

Queensland



**JUSTICE AND OTHER
LEGISLATION
(MISCELLANEOUS
PROVISIONS) BILL 1997**

Queensland



**JUSTICE AND OTHER LEGISLATION
(MISCELLANEOUS PROVISIONS) BILL
1997**

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	10
2	Commencement	10
3	Act amended in sch 1	11
4	Declaratory provisions	11
PART 2—AMENDMENT OF ASSOCIATIONS INCORPORATION ACT 1981		
5	Act amended in pt 2	11
6	Insertion of new s 61A	11
	61A. Eligibility for election to a management committee	11
7	Amendment of s 64 (Tenure of members of management committee)	12
PART 3—AMENDMENT OF BAIL ACT 1980		
8	Act amended in pt 3	12
9	Amendment of s 29 (Apprehension by police officer of defendant on bail)	12
PART 4—AMENDMENT OF BILLS OF SALE AND OTHER INSTRUMENTS ACT 1955		
10	Act amended in pt 4	13
11	Amendment of s 19 (Contents of instruments)	13
12	Amendment of s 19A (Further advances)	13
13	Amendment of s 20 (Instrument to be attested and when registered to have effect of a deed)	13
14	Amendment of s 21 (Effect of bill of sale on chattels acquired later)	13

Justice and Other Legislation (Miscellaneous Provisions)

15	Amendment of s 22 (Instrument subject to defeasance etc. of no effect in certain cases)	14
16	Amendment of s 45 (Chattels not to be sold until at least 14 days after seizure)	14
PART 5—AMENDMENT OF CHILDRENS COURT ACT 1992		
17	Act amended in pt 5	15
18	Amendment of s 20 (Who may be present at a proceeding)	15
PART 6—AMENDMENT OF CRIMES (CONFISCATION) ACT 1989		
19	Act amended in pt 6	15
20	Amendment of s 40 (Restraining orders)	15
PART 7—AMENDMENT OF CRIMINAL CODE		
21	Code amended in pt 7	16
22	Replacement of ss 238 to 241—	16
	238 Contamination of goods	16
	239 Hoax contamination of goods	17
	240 Dealing in contaminated goods	17
	241 Definitions for ch 24	18
23	Amendment of s 259 (Examination of person of accused persons in custody)	18
24	Amendment of s 359 (Threats)	19
25	Amendment of s 671 (Time for appealing)	19
PART 8—AMENDMENT OF CRIMINAL INVESTIGATION (EXTRA-TERRITORIAL OFFENCES) ACT 1985		
26	Act amended in pt 8	19
27	Amendment of s 2 (Definitions)	19
28	Amendment of s 7 (Ministerial arrangements for transmission and return of seized objects)	20
PART 9—AMENDMENT OF CRIMINAL LAW AMENDMENT ACT 1997		
29	Act amended in pt 9	21
30	Amendment of s 96 (Insertion of new pt 8, ch 58A)	21
31	Amendment of s 118 (Insertion of new s 651)	22

Justice and Other Legislation (Miscellaneous Provisions)

PART 10—AMENDMENT OF EVIDENCE ACT 1977	
32	Act amended in pt 10 22
33	Amendment of s 55 (Proof of incorporation or registration of company in Queensland) 22
PART 11—AMENDMENT OF JURY ACT 1995	
34	Act amended in pt 11 24
35	Amendment of s 70 (Confidentiality of jury deliberations) 24
PART 12—AMENDMENT OF JUSTICE LEGISLATION (MISCELLANEOUS PROVISIONS) ACT 1996	
36	Act amended in pt 12 25
37	Amendment of s 16 (Amendment of s 5 (Conditions of cremation)) 25
PART 13—AMENDMENT OF JUSTICES ACT 1886	
38	Act amended in pt 13 26
39	Amendment of s 47 (What is sufficient description of offence) 26
40	Amendment of s 54 (Form of summons and filing of complaint and summons) 26
41	Amendment of s 110A (Use of tendered statements in lieu of oral testimony in committal proceedings) 27
PART 14—AMENDMENT OF JUVENILE JUSTICE ACT 1992	
42	Act amended in pt 14 27
43	Amendment of s 18F (Form of community conference agreement) 27
44	Amendment of s 200 (Application of Corrective Services Act 1988) 28
PART 15—AMENDMENT OF NATIVE TITLE (QUEENSLAND) ACT 1993	
45	Act amended in pt 15 28
46	Amendment of s 156 (Expiry of Part) 28
PART 16—AMENDMENT OF PEACE AND GOOD BEHAVIOUR ACT 1982	
47	Act amended in pt 16 28
48	Amendment of s 4 (Complaint in respect of breach of the peace) 28
PART 17—AMENDMENT OF PENALTIES AND SENTENCES ACT 1992	
49	Act amended in pt 17 29
50	Amendment of s 162 (Definitions) 29

Justice and Other Legislation (Miscellaneous Provisions)

PART 18—AMENDMENT OF PUBLIC TRUSTEE ACT 1978

51	Act amended in pt 18	30
52	Amendment of s 6 (Definitions)	30
53	Amendment of s 16 (Employment of solicitors etc.)	30
54	Amendment of s 19 (Common Fund and investment thereof and of other moneys)	30
55	Amendment of s 60 (Public Trustee may direct audit of trusts)	30
56	Amendment of s 67 (Protection order in damages action)	31
57	Amendment of s 68 (Court may give directions)	31
58	Amendment of s 80 (Management by Public Trustee of property of incapacitated person)	31
59	Amendment of pt 8 (Unclaimed property)	32
60	Amendment of s 98 (Application of Division)	33
61	Insertion of new s 98A and sdiv heading	33
	98A Meaning of “unclaimed superannuation benefit”	33
62	Insertion of new s 99A	34
	99A Public trustee’s register of unclaimed moneys	35
63	Amendment of s 100 (Annual register of unclaimed moneys)	35
64	Insertion of new s 100A	36
	100A Statement about unclaimed superannuation benefits	36
65	Amendment of s 101 (Public Trustee may examine accounts)	37
66	Amendment of s 102 (Unclaimed moneys to be paid to Public Trustee) ..	38
67	Insertion of new s 102A	39
	102A Public trustee may refund certain amounts to accountable persons	39
68	Insertion of new pt 8, div 4	39
	<i>Division 4—Enforcement</i>	
	<i>Subdivision 1—Inspectors</i>	
	117B Appointment	39
	117C Limitation of inspector’s powers	40
	117D Inspector’s conditions of appointment	40
	117E Inspector’s identity card	40
	117F Production or display of inspector’s identity card	41

Justice and Other Legislation (Miscellaneous Provisions)

<i>Subdivision 2—Inspectors’ powers</i>	
117G	Entry to places 41
117H	Consent to entry 42
117I	Application for warrant 42
117J	Issue of warrant 42
117K	General powers after entering places 43
117L	Failure to help inspector 43
117M	Failure to give information 44
117N	Role of police officers 44
117O	Seizing evidence at places 44
117P	Securing seized things 45
117Q	Tampering with seized things 45
117R	Receipt for seized things 45
117S	Return of seized things 46
117T	Access to seized things 46
69	Amendment of s 122 (Public Trustee may require property to be transferred and may summon persons for examination) 46
70	Amendment of s 139 (Service of notices) 47
PART 19—AMENDMENT OF SECURITY PROVIDERS ACT 1993	
71	Act amended in pt 19 48
72	Amendment of schedule (Disqualifying offence provisions under the Criminal Code) 48
PART 20—AMENDMENT OF STATUTORY INSTRUMENTS ACT 1992	
73	Act amended in pt 20 49
74	Amendment of s 61 (Transitional provisions about expiry of subordinate legislation) 49
PART 21—AMENDMENT OF SUCCESSION ACT 1981	
75	Act amended in pt 21 49
76	Amendment of s 5 (Definitions) 49
77	Amendment of s 29 (Construction of residuary dispositions) 50
78	Amendment of s 40 (Definitions for pt 4) 50

Justice and Other Legislation (Miscellaneous Provisions)

79	Insertion of new s 40A	50
	40A Meaning of “stepchild”	50
80	Amendment of s 44 (Protection of personal representative)	51
PART 22—AMENDMENT OF TRAFFIC ACT 1949		
81	Act amended in pt 22	52
82	Amendment of s 44P (Interpretation)	52
PART 23—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994		
83	Act amended in pt 23	52
84	Amendment of s 228 (Continuation of harbours under Harbours Act or port under Port of Brisbane Authority Act etc.)	52
85	Amendment of s 232 (Harbours Corporation of Queensland)	53
86	Amendment of s 233 (Continuation of certain by-laws)	53
87	Amendment of s 235 (Continuation of certain provisions of Harbours Act about jetties and ramps etc.)	53
88	Amendment of s 236 (Continuation of certain provisions of Harbours Act requiring approval for certain matters)	54
89	Amendment of s 240 (Application of Acts Interpretation Act, s 20A to this part)	54
PART 24—AMENDMENT OF TRANSPORT OPERATIONS (PASSENGER TRANSPORT) ACT 1994		
90	Act amended in pt 24	54
91	Amendment of sch 1 (Disqualifying offences—provisions of the Criminal Code)	55
PART 25—AMENDMENT OF TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995		
92	Act amended in pt 25	56
93	Amendment of s 93 (Repeal of Acts)	56
PART 26—AMENDMENT OF VEXATIOUS LITIGANTS ACT 1981		
94	Act amended in pt 27	56
95	Amendment of s 2 (Meaning of terms)	56
96	Amendment of s 8 (Proceedings by or with vexatious litigants require leave)	57

*Justice and Other Legislation (Miscellaneous
Provisions)*

97	Insertion of new s 9A	57
	9A Application for leave	58
98	Amendment of s 10 (Conditions for hearing applications for leave)	59
99	Amendment of s 11 (Conditions for granting leave)	60
100	Amendment of s 12 (Application of ss 8 and 9 affected by order of Judge etc.)	60
PART 27—AMENDMENT OF WORKCOVER QUEENSLAND ACT 1996		
101	Act amended in pt 28	60
102	Amendment of sch 2 (Consequential amendments of other Acts)	61
SCHEDULE 1		
MINOR AMENDMENTS OF CRIMINAL LAW AMENDMENT ACT 1997		
SCHEDULE 2		
DECLARATORY PROVISIONS		
1	Commencement of amendments of Juvenile Justice Act 1992	65

1997

A BILL

FOR

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

*Justice and Other Legislation (Miscellaneous
Provisions)*

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

Clause **1.** This Act may be cited as the *Justice and Other Legislation (Miscellaneous Provisions) Act 1997*.

