



Queensland

Guardianship and Administration and Other Legislation Amendment Bill 2012



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2012

A Bill

for

An Act to amend the *Guardianship and Administration Act 2000*, the *Electoral Act 1992*, the *Electrical Safety Act 2002*, the *Legal Profession Act 2007*, the *Motor Accident Insurance Act 1994*, the *Penalties and Sentences Act 1992*, the *Queensland Civil and Administrative Tribunal Act 2009*, the *Trustee Companies Act 1968* and the *Work Health and Safety Act 2011* for particular purposes, and to make minor and consequential amendments of the Acts mentioned in the schedule

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Guardianship and Administration and Other Legislation Amendment Act 2012*. 4
5

Clause 2 Commencement 6

(1) Parts 4 and 10 commence— 7

(a) if this Act is assented to on or before 4 November 8
2012—on 5 November 2012; or 9

(b) otherwise—on assent. 10

(2) Part 7 is taken to have commenced on 21 August 2012. 11

Part 2 Amendment of Guardianship and Administration Act 2000 12 13

Clause 3 Act amended 14

This part amends the *Guardianship and Administration Act 2000*. 15
16

Note— 17

See also the amendments in the schedule. 18

Clause 4 Insertion of new s 207A 19

Chapter 9, part 1— 20

insert—

‘207A Definitions for pt 1

‘In this part—

confidential information see section 246.

information includes confidential information.’.

Clause 5 Amendment of s 209 (Functions—systemic advocacy)

Section 209—

insert—

- ‘(2) However, it is not the function of the public advocate to investigate a complaint or allegation that concerns a particular adult with impaired capacity for a matter.’.

Clause 6 Insertion of new s 209A

After section 209—

insert—

‘209A Report about systemic matter

- ‘(1) The public advocate may—
- (a) prepare a report about a matter arising from the performance of the public advocate’s functions under this Act; and
 - (b) give a copy of the report to the Minister.
- ‘(2) The report must not contain confidential information that is likely to result in the identification, by a member of the public, of an adult with impaired capacity to whom the information relates.
- ‘(3) If the public advocate proposes to include information adverse to a person in the report—
- (a) the public advocate must not include the information in the report unless, before the report is prepared, the

[s 7]

- public advocate gives the person an opportunity to make
submissions about the information; and
- (b) if the person makes submissions and the public advocate
still proposes to include the information in the report,
the public advocate must ensure the person's
submissions are fairly stated in the report.
- ‘(4) The Minister must table a copy of the report in the Legislative
Assembly within 5 sitting days after receiving the report.’.

Clause 7 Insertion of new ss 210A and 210B

After section 210—

insert—

‘210A Right to information

- ‘(1) For performing the public advocate's functions, the public
advocate has a right to all information—
- (a) necessary to monitor and review the delivery of services
and facilities to adults with impaired capacity for a
matter; and
- (b) about the arrangements for the provision of services and
facilities to a class of the adults; and
- (c) about the policies and procedures of a service or facility
that relate to the provision of services and facilities to
the adults.
- ‘(2) The public advocate may, by written notice given to a person
who has custody or control of the information, require the
person, within a stated reasonable time—
- (a) to give the information to the public advocate; and
- (b) if the information is contained in a document—to allow
the public advocate to inspect the document and take a
copy of it.
- ‘(3) The notice must state the purpose for making the requirement.
- ‘(4) The person must comply with the notice, unless the person
has a reasonable excuse.

