



Queensland

Justice and Other Legislation Amendment Bill 2013

Includes amendments agreed during Consideration



Queensland

Justice and Other Legislation Amendment Bill 2013

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2013

A Bill

for

An Act to amend the Aboriginal and Torres Strait Islander Land Holding Act 2013, the Acts Interpretation Act 1954, the Anti-Discrimination Act 1991, the Appeal Costs Fund Act 1973, the Appeal Costs Fund Regulation 2010, the Births, Deaths and Marriages Registration Act 2003, the Child Employment Act 2006, the Child Employment Regulation 2006, the Civil Proceedings Act 2011, the Coroners Act 2003, the Corrective Services Act 2006, the Criminal Code, the Criminal Law (Rehabilitation of Offenders) Act 1986, the Dispute Resolution Centres Act 1990, the District Court of Queensland Act 1967, the Domestic and Family Violence Protection Act 2012, the Drugs Misuse Act 1986, the Electronic Transactions (Queensland) Act 2001, the Evidence Act 1977, the Guardianship and Administration Act 2000, the Information Privacy Act 2009, the Judges (Pensions and Long Leave) Act 1957, the Judicial Remuneration Act 2007, the Justices Act 1886, the Justices of the Peace and Commissioners for Declarations Act 1991, the Land Court Act 2000, the Legal Aid Queensland Act 1997, the Legal Profession Act 2007, the Legal Profession Regulation 2007, the Magistrates Act 1991, the Magistrates Courts Act 1921, the Peaceful Assembly Act 1992, the Penalties and Sentences Act 1992, the Personal Injuries Proceedings Act 2002, the Queensland Civil and Administrative Tribunal Act 2009, the Recording of Evidence Act 1962, the Retirement Villages Act 1999, the Right to Information Act 2009, the Statutory Instruments Act 1992, the Succession Act 1981, the Supreme Court of Queensland Act 1991 and the Trusts Act 1973 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

Clause 1 Short title

This Act may be cited as the *Justice and Other Legislation Amendment Act 2013*.

Clause 2 Commencement

The following provisions commence on a day to be fixed by proclamation—

- (a) part 3;
- (b) part 15;
- (c) part 28;
- (d) part 29;
- (e) part 31;
- (f) part 34;
- (g) part 35;
- (h) section 171;
- (i) part 37.

Part 2 Amendment of Aboriginal and Torres Strait Islander Land Holding Act 2013

Clause 3 Act amended

This part amends the *Aboriginal and Torres Strait Islander Land Holding Act 2013*.

Clause 4 Omission of s 139 (Amendment of s 32J (Land Court has power of the Supreme Court for particular purposes))

Section 139—

omit.

Editor's note—

Legislation ultimately amended—

- *Land Court Act 2000*

Part 3 Amendment of Acts Interpretation Act 1954

Clause 5 Act amended

This part amends the *Acts Interpretation Act 1954*.

Clause 6 Amendment of sch 1 (Meaning of commonly used words and expressions)

Schedule 1, definition *lawyer*—

omit, insert—

lawyer means an Australian lawyer within the meaning of the *Legal Profession Act 2007*.

[s 7]

Part 4 **Amendment of** **Anti-Discrimination Act 1991**

Clause 7 **Act amended**

This part amends the *Anti-Discrimination Act 1991*.

Clause 8 **Amendment of s 140 (Commissioner may reject or stay complaints dealt with elsewhere)**

(1) Section 140(2)—

renumber as section 140(3).

(2) Section 140(1)—

omit, insert—

(1) The commissioner may reject or stay a complaint if—

(a) there are concurrent proceedings in a court or tribunal in relation to the act or omission the subject of the complaint; or

(b) the commissioner reasonably considers the act or omission that is the subject of the complaint may be effectively or conveniently dealt with by another entity.

(2) The commissioner may also reject a complaint if the commissioner reasonably considers the act or omission the subject of the complaint has been adequately dealt with by another entity.

(3) Section 140(3), as renumbered, ‘the Act’—

omit, insert—

this Act

Clause 9 **Amendment of s 154A (Investigation of complaint)**

Section 154A, ‘accepted under section 141’—

omit, insert—

at any time after the complaint is received by the commissioner

Clause 10 Amendment of s 168 (Frivolous etc. complaint lapses)

(1) Section 168(1)—

omit, insert—

(1) This section applies if, at any time after a complaint is accepted and before it is referred to the tribunal, the commissioner is of the reasonable opinion that the complaint is—

- (a) frivolous, trivial or vexatious; or
- (b) misconceived or lacking in substance.

(1A) The commissioner must tell the complainant in writing that, unless the complainant is able to show to the commissioner's satisfaction within 28 days that the complaint is not frivolous, trivial, vexatious, misconceived or lacking in substance—

- (a) the complaint will lapse; and
- (b) if the complaint lapses, the complainant can not make a further complaint relating to the act or omission that was the subject of the complaint.

(2) Section 168(3), 'lapses.'—

omit, insert—

lapses, and the complainant can not make a further complaint relating to the act or omission that was the subject of the complaint.

(3) Section 168(1A) to (3)—

renumber as section 168(2) to (4).

[s 11]

Clause 11 Insertion of new s 168A

After section 168—

insert—

168A Complaint may lapse if dealt with elsewhere

- (1) This section applies if after a complaint is accepted and before it is referred to the tribunal, the commissioner reasonably considers the act or omission the subject of the complaint—
 - (a) has been adequately dealt with by another entity; or
 - (b) may be effectively or conveniently dealt with by another entity.
- (2) The commissioner may give the complainant a notice (a *show cause notice*) inviting the complainant to show cause why the complaint should not lapse.
- (3) A show cause notice must—
 - (a) be in writing; and
 - (b) state that the complaint may lapse unless the complainant is able to show to the commissioner's satisfaction that the act or omission that is the subject of the complaint has not been adequately dealt with, or may not be effectively or conveniently dealt with, by another entity; and
 - (c) state that if the complaint lapses, the complainant can not make a further complaint relating to the act or omission the subject of the complaint; and
 - (d) state that the complainant may, within 28 days after receipt of the notice, make written representations to the commissioner about why the complaint should not lapse.

- (4) If, after considering any submissions made within the show cause period, the commissioner reasonably considers either of the following applies, the commissioner must give the complainant written notice that the complaint has lapsed—
 - (a) the act or omission the subject of the complaint has been adequately dealt with by another entity;
 - (b) the act or omission the subject of the complaint may be more effectively or conveniently dealt with by another entity.
- (5) If the commissioner gives the complainant a notice under subsection (4)—
 - (a) the complaint lapses; and
 - (b) the complainant can not make a further complaint relating to the act or omission the subject of the complaint.

Clause 12 Amendment of s 169 (Complaint may lapse if complainant loses interest)

Section 169(1), ‘must’ to ‘continue with it.’—

omit, insert—

must tell the complainant in writing that—

- (a) the complaint will lapse unless the complainant indicates that the complainant wishes to continue with it; and
- (b) if the complaint lapses, the complainant can not make a further complaint relating to the act or omission that was the subject of the complaint.

[s 13]

Clause 13 Replacement of s 170 (Complainant may withdraw complaint)

Section 170—

omit, insert—

170 Complainant may withdraw complaint

- (1) This section applies if a complainant gives the commissioner written notice that the complainant does not want to continue with the complaint.
- (2) The commissioner must—
 - (a) give the complainant a written notice stating that—
 - (i) the complaint will lapse at the end of 28 days after the notice is given (the **relevant period**) unless the complainant gives the commissioner another written notice (a **continuation notice**) that the complainant intends to continue with the complaint; and
 - (ii) if the complaint lapses, the complainant can not make a further complaint relating to the act or omission the subject of the complaint; and
 - (b) cease dealing with the complaint.
- (3) If the complainant gives the commissioner a continuation notice within the relevant period, the commissioner must resume dealing with the complaint.
- (4) If the complainant does not give the commissioner a continuation notice within the relevant period—
 - (a) the complaint lapses on the day after the relevant period ends; and

- (b) the complainant can not make a further complaint relating to the act or omission the subject of the complaint.
- (5) If a complaint lapses under subsection (4), the commissioner must, as soon as practicable after the lapse, give the respondent written notice the complaint has lapsed.

Clause 14 Insertion of new ch 11, pt 4

After section 271—

insert—

**Part 4 Transitional provisions
for Justice and Other
Legislation
Amendment Act 2013**

272 Definitions for pt 4

In this part—

amended, for a provision, means the provision as amended by the *Justice and Other Legislation Amendment Act 2013*.

commencement means commencement of this section.

273 Application of amended ss 140 and 154A to a complaint made before commencement

- (1) This section applies to a complaint made to the commissioner that had not, before the commencement, been accepted, rejected or stayed.

[s 15]

- (2) The Commissioner may deal with the complaint as if the complaint had been made after the commencement, including by—
 - (a) rejecting or staying the complaint under amended section 140; or
 - (b) investigating the complaint under amended section 154A.

274 Complainant can not make further complaint if complaint lapsed under former s 168 or 170

- (1) This section applies to a complaint that, before the commencement, had lapsed under section 168(3) or 170(2).
- (2) The complainant can not make a further complaint in relation to the act or omission the subject of the complaint.

275 Application of s 168A to complaint accepted before commencement

- (1) This section applies to a complaint that, immediately before the commencement, had been accepted but not finally dealt with or referred to the tribunal.
- (2) Section 168A applies to the complaint as if it had been made after commencement.

Part 5 **Amendment of Appeal Costs Fund Act 1973**

Clause 15 **Act amended**

This part amends the *Appeal Costs Fund Act 1973*.

Clause 16 Amendment of s 5 (Appeal Costs Fund)

- (1) Section 5(1), ‘subject to the *Financial Administration and Audit Act 1977*, part 8, division 2’—
omit.
- (2) Section 5(3), ‘sections 6(7)’—
omit, insert—
sections 6(6) and (8)
- (3) Section 5(3), ‘and the costs of administration’—
omit, insert—
 , the costs of the staff employed under section 9 and
the administration

Clause 17 Amendment of s 6 (Appeal Costs Board)

- (1) Section 6(6) and (7)—
renumber as section 6(7) and (8).
- (2) Section 6—
insert—
 - (6) A member of the board is to be paid the fees and allowances prescribed under a regulation.