4

5

Commencement

6

Clause **2.(1)** The following provisions of this Act commence on the date of assent—

7

8

- parts 2, 3, 4, 7, 10, 12, 15 and 20
- part 13, sections 38 and 41
- part 14, sections 42 and 44.

9

10

11

(2) Part 9 and schedule 1 are taken to have commenced immediately after the commencement of the *Criminal Law Amendment Act 1997*.

12

13

(3) Part 14, section 43 and part 27 are taken to have commenced on 2 April 1997.

14

15

(4) Part 22 is taken to have commenced immediately after the commencement of the *Transport Legislation Amendment Act 1996*, section 4(2).

16

17

18

(5) Part 23, other than section 87(1), is taken to have commenced on 15 April 1997.

19

20

(6) Part 23, section 87(1) commences on 1 July 1997.

21

(7) The remaining provisions commence on a day to be fixed by proclamation.

22

23

*Justice and Other Legislation (Miscellaneous
Provisions)*

	Act amended in sch 1	1
Clause	3. Schedule 1 amends the <i>Criminal Law Amendment Act 1997</i> .	2
	Declaratory provisions	3
Clause	4.(1) Schedule 2 has effect.	4
	(2) This section and schedule 2 expire on the day after they commence.	5
	PART 2—AMENDMENT OF ASSOCIATIONS INCORPORATION ACT 1981	6 7
	Act amended in pt 2	8
Clause	5. This part amends the <i>Associations Incorporation Act 1981</i> .	9
	Insertion of new s 61A	10
Clause	6. After section 61—	11
	<i>insert—</i>	12
	‘Eligibility for election to a management committee	13
	‘61A.(1) A person is not eligible to be elected as a member of an incorporated association’s management committee if—	14 15
	(a) the person has been convicted—	16
	(i) on indictment; or	17
	(ii) summarily and sentenced to imprisonment, other than in default of payment of a fine; and	18 19
	(b) the rehabilitation period in relation to the conviction has not expired.	20 21
	‘(2) In this section—	22

*Justice and Other Legislation (Miscellaneous
Provisions)*

“rehabilitation period” has the meaning given in the *Criminal Law (Rehabilitation of Offenders) Act 1986*.’.

Amendment of s 64 (Tenure of members of management committee) 3

Clause 7. Section 64(2)— 4

insert— 5

‘(e) has been convicted on indictment or summarily and sentenced to imprisonment, other than in default of payment of a fine, and the rehabilitation period in relation to the conviction has not expired. 6
7
8

‘(3) In this section— 9

“rehabilitation period” has the meaning given in the *Criminal Law (Rehabilitation of Offenders) Act 1986*.’.

PART 3—AMENDMENT OF BAIL ACT 1980 12

Act amended in pt 3 13

Clause 8. This part amends the *Bail Act 1980*. 14

Amendment of s 29 (Apprehension by police officer of defendant on bail) 15
16

Clause 9. Section 29(2), from ‘Magistrates Court’ to ‘indictable offence’— 17

omit, insert— 18

‘court’. 19

**PART 4—AMENDMENT OF BILLS OF SALE AND
OTHER INSTRUMENTS ACT 1955**

	Act amended in pt 4	3
Clause	10. This part amends the <i>Bills of Sale and Other Instruments Act 1955</i> .	4
	Amendment of s 19 (Contents of instruments)	5
Clause	11. Section 19—	6
	<i>insert—</i>	7
	‘ (1A) Subsection (1)(d) does not apply to a mortgage to which the Consumer Credit Code applies.’.	8
		9
	Amendment of s 19A (Further advances)	10
Clause	12. Section 19A—	11
	<i>insert—</i>	12
	‘ (3) This section does not apply to a mortgage to which the Consumer Credit Code applies.’.	13
		14
	Amendment of s 20 (Instrument to be attested and when registered to have effect of a deed)	15
Clause	13. Section 20(1), ‘each and every instrument’—	17
	<i>omit, insert—</i>	18
	‘each instrument (other than a mortgage to which the Consumer Credit Code applies)’.	19
		20
	Amendment of s 21 (Effect of bill of sale on chattels acquired later)	21
Clause	14.(1) Section 21(1), ‘subsections (2) and (3)’—	22
	<i>omit, insert—</i>	23

Justice and Other Legislation (Miscellaneous Provisions)

‘this section’. 1

(2) Section 21— 2

insert— 3

‘(4) This section does not apply to a mortgage to which the Consumer Credit Code applies.’. 4
5

Amendment of s 22 (Instrument subject to defeasance etc. of no effect in certain cases) 6
7

Clause 15. Section 22— 8

insert— 9

‘(3) Despite subsection (1), a defeasance, condition or declaration of trust contained in a mortgage under, and complying with, the Consumer Credit Code, section 38(1) need not be written on the same paper or parchment on which the instrument is written.¹’ 10
11
12
13

Amendment of s 45 (Chattels not to be sold until at least 14 days after seizure) 14
15

Clause 16. Section 45— 16

insert— 17

‘(3) This section does not apply to chattels seized under a mortgage to which the Consumer Credit Code applies.’. 18
19

¹ Consumer Credit Code, section 38 (Form of mortgage)

**PART 5—AMENDMENT OF CHILDRENS COURT
ACT 1992**

	Act amended in pt 5	1 2
Clause	17. This part amends the <i>Childrens Court Act 1992</i> .	3 4
	Amendment of s 20 (Who may be present at a proceeding)	5
Clause	18. Section 20(2)(c), before ‘a representative’— <i>insert—</i> ‘in a proceeding, other than a proceeding under the <i>Children’s Services Act 1965</i> , part 6 or 7—’.	6 7 8 9

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

	Act amended in pt 6	10 11
Clause	19. This part amends the <i>Crimes (Confiscation) Act 1989</i> .	12 13
	Amendment of s 40 (Restraining orders)	14
Clause	20. Section 40(15)(c), (d) and (e), ‘specified property’— <i>omit, insert—</i> ‘property mentioned in the order’.	15 16 17

PART 7—AMENDMENT OF CRIMINAL CODE

	Code amended in pt 7	1
Clause	21. This part amends the Criminal Code.	2 3
	Replacement of ss 238 to 241—	4
Clause	22. Sections 238 to 241— <i>omit, insert—</i>	5 6
	‘Contamination of goods	7
	‘238.(1) A person who contaminates or interferes with goods, or makes it appear that goods have been contaminated or interfered with, commits a misdemeanour.	8 9 10
	Maximum penalty—3 years imprisonment.	11
	‘(2) If the person commits the offence with intent to cause—	12
	(a) public alarm or anxiety; or	13
	(b) members of the public who are aware of the contamination or interference or apparent contamination or interference to refrain from purchasing those goods or goods of that or any similar class; or	14 15 16 17
	(c) any person to suffer economic loss through taking steps to avoid public alarm or anxiety; or	18 19
	(d) members of the public to refrain from purchasing those goods or goods of that or any similar class;	20 21
	the person commits a crime.	22
	Maximum penalty—10 years imprisonment.	23
	‘(3) A person who, with any intent mentioned in subsection (2), threatens that he or she or any other person will contaminate or interfere with goods or make it appear that goods have been contaminated or interfered with, commits a crime.	24 25 26 27
	Maximum penalty—7 years imprisonment.	28

Justice and Other Legislation (Miscellaneous Provisions)

‘(4) If the threat is accompanied by the making of a demand, the person commits a crime.	1 2
Maximum penalty—14 years imprisonment.	3
‘Hoax contamination of goods	4
‘239. A person who makes a statement or conveys information to another person that he or she knows or believes to be false with the intention of inducing in that person or another person a belief that goods have been contaminated or interfered with and causes—	5 6 7 8
(a) public alarm or anxiety; or	9
(b) that person or that other person to refrain from purchasing those goods or goods of that or any similar class; or	10 11
(c) any person to suffer economic loss through taking steps to avoid public alarm or anxiety; or	12 13
(d) members of the public to refrain from purchasing those goods or goods of that or any similar class;	14 15
commits a crime.	16
Maximum penalty—7 years imprisonment.	17
‘Dealing in contaminated goods	18
‘240. A person who knowingly—	19
(a) sells or exposes for sale as goods for human consumption, or has in the person’s possession with intent to sell it as goods for human consumption, any article that the person knows to be contaminated or otherwise unfit as goods for human consumption; or	20 21 22 23 24
(b) takes into a slaughter house used for the slaughter of any animals intended for human consumption the whole or any part of the carcass of an animal that has died of a disease; or	25 26 27
(c) sells or exposes for sale the whole or part of the carcass of an animal that has died of a disease or that was diseased when	28 29