Maximum penalty—100 penalty units. 1

‘(5) It is a reasonable excuse for a person to fail to comply with the 2
notice because, for example, complying with the notice— 3

(a) might tend to incriminate the person; or 4

(b) would require the person to disclose information that is 5
the subject of legal professional privilege. 6

‘(6) Despite subsection (2), the public advocate must not give a 7
notice to any of the following people— 8

(a) an adult with impaired capacity for a matter; 9

(b) a family member or close friend of the adult who is a 10
member of the adult’s support network. 11

‘210B Offence to publish confidential information 12

‘(1) This section applies to information given to, or inspected or 13
copied by, the public advocate under section 210A to the 14
extent the information comprises confidential information. 15

‘(2) The public advocate or a member of the public advocate’s 16
staff must not, without reasonable excuse, publish the 17
information to the public if the publication is likely to result in 18
the identification, by a member of the public, of a person to 19
whom the information relates. 20

Maximum penalty—200 penalty units.’. 21

Clause 8 Insertion of new s 248B 22

After section 248A— 23

insert— 24

‘248B Protection from liability for giving information 25

‘(1) This section applies to the giving of information— 26

(a) to the adult guardian under section 183 or 184; or 27

(b) to the public advocate under section 210A. 28

[s 9]

- ‘(2) A person may give the information despite any other law that would otherwise prohibit or restrict the giving of the information. 1
2
3
- ‘(3) If a person, acting honestly, gives the information to the adult guardian or the public advocate, the person is not liable, civilly, criminally or under an administrative process, for giving the information. 4
5
6
7
- ‘(4) Also, merely because the person gives the information, the person can not be held to have— 8
9
 - (a) breached any code of professional etiquette or ethics; or 10
 - (b) departed from accepted standards of professional conduct. 11
12
- ‘(5) Without limiting subsections (3) and (4)— 13
 - (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and 14
15
 - (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person— 16
17
18
 - (i) does not contravene the Act, oath or rule of law or practice by giving the information; and 19
20
 - (ii) is not liable to disciplinary action for giving the information. 21
22
- ‘(6) In this section— 23

giving, of information contained in a document, includes allowing the document to be inspected and a copy to be taken of it.’. 24
25
26

- Clause 9 Amendment of s 249 (Protected use of confidential information)** 27
28
- Section 249— 29
- insert—* 30
- ‘(4) This section applies subject to section 210B.’. 31

Clause 10	Amendment of sch 4 (Dictionary)	1
	Schedule 4—	2
	<i>insert—</i>	3
	<i>‘confidential information—</i>	4
	(a) for chapter 9, part 1, see section 207A; or	5
	(b) for chapter 11, part 4, see section 246.	6
	<i>information</i> , for chapter 9, part 1, see section 207A.’.	7
Part 3	Amendment of Electoral Act 1992	8
		9
Clause 11	Act amended	10
	This part amends the <i>Electoral Act 1992</i> .	11
Clause 12	Amendment of s 2 (Definitions)	12
	Section 2, definition <i>independent member—</i>	13
	<i>omit.</i>	14
Clause 13	Amendment of s 17 (Delegation by commission)	15
	Section 17(3) and (4), ‘or 249(1)’—	16
	<i>omit.</i>	17
Clause 14	Amendment of s 197 (Definitions)	18
	Section 197, definition <i>independent member—</i>	19
	<i>omit.</i>	20

[s 15]

Clause 15	Omission of pt 11, div 5 (Administrative expenditure funding)	1 2
	Part 11, division 5—	3
	<i>omit.</i>	4
Clause 16	Insertion of pt 13, div 6	5
	After section 414—	6
	<i>insert—</i>	7
‘Division 6	Transitional provisions for Guardianship and Administration and Other Legislation Amendment Act 2012	8 9 10 11
‘415	Definitions for div 6	12
	‘In this division—	13
	<i>amending Act</i> means the <i>Guardianship and Administration and Other Legislation Amendment Act 2012</i> .	14 15
	<i>final funding period</i> means the period starting on 1 July 2012 and ending on 31 December 2012.	16 17
	<i>independent member</i> means an independent member as defined under section 242 as in force immediately before the commencement of the amending Act, section 15.	18 19 20
	<i>repealed administrative funding provisions</i> means part 11, division 5 as in force immediately before the commencement of the amending Act, section 15.	21 22 23
‘416	Entitlement of registered political party to administrative funding ends	24 25
	‘The last period for which a registered political party is entitled to be paid administrative funding under the repealed administrative funding provisions is the final funding period.	26 27 28