Clause 18 Replacement of s 9 (Staff)

Section 9—
omit, insert—

9 Secretary and staff

- (1) There may be a secretary, and staff, of the board.
- (2) The secretary and staff are to assist the board to perform the board’s functions.
- (3) The secretary and staff of the board are employed under the *Public Service Act 2008*.

[s 19]

Clause 19 **Insertion of new s 30**

Part 6—

insert—

30 **Amendment of regulation—Justice and Other
Legislation Amendment Act 2013**

The amendment of the *Appeal Costs Fund Regulation 2010* by the *Justice and Other Legislation Amendment Act 2013* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

Part 6 **Amendment of Appeal Costs
Fund Regulation 2010**

Clause 20 **Regulation amended**

This part amends the *Appeal Costs Fund Regulation 2010*.

Clause 21 **Amendment of s 12 (Fees payable to board
members—Act, s 9(2))**

Section 12, heading, ‘s 9(2)’

omit, insert—

s 6(6)

Part 7 **Amendment of Births, Deaths and Marriages Registration Act 2003**

Clause 22 Act amended

This part amends the *Births, Deaths and Marriages Registration Act 2003*.

Clause 23 Amendment of s 34 (The registrar)

- (1) Section 34(2) and (3)—
renumber as section 34(3) and (4).
- (2) Section 34(1)—
omit, insert—
 - (1) There is to be a registrar-general (the *registrar*).
 - (2) The registrar is to be employed under the *Public Service Act 2008*.

Clause 24 Amendment of s 35 (The deputy registrar)

- (1) Section 35(2) and (3)—
renumber as section 35(3) and (4).
- (2) Section 35(1)—
omit, insert—
 - (1) There is to be a deputy registrar-general (the *deputy registrar*).
 - (2) The deputy registrar is to be employed under the *Public Service Act 2008*.

Clause 25 Insertion of new pt 9, div 7

After section 65—

[s 26]

insert—

**Division 7 Transitional provision for
Justice and Other
Legislation Amendment
Act 2013**

**66 Registrar and deputy registrar appointed
before commencement**

- (1) This section applies to a person who, immediately before the commencement of this section, held office as registrar or deputy registrar.
- (2) From the commencement, the person continues to hold that office as if the person had been appointed after the commencement.

**Part 8 Amendment of Child
Employment Act 2006**

Clause 26 Act amended

This part amends the *Child Employment Act 2006*.

Clause 27 Amendment of s 8 (Meaning of *work* in relation to a child)

Section 8(3), 'section 8A'—

omit, insert—

sections 8A to 8C

Clause 28 Insertion of new s 8C

After section 8B—

insert—

8C Prohibition on inappropriate roles and situations

- (1) An employer must not require or permit a child to work in a role or situation that is inappropriate for the child, having regard to the child's age, emotional and psychological development, maturity and sensitivity.

Maximum penalty—100 penalty units.

- (2) Without limiting subsection (1), the child may not—
- (a) be exposed to scenes or situations that are likely to distress or embarrass the child; or
 - (b) be made distressed to obtain a more realistic depiction of a particular emotional reaction; or
 - (c) perform an act of an explicit sexual nature or be present in an area while another person performs an act of an explicit sexual nature; or
 - (d) be present while another person is—
 - (i) nude; or
 - (ii) clothed or covered in another way so—
 - (A) the person's sexual organs or anus are visible; or
 - (B) if the person is a female who is at least 5 years—her breasts are visible.
- (3) Subsection (2)(d) does not apply if—
- (a) the child is under 12 months; and
 - (b) a parent of the child, who is not the employer of the child, has given the employer written consent to whichever of the following is relevant—

[s 29]

- (i) the child being present while the other person is nude;
 - (ii) the child being present while the other person is clothed or covered in another way so the person's sexual organs or anus are visible;
 - (iii) the child being present while the other person is clothed or covered in another way so the person's breasts are visible; and
- (c) a parent of the child is present while the child is present and the other person is as mentioned in subsection (2)(d)(i) or (ii).
- (4) However, a consent under subsection (3)(b)(ii) or (iii) need not cover all matters mentioned in the subsection so long as all matters in the subsection relevant to the work the child is to do are covered.

Clause 29 Insertion of new s 40

After section 39—

insert—

40 Effect of regulation amendment by Justice and Other Legislation Amendment Act 2013

The amendment of the *Child Employment Regulation 2006* by the *Justice and Other Legislation Amendment Act 2013* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

Part 9 Amendment of Child Employment Regulation 2006

Clause 30 Regulation amended

This part amends the *Child Employment Regulation 2006*.

Clause 31 Omission of s 12 (Prohibition on inappropriate roles and situations)

Section 12—

omit.

Clause 32 Amendment of s 25 (Employer's duty about presence of parent)

Section 25(3), 'section 8A(2)(c) of the Act or section 12(4)(c)'—

omit, insert—

section 8A(2)(c) or 8C(3)(c) of the Act

Part 10 Amendment of Civil Proceedings Act 2011

Clause 33 Act amended

This part amends the *Civil Proceedings Act 2011*.

Clause 34 Amendment of s 237 (Insertion of new s 35A)

Section 237, inserted section 35A(1), ' , including by taking a copy of the document,'—

omit.

[s 35]

Editor's note—

Legislation ultimately amended—

- *Justices of the Peace and Commissioners for Declarations Act 1991*

Part 11 **Amendment of Coroners Act 2003**

Clause 35 **Act amended**

This part amends the *Coroners Act 2003*.

Clause 36 **Amendment of s 23 (Autopsy testing)**

Section 23(5), after 'blood'—

insert—

or urine

Clause 37 **Amendment of pt 3, div 3, hdg (Inquests)**

Part 3, division 3, heading—

omit, insert—

Division 3 **Inquests and investigations**

Clause 38 **Insertion of new s 46A**

After section 46—

insert—

46A Publication of coroner's findings or comments

- (1) If a coroner investigates a death at an inquest, the coroner must publish the following on the State

Coroner's website unless the coroner orders otherwise—

- (a) the coroner's findings;
 - (b) if the coroner comments under section 46 on anything connected with the death—the coroner's comments.
- (2) If a coroner investigated a death but did not hold an inquest, the coroner may direct that the coroner's findings be published on the State Coroner's website only if—
- (a) the coroner considers the publication is in the public interest; and
 - (b) to the extent practicable, the coroner has consulted with and had regard to the views of a family member of the deceased person.

Editor's note—

The State Coroner's website is <http://www.courts.qld.gov.au/courts/coroners-court/>.

Clause 39 Insertion of new s 51A

Part 3, division 4, before section 52—

insert—

51A Access of investigation documents under this division

This division provides for when a person may or may not have access to an investigation document.

Note—

An owner of an investigation document may also access the document under section 62.

Clause 40 Amendment of s 54 (Access to investigation documents for other purposes)

Section 54(3)—

[s 41]

omit, insert—

- (3) The coroner may consent only if—
- (a) the coroner is satisfied the person has a sufficient interest in the document; or

Example—

A person with a sufficient interest in an investigation document might include—

- (a) an immediate member of the deceased person's family; or
- (b) for a document that is relevant to assessing a potential threat to public health, the health chief executive.
- (b) the coroner—
- (i) considers the access is in the public interest; and
- (ii) to the extent practicable, has consulted with and had regard to the views of a family member of the deceased person.

Clause 41 Amendment of s 62 (Access to physical evidence)

Section 62, heading, after 'evidence'—

insert—

by owner

Clause 42 Insertion of new s 62A

Part 3, division 5, after section 62—

insert—

62A Access to physical evidence exhibit

- (1) This section applies if a person, other than the owner of physical evidence, wants to access a physical evidence exhibit.

- (2) The person may access the physical evidence exhibit only if—
- (a) the coroner has given consent for the access; or
 - (b) access to the physical evidence exhibit is necessary for the investigation or prosecution of an offence relating to a death and the person is—
 - (i) a police officer; or
 - (ii) someone else authorised by a police officer to access the exhibit for the investigation or prosecution.

- (3) The coroner may consent to a person having access to a physical evidence exhibit only if—
- (a) the coroner is satisfied the person has a sufficient interest in the physical evidence exhibit; or

Example—

A person with a sufficient interest in a physical evidence exhibit might include a person at an inquest who wants to access a physical evidence exhibit to conduct a test on the exhibit.

- (b) the coroner—
 - (i) considers the access is in the public interest; and
 - (ii) to the extent practicable, has consulted with and had regard to the views of a family member of the deceased person.

- (4) In this section—

physical evidence exhibit means an exhibit, other than an investigation document, that was tendered at an inquest held by a coroner.

[s 42A]

Part 11A **Amendment of Corrective Services Act 2006**

42A **Act amended**

This part amends the *Corrective Services Act 2006*.

42B **Amendment of s 184 (Parole eligibility date for other prisoners)**

Section 184(5), definition *offence*—

insert—

- (d) a drug trafficking offence to which section 182A applies.

Part 11B **Amendment of Criminal Code**

42C **Code amended**

This part amends the Criminal Code.

42D **Amendment of s 23 (Intention—motive)**

Section 23(1)—

insert—

Note—

Parliament, in amending subsection (1)(b) by the *Criminal Code and Other Legislation Amendment Act 2011*, did not intend to change the circumstances in which a person is criminally responsible.

Part 12 **Amendment of Criminal Law (Rehabilitation of Offenders) Act 1986**

Clause 43 Act amended

This part amends the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

Clause 44 Amendment of s 7 (Section 6 not applicable in certain cases)

(1) Section 7(1)—

insert—

(e) a disclosure made under an Act of a record kept by a court or tribunal or an official record of a recording service.

(2) Section 7—

insert—

(3) In this section—

official record, of a recording service, means a record made under the *Recording of Evidence Act 1962*, section 4 by the recording service.

Part 13 **Amendment of Dispute Resolution Centres Act 1990**

Clause 45 Act amended

This part amends the *Dispute Resolution Centres Act 1990*.

