

Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025

Explanatory Notes

Short title

The short title of the Bill is the Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025.

Policy objectives and the reasons for them

The objectives of the Bill are to:

- implement four recommendations from the Queensland Sentencing Advisory Council (QSAC) report, *Sentencing of Sexual Assault and Rape: The Ripple Effect* (the Report);
- introduce a new offence for false representations in relation to government agencies;
- realign the Queensland *Crimes at Sea Act 2001* (CS Act) with relevant provisions of the Commonwealth *Crimes at Sea Act 2000* (Commonwealth CS Act);
- ensure the blue card system operates as intended.

QSAC Report recommendations

QSAC recently conducted a review of the sentencing practices for rape and sexual assault, including whether sentences for these offences adequately reflect community views. QSAC made 28 recommendations in the Report, including four recommendations for specific legislative amendments to the *Penalties and Sentences Act 1992* (PS Act) to:

- require the court to treat the fact that an offence of rape or sexual assault was committed in relation to a child as an aggravating factor in sentencing (recommendation 1);
- include recognition of the harm done to a victim in the sentencing purposes (recommendation 2);
- qualify the treatment of good character evidence in sentencing offenders convicted of sexual offences (recommendation 5); and
- ensure the court does not draw any inference about whether the offending caused little or no harm to a victim from the fact a victim impact statement was not given (recommendation 23).

False representations in relation to government agencies

Section 97 of the Criminal Code provides that a person commits an offence if they impersonate a public officer in circumstances when the officer is required or authorised to do an act or attend a place by virtue of the office, or they falsely represents themselves to be a public officer and assume to do an act or to attend a place for the purpose of doing an act by virtue of being the officer. The offence is a misdemeanour punishable by up to three years imprisonment.

There is no specific offence in Queensland for falsely representing to be a government agency or falsely representing to act on behalf, or with the authority, of a government agency.

It is imperative in a democratic society that the public be able to trust the legitimacy of communication from government agencies and the actions of persons purporting to act on behalf, or with the authority, of government agencies.

Crimes at sea

The exercise of Australian criminal jurisdiction to investigate and prosecute offences arising at sea is dealt with under a national cooperative scheme established under the Crimes at Sea Intergovernmental Agreement. The scheme is given effect by the Commonwealth CS Act and uniform crimes at sea legislation enacted in all states and the Northern Territory (NT).

A series of amendments have been made to the Commonwealth CS Act that have not been reflected in the CS Act, meaning that the Queensland legislation is out of step with the national scheme legislation.

Blue card system

The *Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2024* (WWC Amendment Act), on commencement, will amend the *Working with Children (Risk Management and Screening) Act 2000* (WWC Act) to implement recommendations made in the Queensland Family and Child Commission Report: *Keeping Queensland's children more than safe: review of the blue card system*. Several amendments to the WWC Act have been identified as necessary to support the intended operation of the reforms to the blue card system made by the WWC Amendment Act.

Achievement of policy objectives

The Bill will achieve its policy objectives by amending the:

- PS Act to expand the sentencing purposes, qualify the court's treatment of good character as a mitigating factor in sentencing persons convicted of offences of a sexual nature, introduce a statutory aggravating factor for rape and sexual assault against children aged 16 or 17 years, and clarify that no inference may be drawn from the absence of details of harm caused to a victim;
- Criminal Code to criminalise false representations in relation to government agencies;
- CS Act to realign provisions of that Act with relevant provisions of the Commonwealth CS Act; and
- WWC Act to support the intended operation of reforms to the blue card system.

QSAC Report recommendations

Sentencing purposes

The Bill amends section 9(1) of the PS Act to expand the purposes of sentencing to include recognition of the harm done by the offender to a victim of an offence as a sentencing purpose. Including harm to a victim as an express sentencing purpose aims to enhance visibility of the recognition of the harm to victims in the sentencing process and acknowledge the need to hold offenders accountable for the harm done to victims.

The new sentencing purpose will apply to sentencing proceedings occurring on or after commencement irrespective of whether the offence for which the person is being sentenced, or conviction for that offence, occurred before, on, or after commencement of the provision.

Good character evidence

The Bill inserts new subsections (3A) to (3D) into section 9 of the PS Act to qualify the court's treatment of good character in sentencing offenders convicted of offences of a sexual nature.

The new subsections provide that the court may treat the offender's good character, to the extent it has been established by a character reference, standing in the community, or contributions to the community (each a 'restricted form of character evidence'), as a mitigating factor only if the good character is relevant to the offender's prospects of rehabilitation or risk of reoffending.