‘417	Entitlement of independent member to administrative funding ends	1
		2
‘(1)	The last period for which an independent member is entitled to be paid administrative funding under the repealed administrative funding provisions is the final funding period.	3
		4
		5
‘(2)	The repealed administrative funding provisions continue to apply in relation to an independent member until, for each funding period for which the member is entitled to be paid administrative funding, the member has been paid all of the administrative funding payable to the member.’.	6
		7
		8
		9
		10

Part 4	Amendment of Electrical Safety Act 2002	11
		12

Clause 17	Act amended	13
	This part amends the <i>Electrical Safety Act 2002</i> .	14

Clause 18	Amendment of s 5 (How purpose of Act is to be achieved)	15
	Section 5(e) and (f)—	16
	<i>omit, insert—</i>	17
	‘(e) establishing the Electrical Safety Board and its committees to—	18
		19
	(i) advise the Minister on electrical safety matters; and	20
		21
	(ii) allow industry and the community to participate in developing strategies for improving electrical safety; and	22
		23
		24
	(iii) participate in developing requirements for the licensing and discipline of persons who perform electrical work.’.	25
		26
		27

[s 19]

Clause 19	Omission of pt 6 (Commissioner for electrical safety)	1
	Part 6—	2
	<i>omit.</i>	3
Clause 20	Amendment of s 77 (Composition of board)	4
	(1) Section 77(1)(a)—	5
	<i>omit, insert—</i>	6
	‘(a) 1 member appointed by the Minister as chairperson of the board;’.	7
		8
	(2) Section 77—	9
	<i>insert—</i>	10
	‘(1A) To be appointed chairperson a person must have professional experience in the electrical industry.’.	11
		12
	(3) Section 77(2), after ‘of the board’—	13
	<i>insert—</i>	14
	‘under subsection (1)(c)’.	15
	(4) Section 77(1A) and (2)—	16
	<i>renumber</i> as section 77(2) and (3).	17
Clause 21	Amendment of s 85 (Annual report)	18
	Section 85(1), ‘commissioner, as chairperson of the board,’—	19
	<i>omit, insert—</i>	20
	‘chairperson of the board’.	21
Clause 22	Amendment of s 86 (Establishment of board committees)	22
	Section 86(1), ‘3 named committees’—	23
	<i>omit, insert—</i>	24
	‘the Electrical Licensing Committee’.	25

Clause 23	Amendment of s 89 (Composition of licensing committee)	1
	(1) Section 89(1)(a)—	2
	<i>omit, insert—</i>	3
	‘(a) 1 member appointed by the Minister as chairperson of the committee;’.	4
		5
	(2) Section 89—	6
	<i>insert—</i>	7
	‘(1A) To be appointed chairperson a person must have—	8
	(a) an electrical trade or qualification; and	9
	(b) professional experience in electrical safety.	10
	‘(1B) Subject to subsection (2), the chairperson of the board may be appointed as chairperson of the committee.’.	11
		12
	(3) Section 89(2), after ‘of the committee’—	13
	<i>insert—</i>	14
	‘under subsection (1)(b)’.	15
	(4) Section 89(1A) to (2)—	16
	<i>renumber</i> as section 89(2) to (4).	17
Clause 24	Omission of pt 8, divs 3 and 4	18
	Part 8, divisions 3 and 4—	19
	<i>omit.</i>	20
Clause 25	Renumbering of pt 8, div 5	21
	Part 8, division 5—	22
	<i>renumber</i> as part 8, division 3.	23
Clause 26	Amendment of s 98 (Composition of advisory committee)	24
	Section 98(3), ‘the commissioner is not’—	25
	<i>omit, insert—</i>	26

[s 27]

‘neither the chairperson of the board nor the chairperson of
the licensing committee is’. 1
2