[s 46]

- Clause 46 Amendment of s 2 (Interpretation)**
(1) Section 2, definitions *council* and *member*—
 omit.
(2) Section 2, definition *mediator*, paragraph (b), ‘section 19’—
 omit, insert—
 section 27AB
- Clause 47 Omission of pt 2, hdg (Administration)**
Part 2, heading—
omit.
- Clause 48 Omission of pt 2, div 1 (The council)**
Part 2, division 1—
omit.
- Clause 49 Omission of pt 2, div 2, hdg (Staff of dispute resolution centre)**
Part 2, division 2, heading—
omit.
- Clause 50 Relocation and renumbering of ss 18–21**
Sections 18 to 21—
relocate and renumber in part 3, after section 27, as sections 27AA to 27AD.
- Clause 51 Insertion of new pt 3, div 1, hdg**
Part 3, before section 22—
insert—

**Division 1 Establishment and
operation of dispute
resolution centres**

Clause 52 Insertion of new pt 3, div 2, hdg

Part 3, immediately before section 27AA as relocated and renumbered—

insert—

**Division 2 Staff of dispute resolution
centres**

Clause 53 Amendment of s 27AC (Staff)

Section 27AC, as relocated and renumbered, ‘section 19’—

omit, insert—

section 27AB

Clause 54 Amendment of s 35 (Exoneration from liability)

(1) Section 35(1)(a) and (b)—

omit.

(2) Section 35(1)(c) and (d)—

renumber as section 35(1)(a) and (b).

(3) Section 35(5), ‘of a member or’—

omit.

(4) Section 35(5), ‘member or’—

omit.

Clause 55 Amendment of s 37 (Secrecy)

(1) Section 37(2)(e), ‘the council’—

omit, insert—

[s 56]

a director

- (2) Section 37(9), definition *relevant person*, paragraphs (a) to (f)—

omit, insert—

- (a) a mediator;
- (b) a director;
- (c) a member of the staff of a dispute resolution centre;
- (d) a person making an evaluation under section 34, as in force at any time before its repeal;
- (e) a person carrying out research for, or with the approval of, a director.

Clause 56 Amendment of s 38 (Power to accept appointment)

- (1) Section 38(1)(a) and (b)—

omit, insert—

- (a) holding that office and also the office of a mediator; or
- (b) keeping remuneration payable to the holder as a mediator.

- (2) Section 38(2), from ‘member of the council’ to ‘council or a’—

omit.

Clause 57 Insertion of new pt 6, hdg

After section 41—

insert—

Part 6 Transitional provisions

Clause 58 **Insertion of new pt 6, div 1, hdg**

Immediately before section 42—

insert—

Division 1 **Justice and Other
Legislation Amendment
Act 2008**

Clause 59 **Insertion of new pt 6, div 2**

After section 42—

insert—

Division 2 **Justice and Other
Legislation Amendment
Act 2013**

43 **Continuation of obligations about disclosure
of information**

- (1) Section 37, as in force immediately before the commencement of this section, continues to apply to each member of the former council, despite the amendment of that section by the *Justice and Other Legislation Amendment Act 2013*.
- (2) In this section—
former council means the council established under part 2, division 1 as in force before the commencement of this section.

[s 60]

Part 14 **Amendment of District Court of Queensland Act 1967**

Clause 60 **Act amended**

This part amends the *District Court of Queensland Act 1967*.

Clause 61 **Amendment of s 14 (Retirement of judges)**

Section 14(2)—

omit, insert—

(2) Despite subsection (1)—

- (a) a judge who, before retiring, whether or not because of subsection (1), starts the hearing of a proceeding remains a judge for the purposes of finishing the proceeding; and
- (b) a retired District Court judge appointed to act as a judge under section 17(3) remains a judge until the judge's appointment ends.

Clause 62 **Amendment of s 17 (Acting judge)**

(1) Section 17(1), after 'person'—

insert—

, other than a retired District Court judge,

(2) Section 17—

insert—

- (3) The Governor in Council may by commission appoint a retired District Court judge to act as a judge—
 - (a) for a period of not more than 2 years; and
 - (b) on a full-time or sessional basis.

-
- (4) The Minister may recommend a retired District Court judge for appointment under subsection (3) only after consultation with the Chief Judge.
 - (5) An appointment under subsection (3) must not extend beyond the day the retired District Court judge reaches 78 years of age.
 - (6) A person appointed to act as a judge under this section—
 - (a) may be appointed more than once; and
 - (b) has, for the period and subject to the conditions stated in the judge’s commission, the power and authority necessary to fulfil the duties of a judge.
 - (7) Despite subsection (5), a retired District Court judge who, before the judge’s commission ends, starts the hearing of a proceeding remains a judge for the purposes of finishing the proceeding.
 - (8) In this section—

retired District Court judge means a person who—

 - (a) has been a judge of the District Court; and
 - (b) has not reached 78 years of age.

Clause 63 Amendment of s 113 (Power of District Court on appeal from Magistrates Court)

Section 113, from ‘Supreme Court’ to ‘leave to appeal’—
omit, insert—

Court of Appeal has to hear an appeal

Clause 64 Insertion of new s 150

After section 149—
insert—

[s 65]

150 Transitional provision for Justice and Other Legislation Amendment Act 2013

Section 113, as amended by the *Justice and Other Legislation Amendment Act 2013*, applies only to actions, matters or proceedings commenced after the commencement of the section.

Part 15 Amendment of Domestic and Family Violence Protection Act 2012

Clause 65 Act amended

This part amends the *Domestic and Family Violence Protection Act 2012*.

Clause 66 Replacement of s 48 (Temporary protection order in relation to application for variation)

Section 48—
omit, insert—

48 Temporary protection order in relation to application for variation

- (1) This section applies if the court adjourns the hearing of an application for a variation of a domestic violence order (the *first domestic violence order*).
- (2) The court may make a temporary protection order against a respondent only if the court is satisfied that the temporary protection order is necessary or desirable to protect the aggrieved, or another person named in the first domestic violence order, from domestic violence, pending a decision on the application for the variation.

-
- (3) If the court makes a temporary protection order under subsection (2), the first domestic violence order is suspended.
 - (4) The suspension starts when the respondent is served with a copy of the temporary protection order or when the temporary protection order otherwise becomes enforceable under section 177.
 - (5) The suspension ends, and the first domestic violence order is revived—
 - (a) when the court varies the first domestic violence order and the varied order takes effect under section 99; or
 - (b) when the court refuses to vary the first domestic violence order and the respondent is told about the refusal; or
 - (c) when the application for variation of the first domestic violence order is withdrawn and the respondent is told about the withdrawal.
 - (6) For subsection (5)(b) or (c), the respondent may be told about the refusal or withdrawal—
 - (a) if the respondent is present in court when the refusal or withdrawal happens—by the court; or
 - (b) otherwise—by a police officer.
 - (7) For subsection (6)(b), the respondent may be told by a police officer about the refusal or withdrawal in any way, including, for example, by telephone, email, SMS message, a social networking site or other electronic means.
 - (8) When the first domestic violence order is revived—
 - (a) it is enforceable against the respondent as if it had never been suspended; and
-

[s 67]

- (b) despite anything in section 98, the temporary protection order made under subsection (2) ends.

Clause 67 Replacement of s 142 (Application of Uniform Civil Procedure Rules 1999)

Section 142—

omit, insert—

142 Procedure for proceeding under this Act

- (1) The *Domestic and Family Violence Protection Rules* made under the *Magistrates Courts Act 1921*, section 57C apply for—
 - (a) a proceeding in a court under this Act; or
 - (b) the registry of a court in relation to a proceeding under this Act.
- (2) The *Uniform Civil Procedure Rules 1999* apply to an appeal under this Act.
- (3) To remove any doubt, it is declared that the *Childrens Court Rules 1997* and the *Uniform Civil Procedure Rules 1999* do not apply to a proceeding in a court under this Act.

Clause 68 Amendment of pt 8, div 1 (Service)

Part 8, division 1, note—

omit.

Part 15A Amendment of Drugs Misuse Act 1986

68A Act amended

This part amends the *Drugs Misuse Act 1986*.

68B Amendment of s 5 (Trafficking in dangerous drugs)

Section 5—

insert—

- (2) If a court sentences a person to a term of imprisonment for an offence against subsection (1), the court must make an order that the person must not be released from imprisonment until the person has served a minimum of 80% of the prisoner's term of imprisonment for the offence.
- (3) Subsection (2) does not apply if the court sentences the person to a term of imprisonment and makes either of the following orders under the *Penalties and Sentences Act 1992* for the person—
 - (a) an intensive correction order;
 - (b) an order that the whole or a part of the term of imprisonment be suspended.

68C Insertion of new pt 7, div 9

After section 144—

insert—

[s 69]

Division 9 **Provision for Justice and
Other Legislation
Amendment Act 2013**

**145 Transitional provision for offence of trafficking
in dangerous drugs**

Section 5(2) applies to an offence against that section only if the act or omission constituting the offence occurred wholly on or after 13 August 2013.

Part 16 **Amendment of Electronic
Transactions (Queensland) Act
2001**

Clause 69 **Act amended**

This part amends the *Electronic Transactions (Queensland) Act 2001*.

Clause 70 **Amendment of s 4 (Simplified outline)**

Section 4—

insert—

- (2) Chapter 2, part 4 contains provisions applying to contracts involving electronic communications, including provisions (relating to the internet in particular) for the following—
 - (a) an unaddressed proposal to form a contract is to be regarded as an invitation to make offers, rather than as an offer that if accepted would result in a contract;

- (b) a contract formed automatically is not invalid, void or unenforceable because there was no human review or intervention;
- (c) a portion of an electronic communication containing an input error can be withdrawn in certain circumstances;
- (d) the application of certain provisions of chapter 2, parts 1 to 3 to contracts involving electronic communications to the extent they do not apply of their own force.

Clause 71 Amendment of s 7A (Act does not apply to particular requirements etc.)

- (1) Section 7A, heading ‘requirements’—

omit, insert—

transactions

- (2) Section 7A, ‘requirement or permission’—

omit, insert—

transaction, requirement, permission, electronic communication or other matter

- (3) Section 7A—

insert—

- (2) A regulation may provide that this Act does not apply to a transaction, requirement, permission, electronic communication or other matter not mentioned in schedule 1.
- (3) A regulation made under subsection (2) expires 1 year after the regulation is made.

Clause 72 Amendment of s 14 (Requirement for signature)

- (1) Section 14(a), ‘approval of’—

omit, insert—

[s 73]

intention in relation to

(2) Section 14(b)—

omit, insert—

(b) the method used was either—

- (i) as reliable as appropriate for the purposes for which the electronic communication was generated or communicated, having regard to all the circumstances, including any relevant agreement; or
- (ii) proven in fact to have fulfilled the functions described in paragraph (a), by itself or together with further evidence; and

(3) Section 14—

insert—

- (2) The reference in subsection (1) to a law that requires a signature includes a reference to a law that provides consequences for the absence of a signature.

