



Queensland

# **Penalties and Sentences and Other Legislation Amendment Bill 2012**





## Queensland

# Penalties and Sentences and Other Legislation Amendment Bill 2012

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# 2012

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## A Bill

for

**An Act to amend the *Childrens Court Act 1992*, the *Civil Proceedings Act 2011*, the *Commissions of Inquiry Act 1950*, the *Criminal Code*, the *Industrial Relations Act 1999*, the *Industrial Relations Regulation 2011*, the *Justices Act 1886*, the *Land Court Act 2000*, the *Penalties and Sentences Act 1992*, the *Penalties and Sentences Regulation 2005*, the *State Penalties Enforcement Act 1999* and the *Statutory Instruments Act 1992* for particular purposes, and to make minor amendments of Acts as stated in the schedule for purposes related to those particular purposes**

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

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

**Clause 2 Commencement** 6

Parts 5, 8, 10, 11 and 12 commence 7 days after assent. 7

**Part 2 Amendment of Childrens Court Act 1992** 8  
9

**Clause 3 Act amended** 10

This part amends the *Childrens Court Act 1992*. 11

**Clause 4 Insertion of new s 30A** 12

After section 30— 13

*insert—* 14

**‘30A Approved forms** 15

‘The president may approve forms for use under this Act.’. 16

**Clause 5 Amendment of pt 7, hdg (Transitional provisions)** 17

Part 7, heading, after ‘Transitional’— 18

*insert—* 19

---

**‘and validation’.**

1

**Clause 6**      **Insertion of new pt 7, div 1, hdg**

2

Part 7, before section 32—

3

*insert—*

4

**‘Division 1                      Transitional provision for Child  
Protection Act 1999’.**

5

6

**Clause 7**      **Insertion of new pt 7, div 2, hdg**

7

Part 7, before section 33—

8

*insert—*

9

**‘Division 2                      Transitional provision for Justice  
and Other Legislation Amendment  
Act 2008’.**

10

11

12

**Clause 8**      **Insertion of new pt 7, div 3**

13

Part 7, after section 33—

14

*insert—*

15

**‘Division 3                      Transitional and validation  
provisions for Penalties and  
Sentences and Other Legislation  
Amendment Act 2012**

16

17

18

19

**‘34      Definition for div 3**

20

‘In this division—

21

*commencement* means the commencement of this section.

22

[s 8]

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<b>‘35</b>	<b>Validation provision for Childrens Court Rules</b>	1
‘(1)	Despite the <i>Statutory Instruments Act 1992</i> , section 54, the <i>Childrens Court Rules 1997</i> —	2 3
	(a) are taken not to have expired on 1 September 2008; and	4
	(b) continue in force until they are repealed under this Act.	5
‘(2)	Anything done, purported to have been done or omitted to be done under the <i>Childrens Court Rules 1997</i> before the commencement has the same effect as it would have had if the <i>Childrens Court Rules 1997</i> had not expired.	6 7 8 9
‘(3)	Without limiting subsection (2)—	10
	(a) an order, direction or decision made under the <i>Childrens Court Rules 1997</i> before the commencement is taken to be, and to have always been, made under the <i>Childrens Court Rules 1997</i> as if those rules had not expired; and	11 12 13 14
	(b) a right, privilege or liability purportedly acquired, accrued or incurred under the <i>Childrens Court Rules 1997</i> before the commencement is taken to be, and to have always been, a right, privilege or liability acquired, accrued or incurred under the <i>Childrens Court Rules 1997</i> as if those rules had not expired; and	15 16 17 18 19 20
	(c) a form approved or purported to have been approved under the <i>Childrens Court Rules 1997</i> before the commencement is taken to be, and to have always been, approved under the <i>Childrens Court Rules 1997</i> as if those rules had not expired.	21 22 23 24 25
‘(4)	The amendment of the <i>Childrens Court Rules 1997</i> by the <i>Childrens Court Amendment Rule (No. 1) 2010</i> has the same effect as it would have had if the <i>Childrens Court Rules 1997</i> had not expired.	26 27 28 29
<b>‘36</b>	<b>Transitional provision for approved forms</b>	30
‘(1)	This section applies if, immediately before the commencement, a form was approved for a purpose under the <i>Childrens Court Rules 1997</i> .	31 32 33