Clause 27 Renumbering of pt 8, div 6 3

Part 8, division 6— 4

renumber as part 8, division 4. 5

**Clause 28 Amendment of s 99 (Conditions of appointment to board
committee) 6
7**

Section 99(4)— 8

omit. 9

**Clause 29 Amendment of s 184 (Certificate about action on
electrical licence) 10
11**

Section 184, ‘commissioner’— 12

omit, insert— 13

‘chairperson of the licensing committee’. 14

Clause 30 Amendment of s 205 (Protecting officials from liability) 15

(1) Section 205(3), definition *official*, paragraph (c)— 16

omit. 17

(2) Section 205(3), definition *official*, paragraphs (d) and (e)— 18

renumber as paragraphs (c) and (d). 19

Clause 31 Insertion of new pt 18A 20

After section 246— 21

insert— 22

‘Part 18A	Transitional provisions for the Guardianship and Administration and Other Legislation Amendment Act 2012	1 2 3 4 5
‘246A	Vacation of office of members of certain committees	6
‘(1)	This section applies to the members of the Electrical Safety Education Committee and the members of the Electrical Equipment Committee holding office immediately before the commencement of this section.	7 8 9 10
‘(2)	On the commencement of this section the members’ appointments as members of either committee ends.	11 12
‘246B	Commencement provision	13
‘(1)	This section applies if section 387 of the <i>Work Health and Safety Act 2011</i> , to the extent it replaces section 205 of this Act, commences before section 30 of the <i>Guardianship and Administration and Other Legislation Amendment Act 2012</i> (the <i>amending section</i>) commences.	14 15 16 17 18
‘(2)	The amending section is taken not to have commenced and is repealed.’.	19 20
Clause 32	Amendment of sch 2 (Dictionary)	21
(1)	Schedule 2, definitions <i>equipment committee</i> and <i>safety education committee</i> — <i>omit.</i>	22 23 24
(2)	Schedule 2, definition <i>advisory committee</i> , ‘division 5’— <i>omit, insert</i> — ‘division 3’.	25 26 27

[s 33]

- (3) Schedule 2, definition *board committee*, ‘, the safety
education committee, the equipment committee’— 1
2
omit. 3

Part 5 **Amendment of Legal** 4
Profession Act 2007 5

Clause 33 **Act amended** 6
This part amends the *Legal Profession Act 2007*. 7

Clause 34 **Amendment of s 598 (Constitution of tribunal)** 8
Section 598(1), from ‘judicial member’— 9
omit, insert— 10
‘judicial member who is— 11
(a) a Supreme Court judge; or 12
(b) a former Supreme Court judge who is nominated by the 13
president of the tribunal to constitute the tribunal.’. 14

Part 6 **Amendment of Motor Accident** 15
Insurance Act 1994 16

Clause 35 **Act amended** 17
This part amends the *Motor Accident Insurance Act 1994*. 18

Clause 36	Amendment of s 68 (Review of the commission's decisions by QCAT)	1 2
	(1) Section 68(2), from 'judicial member'—	3
	<i>omit, insert—</i>	4
	'judicial member who is a Supreme Court judge.'	5
	(2) Section 68—	6
	<i>insert—</i>	7
	'(4) In this section—	8
	<i>judicial member</i> see the QCAT Act, schedule 3.'	9
Part 7	Amendment of Penalties and Sentences Act 1992	10 11
Clause 37	Act amended	12
	This part amends the <i>Penalties and Sentences Act 1992</i> .	13
Clause 38	Amendment of s 179C (Imposition of offender levy)	14
	Section 179C(6), after '29'—	15
	<i>insert—</i>	16
	'or 33'.	17

[s 39]

Part 8	Amendment of Queensland	1
	Civil and Administrative	2
	Tribunal Act 2009	3

Clause 39	Act amended	4
	This part amends the <i>Queensland Civil and Administrative Tribunal Act 2009</i> .	5
		6

Clause 40	Amendment of s 52 (Transfer to more appropriate forum)	7
	Section 52(7), ‘judicial’—	8
	<i>omit, insert—</i>	9
	‘legally qualified’.	10

