



Queensland

# **Justice and Other Legislation Amendment Act 2008**

**Act No. 59 of 2008**





## Queensland

# Justice and Other Legislation Amendment Act 2008

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## Queensland

### **Justice and Other Legislation Amendment Act 2008**

#### **Act No. 59 of 2008**

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**An Act to amend the Anti-Discrimination Act 1991, Associations Incorporation Act 1981, Bail Act 1980, Childrens Court Act 1992, Children Services Tribunal Act 2000, Civil Liability Act 2003, Classification of Films Act 1991, Crime and Misconduct Act 2001, Criminal Code, Dispute Resolution Centres Act 1990, District Court of Queensland Act 1967, Domestic and Family Violence Protection Act 1989, Evidence Act 1977, Financial Transaction Reports Act 1992, Industrial Relations Act 1999, Judges (Pensions and Long Leave) Act 1957, Justice and Other Legislation Amendment Act 2007, Justices Act 1886, Justices of the Peace and Commissioners for Declarations Act 1991, Juvenile Justice Act 1992, Land Court Act 2000, Magistrates Act 1991, Oaths Act 1867, Ombudsman Act 2001, Penalties and Sentences Act 1992, Professional Standards Act 2004, Public Trustee Act 1978, Recording of Evidence Act 1962, Small Claims Tribunals Act 1973, Solicitor-General Act 1985, Supreme Court Act 1995 for particular purposes**

**[Assented to 25 November 2008]**

[s 1]

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## The Parliament of Queensland enacts—

### **Part 1 Preliminary**

#### **1 Short title**

This Act may be cited as the *Justice and Other Legislation Amendment Act 2008*.

#### **2 Commencement**

- (1) Part 13 commences on 12 December 2008.
- (2) Parts 6 and 9 commence on 1 January 2009.

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

#### **3 Act amended in pt 2 and schedule**

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

#### **4 Insertion of new s 266A**

After section 266—

*insert—*

##### **‘266A Protection and immunity**

- ‘(1) In performing the functions or exercising the powers of a member of the tribunal, the member has the same protection and immunity as a Supreme Court judge performing the judge’s functions or exercising the judge’s powers.

- 
- ‘(2) In performing the functions or exercising the powers of the tribunal under section 257A, the registrar has the same protection and immunity as a Supreme Court judge performing the judge’s functions or exercising the judge’s powers.
  - ‘(3) A party appearing before the tribunal has the same protection and immunity as a party has in a proceeding in the Supreme Court.
  - ‘(4) A person appearing as a witness before the tribunal has the same protection and immunity as a witness has in a proceeding in the Supreme Court.
  - ‘(5) In this section—  
*party* includes a party’s lawyer or agent.’.

## **Part 3    Amendment of Childrens Court Act 1992**

### **5                          Act amended in pt 3 and schedule**

This part and the schedule amend the *Childrens Court Act 1992*.

### **6                          Insertion of new s 14A**

After section 14—

*insert—*

#### **‘14A                  Term of office**

- ‘(1) A Childrens Court magistrate holds office for the term, not longer than 5 years, stated in the person’s instrument of appointment.
- ‘(2) A person appointed as a Childrens Court magistrate may be appointed for one further term of not longer than 5 years.

[s 7]

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‘(3) Subsection (2) does not limit section 15(1).

‘(4) The ending of the person’s term as a Childrens Court magistrate does not affect the person’s appointment as a magistrate or powers as a magistrate.’.

## **7 Insertion of new pt 7 hdg**

After section 31—

*insert—*

## **‘Part 7 Transitional provisions’.**

## **8 Insertion of new s 33**

After section 32—

*insert—*

## **‘33 Transitional provision for Justice and Other Legislation Amendment Act 2008, pt 3**

‘(1) This section applies if, immediately before the commencement of this section, a person holds office as a Childrens Court magistrate.

‘(2) The person’s term of appointment is taken to end 5 years after the person was first appointed.’.

## **Part 4 Amendment of Children Services Tribunal Act 2000**

## **9 Act amended in pt 4**

This part amends the *Children Services Tribunal Act 2000*.

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**10 Amendment of s 41 (Tribunal's powers to dismiss review application)**

Section 41(1)(a)—

*omit, insert—*

‘(a) the tribunal considers—

(i) it is frivolous or vexatious; or

(ii) no reasonable basis for the application is disclosed;  
or’.

**11 Amendment of s 141 (Certain information not to be published)**

(1) Section 141(3)—

*renumber* as section 141(4).

(2) Section 141—

*insert—*

‘(3) The tribunal or the president may only consent to the publication as mentioned in subsection (2) if the tribunal or the president is satisfied the publication of the information—

(a) is in the public interest; and

(b) does not conflict with the best interests of the child.’.

**Part 5 Amendment of Civil Liability Act 2003**

**12 Act amended in pt 5 and schedule**

This part and the schedule amend the *Civil Liability Act 2003*.

[s 13]

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**13 Replacement of ch 2, pt 3, div 2 hdg (Volunteers)**

Part 3, division 2 heading—

*omit, insert—*

**‘Division 2 Food donors and volunteers**

**‘Subdivision 1 Interpretation’.**

**14 Amendment of s 38 (Interpretation)**

(1) Section 38(1)—

*insert—*

***‘food donor—***

(a) means an entity that, in good faith for a charitable, benevolent, philanthropic, sporting, recreational, political, educational or cultural purpose, donates or distributes food with the intention that the consumer of the food will not have to pay for the food; but

(b) does not include—

(i) an entity that directly distributes the food to the consumer of the food; or

(ii) a volunteer.

***possession*** includes control.’.

(2) Section 38(1), definition *volunteer*, ‘a person’—

*omit, insert—*

‘an individual’.

**15 Insertion of new ch 2, pt 3, div 2, sdiv 2 and sdiv 3 hdg**

After section 38—

*insert—*

**‘Subdivision 2 Food donors**



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**‘38A Protection of food donors**

- ‘(1) A food donor does not incur any civil liability in relation to any act or omission done or made by the food donor, when donating or distributing food in the circumstances mentioned in subsection (2), giving rise to harm resulting from the consumption of the food.
- ‘(2) The circumstances are—
- (a) that the food was safe to consume at the time it left the food donor’s possession; and
  - (b) if the food was of a nature that required it to be handled in a particular way to remain safe to consume after it left the food donor’s possession—that the food donor informed the recipient of the food of the handling requirements; and
  - (c) if the food only remained safe to consume for a particular period of time after it left the food donor’s possession—that the food donor informed the recipient of the food of the time limit.
- ‘(3) In this section—  
*recipient*, of the food, means the entity directly receiving the food from the food donor.

**‘38B Liability not excluded if insurance required**

‘This subdivision does not confer protection from liability on a food donor if the liability is a liability that is required under a written law of the State to be insured against.

**‘38C Liability not excluded for motor accidents**

‘The protection from liability conferred on a food donor by this subdivision does not apply if the liability would, apart from this subdivision, be covered by a CTP insurance policy under the *Motor Accident Insurance Act 1994*, or be recoverable from the Nominal Defendant under that Act.

[s 16]

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## **‘Subdivision 3 Volunteers’.**

### **16 Amendment of s 39 (Protection of volunteers)**

Section 39(4)—  
*omit.*

### **17 Insertion of new ch 5 pt 6**

After section 83—  
*insert—*

## **‘Part 6 Transitional provision for Justice and Other Legislation Amendment Act 2008, part 5**

### **‘84 Persons donating food**

- ‘(1) The reference to personal civil liability in section 39(2), as in force before the commencement of this section, has never had the effect of limiting the protection to individuals.
- ‘(2) It is declared that the protection has always been available to persons including individuals and corporations.’.

## **Part 6 Amendment of Classification of Films Act 1991**

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

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

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

Section 3, definition *approved organisation*, after ‘the’—

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*insert—*

‘director or the’.

## **20 Amendment of s 56 (Approval of organisation)**

- (1) Section 56(1), (2) and (4), before ‘films classification officer’—

*insert—*

‘director or the’.