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‘(2) The form is taken to have been approved under section 30A  
for the purpose.’ 1  
2

**Part 3** **Amendment of Civil** 3  
**Proceedings Act 2011** 4

**Clause 9 Act amended** 5  
This part amends the *Civil Proceedings Act 2011*. 6

**Clause 10 Amendment of s 67 (Damages for spouse’s benefit)** 7  
Section 67(7), definition *relationship*— 8  
*insert*— 9  
‘(c) a registered relationship within the meaning of the *Acts*  
*Interpretation Act 1954*, section 36.’ 10  
11

**Clause 11 Amendment of sch 1A (Minor and consequential amendments)** 12  
13  
Schedule 1A, under heading ‘State Penalties Enforcement Act  
1999’, section 1— 14  
15  
*omit, insert*— 16  
**‘1 Section 63(11)—** 17  
*omit, insert*— 18  
‘(11) In this section— 19  
***exempt property*** see the *Civil Proceedings Act 2011*, schedule  
1.’. 20  
21  
*Editor’s note*— 22  
Legislation ultimately amended— 23  
• *State Penalties Enforcement Act 1999* 24

[s 12]

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<b>Part 4</b>	<b>Amendment of Commissions of Inquiry Act 1950</b>	1 2
<b>Clause 12</b>	<b>Act amended</b>	3
	This part amends the <i>Commissions of Inquiry Act 1950</i> .	4
<b>Clause 13</b>	<b>Amendment of s 5 (Power to summon witness and require production of books etc.)</b>	5 6
	(1) Section 5(2A) and (2B)—	7
	<i>omit, insert—</i>	8
	‘(2A) Despite any provision in an Act, a chairperson’s writing made under subsection (1) takes precedence over any oath taken, affirmation made, or provision of an Act, that might provide reasonable excuse for not complying with the writing.	9 10 11 12
	‘(2B) For subsection (2A)—	13
	(a) the obligation to act as required by the oath, affirmation or provision is not a reasonable excuse; and	14 15
	(b) the person bound by the oath, affirmation or provision who complies with the chairperson’s writing—	16 17
	(i) does not breach the oath or affirmation or commit an offence against the provision; and	18 19
	(ii) is not liable to disciplinary action.	20
	‘(2C) Despite any provision in an Act, a person is competent and compellable to be summoned and comply with the requirements contained in a chairperson’s writing under subsection (1), unless the person is not a person to whom this subsection applies.’.	21 22 23 24 25
	(2) Section 5(3), ‘Subsection (2) applies’—	26
	<i>omit, insert—</i>	27
	‘Subsections (2) and (2C) apply’.	28

---

<b>Clause 14</b>	<b>Insertion of new ss 32A and 32B</b>	1
	After section 32—	2
	<i>insert—</i>	3
<b>‘32A</b>	<b>Disclosure of particular information only if reasonable</b>	4
‘(1)	This section applies to information obtained as a result of the chairperson’s writing that, apart from section 5(2A) to (2C), would not have been able to be disclosed to the chairperson (the <i>protected information</i> ).	5 6 7 8
‘(2)	Protected information must not be disclosed by the chairperson, or anyone else who gains access to the information, for a purpose under this Act, unless the chairperson considers it is reasonable in the circumstances to disclose the information, having regard to—	9 10 11 12 13
	(a) the nature of the information; and	14
	(b) the purposes of an inquiry under a commission.	15
‘(3)	In this section—	16
	<i>information</i> includes—	17
	(a) a statement or disclosure made by a witness in answer to a question put to the witness by a commission or a commissioner or before a commission; and	18 19 20
	(b) a book, document, writing, record, property or anything produced by the witness to a commission, a commissioner or before a commission.	21 22 23
<b>‘32B</b>	<b>Confidentiality of information</b>	24
‘(1)	This section applies to a chairperson, commissioner, deputy to a commission or anyone else who, for the purposes of an inquiry under a commission, has gained, gains, or has access to, confidential information.	25 26 27 28
‘(2)	The person must not disclose the information to anyone or give access to the information to anyone other than—	29 30
	(a) for a purpose under this Act; or	31



