



Queensland

# **State Penalties Enforcement and Other Legislation Amendment Act 2009**

**Act No. 48 of 2009**





Queensland

# State Penalties Enforcement and Other Legislation Amendment Act 2009

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## Queensland

### **State Penalties Enforcement and Other Legislation Amendment Act 2009**

#### **Act No. 48 of 2009**

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**An Act to amend the State Penalties Enforcement Act 1999 to provide for vehicle immobilisation as an enforcement measure and for other particular purposes, to amend legislation mentioned in chapter 3 to facilitate the national exchange of criminal history information in particular circumstances and for other particular purposes, to amend the Queensland Civil and Administrative Tribunal Act 2009 for particular purposes, to amend other Acts mentioned in chapter 4 to make amendments for particular purposes relating to the Queensland Civil and Administrative Tribunal, and to amend the Classification of Computer Games and Images Act 1995, the Classification of Films Act 1991, the Classification of Publications Act 1991, the Disability Services Act 2006, the Guardianship and Administration Act 2000, the Industrial Relations Act 1999, the Information Privacy Act 2009, the Right to Information Act 2009, the Superannuation (State Public Sector) Act 1990 and the Transport Operations (Road Use Management) Act 1995 for particular purposes**

**[Assented to 19 November 2009]**

## The Parliament of Queensland enacts—

# Chapter 1 Preliminary

## 1 Short title

This Act may be cited as the *State Penalties Enforcement and Other Legislation Amendment Act 2009*.

## 2 Commencement

- (1) Chapter 2, part 1 (other than sections 4, 12, 35 and 38) and part 3 commence on 1 January 2010.
- (2) Chapter 3 (other than as provided under subsection (3) and (4)) and chapter 4, part 3 commence on a day to be fixed by proclamation.
- (3) Section 54 commences immediately after the commencement of the *Queensland Civil and Administrative Tribunal Act 2009*, chapter 7.
- (4) Section 66, to the extent it inserts the *Police Service Administration Act 1990*, section 10.2S, definition *interstate screening unit*, paragraph (b) commences immediately after the commencement of the *Crimes Act 1914* (Cwlth), section 85ZZGA.
- (5) Chapter 4, parts 4 to 8, 11 to 21 and 24 commence immediately after the commencement of the *Queensland Civil and Administrative Tribunal Act 2009*, chapter 7.
- (6) Chapter 4, parts 10, 10A, 22 and 23 commence when the *Queensland Civil and Administrative Tribunal Act 2009*, chapter 7 commences.

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## **Chapter 2      Amendment of State Penalties Enforcement Act 1999 and related Acts**

### **Part 1            Amendment of State Penalties Enforcement Act 1999**

#### **3            Act amended**

This part amends the *State Penalties Enforcement Act 1999*.

#### **4            Amendment of s 34 (Default in paying fine, penalty or other amount under court order)**

(1) Section 34(1)—

*insert—*

‘(h) an order mentioned in the *Industrial Relations Act 1999*,  
section 400(1) or 408H(1).’.

(2) Section 34(2), after ‘subsection (1)(a) to (f)’—

*insert—*

‘or (h)’.

#### **5            Amendment of s 63 (Issue of enforcement warrant)**

(1) Section 63(2)(a), after ‘property’—

*insert—*

‘, other than exempt property.’.

(2) Section 63(3)(d)—

*renumber* as section 63(3)(e).

(3) Section 63(3)(c)—

*omit, insert—*

[s 6]

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- ‘(c) for an enforcement warrant to seize and sell property—state the date and time of issue and the date, within 1 year after the warrant’s issue, the warrant ends; and
  - (d) for an another enforcement warrant—state the date and time of issue and the date, within 6 months after the warrant’s issue, the warrant ends; and’.
- (4) Section 63(4)—  
*omit.*
- (5) Section 63(5) and (6)—  
*renumber* as section 63(4) and (5).
- (6) Section 63—  
*insert—*
- ‘(6) Nothing in this Act prevents the registrar from issuing an enforcement warrant to seize and sell a vehicle while it is subject to an immobilisation warrant.
- ‘(7) However, an enforcement warrant can not be enforced while a vehicle is immobilised under an immobilisation warrant.
- ‘(8) In this section—  
*exempt property* see the *Supreme Court of Queensland Act 1991*, schedule 2.’.

## **6 Insertion of new s 63A**

After section 63—  
*insert—*

### **‘63A Renewal of enforcement warrant**

- ‘(1) Before an enforcement warrant ends, the warrant may be renewed by the registrar for a period of—
- (a) for an enforcement warrant to seize and sell property—not more than 1 year at any 1 time, from the date the warrant ends; or

- 
- (b) for another enforcement warrant—not more than 6 months at any one time, from the date the warrant ends.
- ‘(2) A renewed enforcement warrant must state the period for which the warrant has been renewed.
- ‘(3) The priority of a renewed enforcement warrant is decided according to the date the warrant was originally issued.
- ‘(4) A copy of the renewed enforcement warrant must be served on the enforcement debtor.’.

## **7 Insertion of new s 68A**

After section 68—

*insert—*

### **‘68A Offence of concealing, selling, transferring or otherwise dealing with property subject to seizure**

‘An enforcement debtor who is served with a copy of an enforcement warrant to seize and sell property must not conceal, sell, transfer or otherwise deal with the property with intent to—

- (a) defeat the enforcement of the warrant; or
- (b) adversely affect any seizure or sale of the property under this Act.

Maximum penalty—200 penalty units or 3 years imprisonment.’.

## **8 Insertion of new s 69A**

After section 69—

*insert—*

### **‘69A Particular matters about enforcement of enforcement warrant**

- ‘(1) The registrar must give an enforcement warrant to an enforcement officer to be enforced, subject to any instruction under section 69(1) for the warrant.

[s 9]

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- ‘(2) An enforcement officer must—
  - (a) have the warrant in the enforcement officer’s possession when enforcing the warrant; and
  - (b) for a warrant to seize or sell property—show the warrant to any person claiming an interest in the property to be seized.
- ‘(3) Actual seizure is not necessary to authorise the sale of real property under an enforcement warrant.
- ‘(4) If there is an advertisement of a notice about real property under section 73H, an enforcement officer is taken to have seized the real property for the purpose of this division.’.

## **9 Amendment of s 72 (Powers under search warrant)**

Section 72(1)—

*insert—*

- ‘(d) power to do anything else reasonably necessary to be done that is incidental to searching for and seizing any property the enforcement officer may seize under an enforcement warrant.’.

## **10 Insertion of new ss 73A–73K**

After section 73—

*insert—*

### **‘73A Notice to enforcement debtor etc. if seizure**

- ‘(1) An enforcement officer who seizes property under an enforcement warrant must serve a notice complying with subsection (2) on the enforcement debtor or the person who is in possession of the property immediately before it is seized.
- ‘(2) For subsection (1), the notice must—
  - (a) be in the approved form; and

- 
- (b) state the property that is seized for sale under the warrant; and
  - (c) state that it is an offence—
    - (i) to conceal, sell, transfer or otherwise deal with the property seized with intent to—
      - (A) defeat the enforcement of the enforcement warrant; or
      - (B) adversely affect any seizure or sale of the property under this Act; or
    - (ii) to interfere with property, seized by an enforcement officer, left at the place of seizure or a seizure tag or sticker placed on the property.

### **'73B Enforcement officer may authorise tow**

- '(1) This section applies if an enforcement officer arranges for a motor vehicle seized under an enforcement warrant to be towed to a holding yard.
- '(2) An enforcement officer may sign a towing authority for the seized vehicle.
- '(3) The driver of a tow truck towing the seized motor vehicle under a towing authority must tow the vehicle to—
  - (a) if the enforcement officer directs the driver to tow the motor vehicle to a particular holding yard—the holding yard; or
  - (b) if paragraph (a) does not apply—the holding yard to which the driver ordinarily tows motor vehicles.
- '(4) In this section—

***towing authority*** means—

  - (a) a towing authority under the *Tow Truck Act 1973*; or
  - (b) another document authorising a person to tow a motor vehicle.

[s 10]

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### **‘73C Order of selling property**

- ‘(1) An enforcement officer must seize and sell property in the order appearing to the enforcement officer to be best for—
  - (a) the prompt enforcement of the warrant without undue expense; and
  - (b) subject to paragraph (a), minimising hardship to the enforcement debtor and other persons.
- ‘(2) However, the registrar may, after having regard to the matters mentioned in subsection (1)(a) and (b), direct the enforcement officer to seize and sell property in an order different to the order mentioned in the subsection.
- ‘(3) An enforcement officer may seize and sell an item of property even though the enforcement officer considers that the item’s value exceeds the amount recoverable, but the enforcement officer must not also seize and sell additional items.

### **‘73D Payment by enforcement debtor before sale**

‘An enforcement officer must not sell property seized under an enforcement warrant if, at or before the sale, the enforcement debtor pays to the enforcement officer—

- (a) the amount stated in the warrant; and
- (b) the costs of enforcement then known to the enforcement officer.

### **‘73E Storage before sale**

- ‘(1) Until sale, an enforcement officer must put goods seized under an enforcement warrant in an appropriate place, or give them to an appropriate person, approved by the registrar for the purpose.
- ‘(2) SPER must pay any storage expenses but may recover them as costs of enforcement.

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**‘73F Nature of sale**

- ‘(1) Unless the registrar directs otherwise, an enforcement officer must put up for sale by public auction all property liable to be sold under an enforcement warrant—
- (a) as early as possible; and
  - (b) at a place and in a way appearing to the enforcement officer to be suitable for a beneficial sale of the property.
- ‘(2) The public auction may be conducted by the enforcement officer or a person authorised by the registrar.
- ‘(3) Property sold by public auction must be sold under the following conditions of sale—
- (a) the property must be sold—
    - (i) for goods, if the person conducting the auction considers the particular lot in which the goods are to be auctioned is worth less than \$500, or for other property if the enforcement debtor agrees—at the best price obtainable; or
    - (ii) otherwise, if the reserve is reached—to the highest bidder;
  - (b) if the person conducting the auction considers there is a dispute as to who is the highest bidder, the property is to be reaucted and knocked down to the highest bidder.
- ‘(4) However, before a sale by public auction, the enforcement debtor may apply to the registrar for a direction that the property be sold privately.
- ‘(5) The application must state the facts relied on by the enforcement debtor.
- ‘(6) If the registrar gives a direction under subsection (4)—
- (a) the registrar may give the direction to an enforcement officer; and
  - (b) the enforcement debtor must pay any costs already incurred by an enforcement officer for the auction.

[s 10]

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- ‘(7) If property put up for sale at public auction is not sold by auction, an enforcement officer may sell the property privately—
- (a) for an amount not less than the highest bid made at the auction that the registrar considers is a reasonable amount for the property; or
  - (b) if no bid was made at the auction—for an amount the registrar considers is a reasonable amount for the property.

*Note—*

See section 73G (Sale at best price obtainable).

- ‘(8) In this section—

*reserve*, for property to be sold at auction, means the reserve amount set by the registrar, that is an amount the registrar considers is not less than a reasonable amount for the property.

### **‘73G Sale at best price obtainable**

- ‘(1) This section applies if the enforcement debtor’s property has not been sold under section 73F.
- ‘(2) The registrar may direct an enforcement officer to sell the property at the best price obtainable.

### **‘73H Advertising**

- ‘(1) Before selling property seized under an enforcement warrant an enforcement officer must arrange advertisement of a notice giving the time and place of sale together with details of the property to be sold.
- ‘(2) However, an enforcement officer may sell seized goods without arranging the advertisement if—
- (a) the goods are of a perishable nature; or
  - (b) the enforcement debtor requests it in writing.

- 
- ‘(3) Also, if property seized under an enforcement warrant is put up for sale at a public auction to be conducted by a person other than an enforcement officer—
- (a) it is sufficient for a notice under subsection (1) to contain only the details reasonable and usual for a public auction of property of the same nature as the seized property; and
  - (b) subsection (5) does not apply and advertisement of the notice may be done in the way reasonable and usual for a public auction of property of the same nature as the seized property; and
  - (c) the registrar may require any additional advertising the registrar considers reasonable.
- ‘(4) An enforcement officer must send a copy of the notice by prepaid post to the enforcement debtor at the enforcement debtor’s last known address.
- ‘(5) In this section—
- advertisement***, of a notice, means—
- (a) in any case—publication of the notice on SPER’s website; and
- Editor’s note—*
- The address of SPER’s website is <[www.sper.qld.gov.au](http://www.sper.qld.gov.au)>.
- (b) if there are 2 or more newspapers circulating in the district where the property is located—publication of the notice once in each of 2 of the newspapers not less than 2 weeks, and no more than 4 weeks, before the date of sale; and
  - (c) if there is only 1 newspaper circulating in the district where the property is located—publication of the notice twice in the newspaper (on different days, if practicable) not less than 2 weeks, and no more than 4 weeks, before the date of sale; and
  - (d) if there is no newspaper circulating in the district where the property is located and the property to be sold is an

[s 10]

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interest in land—posting the notice on the land not less than 2 weeks, and no more than 4 weeks, before the date of sale; and

- (e) if there is no newspaper circulating in the district where the property is located and the property to be sold is not an interest in land—posting the notice at the place where the sale is to take place not less than 2 weeks, and no more than 4 weeks, before the date of sale.

*district* means Magistrates Courts district.

### **‘73I Postponement of sale**

- ‘(1) The registrar may, on application by the enforcement debtor or on the advice of an enforcement officer, direct that a sale of property seized under an enforcement warrant be postponed to a stated date.
- ‘(2) If the enforcement warrant authorising the seizure would otherwise end before the stated date, the postponement extends the warrant’s validity until the end of the stated date.

### **‘73J Accountability for, and distribution of, money received**

- ‘(1) An enforcement officer must pay to the registrar all proceeds of sale and other money received by the enforcement officer under an enforcement warrant as soon as practicable after receiving the money, whether before or after the seizure of property under the warrant.
- ‘(2) However, before making the payment, the enforcement officer may deduct the enforcement officer’s fees and expenses in relation to enforcement or attempted enforcement.
- ‘(3) The registrar must apply the money received from the enforcement officer in the following order—
  - (a) pay any other enforcement costs incurred by SPER in seizing and selling, or attempting to seize and sell the property;

- 
- (b) from any balance, discharge any registered security interest over the property;
  - (c) from any balance, pay the amount recoverable under the enforcement warrant excluding costs;
  - (d) pay any balance to the enforcement debtor.
- ‘(4) In this section—
- registered security interest* means a security interest registered under the *Motor Vehicles and Boats Securities Act 1986* or the *Bills of Sale and Other Instruments Act 1955*.

### **‘73K Reserve price provisions**

- ‘(1) To set an amount as a reasonable value of the property to be sold, an enforcement officer may require the enforcement debtor to give the enforcement officer any information about the property that is known to, or can reasonably be obtained by, the enforcement debtor.
- ‘(2) An enforcement debtor required under subsection (1) to give an enforcement officer any information about the property that is known to, or can reasonably be obtained by, the enforcement debtor must comply with the requirement, unless the enforcement debtor has a reasonable excuse.  
  
Maximum penalty—10 penalty units.
- ‘(3) A failure by the enforcement debtor to comply with the enforcement officer’s requirement does not prevent the registrar setting a reserve under section 73F.
- ‘(4) The enforcement officer may communicate the amount set as a reasonable value of property to any person before the sale only if the communication is necessary to conduct the sale or there is another sufficient excuse.’

### **11 Amendment of s 75 (Issue of fine collection notice)**

Section 75(2)(b), at the end—

[s 12]

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*insert—*

‘or’.