- (2) Section 56(3)—

*omit, insert—*

- ‘(3) If the organisation is approved—

- (a) if the director has given the approval—notice of the approval must be published in the Commonwealth gazette; or
- (b) if the films classification officer has given the approval—the approval must be gazetted.

- ‘(3A) The approval—

- (a) takes effect on the date of publication; and
- (b) continues in force until it is revoked.’.

## **21 Amendment of s 57 (Application for exemption)**

Section 57(d), before ‘films classification officer’—

*insert—*

‘director or the’.

## **22 Amendment of s 58 (Exemption)**

- (1) Section 58(1), before ‘films classification officer’—

*insert—*

‘director or the’.

[s 23]

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- (2) Section 58(2)—  
*renumber* as section 58(3).
- (3) Section 58—  
*insert*—
- ‘(2) The films classification officer may impose conditions on the exemption.
- Examples of conditions*—
- age restrictions
  - advertising restrictions
  - requiring the approved organisation to give detailed consumer information’.

## **Part 7**                                      **Amendment of Crime and Misconduct Act 2001**

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

This part amends the *Crime and Misconduct Act 2001*.

### **24**      **Amendment of s 225 (Qualifications for appointment as a part-time commissioner)**

- (1) Section 225(a)—  
*omit, insert*—
- ‘(a) is an Australian lawyer who—
- (i) has engaged in legal practice for a period of, or periods totalling at least, 5 years; and
  - (ii) has a demonstrated interest in civil liberties; or’.
- (2) Section 225—  
*insert*—

‘(2) In this section—

*Australian lawyer* see the *Legal Profession Act 2007*, section 5(1).’.

## **Part 8                      Amendment of Criminal Code**

### **25      Act amended in pt 8**

This part amends the Criminal Code.

### **26      Amendment of s 559 (Change of place of trial)**

Section 559(5)—

*omit.*

### **27      Amendment of s 590AA (Pre-trial directions and rulings)**

Section 590AA(2)(k), ‘and notices to Crown witnesses’—

*omit.*

### **28      Replacement of s 593A (Enlargement of notices to witnesses on adjournment of trial)**

Section 593A—

*omit, insert—*

#### **‘593A Warrant to bring witness before court**

‘(1) This section applies if an indictment has been presented against a person before a court.

‘(2) If the court is satisfied by evidence on oath that—

(a) a witness has evaded service of a subpoena; or

(b) a witness is likely to evade service of a subpoena;

[s 29]

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the court may make an order for the issue of a warrant to bring the witness before the court at a time and place stated in the warrant.’.

**29 Amendment of s 597A (Separate trials where 2 or more charges against the same person)**

Section 597A(3), ‘and as to the enlargement of notices to witnesses’—

*omit.*

**30 Insertion of new ch 84**

Part 9—

*insert—*

**‘Chapter 84 Transitional provision for  
Justice and Other  
Legislation Amendment Act  
2008, part 8**

**‘721 Notices to witnesses**

- (1) This section applies if, before the commencement of this section, a witness is given a notice to witness in relation to the trial of a person.
- (2) Sections 559, 590AA, 593A and 597A, as in force immediately before the commencement of this section, continue to have effect in relation to the notice to witness until—
  - (a) the trial of the person is concluded; or
  - (b) the court otherwise directs; or
  - (c) 3 years after the commencement of this section;whichever happens first.’.

---

## Part 9                      **Amendment of Dispute Resolution Centres Act 1990**

### **31       Act amended in pt 9**

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

### **32       Amendment of s 2 (Interpretation)**

Section 2(1), definition *mediator*, paragraph (b)—  
*omit, insert—*

‘(b) a person appointed under section 19 as a mediator for  
the centre.’.

### **33       Amendment of s 19 (Mediators)**

(1) Section 19, ‘accredit’—

*omit, insert—*

‘appoint’.

(2) Section 19, ‘and may revoke any such accreditation’—

*omit, insert—*

‘for the term decided by the chief executive’.

(3) Section 19—

*insert—*

‘(2) A person is eligible for appointment as a mediator only if the  
chief executive considers the person has knowledge,  
experience or skills relevant to the exercise of a mediator’s  
functions.

‘(3) In making an appointment of a mediator, the chief executive  
must take into account the desirability of the mediators  
appointed reflecting the social, gender and cultural diversity  
of the general community.

[s 34]

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- ‘(4) The chief executive may impose conditions on the appointment of a person as a mediator.
- ‘(5) A mediator is to be paid the remuneration and allowances decided by the chief executive.
- ‘(6) A mediator is appointed under this Act and not the *Public Services Act 2008*.’

### **34 Replacement of s 20 (Staff)**

Section 20—  
*omit, insert—*

#### **‘20 Staff**

‘The director and staff of a dispute resolution centre (other than a mediator appointed under section 19) are to be employed under the *Public Service Act 2008*.’

### **35 Replacement of s 41 (Regulations)**

Section 41—  
*omit, insert—*

#### **‘41 Regulation-making power**

- ‘(1) The Governor in Council may make regulations under this Act.
- ‘(2) Without limiting subsection (1), a regulation may prescribe the fees payable for commercial services provided by a dispute resolution centre, other than commercial services provided to a member of the public.

### **‘42 Transitional provision for Justice and Other Legislation Amendment Act 2008, pt 9**

- ‘(1) This section applies if, immediately before the commencement, a person was accredited under section 19 as a mediator for a dispute resolution centre.



- 
- ‘(2) The person continues to be a mediator until the end of 12 months after the commencement.
- ‘(3) In this section—  
*commencement* means the commencement of this section.’.

## **Part 10                      Amendment of District Court of Queensland Act 1967**

### **36      Act amended in pt 10 and schedule**

This part and the schedule amend the *District Court of Queensland Act 1967*.

### **37      Amendment of s 12 (Leave of absence)**

Section 12—

*insert—*

- ‘(2) This section does not apply if the *Judges (Pensions and Long Leave) Act 1957* applies to the leave.’.

### **38      Amendment of s 17 (Acting judge)**

- (1) Section 17, ‘appoint (by commission in Her Majesty’s name)’—

*omit, insert—*

‘, by commission, appoint’.

- (2) Section 17—

*insert—*

- ‘(2) The Governor in Council may, by commission, appoint any of the following persons to act as a judge for up to 1 year—

[s 39]

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- (a) a person who is, or has been, a judge of a supreme court, district court or county court of another State;
- (b) a person who is, or has been, a judge of the Federal Court of Australia.’.

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

Section 29(2), ‘and in respect of the notices to witnesses’—  
*omit.*

**40 Amendment of s 36 (Registrar, deputy registrars and other officers)**

- (1) Section 36, heading—  
*omit, insert—*

**‘36 Principal registrar and associates’.**

- (2) Section 36(1)—  
*omit, insert—*

‘(1) The Governor in Council may appoint a principal registrar and the associates the Governor in Council considers appropriate.’.

**41 Insertion of new s 36A**

After section 36—  
*insert—*

**‘36A Other registrars and officers**

‘The chief executive may appoint, for the court, registrars (other than the principal registrar), deputy registrars and other officers the chief executive considers appropriate.’.

**42 Amendment of s 40 (When a clerk of the court is registrar, the clerk’s successor or deputy shall be registrar)**

Section 40(2)—

*omit, insert—*

‘(2) However, subsection (1) does not limit the chief executive’s power under section 36A.’

**43 Amendment of s 41 (Appointment of bailiffs and bailiffs’ assistants)**

Section 41(1)—

*omit, insert—*

‘(1) The chief executive may appoint 1 or more bailiffs for each district.’

**44 Amendment of s 63 (Change of venue)**

Section 63(1), ‘or the notices to witnesses’—

*omit.*

**45 Insertion of new ss 143 and 144**

Part 12—

*insert—*

**‘143 Transitional provision for Justice and Other Legislation Amendment Act 2008, pt 10—notice to witness**

‘(1) This section applies if, before the commencement of this section, a witness is given a notice to witness in relation to a person committed for trial.