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<b>Clause 17</b>	<b>Amendment of s 704 (No court fees in criminal cases)</b>	1
	Section 704—	2
	<i>insert—</i>	3
	‘(2) To remove any doubt, it is declared that the offender levy imposed under the <i>Penalties and Sentences Act 1992</i> , section 179C is not a fee mentioned in subsection (1).’	4 5 6
<b>Part 6</b>	<b>Amendment of Industrial Relations Act 1999</b>	7 8
<b>Clause 18</b>	<b>Act amended</b>	9
	This part amends the <i>Industrial Relations Act 1999</i> .	10
	<i>Note—</i>	11
	See also the amendment in the schedule.	12
<b>Clause 19</b>	<b>Insertion of new ss 396A and 396B</b>	13
	After section 396—	14
	<i>insert—</i>	15
	<b>‘396A Recovery of health employment overpayments</b>	16
	‘(1) This section applies if a health employer pays a health employee an amount in relation to employment, or purportedly in relation to employment, to which the employee is not entitled (the <i>overpayment</i> ).	17 18 19 20
	‘(2) A health employer may subsequently recover the overpayment by deducting an amount, or amounts in instalments, from an amount or amounts payable to the health employee by the employer in relation to employment.	21 22 23 24
	‘(3) A health employer may recover an overpayment by making a deduction under subsection (2) even if the overpayment was	25 26

[s 19]

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- made by another health employer during the employee's  
employment with the other employer. 1  
2
- '(4) Deductions under this section— 3
- (a) must be commenced within 1 year after the  
overpayment; and 4  
5
- (b) may extend over a period of 6 years after the  
overpayment. 6  
7
- '(5) A deduction can not be made in an amount that would reduce  
the amount that would otherwise be paid to a health employee  
on any single occasion to less than the amount prescribed  
under a regulation. 8  
9  
10  
11
- '(6) This section— 12
- (a) is of general application to health employers and health  
employees and is not limited by any other provision of  
this division; and 13  
14  
15
- (b) does not affect the operation of section 396 in relation to  
payments made to health employees before the  
commencement of this section. 16  
17  
18
- '(7) In this section— 19
- amount in relation to employment*** means wages or any other  
amount relating to employment. 20  
21
- health employee*** means— 22
- (a) a public service employee whose employment is with  
Queensland Health; or 23  
24
- (b) a person who is a health service employee under the  
*Hospital and Health Boards Act 2011*, section 67. 25  
26
- health employer*** means— 27
- (a) Queensland Health; or 28
- (b) a Hospital and Health Service established under the  
*Hospital and Health Boards Act 2011*. 29  
30

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*Queensland Health* means the department, however named,  
in which the *Hospital and Health Boards Act 2011* is  
administered.

- ‘396B Recovery of health employment transition loans**
- ‘(1) This section applies if a health employer makes a loan (the *transition loan*) to a health employee as the result of the employer altering its existing pay date arrangements.
- ‘(2) When the health employee ceases to be a health employee, a health employer may deduct from the employee’s final payment an amount equal to the amount of the transition loan that has not been repaid.
- ‘(3) A health employer may make a deduction under subsection (2) even if the transition loan was made by another health employer during the employee’s employment with the other employer.
- ‘(4) This section is of general application to health employers and health employees and is not limited by any other provision of this division.
- ‘(5) In this section—
- final payment*, for a health employee, means the total amount owing to the employee by the health employer on the day the employee ceases to be a health employee, including unpaid wages, or any other amount payable in relation to employment, to which the employee is entitled.
- health employee* see section 396A(7).
- health employer* see section 396A(7).’.