## **12 Amendment of s 104 (Criteria for suspending driver licence)**

Section 104(1)—

*omit, insert—*

- ‘(1) This division applies whether or not the enforcement debtor has a driver licence.

*Editor’s note—*

See section 106.’.

## **13 Insertion of new pt 5, div 7A**

After section 108—

*insert—*

### **‘Division 7A Enforcement by vehicle immobilisation**

#### **‘Subdivision 1 Criteria for vehicle immobilisation**

##### **‘108A Criteria for vehicle immobilisation**

‘A vehicle may be immobilised under this division if—

- (a) the vehicle is of a type that under section 108B may be immobilised under this division; and
- (b) an enforcement debtor is the sole registered operator of the vehicle; and
- (c) the amount owing by the enforcement debtor is at least the amount prescribed under a regulation; and

- 
- (d) the registrar is satisfied the enforcement debtor is not taking action to dispute the amount owed or part of it and any of the following applies in relation to the enforcement debtor—
    - (i) the enforcement debtor has failed to pay an amount stated in an enforcement order within 28 days after the date of the order;
    - (ii) an instalment payment notice has been cancelled;
    - (iii) a fine option order has been revoked;
    - (iv) a good behaviour order has been cancelled; and
  - (e) the registrar is satisfied either—
    - (i) it is not possible or appropriate for another form of enforcement action under this Act to be applied to the enforcement debtor; or
    - (ii) another form of enforcement action has been attempted unsuccessfully under this Act in relation to the enforcement debtor.

### **‘108B Types of vehicles that may be immobilised**

- ‘(1) The following vehicles may be immobilised under this division—
  - (a) a motor vehicle that has wheels;
  - (b) a trailer, including a caravan, built to be attached to a motor vehicle that has wheels.
- ‘(2) However, the following vehicles may not be immobilised under this division—
  - (a) a motorised wheelchair;
  - (b) a motorised wheeled recreational device;
  - (c) any of the following used wholly or primarily by a person with a disability or by the person’s carer—
    - (i) a scooter;

[s 13]

---

- (ii) a quad bike;
- (iii) a motor vehicle that has been adapted to accommodate the disability.

## **‘Subdivision 2      Notice of intention to issue immobilisation warrant**

### **‘108C Registrar to serve notice of intention to issue immobilisation warrant**

‘If the registrar wants to immobilise 1 or more vehicles under this division, the registrar must serve the enforcement debtor with a notice of intention to issue an immobilisation warrant under section 146A.

## **‘Subdivision 3      Immobilisation warrant and related matters**

### **‘108D Issue and service of immobilisation warrant**

- ‘(1) The registrar may issue a warrant under section 146B (*immobilisation warrant*) if, within 14 days after a notice of intention to issue an immobilisation warrant was served on the enforcement debtor, none of the following happens—
  - (a) the enforcement debtor pays in full the amount stated in the notice as owing by the enforcement debtor;
  - (b) on application mentioned in section 41(b) or (c) by the enforcement debtor, the registrar decides to allow payment of the amount owing by instalments or makes a fine option order;
  - (c) the enforcement debtor takes action to dispute part or all of the amount owing;
  - (d) a good behaviour order in relation to the enforcement debtor is made.

- ‘(2) In deciding whether to issue an immobilisation warrant for a vehicle, the registrar may have regard to whether immobilising the vehicle would cause severe or unusual hardship to the enforcement debtor, the enforcement debtor’s family or another person who uses the vehicle but has no capacity to ensure the enforcement debtor pays the amount owing.
- ‘(3) A copy of the immobilisation warrant must be served on the enforcement debtor as soon as practicable after it is issued.

#### **‘108E Registrar may cancel, suspend or vary immobilisation warrant**

- ‘(1) A person claiming an interest in a vehicle that is or is about to be immobilised under an immobilisation warrant may apply to the registrar for the cancellation, suspension or variation of all or part of the warrant, including because of facts that arise or are discovered after the warrant was issued.
- ‘(2) The application must be written and state the facts relied on by the applicant.
- ‘(3) The registrar may, by order, cancel, suspend or vary an immobilisation warrant.

#### **‘108F Effect of immobilisation warrant**

- ‘(1) An immobilisation warrant for a vehicle authorises an enforcement officer to immobilise the vehicle stated in the warrant, without further notice to the enforcement debtor and without the enforcement debtor’s consent, by attaching an immobilising device to the vehicle.
- ‘(2) Under an immobilisation warrant, an enforcement officer has the additional powers stated in section 108I.
- ‘(3) On the issue of an immobilisation warrant, the amount owing by the enforcement debtor is increased to the total of the amount unpaid before the warrant was issued and the civil enforcement fee.

[s 13]

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### **‘108G Who may enforce an immobilisation warrant**

‘An immobilisation warrant may be enforced by an enforcement officer.

### **‘108H Where and when an immobilisation warrant may or may not be enforced**

- ‘(1) Under an immobilisation warrant for a vehicle, an immobilising device may be attached to the vehicle stated in the warrant if it is parked or stopped—
- (a) in a public place; or
  - (b) on property occupied by the enforcement debtor; or
  - (c) if the enforcement debtor is not an individual, at the enforcement debtor’s place of business or registered office; or
  - (d) at any other premises, but only with the consent of the occupier of the premises.
- ‘(2) The vehicle may be immobilised even if it is unattended.
- ‘(3) An enforcement officer may enforce an immobilisation warrant at any reasonable time of the day or night.
- ‘(4) An enforcement officer must not enforce an immobilisation warrant—
- (a) at a place where the vehicle, if immobilised, could impede the use of the place or the road network or be a risk to safety; or
  - (b) at a place where the enforcement officer reasonably believes the safety of the driver and any other occupants of the vehicle may be at risk, for example, at an isolated location; or
  - (c) if, before the immobilising device is attached to the enforcement debtor’s vehicle—

- (i) the enforcement debtor pays in full the amount stated in the immobilisation warrant as owing by the enforcement debtor; or
- (ii) on application mentioned in section 41(b) or (c) by the enforcement debtor, the registrar decides to allow payment of the amount owing by instalments or makes a fine option order; or
- (iii) a good behaviour order is made against the enforcement debtor.

‘(5) In this section—

*public place* means an area that is open to or used by the public and is developed for, or has as 1 of its uses, the driving or riding of motor vehicles, whether on payment of a fee or otherwise.

#### ‘108I Additional powers under an immobilisation warrant

‘(1) For the purpose of enforcing an immobilisation warrant for a vehicle, an enforcement officer may also—

- (a) enter and re-enter a public place; and
- (b) enter and re-enter premises occupied by the enforcement debtor, without the enforcement debtor’s consent; and
- (c) enter and re-enter premises, other than premises mentioned in paragraph (b), with the consent of the occupier of the premises; and
- (d) do anything else reasonably necessary to immobilise the vehicle.

‘(2) However, an enforcement officer may, under subsection (1)(b), enter a part of any premises used only for residential purposes only if the occupier consents to the entry or entry is authorised under an immobilisation search warrant.

‘(3) In this section—

*public place* means a place that is open to or used by the public, whether or not on payment of a fee.

[s 13]

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### **‘108J Entry to ask occupier for consent to enter**

‘For the purpose of asking an occupier of premises for consent to enter, an enforcement officer may, without the occupier’s consent or a warrant—

- (a) enter land around the premises to an extent that is reasonable to contact the occupier; or
- (b) enter part of the premises the enforcement officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

### **‘108K Entry with consent**

- ‘(1) This section applies if an enforcement officer intends to ask an occupier of premises to consent to the enforcement officer or another enforcement officer entering the premises under section 108I.
- ‘(2) Before asking for the consent, the enforcement officer must show the occupier the immobilisation warrant and tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- ‘(3) If the consent is given, the enforcement officer may ask the occupier to sign an acknowledgement of the consent.
- ‘(4) The acknowledgement must state—
  - (a) the occupier has been told—
    - (i) the purpose of the entry; and
    - (ii) that the occupier is not required to consent; and
  - (b) the purpose of the entry; and
  - (c) the occupier gives the enforcement officer consent to enter and re-enter the premises and enforce the warrant; and

- 
- (d) the time and date the consent was given.
- ‘(5) If the occupier signs the acknowledgement, the enforcement officer must immediately give a copy to the occupier.
- ‘(6) If—
- (a) an issue arises in a proceeding about whether the occupier consented to the entry or re-entry; and
  - (b) an acknowledgement complying with subsection (4) for the entry or re-entry is not produced in evidence;
- the onus of proof is on the person relying on the lawfulness of the entry or re-entry to prove the occupier consented.

#### ‘108L Immobilisation search warrant

- ‘(1) This section applies if an enforcement officer reasonably believes that—
- (a) there may be at any premises a vehicle mentioned in an immobilisation warrant; and
  - (b) the vehicle has been relocated by or for the enforcement debtor in an attempt to avoid enforcement of the warrant.
- ‘(2) The enforcement officer may apply to a magistrate or a justice of the peace (magistrates court), who is not an official within the meaning of section 12, for the issue of a search warrant (*immobilisation search warrant*) under this section.
- ‘(3) The magistrate or justice (*issuer*) may refuse to consider the application until the enforcement officer gives the issuer all the information the issuer requires about the application in the way the issuer requires.

*Example—*

The issuer may require additional information about the application to be given by statutory declaration.

- ‘(4) The issuer may issue the warrant only if satisfied there are reasonable grounds for believing the matters mentioned in

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subsection (1)(a) and (b).

‘(5) The warrant must comply with section 146D.

#### **‘108M Powers under immobilisation search warrant**

‘An enforcement officer has the following powers under an immobilisation search warrant—

- (a) power to enter and re-enter stated premises and to stay on the premises for the time reasonably necessary to search for the vehicle;
- (b) power to search for the vehicle;
- (c) power to use reasonable help for paragraphs (a) and (b).

#### **‘108N Immobilisation notice**

‘As soon as practicable after immobilising a vehicle under an immobilisation warrant, an enforcement officer must attach a notice (*immobilisation notice*) under section 146C to a prominent place on the vehicle, for example, the windscreen of a motor vehicle.

#### **‘108O Immobilisation period and access to vehicle**

- ‘(1) An immobilising device and immobilisation notice may be attached to a vehicle stated in an immobilisation warrant for no longer than 5 days (the *immobilisation period*).
- ‘(2) The enforcement debtor is not prevented from accessing the vehicle, for example, to retrieve personal property, during the immobilisation period.

#### **‘108P When immobilising device may be removed before end of immobilisation period**

- ‘(1) The registrar must direct an enforcement officer to remove the immobilising device and immobilisation notice as soon as

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practicable if, before the end of the immobilisation period, the registrar is satisfied that—

- (a) the enforcement debtor has paid in full the amount stated in the immobilisation warrant as owing by the enforcement debtor; or
  - (b) on application mentioned in section 41(b) or (c) by the enforcement debtor, the registrar decided to allow payment of the amount owing by instalments or makes a fine option order; or
  - (c) a good behaviour order has been made against the enforcement debtor; or
  - (d) the immobilised vehicle is impeding the use of a place or the road network or is a risk to safety.
- ‘(2) The registrar may also direct an enforcement officer to remove the immobilising device and immobilisation notice as soon as practicable if, before the end of the immobilisation period, the registrar is satisfied that if the immobilising device is not removed before the end of the immobilisation period, severe or unusual hardship would be caused to—
- (a) the enforcement debtor or the enforcement debtor’s family; or
  - (b) another person who uses the vehicle but has no capacity to ensure the enforcement debtor pays the amount owing.

### **‘108Q Removal of immobilising device immediately after immobilisation period ends**

‘An enforcement officer must remove the immobilising device and immobilisation notice from the vehicle immediately after the immobilisation period for the vehicle ends.

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**‘108R Direction by registrar to seize vehicle under enforcement warrant**

‘The registrar may direct an enforcement officer to seize a vehicle under an enforcement warrant if—

- (a) the immobilisation period has ended or the immobilising device and immobilisation notice have been removed from the vehicle before the end of the immobilisation period; and
- (b) none of the following has happened—
  - (i) the enforcement debtor has paid the amount stated in the immobilisation warrant;
  - (ii) the registrar has decided, on application mentioned in section 41(b) or (c) by the enforcement debtor, to allow payment of the amount owing by instalments or makes a fine option order;
  - (iii) a good behaviour order is made against the enforcement debtor.

**‘108S Direction by registrar to re-enforce current immobilisation warrant**

‘The registrar may direct an enforcement officer to re-enforce a current immobilisation warrant if, after the warrant is issued—

- (a) an instalment payment notice is issued and is subsequently cancelled; or
- (b) a fine option order is made against the enforcement debtor and is subsequently revoked; or
- (c) a behaviour order is made against the enforcement debtor and is subsequently cancelled.

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**‘108T Return of immobilisation warrant**

- ‘(1) An enforcement officer must, within a reasonable time, give to the registrar a return about the enforcement or otherwise of an immobilisation warrant.
- ‘(2) The return must be made by giving to the registrar a certificate signed by the enforcement officer stating what was done to enforce the warrant, or what other action, if any, was taken.

**‘108U Notice of damage—immobilisation warrant**

- ‘(1) This section applies if an enforcement officer damages property when exercising or purporting to exercise a power under an immobilisation warrant.
- ‘(2) The officer must immediately give written notice of particulars of the damage to the person who appears to the officer to be the owner of the property.
- ‘(3) If the officer believes the damage was caused by a latent defect in the property or circumstances beyond the officer’s control, the enforcement officer may state the belief in the notice.
- ‘(4) If, for any reason, it is impracticable to comply with subsection (2), the officer must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- ‘(5) This section does not apply to damage the officer reasonably believes is trivial.
- ‘(6) In this section—  
*owner*, of property, includes the person in possession or control of it.

**‘108V Compensation—immobilisation warrant**

- ‘(1) A person may claim from the State the cost of repairing or replacing property damaged by an enforcement officer when

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exercising or purporting to exercise a power under an immobilisation warrant.

- ‘(2) Without limiting subsection (1), compensation may be claimed for a loss or expense incurred in complying with a requirement made of the person under section 114.
- ‘(3) Compensation may be claimed and ordered to be paid in a proceeding—
  - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
  - (b) for an offence against this Act brought against the person claiming compensation.
- ‘(4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

#### **‘108W Effect of immobilisation on vehicle insurance**

- ‘(1) A claim under a vehicle insurance policy for an event that occurred during the immobilisation period can not be refused merely because the vehicle was immobilised under this division.
- ‘(2) Subsection (1) applies despite anything to the contrary in a vehicle insurance policy or other agreement.

### **‘Subdivision 4 Offences**

#### **‘108X Offences of concealing, selling, transferring or otherwise dealing with vehicle with particular intent**

- ‘(1) An enforcement debtor who is the registered operator of a vehicle mentioned in a notice of intention to issue an immobilisation warrant must not conceal, sell, transfer or otherwise deal with the vehicle with intent to avoid the issue of an immobilisation warrant for the vehicle.

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Maximum penalty—200 penalty units or 3 years imprisonment.

- ‘(2) An enforcement debtor who is the registered operator of a vehicle mentioned in an immobilisation warrant must not conceal, sell, transfer or otherwise deal with the vehicle with intent to avoid the enforcement of the warrant.

Maximum penalty—200 penalty units or 3 years imprisonment.

**‘108Y Offence of interfering with or removing immobilised vehicle**

‘A person must not interfere with, or remove, an immobilised vehicle during the immobilisation period with intent to adversely affect any seizure or sale of the vehicle under this Act.

Maximum penalty—200 penalty units or 3 years imprisonment.

**‘108Z Offence of tampering with or removing immobilising device or immobilising notice**

‘A person must not, without reasonable excuse, tamper with, or remove, or attempt to remove, an immobilising device or an immobilisation notice attached to a vehicle under this Act.