Justice and Other Legislation (Miscellaneous Provisions)

	slaughtered;	1
	commits a misdemeanour.	2
	Maximum penalty—3 years imprisonment.	3
	‘Definitions for ch 24	4
	‘241. In this chapter—	5
	“contaminate” includes to add, mix or put in a deleterious or poisonous substance.	6 7
	“goods” includes beverage and food for human consumption and any substances whether natural or manufactured and whether or not incorporated in or mixed with other goods.’.	8 9 10
	Amendment of s 259 (Examination of person of accused persons in custody)	11 12
Clause	23. Section 259(1)—	13
	<i>omit, insert—</i>	14
	‘259.(1) If a person is in custody on a charge of an offence—	15
	(a) a police officer of the same sex as the person in custody; or	16
	(b) a doctor acting at the direction of a police officer; or	17
	(c) if the person in custody is a female and no female police officer is available to conduct the search—any female acting at the direction of a police officer; or	18 19 20
	(d) if the person in custody is a male and no male police officer is available to conduct the search—any male acting at the direction of a police officer;	21 22 23
	may search the person and take from him or her anything found on the search that the police officer believes on reasonable grounds may provide evidence about the commission of the offence, endanger anyone’s safety or be used for an escape.’.	24 25 26 27

Justice and Other Legislation (Miscellaneous Provisions)

Amendment of s 359 (Threats)

Clause	24. Section 359, from ‘is guilty of’—	1
	<i>omit, insert—</i>	2
	‘or with intent to cause public alarm or anxiety, commits a crime.	3
	Maximum penalty—5 years imprisonment.’.	4
		5

Amendment of s 671 (Time for appealing)

Clause	25. Section 671, ‘28 days’—	6
	<i>omit, insert—</i>	7
	‘1 calendar month’.	8
		9

PART 8—AMENDMENT OF CRIMINAL INVESTIGATION (EXTRA-TERRITORIAL OFFENCES) ACT 1985

Act amended in pt 8

Clause	26. This part amends the <i>Criminal Investigation (Extra-territorial Offences) Act 1985</i> .	13
		14
		15

Amendment of s 2 (Definitions)

Clause	27. Section 2, definition “ appropriate authority ”, from ‘means’—	16
	<i>omit, insert—</i>	17
	‘means the following—	18
	(a) for the Commonwealth—the chairperson of the National Crime Authority established under the <i>National Crime Authority Act 1984</i> (Cwlth);	19
	(b) for the Australian Capital Territory—the Australian Federal Police	20
		21
		22
		23

Justice and Other Legislation (Miscellaneous Provisions)

- | | |
|--|----------------------|
| commissioner; | 1 |
| (c) for New South Wales— | 2 |
| (i) the chairperson of the Independent Commission against Corruption established under the <i>Independent Commission against Corruption Act 1988</i> (NSW); or | 3
4
5 |
| (ii) an authority exercising, in relation to the New South Wales police force, functions corresponding to the Queensland police service commissioner’s functions in relation to the Queensland police service; | 6
7
8
9 |
| (d) for Queensland— | 10 |
| (i) the chairperson of the Criminal Justice Commission established under the <i>Criminal Justice Act 1989</i> ; or | 11
12 |
| (ii) the Queensland police service commissioner; | 13 |
| (e) for another State or territory—an authority exercising, in relation to the police force of the State or territory, functions corresponding to the Queensland police service commissioner’s functions in relation to the Queensland police service.’. | 14
15
16
17 |

Amendment of s 7 (Ministerial arrangements for transmission and return of seized objects) 18
19

- | | | |
|--------|---|----|
| Clause | 28.(1) Section 7(1)(a)(ii) and (2), ‘commissioner of the police service’— | 20 |
| | <i>omit, insert—</i> | 21 |
| | ‘appropriate authority’. | 22 |
| | (2) Section 7(2), ‘39(1)(a)(iv)’— | 23 |
| | <i>omit, insert—</i> | 24 |
| | ‘39(1)(a)(ii) ² ’. | 25 |
| | (3) Section 7— | 26 |
| | <i>insert—</i> | 27 |

² *Justices Act 1886*, section 39 (Power of court to order delivery of certain property)

Justice and Other Legislation (Miscellaneous Provisions)

‘(3) However, property mentioned in subsection (2) may be dealt with in accordance with the *Justices Act 1886*, section 39 only if the owner of the object is unknown or can not, after reasonable efforts, be located. 1
2
3

‘(4) The commissioner of the police service may delegate the commissioner’s powers under an arrangement made under subsection (1) to— 4
5
6

(a) a police officer; or 7

(b) a person who is a staff member of the police service under the *Police Service Administration Act 1990*, section 2.5(1).³. 8
9

**PART 9—AMENDMENT OF CRIMINAL LAW 10
AMENDMENT ACT 1997 11**

Act amended in pt 9 12

Clause 29. This part amends the *Criminal Law Amendment Act 1997*. 13

Amendment of s 96 (Insertion of new pt 8, ch 58A) 14

Clause 30.(1) Section 96, new Criminal Code section 552A(1)— 15
insert— 16

‘(e) an offence of becoming an accessory after the fact to any of the above offences.’. 17
18

(2) Section 96, new Criminal Code section 552B(1)— 19
insert— 20

‘(p) an offence of becoming an accessory after the fact to any of the above offences.’. 21
22

(3) Section 96, new Criminal Code section 552B(2), from ‘procuring,’ to 23

³ *Police Service Administration Act 1990*, section 2.5 (Administration of staff members)

Justice and Other Legislation (Miscellaneous Provisions)

‘court’—	1
<i>omit, insert</i> —	2
‘procuring the commission of, or of becoming an accessory after the fact to, any of those offences must be dealt with summarily, unless the defendant informs the magistrate’.	3
	4
	5
(4) Section 96, new Criminal Code section 552B(5), from ‘procuring,’ to ‘decided’—	6
	7
<i>omit, insert</i> —	8
‘procuring the commission of, or of becoming an accessory after the fact to, any of those offences, must be dealt with’.	9
	10

Amendment of s 118 (Insertion of new s 651) 11

Clause 31. Section 118, new Criminal Code section 651—	12
<i>insert</i> —	13
‘(7) If the court hears and decides a charge summarily, the court has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose.’.	14
	15
	16

PART 10—AMENDMENT OF EVIDENCE ACT 1977 17

Act amended in pt 10 18

Clause 32. This part amends the <i>Evidence Act 1977</i> .	19
---	----

Amendment of s 55 (Proof of incorporation or registration of company in Queensland) 20

Clause 33.(1) Section 55(1)—	22
<i>omit, insert</i> —	23
‘ 55.(1) Evidence of the incorporation of a company incorporated or	24

Justice and Other Legislation (Miscellaneous Provisions)

- registered in Queensland may be given by the production of— 1
- (a) a certificate of the incorporation or registration of the company 2
 - that purports to be given by the Australian securities commission 3
 - (the “**commission**”), the commission’s delegate or a commission 4
 - officer; or 5
 - (b) an affidavit or statutory declaration of an officer of the company 6
 - (“**company verification**”) made under the *Oaths Act 1867*.’ 7
- (2) Section 55(2), after ‘certificate’— 8
- insert—* 9
- ‘or company verification’. 10
- (3) After section 55(2)— 11
- insert—* 12
- ‘(2A) Evidence that a company is not incorporated or registered, or no 13
longer incorporated or registered, in Queensland may be given by the 14
production of a certificate that purports to be given by the commission, the 15
commission’s delegate or a commission officer. 16
- ‘(2B) The date a company ceased being incorporated or registered in 17
Queensland mentioned in the certificate is evidence of the date on which the 18
company ceased being incorporated or registered.’. 19
- (4) Section 55— 20
- insert—* 21
- ‘(4) If the prosecution in a criminal proceeding intend to rely on a 22
company verification, the prosecutor must serve a copy of it on the 23
defendant or the defendant’s legal representative— 24
- (a) for a summary trial or committal proceeding— 25
 - (i) when the summons is served on the defendant; or 26
 - (ii) not later than 14 days after the defendant first appears in 27
court for the alleged offence; or 28
 - (b) for a trial on indictment—not later than 14 days after the 29
indictment against the defendant is presented. 30
- ‘(5) A defendant who is served with a copy of a company verification 31

Justice and Other Legislation (Miscellaneous Provisions)

under subsection (4) must give the prosecution a written notice stating whether the defendant intends to contest a following matter about the company's incorporation or registration mentioned in the company verification—

- (a) the fact of its incorporation or registration;
- (b) the date of its incorporation or registration;
- (c) the date on which it ceased being incorporated or registered.

‘(6) The defendant must give the notice by not later than—

- (a) 10 days before the day the trial of the proceedings to which the notice relates starts; or
- (b) the end of a later period allowed by the court, if the court considers it just to extend the period in the particular circumstances.

‘(7) If, in a proceeding before it, a court considers the defendant or the defendant's lawyer has unnecessarily caused the prosecution to prove the incorporation or registration of a company, the court may order the defendant to pay the prosecution's costs of proving the incorporation or registration.

‘(8) For this section, a defendant is taken to be served with a copy of a company verification if the copy is served on the defendant's lawyer.’.