‘(2) Sections 29 and 63, as in force immediately before the commencement of this section, continue to have effect in relation to the notice to witness until—

- (a) the proceeding in relation to the accused person is concluded; or
- (b) the court otherwise directs; or

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- (c) 3 years after the commencement of this section;  
whichever happens first.

**‘144 Transitional provision for Justice and Other  
Legislation Amendment Act 2008, pt 10—principal  
registrar**

- ‘(1) This section applies if, immediately before the commencement of this section, a person held appointment as a principal registrar, whether under this Act or under the *Public Service Act 2008* for the purposes of this Act.
- ‘(2) The person continues to hold appointment as a principal registrar under this Act after the commencement in accordance with the person’s instrument of appointment.’.

**Part 11 Amendment of Domestic and  
Family Violence Protection Act  
1989**

**46 Act amended in pt 11**

This part amends the *Domestic and Family Violence Protection Act 1989*.

**47 Amendment of s 22 (Protection order must include  
standard condition to be of good behaviour etc.)**

Section 22(b)—

*omit, insert—*

- ‘(b) if a named person is specified in the order—be of good behaviour towards the named person and not commit an act of associated domestic violence against the person.’.

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## Part 12                      Amendment of Evidence Act 1977

### 48      Act amended in pt 12

This part amends the *Evidence Act 1977*.

### 49      Amendment of s 79 (Convictions as evidence in civil proceedings)

Section 79(1)—

*insert—*

*‘convicted* means a finding of guilt for an offence, on a plea of guilty or otherwise, and whether or not a conviction was recorded.’.

## Part 13                      Amendment of Financial Transaction Reports Act 1992

### 50      Act amended in pt 13

This part amends the *Financial Transaction Reports Act 1992*.

### 51      Amendment of long title

Long title, from ‘giving’, first mention—

*omit, insert—*

**‘giving of further information or documents in relation to matters reported under the *Financial Transaction Reports Act 1988* of the Commonwealth or the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* of the Commonwealth and the giving of information in**

[s 52]

---

**relation to other suspect matters, and for related purposes’.**

## **52 Amendment of s 4 (Interpretation)**

(1) Section 4(1), definition *Commonwealth Act*—  
*omit.*

(2) Section 4(1)—  
*insert—*

*‘AMLCTF Act* means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cwlth).

*commissioner of the police service* means commissioner of the Queensland Police Service.

*designated authority* means—

- (a) the commissioner of the police service; or
- (b) the Crime and Misconduct Commission; or
- (c) an investigating officer.

*FTR Act* means the *Financial Transaction Reports Act 1988* (Cwlth).

*investigating officer*, in relation to information communicated to the AUSTRAC CEO, means—

- (a) a police officer who is carrying out an investigation arising from, or relating to the matters referred to in, the information; or
- (b) a person who is an authorised commission officer under the *Crime and Misconduct Act 2001* carrying out an investigation arising from, or relating to the matters referred to in, the information.

*police officer* means a police officer of the Queensland Police Service.’.

(3) Section 4(2), ‘Commonwealth Act’—

*omit, insert—*

‘FTR Act or AMLCTF Act’.

### **53 Replacement of ss 6 and 7**

Sections 6 and 7—

*omit, insert—*

#### **‘6 Further information about matters reported by dealers under FTR Act**

- ‘(1) This section applies if a cash dealer communicates information to the AUSTRAC CEO under section 16(1) or (1A) of the FTR Act.
- ‘(2) A designated authority may request the cash dealer to give to the designated authority the further information stated in the request.
- ‘(3) The further information must be information that—
  - (a) may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State; or
  - (b) may be of assistance in the enforcement of the *Criminal Proceeds Confiscation Act 2002*.
- ‘(4) The cash dealer must comply with the request to the extent that the cash dealer has the further information.

Maximum penalty for subsection (4)—400 penalty units or imprisonment for 2 years.

#### **‘6A Further information or documents about matters reported by reporting entities under AMLCTF Act**

- ‘(1) This section applies if a reporting entity communicates information to the AUSTRAC CEO under section 41, 43 or 45 of the AMLCTF Act.
- ‘(2) A designated authority may give a written notice to the reporting entity requesting the reporting entity, within the period and in the way stated in the notice, to—

[s 53]

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- (a) give to the designated authority the further information stated in the notice; or
  - (b) produce to the designated authority the documents about the matter to which the communication under section 41, 43 or 45 of the AMLCTF Act relates that are stated in the notice.
- ‘(3) The further information or documents must be information or documents that—
- (a) may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State; or
  - (b) may be of assistance in the enforcement of the *Criminal Proceeds Confiscation Act 2002*.
- ‘(4) The reporting entity must comply with the request to the extent that the reporting entity has the further information or documents.

Maximum penalty for subsection (4)—400 penalty units or imprisonment for 2 years.

**‘7 Reports by cash dealers of suspect transactions not reported under FTR Act or AMLCTF Act**

- ‘(1) This section applies if—
- (a) a cash dealer is a party to a transaction; and
  - (b) the cash dealer has reasonable grounds to suspect that information that the cash dealer has concerning the transaction—
    - (i) may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State; or
    - (ii) may be of assistance in the enforcement of the *Criminal Proceeds Confiscation Act 2002*; and
  - (c) the cash dealer is not required to report the transaction under any of the following provisions, whether or not the cash dealer is required to report the transaction under Division 1 of Part II of the FTR Act—



- 
- (i) Division 2 of Part II of the FTR Act;
  - (ii) if the cash dealer is a reporting entity—Division 2, 3 or 4 of Part 3 of the AMLCTF Act.
- ‘(2) The cash dealer must, as soon as practicable after forming the suspicion mentioned in subsection (1)(b), prepare a report of the transaction and communicate the information contained in it to the AUSTRAC CEO.
- Maximum penalty—400 penalty units or imprisonment for 2 years.
- ‘(3) The report must—
- (a) be in the form approved by the AUSTRAC CEO for the purposes of section 16 of the FTR Act; and
  - (b) contain the reportable details of the transaction; and
  - (c) contain a statement of the grounds on which the cash dealer holds the suspicion mentioned in subsection (1)(b); and
  - (d) be signed by the cash dealer.
- ‘(4) The communication to the AUSTRAC CEO of the information contained in the report must be made—
- (a) by giving the AUSTRAC CEO a copy of the report; or
  - (b) in another way approved by the AUSTRAC CEO.

**‘7A Further information about suspect transactions not reported under FTR Act or AMLCTF Act**

- ‘(1) This section applies if a cash dealer communicates information to the AUSTRAC CEO under section 7(2).
- ‘(2) A designated authority may request the cash dealer to give to the designated authority the further information stated in the request.
- ‘(3) The further information must be information that—
- (a) may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State; or

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---

(b) may be of assistance in the enforcement of the *Criminal Proceeds Confiscation Act 2002*.

‘(4) The cash dealer must comply with the request to the extent that the cash dealer has the further information.

Maximum penalty for subsection (4)—400 penalty units or imprisonment for 2 years.’.

#### **54 Amendment of s 8 (Protection of cash dealers etc.)**

(1) Section 8, heading—

*omit, insert—*

#### **‘8 Protection of cash dealers, reporting entities, etc.’.**

(2) Section 8(1), ‘a cash dealer’—

*omit, insert—*

‘an entity’.

(3) Section 8(1), ‘the cash dealer’—

*omit, insert—*

‘the entity’.

(4) Section 8(2)—

*omit, insert—*

‘(2) If an entity, or a person who is an officer, employee or agent of an entity, communicates or gives information or produces documents under a prescribed provision, the entity or person is taken, for the *Criminal Proceeds Confiscation Act 2002*, sections 250 and 252, not to have been in the possession of the information at any time.