Clause 41	Amendment of s 59 (Injunctions)	11
	Section 59(4), ‘judicial’—	12
	<i>omit, insert—</i>	13
	‘legally qualified’.	14

Clause 42	Amendment of s 60 (Declarations)	15
	Section 60(5), ‘judicial’—	16
	<i>omit, insert—</i>	17
	‘legally qualified’.	18

Clause 43	Amendment of s 61 (Relief from procedural requirements)	19
	Section 61(5)(b), from ‘if’ to ‘proceeding—’—	20
	<i>omit.</i>	21
		22

Clause 44	Amendment of s 62 (Directions)	1
	Section 62(7)(b), from ‘if’ to ‘proceeding—’—	2
	<i>omit.</i>	3
Clause 45	Amendment of s 63 (Obtaining a document or thing from third parties)	4
	Section 63(6)(b), from ‘if’ to ‘proceeding—’—	5
	<i>omit.</i>	6
		7
Clause 46	Amendment of sch 3 (Dictionary)	8
	Schedule 3, definition <i>judicial member</i> —	9
	<i>insert—</i>	10
	‘(c) includes a senior member or ordinary member who is a former judge and is nominated by the president to constitute the tribunal for a matter or class of matters.’.	11
		12
		13
Part 9	Amendment of Trustee Companies Act 1968	14
		15
Clause 47	Act amended	16
	This part amends the <i>Trustee Companies Act 1968</i> .	17
Clause 48	Amendment of s 68C (Compulsory transfer determinations)	18
	(1) Section 68C, heading, ‘Compulsory transfer’—	19
	<i>omit, insert—</i>	20
	‘ Transfer ’.	21
		22
	(2) Section 68C(1)(a)—	23

[s 48]

- omit, insert—* 1
- ‘(a) ASIC makes a determination under the Corporations 2
Act, section 601WBA that there is to be a transfer of 3
estate assets and liabilities from a trustee company (the 4
transferring company) to another trustee company (the 5
receiving company); and’. 6
- (3) Section 68C— 7
- insert—* 8
- ‘(5) The registrar of titles or other person required or authorised by 9
law to register or record transactions affecting assets or 10
liabilities— 11
- (a) may, without formal application, register or record in the 12
appropriate way the transfer of an asset or liability under 13
the certificate to the receiving company; and 14
- (b) must, on written application by the receiving company, 15
register or record in the appropriate way the transfer of 16
an asset or liability under the certificate to the receiving 17
company. 18
- ‘(6) A transaction related to an asset or liability transferred to a 19
receiving company entered into by the receiving company in 20
the transferring company’s name or the name of a predecessor 21
in title to the transferring company, if effected by an 22
instrument otherwise in registrable form, must be registered 23
even though the receiving company has not been registered as 24
proprietor of the asset or liability. 25
- ‘(7) If an asset or liability is registered in the name of a receiving 26
company, the registrar of titles or other registering authority 27
may register a dealing for a transaction about the asset or 28
liability without being concerned to enquire whether it is, or is 29
not, an asset or liability transferred under a certificate. 30
- ‘(8) For the purposes of this section, the public trustee is taken to 31
be a trustee company.’. 32

Part 10	Amendment of Work Health and Safety Act 2011	1 2
Clause 49	Act amended	3
	This part amends the <i>Work Health and Safety Act 2011</i> .	4
Clause 50	Omission of s 374 (Amendment of s 94 (Functions of equipment committee))	5 6
	Section 374—	7
	<i>omit.</i>	8
	<i>Editor's note—</i>	9
	Legislation ultimately amended—	10
	• <i>Electrical Safety Act 2002</i>	11
Part 11	Minor and consequential amendments	12 13
Clause 51	Acts amended	14
	The schedule amends the Acts it mentions.	15