PART 11—AMENDMENT OF JURY ACT 1995

Act amended in pt 11

Clause **34.** This part amends the *Jury Act 1995*.

Amendment of s 70 (Confidentiality of jury deliberations)

Clause **35.(1)** Section 70(1), definition “**confidential information about jury deliberations**”—

Justice and Other Legislation (Miscellaneous Provisions)

omit, insert—

‘**“confidential information about jury deliberations”**’ means—

- (a) information about statements made, opinions expressed, arguments advanced, or votes cast, in the course of a jury’s deliberations; or
- (b) information identifying or likely to identify a person as, or as having been, a juror in a particular proceeding.’

(2) Section 70—

insert—

‘**(11)** Information identifying or likely to identify a person as, or as having been, a juror in a particular proceeding may be disclosed—

- (a) in the course of the proceeding—by any person with the court’s permission or with lawful excuse; or
- (b) after the proceeding has ended—by the juror or someone else with the juror’s consent.’

**PART 12—AMENDMENT OF JUSTICE
LEGISLATION (MISCELLANEOUS PROVISIONS)
ACT 1996**

Act amended in pt 12

Clause **36.** This part amends the *Justice Legislation (Miscellaneous Provisions) Act 1996*.

Amendment of s 16 (Amendment of s 5 (Conditions of cremation))

Clause **37.** Section 16(7), from ‘authorised’—

omit, insert—

‘authorised by subsection (1) to sign a permission and certificate to

Justice and Other Legislation (Miscellaneous Provisions)

cremate a body (the “prescribed person”)—	1
(a) a medical certificate of the cause of death given by a person who appears to the prescribed person, after appropriate inquiry, to be a doctor who personally attended the deceased at the place where the death happened; or	2 3 4 5
(b) a certificate given by a person who appears to the prescribed person, after appropriate inquiry, to be a coroner, or to hold a position equivalent to a coroner, at the place where the death happened.’.	6 7 8 9

PART 13—AMENDMENT OF JUSTICES ACT 1886 10

Act amended in pt 13 11

Clause	38. This part amends the <i>Justices Act 1886</i> .	12
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Amendment of s 47 (What is sufficient description of offence) 13

Clause	39.(1) Section 47(2), ‘summary’— <i>omit.</i>	14 15
	(2) Section 47(4), from ‘except when’— <i>omit.</i>	16 17
	(3) Section 47— <i>insert—</i>	18 19
	‘(5) However, if the circumstance is that the defendant has been previously convicted of an offence, the alleged previous conviction must be stated in a notice served with the complaint.’.	20 21 22

Amendment of s 54 (Form of summons and filing of complaint and summons) 23 24

Clause	40. Section 54(2), after ‘lodged’—	25
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Justice and Other Legislation (Miscellaneous Provisions)

insert—

‘, within 3 days of the summons being issued.’.

Amendment of s 110A (Use of tendered statements in lieu of oral testimony in committal proceedings)

Clause **41.** Section 110A(5)(c)—

omit, insert—

‘(c) it is signed by the person making it and contains—

(i) a declaration by the person under the *Oaths Act 1867*; or

(ii) a written acknowledgment by the person;

that it is true to the best of the person’s knowledge and belief and that the person made the statement knowing that, if it were admitted as evidence, the person may be liable to prosecution for stating in it anything that the person knew was false;’.

PART 14—AMENDMENT OF JUVENILE JUSTICE ACT 1992

Act amended in pt 14

Clause **42.** This part amends the *Juvenile Justice Act 1992*.

Amendment of s 18F (Form of community conference agreement)

Clause **43.** Section 18F—

insert—

‘(8) The *Workers’ Compensation Act 1990* applies to the child performing duties under an agreement as a worker (within the meaning of that Act) working under a contract of service with the State.’.

*Justice and Other Legislation (Miscellaneous
Provisions)*

	Amendment of s 200 (Application of Corrective Services Act 1988)	1
Clause	44. Section 200, after ‘40,’—	2
	<i>insert—</i>	3
	‘71’.	4
	PART 15—AMENDMENT OF NATIVE TITLE (QUEENSLAND) ACT 1993	5 6
	Act amended in pt 15	7
Clause	45. This part amends the <i>Native Title (Queensland) Act 1993</i> .	8
	Amendment of s 156 (Expiry of Part)	9
Clause	46. Section 156, ‘it commences’—	10
	<i>omit, insert—</i>	11
	‘all its provisions commence’.	12
	PART 16—AMENDMENT OF PEACE AND GOOD BEHAVIOUR ACT 1982	13 14
	Act amended in pt 16	15
Clause	47. This part amends the <i>Peace and Good Behaviour Act 1982</i> .	16
	Amendment of s 4 (Complaint in respect of breach of the peace)	17
Clause	48.(1) Section 4, ‘in writing on oath’—	18
	<i>omit.</i>	19
	(2) Section 4—	20

Justice and Other Legislation (Miscellaneous Provisions)

insert—

‘(2) A person (the “**complainant**”) may make a complaint to a justice that someone else is engaging in conduct that is adversely affecting, or likely to adversely affect, the complainant’s enjoyment of the complainant’s property.

‘(3) If the justice before whom the complaint mentioned in subsection (2) is made considers that the matter would be better resolved by mediation than by proceedings before a Magistrates Court, the justice may, with the complainant’s consent, order the complainant to submit the matter to mediation under the *Dispute Resolution Centres Act 1990*.

‘(4) In this section—

“**complaint**” means a written complaint made on oath.’.

PART 17—AMENDMENT OF PENALTIES AND SENTENCES ACT 1992

Act amended in pt 17

Clause 49. This part amends the *Penalties and Sentences Act 1992*.

Amendment of s 162 (Definitions)

Clause 50.(1) Section 162, definition “**violent offence**”, paragraph (b), ‘208, 215 or 337’—

omit, insert—

‘208, 215, 216, 337 or 347’.

(2) Section 162, definition “**violent offence**”, paragraph (c)—

omit.

**PART 18—AMENDMENT OF PUBLIC TRUSTEE ACT
1978**

	Act amended in pt 18	1 2 3
Clause	51. This part amends the <i>Public Trustee Act 1978</i> .	4
	Amendment of s 6 (Definitions)	5
Clause	52. Section 6, definition “ Common Fund ”— <i>omit, insert—</i> ‘ “common fund” means a common fund established under section 19. ⁴ ’.	6 7 8
	Amendment of s 16 (Employment of solicitors etc.)	9
Clause	53. Section 16— <i>insert—</i> ‘(7) To remove any doubt, nothing in this section prevents the official solicitor from acting as barrister or solicitor for a person other than the public trustee.’.	10 11 12 13 14
	Amendment of s 19 (Common Fund and investment thereof and of other moneys)	15 16
Clause	54. Section 19(1)(a), ‘Common Fund’— <i>omit, insert—</i> ‘or more common funds (the “ common fund ”)’.	17 18 19
	Amendment of s 60 (Public Trustee may direct audit of trusts)	20
Clause	55.(1) Section 60(1), from ‘interested’ to ‘contingent,’— <i>omit.</i>	21 22

⁴ Section 19 (Common Fund and investment thereof and of other moneys)

Justice and Other Legislation (Miscellaneous Provisions)

	(2) Section 60(1), ‘the trust’—	1
	<i>omit, insert—</i>	2
	‘a trust’.	3
	(3) Section 60(2), ‘The Public Trustee’—	4
	<i>omit, insert—</i>	5
	‘If, in the public trustee’s opinion, the person’s interests are, or may be, adversely affected by the trust’s operation, the public trustee’.	6 7
	Amendment of s 67 (Protection order in damages action)	8
Clause	56. Section 67—	9
	<i>insert—</i>	10
	‘(5) In this section—	11
	“court” includes a District Court.’.	12
	Amendment of s 68 (Court may give directions)	13
Clause	57.(1) Section 68, ‘The Court’—	14
	<i>omit, insert—</i>	15
	‘The Supreme Court or, if a District Court has made or is making a protection order under section 67, a District Court’.	16 17
	(2) Section 68—	18
	<i>insert—</i>	19
	‘(2) Jurisdiction given to a District Court under subsection (1) extends only in relation to the protected person.	20 21
	‘(3) The Supreme Court’s jurisdiction is not limited by the jurisdiction conferred on a District Court under subsection (1).’.	22 23
	Amendment of s 80 (Management by Public Trustee of property of incapacitated person)	24 25
Clause	58.(1) Section 80(2)(c), from ‘disability,’ to ‘Court’—	26

Justice and Other Legislation (Miscellaneous Provisions)

	<i>omit, insert—</i>	1
	‘disability’.	2
	(2) Section 80(3)(d), ‘exceeding \$50 000’—	3
	<i>omit.</i>	4
	(3) Section 80(3)(d), ‘by such sum’—	5
	<i>omit.</i>	6
	(4) Section 80(3)(d), ‘of such sum’—	7
	<i>omit, insert—</i>	8
	‘of an amount’.	9
	(5) Section 80(3)(d), as amended—	10
	<i>relocate</i> to section 80(2) and <i>renumber</i> as section 80(2)(g).	11
	(6) Section 80(3), as amended—	12
	<i>omit.</i>	13
	(7) Section 80(3A)—	14
	<i>omit.</i>	15
	Amendment of pt 8 (Unclaimed property)	16
Clause	59.(1) Part 8, before division 1—	17
	<i>insert—</i>	18
	<i>‘Division 1A—Object</i>	19
	‘Object of pt 8	20
	‘97A.(1) The object of this part is to provide a scheme for paying or	21
	giving unclaimed property held by particular persons to the public trustee	22
	and for returning unclaimed property to persons lawfully entitled to it.	23
	‘(2) For unclaimed superannuation benefits, the object is to be achieved	24
	by satisfying the requirements of the <i>Superannuation Industry</i>	25
	<i>(Supervision) Act 1993</i> (Cwlth) to enable the benefits to be paid to the	26