- Clause 20 Insertion of new ch 20, pt 14**
- Chapter 20—
- insert*—

[s 21]

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<b>‘Part 14</b>	<b>Transitional provision for Penalties and Sentences and Other Legislation Amendment Act 2012</b>	1 2 3 4
<b>‘786</b>	<b>Amendment of regulation</b>	5
	‘The amendment of the <i>Industrial Relations Regulation 2011</i> by the <i>Penalties and Sentences and Other Legislation Amendment Act 2012</i> does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.	6 7 8 9 10
<b>Part 7</b>	<b>Amendment of Industrial Relations Regulation 2011</b>	11 12
<b>Clause 21</b>	<b>Regulation amended</b>	13
	This part amends the <i>Industrial Relations Regulation 2011</i> .	14
<b>Clause 22</b>	<b>Insertion of new s 12A</b>	15
	Part 6—	16
	<i>insert—</i>	17
<b>‘12A</b>	<b>Recovering health employment overpayments—Act, s 396A</b>	18 19
	‘The amount prescribed for section 396A(5) of the Act is 3/4 of the amount that would otherwise be paid to the health employee on a single occasion.’.	20 21 22

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<b>Part 8</b>	<b>Amendment of Justices Act 1886</b>	1 2
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<b>Clause 23</b>	<b>Act amended</b>	3
	This part amends the <i>Justices Act 1886</i> .	4

<b>Clause 24</b>	<b>Amendment of s 175A (Allocation of part payments)</b>	5
	Section 175A—	6
	<i>insert—</i>	7
	‘(1A) Subsection (1B) applies if the person is also liable to pay an amount for an offender levy under the <i>Penalties and Sentences Act 1992</i> , section 179C.	8 9 10
	‘(1B) For section 175A or 175B, the amount of the levy must be satisfied—	11 12
	(a) after an amount in the category mentioned in subsection (1)(d); and	13 14
	(b) before an amount in the category mentioned in subsection (1)(e).’	15 16

<b>Part 9</b>	<b>Amendment of Land Court Act 2000</b>	17 18
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<b>Clause 25</b>	<b>Act amended</b>	19
	This part amends the <i>Land Court Act 2000</i> .	20

<b>Clause 26</b>	<b>Insertion of new s 77B</b>	21
	Part 5—	22
	<i>insert—</i>	23

[s 27]

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<b>'77B</b>	<b>Approved forms</b>	1
	'The president may approve forms for use under this Act.'	2
<b>Clause 27</b>	<b>Amendment of pt 6, hdg (Savings and transitional)</b>	3
	Part 6, heading, 'and transitional'—	4
	<i>omit, insert</i> —	5
	', transitional and validation provisions'.	6
<b>Clause 28</b>	<b>Insertion of new pt 6, div 3</b>	7
	Part 6, after section 91—	8
	<i>insert</i> —	9
<b>'Division 3</b>	<b>Transitional and validation provisions for Penalties and Sentences and Other Legislation Amendment Act 2012</b>	10
		11
		12
		13
<b>'92</b>	<b>Definition for div 3</b>	14
	'In this division—	15
	<i>commencement</i> means the commencement of this section.	16
<b>'93</b>	<b>Validation provision for Land Court Rules 2000</b>	17
	'(1) Despite the <i>Statutory Instruments Act 1992</i> , section 54, the <i>Land Court Rules 2000</i> —	18
	(a) are taken not to have expired on 1 September 2010; and	19
	(b) continue in force until they are repealed under this Act.	20
	'(2) Anything done, purported to have been done or omitted to be done under the <i>Land Court Rules 2000</i> before the commencement has the same effect as it would have had if the <i>Land Court Rules 2000</i> had not expired.	21
	22	22
	23	23
	24	24
	25	25
	'(3) Without limiting subsection (2)—	26

- 
- (a) a judgment, order, direction or decision made under the *Land Court Rules 2000* before the commencement is taken to be, and to have always been, made under the *Land Court Rules 2000* as if those rules had not expired; and
- (b) a right, privilege or liability purportedly acquired, accrued or incurred under the *Land Court Rules 2000* before the commencement is taken to be, and to have always been, a right, privilege or liability acquired, accrued or incurred under the *Land Court Rules 2000* as if those rules had not expired; and
- (c) a form approved or purported to have been approved under the *Land Court Rules 2000* before the commencement is taken to be, and to have always been, approved under the *Land Court Rules 2000* as if those rules had not expired; and
- (d) a matter, prescribed under the *Land Court Rules 2000* before the commencement, that a judicial registrar may hear and decide is taken to be, and to have always been, a matter prescribed under the *Land Court Rules 2000* as if those rules had not expired.