Maximum penalty—50 penalty units.’.

**14 Amendment of s 110 (Registration of interests)**

Section 110—

*insert—*

- ‘(2A) The registration of an interest in a motor vehicle under subsection (2) does not prevent the registrar issuing any of the following in relation to the vehicle—
- (a) a notice of intention to immobilise a vehicle;

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- (b) an immobilisation warrant;
- (c) an enforcement warrant to seize and sell property.’.

**15 Amendment of s 111 (Order of satisfaction of fines for infringement notice offences)**

Section 111(1), after ‘enforcement warrant’—  
*insert*—  
‘, immobilisation warrant’.

**16 Amendment of s 112 (Order of satisfaction of other amounts)**

Section 112(1), after ‘enforcement warrant’—  
*insert*—  
‘, immobilisation warrant’.

**17 Amendment of s 113 (Order of satisfaction if more than 1 enforcement order)**

- (1) Section 113(1), after ‘enforcement warrant’—  
*insert*—  
‘, immobilisation warrant’.
- (2) Section 113(3), example 1(a), ‘and’ second mention—  
*omit*.
- (3) Section 113(3), example 2(a) to (c), ‘and’ second mention—  
*omit*.

**18 Amendment of s 114 (Power of person serving fine collection notice or enforcing warrant to demand name and address etc.)**

- (1) Section 114(5) and (6)—

*renumber* as section 114(7) and (8).

(2) Section 114—

*insert*—

‘(5) An enforcement officer who is enforcing an immobilisation warrant may require a person the enforcement officer reasonably suspects to be the person named in the warrant to answer a question relevant to the warrant or the exercise of powers under this Act because of the warrant.

*Example of a question under this subsection—*

a question to establish a vehicle’s location

‘(6) When making a requirement under subsection (5), the enforcement officer must warn the person that, unless the person has a reasonable excuse, it is an offence not to provide the answer required.’.

(3) Section 114(7), as renumbered, ‘subsection (1) or (2)’—

*omit, insert*—

‘subsection (1), (2) or (5)’.

(4) Section 114(8), as renumbered, ‘subsection (5)’—

*omit, insert*—

‘subsection (7)’.

(5) Section 114—

*insert*—

‘(9) Before exercising a power under subsection (1) or (5) in relation to a person, the enforcement officer must show the person the identity card given to the enforcement officer under section 10.’.

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**19 Amendment of s 115 (Effect of particular proceedings)**

Section 115(1)(b), after ‘enforcement warrant’—

*insert—*

‘, an immobilisation warrant’.

**20 Amendment of s 116 (Offence of obstructing enforcement officer)**

Section 116, after ‘not’—

*insert—*

‘threaten.’.

**21 Amendment of s 117 (Offence of defacing or removing seizure tags)**

Section 117, penalty—

*omit, insert—*

‘Maximum penalty—50 penalty units.’.

**22 Amendment of s 118 (Good behaviour order when imprisonment not appropriate)**

Section 118(1)(a), after ‘enforcement warrant’—

*insert—*

‘, an immobilisation warrant’.

**23 Amendment of s 119 (Enforcement by imprisonment)**

(1) Section 119(1), after ‘enforcement warrant’, first mention—

*insert—*

‘or immobilisation warrant’.

(2) Section 119(1), ‘enforcement’, last mention—

*omit.*

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- (3) Section 119(2), after ‘enforcement warrant’—  
*insert—*  
‘or immobilisation warrant’.

**24 Amendment of s 136 (Instalment payment notice)**

- Section 136(1)(i)(i), after ‘enforcement warrant’—  
*insert—*  
‘, immobilisation warrant’.

**25 Amendment of s 137 (Enforcement order)**

- (1) Section 137(1)(e), ‘or’ last mention—  
*omit.*
- (2) Section 137(1)(f)—  
*insert—*  
‘(vi) issue an immobilisation warrant empowering the immobilisation of a vehicle of which the enforcement debtor is the registered operator;’.

**26 Insertion of new ss 146A–146D**

- Part 9, division 1, after section 146—  
*insert—*

**‘146A Notice of intention to issue immobilisation warrant**

‘A notice of intention to issue an immobilisation warrant notice must—

- (a) be in the approved form; and
- (b) state the amount owing by the enforcement debtor; and
- (c) state the vehicle or vehicles proposed to be immobilised under an immobilisation warrant; and

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- (d) state that an immobilisation warrant may be issued after 14 days unless—
  - (i) the enforcement debtor pays the amount stated in the notice in full; or
  - (ii) on application mentioned in section 41(b) or (c) by the enforcement debtor, the registrar decides to allow payment of the amount owing by instalments or makes a fine option order; or
  - (iii) a good behaviour order is made against the enforcement debtor; and
- (e) state that an immobilisation warrant empowers an enforcement officer to immobilise the vehicle stated in the warrant, without further notice to the debtor and without the debtor's consent; and
- (f) state where, when and for how long the vehicle may be immobilised under the warrant; and
- (g) state that the vehicle may be liable to be seized and sold under an enforcement warrant immediately after the immobilisation period ends unless—
  - (i) the enforcement debtor pays the amount stated in the notice in full; or
  - (ii) on application mentioned in section 41(b) or (c) by the enforcement debtor, the registrar decides to allow payment of the amount owing by instalments or makes a fine option order; or
  - (iii) a good behaviour order is made against the enforcement debtor; and
- (h) state that it is an offence—
  - (i) to conceal, sell, transfer or otherwise deal with the vehicle with intent to avoid the issue of an immobilisation warrant or to defeat the enforcement of an immobilisation warrant; or

- (ii) to interfere with or remove an immobilised vehicle during the immobilisation period with intent to adversely affect any seizure or sale of the vehicle under this Act; or
- (iii) to threaten, obstruct or assault an enforcement officer acting in the performance of duties under this Act; or
- (iv) to tamper with or remove or attempt to remove an immobilising device or an immobilisation notice attached to a vehicle under this Act.

#### **‘146B Form of immobilisation warrant**

- ‘(1) An immobilisation warrant must—
- (a) be in the approved form; and
  - (b) be directed to all enforcement officers; and
  - (c) state the full name and address of the enforcement debtor; and
  - (d) state the amount owing by the enforcement debtor; and
  - (e) include a debt schedule that—
    - (i) for a fine, states the offence for which the amount became payable; or
    - (ii) for an amount owing because of a court order, states the original order of the court to which the amount relates; and
  - (f) state the date and time of issue of the warrant and the date, within 12 months of the warrant’s issue, the warrant ends; and
  - (g) state the vehicle or vehicles to be immobilised under the warrant; and
  - (h) state that the vehicle or vehicles may be liable to be seized and sold under an enforcement warrant

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immediately after the immobilisation period ends unless—

- (i) the enforcement debtor pays the amount stated in the warrant in full; or
  - (ii) on application mentioned in section 41(b) or (c) by the enforcement debtor, the registrar decides to allow payment of the amount owing by instalments or makes a fine option order; or
  - (iii) a good behaviour order is made against the enforcement debtor; and
- (i) state that it is an offence—
- (i) to interfere with or remove an immobilised vehicle during the immobilisation period with intent to adversely affect any seizure or sale of the vehicle under this Act; or
  - (ii) to threaten, obstruct or assault an enforcement officer acting in the performance of duties under this Act; or
  - (iii) to tamper with or remove or attempt to remove an immobilising device or an immobilisation notice attached to a vehicle under this Act.

‘(2) An immobilisation warrant may mention more than 1 vehicle.

#### **‘146C Form of immobilisation notice**

‘An immobilisation notice must be in the approved form and state—

- (a) that the vehicle has been immobilised because the registered operator of the vehicle is a person against whom an immobilisation warrant has been issued; and
- (b) how long the immobilising device may remain attached to the vehicle; and
- (c) that it is an offence—

- (i) to interfere with or remove an immobilised vehicle during the immobilisation period with intent to adversely affect any seizure or sale of the vehicle under this Act; or
- (ii) to threaten, obstruct or assault an enforcement officer acting in the performance of duties under this Act; or
- (iii) to tamper with or remove or attempt to remove an immobilising device or an immobilisation notice attached to a vehicle under this Act.

#### **‘146D Form of immobilisation search warrant**

‘An immobilisation search warrant must be in the approved form and state—

- (a) that a stated enforcement officer, or all enforcement officers, may enter the stated premises and exercise the powers mentioned in section 108M; and
- (b) if the warrant is to be enforced at night—the hours when the stated premises may be entered; and
- (c) when the warrant ends being a time no more than 7 days after it is issued.

#### **27 Amendment of s 147 (Effect of notices, orders and warrants)**

Section 147—

*insert—*

- ‘(2) If the registrar believes that the enforcement debtor or any of the enforcement debtor’s property is in a Magistrates Court district other than the Brisbane Magistrates Court district (the ***receiving district***), the registrar may send a warrant issued by the registrar to the registrar of the court in the receiving district (the ***receiving registrar***).
- ‘(3) The receiving registrar must—

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- (a) record the warrant; and
  - (b) stamp the warrant with the court seal; and
  - (c) issue the warrant to an enforcement officer in the receiving district and record having issued it.
- ‘(4) An enforcement officer in the receiving district—
- (a) is authorised and required to act as if the warrant had been directed to the enforcement officer; and
  - (b) must, within a reasonable time, report in writing to the receiving registrar about what the enforcement officer has done to enforce the warrant; and
  - (c) must, within a reasonable time, give the receiving registrar any money received in the enforcement of the warrant.’.

**28 Amendment of s 148 (Electronic transmission of particular documents)**

Section 148(2), after ‘enforcement warrant’—

*insert—*

‘or immobilisation warrant’.

**29 Amendment of s 150B (Guidelines)**

Section 150B—

*insert—*

- ‘(3) The registrar may issue guidelines for the purposes of section 108B, 108C, 108D(2), 108H(4)(a) or (b) or 108P(1)(d) or (2).
- ‘(4) Without limiting subsection (3), a guideline for the purposes of section 108D(2) or 108P(2) may deal with—
  - (a) whether there is severe or unusual hardship caused by depriving an enforcement debtor of the enforcement debtor’s means of earning a living; and

- 
- (b) whether there is severe or unusual hardship caused other than by depriving an enforcement debtor of the enforcement debtor's means of earning a living.
- '(5) The registrar—
- (a) may have regard to a guideline issued by the registrar for the purposes of section 108B, 108D(2) or 108P(2); and
- (b) must have regard to a guideline issued by the registrar for the purposes of section 108C or 108P(1)(d).
- '(6) An enforcement officer must have regard to a guideline issued by the registrar for the purposes of section 108H(4)(a) or (b).
- '(7) A guideline under subsection (3) must be publicly available including available on SPER's website.

*Editor's note—*

The address of SPER's website is <[www.sper.qld.gov.au](http://www.sper.qld.gov.au)>.

## **29A Amendment of s 151 (Information from commissioner of police service)**

- (1) Section 151(2), after 'given'—  
*insert—*  
'under subsection (1)'.
- (2) Section 151(3) and (4)—  
*renumber* as section 151(6) and (8).
- (3) Section 151—  
*insert—*
- '(3) Subsection (4) applies if the registrar advises the commissioner of the police service under section 151A about a particular immobilisation warrant.
- '(4) The commissioner of the police service may, on the registrar's written request, give to the registrar information in the possession of the police service about any person known to

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the commissioner of police to reside at premises where the registrar proposes to have the warrant enforced.

- ‘(5) The information that may be given under subsection (4) is—
- (a) the person’s criminal history; and
  - (b) whether any warning, including, for example, a warning about the health or behaviour of the person is recorded in a document in the possession of the police service; and
  - (c) the details of any warning mentioned in paragraph (b).
- ‘(7) If information given to the registrar under subsection (4) is in writing, the registrar must destroy it as soon as practicable after the registrar is satisfied it is no longer needed for the purpose for which it was given.’.

### **30 Insertion of new s 151A**

After section 151—

*insert—*

#### **‘151A Registrar may advise commissioner of police service of particular information**

- ‘(1) The registrar may advise the commissioner of the police service of the following information—
- (a) that the registrar has issued a particular immobilisation warrant;
  - (b) when and where the registrar proposes to have the warrant enforced.
- ‘(2) The information may only be used by the Queensland Police Service in relation to the enforcement of the warrant.’.

### **31 Amendment of s 153 (Register)**

- (1) Section 153(2)(j)—  
*renumber* as section 153(2)(l).

(2) Section 153(2)—

*insert—*

‘(j) a notice of intention to issue an immobilisation warrant;

(k) an immobilisation warrant.’.

### **32 Amendment of s 155 (Non-reviewable decision)**

(1) Section 155(1)(a)(ii), (b), (c)(v) and (e), ‘or’—

*omit.*

(2) Section 155(1)—

*insert—*

‘(g) a decision of the registrar to issue—

(i) a notice of intention to issue an immobilisation warrant; or

(ii) an immobilisation warrant.’.

### **33 Amendment of s 157 (Evidentiary provisions)**

Section 157(3)—

*insert—*

‘(i) a notice of intention to issue an immobilisation warrant was served on a stated person on a stated day;

(j) an immobilisation warrant was served on a stated person on a stated day.’.

### **34 Amendment of s 158 (Service of document)**

Section 158—

*insert—*

‘(3) For the *Acts Interpretation Act 1954*, part 10, a notice of intention to issue an immobilisation warrant, or an

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immobilisation warrant, for a vehicle may be sent by post or facsimile to the enforcement debtor at—

- (a) the address registered under the *Transport Operations (Road Use Management) Act 1995* of the vehicle's registered operator (the **registered address**); or
- (b) the address last known to the registrar to be—
  - (i) if the enforcement debtor is an individual—the enforcement debtor's residential or business address; or
  - (ii) if the enforcement debtor is a corporation—the head office, a registered office or a principal office of the corporation.

### **35 Insertion of new s 159A**

Part 9, division 2, after section 159—

*insert—*

#### **'159A Registrar may communicate with enforcement debtors by SMS**

'The registrar may communicate with an enforcement debtor by SMS, without the enforcement debtor's consent, about—

- (a) enforcement action under the Act that is being, or may be, taken against the enforcement debtor; or
- (b) matters relating to the enforcement debtor's payment of the amount owing.'

### **36 Amendment of s 165 (Regulation-making power)**

- (1) Section 165(5)(a), after 'enforcement warrants'—

*insert—*

',' immobilisation warrants'.

- (2) Section 165(5)(c) to (e)—

*omit.*

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**37 Amendment of s 169 (Saving of enforcement orders)**

Section 169(1), ‘section 98O’—

*omit, insert—*

‘section 98P’.

**38 Insertion of new s 174A**

Part 10, division 2—

*insert—*

**‘174A Particular orders made under Industrial Relations Act 1999**

- ‘(1) Subsection (2) applies if, before the commencement of this section—
- (a) a magistrate gave particulars of a relevant order to the court registrar for the purpose of registering the prescribed particulars, in relation to the unpaid amount payable under the order, under section 34; or
  - (b) a court registrar purported, under section 34, to give to SPER, for registration, the prescribed particulars in relation to the unpaid amount payable under the order.
- ‘(2) The giving of the particulars by the magistrate and the giving of the prescribed particulars by the court registrar is, and always has been, lawful.
- ‘(3) Subsection (4) applies if, before the commencement of this section—
- (a) the registrar purportedly registered, under section 34, prescribed particulars in relation to the unpaid amount payable under a relevant order; or
  - (b) a person took action purportedly under the Act to enforce a relevant order.
- ‘(4) The registration of the prescribed particulars, and the action taken, is as valid, and always has been as valid, as if, at the

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time the relevant order was made, it was an order to which section 34 applied.

