annual report on operation of Act**

**‘39.** The department’s annual report for a financial year must include a report about the operation of this Act during the year.’.

**PART 10—AMENDMENT OF DISTRICT COURTS  
ACT 1967****Act amended in pt 10**

**30.** This part amends the *District Courts Act 1967*.

**Amendment of s 29 (When action may be removed)**

**31.** Section 29(2), ‘, giving security for costs or otherwise’—

*omit.*

**Amendment of s 80 (Transfer of certain actions from Magistrates  
Court to District Court at defendant’s instance)**

**32.** Section 80(2), from ‘and the order’—

*omit.*

**Amendment of s 83 (Transfer of certain actions from District Court to  
Supreme Court at defendant’s instance)**

**33.** Section 83(2), from ‘and the order’—

*omit.*

**Amendment of s 118 (Appeal to the Court of Appeal in certain cases)**

**34.** Section 118(3), ‘as to security for costs or otherwise’—  
*omit.*

**PART 11—AMENDMENT OF DRUGS MISUSE ACT  
1986****Act amended in pt 11**

**35.** This part amends the *Drugs Misuse Act 1986*.

**Amendment of s 5 (Trafficking in dangerous drugs)**

**36.** Section 5(2)—  
*omit.*

**PART 12—AMENDMENT OF ELECTORAL ACT 1992****Act amended in part 12 and commencement**

**37.(1)** This part amends the *Electoral Act 1992*.

**(2)** This part commences on the date of assent.

**Amendment of s 3 (Definitions)**

**38.** Section 3—  
*insert—*

‘ **“register of special postal voters”** means the register kept under section 67A.’.

**Insertion of new pt 4A**

**39.** After part 4—

*insert—*

**‘PART 4A—REGISTER OF SPECIAL POSTAL  
VOTERS**

**‘Commission to keep register of special postal voters**

‘**67A.** The commission must keep, or arrange to be kept, a register of special postal voters.’.

**Amendment of s 105 (Who may make a declaration vote)**

**40.** Section 105(3)(a)—

*omit, insert—*

- ‘(a) an elector whose name is included in the register of special postal voters because of a written application that satisfies the commission the person’s registered address as shown on the electoral roll is more than 15 km by the nearest practicable route from a polling booth;’.

**PART 13—AMENDMENT OF EVIDENCE ACT 1977****Act amended in part 13**

**41.** This part amends the *Evidence Act 1977*.

**Amendment of s 93A (Statement made before proceeding by child under 12 years)**

**42.** Section 93A(1)(b), ‘before or soon after it becomes apparent to the person that the child is a potential witness in any proceeding’—

*omit.*

## **PART 14—AMENDMENT OF FREEDOM OF INFORMATION ACT 1992**

### **Act amended in part 14**

**43.** This part amends the *Freedom of Information Act 1992*.

### **Amendment of s 108 (Report to Legislative Assembly by agencies and Ministers)**

**44.** Section 108—

*insert—*

‘**(5)** It is sufficient compliance with subsection (1) if the department’s annual report for a financial year includes a report about the matters mentioned in this section.’.

## **PART 15—AMENDMENT OF FUNERAL BENEFIT BUSINESS ACT 1982**

### **Act amended in pt 15**

**45.** This part amends the *Funeral Benefit Business Act 1982*.

### **Replacement of s 13 (Annual report on operation of Fund)**

**46.** Section 13—

*omit, insert—*

### **‘Annual report on operation of fund**

‘**13.** The department’s annual report for a financial year must include a report about the operation of this Act during the year.’.

**Amendment of s 52 (Cancellation of registration by Court)**

**47.** Section 52(17)—

*omit, insert—*

‘(17) The registrar may apply under the Corporations Law, chapter 5, part 5.4A for an order to wind up a company whose registration is cancelled under this section.

‘(17A) However, the registrar may make the application only if, after a distribution under subsection (11) of moneys comprising the fund, the registrar is unable to satisfy in full the contributors’ actuarial interests.

‘(17B) For subsection (17), the Corporations Law, section 462(2) is taken to include a reference to the registrar.