Schedule	Minor and consequential amendments	1 2
	section 51	3
Guardianship and Administration Act 2000		4
1	Amendment of particular provisions to replace ‘Editor’s note—’ with ‘Note—’	5 6
	The editor’s note in each of the following provisions is amended by omitting ‘Editor’s note—’ and inserting ‘Note—’—	7 8 9
	• section 22(3)	10
	• section 34(1)	11
	• section 61	12
	• section 79(1)(a)	13
	• section 80H(2)(b)	14
	• section 80I(2)(a) and (d)	15
	• section 80L(2)	16
	• section 126(1)	17
	• section 146(3)	18
	• section 173	19
	• section 185(2)	20
	• section 186(3)	21
	• section 197(2)	22
	• section 198A	23
	• section 240	24
	• schedule 1, section 12(2)(b).	25

2	Section 26(3), ‘(aa), (b) or (d)’—	1
	<i>omit, insert—</i>	2
	‘(b), (c), (d) or (f)’.	3
3	Section 65, note, before ‘section 68(1)’—	4
	<i>insert—</i>	5
	‘see’.	6
4	Section 80U, definitions <i>mechanical restraint</i> and <i>physical restraint</i>—	7
	<i>omit.</i>	8
		9
5	Section 80W(ba) to (d)—	10
	<i>renumber</i> as section 80W(c) to (e).	11
6	Section 80ZE(5)(aa) to (e)—	12
	<i>renumber</i> as section 80ZE(5)(b) to (f).	13
7	Section 80ZQ(ea) to (h)—	14
	<i>renumber</i> as section 80ZQ(f) to (i).	15
8	Section 80ZS(2)(b)(v), ‘plan;’—	16
	<i>omit, insert—</i>	17
	‘plan; and’.	18
9	Section 118(1)(fa)(iii), ‘health;’—	19
	<i>omit, insert—</i>	20
	‘health; and’.	21

Schedule

10	Section 118(1)(fa) and (g)—	1
	<i>renumber</i> as section 118(1)(g) and (h).	2
11	Section 227(3), penalty, ‘for subsection (3)’—	3
	<i>omit.</i>	4
12	Section 246, definitions <i>commission</i> and <i>substituted decision-making review</i>—	5
	<i>omit.</i>	6
		7
13	Section 246, definition <i>relevant person</i>, paragraph (g)—	8
	<i>omit.</i>	9
14	Section 248A(3), definition <i>authorised forensic examination</i>, ‘of an adult’—	10
	<i>omit, insert—</i>	11
	‘, of an adult,’.	12
		13
15	Section 249(3)(j)—	14
	<i>omit.</i>	15
16	Section 253, heading, ‘Definitions’—	16
	<i>omit, insert—</i>	17
	‘Definition’.	18
17	Section 258, heading, ‘Definitions’—	19
	<i>omit, insert—</i>	20
	‘Definition’.	21

18	Chapter 12, part 6, heading, ‘provision’—	1
	<i>omit, insert—</i>	2
	‘provisions’.	3
19	Schedule 1, section 9(2), editor’s notes, ‘Editor’s notes—’—	4
	<i>omit, insert—</i>	5
	<i>‘Notes—’.</i>	6
		7
20	Schedule 2, section 1(l) to (q)—	8
	<i>renumber</i> as schedule 2, section 1(k) to (p).	9
21	Schedule 4, definitions <i>mechanical restraint</i> and <i>physical restraint</i>—	10
	<i>omit.</i>	11
		12
22	Schedule 4—	13
	<i>insert—</i>	14
	‘adult guardian’s delegate for an investigation , for chapter 11, part 4, see section 246.	15
		16
	consultant , for chapter 11, part 4, see section 246.	17
	relevant person , for chapter 11, part 4, see section 246.	18
	relevant tribunal person , for chapter 11, part 4, see section 246.	19
		20
	tribunal expert , for chapter 11, part 4, see section 246.	21
	use , for chapter 11, part 4, see section 246.’.	22

Schedule

Powers of Attorney Act 1998	1
1 Section 74(3)(j)—	2
<i>omit.</i>	3
2 Section 74(4), definitions <i>commission</i> and <i>substituted</i>	4
<i>decision-making review—</i>	5
<i>omit.</i>	6