*Editor’s note—*

*Criminal Proceeds Confiscation Act 2002*, section 250 (Money laundering) and 252 (Possession etc. of property suspected of being tainted property)

‘(3) In this section—

***entity*** means a cash dealer or a reporting entity.

*prescribed provision* means—

- (a) section 6, 6A, 7 or 7A; or
- (b) section 16 of the FTR Act; or
- (c) section 41, 43 or 45 of the AMLCTF Act.’.

**55 Insertion of new s 11**

After section 10—

*insert—*

**‘11 Law relating to legal professional privilege not affected**

‘To remove any doubt, it is declared that this Act does not affect the law relating to legal professional privilege.’.

## **Part 14 Amendment of Industrial Relations Act 1999**

**56 Act amended in pt 14**

This part amends the *Industrial Relations Act 1999*.

**57 Amendment of sch 2 (Appointments)**

Schedule 2, section 4(3)—

*omit, insert—*

- ‘(3) In the pensions Act, section 15, a reference to the prescribed authority is taken to be a reference to—
  - (a) the Governor in Council, if—
    - (i) the member is the president, the vice president or a commissioner holding appointment as ombudsman; and

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- (ii) the leave of absence applied for by the member is more than 1 month; or
- (b) the Minister, if—
  - (i) the member is the president, the vice president or a commissioner holding appointment as ombudsman; and
  - (ii) the leave of absence applied for by the member is 1 month or less; or
- (c) the vice president, if the member is a deputy president or a commissioner.’.

## **Part 15                      Amendment of Judges (Pensions and Long Leave) Act 1957**

### **58      Act amended in pt 15**

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

### **59      Amendment of s 15 (Leave of absence of judges)**

- (1) Section 15(8), definition *prescribed authority*, paragraph (a)—  
*omit, insert—*
  - ‘(a) the Governor in Council, if—
    - (i) the judge is the Chief Justice, the Chief Judge or the Chief Magistrate; and
    - (ii) the leave of absence is more than 1 month; or’.
- (2) Section 15(8), definition *prescribed authority—*  
*insert—*

- ‘(d) the Minister, if—
- (i) the judge is the Chief Justice, the Chief Judge or the Chief Magistrate; and
  - (ii) the leave of absence is 1 month or less.’.

## **Part 16**                      **Amendment of Justice and Other Legislation Amendment Act 2007**

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

This part amends the *Justice and Other Legislation Amendment Act 2007*.

### **61**      **Omission of s 21 (Amendment of s 20 (Notation of change of name other than by registration))**

Section 21—

*omit.*

*Editor’s note—*

Legislation ultimately amended—

- *Justice and Other Legislation Amendment Act 2007*
- *Births, Deaths and Marriages Registration Act 2003.*

## **Part 17**                      **Amendment of Justices Act 1886**

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

This part amends the *Justices Act 1886*.

[s 63]

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**63 Amendment of s 78 (Power to issue summons to witness)**

Section 78(1), ‘within the justice’s jurisdiction’—  
*omit.*

**64 Amendment of s 83A (Direction hearing)**

(1) Section 83A(5)(a)(ii), before ‘information’—  
*insert—*  
‘stated’.

(2) Section 83A—  
*insert—*

‘(5A) In a summary proceeding, a magistrate may give a direction under subsection (5)(a) about prosecution disclosure, despite subsection (5)(aa) and section 41.’

**65 Omission of s 123 (Notice to witness)**

Section 123—  
*omit.*

**66 Amendment of s 126 (Transmission of depositions)**

Section 126(1), from ‘statements,’ to ‘witnesses’—  
*omit, insert—*  
‘statements and undertakings as to bail’.

**67 Amendment of s 129 (Recommittal in case of error)**

Section 129(2)—  
*omit.*

- 
- 68 Amendment of s 132 (Examination by justices for an offence committed in another Magistrates Court district)**  
Section 132(a), from ‘and give’ to ‘given’—  
*omit.*
- 69 Amendment of s 133 (Remand to another place)**  
(1) Section 133(1), from ‘the justices—’—  
*omit, insert—*  
‘the justices may adjourn the hearing—  
(a) to the place where the offence is alleged to have been committed; or  
(b) to a place where any of the witnesses to be examined are; or  
(c) to a place convenient to a place mentioned in paragraph (a) or (b).’.
- (2) Section 133(1A)—  
*omit.*
- (3) Section 133(3) and (4), from ‘statement’ to ‘witness’—  
*omit, insert—*  
‘statement and undertaking as to bail taken and’.
- 70 Amendment of s 134 (Effect of depositions, undertakings as to bail and notices to witnesses taken, given or ordered to be given elsewhere than at place of committal)**  
(1) Section 134, heading—  
*omit, insert—*
- ‘134 Effect of depositions and undertakings as to bail taken or given elsewhere than at place of committal’.**  
(2) Section 134(1), from ‘deposition’ to ‘witness’—

[s 71]

---

*omit, insert—*

‘deposition and undertaking as to bail’.

- (3) Section 134(1), ‘, given or ordered to have been given’—

*omit, insert—*

‘or given’.

- (4) Section 134(1), from ‘depositions’ to ‘be given’—

*omit, insert—*

‘depositions and undertakings as to bail as are taken or given’.

- (5) Section 134(2), ‘and notice to witness so taken or’—

*omit, insert—*

‘so’.

**71 Amendment of s 142 (Proceedings in absence of defendant)**

Section 142(6), ‘28 days’—

*omit, insert—*

‘2 months’.

**72 Amendment of s 142A (Permissible procedure in absence of defendant in certain cases)**

Section 142A(11) and (12), ‘28 days’—

*omit, insert—*

‘2 months’.

**73 Amendment of s 150 (Minute of decision to be made and advice sent by post)**

Section 150(5), ‘28 days’—

*omit, insert—*

‘2 months’.



---

**74 Amendment of s 154 (Copies of record)**

- (1) Section 154(1), from ‘When’ to ‘upon—’—

*omit, insert—*

‘This section applies if, in any proceeding before justices, the justices—

- (a) make an order; or
- (b) commit the defendant to be tried; or
- (c) commit the defendant for sentence; or
- (d) discharge the defendant.

‘(1A) The clerk of the court must on—’.

- (2) Section 154(1A)(a), as renumbered, from ‘who’ to ‘for’—

*omit.*

- (3) Section 154(1A), as renumbered, ‘the depositions taken therein,’—

*omit.*

- (4) Section 154—

*insert—*

‘(1B) A person may ask the State Reporting Bureau for a copy of the depositions taken in a proceeding.

‘(1C) The request must be written and accompanied by the fee prescribed under a regulation made under the *Recording of Evidence Act 1962*.

‘(1D) Subject to this section, the State Reporting Bureau must, on receiving the request and fee, give a copy of the deposition to the person.’.

- (5) Section 154(2)—

*insert—*

‘(c) any part of the record of a proceeding that has been made while the court is closed under a provision of an Act, or an order made under a provision of an Act, requiring the court to be closed; or

[s 75]

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- ‘(d) any part of the record of a proceeding if—
- (i) a court makes an order prohibiting access to, or the disclosure or publication of, the record, or a document or information that is part of the record; or
  - (ii) in relation to a part of the record that is an exhibit—
    - (A) the clerk of the court considers giving the record, or a part of the record, may risk a person’s safety; or
    - (B) the record contains confidential or sensitive information; or
- Examples of confidential or sensitive information—*
- a person’s date of birth, financial account number, social security or tax file number
  - a person’s criminal history
  - medical records, including information about a person’s health or drug use
  - commercially confidential information
  - a victim impact statement
- (iii) a provision of an Act, other than a provision mentioned in subsection (3), prohibits the disclosure of the record, or a document or information that is part of the record.’.

## 75 Insertion of new pt 11 div 4

After section 274—

*insert—*

### ‘Division 4                      Justice and Other Legislation Amendment Act 2008, part 17

---

**‘275 Notices to witness**

- ‘(1) This section applies if, before the commencement of this section, a witness is given a notice in the prescribed form mentioned in section 123(1) in relation to the committal of a defendant.
- ‘(2) The notice continues to have effect as if it were a summons to the witness issued out of the court that the witness was by the notice required to attend until—
- (a) the proceeding in relation to the defendant is concluded;  
or
  - (b) the court otherwise directs; or
  - (c) 3 years after the commencement of this section;
- whichever happens first.’.