Clause 73 Amendment of s 15 (Other particular laws not affected)

Section 15(c), ‘approval of’—

omit, insert—

intention in relation to

Clause 74 Replacement of ss 23 to 25

Sections 23 to 25—

omit, insert—

23 Time of dispatch

- (1) Unless otherwise agreed between the originator and the addressee of an electronic

communication, the time of dispatch of the electronic communication is—

- (a) the time when the electronic communication leaves an information system under the control of the originator or of the party who sent it on behalf of the originator; or
 - (b) if the electronic communication has not left an information system under the control of the originator or of the party who sent it on behalf of the originator—the time the electronic communication is received by the addressee.
- (2) Subsection (1) applies even though the place the information system supporting an electronic address is located may be different from the place the electronic communication is taken to have been dispatched under section 25.

24 Time of receipt

- (1) Unless otherwise agreed between the originator and the addressee of an electronic communication—
- (a) the time of receipt of the electronic communication is the time the electronic communication becomes capable of being retrieved by the addressee at an electronic address designated by the addressee; or
 - (b) the time of receipt of the electronic communication at another electronic address of the addressee is the time when both—
 - (i) the electronic communication has become capable of being retrieved by the addressee at that address; and

[s 74]

- (ii) the addressee has become aware that the electronic communication has been sent to that address.
- (2) For subsection (1), unless otherwise agreed between the originator and the addressee of the electronic communication, it is to be assumed that the electronic communication is capable of being retrieved by the addressee when it reaches the addressee's electronic address.
- (3) Subsection (1) applies even though the place the information system supporting an electronic address is located may be different from the place the electronic communication is taken to have been received under section 25.

25 Place of dispatch and receipt

- (1) Unless otherwise agreed between the originator and the addressee of an electronic communication—
 - (a) the electronic communication is taken to have been dispatched at the place the originator has its place of business; and
 - (b) the electronic communication is taken to have been received at the place the addressee has its place of business.
- (2) For the application of subsection (1) to an electronic communication—
 - (a) a party's place of business is assumed to be the location indicated by the party, unless another party demonstrates the party making the indication does not have a place of business at that location; and
 - (b) if a party has not indicated a place of business and has only one place of business,

-
- it is to be assumed that place is the party's place of business; and
- (c) if a party has not indicated a place of business and has more than one place of business, the place of business is that which has the closest relationship to the underlying transaction, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the transaction; and
 - (d) if a party has not indicated a place of business and has more than one place of business, but paragraph (c) does not apply—it is to be assumed the party's principal place of business is the party's only place of business; and
 - (e) if a party is an individual and does not have a place of business—it is to be assumed the party's place of business is the place of the party's habitual residence.
- (3) A location is not a place of business merely because that is—
- (a) where equipment and technology supporting an information system used by a party are located; or
 - (b) where the information system may be accessed by other parties.
- (4) The sole fact that a party makes use of a domain name or electronic mail address connected to a specific country does not create a presumption that its place of business is located in that country.

Clause 75 **Insertion of new ch 2, pt 4**

Chapter 2, after section 26—

[s 75]

insert—

Part 4 Additional provisions applying to contracts involving electronic communication

26A Application and operation of this part

This part applies to the use of electronic communications in connection with the formation or performance of a contract between parties where the proper law of the contract is (or would on its formation be) under the State law, and so applies—

- (a) whether some or all of the parties are located within Australia or elsewhere; and
- (b) whether the contract is for business purposes, for personal, family or household purposes, or for other purposes.

26B Invitation to treat regarding contracts

- (1) A proposal to form a contract made through one or more electronic communications that—
 - (a) is not addressed to one or more specific parties; and
 - (b) is generally accessible to parties making use of information systems;is to be considered as an invitation to make offers, unless it clearly indicates the intention of the party making the proposal to be bound in case of acceptance.
- (2) Subsection (1) extends to proposals that make use of interactive applications for the placement of orders through information systems.

26C Use of automated message system for contract formation—non-intervention of individual

A contract formed by—

- (a) the interaction of an automated message system and an individual; or
- (b) the interaction of automated message systems;

is not invalid, void or unenforceable on the sole ground that no individual reviewed or intervened in each of the individual actions carried out by the automated message systems or the resulting contract.

26D Error in electronic communication regarding contracts

- (1) This section applies in relation to a statement, declaration, demand, notice or request, including an offer and the acceptance of an offer, that the parties are required to make or choose to make in connection with the formation or performance of a contract.

(2) If—

- (a) an individual makes an input error in an electronic communication exchanged with the automated message system of another party; and
- (b) the automated message system does not provide the person with an opportunity to correct the error;

the person, or the party on whose behalf the person was acting, has the right to withdraw the portion of the electronic communication in which the input error was made if—

- (c) the person, or the party on whose behalf the person was acting, notifies the other party of

[s 75]

- the error as soon as possible after having learned of the error and indicates that the person made an error in the electronic communication; and
- (d) the person, or the party on whose behalf the person was acting, has not used or received any material benefit or value from the goods or services, if any, received from the other party.
- (3) The right of withdrawal of a portion of an electronic communication under this section is not of itself a right to rescind or otherwise terminate a contract.
 - (4) The consequences (if any) of the exercise of the right of withdrawal of a portion of an electronic communication under this section are to be determined in accordance with any applicable rule of law.

26E Application of Act in relation to contracts

- (1) Subject to subsection (2), sections 8 and 23 to 25 apply to—
 - (a) a transaction constituted by or relating to a contract; or
 - (b) an electronic communication relating to the formation of a performance of a contract;in the same way as they apply to a transaction or electronic communication referred to in those provisions.
- (2) However, this part (including subsection (1)) does not apply to or in relation to a contract to the extent that—
 - (a) parts 1 to 3 would of their own force have the same effect as this part if this part applied; or

- (b) a law of another State (that is in substantially the same terms as parts 1 to 3) would of its own force have the same effect as this part if this part applied.

Clause 76 Insertion of new ch 4

After section 27—

insert—

Chapter 4 Transitional provision

28 Transitional provision for Justice and Other Legislation Amendment Act 2013

- (1) Subject to subsection (2)—
 - (a) section 26B extends to proposals made before the commencement; and
 - (b) section 26C extends to interactions carried out before the commencement; and
 - (c) section 26D extends to statements, declarations, demands, notices or requests, including offers and acceptance of offers, made or given before the commencement.
- (2) Subsection (1) and chapter 2, part 4 do not apply in relation to contracts formed before the commencement.
- (3) In this section—
commencement means the commencement of this section.

Clause 77 Amendment of sch 1 (Excluded requirements and permissions)

- (1) Schedule 1, heading, ‘requirements and permissions’—
omit, insert—

[s 78]

transactions

(2) Schedule 1—

insert—

- 8 transactions on a regulated exchange
- 9 foreign exchange transactions
- 10 inter-bank payment systems, agreements or clearance and settlement systems relating to securities or other financial assets or instruments
- 11 the transfer of security rights in the sale, loan or holding of or agreement to repurchase securities or other financial assets or instruments held with an intermediary
- 12 bills of exchange
- 13 promissory notes
- 14 consignment notes
- 15 bills of lading
- 16 warehouse receipts
- 17 any transferable document or other instrument that entitles the bearer or beneficiary to claim the delivery of goods or payment of a sum of money

Clause 78 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *place of business* and *transaction*—

omit.

(2) Schedule 2—

insert—

addressee, of an electronic communication, means a person who is intended by the originator to receive the electronic communication, but does not include a person acting as an intermediary for the electronic communication.

automated message system means a computer program or an electronic or other automated means used to initiate an action or respond to data messages in whole or in part, without review or intervention by an individual each time an action is initiated or a response is generated by the system.

originator, of an electronic communication, means a person by whom, or on whose behalf, the electronic communication has been sent or generated before storage, if any, but does not include a person acting as an intermediary for the electronic communication.

performance, of a contract, includes non-performance of the contract.

place of business means—

- (a) in relation to a person, other than an entity referred to in paragraph (b)—a place where the person maintains a non-transitory establishment to pursue an economic activity other than the temporary provision of goods or services out of a specific location; or
- (b) in relation to a government, an authority of a government or a non-profit body—a place where any operations or activities are carried out by that government, authority or body.

transaction includes—

- (a) any transaction in the nature of a contract, agreement or other arrangement; and
- (b) any statement, declaration, demand, notice or request, including an offer and the acceptance of an offer, that the parties are required to make or choose to make in connection with the formation or

[s 79]

- performance of a contract, agreement or other arrangement; and
- (c) any transaction of a non-commercial nature.

Part 17 **Amendment of Evidence Act 1977**

Clause 79 **Act amended**

This part amends the *Evidence Act 1977*.

Clause 80 **Amendment of s 7 (Parties, their wives and husbands as witnesses)**

Section 7—

insert—

- (3) To remove any doubt, it is declared for subsections (1) and (2) that a party to a proceeding includes a person who is the subject of an inquiry, reference or examination.

Part 18 **Amendment of Guardianship and Administration Act 2000**

Clause 81 **Act amended**

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

Clause 82 Amendment of s 218 (Acting public advocate)

(1) Section 218, ‘Governor in Council’—

omit, insert—

Minister

(2) Section 218—

(2) A person appointed under subsection (1) may be appointed for a period of not more than 6 months.

Clause 83 Amendment of s 231 (Appointment)

Section 231(2), ‘or part-time’—

omit, insert—

, part-time or casual

Part 19 Amendment of Information Privacy Act 2009

Clause 84 Act amended

This part amends the *Information Privacy Act 2009*.

Clause 85 Amendment of s 127 (Vexatious applicants)

(1) Section 127(6)—

renumber as section 127(8).

(2) Section 127—

insert—

(6) The commissioner may publish—

(a) a declaration and the reasons for making the declaration; and

[s 86]

- (b) a decision not to make a declaration and the reasons for the decision.
- (7) The commissioner may publish the name of a person the subject of a declaration under subsection (1) when publishing the declaration and the reasons for making it.

Part 20 **Amendment of Judges (Pensions and Long Leave) Act 1957**

Clause 86 **Act amended**

This part amends the *Judges (Pensions and Long Leave) Act 1957*.