The new subsections also provide that the court may decide not to treat an offender's good character, to the extent it has been established by a restricted form of character evidence, as a mitigating factor. In deciding whether or not to treat the good character as a mitigating factor the court must have regard to the nature and seriousness of the offence, including any physical, mental or emotional harm to the victim and the vulnerability of the victim.

If the offender is being sentenced for an offence of a sexual nature against a child under 16, the new qualifications on the court's treatment of good character apply subject to the requirement that the court must not treat an offender's good character as a mitigating factor if it assisted them to commit the offence.

The new provisions qualify the court's treatment of good character in sentencing will apply to sentencing proceedings occurring on or after commencement irrespective of whether the offence for which the person is being sentenced, or conviction for that offence, occurred before, on, or after commencement of the provisions.

Statutory aggravating factor

The Bill also amends section 9 of the PS Act to introduce a new statutory aggravating factor. The Bill provides that in determining the appropriate sentence for an offender convicted of an offence of rape or sexual assault (sections 349 or 352 of the Criminal Code) against a child aged 16 or 17 years, the court must treat the age of the victim as an aggravating factor, unless the court considers it is not reasonable because of the exceptional circumstances of the case. In deciding whether there are exceptional circumstances, the court may have regard to the closeness in age between the offender and victim.

For the purpose of the statutory aggravating factor, it is immaterial that the offender did not know the victim's age or believed that they were of a different age.

The statutory aggravating factor will apply to sentencing proceedings occurring on or after commencement irrespective of whether the offence for which the person is being sentenced, or conviction for that offence, occurred before, on, or after commencement of the provisions.

Absence of details of harm

The Bill amends section 179K(5) of the PS Act to clarify that the absence at sentencing of a victim impact statement or other details of harm caused to a victim, does not give rise to any inference that the offence caused little or no harm to the victim.

The amendment to section 179K(5) will apply to sentencing proceedings occurring on or after commencement irrespective of whether the offence for which the person is being sentenced, or conviction for that offence, occurred before, on, or after commencement of the amended provision.

Other minor amendments

The Bill also makes clarifying amendments to section 9(2), (6A), and (7AA) to ensure the provisions continue to operate as intended.

Falsely representations in relation to government agencies

The Bill inserts new section 97A into the Criminal Code to establish a new offence for false representations in relation to government agencies. The Bill provides that a person will commit an offence if they make a false representation that they are a government agency or are acting on behalf, or with the authority, of a government agency. The new offence applies in relation to a government agency, which is defined as a public sector entity under the *Public Sector Act 2022*, and any other entity prescribed by regulation. The offence is a misdemeanour punishable by up to three years imprisonment.

The Bill also provides that a person does not commit the false representation offence if they have a reasonable excuse.

In accordance with section 11 of the Criminal Code the amendments introducing the new offence will apply prospectively to conduct occurring after commencement of the provisions.

Crimes at sea

The Bill amends the CS Act to realign relevant provisions of the Act with the Commonwealth CS Act. The Bill omits references to *Area A of the Zone of Cooperation* from the CS Act; specifically the Bill:

- omits the definition of *Area A of the Zone of Cooperation* from section 1 of the schedule;
- omits section 10 of the schedule, which excludes the operation of the cooperative scheme from *Area A of the Zone of Cooperation*; and
- amends section 14 of the schedule to remove reference to areas within *Area A of the Zone of Cooperation* from the definitions of adjacent areas for Western Australia and the NT.

The Bill also amends the definitions of adjacent areas for Western Australia and the NT, to replace references to provisions of the repealed *Petroleum (Submerged Lands) Act 1967* (Cth) with references to relevant provisions of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth).

Blue card system

The Bill amends section 295 of the WWC Act to maintain the status quo in relation to the powers of the chief executive to issue a suspension notice to a blue card holder in all circumstances currently set out in sections 15 (What is a *serious offence*) and 16 (What is a *disqualifying offence*). The amendments restore the offences for which a suspension must be issued that were unintentionally removed from section 295 by the WWC Amendment Act. Consequential amendments are made to the legislation mentioned in schedule 1 of the Bill.

The Bill also amends sections 609, 304B and 304C of the WWC Act to update terminology, enhance clarity, and correct several cross-references.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives other than by legislative amendment.

Estimated cost for government implementation

The amendments in the Bill are not expected to present any significant additional administrative or capital costs for government. Any implementation costs will be absorbed from existing agency resources.