**Part 18 Amendment of Justices of the Peace and Commissioners for Declarations Act 1991**

**76 Act amended in pt 18**

This part amends the *Justices of the Peace and Commissioners for Declarations Act 1991*.

**77 Amendment of s 16 (Qualifications of office)**

- (1) Section 16(1)—  
*insert—*  
‘(d) the person is an Australian citizen.’.
- (2) Section 16—  
*insert—*

[s 78]

---

- ‘(3) Subsection (1)(d) does not apply to a person who has continued to hold office as a justice of the peace because of section 41(a).’

## **78 Replacement of s 17 (Disqualification from office)**

Section 17—

*omit, insert—*

### **‘17 Disqualification from office**

- ‘(1) A person is not qualified to be appointed to, or to continue in, office under this Act as an appointed justice of the peace or as an appointed commissioner for declarations if the person—
- (a) is an insolvent under administration within the meaning of the Corporations Act, section 9; or
  - (b) is or has been convicted of an indictable offence, whether dealt with on indictment or summarily; or
  - (c) is or has been convicted of an offence against this Act; or
  - (d) is or has been convicted of more than 2 relevant offences; or
  - (e) within the last 5 years—
    - (i) has been convicted of a relevant offence; or
    - (ii) has been convicted of an offence under the Road Use Act, section 79 or 80; or
  - (f) within the last 4 years, has been convicted of more than 2 offences under the Road Use Act.
- ‘(2) Also, if a person has been convicted of more than 6 offences under the Road Use Act in a 4 year period, the person is not qualified to be appointed to, or to continue in, office under this Act as an appointed justice of the peace or as an appointed commissioner for declarations for 5 years after the date of the last conviction.

- 
- ‘(3) Subsections (1)(f) and (2) do not apply to an offence in relation to regulated parking under the Road Use Act, chapter 5, part 6.
- ‘(4) For subsections (1)(f) and (2), a person who pays an amount by way of penalty for an offence, without court proceedings being involved, in compliance with a notice fixed to a vehicle or given to the person under the Road Use Act is taken to have been convicted under that Act of the offence on the day the amount is paid.
- ‘(5) The Minister may exempt an applicant for appointment as a commissioner for declarations from a disqualification mentioned in subsection (1)(f) or subsection (2) if the Minister considers special circumstances exist.
- ‘(7) In this section—
- relevant offence*** means an offence other than—
- (a) an offence under the Road Use Act; or
  - (b) an offence mentioned in subsection (1)(b) or (c).
- Road Use Act*** means the *Transport Operations (Road Use Management) Act 1995*.’.

## 79 Amendment of s 40 (Regulations)

- (1) Section 40(2)(c)—  
*omit*.
- (2) Section 40(2)(d)—  
*renumber* as section 40(2)(c).

[s 80]

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## **Part 19**                      **Amendment of Land Court Act 2000**

### **80**      **Act amended in pt 19**

This part amends the *Land Court Act 2000*.

### **81**      **Amendment of s 39 (Leave of absence)**

Section 39(2), ‘the Governor in Council’—  
*omit, insert—*

‘—

- (a) the Governor in Council, if the leave of absence is more than 1 month; or
- (b) the Minister, if the leave of absence is 1 month or less.’.

## **Part 20**                      **Amendment of Magistrates Act 1991**

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

This part amends the *Magistrates Act 1991*.

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

Section 3—

*insert—*

‘*acting magistrate* means a person appointed to act as a magistrate under section 6(1).

*acting period*, in relation to an acting magistrate, means each part of the period of the person’s appointment as an acting

magistrate when the person acts as a magistrate as provided under section 6(2A).

*carry out*, in relation to the duties of office of a magistrate, includes being present in court or chambers for the purposes of carrying out the duties of office of a magistrate.’.

#### **84 Amendment of s 6 (Appointment of acting magistrates)**

(1) Section 6—

*insert—*

‘(1B) Unless the Minister is satisfied there are exceptional circumstances, the Minister may recommend that a clerk of the court be appointed to act as a magistrate only if the person is qualified to be appointed as a magistrate under section 4.

‘(2A) A person who is appointed to act as a magistrate for a specified period, or a person to whom section 58 applies, acts as a magistrate only when directed by the Chief Magistrate to carry out the duties of office of a magistrate during the person’s period of appointment.

‘(2B) The Chief Magistrate may direct the person to carry out the duties of office of a magistrate on a full-time basis, part-time basis or from time to time as directed by the Chief Magistrate.

‘(3A) For the *Judicial Remuneration Act 2007*, section 28, the person holds judicial office only during the acting period.’.

(2) Section 6(3)(c)—

*omit.*

#### **85 Amendment of s 7 (Acting magistrates who are clerks of the court)**

Section 7(4)—

*omit.*

[s 86]

---

**86 Amendment of s 12 (Functions of Chief Magistrate)**

(1) Section 12(2)—

*insert—*

‘(e) issuing directions to an acting magistrate about when the person is to carry out the duties of office of a magistrate during the person’s period of appointment.’.

(2) Section 12—

*insert—*

‘(3A) The Chief Magistrate may delegate the Chief Magistrate’s powers under subsection (2)(e) to issue directions to an acting magistrate to the following—

(a) the Deputy Chief Magistrate;

(b) another magistrate appointed on a full-time basis.’.

**87 Amendment of s 47 (Terms and conditions of employment)**

Section 47, heading—

*omit, insert—*

**‘47 Terms and conditions of employment—full-time and part-time magistrates’.**

**88 Insertion of new s 47A**

After section 47—

*insert—*

**‘47A Terms and conditions of employment—acting magistrates**

‘(1) An acting magistrate, including an acting magistrate who is a clerk of court, is to be paid—

(a) for the acting period, the appropriate proportion of the salary of a magistrate provided for under the *Judicial Remuneration Act 2007*; and



- 
- (b) the allowances decided by the Governor in Council.
- ‘(2) The entitlement to leave of an acting magistrate for the acting period, including an acting magistrate who is a clerk of court, is the appropriate proportion of the leave to which a magistrate appointed on a full-time basis is entitled.
- ‘(3) If an acting magistrate, other than an acting magistrate who is a clerk of court, has a leave entitlement at the end of an acting period, the acting magistrate is to be paid an amount for the entitlement at the end of the acting period.
- ‘(4) An acting magistrate holds office on the terms and conditions not provided for by this Act that are decided by the Governor in Council.
- ‘(5) Employment as an acting magistrate is not subject to any industrial award or industrial agreement or any decision or rule of an industrial tribunal.’

**89 Insertion of new pt 10 div 5**

After section 61—

*insert—*

**‘Division 5 Transitional provisions for Justice and Other Legislation Amendment Act 2008, part 20**

**‘62 Directions to acting magistrates**

- ‘(1) This section applies if—
- (a) a person held an appointment to act as a magistrate at any time before the commencement of this section; and
- (b) during the appointment, the Chief Magistrate, or another magistrate acting with the Chief Magistrate’s authority, issued directions to the person about when the person was to carry out the duties of office of a magistrate during the person’s period of appointment.
- ‘(2) It is declared that—

[s 90]

---

- (a) the directions of the Chief Magistrate are, and are taken to have always been, as validly issued as they would be if the amendments made by the *Justice and Other Legislation Amendment Act 2008*, part 20 had been in force when the directions were issued; and
- (b) the directions of the other magistrate acting with the Chief Magistrate's authority are, and are taken to have always been, as validly issued as if they had been issued by the Chief Magistrate.

### **'63 Remuneration of acting magistrates**

- '(1) This section applies if a person held an appointment to act as a magistrate at any time before the commencement of this section.
- '(2) It is declared that—
  - (a) the person's entitlement to remuneration and allowances is, and always has been, limited to an entitlement to remuneration and allowances for the acting period; and
  - (b) the person's entitlement to remuneration and allowances for the acting period is the appropriate proportion of the remuneration and the allowances that were payable, at the time the person held the appointment, to a magistrate appointed on a full-time basis.
- '(3) In this section—  
*entitlement to remuneration and allowances*, of a person, includes the person's entitlement to leave.'