‘(17C) Subsections (17) to (17B) have effect despite the *Corporations (Queensland) Act 1990*, section 5(1).<sup>1</sup>’.

**Amendment of s 56 (Winding-up of funeral benefit business)**

**48.** Section 56(12)—

*omit, insert—*

‘(12) The registrar may apply under the Corporations Law, chapter 5, part 5.4A for an order to wind-up a company whose assets have been realised under subsection (4).

‘(12A) However, the registrar may make the application only if, after a distribution under subsection (4)(b) of the money remaining in the registrar’s hands, the registrar is unable to satisfy in full the contributors’ actuarial interests.

‘(12B) For subsection (12), the Corporations Law, section 462(2) is taken to include a reference to the registrar.

‘(12C) Subsections (12) to (12B) have effect despite the *Corporations (Queensland) Act 1990*, section 5(1).’.

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<sup>1</sup> Section 5 (This Act and applicable provisions of Queensland not to be affected by later State laws)

## **PART 16—AMENDMENT OF JUDGES (PENSIONS AND LONG LEAVE) ACT 1957**

### **Act amended in pt 16**

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

### **Amendment of s 15 (Leave of absence of Judges)**

**50.** Section 15(2)—

*omit, insert—*

‘(2) The Governor in Council must grant leave of absence to a judge who applies for and is entitled to leave of absence under subsection (1).’.

## **PART 17—AMENDMENT OF JURY ACT 1995**

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

**51.** This part amends the *Jury Act 1995*.

### **Amendment of s 53 (Jury not to separate)**

**52.** Section 53—

*insert—*

‘(2A) Despite subsection (2)—

- (a) the judge must allow the jurors to separate during a lunch or dinner adjournment to obtain meals; and
- (b) if the judge considers allowing the jury to separate may prejudice a fair trial—the judge may order the jurors not to separate.’.

## PART 18—AMENDMENT OF JUSTICES ACT 1886

### Act amended in pt 18

53. This part amends the *Justices Act 1886*.

### Insertion of new s 23DA

54. After section 23D—

*insert—*

#### ‘Further powers of clerk of the court

‘23DA.(1) This section is in addition to, and does not limit, section 23D.

‘(2) The clerk of the court has the following additional powers—

- (a) power to adjourn a matter before the court on terms decided by the clerk or stated in an application;
- (b) power to make any order a magistrate may make with the consent of all the parties to a matter.

‘(3) However, the clerk of the court may exercise the powers mentioned in subsection (2) only if—

- (a) application for the adjournment or order is made to a Magistrates Court; and
- (b) all the parties to the matter consent in writing, personally or by their agent, to the exercise of the power.

‘(4) When exercising a power under subsection (2)—

- (a) the parties to the matter need not be present; and
- (b) the clerk of the court is taken to constitute a Magistrates Court.’.

### Amendment of s 23E (Court or justices may adjourn within or outside district)

55. Section 23E(1), ‘or an adjoining district’—

*omit.*

**Insertion of new s 23EA**

**56.** After section 23E—

*insert—*

**‘Additional powers of court or justices**

**‘23EA.(1)** This section is in addition to, and does not limit, any other provision of this Act.

**‘(2)** A court or justices have the following additional powers—

- (a) power to give any direction the court or justices consider appropriate;
- (b) power to direct a party to file and serve stated documents, including affidavits, within a stated time;
- (c) power to make orders to which all the parties to a matter consent.

**‘(3)** When exercising the power under subsection (2)(c), the parties to the matter need not be present.’.

**Amendment of s 88 (Adjournment of the hearing)**

**57.** Section 88—

*insert—*

**‘(1C)** Also, the power to adjourn a hearing under subsection (1) includes power to adjourn the hearing on an application to which all the parties consent, made to the justice or justices.’.

**Amendment of s 98L (Withdrawal of infringement notice)**

**58.** Section 98L(1), ‘within 28 days’—

*omit.*

**Amendment of s 147A (Power of justices to reopen proceedings and rectify orders)**

**59.** Section 147A(3), ‘those proceedings.’—

*omit, insert—*

‘those proceedings; or

‘(d) the conviction or order recorded or made against the person was incorrectly ordered or made because of someone’s deceit.’.

