



Acts Interpretation Act 1954

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Queensland

Acts Interpretation Act 1954

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Acts Interpretation Act 1954

An Act to assist in the shortening and interpretation of Queensland Acts

Part 1 Preliminary

1 Short title

This Act may be cited as the *Acts Interpretation Act 1954*.

2 Act applies to all Acts

This Act applies to all Acts (including this Act).

Note—

For the application of this Act to statutory instruments, see the *Statutory Instruments Act 1992*, part 4, divisions 1 and 2.

4 Displacement of Act by contrary intention

The application of this Act may be displaced, wholly or partly, by a contrary intention appearing in any Act.

5 Act binds Crown

This Act binds the Crown.

Part 2 Meaning of Act

6 References to Act

(1) In an Act—

Act means an Act of the Queensland Parliament, and includes—

- (a) a British or New South Wales Act that is in force in Queensland; and
 - (b) an enactment of an earlier authority empowered to pass laws in Queensland that has received assent.
- (2) In an Act, a reference to ‘an Act’ includes the Act in which the reference is.

7 Act includes statutory instruments under Act etc.

- (1) In an Act, a reference (either generally or specifically) to a law (including the Act), or a provision of a law (including the Act), includes a reference to the statutory instruments made or in force under the law or provision.
- (2) In subsection (1)—
- law* includes a law of the Commonwealth, another State or a Territory.

Part 3 General provisions applying to Acts

9 Interpretation of Act in relation to Parliament’s legislative power

- (1) An Act is to be interpreted as operating—
- (a) to the full extent of, but not to exceed, Parliament’s legislative power; and
 - (b) distributively.
- (1A) Without limiting subsection (1)(a), it is declared that subsection applies (and always applied) to the legislative power conferred on Parliament under the *Coastal Waters (State Powers) Act 1980* (Cwlth), section 5 and the *Coastal Waters (State Title) Act 1980* (Cwlth), section 4.

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- (1B) Subsection (1A) does not apply in relation to the substantive criminal law, and the law of criminal investigation, procedure and evidence, under the cooperative scheme as defined under the *Crimes at Sea Act 2001*, section 3.
- (2) Without limiting subsection (1), if a provision of an Act would, apart from this section, be interpreted as exceeding power—
- (a) the provision is valid to the extent to which it does not exceed power; and
 - (b) the remainder of the Act is not affected.
- (3) Without limiting subsection (1), if the application of a provision of an Act to a person, matter or circumstance would, apart from this section, be interpreted as exceeding power, the provision's application to other persons, matters or circumstances is not affected.
- (4) This section applies to an Act in addition to, and without limiting, any provision of the Act.

9A Declaration of validity of certain laws

Each provision of an Act enacted, or purporting to have been enacted, before the commencement of the Australia Acts has (and always has had) the same effect as it would have had, and is (and always has been) as valid as it would have been, if the Australia Acts had been in operation at the time of its enactment or purported enactment.

10 Section has effect as substantive enactment

Every section of an Act has effect as a substantive enactment without introductory words.

11 Acts to be public Acts

Every Act passed after 26 July 1852 is a public Act unless the Act otherwise expressly provides.

12 Private Acts not to affect rights of others

- (1) A private Act does not—
 - (a) affect pre-existing rights in a way prejudicial to the Crown or another person; or
 - (b) impose liabilities on the Crown or another person in relation to previous acts or omissions;except so far as the Act otherwise expressly provides.
- (2) Subsection (1) does not affect rights conferred, or liabilities imposed, on—
 - (a) a person at whose instance, or for whose special benefit, the Act is passed; or
 - (b) another person claiming by, through or under such a person.

12A Private Acts amended by public Acts do not become public Acts

A private Act does not become a public Act merely because it has been amended by or under a public Act.

13 Future Acts when binding on the Crown

No Act passed after the commencement of this Act shall be binding on the Crown or derogate from any prerogative right of the Crown unless express words are included in the Act for that purpose.

13A Acts not to affect native title except by express provision

- (1) An Act enacted after the commencement of this section affects native title only so far as the Act expressly provides.
- (2) For the purposes of subsection (1), an Act affects native title if it extinguishes the native title rights and interests or it is otherwise wholly or partly inconsistent with their continued existence, enjoyment or exercise.

13B Acts not to affect powers, rights or immunities of Legislative Assembly except by express provision

- (1) An Act enacted after the commencement of this section affects the powers, rights or immunities of the Legislative Assembly or of its members or committees only so far as the Act expressly provides.
- (2) For subsection (1), an Act affects the powers, rights or immunities mentioned in the subsection if it abolishes any of the powers, rights or immunities or is otherwise wholly or partly inconsistent with their continued existence, enjoyment or exercise.
- (3) In this section—
rights includes privileges.

14 Material that is, and is not, part of an Act

- (1) A heading to a chapter, part, division or subdivision of an Act is part of the Act.
- (2) A heading to a section, subsection or another provision of an Act is part of the Act if—
 - (a) the Act is enacted after 30 June 1991; or
 - (b) the heading is amended or inserted after 30 June 1991.
- (3) An example in an Act of the operation of a provision of the Act is part of the Act.
- (4) A note in an Act to the Act or to a provision of the Act, as opposed to a footnote, an editor's note or an endnote mentioned in subsection (7), is part of the Act.
Example of a note—
See the note to section 2.
Example of a footnote—
See the footnote to schedule 1, definition *Acting Governor*.
- (5) A schedule or appendix of an Act is part of the Act.
- (6) Punctuation in an Act is part of the Act.

- (7) A footnote or editor's note to an Act or to a provision of an Act, and an endnote to an Act, are not part of the Act.