‘(5) In this section—

*relevant order* means an order mentioned in the *Industrial Relations Act 1999*, section 400(1) or 408H(1).’

### 39 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *enforcement officer*—  
*omit.*

(2) Schedule 2—  
*insert—*

‘*appropriately qualified public service officer* means a public service officer who has the training and experience to perform an enforcement function under this Act.

*enforcement officer* means—

- (a) an appropriately qualified public service officer; or
- (b) the sheriff, deputy sheriff and the bailiff of a court; or
- (c) a commercial agent engaged under section 10(3)(a).

*good behaviour order* see section 118(3).

*immobilisation notice* see section 108N.

*immobilisation period* see section 108O.

*immobilisation search warrant* see section 108L.

*immobilisation warrant* see section 108D.

*immobilising device*, for a vehicle, means—

- (a) wheel clamps; or
- (b) another device that effectively detains the vehicle.

*public service officer* see the *Public Service Act 2008*, schedule 4.



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‘(5) The magistrate may give particulars of the order mentioned in subsection (1) to the court registrar for the purpose of registering the prescribed particulars, in relation to the unpaid amount payable under the order, under the *State Penalties Enforcement Act 1999*, section 34.’.

(3) Section 400(6), as renumbered—

*insert—*

‘***court registrar***, in relation to a magistrate, means the clerk of the court of the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.’.

#### **42 Amendment of s 408H (Enforcement of magistrate’s orders)**

(1) Section 408H—

*insert—*

‘(5) The magistrate may give particulars of the order mentioned in subsection (1) to the court registrar for the purpose of registering the prescribed particulars, in relation to the unpaid amount payable under the order, under the *State Penalties Enforcement Act 1999*, section 34.’.

(2) Section 408H—

*insert—*

‘(6) In this section—

***court registrar***, in relation to a magistrate, means the clerk of the court of the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.’.



## **Chapter 3      Amendments relating mainly to the national exchange of criminal history information**

### **Part 1            Amendment of Education (Queensland College of Teachers) Act 2005**

#### **45      Act amended**

This part amends the *Education (Queensland College of Teachers) Act 2005*.

#### **46      Amendment of s 11 (Suitability to teach—criminal history information)**

Section 11—

*insert—*

‘(5) This section is subject to section 12A.’.

#### **47      Amendment of s 12 (Suitability to teach—other considerations)**

(1) Section 12(4)—

*renumber* as section 12(5).

(2) Section 12—

*insert—*

‘(4) This section is subject to section 12A.’.

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## 48 Insertion of new s 12A

Chapter 2, part 1, after section 12—

*insert—*

### **‘12A Suitability to work in child-related field—interstate information**

- ‘(1) In considering whether a person is suitable to work in a child-related field as mentioned in section 12(1)(b), the college must consider whether the person poses a risk of harm to children.
- ‘(2) In considering whether the person poses a risk of harm to children, the college must have regard to—
- (a) the person’s expanded interstate criminal history; and
  - (b) any other information, that relates to the person’s expanded interstate criminal history, disclosed by the commissioner of police under section 15, or an interstate commissioner of police under section 15A.
- ‘(3) In having regard to the matters mentioned in subsection (2), the college must consider the following matters relating to information about the commission, or alleged or possible commission, of an offence by the person—
- (a) when the offence was committed, is alleged to have been committed or may possibly have been committed;
  - (b) the nature of the offence and its relevance to the duties of a teacher;
  - (c) anything else the college considers relevant to deciding whether the person poses a risk of harm to children.
- ‘(4) This section does not limit the matters the college may consider under section 11(2) or 12(1)(b).
- ‘(5) However, despite section 11 or 12, in considering whether a person is suitable to teach, the college may have regard to the person’s expanded interstate criminal history, or information of the type mentioned in subsection (2)(b), only to consider whether the person poses a risk of harm to children.

*Notes—*

- 1 This section implements the Council of Australian Governments' (COAG) agreement dated 29 November 2008 to facilitate the inter-jurisdictional exchange of criminal history information for people working with children.
- 2 A copy of COAG's communiqué about the agreement is available on COAG's website.'

## **49 Insertion of new s 15A**

After section 15—

*insert—*

### **'15A Requesting further information about interstate convictions and charges**

- '(1) This section applies if a person's criminal history obtained under section 14 or 15 includes—
- (a) a conviction of the person for an offence in another State, including an interstate spent conviction of the person; or
  - (b) an interstate charge against the person.
- '(2) The college may ask an interstate commissioner of police for a brief description of the circumstances of the conviction or charge.
- '(3) The college's request may include the following information—
- (a) the applicant's name and any other name the college believes the applicant may use or have used;
  - (b) the applicant's gender and date and place of birth.'

## **50 Amendment of s 16 (Requirement to advise applicant of criminal history information received)**

Section 16(1), after 'section 15(4)'—

*insert—*

‘or 15A’.

**51 Amendment of s 65 (College’s power to obtain criminal history etc. in relation to an approved teacher)**

(1) Section 65(1) and (2)—

*omit, insert—*

‘(1) For deciding whether an approved teacher is or continues to be suitable to teach, the college may—

(a) ask the commissioner of police for—

(i) a written report about the teacher’s criminal history; or

(ii) a brief description of the circumstances of a conviction or charge, for an offence, mentioned in the applicant’s criminal history; or

(iii) information about any investigation relating to the possible commission of a serious offence by the applicant; or

(b) ask an interstate commissioner of police for a brief description of the circumstances of—

(i) a conviction of the person for an offence in another State, including an interstate spent conviction of the person; or

(ii) an interstate charge against the person.

‘(2) Section 15(3) to (7) applies for the request mentioned in subsection (1)(a) as if it were made under section 15(1) or (2).

‘(2A) Section 15A(3) applies for the request mentioned in subsection (1)(b) as if it were made under section 15A(2).’.

(2) Section 65(3), ‘section 15(3)’—

*omit, insert—*

‘sections 15(3) and 15A(3)’.

(3) Section 65(4), ‘Sections 11 and 12’—

*omit, insert—*

‘Sections 11, 12 and 12A’.

(4) Section 65(1) to (4)—

*renumber* as section 65(1) to (5).

## **52 Replacement of s 91 (Definition for ch 5)**

Section 91—

*omit, insert—*

### **‘91 Definition for ch 5**

‘(1) In this chapter—

*disciplinary information—*

(a) means any of the following—

(i) a complaint, other than a complaint the college refuses to deal with under section 89;

(ii) information in or accompanying an application made by a person under chapter 2;

(iii) information disclosed to the college as required under chapter 3, part 1;

(iv) other information or a document required or permitted to be given to the college under this Act; and

(b) does not include interstate information.

‘(2) To remove any doubt, it is declared that information disclosed by a person to the college as required under chapter 3, part 1 is not interstate information even if the information is also disclosed to the college by the commissioner of police or an interstate commissioner.’.

---

**53 Amendment of s 112 (Reporting of offences)**

Section 112—

*insert—*

‘(3) To remove any doubt, it is declared that in subsection (1), a reference to other information does not include interstate information.’.

**54 Amendment of s 124 (Constitution of QCAT for disciplinary proceedings)**

(1) Section 124(b), ‘members’—

*omit, insert—*

‘QCAT members’.

(2) Section 124—

*insert—*

‘(2) In this section—

***legally qualified member*** means a legally qualified member under the QCAT Act.

***QCAT member*** means a member under the QCAT Act.’.

**55 Amendment of s 282 (Definition for pt 1)**

(1) Section 282, definition *relevant personal information*, paragraph (a)—

*insert—*

‘(ia) section 15A;’.

(2) Section 282, definition *relevant personal information*, paragraph (a)(i) to (v)—

*renumber* as paragraph (a)(i) to (vi).

**56 Amendment of s 283 (Confidentiality of particular information)**

(1) Section 283(2), ‘subsection (3)’—

*omit, insert—*

‘subsection (3) or (3A)’.

(2) Section 283—

*insert—*

‘(3A) However, if the information is interstate information—

(a) the person may, and may only, disclose the information to someone else—

(i) to the extent necessary to perform the person’s functions under section 12A, 15A, 65(1)(b) or 285;  
or

(ii) for a proceeding relating to section 12A; and

(b) subsection (3) does not apply other than as mentioned in subsection (3)(d), (e) or (f).

‘(3B) Subsection (3A) applies despite any other provision of an Act.’.

**57 Amendment of s 286 (College may enter into information sharing arrangement with commissioner of police)**

(1) Section 286, heading—

*omit, insert—*

**‘286 Information sharing arrangement with commissioner of police for information otherwise lawfully given’.**

(2) Section 286(5), definition *criminal history information*—

*insert—*

‘(ab) section 15A;’.

- (3) Section 286(5), definition *criminal history information*, paragraphs (a) to (d)—  
*renumber* as paragraphs (a) to (e).

**58 Amendment of s 287 (Other information sharing agreements)**

- (1) Section 287(4)—  
*renumber* as section 287(5).

- (2) Section 287—  
*insert*—

- ‘(4) In subsection (1), a reference to information does not include interstate information.

*Note*—

See section 12A (Suitability to work in child-related field—interstate information).’.

**59 Insertion of new ch 12, pt 10**

Chapter 12—  
*insert*—

**‘Part 10 Transitional provision for the State Penalties Enforcement and Other Legislation Amendment Act 2009**

**‘331 Interstate charge and interstate spent conviction**

- ‘(1) To remove any doubt, it is declared that—
- (a) for schedule 3, definition *interstate charge*, a reference to a charge against a person for an offence includes a charge for an offence alleged to have been committed by the person before the commencement; and

- (b) for schedule 3, definition *interstate spent conviction*, a reference to a conviction of a person includes a conviction of the person before the commencement.

‘(2) In this section—

*commencement* means the commencement of the *State Penalties Enforcement and Other Legislation Amendment Act 2009*, chapter 3.’

## 60 Amendment of sch 3 (Dictionary)

Schedule 3—

*insert—*

‘*expanded interstate criminal history*, of a person, means—

- (a) every interstate spent conviction of the person; and  
(b) every interstate charge against the person.

*interstate charge*, made against a person, means a charge against the person for an offence alleged to have been committed by the person against a law of another State or the Commonwealth.

*interstate commissioner of police* means the commissioner of a police force or service of another State or the Commonwealth.

*interstate information means—*

- (a) a person’s expanded interstate criminal history disclosed by the commissioner of police to the college under section 15, 65 or 75; or  
(b) any other information, that relates to a person’s expanded interstate criminal history, disclosed by the commissioner of police under section 15, 65 or 75, or an interstate commissioner of police under section 15A or 65, to the college.

*interstate rehabilitation law* means a law applying, or that applied, in another State or the Commonwealth, that provides,



(c) whether before or after the commencement of the provision.

*criminal history*, of a person—

(a) for part 5AA and the schedule—see section 5AA.1A; or

(b) for part 10, division 1, subdivision 2—see section 10.2AA; or

(c) for part 10, division 1A—see section 10.2G; or

(d) for part 10, division 1B—see section 10.2S.’.

(2) Section 1.4—

*insert—*

‘*child-related employment screening*, for part 10, division 1B, see section 10.2S.

*interstate screening unit*, for part 10, division 1B, see section 10.2S.’.

## **63 Insertion of new s 5AA.1A**

After section 5AA.1—

*insert—*

### **‘5AA.1A Definition for pt 5AA**

‘In this part—

*criminal history*, of a person—

(a) means the person’s convictions in relation to offences committed in Queensland or elsewhere; and

(b) includes information about offences of any kind alleged to have been committed, in Queensland or elsewhere, by the person.’.

## **64 Insertion of new s 10.2AA**

Part 10, division 1, subdivision 2, before section 10.2A—

---

*insert—*

**‘10.2AA Definition for sdiv 2**

‘In this subdivision—

*criminal history* has the meaning given by the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 3.

*Editor’s note—*

Under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 3(1)—

*criminal history* means, in relation to any person, the convictions recorded against that person in respect of offences.’.

**65 Amendment of s 10.2G (Definitions for div 1A)**

Section 10.2G—

*insert—*

‘*criminal history*, of a person—

- (a) means the person’s convictions in relation to offences committed in Queensland or elsewhere; and
- (b) includes information about—
  - (i) offences of any kind alleged to have been committed, in Queensland or elsewhere, by the person; and
  - (ii) cautions administered to the person under the *Juvenile Justice Act 1992*, part 2, division 2; and
  - (iii) referrals of offences to conferences under the *Juvenile Justice Act 1992*, part 2, division 3 or part 7, division 2.’.

**66 Insertion of new pt 10, div 1B**

After part 10, division 1A—

*insert—*

## **‘Division 1B                    Provisions about exchange of criminal history for child-related employment screening**

### **‘10.2S Definitions for div 1B**

‘In this division—

*approved agency* means—

- (a) CrimTrac; or
- (b) a police force or service of the Commonwealth or another State.

*child-related employment screening* means using information about a person in a way that is authorised or required under a law of another State or the Commonwealth that relates to assessing whether a person poses a risk of harm to children.

*criminal history*, of a person, means—

- (a) the person’s convictions for offences committed in Queensland or elsewhere; and
- (b) charges against the person for offences alleged to have been committed in Queensland or elsewhere; and
- (c) information about a conviction mentioned in paragraph (a) or a charge mentioned in paragraph (b), including, for example, a brief description of the circumstances of the conviction or charge.

*interstate screening unit* means an entity, established under a law of another State or the Commonwealth, that is—

- (a) prescribed under a regulation; or
- (b) prescribed under the *Crimes Act 1914* (Cwlth), section 85ZZGB, 85ZZGC or 85ZZGD.

---

**‘10.2T Giving criminal history to interstate screening unit or approved agency for child-related employment screening**

‘The commissioner may give a person’s criminal history to—

- (a) an interstate screening unit to enable the unit to use the history for child-related employment screening; or
- (b) an approved agency for the purpose of the approved agency giving the history to an interstate screening unit to enable the unit to use the history for child-related employment screening.

**‘10.2U Use of criminal history permitted despite other provisions**

‘(1) The commissioner may give a person’s criminal history to an interstate screening unit or an approved agency as mentioned in section 10.2T despite a prescribed provision.

‘(2) In this section—

*prescribed provision* means—

- (a) part 5A; or
- (b) part 5AA; or
- (c) part 10, division 1 or 1A; or
- (d) the *Criminal Law (Rehabilitation of Offenders) Act 1986*; or
- (e) the *Juvenile Justice Act 1992*, part 9.

**‘10.2V Protection from liability**

‘(1) This section applies if a person, acting honestly and without negligence, uses a person’s criminal history under this division.

‘(2) The person is not liable, civilly, criminally or under an administrative process, for using the history.

- ‘(3) Also, merely because the person uses the history, the person can not be held to have—
- (a) breached any code of professional etiquette or ethics; or
  - (b) departed from accepted standards of professional conduct.
- ‘(4) Without limiting subsections (2) and (3)—
- (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the history; and
  - (b) if the person would otherwise be required to maintain confidentiality about the history under an Act, oath or rule of law or practice, the person—
    - (i) does not contravene the Act, oath or rule of law or practice by using the history; and
    - (ii) is not liable to disciplinary action for using the history.’.

## 67 Insertion of new pt 11, div 5

Part 11—

*insert—*

### ‘Division 5 Transitional provisions for the State Penalties Enforcement and Other Legislation Amendment Act 2009

#### ‘11.9 Definition for div 5

‘In this division—

***commencement*** means the commencement of the *State Penalties Enforcement and Other Legislation Amendment Act 2009*, chapter 3.