### **Amendment of s 222 (Appeal to a single judge)**

**60.(1)** Section 222(2)(a), from ‘notice of appeal’, and (b)—

*omit, insert—*

‘notice of appeal in the approved form stating the grounds of the appeal and where the appellant wants the appeal to be heard and decided under the *District Courts Act 1967*; and

(ii) within 7 days after service of the notice on the other party and the clerk of the court, enter into a recognisance before a justice for the amount and with the sureties (if any) the justice may require, to appear on the hearing of the appeal and to abide the decision of the judge and pay the costs the judge may order;

(b) the clerk of the court must immediately send a copy of the notice of appeal and the complaint, depositions and other proceedings before the justices to the registrar of the court stated in the notice;’.

**(2)** Section 222(2)(d), ‘or lodging the security mentioned in paragraph (a),’—

*omit.*

**(3)** Section 222(2)(d), ‘or gives such security’—

*omit.*

**(4)** Section 222—

*insert—*

‘**(2A)** However, if the appellant can not give notice under subsection (2)(a), through no fault of the appellant’s, the appellant may apply to a District Court judge for an order extending time for service of the notice and, if necessary, for substituted service.

‘(2B) A District Court judge may make the orders in relation to an application under subsection (2A) the judge considers appropriate.’.

### **Amendment of s 266 (Regulations)**

**61.** Section 266—

*insert—*

‘(4) The power to make a regulation about costs includes power to provide for a scale of costs.’.

## **PART 19—AMENDMENT OF JUVENILE JUSTICE LEGISLATION AMENDMENT ACT 1996**

### **Act amended in pt 19 and commencement**

**62.(1)** This part amends the *Juvenile Justice Legislation Amendment Act 1996*.

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

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

**63.** Section 103, new section 72A of the *Corrective Services (Administration) Act 1988*, definition “**changeover day**”—

*omit, insert—*

‘ “**changeover day**” means the date of assent of the *Juvenile Justice Legislation Amendment Act 1996*.’.

## **PART 20—AMENDMENT OF LAW REFORM ACT 1995**

### **Act amended in pt 20 and commencement**

**64.(1)** This part amends the *Law Reform Act 1995*.

**(2)** This part is taken to have commenced on the date of assent of the *Statute Law Revision Act (No. 2) 1995*.

### **Amendment of title**

**65.** Title, after ‘**of the law**’—

*insert—*

‘**, and for other purposes**’.

### **Amendment of s 2 (Act is a consolidation)**

**66.(1)** Section 2, heading, after ‘**is**’—

*insert—*

‘**, in part,**’.

**(2)** Section 2(1), after ‘This Act’—

*insert—*

‘, as in force at the commencement of this section,’.

### **Amendment of pt 8 heading (Miscellaneous)**

**67.** Part 8, heading

*renumber* as part 9.

### **Insertion of new pt 8**

**68.** After part 7—

*insert—*

## **‘PART 8—ATTACHMENT OF WAGES**

### **‘Wages of public service employees may be attached**

‘**18A.(1)** A court may, in a proceeding, order the attachment or charging of the salary or wages of a public service employee to satisfy a debt, liability, action or other amount ordered by the court to be paid.

‘**(2)** Also, the registrar of a court may order the attachment or charging of the salary or wages of a public service employee to satisfy a debt, liability, action or other amount ordered by the court to be paid.

‘**(3)** This section has effect despite any other Act or rule of law to the contrary.’.

## **PART 21—AMENDMENT OF LAW REFORM COMMISSION ACT 1968**

### **Act amended in pt 21**

**69.** This part amends the *Law Reform Commission Act 1968*.

### **Amendment of s 15 (Reports)**

**70.** Section 15(1)—

*omit, insert—*

‘**15.(1)** The department’s annual report for a financial year must include a report about the operations of this Act during the year.’.

## **PART 22—AMENDMENT OF LEGAL PRACTITIONERS ACT 1995**

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

**71.** This part amends the *Legal Practitioners Act 1995*.

### **Amendment of title**

**72.** Title, after ‘**about**’—

*insert—*

‘**, and make other provision for,**’.