- ‘94 Transitional provision for approved forms**
- ‘(1) This section applies if, immediately before the commencement, a form was approved for a purpose under the *Land Court Rules 2000*.
- ‘(2) The form is taken to have been approved under section 77B for the purpose.’

[s 29]

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<b>Part 10</b>	<b>Amendment of Penalties and Sentences Act 1992</b>	1
		2
<b>Clause 29</b>	<b>Act amended</b>	3
	This part amends the <i>Penalties and Sentences Act 1992</i> .	4
<b>Clause 30</b>	<b>Amendment of long title</b>	5
	Long title, after ‘offenders’—	6
	<i>insert—</i>	7
	‘and to impose a levy on offenders on sentence’.	8
<b>Clause 31</b>	<b>Amendment of preamble</b>	9
	Preamble—	10
	<i>insert—</i>	11
	‘4 Society is entitled to recover from offenders funds to help pay for the cost of law enforcement and administration.’.	12
		13
<b>Clause 32</b>	<b>Amendment of s 3 (Purposes)</b>	14
	Section 3—	15
	<i>insert—</i>	16
	‘(i) providing for the imposition of an offender levy.’.	17
<b>Clause 33</b>	<b>Amendment of s 4 (Definitions)</b>	18
(1)	Section 4—	19
	<i>insert—</i>	20
	‘ <i>offender levy</i> see section 179C.’.	21
(2)	Section 4, definition <i>penalty</i> , after ‘money’—	22
	<i>insert—</i>	23

---

‘but does not include an offender levy’.

1

**Clause 34 Amendment of s 5 (Meaning of penalty unit)**

2

(1) Section 5(1)(a), ‘\$100’—

3

*omit, insert—*

4

‘\$110’.

5

(2) Section 5(1)(b), ‘\$100’—

6

*omit, insert—*

7

‘\$110’.

8

(3) Section 5(1)(d), ‘\$100’—

9

*omit, insert—*

10

‘\$110’.

11

**Clause 35 Amendment of s 9 (Sentencing guidelines)**

12

Section 9—

13

*insert—*

14

‘(7A) In sentencing an offender, a court must not have regard to the offender levy imposed under section 179C.’.

15

16

**Clause 36 Amendment of s 48 (Exercise of power to fine)**

17

Section 48—

18

*insert—*

19

‘(3A) In considering the financial circumstances of the offender, the court must not take into account the offender levy imposed under section 179C.’.

20

21

22

**Clause 37 Insertion of new pt 10A**

23

After part 10—

24

*insert—*

25

[s 37]

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<b>‘Part 10A</b>	<b>Offender levy</b>	1
<b>‘179A Purpose of pt 10A</b>		2
	‘The purpose of this part is to provide for a levy imposed on an offender on sentence to help pay generally for the cost of law enforcement and administration.	3 4 5
<b>‘179B Definitions</b>		6
	‘In this part—	7
	<i>proper officer of the court</i> , for an offender levy, means the proper officer of the court that imposed the sentence for which the offender is liable to pay the levy.	8 9 10
	<i>sentence</i> includes any order made by a court to deal with the offender for an offence instead of passing sentence.	11 12
	<i>SPE Act</i> means the <i>State Penalties Enforcement Act 1999</i> .	13
<b>‘179C Imposition of offender levy</b>		14
	‘(1) On being sentenced for an offence, an offender becomes liable to pay the State a levy (the <i>offender levy</i> ).	15 16
	‘(2) Subsection (1) applies whether or not a conviction is recorded.	17
	‘(3) If in the same sentencing proceeding the court sentences the offender for more than 1 offence, only one levy is payable for all the offences.	18 19 20
	<i>Examples—</i>	21
	1 An offender is sentenced in the same proceeding for more than 1 offence charged in a single indictment, complaint or other form of charge.	22 23 24
	2 An offender is sentenced in the same proceeding on more than 1 indictment, complaint or other form of charge.	25 26
	‘(4) The imposition of the levy is not a sentence (including punishment) and is in addition to any sentence imposed by the court for the offence.	27 28 29