Justice and Other Legislation (Miscellaneous Provisions)

	public trustee instead of the commissioner of taxation.’	1
	(2) Part 8, before section 98, as a heading—	2
	<i>insert—</i>	3
	‘Subdivision 1—Interpretation’.	4
	Amendment of s 98 (Application of Division)	5
Clause	60.(1) Section 98, heading—	6
	<i>omit, insert—</i>	7
	‘Definitions’.	8
	(2) Section 98, definition “ unclaimed moneys ”, ‘means all’—	9
	<i>omit, insert—</i>	10
	‘means—	11
	(a) all’.	12
	(3) Section 98, definition “ unclaimed moneys ”, ‘upwards’—	13
	<i>omit, insert—</i>	14
	‘or more; and	15
	(b) an unclaimed superannuation benefit’.	16
	Insertion of new s 98A and sdiv heading	17
Clause	61. After section 98—	18
	<i>insert—</i>	19
	‘Meaning of “unclaimed superannuation benefit”	20
	‘98A.(1) An “ unclaimed superannuation benefit ” is a benefit, other	21
	than an annuity or a pension, that—	22
	(a) the trustee of an approved deposit fund or a regulated	23
	superannuation fund decides, under the fund’s governing rules, is	24
	payable immediately to a member of the fund who has reached	25
	the eligibility age for a pension; and	26

Justice and Other Legislation (Miscellaneous Provisions)

(b) the trustee can not pay to the member because the trustee, after making reasonable efforts to find the member, can not find the member. 1
2
3

‘(2) Subsection (1) applies whether or not the member has asked the trustee to pay the benefit to the member. 4
5

‘(3) An **“unclaimed superannuation benefit”** is also a benefit, other than an annuity or a pension, that— 6
7

(a) the trustee of an approved deposit fund or a regulated superannuation fund decides, under the fund’s governing rules, is payable immediately to a person (the **“beneficiary”**) in relation to a member of the fund who has died; and 8
9
10
11

(b) before the member died, the member— 12

(i) had not asked the trustee to pay to the member; or 13

(ii) had asked the trustee to pay to the member, but was not paid before the member died; and 14
15

(c) the trustee can not pay to the beneficiary because the trustee, after making reasonable efforts to find the beneficiary, can not find the beneficiary. 16
17
18

‘(4) In this section— 19

“approved deposit fund” see the *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 10(1). 20
21

“regulated superannuation fund” see the *Superannuation Industry (Supervision) Act 1993* (Cwlth), sections 10(1) and 19. 22
23

‘Subdivision 2—Registers and other matters about unclaimed moneys’. 24

Insertion of new s 99A 25

Clause **62.** After section 99— 26
insert— 27

Justice and Other Legislation (Miscellaneous Provisions)

‘Public trustee’s register of unclaimed moneys	1
‘99A.(1) The public trustee must keep a register of unclaimed moneys paid to the public trustee under this division.	2 3
‘(2) The register must contain the following details—	4
(a) the name, and last known address, of the person for whom the moneys are held;	5 6
(b) the amount held for the person;	7
(c) if the moneys are an unclaimed superannuation benefit—	8
(i) the name of the fund in which the unclaimed moneys were held;	9 10
(ii) the following particulars about the member of the fund to whom, or in relation to whom, the amount was payable—	11 12
(A) membership number;	13
(B) date of birth;	14
(C) last known address;	15
(d) any other detail prescribed under a regulation.	16
‘(3) A person may, on payment of the fee prescribed under a regulation—	17 18
(a) inspect the register at the public trustee’s head office when the office is open to the public; ⁵ and	19 20
(b) take extracts from, or obtain a copy of details in, the register.’.	21
 Amendment of s 100 (Annual register of unclaimed moneys)	 22
Clause 63.(1) Section 100, heading—	23
<i>omit, insert—</i>	24
‘Accountable person’s register of unclaimed moneys’.	25
(2) Section 100(2), ‘7 years thereafter such register’—	26

⁵ The public trustee’s head office address is 444 Queen Street, Brisbane Q 4000.

Justice and Other Legislation (Miscellaneous Provisions)

<i>omit, insert—</i>	1
‘2 years after the entry is made, the entry’.	2
(3) Section 100(3A), ‘\$200’—	3
<i>omit, insert—</i>	4
‘\$500’.	5
(4) Section 100(3A), ‘\$400’—	6
<i>omit, insert—</i>	7
‘\$1 000’.	8

	Insertion of new s 100A	9
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Clause	64. After section 100—	10
	<i>insert—</i>	11
	‘Statement about unclaimed superannuation benefits	12
	‘100A.(1) After the end of each half-year, an accountable person must	13
	give the public trustee a statement about unclaimed superannuation benefits	14
	held by the accountable person at the end of the half-year.	15
	‘(2) The statement must be in the form approved by the public trustee	16
	and must be given to the public trustee by—	17
	(a) for the half-year ending on 30 June in a year—31 October in that	18
	year; and	19
	(b) for the half-year ending on 31 December in a year—30 April in	20
	the next year.	21
	‘(3) However, the public trustee may, by written notice given to the	22
	accountable person before or after the day by which the statement must be	23
	given under subsection (2), allow the accountable person to give the	24
	statement by a later stated day.	25
	‘(4) If the public trustee gives the accountable person a notice under	26
	subsection (3), the accountable person, instead of giving the statement by	27
	the day mentioned in subsection (2), must give the statement by the day	28
	stated in the notice.	29

Justice and Other Legislation (Miscellaneous Provisions)

‘(5) If, after the end of the half-year to which the statement relates but before the statement is given to the public trustee, the accountable person pays a person an amount of unclaimed superannuation benefits mentioned in the statement, the statement must contain the particulars about the amount required by the public trustee on the approved form.

‘(6) For this section, the form of statement the public trustee may approve includes a disc, tape or other article or any material from which sounds, images, writings or messages are capable of being produced or reproduced (with or without the aid of another article or device).’.

Amendment of s 101 (Public Trustee may examine accounts)

Clause **65.(1)** Section 101, heading, ‘**accounts**’—

omit, insert—

‘**documents**’.

(2) Section 101(1), after ‘section 100’—

insert—

‘or statement should have been given under section 100A,’.

(3) Section 101(1), ‘such entry has, or should have, been made’—

omit, insert—

‘the entry or statement has, or should have, been made, or given,’.

(4) Section 101—

insert—

‘(4) If an error is found in a statement given under section 100A, the public trustee may ask the accountable person who gave the statement to amend it and give the amended statement to the public trustee by a stated day.

‘(5) The accountable person must comply with the request.

Maximum penalty—100 penalty units.

‘(6) If, as a result of the error, the accountable person would have been required to pay a further amount to the public trustee under

Justice and Other Legislation (Miscellaneous Provisions)

	section 102(1A), the accountable person must pay the amount to the public trustee when giving the amended statement under subsection (4).	1 2
	Maximum penalty—200 penalty units.’.	3
	Amendment of s 102 (Unclaimed moneys to be paid to Public Trustee)	4
Clause	66.(1) Section 102, before subsection (1)—	5
	<i>insert—</i>	6
	‘ (1A) When an accountable person gives a statement to the public trustee under section 100A, the accountable person must pay to the public trustee the amount equalling the difference between the following amounts specified in the statement—	7 8 9 10
	(a) the unclaimed superannuation benefits held by the accountable person at the end of the half-year to which the statement relates;	11 12
	(b) the unclaimed superannuation benefits paid to a person after the end of the half-year to which the statement relates, the particulars of which must be contained in the statement under section 100A(5).	13 14 15 16
	Maximum penalty—200 penalty units.’.	17
	(2) Section 102(1), after ‘moneys’—	18
	<i>insert—</i>	19
	‘, other than unclaimed superannuation benefits,’.	20
	(3) Section 102(1), ‘such register’—	21
	<i>omit, insert—</i>	22
	‘the register kept by the accountable person under section 100’.	23
	(4) Section 102(1)—	24
	<i>insert—</i>	25
	‘Maximum penalty—200 penalty units.’.	26
	(5) Section 102(2), ‘An’—	27
	<i>omit, insert—</i>	28

Justice and Other Legislation (Miscellaneous Provisions)

	‘However, an’.	1
	(6) Section 102(2), after ‘unclaimed moneys’—	2
	<i>insert—</i>	3
	‘, other than unclaimed superannuation benefits,’.	4
	Insertion of new s 102A	5
Clause	67. In subdivision 2, after section 102—	6
	<i>insert—</i>	7
	‘Public trustee may refund certain amounts to accountable persons	8
	‘102A.(1) This section applies if an accountable person—	9
	(a) has paid an unclaimed superannuation benefit to the public trustee under this subdivision; and	10 11
	(b) satisfies the public trustee that the amount of the benefit paid to the public trustee is more than the amount that would have been paid to the person entitled to its payment had section 102(1A) not been enacted.	12 13 14 15
	‘(2) The public trustee must refund the amount of the overpayment, less the public trustee’s reasonable expenses, to the accountable person.’.	16 17
	Insertion of new pt 8, div 4	18
Clause	68. After part 8, division 3—	19
	<i>insert—</i>	20
	<i>‘Division 4—Enforcement</i>	21
	<i>‘Subdivision 1—Inspectors</i>	22
	‘Appointment	23
	‘117B. The public trustee may appoint a public service officer as an inspector if, in the public trustee’s opinion, the person has the necessary expertise or experience to be an inspector.	24 25 26