Clause 87 **Amendment of s 2A (Length of service if previously an acting judge or master in Queensland)**

Section 2A(a) and (b)—

omit, insert—

- (a) an acting Supreme Court judge, other than service as a retired acting Supreme Court judge;
- (b) an acting District Court judge, other than service as a retired acting District Court judge;

Clause 88 **Amendment of s 2C (Minimum benefit payable)**

Section 2C(4)—

insert—

acting District Court judge includes a retired acting District Court judge.

acting Supreme Court judge includes a retired acting Supreme Court judge.

Clause 89 Amendment of schedule (Dictionary)

Schedule—

insert—

retired acting District Court judge means a retired District Court judge appointed to act as a judge under the *District Court of Queensland Act 1967*, section 17(3).

retired acting Supreme Court judge means a retired Supreme Court judge appointed to act as a judge under the *Supreme Court of Queensland Act 1991*, section 6(1), (2) or (4).

Part 21 Amendment of Judicial Remuneration Act 2007

Clause 90 Act amended

This part amends the *Judicial Remuneration Act 2007*.

Clause 91 Insertion of new s 5A

After section 5—

insert—

5A Retired acting Supreme Court judge

- (1) A retired acting Supreme Court judge appointed to act as a judge on a full-time basis is entitled to be paid, for a financial year, an amount

[s 91]

equivalent to the amount payable to a Supreme Court judge under sections 5 and 21, less the amount the retired judge receives as a pension.

- (2) A retired acting Supreme Court judge appointed to act as a judge on a sessional basis is entitled to be paid an amount decided by the Governor in Council and stated in the judge's commission of appointment as a judge.
- (3) The amount decided under subsection (2) must not be less than the amount worked out using the formula—

$$A = B - C$$

where—

A is the minimum amount that a retired judge is entitled to be paid.

B is the amount a Supreme Court judge would be entitled to be paid, on a pro rata basis, under sections 5 and 21 for the same period the retired judge sits as a judge.

C is the amount the retired judge receives as a pension for the period the retired judge sits as a judge.

Note—

For the remuneration of an acting judge who is not a retired acting Supreme Court judge, see the *Supreme Court of Queensland Act 1991*, section 6(9).

- (4) In this section—
retired acting Supreme Court judge means a retired Supreme Court judge appointed to act as a judge under the *Supreme Court of Queensland Act 1991*, section 6(1), (2) or (4).

Clause 92 Amendment of s 9 (District Court judge other than the Chief Judge)

(1) Section 9, heading, after ‘Judge’—

insert—

or retired acting District Court judge

(2) Section 9, ‘Chief Judge,’—

omit, insert—

Chief Judge or a retired acting District Court judge,

Clause 93 Insertion of new s 9A

After section 9—

insert—

9A Retired acting District Court judge

- (1) A retired acting District Court judge appointed to act as a judge on a full-time basis is entitled to be paid, for a financial year, an amount equivalent to the amount payable to a District Court judge under sections 9 and 21, less the amount the retired judge receives as a pension.
- (2) A retired acting District Court judge appointed to act as a judge on a sessional basis is entitled to be paid an amount decided by the Governor in Council and stated in the judge’s commission of appointment as a judge.
- (3) The amount decided under subsection (2) must not be less than the amount worked out using the formula—

$$A = B - C$$

where—

A is the minimum amount that a retired judge is entitled to be paid.

[s 94]

B is the amount a District Court judge would be entitled to be paid, on a pro rata basis, under sections 9 and 21 for the same period the retired judge sits as a judge.

C is the amount the retired judge receives as a pension for the period the retired judge sits as a judge.

Clause 94 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

pension means a pension under the *Judges (Pensions and Long Leave) Act 1957*.

retired acting District Court judge means a retired District Court judge appointed to act as a judge under the *District Court of Queensland Act 1967*, section 17(3).

Part 22 Amendment of Justices Act 1886

Clause 95 Act amended

This part amends the *Justices Act 1886*.

**Clause 96 Amendment of s 104 (Proceedings upon an examination
of witnesses in relation to an indictable offence)**

Section 104(5), ‘crown solicitor’—

omit, insert—

director of public prosecutions

Clause 97 Amendment of s 154 (Copies of record)

(1) Section 154—

insert—

(5A) The Minister may delegate the Minister’s power under subsection (2) to the chief executive.

(5B) The chief executive may subdelegate the Minister’s power delegated to the chief executive under subsection (6) to an appropriately qualified officer or employee of the department.

(2) Section 154(6)—

insert—

appropriately qualified, for an officer or employee to whom the Minister’s power may be subdelegated, includes having the qualifications, experience or standing appropriate for the power.

Example of standing for an officer or employee of a department—

the officer or employee’s classification level in the department

(3) Section 154(5A) to (6)—

renumber as section 154(6) to (8).

**Part 23 Amendment of Justices of the
Peace and Commissioners for
Declarations Act 1991**

Clause 98 Act amended

This part amends the *Justices of the Peace and Commissioners for Declarations Act 1991*.

[s 99]

Clause 99 Amendment of s 3 (Interpretation)

Section 3, definition *contact details*, after ‘number’—
insert—

, email address (if any)

Clause 100 Amendment of s 13 (Register of justices of the peace and commissioners for declarations)

(1) Section 13(2)—

omit, insert—

(2) The register—

(a) may be in hard copy or electronic form; and

(b) must state, for each person who is a justice of the peace or commissioner for declarations—

(i) the person’s name and contact details; and

(ii) the person’s particulars of appointment; and

(c) must be kept available for inspection under section 38A at each office of the registrar.

(2) Section 13(3)—

omit.

Clause 101 Amendment of s 21 (Registration of justices of the peace and commissioners for declarations)

(1) Section 21(1), ‘subsection (7)’—

omit, insert—

subsection (8)

(2) Section 21(6) and (7)—

renumber as section 21(7) and (8).

(3) Section 21—

insert—

- (6) However, the registrar is not required to notify the appointment and registration of a person under subsection (5) if the registrar considers withholding notification is necessary to protect the safety or wellbeing of the person or a relative of the person.

Examples of persons for whom the registrar may consider withholding notification is necessary—

- a person, or a relative of the person, whose occupation involves the administration or enforcement of the law, for example, a police officer, inspector or corrective services officer
- a person who has reasonably held concerns for the safety or wellbeing of the person, or a relative, because of domestic violence or the commission of an offence

Clause 102 Amendment of s 38 (Publication of office holders)

Section 38(2), ‘section 13(3)’—

omit, insert—

section 38A(3)

Clause 103 Insertion of new s 38A

After section 38—

insert—

38A Access to register

- (1) A person may apply to the registrar to inspect the register.
- (2) The registrar may grant the application only if the registrar considers the applicant has a sufficient interest in inspecting the register.

[s 104]

- (3) The registrar may withhold from inspection the contact details of a person who is a justice of the peace or commissioner for declarations if the registrar considers it necessary to protect the safety or wellbeing of the person or a relative of the person.

Examples of persons for whom the registrar may consider it necessary to protect the safety or wellbeing—

- a person, or a relative of the person, whose occupation involves the administration or enforcement of the law, for example, a police officer, inspector or corrective services officer
- a person who has reasonably held concerns for the safety or wellbeing of the person, or a relative, because of domestic violence or the commission of an offence

Part 24 Amendment of Land Court Act 2000

Clause 104 Act amended

This part amends the *Land Court Act 2000*.

Clause 105 Amendment of s 5 (Jurisdiction of Land Court)

Section 5(1) and (2), ‘an Act’—

omit, insert—

this Act or another Act

Clause 106 Insertion of new s 7B

Before section 8—

insert—

7B Land Court order may be enforced in Supreme Court

- (1) An order of the Land Court may be made an order of the Supreme Court and enforced in the Supreme Court.
- (2) For subsection (1), it is enough to file the order in the Supreme Court.

Clause 107 Amendment of s 12 (Power to rehear matters)

Section 12(2), ‘by the court’—

omit, insert—

, unless a longer period is allowed by the court

Clause 108 Amendment of s 14 (Single member to constitute Land Court)

Section 14, ‘an Act’—

omit, insert—

this Act or another Act

Clause 109 Amendment of s 31 (Rehearing after judicial registrar’s decision)

(1) Section 31(2)—

renumber as section 31(3).

(2) Section 31—

insert—

- (2) The party must apply to have the matter reheard within 42 days after the order containing the decision of the judicial registrar is made, unless a longer period is allowed by the court.

[s 110]

- Clause 110 Amendment of s 32 (Judicial registrar may exercise certain judicial or quasi-judicial powers)**
Section 32(1), ‘an Act’—
omit, insert—
this Act or another Act
- Clause 111 Amendment, relocation and renumbering of s 32J (Land Court has power of the Supreme Court for particular purposes)**
- (1) Section 32J, heading, ‘for particular purposes’—
omit.
 - (2) Section 32J(1)—
omit.
 - (3) Section 32J(2), ‘an Act’—
omit, insert—
this Act or another Act
 - (4) Section 32J(6) to (9)—
omit, insert—
 - (6) Subsection (1) has effect subject to—
 - (a) another provision of this Act; and
 - (b) a provision of another Act under which jurisdiction is conferred on the Land Court.
 - (5) Section 32J, as amended—
relocate and renumber as section 7A(1) to (5).
- Clause 112 Amendment of s 34 (Costs)**
Section 34(3) to (6)—
omit.

Clause 113 Amendment of s 36 (Preliminary conference)

- (1) Section 36(1), from ‘hearing’ to ‘proceeding’—
omit, insert—
may arrange for each party to a proceeding
- (2) Section 36(7), ‘hearing or’—
omit.

Clause 114 Amendment of s 48 (Registrar, deputy registrars and other officers)

- Section 48(1)—
omit, insert—
(1) There is to be a registrar of the Land Court.

Clause 115 Amendment of s 52 (Court records)

- Section 52(2)—
omit.

Clause 116 Amendment of s 54 (Jurisdiction of Land Appeal Court)

- Section 54, ‘an Act’—
omit, insert—
this Act or another Act

Clause 117 Amendment of s 61 (President decides members for Land Appeal Court)

- Section 61, ‘an Act’—
omit, insert—
this Act or another Act

[s 118]

Clause 118 Amendment of s 65 (Notice of appeal)

- (1) Section 65(3)—
renumber as section 65(4).
- (2) Section 65—
insert—
 - (3) The court may extend the period for serving the notice of appeal under subsection (1).