### **Amendment of s 2 (Act is a consolidation)**

**73.(1)** Section 2, heading, after ‘**is**’—

*insert—*

‘**, in part,**’.

**(2)** Section 2(1), after ‘This Act’—

‘, as in force at the commencement of this section,’.

### **Insertion of new pt 2 div 1A**

**74.** After part 2, division 1—

*insert—*

#### *‘Division 1A—Definitions*

### **‘Definitions for pt 2**

**‘4A.** In this part—

“**attorney**” includes executor administrator or assignee of any attorney and the trustee of the attorney’s estate.

“**proper officer**” for business under the *Justices Act 1886* transacted entirely in a Magistrates Court means the clerk of the court.’.

### **Amendment of s 5 (Bills to be delivered)**

**75.(1)** Section 5, ‘nor any executor administrator or assignee of any attorney or the trustee of the attorney’s estate’—

*omit.*

**(2)** Section 5, ‘or executor administrator or assignee of such attorney’—

*omit.*

**(3)** Section 5, ‘or by the executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

### **Amendment of s 6 (Evidence of delivery of bill)**

**76.** Section 6(1), ‘or the executor administrator or assignee of such attorney or trustee of the attorney’s estate’—

*omit.*

### **Amendment of s 7 (Taxation of bills within a month)**

**77.(1)** Section 7(1)(c), before ‘from’—

*insert—*

‘subject to paragraph (d)’.

**(2)** section 7(1)(c), after ‘prothonotary’—

*insert—*

‘or proper officer’.

**(3)** Section 7(1)—

*insert—*

‘(d) from the proper officer of a Magistrates Court for any business under the *Justices Act 1886* transacted entirely in a Magistrates

Court.’.

(4) Section 7(2), ‘executor administrator trustee or assignee’—

*omit.*

(5) Section 7(3), after ‘a judge thereof’—

*insert—*

‘or, if subsection (1)(d) applies, a magistrate’.

(6) Section 7(3), ‘or executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

#### **Amendment of s 8 (Taxation after 1 month)**

**78.(1)** Section 8(1), ‘In case no such application as aforesaid shall be’—

*omit, insert—*

‘If no application for an appointment with a person mentioned in section 7(1)(a), (b) or (c) is not’.

(2) Section 8(1), ‘or the executor administrator or assignee of the attorney or the trustee of the attorney’s estate’—

*omit.*

(3) Section 8(1), ‘or executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

(4) Section 8(2), ‘or the executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

(5) Section 8(3), ‘or executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

(6) Section 8(3), after ‘a judge thereof’—

*insert—*

‘or, for business under the *Justices Act 1886* transacted entirely in a Magistrates Court, a magistrate’.

(7) Section 8—

*insert—*

‘(2A) If an application for an appointment with the proper officer of a Magistrates Court is not made under section 7(1)(d), the attorney or the party chargeable with the bill, may apply to a magistrate for the bill to be taxed and settled by the proper officer of the court.

‘(2B) The magistrate may refer the bill to the proper officer for taxation and settling with the directions, and on the conditions, the magistrate considers appropriate.’.

### **Amendment of s 9 (Payment of costs of taxation)**

79.(1) Section 9(1), ‘or executor administrator or assignee of the attorney or the trustee of the attorney’s estate’—

*omit.*

(2) Section 9(2), ‘or the executor administrator or assignee of such attorney or trustee of the attorney’s estate’—

*omit.*

(3) Section 9(2)(a), ‘or executor administrator or assignee of such attorney or trustee of the attorney’s estate’—

*omit.*

(4) Section 9(3), ‘or executor administrator or assignee of such attorney or trustee of the attorney’s estate’—

*omit.*

(5) Section 9(4), ‘court or judge’—

*omit, insert—*

‘court, judge or magistrate’.

(6) Section 9(5), ‘said court or judge’—

*omit, insert—*

‘court, judge or magistrate’.

(7) Section 9(6), ‘said court or judge’—

*omit, insert—*

‘court, judge or magistrate’.

(8) Section 9(6), ‘such court or judge’—

*omit, insert—*

‘the court, judge or magistrate’.