Justice and Other Legislation (Miscellaneous Provisions)

‘Limitation of inspector’s powers	1
‘117C. The powers of an inspector may be limited—	2
(a) under a regulation; or	3
(b) under a condition of appointment; or	4
(c) by written notice of the public trustee given to the inspector.	5
‘Inspector’s conditions of appointment	6
‘117D.(1) An inspector holds office on the conditions specified in the instrument of appointment.	7 8
‘(2) An inspector—	9
(a) if the appointment provides for a term of appointment—ceases holding office at the end of the term; and	10 11
(b) may resign by signed notice of resignation given to the public trustee; and	12 13
(c) if the conditions of appointment provide—ceases holding office as an inspector on ceasing to hold another office stated in the conditions of appointment.	14 15 16
‘Inspector’s identity card	17
‘117E.(1) The public trustee must give each inspector an identity card.	18
‘(2) The identity card must—	19
(a) contain a recent photograph of the inspector; and	20
(b) be in a form approved by the public trustee; and	21
(c) be signed by the inspector; and	22
(d) identify the person as an inspector under this Act.	23
‘(3) A person who ceases to be an inspector must return the person’s identity card to the public trustee within 21 days after the person ceases to	24 25

Justice and Other Legislation (Miscellaneous Provisions)

be an inspector, unless the person has a reasonable excuse for not returning it. 1
2

Maximum penalty—10 penalty units. 3

‘Production or display of inspector’s identity card’ 4

‘117F.(1) An inspector may exercise a power in relation to someone else (the **“other person”**) only if the inspector— 5
6

(a) first produces the inspector’s identity card for inspection by the other person; or 7
8

(b) has the identity card displayed so it is clearly visible to the other person. 9
10

‘(2) However, if for any reason, it is not practicable to comply with subsection (1) before exercising the power, the inspector must produce the identity card for the other person’s inspection at the first reasonable opportunity. 11
12
13
14

‘Subdivision 2—Inspectors’ powers’ 15

‘Entry to places’ 16

‘117G. An inspector may enter a place if— 17

(a) its occupier consents to the entry or the purpose of the entry is to get the occupier’s consent; or 18
19

(b) it is a public place and the entry is made when it is open to the public; or 20
21

(c) it is an accountable person’s place of business and is— 22

(i) open for carrying on the business; or 23

(ii) otherwise open for entry; or 24

(d) the entry is permitted by a warrant. 25

‘Consent to entry	1
‘117H. If an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place, the inspector must, before asking for the consent, tell the occupier the purpose of the entry.	2 3 4
‘Application for warrant	5
‘117I.(1) An inspector may apply to a magistrate for a warrant for a place.	6 7
‘(2) The application must be sworn and state the grounds on which the warrant is sought.	8 9
‘(3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.	10 11 12
<i>Example—</i>	13
The magistrate may require additional information supporting the application to be given by statutory declaration.	14 15
‘Issue of warrant	16
‘117J.(1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—	17 18
(a) there is a particular thing or activity (the “evidence”) that may provide evidence of an offence against this Act; and	19 20
(b) the evidence is at the place, or may be at the place within the next 7 days.	21 22
‘(2) The warrant must state—	23
(a) that a stated inspector may, with necessary and reasonable help and force, enter the place and exercise the inspector’s powers under this division; and	24 25 26
(b) the offence for which the warrant is sought; and	27
(c) the evidence that may be seized under the warrant; and	28
(d) the hours of the day or night when the place may be entered; and	29

Justice and Other Legislation (Miscellaneous Provisions)

(e) the date, within 14 days after the warrant’s issue, the warrant ends.	1 2
‘General powers after entering places	3
‘117K.(1) This section applies to an inspector who enters a place.	4
‘(2) However, if an inspector enters a place to get the occupier’s consent to enter premises, this section applies to the inspector only if the consent is given or the entry is otherwise authorised.	5 6 7
‘(3) For enforcing compliance with this Act, the inspector may—	8
(a) search any part of the place; or	9
(b) inspect, measure, test, photograph or film any part of the place or anything at the place; or	10 11
(c) copy a document at the place; or	12
(d) take into or onto the place any persons, equipment and materials the inspector reasonably requires for exercising a power under this division; or	13 14 15
(e) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the inspector’s powers under paragraphs (a) to (d); or	16 17 18
(f) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector ascertain whether this Act is being complied with.	19 20 21
‘(4) When making a requirement mentioned in subsection (3)(e) or (f), the inspector must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.	22 23 24
‘Failure to help inspector	25
‘117L.(1) A person required to give reasonable help under section 117J(3)(e) must comply with the requirement, unless the person has a reasonable excuse.	26 27 28
Maximum penalty—40 penalty units.	29

Justice and Other Legislation (Miscellaneous Provisions)

‘(2) If the requirement is to be complied with by the person giving information, or producing a document (other than a document required to be kept by the person under this Act), it is a reasonable excuse for the person to fail to comply with the requirement, if complying with the requirement might tend to incriminate the person.

‘Failure to give information 6

‘117M.(1) A person of whom a requirement is made under section 117J(3)(f) must comply with the requirement, unless the person has a reasonable excuse. 7
8
9

Maximum penalty—40 penalty units. 10

‘(2) It is a reasonable excuse for the person to fail to comply with the requirement if complying with the requirement might tend to incriminate the person. 11
12
13

‘Role of police officers 14

‘117N.(1) An inspector may ask a police officer to help the inspector in the exercise of a power under this division. 15
16

‘(2) The police officer must give the inspector the reasonable help the inspector requires, if it is practicable to give the help. 17
18

‘Seizing evidence at places 19

‘117O.(1) If an inspector enters a place under this division with the occupier’s consent, the inspector may seize a thing at the place if— 20
21

(a) the inspector reasonably believes the thing is evidence of an offence against this Act; and 22
23

(b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier’s consent. 24
25

‘(2) If the inspector enters the place with a warrant, the inspector may seize the evidence for which the warrant was issued. 26
27

‘(3) The inspector also may seize anything else at the place if the inspector reasonably believes— 28
29

Justice and Other Legislation (Miscellaneous Provisions)

(a) the thing is evidence of an offence against this Act; and	1
(b) the seizure is necessary to prevent the thing being—	2
(i) hidden, lost or destroyed; or	3
(ii) used to continue, or repeat, the offence.	4
‘(4) Also, the inspector may seize a thing at the place if the inspector reasonably believes it has just been used in committing an offence against this Act.	5 6 7
‘Securing seized things	8
‘117P. Having seized a thing, an inspector may—	9
(a) move the thing from the place where it was seized (the “ place of seizure ”); or	10 11
(b) leave the thing at the place of seizure, but take reasonable action to restrict access to it.	12 13
<i>Examples of restricting access to a thing—</i>	14
1. Sealing a thing and marking it to show access to it is restricted.	15
2. Sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted.	16 17
‘Tampering with seized things	18
‘117Q. If an inspector restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an inspector’s approval.	19 20 21
Maximum penalty—40 penalty units.	22
‘Receipt for seized things	23
‘117R.(1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.	24 25
‘(2) However, if for any reason it is not practicable to comply with subsection (1), the inspector must leave the receipt at the place of seizure in	26 27

Justice and Other Legislation (Miscellaneous Provisions)

a conspicuous position and in a reasonably secure way.	1
‘(3) The receipt must describe generally each thing seized and its condition.	2 3
‘(4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt (given the thing’s nature, condition and value).	4 5 6
‘Return of seized things	7
‘117S.(1) The inspector must return a seized thing to its owner—	8
(a) at the end of 3 months; or	9
(b) if a proceeding for an offence involving the thing is started within 3 months—at the end of the proceeding and any appeal from the proceeding.	10 11 12
‘(2) Despite subsection (1), the inspector must promptly return a thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.	13 14 15
‘Access to seized things	16
‘117T.(1) Until a seized thing is returned, an inspector must allow its owner to inspect it and, if it is a document, to copy it.	17 18
‘(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.’.	19 20
Amendment of s 122 (Public Trustee may require property to be transferred and may summon persons for examination)	21 22
Clause 69. Section 122(11), after ‘Court’—	23
<i>insert—</i>	24
‘or Magistrates Court’.	25

*Justice and Other Legislation (Miscellaneous
Provisions)*

Amendment of s 139 (Service of notices)		1
Clause	70.(1) Section 139(1), (1A) and (4)—	2
	<i>omit.</i>	3
	(2) Section 139(2) and (2A), ‘the person’—	4
	<i>omit, insert—</i>	5
	‘a person’.	6
	(3) Section 139(2) and (2A), ‘the notice’—	7
	<i>omit, insert—</i>	8
	‘a notice’.	9
	(4) Section 139(2), from ‘delivered’ to ‘(1A)’—	10
	<i>omit, insert—</i>	11
	‘given’.	12
	(5) Section 139(2A), ‘so delivered’—	13
	<i>omit, insert—</i>	14
	‘given’.	15
	(6) Section 139(3), ‘the person’—	16
	<i>omit, insert—</i>	17
	‘a person to whom a notice is to be given’.	18
	(7) Section 139(3), from ‘delivered’ to ‘may be’—	19
	<i>omit, insert—</i>	20
	‘given in the way’.	21