Consistency with fundamental legislative principles

The Bill has been drafted having regard to the fundamental legislative principles (FLPs) in the *Legislative Standards Act 1992* (LS Act). Potential breaches of FLPs associated with the Bill are addressed below.

QSAC Report recommendations

Clause 12 of the Bill provides that the court, in determining the appropriate sentence for an offender convicted an offence of a sexual nature, may treat the offender's good character, to the extent it has been established by a restricted form of character evidence, as a mitigating factor only if it is relevant to the offender's prospects of rehabilitation or risk of reoffending. The Bill also provides that the court may, having regard to the nature and seriousness of the offence, decide not to treat an offender's good character to the extent it has been established by a restricted form of character evidence, as a mitigating factor. The amendments qualifying the court's treatment of good character will apply to sentencing proceedings occurring on or after commencement, whether the offence or conviction occurred before or after commencement of the relevant provisions.

Clause 12 of the Bill also provides that the court must, in determining the appropriate sentence for an offender convicted of an offence of rape or sexual assault against a child aged 16 or 17 years, treat the victim's age as an aggravating factor unless the court considers it is not reasonable because of the exceptional circumstances of the case. The statutory aggravating factor will apply to sentencing proceedings occurring on or after commencement, whether the offence or conviction occurred before or after commencement of the relevant provisions.

Right to liberty and proportionality of offences

The right to liberty and whether a penalty is proportionate to an offence are relevant to the consideration of whether the Bill has sufficient regard to the rights and liberties of individuals. Legislation must impose consequences that are proportionate and relevant to the actions to which the consequences are imposed.

While the amendments qualifying the treatment of good character as a mitigating factor and introducing the statutory aggravating factor do not affect the maximum penalties for the relevant offences, they may result in the sentencing court imposing a more severe sentence, including a term of imprisonment. However, the amendments to qualify the treatment of good character and introduce the aggravating factor are considered justified to reflect the seriousness of the offending, offender culpability, and impacts of the criminal conduct.

The impact on the rights and liberties of individuals of qualifying the treatment of good character as a mitigating factor is also moderated by the amendments applying only to offences of a sexual nature, and the court being permitted to treat good character established by a restricted form of character evidence as a mitigating factor if it is relevant to consideration of the offender's prospects of rehabilitation or risks of reoffending.

Similarly, the impact of the statutory aggravating factor on the rights and liberties of individuals is moderated by the fact the court may currently treat the age of a child victim as an aggravating factor in determining the appropriate sentence, by the limited circumstances in which the new statutory aggravating factor is applicable, and the inclusion of an exception permitting the court to not treat the victim's age as an aggravating factor in exceptional circumstances.

The amendments qualifying the treatment of good character as a mitigating factor and introducing the statutory aggravating factor are not intended to restrict the court's ability to take into account any of the other matters listed in section 9 of the PS Act including other mitigating or aggravating factors.

Retrospectivity

Section 4(3)(g) of the LS Act provides that whether legislation has sufficient regard to the rights and liberties of individuals may depend on whether it adversely affects an individual's rights and liberties, or imposes obligations, retrospectively.

The amendments to qualify the court's treatment of an offender's good character and introduce a statutory aggravating factor will operate retrospectively to the extent the amendments will apply to sentencing proceedings occurring on or after commencement irrespective of whether the offence or conviction occurred before, on or after commencement of the relevant provisions. While the amendments to qualify the treatment of good character and introduce a statutory aggravating factor do not change criminal liability, alter the conduct that constitutes an offence, or increase the maximum penalties, they do retrospectively change the court's consideration of specific factors in the determination of a sentence.

The impact of any departure from FLPs is also moderated by scope of the amendments. The amendments qualifying the treatment of good character as a mitigating factor apply only to offences of a sexual nature, and the court may continue to treat good character, established by a restricted form of character evidence, as a mitigating factor if it is relevant to consideration of the offender's prospects of rehabilitation or risks of reoffending. The age of a child victim may currently be treated as an aggravating factor, and the new statutory aggravating factor applies only to offences of rape and sexual assault against children aged 16 or 17 year and the court has discretion to not apply the aggravating factor in exceptional circumstances.

Independence of the judiciary

Whether the Bill potentially interferes with the principle of judicial independence is relevant to the consideration of whether the Bill has sufficient regard to FLPs.