Part 25 Amendment of Legal Aid Queensland Act 1997

Clause 119 Act amended

This part amends the *Legal Aid Queensland Act 1997*.

Note—

See also the amendments in schedule 1.

Clause 120 Amendment of s 19 (How Legal Aid may enforce a condition of an approval)

Section 19(2), from ‘Legal Aid agent’ to ‘agent’s’—

omit, insert—

Legal Aid service provider under a condition of approval for legal assistance, the service provider, with Legal Aid’s written approval, may start a proceeding in the service provider’s

Clause 121 Amendment of s 46 (Power to enter into legal assistance arrangements and other agreements)

Section 46(4), ‘as Legal Aid’s agent’—

omit.

Clause 122 Omission of s 81 (Legal Aid not liable for particular acts or omissions of Legal Aid agents)

Section 81—

omit.

Clause 123 Amendment of sch (Dictionary)

(1) Schedule, definition *Legal Aid agent*—

omit.

(2) Schedule—

insert—

Legal Aid service provider means an entity with whom Legal Aid has entered into an agreement under section 46(4).

Part 26 Amendment of Legal Profession Act 2007

Clause 124 Act amended

This part amends the *Legal Profession Act 2007*.

124A Amendment of s 357 (Application of pt 3.6)

Section 357(2), from ‘an entity’ to ‘regulation as’—

omit.

Clause 125 Amendment of s 662 (Administrative support of the board)

(1) Section 662 heading, ‘of the board’—

omit, insert—

[s 126]

and legal services

- (2) Section 662(2)—
renumber as section 662(3).
- (3) Section 662—
insert—
- (2) An Australian legal practitioner employed by the law society may provide legal services to the board if it is a condition of the practitioner's employment to do so.
- (4) Section 662(3), as renumbered, before 'administrative'—
insert—
legal services and

Clause 126 Insertion of new s 662A

Chapter 7, part 7.5, division 3, after section 662—

insert—

662A Australian legal practitioner does not breach practising certificate by providing legal service to board

- (1) This section applies to an Australian legal practitioner who—
- (a) is employed by the law society and, as a condition of that employment, is required to provide legal services to the board; and
- (b) has as a condition of the practitioner's practising certificate a requirement not to engage in legal practice other than providing in-house legal services under section 353(2)(b).
- (2) The Australian legal practitioner does not fail to comply with the condition on the practitioner's legal practising certificate merely by providing

legal services to the board in the course of the practitioner's employment by the law society.

126A Amendment of s 706 (Duty of relevant entities to report suspected offences)

(1) Section 706(1)—

insert—

(c) an offence against part 2.2 committed by a person employed by or appointed to a government entity engaged in legal practice for the entity, if the relevant entity considers that the person committed the offence inadvertently.

(2) Section 706(10)—

insert—

government entity means an agency, authority or instrumentality of this jurisdiction, the Commonwealth or another jurisdiction, other than an entity mentioned in section 12(1)(a) to (d).

Clause 127 Insertion of new ch 10, pt 4

After section 778—

insert—

[s 127A]

Part 4

Transitional provisions for Justice and Other Legislation Amendment Act 2013

779 Application of amendments made by Justice and Other Legislation Amendment Act 2013

- (1) This section applies if, before the commencement of this section, an Australian legal practitioner employed by the law society provided legal services to the board.
- (2) Section 662A(2) applies to the Australian legal practitioner in providing the services as if the services had been provided after the commencement.

780 Amendment of regulation by Justice and Other Legislation Amendment Act 2013

The amendment of the *Legal Profession Regulation 2007* by the *Justice and Other Legislation Amendment Act 2013* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

127A Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

community legal service means—

- (a) an organisation that—
 - (i) holds itself out as—
 - (A) a community legal service; or
 - (B) a community legal centre; or

- (C) an Aboriginal and Torres Strait Islander Legal Service; or
- (D) a family violence prevention legal service; and
- (ii) is established and operated on a not-for-profit basis; and
- (iii) provides legal services that—
 - (A) are directed generally to people who are disadvantaged (including being financially disadvantaged) in accessing the legal system or in protecting their legal rights; or
 - (B) are conducted in the public interest; and
- (iv) satisfies any other criteria prescribed under a regulation; or
- (b) an organisation prescribed under a regulation as a community legal service.

Part 26A Amendment of Legal Profession Regulation 2007

127B Regulation amended

This part amends the *Legal Profession Regulation 2007*.

127C Amendment of s 10 (Nature of incorporated legal practices)

Section 10(a), before ‘a community’—

insert—

a corporation that is

[s 127D]

127D Amendment of sch 2 (Dictionary)

Schedule 2, definition *community legal service*—
omit.

Part 27 Amendment of Magistrates Act 1991

Clause 128 Act amended

This part amends the *Magistrates Act 1991*.

Clause 129 Amendment of s 5 (Appointment of magistrates)

Section 5(7)—
omit, insert—

- (7) The Governor in Council may appoint 1 or more magistrates as a Deputy Chief Magistrate.

Clause 130 Amendment of s 5A (Appointment of acting Deputy Chief Magistrate)

(1) Section 5A(1)—
omit, insert—

- (1) This section applies if—
- (a) a Deputy Chief Magistrate's position is vacant; or
 - (b) a Deputy Chief Magistrate is not available to perform the functions of a Deputy Chief Magistrate, because of absence or another reason.

(2) Section 5A(2), 'the Deputy Chief Magistrate'—
omit, insert—

a Deputy Chief Magistrate

Clause 131 Amendment of s 11 (District Court judge appointed as Chief Magistrate)

(1) Section 11(5) to (7)—

renumber as section 11(6) to (8).

(2) Section 11—

insert—

- (5) The Chief Magistrate may exercise, throughout the State, all the jurisdiction, powers and functions conferred on a magistrate, by or under any law of the State.

Clause 132 Amendment of s 12 (Functions of Chief Magistrate)

(1) Section 12(2)(a) to (e)—

omit, insert—

- (a) deciding the magistrates who are to constitute the Magistrates Courts at particular places appointed under the *Justices Act 1886*, section 22B(1)(c) or who are to perform particular functions; and
- (b) giving directions about the practices and procedures of Magistrates Courts; and
- (c) deciding the magistrates who are to exercise the jurisdiction and powers of Magistrates Courts in particular matters or particular classes of matters; and
- (d) allocating the functions to be exercised by particular magistrates and deciding when and where the functions are to be exercised; and
- (e) deciding the days, places and times for constituting Magistrates Courts; and

[s 132]

- (f) nominating a magistrate to be a supervising magistrate or a coordinating magistrate for the purpose of allocating the work of Magistrates Courts; and
 - (g) nominating a Deputy Chief Magistrate to act as the Chief Magistrate under section 14(b); and
 - (h) giving directions to an acting magistrate or acting judicial registrar about when the person is to carry out the duties of office of a magistrate or judicial registrar during the person's period of appointment.
- (2) Section 12(3) to (4)—
renumber as section 12(5) to (7).
- (3) Section 12—
insert—
- (3) Also, for the *Childrens Court Act 1992*, section 5(3)(b) or (c), the Chief Magistrate is responsible for deciding the magistrates or other persons who are to constitute the Childrens Court at particular places and times under that Act.
 - (4) Also, the Chief Magistrate is responsible for directing magistrates to undertake professional development and continuing education and training.
- (4) Section 12(6), as renumbered—
omit, insert—
- (6) The Chief Magistrate may delegate the Chief Magistrate's powers under subsection (2)(c), (d), (e) or (h) to—
 - (a) a Deputy Chief Magistrate; or
 - (b) another magistrate appointed on a full-time basis.

(5) Section 12(7), as renumbered, ‘subsection (2)(a) and (c)’—
omit, insert—

subsections (2)(a), (c) and (d) and (4)

(6) Section 12—
insert—

(8) In subsection (2)(a), (c) and (d), a reference to magistrates includes a reference to justices of the peace constituting a Magistrates Court.

Clause 133 Amendment of s 13 (Deputy Chief Magistrate)

(1) Section 13(1), ‘The Deputy Chief Magistrate’—
omit, insert—

A Deputy Chief Magistrate

(2) Section 13(2), ‘the Deputy Chief Magistrate’—
omit, insert—

a Deputy Chief Magistrate

Clause 134 Amendment of s 14 (Functions of Deputy Chief Magistrate)

(1) Section 14, ‘The Deputy Chief Magistrate’—
omit, insert—

A Deputy Chief Magistrate

(2) Section 14(b), before ‘may’—
insert—

if the magistrate is nominated under section 12(2)(g),

Clause 135 Amendment of s 17 (Composition of advisory committee)

(1) Section 17(1) to (3)—
omit, insert—

[s 136]

- (1) The advisory committee has the following members—
 - (a) the relevant Deputy Chief Magistrate;
 - (b) the State Coroner;
 - (c) 3 temporary members.
 - (2) The relevant Deputy Chief Magistrate is the chairperson of the advisory committee.
 - (3) The temporary members are magistrates selected by the Chief Magistrate in consultation with the chairperson and the State Coroner.
- (2) Section 17(8)—

insert—

relevant Deputy Chief Magistrate means—

- (a) if there is only 1 Deputy Chief Magistrate—the Deputy Chief Magistrate;
or
- (b) if there is more than 1 Deputy Chief Magistrate—a Deputy Chief Magistrate selected by the Chief Magistrate.

Clause 136 Amendment of s 19 (Presiding at meetings)

Section 19, ‘Deputy Chief Magistrate’—

omit, insert—

chairperson

Clause 137 Amendment of s 30 (Temporary transfer decisions about constituting Magistrates Courts)

Section 30(1)—

insert—

Example of a decision under subsection (1)—

The Chief Magistrate decides that a magistrate is to constitute a Magistrates Court on a temporary basis, or on circuit, for a period of 2 weeks.

Clause 138 Amendment of s 53A (Appointment of acting judicial registrars)

(1) Section 53A(5)—

renumber as section 53A(7).

(2) Section 53A—

insert—

- (5) A person who is appointed to act as a judicial registrar for a specified period acts as a judicial registrar only when directed by the Chief Magistrate to carry out the duties of office of a judicial registrar during the person's period of appointment.
- (6) The Chief Magistrate may direct the person to carry out the duties of a judicial registrar on a full-time basis, part-time basis or from time to time.