**PART 19—AMENDMENT OF SECURITY
PROVIDERS ACT 1993**

	1
	2
Act amended in pt 19	3
Clause 71. This part amends the <i>Security Providers Act 1993</i> .	4
Amendment of schedule (Disqualifying offence provisions under the Criminal Code)	5
	6
Clause 72.(1) Schedule 1, before item 1, as a heading—	7
<i>insert—</i>	8
‘PART 1—EXISTING PROVISIONS’.	9
(2) Schedule, items 1 to 20, items 22 and 23 and item 30—	10
<i>omit.</i>	11
(3) Schedule—	12
<i>insert—</i>	13
1. Chapter 9 (Unlawful assemblies—breaches of the peace)	14
2. Chapter 16 (Offences relating to the administration of justice)	15
3. Chapter 20 (Miscellaneous offences against public authority)	16
4. Chapter 28 (Homicide-Suicide-Concealment of birth)	17
5. Chapter 29 (Offences endangering life or health)	18
30. Chapter 40 (Other fraudulent practices)’.	19
(3) Schedule, items 1 to 37—	20
<i>renumber</i> as items 1 to 20.	21
(5) Schedule, after item 20, as renumbered—	22
<i>insert—</i>	23

**‘PART 2—PROVISIONS REPEALED BY CRIMINAL
LAW AMENDMENT ACT 1997**

1. Section 343A (Assaults occasioning bodily harm)

2. Section 344 (Aggravated assaults)’.

**PART 20—AMENDMENT OF STATUTORY
INSTRUMENTS ACT 1992**

Act amended in pt 20

Clause **73.** This part amends the *Statutory Instruments Acts 1992*.

**Amendment of s 61 (Transitional provisions about expiry of
subordinate legislation)**

Clause **74.** Section 61, ‘1997’—

omit, insert—

‘2000’.

PART 21—AMENDMENT OF SUCCESSION ACT 1981

Act amended in pt 21

Clause **75.** This part amends the *Succession Act 1981*.

Amendment of s 5 (Definitions)

Clause **76.** Section 5(1)—

Justice and Other Legislation (Miscellaneous Provisions)

	<i>insert—</i>	1
	‘ “stepchild” for part 4, see section 40A.’.	2
	Amendment of s 29 (Construction of residuary dispositions)	3
Clause	77.(1) Section 29, heading, ‘ residuary ’—	4
	<i>omit, insert—</i>	5
	‘ particular ’.	6
	(2) Section 29(b), ‘where a residuary’—	7
	<i>omit, insert—</i>	8
	‘if a’.	9
	(3) Section 29(b), ‘residuary’ (second mention)—	10
	<i>omit.</i>	11
	(4) Section 29—	12
	<i>insert—</i>	13
	‘ (2) In subsection (1)(b)—	14
	“disposition” means a disposition of all property or a residuary disposition.’.	15
		16
	Amendment of s 40 (Definitions for pt 4)	17
Clause	78. Section 40, definition “stepchild” —	18
	<i>omit.</i>	19
	Insertion of new s 40A	20
Clause	79. After section 40—	21
	<i>insert—</i>	22
	‘Meaning of “stepchild”	23
	‘ 40A.(1) A person is a “stepchild” of a deceased person for this part	24
	if—	25

*Justice and Other Legislation (Miscellaneous
Provisions)*

- (a) the person is the child of a spouse of the deceased person; and 1
- (b) a relationship of stepchild and stepparent between the person and 2
the deceased person did not stop under subsection (2). 3
- ‘(2) The relationship of stepchild and stepparent stops on the divorce of 4
the deceased person and the stepchild’s parent. 5
- ‘(3) To remove any doubt, it is declared that the relationship of stepchild 6
and stepparent does not stop merely because— 7
- (a) the stepchild’s parent died before the deceased person, if the 8
deceased person’s marriage to the parent subsisted when the 9
parent died; or 10
- (b) the deceased person remarried after the death of the stepchild’s 11
parent, if the deceased person’s marriage to the parent subsisted 12
when the parent died.’. 13

Amendment of s 44 (Protection of personal representative) 14

- Clause **80.(1)** Section 44(3), from ‘representative after the expiration of 15
6 months’— 16
- omit, insert— 17*
- ‘representative— 18
- (a) not earlier than 6 months after the deceased’s death and without 19
notice of any application or intended application under 20
section 41(1) or 42 in relation to the estate; or 21
- (b) if notice under section 41(1) or 42 has been received—not earlier 22
than 9 months after the deceased’s death, unless the personal 23
representative receives written notice that the application has been 24
commenced in the court or is served with a copy of the 25
application.’. 26
- (2)** Section 44(4), before ‘intention’ (first mention)— 27
- insert— 28*
- ‘an application or’. 29

*Justice and Other Legislation (Miscellaneous
Provisions)*

(3) Section 44(4), from ‘and shall lapse’
omit.

PART 22—AMENDMENT OF TRAFFIC ACT 1949 3

Act amended in pt 22 4

Clause **81.** This part amends the *Traffic Act 1949*. 5

Amendment of s 44P (Interpretation) 6

Clause **82.** Section 44P, definition “**transport Act**”—
omit, insert— 7
8

‘**“transport Act”** means an Act administered by the Minister or the *Motor
Accident Insurance Act 1994*.’ 9
10

**PART 23—AMENDMENT OF TRANSPORT
INFRASTRUCTURE ACT 1994** 11
12

Act amended in pt 23 13

Clause **83.** This part amends the *Transport Infrastructure Act 1994*. 14

**Amendment of s 228 (Continuation of harbours under Harbours Act
or port under Port of Brisbane Authority Act etc.)** 15
16

Clause **84.** Section 228(3), ‘3 years’—
omit, insert— 17
18
‘4 years’. 19

Justice and Other Legislation (Miscellaneous Provisions)

Amendment of s 232 (Harbours Corporation of Queensland)		1
Clause	85.(1) Section 232(4), last dot point—	2
	<i>omit.</i>	3
	(2) Section 232(8), ‘3 years’—	4
	<i>omit, insert—</i>	5
	‘4 years’.	6
 Amendment of s 233 (Continuation of certain by-laws)		 7
Clause	86.(1) Section 233(10), first and third dot points—	8
	<i>omit.</i>	9
	(2) Section 233(11)—	10
	<i>omit, insert—</i>	11
	‘ (11) Subsections (1) to (6) expire 5 years after they commence or, if an earlier date is prescribed by regulation, on that date.	12
	‘ (12) Subsections (7), (9) and (10) expire 4 years after they commence or, if an earlier date is prescribed by regulation, that date.	14
	‘ (13) Subsection (8) expires 3 years after it commences or, if an earlier date is prescribed by regulation, on that date.’.	15
		16
		17
 Amendment of s 235 (Continuation of certain provisions of Harbours Act about jetties and ramps etc.)		 18
Clause	87.(1) Section 235(1), first dot point—	19
	<i>omit.</i>	20
	(2) Section 235(1), eighth dot point—	21
	<i>omit.</i>	22
	(3) Section 235(5)—	23
	<i>omit, insert—</i>	24
	‘ (5) This section, other than subsection (3), expires 4 years after it	25
		26

Justice and Other Legislation (Miscellaneous Provisions)

commences or, if an earlier date is prescribed by regulation, on that date. 1

‘(5A) Subsection (3) expires 3 years after it commences or, if an earlier 2
date is prescribed by regulation, on that date.’. 3

(4) Section 235(6), ‘3 years’— 4

omit, insert— 5

‘4 years’. 6

**Amendment of s 236 (Continuation of certain provisions of Harbours 7
Act requiring approval for certain matters) 8**

Clause 88. Section 236(8), ‘4 years’— 9

omit, insert— 10

‘5 years’. 11

**Amendment of s 240 (Application of Acts Interpretation Act, s 20A to 12
this part) 13**

Clause 89. Section 240(2), ‘3 years’— 14

omit, insert— 15

‘4 years’. 16

**PART 24—AMENDMENT OF TRANSPORT 17
OPERATIONS (PASSENGER TRANSPORT) ACT 1994 18**

Act amended in pt 24 19

Clause 90. This part amends the *Transport Operations (Passenger Transport) 20*

Act 1994. 21

*Justice and Other Legislation (Miscellaneous
Provisions)*

	Amendment of sch 1 (Disqualifying offences—provisions of the Criminal Code)	1
		2
Clause	91.(1) Schedule 1, before item 1, as a heading—	3
	<i>insert—</i>	4
	‘PART 1—EXISTING PROVISIONS’.	5
	(2) Schedule 1, items 7, 8 and 16—	6
	<i>omit.</i>	7
	(3) Schedule 1—	8
	<i>insert—</i>	9
	‘1AAA. Chapter 9 (Unlawful assemblies—breaches of the peace)	10
	1AA. Chapter 16 (Offences relating to the administration of justice)	11
	1A. Chapter 20 (Miscellaneous offences against public authority)	12
	16. Chapter 40 (Other fraudulent practices)’.	13
	(4) Schedule, items 1AAA to 23—	14
	<i>renumber</i> as items 1 to 24.	15
	(5) Schedule, after item 24—	16
	<i>insert—</i>	17
	‘PART 2—PROVISIONS REPEALED BY CRIMINAL LAW AMENDMENT ACT 1997	18
		19
	1. Section 343A (Assaults occasioning bodily harm)	20
	2. Section 344 (Aggravated assaults)’.	21

**PART 25—AMENDMENT OF TRANSPORT
OPERATIONS (ROAD USE MANAGEMENT) ACT
1995**

Act amended in pt 25

Clause **92.** This part amends the *Transport Operations (Road Use Management) Act 1995*.