The effect of any departure from the FLP in relation to the amendments qualifying the court's treatment of good character as a mitigating factor is moderated by the amendments applying only to offences of a sexual nature and only in relation to the restricted forms of character evidence, and the court being permitted to treat good character established by a restricted form of character evidence as a mitigating factor if it is relevant to the consideration of the offender's prospects of rehabilitation or risk of reoffending. The amendments are not intended to restrict the court's ability to consider any other matter listed in section 9 of the PS Act, including other mitigating or aggravating factors. The amendments are intended to limit the use of the restricted forms of character evidence, while retaining general judicial discretion in sentencing decisions.

Similarly, the effect of any departure from the FLP in relation to the amendments introducing the statutory aggravating factor is moderated through the inclusion of the exception permitting the court to not treat the victim's age as an aggravating factor in exceptional circumstances, thereby retaining judicial discretion. The statutory aggravating factor is also not intended to restrict the court's ability to consider any of the other matters listed in section 9 of the PS Act, including other aggravating or mitigating factors. The statutory aggravating factor is intended to support the courts' treatment of rape and sexual assault offences against children aged 16 or 17 as more serious and therefore deserving of a higher sentence, while retaining judicial discretion in sentencing decisions.

Falsely representations in relation to government agencies

Clause 9 of the Bill provides that it is an offence for a person to make a false representation that they are a government agency or are acting on behalf or with the authority of a government agency. The offence applies in relation to a government agency, which is defined as a public sector entity under the *Public Sector Act 2022*, and any other entity prescribed by regulation. The offence is punishable by up to three years imprisonment. However, a person does not commit the offence if they have a reasonable excuse.

Freedom of speech

The right to exercise freedom of speech is relevant to the consideration of whether the Bill has sufficient regard to the rights and liberties of individuals.

The introduction of the new offence may be a departure from the FLP in relation to freedom of speech to the extent an individual will be prohibited from imparting information or ideas in circumstances where they falsely represent that they are a government agency, or are acting on behalf, or with the authority, of a government agency. The departure is justified to safeguard the legitimacy of government communications and protect public order by ensuring persons engaging in government impersonation scams, deliberately disseminating false information, or otherwise making a false representation that they are, or are acting on behalf or with the authority of a government agency can be appropriately prosecuted. The impact of the offence on the right to freedom of speech is ameliorated by the scope of the offence which only restricts ‘speech’ that falsely represents that the person is a government agency or is acting on behalf or with the authority of a government agency. Individuals will continue to be able to disseminate information in ways that do not involve making a false representation.

Right to liberty and proportionality of offences

As noted above, the right to liberty and whether a penalty is proportionate to the offence are relevant to the consideration of whether the Bill has sufficient regard to the rights and liberties of individuals.

The right to liberty may be infringed in circumstances where a person is arrested, detained, convicted, or sentenced in relation to the new false representation offence. Any infringements are justified in the interests of deterring people from making false representations and punishing those who do engage in the offending behaviour. The maximum penalty for the new offence is considered proportionate and relevant to the conduct as it reflects the seriousness of the offending, recognises the impacts of the criminal conduct, and demonstrates that such behaviour is unacceptable. It is also comparable to the penalty for similar offences, such as the offence of impersonating a public officer. The court will retain discretion to determine the appropriate sentence up to the maximum penalty considering all of the relevant circumstances of an offence.

Reversal of onus of proof

Section 4(3)(d) of the LS Act provides that whether legislation reverses the onus of proof in criminal proceedings only with adequate justification is relevant to the consideration of whether the Bill has sufficient regard to the rights and liberties of individuals. A reversal of the onus of proof, shifting the burden of proof from the prosecution to the defendant, may be justified if the relevant fact is inherently impractical to establish by alternative evidential means and the defendant is particularly well positioned to disprove guilt.

The inclusion of a reasonable excuse provision in the new offence may be a departure from the FLP. The departure is considered justified as it provides an opportunity for individuals to raise an appropriate excuse for making a false representation to avoid criminal liability. It is generally considered appropriate for a defendant to provide evidence of a reasonable excuse if the evidence does not appear in the case for the prosecution and the matter is peculiarly within the defendant's knowledge.

Institution of Parliament

Section 4(4) of the LS Act provides that whether legislative power is delegated only in appropriate circumstances and is sufficiently subjected to the scrutiny of the Legislative Assembly is relevant to the consideration of whether the Bill has sufficient regard to the institution of Parliament.

While the delegation of legislative power, by allowing additional government agencies to be prescribed by regulation, may be a departure from the FLP, any departure is considered justified to allow government to flexibly and promptly respond to any issues regarding the entities to which the offence applies. Prescribing additional entities as government agencies by regulation for the purpose of the offence also provides certainty and facilitates transparency in the operation of the offence as regulations are readily accessible by the public.