## **‘Part 7E                      Provision about exchange of criminal history for child-related employment screening**

### **‘7E.1 Interstate screening units—Act, s 10.2S, definition *interstate screening unit*, paragraph (a)**

‘For section 10.2S of the Act, definition *interstate screening unit*, paragraph (a), each of the following entities is an interstate screening unit—

- (a) the Commission for Children and Young People constituted by the *Commission for Children and Young People Act 1998* (NSW);
- (b) an approved screening agency under the *Commission for Children and Young People Act 1998* (NSW);
- (c) the Secretary to the Department of Justice as mentioned in the *Working with Children Act 2005* (Vic);
- (d) the Victorian Institute of Teaching as mentioned in the *Education and Training Reform Act 2006* (Vic);
- (e) the chief executive officer as mentioned in the *Working with Children (Criminal Record Checking) Act 2004* (WA);
- (f) the Screening Authority established under the *Care and Protection of Children Act* (NT), section 196.’

---

## Chapter 4 QCAT Amendments

### Part 1 Amendment of Queensland Civil and Administrative Tribunal Act 2009

#### 70 Act amended

This part amends the *Queensland Civil and Administrative Tribunal Act 2009*.

#### 71 Amendment of s 2 (Commencement)

(1) Section 2, after ‘Act’—

*insert—*

‘, other than section 277A.’.

(2) Section 2—

*insert—*

‘(2) Section 277A commences on the day of assent of the *State Penalties Enforcement and Other Legislation Amendment Act 2009*.’.

#### 71A Amendment of s 97 (Requiring witness to attend or produce document or thing)

(1) Section 97(3), from ‘attends’ to ‘notice given’—

*omit, insert—*

‘is given a notice’.

(2) Section 97—

*insert—*

‘(5) The fees and allowances must be paid at the time prescribed under a regulation.’.

[s 72]

---

## **72 Amendment of s 128 (Procedural defects etc.)**

- (1) Section 128(2)(b), from ‘appointment’—  
*omit, insert—*  
‘appointment of—
- (i) a member or acting member; or
  - (ii) an adjudicator or acting adjudicator; or
  - (iii) the principal registrar; or
  - (iv) a registry staff member or Magistrates Court staff member performing a function of the principal registrar delegated to the member under section 210(2); or
  - (v) a registrar performing a function of the principal registrar under section 211(1); or’.
- (2) Section 128(3)—  
*omit.*

## **73 Amendment of s 132 (Non-monetary decisions)**

- (1) Section 132(2) and (4), ‘Supreme Court’—  
*omit, insert—*  
‘relevant court’.
- (2) Section 132(6), second paragraph (a)—  
*renumber* as section 132(6)(b).
- (3) Section 132(7)—  
*insert—*  
‘**relevant court** means—
- (a) for a final decision of the tribunal relating to a minor civil dispute—the Magistrates Court; or
  - (b) for another final decision of the tribunal—the Supreme Court.’.

---

**74 Amendment of s 166 (Constitution of appeal tribunal)**

Section 166—

*insert—*

- ‘(3) Subsection (2) does not apply in relation to an appeal or an application for leave to appeal if the appeal or application relates to a decision of the tribunal as constituted by a magistrate.’

**75 Amendment of s 167 (Choosing persons)**

Section 167(1), notes—

*insert—*

- ‘3 A judicial registrar who is an adjudicator under section 198A can hear and decide only minor civil disputes.’

**75A Amendment of s 195 (Functions generally)**

- (1) Section 195(b)—

*omit.*

- (2) Section 195(c), after ‘this Act,’—

*insert—*

‘the rules,’

- (3) Section 195(c) and (d)—

*renumber* as section 195(b) and (c).

**76 Insertion of new s 198A**

After section 198—

*insert—*

[s 76]

---

**‘198A Judicial registrars are adjudicators for minor civil disputes**

- ‘(1) Every judicial registrar, while the judicial registrar holds the office of judicial registrar, is an adjudicator for minor civil disputes.
- ‘(2) The president may enter into an arrangement with the Chief Magistrate about using judicial registrars as adjudicators.
- ‘(3) An arrangement under subsection (2) may provide for the following for a judicial registrar the subject of the arrangement—
  - (a) the time the judicial registrar may allocate to hearing and deciding minor civil disputes;
  - (b) the places at which the judicial registrar may hear and decide minor civil disputes.
- ‘(4) If an arrangement under subsection (2) applies to a judicial registrar, the judicial registrar may perform a function as an adjudicator for a minor civil dispute only as authorised, and in the way provided, under the arrangement.
- ‘(5) This part, other than sections 195(a), 196 and 197, does not apply to a judicial registrar who is an adjudicator under subsection (1).
- ‘(6) The appointment of a judicial registrar as an adjudicator does not affect any of the following—
  - (a) the judicial registrar’s tenure of office or status as a judicial registrar;
  - (b) the payment of the judicial registrar’s salary or allowances as a judicial registrar;
  - (c) any other right or privilege the judicial registrar has as a judicial registrar.
- ‘(7) Service by a judicial registrar in the office of an adjudicator is taken, for all purposes, to be service as a judicial registrar.

- ‘(8) Nothing in this Act prevents a judicial registrar who holds office as an adjudicator from doing anything in the judicial registrar’s capacity as a judicial registrar.’.

**77 Amendment of s 203 (Removal from office)**

Section 203(1)(c), ‘Act.’—

*omit, insert—*

‘Act; or’.

**78 Amendment of s 210 (Principal registrar)**

- (1) Section 210, heading, ‘registrar’—

*omit, insert—*

**‘registrar’s functions and power to delegate’.**

- (2) Section 210(2) and (3)—

*omit, insert—*

- ‘(2) The principal registrar may delegate a function mentioned in subsection (1) to—

- (a) a registry staff member; or
- (b) a Magistrates Court staff member.

- ‘(3) However, the principal registrar may delegate a function under subsection (2) only to a person the principal registrar is satisfied is appropriately qualified to perform the function.

- ‘(4) Also, the principal registrar can not delegate a function delegated to the principal registrar by the president or deputy president under section 182.

- ‘(5) A person performing a function mentioned in subsection (1) is, in performing the function, subject to the direction of the president.

- ‘(6) A person performing a function mentioned in subsection (1) may do all things necessary or convenient to be done for the performance of the function.

[s 79]

---

‘(7) A function delegated to the clerk of a Magistrates Court under subsection (2)(b) is a duty of the clerk for the *Justices Act 1886*, section 23.

‘(8) In this section—

*appropriately qualified*, for a function, includes having the qualifications, experience or standing appropriate to perform the function.’.

## **79 Amendment of s 211 (Registrar)**

Section 211, heading—

*omit, insert—*

### **‘211 Registrar’s functions’.**

## **80 Amendment of s 212 (Principal registrar must disclose interests)**

Section 212(3), definition *principal registrar*—

*omit, insert—*

‘*principal registrar* includes—

- (a) a registry staff member or Magistrates Court staff member performing a function of the principal registrar delegated to the member under section 210(2); and
- (b) a registrar performing a function of the principal registrar under section 211(1).’.

## **81 Amendment of s 216 (False or misleading information)**

Section 216(4), definition *official*, paragraph (a)—

*omit, insert—*

‘(a) includes—

- (i) a registry staff member; and

- (ii) a Magistrates Court staff member performing a function of the principal registrar delegated to the member under section 210(2); and’.

## 82 Amendment of s 218 (Contempt of tribunal)

- (1) Section 218(1), ‘is in’—

*omit, insert—*

‘may be in’.

- (2) Section 218(1)(a)—

*omit, insert—*

‘(a) insults an official while the official is—

(i) sitting on or with the tribunal in a proceeding; or

(ii) attending a proceeding; or

(iii) entering or leaving the place where the tribunal is sitting; or’.

- (3) Section 218—

*insert—*

‘(3) In this section—

***official*** means—

(a) a member; or

(b) an adjudicator; or

(c) an assessor; or

(d) the principal registrar; or

(e) a registrar; or

(f) a registry staff member; or

(g) a Magistrates Court staff member.’.

[s 83]

---

**83 Amendment of s 220 (Tribunal may exclude person)**

- (1) Section 220(1)(b) and (3), ‘tribunal staff members’—  
*omit, insert—*  
‘prescribed persons’.
- (2) Section 220(4), definition *tribunal staff member*—  
*omit, insert—*  
**‘prescribed person** means—
  - (a) the principal registrar; or
  - (b) a registrar; or
  - (c) a registry staff member; or
  - (d) a Magistrates Court staff member performing a function of the principal registrar delegated to the member under section 210(2).’.

**84 Amendment of s 228 (Oath of office)**

- (1) Section 228(1)(d), after ‘member’—  
*insert—*  
‘, other than the office of an ordinary member held by a magistrate under section 171(2)’.
- (2) Section 228(2)(a)—  
*omit.*
- (3) Section 228(2)(b) and (c)—  
*renumber* as section 228(2)(a) and (b).

**85 Amendment of s 233 (Confidentiality generally)**

Section 233(5), definition *prescribed person*—  
*insert—*

---

‘(d) a Magistrates Court staff member performing a function of the principal registrar delegated to the member under section 210(2).’.

**86 Amendment of s 234 (Further limitation on disclosure to a court etc.)**

Section 234(2), definition *prescribed person*—

*insert*—

‘(d) a Magistrates Court staff member performing a function of the principal registrar delegated to the member under section 210(2).’.

**87 Amendment of s 237 (Immunity of participants etc.)**

Section 237(11), definition *principal registrar*—

*omit, insert*—

‘*principal registrar* includes—

- (a) a registry staff member or Magistrates Court staff member performing a function of the principal registrar delegated to the member under section 210(2); and
- (b) a registrar performing a function of the principal registrar under section 211(1).’.

**88 Amendment of s 238 (Protection from civil liability)**

Section 238(4), definition *official*—

*insert*—

‘(d) a Magistrates Court staff member performing a function of the principal registrar delegated to the member under section 210(2).’.

**89 Insertion of new s 242A**

Chapter 5, part 3, division 5—

[s 90]

---

*insert—*

**‘242A Expiry of ss 198A and 242A and amendment of Act**

- ‘(1) Section 198A and this section expire on the expiry of the *Magistrates Act 1991*, part 9A.
- ‘(2) If a person ceases to be an adjudicator because of the expiry of the *Magistrates Act 1991*, part 9A and section 198A of this Act, the person is taken to continue to be an adjudicator to the extent necessary to enable a decision to be given in a matter that is partly heard or standing for the decision of the adjudicator.
- ‘(3) On the expiry, this Act is amended as follows—
- section 167(1), note 3—  
*omit*;
  - schedule 3, definition *judicial registrar*—  
*omit*.’.

**90 Amendment of s 263 (Transferring membership of particular members)**

- (1) Section 263—  
*insert—*
- ‘(4A) Subsection (1) does not apply if, immediately after the commencement, the person is appointed as a member or adjudicator.
- ‘(4B) Also, the person ceases to hold the appointment under subsection (1) if the person is appointed as a member or adjudicator.’.
- (2) Section 263(4A) to (5)—  
*renumber* as section 263(5) to (7).

**91 Amendment of s 268 (Proceeding started)**

Section 268(5), ‘subsection (4)(a)’—

---

*omit, insert—*  
'subsection (4)'.

**92 Insertion of new s 277A**

After section 277—

*insert—*

**'277A The chief executive may approve forms for limited period**

'(1) The chief executive may, during the prescribed period, approve forms for use under this Act.

'(2) This section is not limited by section 241.

'(3) In this section—

*prescribed period* means the period—

(a) starting on the day this section commences; and

(b) ending 3 months after the day section 241 commences.'

**93 Amendment of sch 2 (Subject matter for rules)**

Schedule 2, section 12(d), 'information'—

*omit, insert—*

'inform'.

**94 Amendment of sch 3 (Dictionary)**

(1) Schedule 3, definitions *adjudicator* and *spent conviction*—

*omit.*

(2) Schedule 3—

*insert—*

'*adjudicator* means—



- (b) a decision or assessment mentioned in section 14D(1) has been made in relation to the member (whether or not the member has applied to the tribunal to have the decision or assessment reviewed).’.

*Editor’s note—*

Legislation ultimately amended—

- *Adoption of Children Act 1964*

## **97 Insertion of new s 559A**

After section 559—

*insert—*

### **‘559A Amendment of s 97 (Cancellation or suspension of gaming machine licences and letters of censure)**

‘Section 97(1)(c)(ia), ‘, 109C or 411(1)’—

*omit, insert—*

‘or 109C’.’.

*Editor’s note—*

Legislation ultimately amended—

- *Gaming Machine Act 1991*

## **98 Replacement of s 564 (Omission of ss 414–421)**

‘Section 564—

*omit, insert—*

### **‘564 Omission of pt 12, div 8 (Provisions for Gaming Machine and Other Legislation Amendment Act 2003)**

Part 12, division 8—

*omit.’.*

*Editor’s note—*

Legislation ultimately amended—

- *Gaming Machine Act 1991*

**99 Amendment of s 565 (Amendment of schedule (Dictionary))**

Section 565—

*insert—*

‘(2A) Schedule, definition *commencement*, paragraph (b)—  
*omit.*

‘(2B) Schedule, definition *commencement*, paragraphs (c) and (d)—  
*renumber* as paragraphs (b) and (c).

‘(4A) Schedule, third definition *operating authority*, paragraph (b)—

*omit, insert—*

‘(b) another operating authority, other than an operating authority that—

(i) was allocated under repealed section 409; or

*Note—*

Repealed section 409 provided for the allocation, on 1 July 2003, of operating authorities to category 1 licensees.

(ii) is transferred by operation of section 78(5); or

(iii) is purchased at an authorised sale.’.’.

*Editor’s note—*

Legislation ultimately amended—

- *Gaming Machine Act 1991*

**100 Replacement of s 699 (Amendment of s 500B (How to start a proceeding))**

Section 699—

*omit, insert—*

**‘699 Replacement of s 500B (How to start a proceeding)**

‘Section 500B—

---

*omit, insert—*

**‘500B How to start a proceeding**

- ‘(1) The chief executive may apply, as provided under the QCAT Act, to the tribunal to conduct a marketeer proceeding.
- ‘(2) The application must state—
- (a) the grounds for starting the proceeding; and
  - (b) the conduct constituting the grounds; and
  - (c) that an application will be made for orders under section 530A.’.

*Editor’s note—*

Legislation ultimately amended—

- *Property Agents and Motor Dealers Act 2000*

**100A Insertion of new s 723A**

After section 723—

*insert—*

**‘723A Amendment of s 4 (Main purposes of Act and how they generally are achieved)**

- ‘(1) Section 4(2)(f)—
- omit.*
- ‘(2) Section 4(2)(g) to (j)—
- renumber* as section 4(2)(f) to (i).’.

*Editor’s note—*

Legislation ultimately amended—

- *Racing Act 2002*

**101 Amendment of s 724 (Replacement of ch 5 (Racing Appeals Tribunal))**

Section 724, inserted section 153, heading, ‘appeal’—

*omit, insert—*

**‘review’.**

*Editor’s note—*

Legislation ultimately amended—

- *Racing Act 2002*

**102 Replacement of ch 5, pt 79 (Amendment of Wine Industry Regulation 1995)**

Chapter 5, part 79—

*omit, insert—*

**‘Part 79 Amendment of Wine Industry Regulation 2009**

**‘871 Regulation amended**

‘This part amends the *Wine Industry Regulation 2009*.

**‘872 Amendment of s 9 (Requirements of submission by petition)**

‘Section 9(2), ‘registrar of the Tribunal’—

*omit, insert—*

‘tribunal’.’.