- 
- ‘(5) The levy is the amount prescribed under a regulation. 1  
*Note—* 2  
This Act does not prescribe a limit to the amount that may be prescribed 3  
under a regulation. 4
- ‘(6) This section does not apply to an offence under the *Bail Act* 5  
*1980*, section 29. 6
- ‘(7) This section is subject to section 179D. 7

**‘179D Subsequent sentences** 8

- ‘(1) This section applies if— 9
- (a) the sentencing court sentences the offender for an 10  
offence (the *original sentence*); and 11
- (b) subsequently, a court, whether or not differently 12  
constituted, resentsences the offender. 13
- ‘(2) The liability of the offender to pay the levy for the original 14  
sentence is unaffected but the offender is not liable to pay an 15  
offender levy for the resentence. 16
- ‘(3) In this section— 17
- resentence* includes, on appeal or otherwise, in relation to the 18  
sentencing of the offender, any of the following— 19
- (a) substitute another sentence; 20
- (b) further deal with the offender including make a further 21  
order; 22
- (c) confirm, vary or amend the sentence or order made on 23  
the original sentence. 24
- Examples of resentsences under this Act—* 25
- Orders made under section 20(1)(a), 20(2), 27(1)(c), 27(2), 33A(1), 26  
33A(3), 33B(1)(a), 33B(2), 33C(7), 38(1), 39A, 43D(8), 43F(4), 27  
43L(7), 43O(4), 60(1), 68(1), 74(7), 80(1), 120(1), 121(1), 125(4)(a), 28  
126(4), 127(1), 147(1), 159A(5)(b), 173(1), 173(2), 182(5)(a), 29  
182(7)(b), 185(1), 188(3), 188(4) or 195(5). 30

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<b>‘179E Payment of offender levy</b>	1
‘(1) The offender must pay the offender levy under subsection (2) or (3).	2 3
‘(2) If the particulars of the levy have been registered with SPER under section 179F, the offender must pay the levy under the SPE Act.	4 5 6
‘(3) However, if the particulars of the levy have not been registered with SPER under section 179F, the offender must pay the levy to the proper officer of the court.	7 8 9
<b>‘179F Enforcement of offender levy by registration</b>	10
‘(1) When an offender becomes liable to pay the offender levy under section 179C, the proper officer of the court must give the same particulars in relation to the levy to the SPER registrar for registration that it would give if—	11 12 13 14
(a) the court made an order fining the offender the amount of the levy for the offence; and	15 16
(b) the proper officer were the registrar of the court; and	17
<i>Note—</i>	18
The SPE Act uses the term ‘registrar of the court’.	19
(c) the particulars were the prescribed particulars of the unpaid amount of the fine.	20 21
‘(2) The SPER registrar must register the particulars.	22
‘(3) For the purposes of registration, and on registration, the SPE Act, other than the excluded provisions, applies, with all necessary and convenient changes, to the levy and to the offender in the same way as it applies—	23 24 25 26
(a) to the unpaid amount of a fine, for an offence, imposed by a court on a person the particulars of which are registered; and	27 28 29
(b) to that person.	30

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‘(4) The requirement under subsection (1)(c) to give prescribed particulars is subject to a regulation made under the SPE Act for offender levies.	1 2 3
‘(5) The proper officer may give amended particulars to SPER for registration if amendment of the particulars is necessary because of error.	4 5 6
‘(6) This section does not apply if all of the amount of the levy is paid under section 179E(3) before the particulars have been given under subsection (1).	7 8 9
‘(7) In this section—	10
<i>excluded provisions</i> means the following provisions of the SPE Act—	11 12
(a) provisions of that Act relating to infringement notices;	13
(b) section 41(c) and the other provisions of that Act relating to fine option orders;	14 15
(c) section 52 to the extent it applies to an arrest and imprisonment warrant, and the other provisions of that Act relating to arrest and imprisonment warrants;	16 17 18
(d) section 54;	19
(e) part 6;	20
(f) part 8.	21
<i>prescribed particulars</i> see the SPE Act, schedule 2.	22
<i>registration</i> means registration under the SPE Act, section 34.	23
<i>SPER registrar</i> means the registrar under the SPE Act.	24
<b>‘179G Amounts to be satisfied before satisfying offender levy</b>	25
‘An amount paid under section 179E(3) must first be applied by the proper officer towards satisfying an unpaid amount, known to the proper officer, ordered by a court for the following—	26 27 28 29
(a) compensation;	30
(b) restitution;	31