Consultation

The amendments to the PS Act, to expand the sentencing purposes, introduce a new statutory aggravating factor, qualify the court's treatment of good character, and clarify that no inference may be drawn from the absence of a victim impact statement, were informed by consultation undertaken by QSAC. Stakeholder consultation is detailed in Appendix 3 of the QSAC Report.

Consultation during drafting of the amendments to the PS Act, Criminal Code, and CS Act was also undertaken with legal stakeholders, victim support and advocacy services, and other relevant stakeholders. Feedback received during the consultation process was taken into account in finalising the amendments to these Acts in the Bill.

Consistency with legislation of other jurisdictions

The amendments in the Bill, other than those relating to the CS Act, are specific to the legislative framework of the State of Queensland.

Expanding the sentencing purposes to include recognition of harm to the victim is broadly consistent with the legislation in New South Wales, South Australia, and the Australian Capital Territory. The introduction of the new offence for making a false representation in relation to a government agency will broadly align with the offence in Commonwealth legislation for falsely representing a Commonwealth entity.

The CS Act is part of a national cooperative scheme, which is given legal effect by the Commonwealth CS Act and uniform crimes at sea legislation enacted in all states and the NT.

Notes on provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill may be cited as the *Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Act 2025*.

Clause 2 provides for the various commencements of provisions in the Bill.

Part 2 Amendment of Crimes at Sea Act 2001

Clause 3 provides that the part amends the *Crimes at Sea Act 2001*.

Clause 4 amends the schedule to omit the definition of *Area A of the Zone of Cooperation*.

Clause 5 amends the schedule to omit section 10 (Non-application of scheme to Area A of the Zone of Cooperation).

Clause 6 amends section 14(Adjacent areas) of the schedule.

Subclause (1) amends section 14(1) and (2)(a) to replace the reference to ‘schedule 2 to the *Petroleum (Submerged Lands) Act 1967* (Commonwealth)’ with a reference to ‘schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Commonwealth)’.

Subclause (2) amends section 14(2)(b) to replace the reference to ‘subsection (7) of section 5A of the *Petroleum (Submerged Lands) Act 1967* (Commonwealth)’ with a reference to ‘section 8(2) to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Commonwealth)’.

Subclause (3) omits and replaces section 14(3). The new subsection provides that the adjacent area for the Western Australia is:

- (a) so much of the area described in schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Commonwealth) in relation to Western Australia as is within the outer limits of the continental shelf; and
- (b) the space above and below the area described in paragraph (a).

Subclause (4) omits and replaces section 14(4)(a). The new paragraph provides that the adjacent area for the Northern Territory is so much of the area described in schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Commonwealth) in relation to the Northern Territory as is within the outer limits of the continental shelf.

Subclause (5) amends section 14(4)(b) to replace the reference to ‘subsection (3) of section 5A of the *Petroleum (Submerged Lands) Act 1967* (Commonwealth)’ with a reference to ‘section 8(1) to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Commonwealth)’.

Clause 7 amends the schedule to omit and replace Appendix 1 (Indicative map).

Part 3 Amendment of Criminal Code

Clause 8 provides that the part amends the Criminal Code.

Clause 9 amends the heading of part 3, chapter 13 (Corruption and abuse of office) to include personating public officers and other false representations.

Clause 10 inserts new section 97A (False representations in relation to government agencies).

New subsection (1) provides that a person who makes a false representation that they are a government agency or acting on behalf of or with the authority of a government agency commits a misdemeanour. The maximum penalty is three years imprisonment.

New subsection (2) provides that a person does not commit an offence under subsection (1) if the person has a reasonable excuse.

New subsection (3) inserts a definition of *government agency*.

Part 4 Amendment of Penalties and Sentences Act 1992

Clause 11 provides that the part amends the *Penalties and Sentences Act 1992*.

Clause 12 amends section 9 (Sentencing guidelines).

Subclause (1) amends section 9(1) by inserting new paragraph (ca) which provides for the recognition of harm done by the offender to a victim of the offence as a purpose of sentencing.

Subclause (2) amends section 9(2)(f) to insert ‘antecedents’.

Subclause (3) amends section 9 to insert new subsections (3A) to (3D).

New subsection (3A) provides that subsections (3B) to (3D) apply in sentencing an offender for an offence of a sexual nature if the offender is determined to be of good character, but apply in relation to the good character only to the extent the good character is based on a character reference for the offender, the offender’s standing in the community, and/or the offender’s contributions to the community.