Part 28 Amendment of Magistrates Courts Act 1921

Clause 139 Act amended

This part amends the *Magistrates Courts Act 1921*.

Clause 140 Insertion of new s 57C

After section 57B—

insert—

[s 141]

57C Rule-making power

- (1) The Governor in Council may make rules of court providing for the practices and procedure of—
 - (a) a proceeding in a court under the *Domestic and Family Violence Protection Act 2012*; or
 - (b) a registry of a court in relation to a proceeding under that Act.
- (2) A rule may only be made with the consent of the Chief Magistrate.
- (3) Rules of court made under this section are to be called the *Domestic and Family Violence Protection Rules*.
- (4) In this section—
court see the *Domestic and Family Violence Protection Act 2012*, section 6.

Part 29

Amendment of Peaceful Assembly Act 1992

Clause 141 Act amended

This part amends the *Peaceful Assembly Act 1992*.

Clause 142 Replacement of s 17 (Delegation of powers)

Section 17—

omit, insert—

17 Limitation on delegation

The Commissioner's powers under this Act may be delegated only to a police officer who is of the rank of sergeant or higher.

Note—

Under the *Police Service Administration Act 1990*, section 4.10, the Commissioner has the power to delegate the Commissioner's powers.

Part 29A Amendment of Penalties and Sentences Act 1992

142A Act amended

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

142B Amendment of s 4 (Definitions)

Section 4, definition *drug trafficking offence—*
omit.

142C Amendment of s 160A (Application of ss 160B–160D)

Section 160A(4), example—
omit, insert—

Examples—

- Criminal Code, section 305(2) and (4)
- *Drugs Misuse Act 1986*, section 5(2) and (3)

142D Amendment of s 160C (Sentence of more than 3 years and not a serious violent offence, sexual offence or drug trafficking offence)

Section 160C, heading—
omit, insert—

[s 142E]

160C Sentence of more than 3 years and not a serious violent offence or sexual offence

142E Amendment of s 160D (Sentence for a serious violent offence, sexual offence or drug trafficking offence)

(1) Section 160D, heading—

omit, insert—

160D Sentence for a serious violent offence or sexual offence

(2) Section 160D(1), ‘, a sexual offence or a drug trafficking offence’—

omit, insert—

or a sexual offence

142F Amendment of s 160E (Automatic cancellation of parole release or eligibility dates)

Section 160E(1)(b)(i) and (2)(b)(i), ‘, a sexual offence or a drug trafficking offence’—

omit, insert—

or a sexual offence

142G Insertion of new pt 14, div 7

After section 231—

insert—

**Division 7 Transitional provision for
Justice and Other
Legislation Amendment
Act 2013**

232 Transitional provision for sch 1

Schedule 1, as amended by the *Justice and Other Legislation Amendment Act 2013*, is taken to have had effect on and from 13 August 2013.

142H Amendment of sch 1 (Serious violent offences)

- (1) Schedule 1, under the heading ‘Drugs Misuse Act 1986’, items 1 and 2—
renumber as items 2 and 3.
- (2) Schedule 1, under the heading ‘Drugs Misuse Act 1986’—
insert—
 - 1 section 5 (Trafficking in dangerous drugs), if the act or omission constituting the offence wholly or partly occurred before 13 August 2013

**Part 30 Amendment of Personal
Injuries Proceedings Act 2002**

Clause 143 Act amended

This part amends the *Personal Injuries Proceedings Act 2002*.

Clause 144 Amendment of s 67A (Exemption from s 67(3) and (4))

Section 67A(2), definition *community legal service*—
omit, insert—

[s 145]

community legal service see the *Legal Profession Act 2007*, schedule 2.

Part 31 Amendment of Queensland Civil and Administrative Tribunal Act 2009

Clause 145 Act amended

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

Clause 146 Amendment of s 46 (Withdrawal of application or referral)

(1) Section 46(2)—

renumber as section 46(3).

(2) Section 46(1)—

omit, insert—

- (1) An applicant may, in the way stated in the rules, withdraw the applicant's application or referral for a matter before the matter is heard and decided by the tribunal.
- (2) However, if the application or referral is made under any of the following, the applicant may withdraw the application or referral only with the leave of the tribunal—
 - (a) the *Child Protection Act 1999*;
 - (b) the *Disability Services Act 2006*, section 123ZK(8) or 123ZN(5);
 - (c) the *Guardianship and Administration Act 2000*;
 - (d) the *Powers of Attorney Act 1998*.

Clause 147 Amendment of s 50 (Decision by default for debt)

(1) Section 50, heading, after ‘debt’—

insert—

or liquidated demand of money

(2) Section 50(2), ‘an order in favour of the applicant (a *decision by default*)’—

omit, insert—

a decision by default

Clause 148 Insertion of new s 50A

After section 50—

insert—

50A Decision by default for unliquidated damages

(1) This section applies if—

- (a) a person has applied to the tribunal to recover an amount consisting of, or including, unliquidated damages from a person (the *respondent*); and
- (b) an enabling Act that is an Act, or the rules, states that the respondent must respond to the application within a stated period; and
- (c) the respondent has not responded to the application within the stated period.

(2) The applicant may, in the way stated in the rules, apply to the tribunal for a decision by default conditional on the assessment by the tribunal of the unliquidated damages.

(3) The application may also include a claim for—

- (a) any liquidated amount claimed in the application starting the proceeding; and

[s 149]

- (b) interest on the liquidated amount claimed at the rate the tribunal considers appropriate; and
 - (c) the fee paid for the application; and
 - (d) legal costs based on a scale stated in the rules.
- (4) The principal registrar may decide the application.
- (5) If a decision by default is given under subsection (4)—
- (a) the decision is taken to be a final decision of the tribunal in the proceeding; and
 - (b) the tribunal must assess the unliquidated damages.
- (6) The applicant must prove the respondent has been given a copy of the application before a decision by default may be made under this section.

Clause 149 Amendment of s 51 (Setting aside decision by default)

Section 51, ‘under section 50’—

omit.

Clause 150 Amendment of s 122 (Request for written reasons)

Section 122—

insert—

- (4) However, the tribunal is not required to comply with a request for written reasons for a decision made under section 51, 54(1), 55(1), 56(1), 57, 61(1), 62(1) or (3), 63(1) or (4) or 64(1).

Clause 151 Amendment of s 137 (Definitions for div 7)

(1) Section 137, heading, ‘Definitions’—

omit, insert—

Definition

(2) Section 137, definition *reopening ground*—

omit.

Clause 152 Amendment of s 142 (Party may appeal)

(1) Section 142(2)(b)—

renumber as section 142(2)(c).

(2) Section 142(2)—

insert—

(b) a decision to set aside a decision by default under section 51;

Clause 153 Amendment of s 143 (Appealing or applying for leave to appeal)

Section 143(5), definition *relevant day*, paragraphs (a) and (b)—

omit, insert—

(a) if a person makes an application under part 7, division 5, 6 or 7 about the decision being appealed against within 28 days after the person is given written reasons for the decision—the day that application is finally dealt with under that division; or

(b) if written reasons have not been given for the decision being appealed against and reasons have not been requested under section 122 or are not required to be given—the day the person received notice of the decision; or

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- (c) the day the person is given written reasons for the decision being appealed against.

Clause 154 Insertion of new s 143A

After section 143—

insert—

143A Referring matter to tribunal to consider reopening

- (1) This section applies if—
 - (a) an application or appeal is filed under section 143; and
 - (b) the appeal tribunal considers—
 - (i) the reasons for the application or appeal may constitute a reopening ground for the applicant or appellant in the proceeding to which the application or appeal relates; and
 - (ii) the application or appeal could be more effectively or conveniently dealt with if it were taken to be an application under part 7, division 7 for a proceeding to be reopened.
- (2) The appeal tribunal may refer the matter to the tribunal to decide whether the proceeding should be reopened.
- (3) If the appeal tribunal refers the matter—
 - (a) the applicant or appellant is taken—
 - (i) to have made an application for the proceeding to be reopened under section 138; and
 - (ii) not to have made an application or appeal under section 143; and

- (b) the appeal tribunal must give notice of the referral to—
 - (i) each party to the proceeding; and
 - (ii) any other person the tribunal reasonably considers should be given notice of the referral.

Clause 155 Amendment of s 151 (Appealing or applying for leave to appeal)

Section 151(3), definition *relevant day*, paragraphs (a) and (b)—
omit, insert—

- (a) if a person makes an application under part 7, division 5, 6 or 7 about the decision being appealed against within 28 days after the person is given written reasons for the decision—the day that application is finally dealt with under that division; or
- (b) if written reasons have not been given for the decision being appealed against and reasons have not been requested under section 122 or are not required to be given—the day the person received notice of the decision; or
- (c) the day the person is given written reasons for the decision being appealed against.

Clause 156 Amendment of s 218 (Contempt of tribunal)

Section 218(1)(b) and (d), ‘or mediation’—
omit, insert—

, mediation or conciliation

Clause 157 Amendment of s 237 (Immunity of participants etc.)

(1) Section 237(3), from ‘A’ to ‘a mediator’—

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omit, insert—

A mediator or conciliator has, in the performance of the mediator's or conciliator's functions as a mediator or conciliator

(2) Section 237(11)—

insert—

assessor includes a person appointed by the tribunal to assess costs under the rules.

conciliator means a person who conducts conciliation under the rules.

Clause 158 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definitions *decision by default* and *reopening ground*—

omit.

(2) Schedule 3—

insert—

decision by default, in relation to an application made under section 50(2) or 50A(2) claiming a debt, liquidated demand of money or unliquidated damages, means an order in favour of the applicant for the debt, liquidated demand or unliquidated damages claimed.

reopening ground, for a party to a proceeding, means—

- (a) the party did not appear at the hearing of the proceeding and had a reasonable excuse for not attending the hearing; or
- (b) the party would suffer a substantial injustice if the proceeding was not reopened because significant new evidence has arisen and that evidence was not reasonably available when the proceeding was first heard and decided.

Part 32 Amendment of Recording of Evidence Act 1962

Clause 159 Act amended

This part amends the *Recording of Evidence Act 1962*.

Clause 160 Amendment of s 4 (Definitions)

Section 4, definition *legal proceeding*, ‘or examination, but not including an arbitration’—

omit, insert—

, arbitration heard by the industrial commission, or examination

Part 33 Amendment of Right to Information Act 2009

Clause 161 Act amended

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

Clause 162 Amendment of s 114 (Vexatious applicants)

(1) Section 114(6)—

renumber as section 114(8).