(9) Section 9(6), ‘or the executor administrator or assignee of any attorney or trustee of the attorney’s estate’—

*omit.*

#### **Amendment of s 12 (Form of application for taxing etc.)**

**80.(1)** Section 12(3), after ‘Supreme Court’—

*insert—*

‘or, for a taxation by the proper officer of a Magistrates Court, Magistrates Courts’.

(2) Section 12 (4), ‘such court or judge thereof’—

*omit, insert—*

‘the court, a Supreme Court judge or a magistrate’.

(3) Section 12(4), ‘such judge’—

*omit, insert—*

‘the judge or magistrate’.

#### **Amendment of s 13 (Third parties applying for taxation)**

**81.(1)** Section 13(1), ‘the attorney’s executor administrator or assignee or the trustee of the attorney’s estate’—

*omit.*

(2) Section 13(1), ‘the person’s executor administrator or assignee or the trustee of the person’s estate’—

*omit.*

(3) Section 13(3), ‘court or judge’—

*omit, insert—*

‘court, judge or magistrate’.

### **Amendment of s 14 (Bills against trustees assignees administrators or executors)**

**82.(1)** Section 14(1), ‘or the executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

(2) Section 14(3), ‘or the executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

(3) Section 14(4), ‘or executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

### **Amendment of s 15 (Delivery of bill to third parties)**

**83.(1)** Section 15, after ‘a judge thereof’—

*insert—*

‘or, for business transacted entirely in a Magistrates Court, a magistrate’.

(2) Section 15, ‘or the executor administrator or assignee of any such attorney or the trustee of the attorney’s estate’—

*omit.*

### **Amendment of s 16 (Taxation of bill after payment)**

**84.(1)** Section 16(1), ‘court or judge from’—

*omit, insert—*

‘court, judge or magistrate from’.

(2) Section 16(1), ‘such court or judge’—  
*omit, insert—*  
‘the court, judge or magistrate’.

#### **Amendment of s 17 (Retaxation and review)**

85. Section 17(1), ‘or judge’—  
*omit, insert—*  
‘, judge or magistrate’.

### **PART 23—AMENDMENT OF MAGISTRATES COURTS ACT 1921**

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

86. This part amends the *Magistrates Courts Act 1921*.

#### **Amendment of s 45 (Appeal)**

87. Section 45(3)—  
*omit, insert—*

‘(3) Within the time and in the way prescribed by the rules, the appellant must give to the other party or the other party’s solicitor notice of the appeal, briefly stating the grounds of the appeal.’.

### **PART 24—AMENDMENT OF OATHS ACT 1867**

#### **Act amended in part 24**

88. This part amends the *Oaths Act 1867*.

**Amendment of s 29 (Interpreter's oath to interpret between a prisoner, defendant or witness and others)**

**89.(1)** Section 29(1), 'FOREIGN'—

*omit, insert—*

'NON-ENGLISH SPEAKING'.

**(2)** Section 29(2), 'are foreigners of'—

*omit, insert—*

'do not speak English fluently but speak'.

**Amendment of s 30 (Where witness and prisoner are of different languages—first interpreter's oaths)**

**90.** Section 30(1), 'are foreigners of different languages and a foreign'—

*omit, insert—*

'do not speak English fluently but speak different languages and an'.

**PART 25—AMENDMENT OF PENALTIES AND SENTENCES ACT 1992****Act amended in part 25**

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

**Amendment of s 186 (Reduction of imprisonment)**

**92.** Section 186—

*insert—*

'(2A) For subsections (1) and (2), a fraction of a day is to be disregarded.'

## **PART 26—AMENDMENT OF PROPERTY LAW ACT 1974**

### **Act amended in pt 26**

**93.** This part amends the *Property Law Act 1974*.

### **Insertion of new s 175AA**

**94.** After section 175A—

*insert—*

#### **‘Effect of enduring power of attorney**

**‘175AA.** Subject to any express limitation or exclusion in an enduring power of attorney, the donee of the power or, if there is more than 1 donee, the donees acting jointly or severally, may do anything for the donor of the power that the donor may lawfully do by attorney.’.