*Editor’s note—*

Legislation ultimately amended—

- *Wine Industry Regulation 2009*

**103 Replacement of s 1047 (Replacement of s 213 (Chairperson to allocate matters))**

Section 1047—

*omit, insert—*

---

**‘1047 Replacement of s 213 (Chairperson to allocate matters)**

‘Section 213—

*omit, insert—*

**‘213 Allocation of matters and constitution of the tribunal**

‘(1) As soon as practicable after a referral notice is filed with the principal registrar the principal registrar must choose assessors to assist the tribunal.

‘(2) The tribunal must be constituted by a judicial member.

‘(3) In this section—

*judicial member* see the *Queensland Civil and Administrative Tribunal Act 2009*, schedule 3.’.

*Editor’s note—*

Legislation ultimately amended—

- *Health Practitioners (Professional Standards) Act 1999*

**104 Amendment of s 1273 (Amendment of s 189 (Appeals to Commercial and Consumer Tribunal about decisions under pt 3))**

Section 1273(1)—

*omit, insert—*

‘(1) Section 189, heading, ‘Appeals to Commercial and Consumer Tribunal about’—

*omit, insert—*

**‘Reviews by tribunal of’.**

*Editor’s note—*

Legislation ultimately amended—

- *Building Act 1975*

### **105 Amendment of s 1293 (Insertion of new ch 16, pt 3A)**

Section 1293, inserted section 1137K—

*insert—*

- ‘(3) An individual required to answer a question, give information, produce a document or give a copy of a document under this section must comply with the requirement, unless the individual has a reasonable excuse.
- ‘(4) It is a reasonable excuse for the individual not to comply with the requirement if complying might tend to incriminate the individual.’

*Editor’s note—*

Legislation ultimately amended—

- *Local Government Act 1993*

### **106 Amendment of s 1466 (Replacement of ss 163–165)**

Section 1466, inserted section 163(3)(a)(viii), after ‘tribunal’—

*insert—*

‘, or the Court of Appeal,’.

*Editor’s note—*

Legislation ultimately amended—

- *Guardianship and Administration Act 2000*

### **107 Replacement of s 1519 (Insertion of new s 462A)**

Section 1519—

*omit, insert—*

#### **‘1519 Insertion of new s 462A**

‘After section 462—

*insert—*

---

**‘462A Institution of proceedings by the commissioner**

‘The commissioner may bring a proceeding under this part for the imposition or enforcement of a penalty.’.

*Editor’s note—*

Legislation ultimately amended—

- *Legal Profession Act 2007*

**108 Insertion of new s 1555A**

After section 1555—

*insert—*

**‘1555A Amendment of s 53I (Power concerning prescribed applications and matters)**

‘Section 53I(4)—

*insert—*

*Note—*

See the QCAT Act, section 198A for provisions about a judicial registrar being an adjudicator under that Act.’.

*Editor’s note—*

Legislation ultimately amended—

- *Magistrates Act 1991*

**109 Replacement of s 1556 (Amendment of s 53J (Practice direction))**

Section 1556—

*omit, insert—*

**‘1556 Amendment of s 53J (Practice direction)**

‘(1) Section 53J(1)(b) and (c)—

*omit.*

‘(2) Section 53J(1)—

*insert—*

- ‘(f) an application under the *Bail Act 1980*, section 8 if—
- (i) the application is to grant bail for a defendant charged with an offence mentioned in section 16(3) of that Act; and
  - (ii) the application is made following the defendant’s committal for trial or sentence under the *Justices Act 1886*, section 110A(6) in relation to the offence; and
  - (iii) the complainant, the prosecutor or a person appearing on behalf of the Crown does not oppose the application;
- (g) an application under the *Bail Act 1980*, section 8 if—
- (i) the application is to enlarge or vary bail for a defendant charged with an offence mentioned in section 16(3) of that Act; and
  - (ii) the complainant, the prosecutor or a person appearing on behalf of the Crown does not oppose the application.’.

- ‘(3) Section 53J(1)(d) to (g)—  
*renumber* as section 53J(1)(b) to (e).’.

*Editor’s note—*

Legislation ultimately amended—

- *Magistrates Act 1991*

## **110 Amendment of s 1557 (Amendment of s 53K (Referring application or matter))**

Section 1557, after ‘section 53J(1)(c)’—

*insert—*

‘, (d) or (e)’.

---

*Editor's note—*

Legislation ultimately amended—

- *Magistrates Act 1991*

### **111 Amendment of s 1844 (Insertion of new ss 8–10)**

Section 1844, inserted section 10, from “Despite’ to ‘proceeding.’” —

*omit, insert—*

- ‘(1) Despite the QCAT Act, section 268(4) the court may not transfer a proceeding to QCAT without the consent of the applicant for the proceeding.
- ‘(2) The QCAT Act, section 268(7) does not apply to a final decision of the court in a proceeding relating to the commissioner’s decision on an objection.’.

*Editor's note—*

Legislation ultimately amended—

- *Debits Tax Repeal Act 2005*

### **112 Amendment of s 1886 (Amendment of s 68 (Notice of decision))**

- (1) Section 1886, inserted section 68(2)(d), ‘review;’ —

*omit, insert—*

‘review.’.

- (2) Section 1886, inserted section 68(2)(e) —

*omit.*

*Editor's note—*

Legislation ultimately amended—

- *Taxation Administration Act 2001*

[s 113]

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### **113 Amendment of s 1892 (Insertion of new pt 14)**

Section 1892, inserted section 165, from “Despite’ to ‘proceeding.’”—

*omit, insert—*

- ‘(1) Despite the QCAT Act, section 268(4) the court may not transfer a proceeding to QCAT without the consent of the applicant for the proceeding.
- ‘(2) The QCAT Act, section 268(7) does not apply to a final decision of the court in a proceeding relating to an appeal against a decision of the commissioner on an objection.’.

*Editor’s note—*

Legislation ultimately amended—

- *Taxation Administration Act 2001*

## **Part 3 Amendment of Adoption Act 2009**

### **114 Act amended**

This part amends the *Adoption Act 2009*.

### **115 Amendment of s 29 (Declaration of tribunal whether an adult parent has capacity to consent)**

- (1) Section 29, heading, ‘tribunal’—

*omit, insert—*

‘QCAT’.

- (2) Section 29(2), ‘the Guardianship and Administration Tribunal’—

*omit, insert—*

‘QCAT’.

**116 Amendment of s 30 (Appointment of guardian for adult parent without capacity to consent)**

Section 30(1)(a) and (2), ‘the Guardianship and Administration Tribunal’—

*omit, insert—*

‘QCAT’.

**117 Amendment of s 39 (Court may dispense with need for consent)**

Section 39(1)(b), ‘the Guardianship and Administration Tribunal’—

*omit, insert—*

‘QCAT’.

**118 Amendment of s 148 (Appeal from decision that information is investigative information)**

Section 148(5), ‘The tribunal’—

*omit, insert—*

‘QCAT’.

**119 Amendment of s 175 (Consents and pre-consent counselling and information)**

Section 175(3)(d), ‘the Guardianship and Administration Tribunal’—

*omit, insert—*

‘QCAT’.

[s 120]

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## **120 Insertion of new pt 14A**

After part 14—

*insert—*

# **‘Part 14A Proceedings before QCAT**

## **‘Division 1 Preliminary**

### **‘307A Application of pt 14A**

‘This part applies to a proceeding before QCAT for a review of a reviewable decision under this Act (an *adoption proceeding*).

*Note—*

See section 319 for particular decisions under this Act that may reviewed by QCAT.

### **‘307B Definitions for pt 14A**

‘In this part—

*president* means the president under the QCAT Act.

*registrar* means the principal registrar under the QCAT Act.

*review application* means an application made, as provided under the QCAT Act, for review of a reviewable decision by the tribunal.

*separate representative* see section 307I(2).

*support person* means a person allowed by the tribunal under the QCAT Act, section 91 to attend a hearing for the purpose of supporting a party or witness.

*tribunal* means QCAT.

### **‘307C Object of pt 14A**

‘The object of this part is to provide for the tribunal—

- (a) to make decisions, in a review about the eligibility or suitability of a prospective adoptive parent, that promote the welfare and interests of children who may be adopted by them; and
- (b) to conduct adoption proceedings in a way that uses adversarial and inquisitorial procedures, as appropriate, to arrive at the best possible decision in the circumstances; and
- (c) to foster an atmosphere of review that enhances the delivery of adoption services to children.

### **‘307D Principles for tribunal in matters relating to this Act**

‘When exercising its jurisdiction, functions or powers in relation to this Act, the tribunal must have regard to the principles mentioned in sections 6 and 7.

## **‘Division 2                      Notice for proceedings**

### **‘307E Government entity may nominate decision-maker**

‘The department may give the registrar a notice nominating an officer or employee of the department, or the holder for the time being of an office in the department, as the decision-maker for an assessment or decision to be reviewed by the tribunal.

## **‘Division 3                    Proceedings**

### **‘307F Constitution of tribunal and hearing of compulsory conference**

- ‘(1) For an adoption proceeding, the tribunal must be constituted by 3 members, at least 1 of whom is a legally qualified member.
- ‘(2) A compulsory conference relating to an adoption proceeding must be heard by at least 2 members, at least 1 of whom is a legally qualified member.
- ‘(3) If a child to which an adoption proceeding relates is Aboriginal or Torres Strait Islander, the tribunal hearing the proceeding must include, if practicable, a member who is Aboriginal or Torres Strait Islander.
- ‘(4) The president may choose a member to constitute the tribunal for an adoption proceeding only if the president considers the member—
  - (a) is committed to the principles mentioned in sections 6 and 7; and
  - (b) has extensive professional knowledge and experience of children; and
  - (c) has demonstrated a knowledge of and has experience in 1 or more of the fields of administrative review, child care, child protection, child welfare, community services, education, health, indigenous affairs, law, psychology or social work.
- ‘(5) A member is ineligible to be a constituting member for a review of a reviewable decision if—
  - (a) the member’s name is in the expression of interest register or suitable adoptive parents register; or
  - (b) the member has made an application under part 5, division 1 that the chief executive is required to deal with under part 5, division 2; or

---

(c) a decision mentioned in section 319 has been made in relation to the member (whether or not the member has applied to the tribunal for a review of the decision).

‘(6) In this section—

*legally qualified member* has the meaning given by the QCAT Act.

*member* has the meaning given by the QCAT Act.

### **‘307G Hearing must usually be held in private**

‘(1) A hearing of an adoption proceeding must be held in private.

‘(2) However, the following are entitled to be present at the proceeding—

(a) each party to the proceeding;

(b) if, under an Act, a party is entitled to be represented by someone else at the proceeding, the party’s representative;

(c) a separate representative representing a child in the proceeding;

(d) a witness while giving evidence;

(e) a support person for a witness, while the witness is giving evidence;

(f) a person allowed to be present by the tribunal.

‘(3) This section is subject to section 307N(3) and the QCAT Act, section 220.

*Editor’s note—*

QCAT Act, section 220 (Tribunal may exclude person)

## **‘Division 4                      Children in proceedings**

### **‘307H Requirements about ensuring proper understanding of tribunal proceedings**

‘The tribunal must take all reasonable steps to ensure each child taking part in an adoption proceeding understands the tribunal’s procedures.

*Note—*

See also the QCAT Act, section 29 (Ensuring proper understanding and regard).

### **‘307I Separate representation of children**

- ‘(1) This section applies if an adoption proceeding is about the suitability of a person to be an adoptive parent of a particular child.
- ‘(2) The tribunal must consider whether it would be in the child’s best interests for the child to be separately represented before the tribunal by a lawyer (a *separate representative*).
- ‘(3) If the tribunal considers it would be in the child’s best interests for the child to be separately represented before the tribunal by a lawyer, the tribunal must order that the child be represented by a separate representative.
- ‘(4) A separate representative may represent more than 1 child in the same proceeding before the tribunal.
- ‘(5) A separate representative must—
  - (a) act in the child’s best interests having regard to any expressed views or wishes of the child; and
  - (b) as far as possible, present the child’s views and wishes to the tribunal.
- ‘(6) For the QCAT Act, a separate representative has the same rights and obligations as a party to the review.

---

**‘307J Children must not be compelled to give evidence**

- ‘(1) A child must not be compelled to give evidence in an adoption proceeding.
- ‘(2) Without limiting subsection (1), the tribunal may not require a child to do either of the following under the QCAT Act, section 97(1)—
  - (a) attend a hearing of an adoption proceeding to give evidence;
  - (b) produce a stated document or other thing to the tribunal.
- ‘(3) Before a child gives evidence in an adoption proceeding, the tribunal must satisfy itself that the child is willing to give the evidence.

**‘307K Child’s right to express views to tribunal**

- ‘(1) This section applies if an adoption proceeding is about the suitability of a person to be an adoptive parent of a particular child.
- ‘(2) Whether or not the child appears as a witness before the tribunal, the child has the right to express his or her views to the tribunal about matters relevant to the review.

**‘307L Children giving evidence or expressing views to tribunal**

- ‘(1) This section applies if a child is giving evidence or expressing the child’s views to the tribunal.
- ‘(2) Only the following persons may be present while the child gives evidence or expresses the child’s views—
  - (a) the members constituting the tribunal for the proceeding;
  - (b) the lawyer, if any, representing the child;
  - (c) the separate representative, if any, for the child;

[s 120]

---

- (d) the child's support person if the child has a support person and agrees to that person's presence.
- '(3) Despite subsection (2), the child may elect to give evidence or express the child's views in the presence of the parties and their representatives if the child—
  - (a) is 12 years or more; and
  - (b) is represented by a lawyer or a separate representative.

### **'307M Questioning of children**

- '(1) A child giving evidence or expressing the child's views in an adoption proceeding must not be cross-examined.
- '(2) Also, only the following persons may ask questions of a child giving evidence or expressing the child's views in an adoption proceeding—
  - (a) the members constituting the tribunal for the proceeding;
  - (b) the lawyer, if any, representing the child;
  - (c) the separate representative, if any, for the child.

## **'Division 5                      Confidentiality**

### **'307N Confidentiality order**

- '(1) The tribunal may, by order (a *confidentiality order*), prohibit or restrict the disclosure to a party to an adoption proceeding of all or some of the evidence given before the tribunal, or of the whole or part of the contents of a document given to, or received in evidence by, the tribunal for the review.
- '(2) Subsection (3) applies for the purpose of the tribunal—
  - (a) deciding whether to make a confidentiality order; or
  - (b) giving effect to a confidentiality order.

- ‘(3) The tribunal may—
  - (a) exclude a party, and any representative of the party, from part of an adoption proceeding; or
  - (b) deal with a document in a way that ensures it is not disclosed to a party.
- ‘(4) The tribunal may make a confidentiality order only if it is satisfied that if it does not do so—
  - (a) a child is likely to be harmed; or
  - (b) the safety of another person is likely to be endangered; or
  - (c) there would be undue interference with the privacy of a child or another person.
- ‘(5) The tribunal may act under subsection (1) on its own initiative or on application by a party to an adoption proceeding.
- ‘(6) A confidentiality order does not act to prohibit or limit the disclosure of material to a separate representative in an adoption proceeding.

### **‘307O Limited access to tribunal’s register of proceedings**

- ‘(1) This section applies to the register of proceedings kept by the principal registrar under the QCAT Act, section 229(1).
- ‘(2) Despite the QCAT Act, section 229(2) the principal registrar must ensure that part of the register which relates to adoption proceedings is not available for inspection by the public.
- ‘(3) The QCAT Act, section 229(4) does not apply to that part of the register which relates to adoption proceedings.

### **‘307P Limited access to tribunal’s record of proceedings**

- ‘(1) This section applies to a record kept under the QCAT Act, section 230 for an adoption proceeding.