## **Part 21 Amendment of Oaths Act 1867**

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

This part amends the *Oaths Act 1867*.

---

**91 Amendment of s 41 (Who may take affidavits)**

Section 41(1)—

*insert—*

‘(d) if the affidavit is taken outside Australia—a person authorised to administer an oath under the law of the place in which the affidavit is taken.’.

**Part 22 Amendment of Ombudsman Act 2001**

**92 Act amended in pt 22**

This part amends the *Ombudsman Act 2001*.

**93 Amendment of s 92 (Secrecy)**

(1) Section 92(1)(a)—

*insert—*

‘(v) if the information does not disclose the identity of a person, or information from which a person’s identity could be deduced—

(A) providing information or other help to an agency for the improvement of its administrative practices and procedures; or

(B) undertaking research relevant to a function of the ombudsman under this Act; or’.

(2) Section 92(2)—

*renumber* as section 92(3).

(3) Section 92—

*insert—*

[s 94]

---

- ‘(2) However, an officer of the ombudsman may disclose information obtained in the performance of a function of the ombudsman, including information obtained by way of a complaint, to an agency if—
- (a) the ombudsman considers the agency has a proper interest in the information for the performance of the agency’s functions; and
  - (b) the disclosure is for the purpose of protecting the health, safety or security of a person or property.’.

## **Part 23    Amendment of Penalties and Sentences Act 1992**

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

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

### **95            Amendment of s 12 (Court to consider whether or not to record conviction)**

Section 12—

*insert—*

- ‘(3A) Despite subsection (3)(b), the conviction may be entered in a record kept by a department, a prosecuting authority or the offender’s legal representative if it is necessary for the legitimate performance of the functions of the department, prosecuting authority or legal representative.’.

### **96            Amendment of s 34 (Court may act under this division whether or not it records conviction)**

Section 34, ‘Subject to section 36(3), a’—

---

*omit, insert—*

‘A’.

**97 Amendment of s 36 (What order must state)**

Section 36(3)—

*omit.*

## **Part 24 Amendment of Professional Standards Act 2004**

**98 Act amended in pt 24**

This part amends the *Professional Standards Act 2004*.

**99 Amendment of s 8 (Preparation and approval of schemes)**

Section 8—

*insert—*

- ‘(4) A scheme prepared under this section may indicate an intention to operate as a scheme of this jurisdiction only, or of this jurisdiction and another jurisdiction.’.

**100 Amendment of s 9 (Public notice of schemes)**

Section 9—

*insert—*

- ‘(3) If the scheme indicates an intention to operate as a scheme of both this jurisdiction and another jurisdiction, the council must also publish a similar notice in the other jurisdiction under the requirements of the corresponding law of that jurisdiction that relate to the approval of a scheme prepared in that jurisdiction.’.

[s 101]

---

**101 Amendment of s 12 (Consideration of comments and other matters)**

Section 12—

*insert—*

- ‘(1A) If the scheme indicates an intention to operate as a scheme of both this jurisdiction and another jurisdiction—
- (a) the council must also consider any matter that the appropriate council for the other jurisdiction would have to consider under the provisions of the corresponding law of that jurisdiction that relate to the approval of a scheme prepared in that jurisdiction; and
  - (b) the matters to be considered by the council, whether under subsection (1) or paragraph (a), are to be considered in the context of each of the jurisdictions concerned.’.

**102 Amendment of s 13 (Submission of schemes to Minister)**

Section 13—

*insert—*

- ‘(2) If the scheme indicates an intention to operate as a scheme of both this jurisdiction and another jurisdiction, the council must also—
- (a) advise the Minister administering the corresponding law of the other jurisdiction; and
  - (b) give a copy of the scheme, as approved, to that Minister.’.

**103 Amendment of s 14 (Schemes are subject to disallowance)**

- (1) Section 14(1)—

*omit, insert—*

- ‘(1) The Minister must give notice of the council’s approval of the scheme or, in the case of an interstate scheme, of the approval

of the scheme by the appropriate council for the jurisdiction in which the scheme was prepared.’.

- (2) Section 14(2), (3) and (4), ‘gazette’—

*omit.*

- (3) Section 14—

*insert—*

- ‘(5) A reference in this section to an interstate scheme includes a reference to an instrument amending an interstate scheme.

*Note—*

Subsection (5) applies subsections (1) to (4) to instruments that amend an interstate scheme. Those subsections already apply, because of section 18(4), to instruments that amend a scheme that is not an interstate scheme.’.

#### **104 Amendment of s 15 (Commencement of schemes)**

- (1) Section 15(1) and (2), ‘gazette notice’—

*omit, insert—*

‘notice’.

- (2) Section 15(1) and (2), ‘notified in the gazette’—

*omit, insert—*

‘gazetted’.

- (3) Section 15(3)—

*omit, insert—*

- ‘(3) This section is subject to—

- (a) an order of the Supreme Court under section 16(2); and  
(b) an order of the Supreme Court of another jurisdiction under the corresponding law of that jurisdiction.

- ‘(4) A reference in this section to a scheme includes, for an interstate scheme, a reference to an instrument amending that scheme.’.

[s 105]

---

## **105 Amendment of s 16 (Challenges to schemes)**

(1) Section 16(1)—

*omit, insert—*

‘(1) This section applies to a person who is, or is reasonably likely to be, affected by a scheme, the approval of which has been gazetted under section 14, including a person who is or is reasonably likely to be affected by a scheme that operates as a scheme of another jurisdiction.

‘(1A) The person may apply to the Supreme Court for an order that the scheme is void because it contravenes this Act.’.

(2) Section 16—

*insert—*

‘(4) The court may not make an order that an interstate scheme is void because it contravenes this Act on the ground that the scheme fails to comply with division 2, but may do so on the ground that the scheme fails to comply with the provisions of the corresponding law of the jurisdiction in which it was prepared that relate to the contents of schemes prepared in that jurisdiction.

‘(5) This section does not prevent a scheme from being challenged or called into question otherwise than under this section.

‘(6) A reference in this section to a scheme includes, for an interstate scheme, a reference to an instrument amending that scheme.’.

## **106 Amendment of s 17 (Review of schemes)**

Section 17(4)—

*omit, insert—*

‘(4) A review of a scheme may, but need not, be conducted to decide—

(a) for a scheme prepared under this Act—

(i) if the scheme should be amended or revoked; or



- (ii) if a new scheme should be made; or
- (b) for an interstate scheme—if the operation of the scheme should be terminated in relation to this jurisdiction.’.

## **107 Amendment of s 18 (Amendment and revocation of schemes)**

- (1) Section 18(1), (2) and (3), ‘amendment to, or a revocation of,’—

*omit, insert—*

‘instrument amending or revoking’.

- (2) Section 18(4)—

*omit, insert—*

- ‘(4) Sections 8 to 16 apply, with necessary changes, to the amendment of a scheme by an instrument under this section.

- ‘(5) Sections 8 to 15 (other than section 13(2)) apply, with necessary changes, to the revocation of a scheme by an instrument under this section.

- ‘(6) This section does not apply to an interstate scheme.

*Note—*

An instrument that amends a scheme operating in another jurisdiction may be submitted to the Minister administering the corresponding law of that jurisdiction under section 13 with a view to being gazetted under that law. Notice of an instrument made under the corresponding law of another jurisdiction that amends an interstate scheme may be gazetted under section 14.

## **108 Insertion of new ss 18A and 18B**

Part 2, division 1, after section 18—

*insert—*

### **‘18A Notice of revocation of scheme**

- ‘(1) On gazettal of an instrument revoking a scheme (other than an interstate scheme) that operates as a scheme of another jurisdiction, the Minister must cause notice of that fact to be

[s 108]

---

given to the Minister administering the corresponding law of that jurisdiction.