New subsection (3B) provides that the court may treat the offender’s good character as a mitigating factor only if the good character is relevant to the court’s consideration of the offender’s prospects of rehabilitation, or the risk of the offender reoffending.

New subsection (3C) provides that the court may decide not treat the offender’s good character as a mitigating factor, having regard to the nature of the offence and how serious the offence was, including any physical, mental or emotional harm done to the victim of the offence, and the vulnerability of the victim.

New subsection (3D) provides that if subsection (4) also applies in sentencing the offender, subsections (3B) and (3C) are subject to subsection (6A).

Subclause (4) omits and replaces section 9(6A). The replaced subsection (6A) provides that for subsection 6(h), if the offender is determined to be of good character, the court must not treat the good character as a mitigating factor if it assisted the offender in committing the offence.

Subclause (5) omits and replaces section 9(7AA). The replaced subsection (7AA) provides that for subsection 7(d), if the offender is determined to be of good character, the court must not treat the good character as a mitigating factor if it assisted the offender in committing the offence.

Subclause (6) amends section 9 to insert new subsections (9BA) and (9BB).

New subsection (9BA) provides that in determining the appropriate sentence for an offender convicted of an offence against section 349 (Rape) or 352 (Sexual assaults) of the Criminal Code committed against a child aged 16 or 17 years, the court must treat the child's age as an aggravating factor, unless the court considers it is not reasonable because of the exceptional circumstances of the case.

New subsection (9BB) provides that in deciding whether there are exceptional circumstances, for subsection (9BA), the court may have regard to the closeness in age between the offender and the child.

Clause 13 omits and replaces section 179K(5). The replaced subsection (5) provides that the fact a victim impact statement, or other details of the harm caused to a victim by the offence, are absent at the sentencing, does not, of itself, give rise to any inference that the offence caused little or no harm to the victim.

Clause 14 inserts new Part 14, Division 26 (Transitional provisions for Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Act 2025).

New section 263 (Definition for division) inserts a definition of *amendment Act* for the new division.

New section 264 (Application of s 9 to sentencing offenders after commencement) provides that section 9 as amended by the amendment Act, applies to the sentencing of an offender after the commencement whether the offence or conviction happened before or after the commencement.

New section 265 (Application of s 179K to sentencing offenders after commencement) provides that section 179K, as amended by the amendment Act, applies to the sentencing of an offender after the commencement whether the offence or conviction happened before or after the commencement.

Part 5 Amendment of Working with Children (Risk Management and Screening) Act 2000

Clause 15 provides that part 5 amends the *Working with Children (Risk Management and Screening) Act 2000*.

Clause 16 amends section 295 (Application of division).

Subclause 1 amends section 295(1)(a) to replace the reference to 'an offence listed in schedule 2 or 4' with a reference to 'a prescribed offence'.

Subclause (2) inserts new subsection (3) to define a 'prescribed offence' as:

- an offence against a provision listed in schedule 2 or 4 (subject to any qualifications set out in those schedules);
- an offence of counselling or procuring a serious offence set out in schedule 2 or 4;
- an offence of attempting or conspiring to commit an offence set out in schedule 2 or 4;
- an offence that includes an intention to commit an offence listed in schedule 2 or 4;
- an offence that, at the time of commission, was an offence listed in schedule 2 or 4;

- a reportable offence under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* that is not otherwise a prescribed offence; or
- an offence under the law of another jurisdiction that, if committed in Queensland, would constitute an offence under new section 295(3)(a) to (f).

Subclause (2) also inserts new subsection (4) to provide it is immaterial if a provision mentioned in schedule 2 or 4, column 1, for an Act has been amended from time to time or that the provision was previously numbered with a different number.

Clause 17 amends section 304B (Action after decision) to update cross-references.

Clause 18 amends section 304C (Notifiable persons and potential employers notified about cancellation) to update cross-references.

Clause 19 amends section 609 (Application to cancel negative notice not decided).

Subclause (1) amends section 609(2) to replace the word ‘may’ with ‘must’.

Subclause (2) omits and replaces section 609(4)(b). The replaced paragraph (b) provides that the decision-maker must cancel the person’s negative notice.

Part 6 Other amendments

Clause 20 provides that schedule 1 amends the legislation mentioned in it.

Schedule 1 sets out consequential amendments to the *Education (General Provisions) Act 2006* and the *Police Powers and Responsibilities Act 2000*.