[s 120]

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- ‘(2) Despite the QCAT Act, section 230(3) a person who is not a party to the proceeding may not inspect, or obtain a copy of, the record or a part of the record.

### **‘307Q Certain information not to be published**

- ‘(1) A person must not publish—
- (a) information given in evidence or otherwise in an adoption proceeding; or
  - (b) information that is likely to identify a person who—
    - (i) appears as a witness before the tribunal in an adoption proceeding; or
    - (ii) is a party to an adoption proceeding; or
    - (iii) is mentioned, or otherwise involved, in an adoption proceeding.

Maximum penalty—

- (a) for a corporation—1000 penalty units; or
  - (b) for an individual—100 penalty units or 2 years imprisonment.
- ‘(2) Subsection (1)(a) does not apply to—
- (a) a person if the tribunal or the president of the tribunal consents to the publication of the information by the person; or
  - (b) the tribunal publishing its final decision in an adoption proceeding, with or without the reasons for the decision.
- ‘(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.

‘(4) In this section—

*information* includes—

- (a) a matter contained in a document filed with, or received by, the tribunal; and
- (b) the tribunal’s decision or reasons for a decision.

*publish*, for information, means to publish it to the public by way of the internet, newspaper, radio, television or other form of communication.’.

**121 Amendment of s 319 (Right of review against particular decisions)**

Section 319, ‘the tribunal’—

*omit, insert*—

‘QCAT’.

**122 Amendment of s 335 (Review of decision to remove name from adoption list)**

- (1) Section 335(1)(b) and (3), ‘the tribunal’—

*omit, insert*—

‘QCAT’.

- (2) Section 335(2), ‘The tribunal’—

*omit, insert*—

‘QCAT’.

**123 Amendment of s 337 (Uncompleted review of decision to remove persons from expression of interest register)**

Section 337(1)(a), ‘the tribunal’—

*omit, insert*—

‘QCAT’.

[s 124]

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## **124 Amendment of sch 3 (Dictionary)**

(1) Schedule 3, definitions *Guardianship and Administration Tribunal*, *information notice* and *tribunal*—  
*omit.*

(2) Schedule 3—

*insert—*

*‘adoption proceeding*, for part 14A, see section 307A.

*information notice* means a notice complying with the QCAT Act, section 157(2).

*president*, for part 14A, see section 307B.

*registrar*, for part 14A, see section 307B.

*review application*, for part 14A, see section 307B.

*separate representative*, for part 14A, see section 307B.

*support person*, for part 14A, see section 307B.

*tribunal*, for part 14A, see section 307B.’.

## **Part 4 Amendment of Body Corporate and Community Management Act 1997**

### **125 Act amended**

This part amends the *Body Corporate and Community Management Act 1997*.

### **126 Amendment of s 279 (Interim orders in context of adjudication)**

(1) Section 279(2)(d)(ii), from ‘written’—



[s 129A]

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**129A Amendment of s 50 (Commission may prosecute official misconduct)**

Section 50(4), definition *prescribed person*, ‘a charge is laid’—

*omit, insert—*

‘the start of a disciplinary proceeding for the official misconduct’.

**130 Amendment of ss 56 and 174**

Sections 56(b) and 174(1), ‘*Editor’s note*’—

*omit, insert—*

‘*Note*’.

**131 Amendment of ss 76, 78A, 79, 187, 191 and 195A**

Sections 76, 78A, 79, 187, 191 and 195A, heading, ‘subdiv’—

*omit, insert—*

‘**sdiv**’.

**132 Amendment of s 78 (Procedure for documents subject to claim of privilege)**

Section 78(5), ‘82(1)(c)’—

*omit, insert—*

‘82(1)(a)(iii)’.

**133 Amendment of s 86 (Search warrant applications)**

Section 86(4)(b), before ‘fully’—

*insert—*

‘**must**’.

---

**134 Amendment of s 109 (Definitions for pt 5)**

Section 109, definition *court*, ‘misconduct tribunal’—  
*omit, insert*—  
‘QCAT exercising its jurisdiction under this Act’.

**135 Amendment of s 119B (Application of part 5A)**

Section 119B, heading, ‘part’—  
*omit, insert*—  
‘**pt**’.

**136 Amendment of s 119K (What suspension order must state)**

Section 119K(3)—  
*omit*.

**137 Amendment of s 124 (Issue of surveillance warrant)**

Section 124(2), ‘major crime or’—  
*omit*.

**138 Amendment of s 130 (Disclosure of information obtained using surveillance warrant)**

Section 130(2)(d)—  
*omit, insert*—  
‘(d) QCAT hearing a matter, in the exercise of its jurisdiction under this Act, in which the relevant information is evidence; or’.

[s 139]

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**139 Amendment of s 146K (Protection from liability)**

Section 146K(6)(b), first mention—

*renumber* as section 146K(6)(a).

**140 Amendment of s 166 (Register of warrants, warrant applications etc.)**

Section 166(4)(c), ‘or 4’—

*omit*.

**141 Amendment of s 170 (Provision for overnight detention)**

Section 170, ‘is to be’—

*omit, insert*—

‘to be’.

**142 Amendment of s 227 (Advertising and nominations for appointment)**

Section 227(2), ‘225(a)’—

*omit, insert*—

‘225(1)(a)’.

**143 Amendment of s 230 (Appointment of part-time commissioners)**

(1) Section 230(2), ‘225(a)’—

*omit, insert*—

‘225(1)(a)’.

(2) Section 230(3), ‘225(b)’—

*omit, insert*—

‘225(1)(b)’.

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**144 Amendment of ss 326 and 339**

Sections 326(1)(c) and 339(c), ‘; and’—

*omit, insert—*

‘;’.

**145 Amendment of sch 2 (Dictionary)**

(1) Schedule 2, definitions *evidence*—

*omit, insert—*

***‘evidence—***

(a) of the commission of major crime or misconduct, includes—

(i) a thing or activity that is or may provide evidence of the commission of the major crime or misconduct; and

(ii) a thing that will, itself or by or on scientific examination, provide evidence of the commission of the major crime or misconduct; and

(iii) a thing that is intended to be used for the purpose of committing the major crime or misconduct; and

(iv) a thing that may be liable to forfeiture; or

(b) of identity, for chapter 3, part 6B, see section 146Q.’.

(2) Schedule 2, definition *relevant person*, paragraph (b) and editor’s note—

*omit.*

(3) Schedule 2, definition *relevant person*, paragraphs (c) and (d)—

*renumber* as paragraphs (b) and (c).





[s 155]

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**155 Amendment of s 175X (CCT jurisdiction)**

(1) Section 175X, heading, ‘CCT’

*omit, insert—*

‘QCAT’.

(2) Section 175X(2)—

*omit, insert—*

‘(2) A party to the dispute may apply, as provided under the QCAT Act, for an order of QCAT to resolve the dispute.’.

**156 Amendment of s 179B (Dealing with matter relating to development control by-law)**

(1) Section 179B, ‘The Commercial and Consumer Tribunal’—

*omit, insert—*

‘QCAT’.

(2) Section 179B(2), ‘tribunal’—

*omit, insert—*

‘QCAT, as provided under the QCAT Act.’.

**157 Amendment of s 179C (Internal dispute resolution processes to be used before application)**

(1) Section 179C(1)(b), ‘the Commercial and Consumer Tribunal for’—

*omit, insert—*

‘QCAT in’.

(2) Section 179C(2), ‘tribunal’—

*omit, insert—*

‘QCAT’.

---

**158 Amendment of sch 7 (Dictionary)**

Schedule 7, definition *Commercial and Consumer Tribunal*—  
*omit.*

**Part 10A Amendment of Land Tax Act  
1915**

**158A Act amended**

This part amends the *Land Tax Act 1915*.

**158B Amendment of pt 5 hdg (Grounds of objection or appeal)**

Part 5, heading, ‘or appeal’—  
*omit, insert—*  
**‘, appeal or review’.**

**158C Amendment of s 28 (Restriction on grounds of appeal)**

(1) Section 28, heading, after ‘appeal’—

*insert—*

**‘or review’.**

(2) Section 28—

*insert—*

‘(2) Despite the Administration Act, section 71(2), an application for review of the commissioner’s decision on an objection to an assessment may not be made on the grounds mentioned in subsection (1).’



- (d) to give QCAT a copy of a document.
- ‘(2) A requirement under subsection (1) must—
  - (a) be in writing; and
  - (b) state or describe the information, document or thing required; and
  - (c) state a reasonable period for compliance.
- ‘(3) An individual required to answer a question, give information, produce a document or give a copy of a document under this section must comply with the requirement, unless the individual has a reasonable excuse.
- ‘(4) It is a reasonable excuse for the individual not to comply with the requirement if complying with the requirement might tend to incriminate the individual.

### **‘201C End of reference**

- ‘(1) At the end of a referral, QCAT must give the following persons a report, with or without recommendations—
  - (a) the relevant chief executive officer of the local government;
  - (b) the department’s chief executive.
- ‘(2) The department’s chief executive must give the Minister a copy of the report as soon as practicable after receiving it.

### **‘201D Local government to comply with recommendation**

‘A local government must comply with a recommendation given in a report under section 201C(1).’.

## **161 Amendment of s 270 (Regulation-making power)**

Section 270(2)(c), ‘appeals against’—

[s 162]

---

*omit, insert—*

‘reviews of, or appeals against,’.

## **Part 12                      Amendment of Nursing Act 1992**

### **162    Act amended**

This part amends the *Nursing Act 1992*.

### **163    Amendment of s 87 (Assessors to assist tribunal)**

Section 87(1)(a) and (b), ‘president’—

*omit, insert—*

‘principal registrar’.

## **Part 13                      Amendment of Pest Management Act 2001**

### **164    Act amended**

This part amends the *Pest Management Act 2001*.

### **165    Insertion of new s 107**

Part 4, division 1—

*insert—*

---

**‘107 Stay of operation of original decision**

- ‘(1) If an application is made for a review of an original decision, the applicant may immediately apply, as provided under the QCAT Act, to QCAT for a stay of the decision.
- ‘(2) QCAT may stay the decision to secure the effectiveness of the review and any later review.
- ‘(3) The stay—
- (a) may be given on conditions QCAT considers appropriate; and
  - (b) operates for the period fixed by QCAT; and
  - (c) may be revoked or amended by QCAT.
- ‘(4) The period of the stay must not extend past the time when the chief executive makes a review decision about the original decision and any later period QCAT allows the applicant to enable the applicant to apply for a review of the review decision.
- ‘(5) An application under subsection (1) affects the original decision, or carrying out of the original decision, only if the original decision is stayed.’.

## **Part 14 Amendment of Plumbing and Drainage Act 2002**

### **166 Act amended**

This part amends the *Plumbing and Drainage Act 2002*.

### **167 Amendment of s 70B (Constitution of QCAT)**

- (1) Section 70B(2)(a), ‘under the QCAT Act’—  
*omit.*



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## **Part 16**                      **Amendment of Private Health Facilities Act 1999**

### **170 Act amended**

This part amends the *Private Health Facilities Act 1999*.

### **171 Insertion of new s 130**

Part 9, division 1—

*insert—*

### **‘130 Stay of operation of original decision**

- ‘(1) If an application is made for an internal review of an original decision, the applicant may immediately apply, as provided under the QCAT Act, to QCAT for a stay of the decision.
- ‘(2) QCAT may stay the decision to secure the effectiveness of the review and any later review.
- ‘(3) The stay—
  - (a) may be given on conditions QCAT considers appropriate; and
  - (b) operates for the period fixed by QCAT; and
  - (c) may be revoked or amended by QCAT.
- ‘(4) The period of the stay must not extend past the time when the chief executive makes a review decision about the original decision and any later period QCAT allows the applicant to enable the applicant to apply for a review of the review decision.
- ‘(5) An application under subsection (1) affects the original decision, or carrying out of the original decision, only if the original decision is stayed.’.



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**176 Insertion of new s 123**

Part 7, division 1—

*insert—*

**‘123 Stay of operation of original decision**

- ‘(1) If an application is made for a review of an original decision, the applicant may immediately apply, as provided under the QCAT Act, to QCAT for a stay of the decision.
- ‘(2) QCAT may stay the decision to secure the effectiveness of the review and any later review.
- ‘(3) The stay—
  - (a) may be given on conditions QCAT considers appropriate; and
  - (b) operates for the period fixed by QCAT; and
  - (c) may be revoked or amended by QCAT.
- ‘(4) The period of the stay must not extend past the time when the local government that made the original decision makes a review decision about the original decision and any later period QCAT allows the applicant to enable the applicant to apply for a review of the review decision.
- ‘(5) An application under subsection (1) affects the original decision, or carrying out of the original decision, only if the original decision is stayed.’.

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## **Part 19**                      **Amendment of Queensland Building Services Authority Act 1991**

### **177 Act amended**

This part amends the *Queensland Building Services Authority Act 1991*.

### **178 Amendment of s 95 (Expedited hearing of domestic building disputes)**

- (1) Section 95(2), ‘The’—  
*omit, insert—*  
‘Subject to subsection (3), the’.
- (2) Section 95—  
*insert—*
- ‘(3) The tribunal may decide a domestic building dispute between a building owner and a building contractor at an expedited hearing if—
- (a) the building contractor applied to the tribunal to have the tribunal decide the dispute; and
  - (b) prior to the proceedings the building owner applied under section 71A for the authority to consider whether to direct the following rectification of building work—
    - (i) to complete incomplete domestic building work;
    - (ii) to remedy defective domestic building work relating to a building that—
      - (A) adversely affects the structural performance of the building; or
      - (B) adversely affects the health or safety of a person occupying the building; or

- 
- (C) adversely affects the functional use of the building; or
  - (D) allows water penetration into the building; and
- (c) the tribunal considers the building owner may suffer undue hardship if the matter is not dealt with by expedited hearing; and
  - (d) having regard to the complexity of the dispute, the tribunal considers that it may properly be dealt with at an expedited hearing.
- ‘(4) The tribunal may decide a review of a decision of the authority at an expedited hearing if—
- (a) a building contractor applied to the tribunal for the review; and
  - (b) the review is of a decision of the authority—
    - (i) to direct or not to direct rectification or completion of tribunal work in relation to domestic building work; or
    - (ii) that a domestic building contract has been validly terminated having the consequence of allowing a claim for noncompletion under the statutory insurance scheme; and
  - (c) prior to the review being commenced, the relevant building owner for the decision applied under section 71A for the authority to consider whether to direct the following rectification of building work—
    - (i) to complete incomplete domestic building work;
    - (ii) to remedy defective domestic building work relating to a building that—
      - (A) adversely affects the structural performance of the building; or
      - (B) adversely affects the health or safety of a person occupying the building; or

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- (C) adversely affects the functional use of the building; or
  - (D) allows water penetration into the building; and
- (d) the tribunal considers the relevant building owner for the decision may suffer undue hardship if the matter is not dealt with by expedited hearing; and
  - (e) having regard to the complexity of the review the tribunal considers that it may properly be dealt with at an expedited hearing.’.

## **Part 20                      Amendment of Radiation Safety Act 1999**

### **179    Act amended**

This part amends the *Radiation Safety Act 1999*.

### **180    Insertion of new s 187**

Part 10, division 1—

*insert—*

### **‘187    Stay of operation of original decision**

- ‘(1) If an application is made for a review of an original decision, the applicant may immediately apply, as provided under the QCAT Act, to QCAT for a stay of the decision.
- ‘(2) QCAT may stay the decision to secure the effectiveness of the review and any later review.
- ‘(3) The stay—
  - (a) may be given on conditions QCAT considers appropriate; and



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- (a) refer the dispute, as provided under the QCAT Act, to QCAT; and
- (b) give the chief executive written notice of the referral.’.