- ‘(2) On receipt of notice that an interstate scheme has been revoked under the corresponding law of the jurisdiction in which it was prepared, the Minister must cause a notice to that effect to be gazetted.

*Note—*

Under section 33(1B), an interstate scheme will cease to have effect in this jurisdiction when it ceases to have effect in the other jurisdiction.’

### **‘18B Termination of operation of interstate schemes in this jurisdiction**

- ‘(1) The council may, on the application of an occupational association, prepare an instrument terminating, in relation to this jurisdiction, the operation of an interstate scheme that relates to the members of the association.
- ‘(2) The Minister may, by signed notice to the council, direct the council to prepare an instrument terminating the operation of an interstate scheme in relation to the jurisdiction.
- ‘(3) The council must comply with the direction but may, on its own initiative, at any time while an interstate scheme remains in force, prepare an instrument terminating the operation of the scheme in relation to this jurisdiction.
- ‘(4) Sections 9 to 14 (other than section 13(2)) apply, with necessary changes, to the termination of the operation of an interstate scheme under an instrument under this section.
- ‘(5) The operation of an interstate scheme in relation to which an instrument under this section is gazetted under section 14 (as applied by subsection (4)) is terminated, in relation to this jurisdiction, as from—
- (a) if the instrument states a day for the termination happening after the notice mentioned in section 14 is gazetted—that day; or
  - (b) if no day is stated—2 months after the day the notice is gazetted.

- ‘(6) An interstate scheme can not be terminated before the notice is gazetted.’.

## **109 Amendment of s 33 (Duration of scheme)**

Section 33(1)—

*omit, insert—*

- ‘(1) A scheme must state the period, not longer than 5 years, for which it is to remain in force after its commencement.
- ‘(1A) Subject to subsection (2), a scheme, other than an interstate scheme, remains in force until—
- (a) the period stated under subsection (1) ends; or
  - (b) the scheme is revoked; or
  - (c) the scheme’s operation ceases because of the operation of another Act; or
  - (d) the scheme is declared void, either by—
    - (i) an order of the Supreme Court under section 16; or
    - (ii) an order of the Supreme Court of another jurisdiction under the corresponding law of that jurisdiction;
- whichever happens first.
- ‘(1B) Subject to subsection (2), an interstate scheme remains in force until—
- (a) the period stated under subsection (1) ends; or
  - (b) the scheme’s operation in relation to this jurisdiction is terminated under section 18B; or
  - (c) the scheme ceases to have effect in the jurisdiction in which it was prepared;
- whichever happens first.

## **110 Amendment of s 43 (Functions of council)**

Section 43(1)(a)(i)(A), after ‘notice of’—

[s 111]

---

*insert—*

‘the approval of’.

### **111 Amendment of s 44 (Council’s powers)**

Section 44(2), after ‘Act’—

*insert—*

‘or law’.

### **112 Insertion of new s 44A**

Part 6, division 1, after section 44—

*insert—*

#### **‘44A Cooperation with authorities in other jurisdictions**

‘In dealing with a scheme that operates, or indicates an intention to operate, as a scheme of both this jurisdiction and another jurisdiction, the council may—

- (a) in the performance of its functions under this Act, act in conjunction with the appropriate council for the other jurisdiction; and
- (b) act in conjunction with the appropriate council for the other jurisdiction in the performance of that council’s functions under the corresponding law of that jurisdiction.’.

### **113 Amendment of s 60 (Requirement to provide information)**

Section 60(2), ‘exercise’—

*omit, insert—*

‘perform’.

### **114 Amendment of s 72 (Review of Act)**

Section 72(2), ‘2 years’—

*omit, insert—*

‘5 years’.

## 115 Insertion of new pt 8

After section 72—

*insert—*

## ‘Part 8 Transitional provisions

### ‘73 Transitional provision for Justice and Other Legislation Amendment Act 2008, pt 24

‘(1) The period for which the council has, before the commencement, decided that a scheme is to remain in force for section 33(1), as in force immediately before the commencement, is taken to be stated in the scheme.

‘(2) In this section—

*commencement* means the commencement of this section.’.

### 116 Amendment of sch 2 (Dictionary)

(1) Schedule 2—

*insert—*

‘*another jurisdiction* means any State or Territory, other than this jurisdiction.

*appropriate council*, in relation to another jurisdiction, means the authority that, under the corresponding law of that jurisdiction, has functions that are substantially the same as the council’s functions under this Act.

*corresponding law* means a law of another jurisdiction that corresponds to this Act, and includes a law of another jurisdiction that is declared under a regulation to be a corresponding law of that jurisdiction for this Act.

*interstate scheme* means a scheme—

[s 117]

---

- (a) that has been prepared under the corresponding law of another jurisdiction; and
- (b) that operates, or indicates an intention to operate, as a scheme of this jurisdiction.

*this jurisdiction* means Queensland.’.

- (2) Schedule 2, definition *damages*, paragraph (a), second mention—

*renumber* as paragraph (c).

- (3) Schedule 2, definition, *scheme*, after ‘association’—

*insert*—

‘and includes an interstate scheme’.

## **Part 25                      Amendment of Public Trustee Act 1978**

### **117    Act amended in pt 25**

This part amends the *Public Trustee Act 1978*.

### **118    Amendment of s 59 (Compromise of actions by or on behalf of persons under a legal disability claiming moneys or damages valid only with sanction of court or public trustee)**

Section 59(2), after ‘sanction of’—

*insert*—

‘a court or’.

---

## Part 26                      Amendment of Recording of Evidence Act 1962

### 119    Act amended in pt 26 and schedule

This part and the schedule amend the *Recording of Evidence Act 1962*.

### 120    Amendment of s 4 (Meaning of terms)

- (1) Section 4, heading—

*omit, insert—*

#### ‘4    Definitions’.

- (2) Section 4—

*insert—*

‘***courtroom*** means any room in which a judicial person sits or is likely to sit for the purposes of a legal proceeding.

***out-of-session recording*** means a recording of matter that—

- (a) takes place in a courtroom that is equipped with recording equipment to be used for the purposes of this Act; and
- (b) is made by that recording equipment; and
- (c) is made when no legal proceeding is taking place in the courtroom.

***recording equipment*** means a tape recording machine or any mechanical, electronic or other device for recording matter.’.

- (3) Section 4, definition *mechanical means*, from ‘a tape’ to ‘***device***’—

*omit, insert—*

‘recording equipment’.

- (4) Section 4, definition *record under this Act*, from ‘, in relation’ to ‘proceeding,’—

[s 121]

---

*omit, insert—*

‘—

(a) in relation to a legal proceeding taking place in a courtroom—’.

(5) Section 4, definition *record under this Act*, after ‘medium’—  
*insert—*

‘; or

(b) if no legal proceeding is taking place in a courtroom—means matter recorded in an out-of-session recording’.

## **121 Insertion of new ss 4A and 4B**

After section 4—

*insert—*

### **‘4A When does a legal proceeding take place in a courtroom**

‘A legal proceeding takes place in a courtroom when a judicial person sits for the purposes of a legal proceeding.

### **‘4B Recording may be continuous**

- ‘(1) This section applies if a courtroom is equipped with recording equipment to be used for the purposes of this Act.
- ‘(2) Matter in the courtroom may be recorded by that recording equipment whether or not a legal proceeding is taking place in the courtroom.’.

## **122 Amendment of s 11 (Person giving evidence need not sign deposition etc.)**

(1) Section 11, heading—

*omit, insert—*



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**‘11 Depositions of witnesses’.**

- (2) Section 11(5) and (8), ‘subsection (4)’—  
*omit, insert—*  
‘subsection (2)’.
- (3) Section 11(6), ‘a mechanical device’—  
*omit, insert—*  
‘recording equipment’.
- (4) Section 11(7), ‘subsection (6)(a)’—  
*omit, insert—*  
‘subsection (4)(a)’.
- (5) Section 11(8), ‘subsection (6)’—  
*omit, insert—*  
‘subsection (4)’.
- (6) Section 11(8), ‘subsection (5)’—  
*omit, insert—*  
‘subsection (3)’.
- (7) Section 11(4) to (9), as amended—  
*relocate and renumber* as section 11A(2) to (7).