Amendment of s 93 (Repeal of Acts)

Clause **93.(1)** Section 93(3), ‘2 years’—

omit, insert—

‘3 years’.

(2) Section 93(6), ‘3 years’—

omit, insert—

‘4 years’.

**PART 26—AMENDMENT OF VEXATIOUS
LITIGANTS ACT 1981**

Act amended in pt 27

Clause **94.** This part amends the *Vexatious Litigants Act 1981*.

Amendment of s 2 (Meaning of terms)

Clause **95.** Section 2(2)—

omit, insert—

(2) For this Act—

(a) an appeal, challenge, review or calling into question in any way of

Justice and Other Legislation (Miscellaneous Provisions)

a decision made under section 9A(6) is taken to be legal proceedings; and 1
2

(b) the following applications are taken not to be legal proceedings— 3

(i) an application for variation mentioned in section 3(3); 4

(ii) an application for revocation mentioned in section 4; 5

(iii) an application for leave mentioned in section 8 or 9.’. 6

Amendment of s 8 (Proceedings by or with vexatious litigants require leave) 7
8

Clause **96.(1)** Section 8(4)— 9

omit, insert— 10

‘(4) Subsection (4A) applies if a person who is declared to be a vexatious litigant does not start a legal proceeding before the end of the limitation period for the proceeding only because the person has not obtained leave, under this Act, to start the proceeding. 11
12
13
14

‘(4A) The limitation period for the proceeding is taken— 15

(a) not to have ended if the person, within the limitation period for the proceeding, applied to the Supreme Court or a Supreme Court judge for leave to start the proceeding; and 16
17
18

(b) if leave is granted—to end 14 days after the day on which the leave is granted.’. 19
20

(2) Section 8— 21

insert— 22

‘(6) In this section— 23

“**limitation period**” means the time limited by any law or practice for instituting or taking the proceeding.’. 24
25

Insertion of new s 9A 26

Clause **97.** After section 9— 27

insert— 28

Justice and Other Legislation (Miscellaneous Provisions)

‘Application for leave

‘9A.(1) An application for leave mentioned in section 8 or 9 must be made by the applicant filing the following documents relating to the proceedings or step in the proceedings in the relevant court or tribunal—

- (a) an originating application;
- (b) an affidavit of relevant evidence;
- (c) submissions on which the applicant intends to rely;
- (d) if the application is for leave to institute or take legal proceedings—a draft of the proposed documents to be used to institute or take the legal proceedings;
- (e) if the application is for leave to procure the issue of any subpoena, summons to a witness, warrant or process for any legal proceedings—a draft of the proposed subpoena, summons to a witness, warrant or process.

‘(2) The applicant must—

- (a) give a service copy of each filed document and the notice mentioned in subsection (4) to each other party within 7 days of the filing; and
- (b) file an affidavit about service of the documents within 10 days of the filing.

‘(3) Subsection (2) does not apply to an application for leave in relation to proceedings instituted against the applicant.

‘(4) The notice must state that the person to whom it is given may, within 45 days after the notice is given (the **“response period”**), file a written response to the application in the relevant court or tribunal.

‘(5) If the person wishes to respond to the application, the person must file an affidavit in response in the relevant court or tribunal before the response period ends.

‘(6) The court, judge or other person to whom the application is made must, in the parties’ absence, decide the application—

- (a) if the application is for leave in relation to proceedings instituted against the applicant—as soon as possible, by reference to the

Justice and Other Legislation (Miscellaneous Provisions)

documents mentioned in subsection (1); or 1

- (b) otherwise—after the last response period ends, by reference to the 2
documents mentioned in subsection (1) and the written 3
responses, if any, received under this section. 4

‘(7) If leave is refused, the registrar of the relevant court or tribunal must 5
refuse to accept a further originating application under this section dealing 6
with the same, or substantially the same, issue. 7

‘(8) An application for leave may not be made in relation to a decision 8
made under subsection (6). 9

‘(9) In this section— 10

“**proceedings**” means the proceedings or proposed proceedings in relation 11
to which the leave is sought. 12

“**relevant court or tribunal**” means— 13

(a) for an application under section 8—the Supreme Court; or 14

(b) for an application under section 9—the court or tribunal in which 15
the step in the proceedings is to be taken.’. 16

Amendment of s 10 (Conditions for hearing applications for leave) 17

Clause **98.(1)** Section 10, heading, ‘**hearing**’— 18

omit. 19

(2) Section 10(1), ‘for hearing’— 20

omit. 21

(3) Section 10(2) and (3)— 22

omit, insert— 23

‘**(2)** Before an application for leave mentioned in section 8 or 9 proceeds, 24
the applicant must have complied with an order, if any, made under 25
subsection (1).’ 26

(4) Section 10(4), ‘hears the matter of’— 27

omit, insert— 28

‘decides’. 29

Justice and Other Legislation (Miscellaneous Provisions)

	Amendment of s 11 (Conditions for granting leave)	1
Clause	99.(1) Section 11, after ‘other person’—	2
	<i>insert—</i>	3
	‘(“ judicial officer ”)’.	4
	(2) Section 11—	5
	<i>insert—</i>	6
	‘ (2) Without limiting the orders a judicial officer may make, the judicial officer may, as a condition of granting leave—	7
		8
	(a) order the applicant to lodge security for costs for the proceedings or deposit an amount stated by the judicial officer with the registrar or other responsible person as security; and	9
		10
		11
	(b) order the proceedings not proceed until the security has been lodged or the amount deposited.’.	12
		13
	 Amendment of s 12 (Application of ss 8 and 9 affected by order of Judge etc.)	 14
		15
Clause	100. Section 12(1), ‘heard the matter of’—	16
	<i>omit, insert—</i>	17
	‘decided’.	18

PART 27—AMENDMENT OF WORKCOVER	19
QUEENSLAND ACT 1996	20

	Act amended in pt 28	21
Clause	101. This part amends the <i>WorkCover Queensland Act 1996</i> .	22

Justice and Other Legislation (Miscellaneous Provisions)

Amendment of sch 2 (Consequential amendments of other Acts)

Clause **102.** Schedule 2, **JUVENILE JUSTICE ACT 1992**, after amendment 2—

insert—

‘3. Section 18F(8)—

omit.’.

1
2
3
4
5
6
7

SCHEDULE 1
**MINOR AMENDMENTS OF CRIMINAL LAW
AMENDMENT ACT 1997**

section 3

1. Section 62(3), after ‘her’—
insert—

‘(first and second mention)’.

2. Section 92, new Criminal Code section 501A, after ‘but the jury’—
insert—

‘is’.

3. Section 96, new Criminal Code section 552A(1), after ‘charge’—
insert—

‘before a Magistrates Court’.

**4. Section 96, new Criminal Code section 552A(1)(d), after
‘procuring’—**
insert—

‘the commission’.

5. Section 96, new Criminal Code section 552B(1), after ‘charge’—
insert—

‘before a Magistrates Court’.

SCHEDULE 1 (continued)

- | | |
|--|----|
| 6. Section 96, new Criminal Code section 552B(1)(o), after ‘procuring’— | 1 |
| | 2 |
| <i>insert—</i> | 3 |
| ‘the commission’. | 4 |
|
 | |
| 7. Section 96, new Criminal Code section 552C(2), after ‘1991’— | 5 |
| <i>insert—</i> | 6 |
| ‘, section 3’. | 7 |
|
 | |
| 8. Section 96, new Criminal Code section 552F, ‘court’— | 8 |
| <i>omit, insert—</i> | 9 |
| ‘magistrate’. | 10 |
|
 | |
| 9. Section 96, new Criminal Code sections 552E to 552G— | 11 |
| <i>renumber</i> as sections 552E to 552G. | 12 |
|
 | |
| 10. Section 96, new Criminal Code section 552I(2)(c), ‘consents to the charge being’— | 13 |
| | 14 |
| <i>omit, insert—</i> | 15 |
| ‘wants the charge to be’. | 16 |
|
 | |
| 11. Section 96, new Criminal Code section 552I(3), ‘desires’— | 17 |
| <i>omit, insert—</i> | 18 |
| ‘wants’. | 19 |

SCHEDULE 1 (continued)

- | | |
|--|---|
| 12. Section 96, new Criminal Code section 552I ‘court’— | 1 |
| <i>omit, insert—</i> | 2 |
| ‘magistrate’. | 3 |
|
 | |
| 13. Section 118, heading, ‘s 651’— | 4 |
| <i>insert—</i> | 5 |
| ‘ss 651 and 652’. | 6 |
| | 7 |

SCHEDULE 2

1

DECLARATORY PROVISIONS

2

section 4

3

Commencement of amendments of Juvenile Justice Act 1992

4

1.(1) The amendments of the *Juvenile Justice Act 1992* in the *WorkCover Queensland Act 1996*, schedule 2, commence on 1 July 1997.

5

6

(2) The proclamation of 19 December 1996, SL 1996, No. 442, to the extent it commenced the amendments of the *Juvenile Justice Act 1992*, is declared to have been of no effect.

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