## **Part 22                      Amendment of Sanctuary Cove Resort Act 1985**

### **184      Act amended**

This part amends the *Sanctuary Cove Resort Act 1985*.

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

Section 4, definition *Commercial and Consumer Tribunal*—  
*omit*.

### **186      Replacement of s 94T (CCT jurisdiction)**

Section 94T—  
*omit, insert—*

#### **‘94T      QCAT jurisdiction**

‘A dispute about the transfer, under this division, of a letting agent’s management rights may be dealt with by QCAT under the QCAT Act.’.

### **187      Amendment of s 94U (CCT jurisdiction)**

- (1) Section 94U, heading, ‘CCT’—  
*omit, insert—*  
‘QCAT’.

- (2) Section 94U(2)—

*omit, insert—*

- ‘(2) A party to the dispute may apply, as provided under the QCAT Act, for an order of QCAT to resolve the dispute.’.

**188 Amendment of s 104B (Dealing with matter relating to development control by-law)**

- (1) Section 104B(1), ‘The Commercial and Consumer Tribunal’—

*omit, insert—*

‘QCAT’.

- (2) Section 104B(2), ‘the tribunal’—

*omit, insert—*

‘QCAT, as provided under the QCAT Act.’.

**189 Amendment of s 104C (Internal dispute resolution processes to be used before application)**

- (1) Section 104C(1)(b), ‘the Commercial and Consumer Tribunal for’—

*omit, insert—*

‘QCAT in’.

- (2) Section 104C(2), ‘tribunal’—

*omit, insert—*

‘QCAT’.



- (a) a party to a proceeding of the tribunal for the review may be represented by a lawyer; and
- (b) the grounds for the review are limited to the grounds stated in subsection (3).'

**192 Amendment of s 61 (Interest on particular overpayments following court's decision)**

Section 61, heading, after 'court's'—

*insert—*

'or QCAT's'.

**193 Amendment of s 143B (Application to withdraw electronic communication notice)**

Section 143B(7) to (10)—

*omit, insert—*

- '(7) Subsections (8) to (11) apply if the commissioner decides to refuse to grant the application.
- '(8) The commissioner must immediately give the person a written notice stating the following—
  - (a) the decision;
  - (b) the reasons for the decision;
  - (c) that the person may apply, as provided under the QCAT Act, to the tribunal for a review of the decision within 14 days after being given the notice (the *review period*);
  - (d) how the person may apply for the review.
- '(9) The person may apply to the tribunal for a review of the decision during the review period.
- '(10) The person is not required to comply with the notice—
  - (a) during the review period; and
  - (b) if the person applies for a review of the decision—

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- (i) pending the review being decided; and
  - (ii) if the person is unsuccessful on the review—during 14 days immediately after the review is decided.
- ‘(11) If the person applies for a review of the decision—
  - (a) a party to a proceeding of the tribunal for the review may be represented by a lawyer; and
  - (b) the grounds for the review are limited to the grounds stated in subsection (3).’.

**194 Amendment of s 153C (Commissioner may require payment of penalty)**

- (1) Section 153C(3)(c) and (d)—

*omit, insert—*

‘(c) that the person may apply, as provided under the QCAT Act, to the tribunal for a review of the decision within 14 days after being given the notice (the *review period*);

(d) how the person may apply for the review.’.

- (2) Section 153C(6) and (7)—

*omit, insert—*

‘(6) The person may apply to the tribunal for a review of the decision during the review period.

‘(7) If the person applies for a review of the decision—

(a) the person is not required to pay the penalty amount pending the review being decided; and

(b) a party to a proceeding of the tribunal for the review may be represented by a lawyer.’.

**195 Amendment of sch 2 (Dictionary)**

Schedule 2, definition *tribunal*—

*omit, insert—*

*‘tribunal* means QCAT.’.

## **Part 24                      Amendment of Veterinary Surgeons Act 1936**

### **196      Act amended**

This part amends the *Veterinary Surgeons Act 1936*.

### **197      Amendment of s 15B (Constitution of tribunal)**

(1) Section 15B(1)(a), ‘under the QCAT Act’—

*omit.*

(2) Section 15B(1)(b), ‘members’—

*omit, insert—*

‘QCAT members’.

(3) Section 15B—

*insert—*

‘(3) In this section—

*legally qualified member* means a legally qualified member under the QCAT Act.

*QCAT member* means a member under the QCAT Act.’.

## Chapter 5 Other amendments

### Part 1 Amendment of Classification of Computer Games and Images Act 1995

#### 198 Act amended

This part amends the *Classification of Computer Games and Images Act 1995*.

#### 199 Amendment of s 12 (Advertisement to contain determined markings and consumer advice)

- (1) Section 12(1)(b)(i), from ‘Act’, including footnote—

*omit, insert—*

‘Act; and

*Note—*

See the Commonwealth Act, section 8.’.

- (2) Section 12(2), footnote—

*omit, insert—*

*Note—*

See section 7A and the Commonwealth Act, section 28.’.

#### 200 Amendment of s 30 (Appointment of inspectors)

Section 30(1) and (2)—

*omit, insert—*

- ‘(1) The chief executive may appoint any of the following persons to be an inspector—
- (a) a public service officer;

- (b) a police officer.

*Note—*

A proposed appointment of a police officer must have the approval of the commissioner of the police service under the *Police Powers and Responsibilities Act 2000*, section 13.

- ‘(2) The chief executive may appoint a person mentioned in subsection (1)(a) to be an inspector only if the chief executive believes the person has the necessary expertise or experience to be an inspector.’

## **201 Amendment of s 51 (Obstructing inspector)**

Section 51(3)(c), footnote—

*omit.*

## **202 Amendment of sch 2 (Dictionary)**

- (1) Schedule 2, definition *approved form*, footnote—

*omit.*

- (2) Schedule 2, definition *determined markings*, paragraph (b), footnote—

*omit, insert—*

*Note—*

See the Commonwealth Act, section 8.’

- (3) Schedule 2, definition *exempt computer game*, footnote—

*omit.*



*Note—*

See the Commonwealth Act, section 8.’.

(2) Section 27(2), footnote—

*omit, insert—*

*‘Note—*

See the Commonwealth Act, section 28.’.

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

Section 28(1A), footnote—

*omit, insert—*

*‘Note—*

See the Commonwealth Act, section 28.’.

**207 Amendment of s 56 (Approval of organisation)**

Section 56(4), ‘film’—

*omit, insert—*

‘films’.

**Part 3 Amendment of Classification of Publications Act 1991**

**208 Act amended**

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

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

Section 3, definitions *board*, *classification guidelines*, *determined markings*, footnotes only—  
*omit.*

**210 Amendment of s 5 (Inspectors)**

(1) Section 5(1)—

*omit, insert—*

‘(1) For the purposes of this Act, the chief executive may appoint any of the following persons to be an inspector—

(a) a public service officer;

(b) a police officer.

*Note—*

A proposed appointment of a police officer must have the approval of the commissioner of the police service under the *Police Powers and Responsibilities Act 2000*, section 13.

‘(1A) The chief executive may appoint a person mentioned in subsection (1)(a) to be an inspector only if the chief executive believes the person has the necessary expertise or experience to be an inspector.’

(2) Section 5(1A) to (4)—

*renumber* as section 5(2) to (5).

**211 Amendment of s 6A (Delegation by publications classification officer)**

Section 6A, ‘of the department’, first mention—

*omit.*

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**212 Amendment of s 11C (Publications for which display order may be made)**

Section 11C(4)(d), footnote—  
*omit.*

**Part 4 Amendment of Disability Services Act 2006**

**213 Act amended**

This part amends the *Disability Services Act 2006*.

**214 Amendment of s 241 (Interpretation)**

Section 241(1), definition *transitional period*, ‘18 months’—  
*omit, insert—*  
‘27 months’.

**Part 5 Amendment of Guardianship and Administration Act 2000**

**215 Act amended**

This part amends the *Guardianship and Administration Act 2000*.

**216 Amendment of s 29 (Other review of appointment)**

Section 29(1)(b), from ‘other than’ to ‘5B’—  
*omit, insert—*

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‘(other than a guardian for a restrictive practice matter under chapter 5B) or an administrator’.

**217 Amendment of s 265 (Powers of guardians—use of restrictive practices)**

Section 265(4), definition *transitional period*, ‘18 months’—  
*omit, insert—*  
‘27 months’.

**218 Insertion of new ch 12, pt 10**

Chapter 12—  
*insert—*

**‘Part 10 Transitional provision for State Penalties Enforcement and Other Legislation Amendment Act 2009**

**‘268 Declaration and validation concerning particular reviews under s 29**

‘(1) During the transitional period, section 29 is taken always to have applied in relation to a review of an appointment of an administrator for an adult as if the amendment of that section by the *State Penalties Enforcement and Other Legislation Amendment Act 2009*, section 216 had commenced on 1 July 2008.

‘(2) In this section—

*transitional period* means the period starting at the beginning of 1 July 2008 and ending at the end of the day before the commencement of the amendment.’.

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## Part 6                      Amendment of Information    Privacy Act 2009

### 219    Act amended

This part amends the *Information Privacy Act 2009*.

### 220    Amendment of s 50 (Decision-maker for application to agency)

Section 50(6)—

*insert—*

*‘power to deal*, with an access or amendment application, includes power to deal with an application for internal review in relation to the access or amendment application.

*Examples of dealing with an application for internal review—*

- making a new decision under section 94(2)
- giving notice under section 97(3)’.

### 221    Amendment of s 51 (Decision-maker for application to Minister)

Section 51(3)—

*insert—*

*‘deal*, with an access or amendment application, includes deal with an application for internal review in relation to the access or amendment application.

*Examples of dealing with an application for internal review—*

- making a new decision under section 94(2)
- giving notice under section 97(3)’.

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**222 Amendment of s 69 (Information as to existence of particular documents)**

Section 69—

*insert—*

- ‘(3) To avoid any doubt, it is declared that a decision that states the matters mentioned in subsection (2) is a decision refusing access to a document under section 67.

*Note—*

A decision refusing access to a document under section 67 is a reviewable decision—see schedule 5, definition *reviewable decision*, paragraph (f).’

**223 Amendment of s 94 (Internal review)**

Section 94(1), notes—

*insert—*

- ‘3 An internal review application may be dealt with under a delegation or direction. See sections 50 and 51.’

**224 Amendment of s 120 (Information commissioner to ensure proper disclosure and return of documents)**

- (1) Section 120, ‘to ensure’—

*omit, insert—*

‘to ensure that any document that is given to the commissioner and is the subject of the decision being reviewed’

- (2) Section 120(a), ‘information or a document given to the commissioner’—

*omit.*

- (3) Section 120(b), ‘any document given to the commissioner’—

*omit.*

**225 Insertion of ch 8, pt 1 hdg**

Chapter 8, before section 202—

*insert—*

**‘Part 1 Transitional provisions for Act No. 14 of 2009’.**

**226 Insertion of new ch 8, pt 2**

Chapter 8, after section 211—

*insert—*

**‘Part 2 Transitional provisions for State Penalties Enforcement and Other Legislation Amendment Act 2009**

**‘212 Definition for pt 2**

‘In this part—

*relevant period* means the period starting on 1 July 2009 and ending immediately before the commencement of this part.

**‘213 Retrospective validation for particular delegations and directions**

‘(1) A delegation, or an amendment of a delegation, made by a principal officer under this Act during the relevant period is taken to be, and always to have been, as valid as if section 50, as in force immediately after the commencement of this part, had been in force on the day the delegation, or the amendment, was made.

‘(2) A direction given by a Minister under this Act during the relevant period is taken to be, and always to have been, as valid as if section 51, as in force immediately after the

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commencement of this part, had been in force on the day the direction was given.

**‘214 Decision under s 69(2) is a reviewable decision**

- ‘(1) It is declared that a decision made during the relevant period stating the matters mentioned in section 69(2) is, and always has been, a reviewable decision under this Act as if section 69, as in force immediately after the commencement of this part, had been in force on the day the decision was made.
- ‘(2) Despite section 96(c) or 101(1)(d), an application for internal review or external review in relation to the decision may be made within 20 business days after the commencement of this part.
- ‘(3) If an application for internal review or external review in relation to the decision is made before the commencement of this part, for the purposes of any review, the application is taken to have been made immediately after the commencement of this part.’.

## **Part 7 Amendment of Right to Information Act 2009**

**227 Act amended**

This part amends the *Right to Information Act 2009*.

**228 Amendment of s 30 (Decision-maker for application to agency)**

Section 30(6)—  
*insert—*

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*‘power to deal*, with an access application, includes power to deal with an application for internal review in relation to the access application.

*Examples of dealing with an application for internal review—*

- making a new decision under section 80(2)
- giving notice under section 83(3)’.

## **229 Amendment of s 31 (Decision-maker for application to Minister)**

Section 31(3)—

*insert—*

*‘deal*, with an access application, includes deal with an application for internal review in relation to the access application.

*Examples of dealing with an application for internal review—*

- making a new decision under section 80(2)
- giving notice under section 83(3)’.

## **230 Amendment of s 55 (Information as to existence of particular documents)**

Section 55—

*insert—*

- ‘(4) To avoid any doubt, it is declared that a decision that states the matters mentioned in subsection (2) is a decision refusing access to a document under section 47.

*Note—*

A decision refusing access to a document under section 47 is a reviewable decision—see schedule 6, definition *reviewable decision*, paragraph (e)’.

## **231 Amendment of s 80 (Internal review)**

Section 80(1), notes—

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*insert—*

- ‘3 An internal review application may be dealt with under a delegation or direction. See sections 30 and 31.’

**232 Amendment of s 107 (Information commissioner to ensure proper disclosure and return of documents)**

- (1) Section 107, ‘to ensure’—

*omit, insert—*

‘to ensure that any document that is given to the commissioner and is the subject of the decision being reviewed’

- (2) Section 107(a), ‘information or a document given to the commissioner’—

*omit.*

- (3) Section 107(b), ‘any document given to the commissioner’—

*omit.*

**233 Replacement of ch 7, pt 2, hdg (Transitional provisions)**

Chapter 7, part 2, heading—

*omit, insert—*

**‘Part 2 Transitional provisions for Act No. 13 of 2009’.**

**234 Insertion of new ch 7, pt 3**

Chapter 7, after part 2—

*insert—*





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**237 Insertion of new s 6DAA**

After section 6D—

*insert—*

**‘6DAA Deputy chairperson**

- ‘(1) The trustees may elect one of their number as deputy chairperson of the board if the person consents to their election.
- ‘(2) The person elected must be—
  - (a) a member entity trustee if the chairperson is an employer trustee; or
  - (b) an employer trustee if the chairperson is a member entity trustee.
- ‘(3) A person is elected deputy chairperson if at least a quorum of trustees vote for the person to be deputy chairperson.
- ‘(4) A person elected stops being deputy chairperson if—
  - (a) the person’s term of appointment as trustee ends; or
  - (b) he or she resigns the office of deputy chairperson by written notice given to the board; or
  - (c) he or she stops being a trustee; or
  - (d) he or she stops being a person who may be elected under subsection (2).’.

**238 Amendment of s 6I (Conduct of meetings)**

- (1) Section 6I(3) to (6)—  
*renumber* as subsection (4) to (7).
- (2) Section 6I(2)—  
*omit, insert—*
- ‘(2) In the chairperson’s absence, the deputy chairperson is to preside if present at the meeting.

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- ‘(3) In the absence of the chairperson and deputy chairperson, another trustee chosen by the trustees present is to preside.’.
- (3) Section 6I(7) as renumbered, ‘subsection (5)’—  
*omit, insert*—  
‘subsection (6)’.

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