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- (c) damages; 1
- (d) a fixed portion of a penalty. 2

*Note—* 3

See also the *Justices Act 1886*, section 175A. 4

**‘179H Effect of appeal against relevant convictions** 5

‘(1) This section applies if— 6

(a) the offender has paid all or part of the offender levy 7  
under section 179E(3); and 8

(b) on appeal all convictions that resulted in the imposition 9  
of the offender levy are quashed. 10

‘(2) The proper officer must refund to the offender any amount 11  
paid to the proper officer for the offender levy.’. 12

**Clause 38 Amendment of s 191 (Effect of order under s 190)** 13

Section 191(2)(a), after ‘7’— 14

*insert—* 15

‘or 179C’. 16

**Clause 39 Insertion of new pt 14, div 4** 17

Part 14, at the end— 18

*insert—* 19

**‘Division 4 Transitional provisions for Penalties 20  
and Sentences and Other 21  
Legislation Amendment Act 2012 22**

**‘224 Retrospective application of s 179C in particular 23  
circumstances 24**

‘(1) Section 179C applies in relation to an offence for which the 25  
offender is sentenced after the commencement, even if the 26

offence was committed, or the offender was charged with or  
convicted of the offence, before the commencement. 1  
2

‘(2) In this section— 3

*commencement* means the commencement of section 179C. 4

*sentenced* does not include resentenced as defined under  
section 179D.’. 5  
6

**‘225 Amendment of regulation by Penalties and Sentences  
and Other Legislation Amendment Act 2012 does not  
affect powers of Governor in Council 7  
8  
9**

‘The amendment of the *Penalties and Sentences Regulation*  
*2005* by the *Penalties and Sentences and Other Legislation*  
*Amendment Act 2012* does not affect the power of the  
Governor in Council to further amend the regulation or to  
repeal it.’. 10  
11  
12  
13  
14

**Part 11 Amendment of Penalties and  
Sentences Regulation 2005 15  
16**

**Clause 40 Regulation amended 17**

This part amends the *Penalties and Sentences Regulation*  
*2005*. 18  
19

**Clause 41 Insertion of new s 8A 20**

After section 8— 21

*insert—* 22

**‘8A Offender levy—Act, s 179C(5) 23**

‘For section 179C(5) of the Act, the prescribed amount is— 24

(a) if the sentence is imposed by the Supreme or District  
Court—\$300; or 25  
26

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(b) if the sentence is imposed by a Magistrates Court—\$100.’ 1  
2

## **Part 12                      Amendment of State Penalties Enforcement Act 1999** 3 4

### **Clause 42      Act amended** 5

This part amends the *State Penalties Enforcement Act 1999*. 6

### **Clause 43      Amendment of s 34 (Default in paying fine, penalty or other amount under court order)** 7 8

Section 34(2A)— 9

*insert*— 10

*Note*— 11

See also the *Penalties and Sentences Act 1992*, section 179F, the *Police*

*Powers and Responsibilities Act 2000*, sections 115 and 781 and the

*Victims of Crime Assistance Act 2009*, sections 120 and 193.’ 12  
13  
14

### **Clause 44      Insertion of new s 54A** 15

After section 54— 16

*insert*— 17

#### **‘54A      Effect of appeal on enforcement order for offender levy** 18

‘(1) This section applies if after an enforcement order is made for 19  
an offender levy, the enforcement debtor appeals against all of 20  
the convictions that resulted in the imposition of the offender 21  
levy. 22

‘(2) The appeals suspend the enforcement order made for the 23  
offender levy. 24

‘(3) If all convictions are quashed, the registrar must refund to the 25  
enforcement debtor any amount paid to SPER for the levy. 26

- 
- ‘(4) Otherwise, the suspension of the enforcement order is lifted and the registrar may continue to enforce the order. 1  
2
- ‘(5) As soon as the registrar becomes aware of the circumstances mentioned in subsection (1), the registrar must ensure that any steps taken under this Act to enforce the enforcement order are discontinued immediately and no further action is taken until all of the appeals are decided.’. 3  
4  
5  
6  
7