## **PART 27—AMENDMENT OF PUBLIC TRUSTEE ACT 1978**

### **Act amended in pt 27**

**95.** This part amends the *Public Trustee Act 1978*.

### **Replacement of s 17 (Fees and expenses)**

**96.(1)** Section 17—

*omit, insert—*

#### **‘Public trustee may fix fees and charges**

**‘17.(1)** The public trustee may, by gazette notice, fix fees and charges for services the public trustee performs or provides.

**‘(2)** The fees and charges have effect from the day the notice is gazetted

or a later day stated in the notice.

‘(3) The fees and charges must be reasonable having regard to the circumstances in which the service is provided.

‘(4) In particular, and without limiting subsection (3), the amount of a fee or charge must be decided having regard to the following—

- (a) the type and complexity of the service performed;
- (b) the degree of care, responsibility, skill or special knowledge required to perform the service.

‘(5) Also, the gazette notice may provide that a fee or charge for a service is to be worked out according to—

- (a) a stated hourly, daily or other rate; or
- (b) the number or type of documents perused.

‘(6) A gazette notice under this section is subordinate legislation and exempt subordinate legislation.

#### **‘Priority etc. of fees and charges**

‘17A.(1) The public trustee may retain or pay out of an estate the public trustee is administering, in priority to any other claims—

- (a) expenses (including liabilities) a trustee may retain or pay out of trust property; and
- (b) fees payable for a service the public trustee provides.

‘(2) The public trustee is to decide whether the fees and expenses payable under this section are to be paid from capital or income.

‘(3) The public trustee has a general lien on all property comprised in an estate the public trustee is administering for the payment of—

- (a) fees and expenses for the administration of the estate; and
- (b) costs, fees and allowances and charges earned by the official solicitor or another lawyer who is a public service officer for the public trustee in connection with a proceeding relating to the estate.

‘(4) The public trustee has the same rights of lien a lawyer who is not a

public service officer would have for costs and charges for work of a legal nature—

- (a) done by the public trustee or the official solicitor; or
- (b) done for the public trustee by a lawyer who is a public service officer.

### **‘Costs etc. for proceedings**

**‘17B.(1)** This section applies to a proceeding—

- (a) in which the public trustee is a party or is in any way interested; and
- (b) in relation to which the official solicitor or another lawyer who is a public service officer acts on behalf of, or otherwise represents, the public trustee.

**‘(2)** The public trustee is entitled to costs and allowances for the acting or representation as if the official solicitor or lawyer were a lawyer in private practice and not a public service officer.

**‘(3)** For taxing any bill of costs, fees for a barrister are to be allowed the public trustee and no item is to be disallowed (whether for barristers’ fees or otherwise) merely because the fees were not paid before taxation.

**‘(4)** The rules relating to costs in any court apply subject to this subsection.

### **Amendment of s 18 (Accounting)**

**97.** Section 18(1), from ‘All such fees’ to ‘on behalf of’—  
*omit, insert—*

‘Fees paid or retained out of an estate the public trustee is administering and costs, fees, allowances and charges earned by the official solicitor or another lawyer who is a public service officer for’.

### **Amendment of s 26 (Balance sheet and accounts to be laid before Parliament)**

**98.** Section 26, after ‘31 August’—

*insert—*

‘or the later day the Minister, by written notice, specifies’.

### **Amendment of s 27 (Rights and duties to which Public Trustee may be appointed)**

**99.** Section 27(4), ‘as may be prescribed or, if not prescribed’—

*omit, insert—*

‘as are fixed under this Act, or if not fixed under this Act’.

### **Amendment of s 142 (Regulation making power)**

**100.(1)** Section 142(2)(g)—

*omit.*

**(2)** Section 142(2)(h), after ‘Public Trustee’, first mention—

*insert—*

‘or the official solicitor,’.

**(3)** Section 142(2)(ha), ‘provided for’—

*omit, insert—*

‘fixed or otherwise provided for’.

### **Insertion of new section 145**

**101.** After section 144—

*insert—*

#### **‘Transitional provision about fees and charges**

**‘145.(1)** On the commencement of this section, the fees prescribed under a regulation for section 17 as in force immediately before the commencement are taken to be fees fixed by the public trustee.