**123 Insertion of new s 11A and 11B**

After section 11, as amended—  
*insert—*

**‘11A Retention and destruction of records**

- ‘(1) This section does not apply to a record under this Act that is an out-of-session recording.

[s 124]

---

**‘11B Access to out-of-session recording prohibited**

- ‘(1) A person can not have access to a record under this Act or a transcription of the record if the record is an out-of-session recording.
- ‘(2) However, a recorder may access all recordings under this Act, including out-of-session recordings, for the purpose of carrying out the person’s functions under this Act.
- ‘(3) This section applies despite anything to the contrary in another Act.’.

**124 Amendment of s 13 (Regulations)**

- (1) Section 13(2)(c), after ‘Act’—  
*insert—*  
‘(other than records that are out-of-session recordings)’.
- (2) Section 13(2)(e), after ‘Act’—  
*insert—*  
‘(other than a record that is an out-of-session recording)’.

**125 Insertion of new s 16**

After section 15—

*insert—*

**‘16 Transitional provision for Justice and Other Legislation Amendment Act 2008, pt 26**

- ‘(1) This section applies if, before the commencement of this section—
  - (a) a person has applied for a copy of a record under this Act or a transcription of the record; and
  - (b) the person has not been issued with the copy or transcription.
- ‘(2) It is declared that section 11B applies, and is taken to have always applied, in relation to the record or transcription.’.

---

## **Part 27**                      **Amendment of Small Claims Tribunals Act 1973**

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

This part amends the *Small Claims Tribunals Act 1973*.

### **127**    **Amendment of s 23A (Examination of person required by order to pay money)**

(1) Section 23A(3A)(a), ‘other than subsection (2)(a),’—

*omit.*

(2) Section 23A(3B)(a), ‘, other than subsection (2)(a),’—

*omit.*

## **Part 28**                      **Amendment of Solicitor-General Act 1985**

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

This part amends the *Solicitor-General Act 1985*.

### **129**    **Amendment of s 12 (Leave entitlements)**

Section 12(2)—

*omit, insert—*

‘(2) The *Judges (Pensions and Long Leave) Act 1957*, section 15, applies to the Solicitor-General as if a reference to a judge included a reference to the Solicitor-General.

‘(3) However, for the purpose of applying section 15 of that Act for leave of absence of the Solicitor-General, the prescribed authority is—

[s 130]

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- (a) the Governor in Council, if the leave of absence is more than 1 month; or
- (b) the Minister, if the leave of absence is 1 month or less.’.

## **Part 29                      Amendment of Supreme Court Act 1995**

### **130    Act amended in pt 29 and schedule**

This part and the schedule amend the *Supreme Court Act 1995*.

### **131    Amendment of s 210 (Officer of the Court)**

- (1) Section 210, heading—

*omit, insert—*

#### **‘210    Principal registrar and associates’.**

- (2) Section 210(1)—

*omit, insert—*

- ‘(1) The Governor in Council may appoint a principal registrar and the associates the Governor in Council considers appropriate.’.

### **132    Insertion of new s 210A**

After section 210—

*insert—*

#### **‘210A   Other registrars and officers**

‘The chief executive may appoint registrars (other than the principal registrar), deputy registrars and other officers the chief executive considers appropriate.’.

**133 Amendment of s 212 (Sheriff)**

Section 212, ‘Governor in Council’—

*omit, insert—*

‘chief executive’.

**134 Amendment of s 213 (Deputy sheriffs)**

Section 213, ‘Governor in Council’—

*omit, insert—*

‘chief executive’.

**135 Omission of s 214 (District sheriffs)**

Section 214—

*omit.*

**136 Replacement of s 232 (Governor may appoint high bailiffs or bailiffs when necessary)**

Section 232—

*omit, insert—*

**‘232 Appointment of bailiffs**

‘The chief executive may appoint a fit and proper person to be a high bailiff or bailiff at a town or place as is necessary or expedient.’.

**137 Amendment of s 273 (Officers may be appointed)**

Section 273(1), from ‘Governor’ to ‘appoint’—

*omit, insert—*

‘chief executive may appoint’.

[s 138]

---

**138 Insertion of new s 305**

After section 304—

*insert—*

**‘305 Transitional provision for Justice and Other  
Legislation Amendment Act 2008, pt 29**

- ‘(1) This section applies if, immediately before the commencement of this section, a person held appointment as a principal registrar, whether under this Act or under the *Public Service Act 2008* for the purposes of this Act.
- ‘(2) The person continues to hold appointment as a principal registrar under this Act after the commencement in accordance with the person’s instrument of appointment.’.

## **Part 30 Other minor amendments**

**139 Acts amended in schedule**

- (1) The schedule amends the Acts it mentions.
- (2) However, subsection (1) does not apply in relation to a particular Act if another provision of this Act states that the schedule amends the particular Act.

---

## **Schedule                    Minor amendments**

sections 3, 5, 12, 36, 119, 130 and 139

### **Anti-Discrimination Act 1991**

**1            Section 265—**

*insert—*

- ‘(3) This section is subject to section 266A to the extent it relates to the civil liability of a member of the tribunal or the registrar.’.

### **Associations Incorporation Act 1981**

**1            Section 91(3)(b), ‘unincorporated’—**

*omit, insert—*

‘incorporated’.

### **Bail Act 1980**

**1            Section 6, definition *proper officer*, paragraph (a), from ‘any sheriff’—**

*omit, insert—*

‘any sheriff or deputy sheriff; or’.

## Childrens Court Act 1992

- 1 **Sections 5(3)(b) and (c), 14, 15, 16 and 26(3), second mention, 'stipendiary'—**  
*omit.*
- 2 **Sections 8(4), first mention, 18(1)(b), 25(1)(b) and 26(3), first mention, (4) and 27(1), 'stipendiary'—**  
*omit, insert—*  
'a'.
- 3 **Section 8(4), 'stipendiary', second mention—**  
*omit, insert—*  
'the'.

## Civil Liability Act 2003

- 1 **Sections 40, 41, 42, 43 and 44, 'division'—**  
*omit, insert—*  
'subdivision'.
- 2 **Schedule 2—**  
*insert—*  
*'food donor*, for chapter 2, part 3, division 2, see section 38A(1).  
*possession*, for chapter 2, part 3, division 2, see section 38(1).'



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## District Court of Queensland Act 1967

- 1 **Section 3, definition *registrar*, after ‘includes’—**  
*insert—*  
‘the principal registrar and’.
- 2 **Sections 35D(1) and 36(2) and (3), ‘*Public Service Act 1996*’—**  
*omit, insert—*  
‘*Public Service Act 2008*’.

## Juvenile Justice Act 1992

- 1 **Section 313(2)(a), ‘, deputy sheriff or under sheriff’—**  
*omit, insert—*  
‘or deputy sheriff’.
- 2 **Schedule 4, definition *proper officer*, paragraph (a), ‘, deputy sheriff or under sheriff’—**  
*omit, insert—*  
‘or deputy sheriff’.

## Recording of Evidence Act 1962

- 1 **Section 5(1)(b), ‘a mechanical device’—**  
*omit, insert—*  
‘recording equipment’.

- 2 Section 5(1)(b) and (c), ‘the mechanical device’—**  
*omit, insert—*  
‘the recording equipment’.
- 3 Section 5(1)(c), ‘mechanical device,’—**  
*omit, insert—*  
‘recording equipment.’
- 4 Section 6(3), ‘Public Service Act 1996’—**  
*omit, insert—*  
‘Public Service Act 2008’.

## **Supreme Court Act 1995**

- 1 Sections 210(2) and (3), *Public Service Act 1996*—**  
*omit, insert—*  
‘*Public Service Act 2008*’.