- Clause 45 Amendment of s 112 (Order of satisfaction of other amounts)** 8  
9
- (1) Section 112(2)(e) to (k)— 10  
*renumber* as section 112(2)(f) to (l). 11
- (2) Section 112(2)— 12  
*insert*— 13  
‘(e) an offender levy;’. 14
- (3) Section 112(3), ‘(2)(g)’— 15  
*omit, insert*— 16  
‘(2)(j)’. 17

- Clause 46 Amendment of s 165 (Regulation-making power)** 18
- Section 165— 19  
*insert*— 20
- ‘(7) A regulation may be made about an offender levy including, for example, the prescribed particulars for an offender levy.’. 21  
22

- Clause 47 Amendment of sch 2 (Dictionary)** 23
- Schedule 2— 24  
*insert*— 25  
‘*offender levy* see the *Penalties and Sentences Act 1992*, section 179C.’. 26  
27

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<b>Part 13</b>	<b>Amendment of Statutory Instruments Act 1992</b>	1 2
<b>Clause 48</b>	<b>Act amended</b>	3
	This part amends the <i>Statutory Instruments Act 1992</i> .	4
<b>Clause 49</b>	<b>Amendment of s 46 (When is preparation of a regulatory impact statement unnecessary?)</b>	5 6
	Section 46(1)—	7
	<i>insert—</i>	8
	‘(n) rules of court made under any of the following—	9
	(i) the <i>Childrens Court Act 1992</i> ;	10
	(ii) the <i>Industrial Relations Act 1999</i> ;	11
	(iii) the <i>Land Court Act 2000</i> ;	12
	(iv) the <i>Mental Health Act 2000</i> ;	13
	(v) the QCAT Act;	14
	(vi) the <i>Sustainable Planning Act 2009</i> .	15
	<i>Note—</i>	16
	See also the <i>Supreme Court of Queensland Act 1991</i> for rules of court made under that Act.’.	17 18
<b>Clause 50</b>	<b>Amendment of sch 2A (Subordinate legislation to which part 7 does not apply)</b>	19 20
	Schedule 2A—	21
	<i>insert—</i>	22
	‘rules of court made under any of the following—	23
	• the <i>Childrens Court Act 1992</i>	24
	• the <i>Industrial Relations Act 1999</i>	25
	• the <i>Land Court Act 2000</i>	26

- the *Mental Health Act 2000* 1
  - the *Sustainable Planning Act 2009* 2
- Note—* 3
- See also the *Supreme Court of Queensland Act 1991* for rules of court 4  
made under that Act and the QCAT Act for rules of court made under 5  
that Act.’ 6

## **Part 14**                      **Minor amendments** 7

- Clause 51**      **Acts amended** 8
- The schedule amends the Acts it mentions. 9

<b>Schedule</b>	<b>Acts amended</b>	1
	section 51	2
	<b>Industrial Relations Act 1999</b>	3
1	<b>Section 341(4)(b), from ‘Rules’—</b>	4
	<i>omit, insert—</i>	5
	‘ <i>Rules 2011</i> , rule 145; and’.	6
	<b>Surrogacy Act 2010</b>	7
1	<b>Section 59(2), ‘the <i>Childrens Court Rules 1997</i>—</b>	8
	<i>omit, insert—</i>	9
	‘rules of court made under the <i>Childrens Court Act 1992</i> ’.	10
	<b>Workers’ Compensation and Rehabilitation Act 2003</b>	11
1	<b>Section 553, heading, ‘2000’—</b>	12
	<i>omit, insert—</i>	13
	‘2011’.	14
2	<b>Section 553(1), ‘2000’—</b>	15
	<i>omit, insert—</i>	16
	‘2011’.	17

<b>3</b>	<b>Section 563(2), from ‘2000’—</b>	1
	<i>omit, insert—</i>	2
	‘2011, rule 70.’	3
	<b>Youth Justice Act 1992</b>	4
<b>1</b>	<b>Section 119(3)—</b>	5
	<i>insert—</i>	6
	‘ <i>Childrens Court Rules</i> see the <i>Childrens Court Act 1992</i> , section 7.’	7 8