**‘(2)** However, fees taken under subsection (1) to have been fixed by the public trustee are repealed on the commencement of a gazette notice under

section 17.

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

## **PART 28—AMENDMENT OF QUEENSLAND LAW SOCIETY ACT 1952**

### **Act amended in pt 28**

**102.** This part amends the *Queensland Law Society Act 1952*.

### **Amendment of s 50 (Confidentiality)**

**103.** Section 50—

*insert—*

‘(4) Subsection (3) does not prevent an official communicating to the Australian Securities Commission particulars of—

- (a) any practitioner dealing in excluded mortgages; or
- (b) any breach by a practitioner of—
  - (i) a rule about mortgage investments; or
  - (ii) a condition of an exemption given by the Australian Securities Commission under the Corporations Law, section 1084(2).’.

## **PART 29—AMENDMENT OF RETIREMENT VILLAGES ACT 1988**

### **Act amended in pt 29**

**104.** This part amends the *Retirement Villages Act 1988*.

**Replacement of s 59 (Annual report to Minister)**

**105.** Section 59—

*omit, insert—*

**‘Report on operation of Act**

**‘59.** The department’s annual report for a financial year must include a report about the operation of this Act during the year.’.

**PART 30—AMENDMENT OF STIPENDIARY  
MAGISTRATES ACT 1991****Act amended in pt 30**

**106.** This part amends the *Stipendiary Magistrates Act 1991*.

**Amendment of s 6 (Appointment of acting Magistrates)**

**107.** Section 6—

*insert—*

**‘(4)** However, for deciding whether remuneration is payable to a clerk of the court while acting as a magistrate, the *Public Service Management and Employment Act 1988* applies to the person.’.

**PART 31—AMENDMENT OF TRAVEL AGENTS ACT  
1988****Act amended in pt 31**

**108.** This part amends the *Travel Agents Act 1988*.

**Replacement of s 48 (Annual report)****109.** Section 48—*omit, insert—***‘Report on operation of Act**

**‘48.** The department’s annual report for a financial year must include a report on the operation of this Act during the year.’.

**PART 32—AMENDMENT OF TRUSTEE COMPANIES  
ACT 1968****Act amended in pt 32****110.** This part amends the *Trustee Companies Act 1968*.**Amendment of s 12 (Power of trustee companies to elect to administer small estates without grant of administration)****111.(1)** Section 12(1), ‘\$ 1 000’—*omit, insert—*

‘\$100 000’.

**(2)** Section 12(7), ‘\$1 400’—*omit, insert—*

‘\$120 000’.

**Amendment of s 13 (Elections in respect of unadministered balance of an estate)****112.(1)** Section 13(1), ‘\$1 000’—*omit, insert—*

‘\$100 000’.

(2) Section 13(4), ‘\$1 400’—

*omit, insert—*

‘\$120 000’.

### **Amendment of s 28 (General powers of trustee company)**

**113.(1)** Section 28(1)(h), ‘\$4 000’—

*omit, insert—*

‘\$50 000’.

(2) Section 28(1)(i), ‘\$4 000’—

*omit, insert—*

‘\$50 000’.

(3) Section 28(1)(q), ‘\$4 000’—

*omit, insert—*

‘\$50 000’.

### **Amendment of s 31 (Power to apply income, or not exceeding one-half of capital, for maintenance etc.)**

**114.(1)** Section 31, heading, ‘not exceeding one-half of’—

*omit.*

(2) Section 31(1)(b), ‘, not exceeding one-half,’—

*omit.*

### **Amendment of schedule 2**

**115.(1)** Schedule 2, part 2, entry for ANZ Executors & Trustee Company Limited, paragraph (da)—

*omit.*

(2) Schedule 2, part 2, entry for Perpetual Trustees Australia Limited, paragraph (da)—

*omit.*

(3) Schedule 2, part 2, entry for Perpetual Trustees Queensland Limited, paragraph (d)—

*omit.*

(4) Schedule 2, part 2, entry for Trust Company of Australia Limited, paragraph (da)—

*omit.*

## **PART 33—REPEAL OF CREMATION ACT 1913**

### **Act repealed**

**116.** The *Cremation Act 1913* is repealed.