(2) Section 114—

insert—

(6) The commissioner may publish—

(a) a declaration and the reasons for making the declaration; and

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- (b) a decision not to make a declaration and the reasons for the decision.
- (7) The commissioner may publish the name of a person the subject of a declaration under subsection (1) when publishing the declaration and the reasons for making it.

Part 34 Amendment of Statutory Instruments Act 1992

Clause 163 Act amended

This part amends the *Statutory Instruments Act 1992*.

Clause 164 Amendment of sch 2A (Subordinate legislation to which part 7 does not apply)

Schedule 2A, entry for rules of court, after the third dot point—
insert—

- the *Magistrates Courts Act 1921*

Part 35 Amendment of Succession Act 1981

Clause 165 Act amended

This part amends the *Succession Act 1981*.

Clause 166 Insertion of new pt 2, div 6A

After section 33Y—

insert—

Division 6A International wills

33YA Definitions for div 6A

In this division—

convention means the Convention providing a Uniform Law on the Form of an International Will 1973 signed in Washington on 26 October 1973.

international will means a will made in accordance with the requirements of the annex to the convention.

33YB Application of Convention

- (1) The annex to the convention has the force of law in this jurisdiction.
- (2) A copy of the annex to the convention is set out in schedule 3.

33YC Persons authorised to act in connection with international wills

- (1) In this division, the following persons are authorised to act in connection with an international will—
 - (a) an Australian legal practitioner;
 - (b) a public notary of a State;
 - (c) a person authorised to act in connection with an international will under a law of a convention country.
- (2) In this section—

Australian legal practitioner see the *Legal Profession Act 2007*, section 6.

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convention country means a country, other than Australia and its Territories, that is a party to the convention.

33YD Witnesses to international wills

The conditions for acting as a witness to an international will are governed by the law of this jurisdiction.

Note—

For the relevant provisions of this Act, see sections 10 (How a will must be executed) and 11 (When an interested witness may benefit from a disposition).

33YE Application of Act to international wills

To avoid doubt, it is declared that the provisions of this Act that apply to wills extend to international wills.

Clause 167 Insertion of new sch 3

After schedule 2—

insert—

Schedule 3 **Annex to Convention
providing a Uniform
Law on the Form of
an International Will
1973**

section 33YB

ANNEX

UNIFORM LAW ON THE FORM OF AN INTERNATIONAL WILL

Article 1

1. A will shall be valid as regards form, irrespective particularly of the place where it is made, of the location of the assets and of the nationality, domicile or residence of the testator, if it is made in the form of an international will complying with the provisions set out in Articles 2 to 5 hereinafter.
2. The invalidity of the will as an international will shall not affect its formal validity as a will of another kind.

Article 2

This law shall not apply to the form of testamentary dispositions made by two or more persons in one instrument.

Article 3

1. The will shall be made in writing.
2. It need not be written by the testator himself.
3. It may be written in any language, by hand or by any other means.

Article 4

1. The testator shall declare in the presence of two witnesses and of a person authorized to act in connection with international wills that the document is his will and that he knows the contents thereof.
2. The testator need not inform the witnesses, or the authorized person, of the contents of the will.

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Article 5

1. In the presence of the witnesses and of the authorized person, the testator shall sign the will or, if he has previously signed it, shall acknowledge his signature.
2. When the testator is unable to sign, he shall indicate the reason therefor to the authorized person who shall make note of this on the will. Moreover, the testator may be authorized by the law under which the authorized person was designated to direct another person to sign on his behalf.
3. The witnesses and the authorized person shall there and then attest the will by signing in the presence of the testator.

Article 6

1. The signatures shall be placed at the end of the will.
2. If the will consists of several sheets, each sheet shall be signed by the testator or, if he is unable to sign, by the person signing on his behalf or, if there is no such person, by the authorized person. In addition, each sheet shall be numbered.

Article 7

1. The date of the will shall be the date of its signature by the authorized person.
2. This date shall be noted at the end of the will by the authorized person.

Article 8

In the absence of any mandatory rule pertaining to the safekeeping of the will, the authorized person shall ask the testator whether he wishes to make a declaration concerning the safekeeping of his will. If so and at the express request of the testator the place where he intends to have his will kept shall be mentioned in the certificate provided for in Article 9.

Article 9

The authorized person shall attach to the will a certificate in the form prescribed in Article 10 establishing that the obligations of this law have been complied with.

Article 10

The certificate drawn up by the authorized person shall be in the following form or in a substantially similar form:

CERTIFICATE

(Convention of October 26, 1973)

1. I, (name, address and capacity), a person authorized to act in connection with international wills

2. Certify that on (date) at (place)

3. (testator)..... (name, address, date and place of birth) in my presence and that of the witnesses

4.(a)..... (name, address, date and place of birth)

(b)..... (name, address, date and place of birth)

has declared that the attached document is his will and that he knows the contents thereof.

5. I furthermore certify that:

6.(a) in my presence and in that of the witnesses

(1) the testator has signed the will or has acknowledged his signature previously affixed.

*(2) following a declaration of the testator stating that he was unable to sign his will for the following reason.....

—I have mentioned this declaration on the will

*—the signature has been affixed by..... (name, address)

7.(b) the witnesses and I have signed the will;

8.*(c) each page of the will has been signed by and numbered;

9.(d) I have satisfied myself as to the identity of the testator and of the witnesses as designated above;

10.(e) the witnesses met the conditions requisite to act as such according to the law under which I am acting;

11.*(f) the testator has requested me to include the following statement concerning the safekeeping of his will:.....

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12. PLACE

13. DATE

14. SIGNATURE and, if necessary, SEAL

Article 11

The authorized person shall keep a copy of the certificate and deliver another to the testator.

Article 12

In the absence of evidence to the contrary, the certificate of the authorized person shall be conclusive of the formal validity of the instrument as a will under this Law.

Article 13

The absence or irregularity of a certificate shall not affect the formal validity of a will under this Law.

Article 14

The international will shall be subject to the ordinary rules of revocation of wills.

Article 15

In interpreting and applying the provisions of this law, regard shall be had to its international origin and to the need for uniformity in its interpretation.

*To be completed if appropriate

Part 36

Amendment of Supreme Court of Queensland Act 1991

Clause 168 Act amended

This part amends the *Supreme Court of Queensland Act 1991*.

Clause 169 Amendment of s 6 (Acting judges)

- (1) Section 6(4) to (6)—
renumber as section 6(9) to (11).
- (2) Section 6—
insert—
- (4) The Governor in Council may by commission appoint a retired Supreme Court judge to act as a judge—
 - (a) for a period of not more than 2 years; and
 - (b) on a full-time or sessional basis.
 - (5) The Minister may recommend a retired Supreme Court judge for appointment under subsection (4) only after consultation with the Chief Justice.
 - (6) An appointment under subsection (4) must not extend beyond the day the retired judge reaches 78 years of age.
 - (7) A person appointed to act as a judge under this section—
 - (a) may be appointed more than once; and
 - (b) has, for the period and subject to the conditions stated in the judge's commission, the power and authority necessary to fulfil the duties of a judge.
 - (8) Despite subsection (6), a retired Supreme Court judge who, before the judge's commission ends, starts the hearing of a proceeding remains a judge for the purposes of finishing the proceeding.
- (3) Section 6(9), as renumbered, 'person who'—
omit, insert—
person, other than a retired Supreme Court Judge appointed under subsection (1), (2) or (4), who
- (4) Section 6(9), as renumbered—

[s 170]

insert—

Note—

For the remuneration of a retired Supreme Court judge who acts as a judge, see the *Judicial Remuneration Act 2007*, section 5A.

(5) Section 6—

insert—

(12) In this section—

retired Supreme Court judge means a person who—

- (a) has been a judge of the Supreme Court; and
- (b) has not reached 78 years of age.

Clause 170 Amendment of s 21 (Retirement of judges)

Section 21(2)—

omit, insert—

(2) Despite subsection (1)—

- (a) a judge who, before retiring, whether or not because of subsection (1), starts the hearing of a proceeding remains a judge for the purposes of finishing the proceeding; and
- (b) a retired Supreme Court judge appointed to act as a judge under section 6(4) remains a judge until the judge's appointment ends.

Clause 171 Amendment of s 85 (Rule-making power)

Section 85(1)—

insert—

Note—

See the *Magistrates Courts Act 1921*, section 57C, for the rules of court for a proceeding, other than an appeal,

under the *Domestic and Family Violence Protection Act 2012*.

Part 37 Amendment of Trusts Act 1973

Clause 172 Act amended

This part amends the *Trusts Act 1973*.

Clause 173 Amendment of s 5 (Definitions)

Section 5, definition *public accountant*, paragraphs (c) and (d), ‘an institute prescribed under the Corporations Act, section 1280(2)’—
omit, insert—

a university or institute prescribed under the Corporations Act, section 1280(2A)

Part 38 Other amendments

Clause 174 Acts amended in sch 1

Schedule 1 amends the Acts it mentions.

Schedule 1 Acts amended

section 174

Legal Aid Queensland Act 1997

- 1 Sections 5(2), 8, 9, 17(2)(a), 29, 33(1)(a), 34, 35 and 40, 'Legal Aid agent'—**

omit, insert—

Legal Aid service provider

- 2 Part 2, division 5, heading, 'Legal Aid agents'—**

omit, insert—

Legal Aid service providers

- 3 Sections 29, 34, 35 and 40, 'the agent'—**

omit, insert—

the service provider

- 4 Section 29(2), 'the agent's'**

omit, insert—

the service provider's

- 5 Sections 29(3) and 33(2), 'The agent'—**

omit, insert—

The service provider

- 6 Section 29(7), ‘An agent’—**
omit, insert—
A service provider
- 7 Section 33(3), ‘agent’—**
omit, insert—
service provider
- 8 Part 2, division 8, heading, ‘Legal Aid agents’—**
omit, insert—
Legal Aid service provider’s
- 9 Sections 40(3) and 44(1)(d), ‘Legal Aid agents’—**
omit, insert—
Legal Aid service providers

Retirement Villages Act 1999

- 10 Schedule, definition *mediator*, paragraph (a), ‘Dispute Resolution Centres Act 1990, section 19’—**
omit, insert—
Dispute Resolution Centres Act 1990, section 27AB