14A Interpretation best achieving Act's purpose

- (1) In the interpretation of a provision of an Act, the interpretation that will best achieve the purpose of the Act is to be preferred to any other interpretation.
- (2) Subsection (1) does not create or extend criminal liability, but applies whether or not the Act's purpose is expressly stated in the Act.
- (3) To remove any doubt, it is declared that this section applies to an Act passed after 30 June 1991 despite any presumption or rule of interpretation.

Example—

There is judicial authority for a rule of interpretation that taxing legislation is to be interpreted strictly and in a taxpayer's favour (for example, see *Partington v AG* (1869) LR 4 HL 100 at 122). Despite such a possible rule, this section requires a provision imposing taxation to be interpreted in the way that best achieves the Act's purpose, whether or not to do so would be in a taxpayer's favour.

14B Use of extrinsic material in interpretation

- (1) Subject to subsection (2), in the interpretation of a provision of an Act, consideration may be given to extrinsic material capable of assisting in the interpretation—
- (a) if the provision is ambiguous or obscure—to provide an interpretation of it; or
- (b) if the ordinary meaning of the provision leads to a result that is manifestly absurd or is unreasonable—to provide an interpretation that avoids such a result; or
- (c) in any other case—to confirm the interpretation conveyed by the ordinary meaning of the provision.
- (2) In determining whether consideration should be given to extrinsic material, and in determining the weight to be given to extrinsic material, regard is to be had to—

- (a) the desirability of a provision being interpreted as having its ordinary meaning; and
- (b) the undesirability of prolonging proceedings without compensating advantage; and
- (c) other relevant matters.

(3) In this section—

extrinsic material means relevant material not forming part of the Act concerned, including, for example—

- (a) material set out in an official copy of the Act; and
- (b) a report of a royal commission, law reform commission, commission or committee of inquiry, or a similar body, that was laid before the Legislative Assembly before the provision concerned was enacted; and
- (c) a report of a committee of the Legislative Assembly that was made to the Legislative Assembly before the provision was enacted; and
- (d) a treaty or other international agreement that is mentioned in the Act; and
- (e) an explanatory note or memorandum relating to the Bill that contained the provision, or any other relevant document, that was laid before, or given to the members of, the Legislative Assembly by the member bringing in the Bill before the provision was enacted; and
- (f) the speech made to the Legislative Assembly by the member when introducing the Bill; and

Note—

See section 53 in relation to Bills introduced before the commencement of that section.

- (g) material in an official record of proceedings in the Legislative Assembly; and
- (h) a document that is declared by an Act to be a relevant document for the purposes of this section.

ordinary meaning means the ordinary meaning conveyed by a provision having regard to its context in the Act and to the purpose of the Act.

14C Changes of drafting practice not to affect meaning

If—

- (a) a provision of an Act expresses an idea in particular words; and
- (b) a provision enacted later appears to express the same idea in different words for the purpose of implementing a different legislative drafting practice, including, for example—
 - (i) the use of a clearer or simpler style; or
 - (ii) the use of gender-neutral language;

the ideas must not be taken to be different merely because different words are used.

14D Examples

If an Act includes an example of the operation of a provision—

- (a) the example is not exhaustive; and
- (b) the example does not limit, but may extend, the meaning of the provision; and
- (c) the example and the provision are to be read in the context of each other and the other provisions of the Act, but, if the example and the provision so read are inconsistent, the provision prevails.

Part 4 Reference to and citation of Acts

14E References to Acts generally

An Act passed by Parliament, or any earlier legislature empowered to pass laws for Queensland, may be referred to by the word *Act* alone.

14F References to particular Acts

- (1) An Act may be cited—
- (a) by its short title; or
 - (b) by reference to the year in which it was passed and its number.

Examples of citations—

- 1 Statutory Instruments Act 1992
- 2 Statutory Instruments Act 1992, No. 22
- 3 Act No. 22 of 1992
- 4 1992 Act No. 22

- (2) A Commonwealth Act may be cited—
- (a) by its short title; or
 - (b) in another way sufficient in a Commonwealth Act for the citation of such an Act;
- together with a reference to the Commonwealth.
- (3) An Act of another State or a Territory may be cited—
- (a) by its short title; or
 - (b) in another way sufficient in an Act of the State or Territory for the citation of such an Act;
- together with a reference to the State or Territory.
- (4) A British Act may be cited—
- (a) by its short title; or

- (b) in another way sufficient in a British Act for the citation of such an Act;

together with a reference to the United Kingdom or the term ‘UK’, ‘Imperial Act’ or ‘Imp’.

14G References to enactments

- (1) An enactment may be cited by reference to the provision of the Act in which it is contained.
- (2) The reference is to be made according to an official copy of—
 - (a) the Act; or
 - (b) the Act as amended.
- (3) In this section—

Act includes Commonwealth Act, Act of another State, Territory Act or British Act.

enactment includes any portion of an Act.

official copy—

- (a) of an Act of Queensland or an Act of Queensland as amended—see schedule 1, definition *official copy*; or
- (b) of an Act of another jurisdiction or an Act of another jurisdiction as amended—means a copy, including a reproduction in electronic form, of the Act or the Act as amended that, under a law of the jurisdiction, is presumed to be a correct copy of the Act or the Act as amended, in the absence of evidence to the contrary.

14H References taken to be included in reference to law

- (1) In an Act, a reference to a law (including the Act) includes a reference to the following—
 - (a) the law as originally made, and as amended from time to time since it was originally made;
 - (b) if the law has been repealed and remade (with or without modification) since the reference was made—the law as

remade, and as amended from time to time since it was remade;

- (c) if a relevant provision of the law has been omitted and remade (with or without modification) in another law since the reference was made—the other law as in force when the provision was remade, and as amended from time to time since the provision was remade.
- (2) In an Act, a reference to a provision of a law (including the Act) includes a reference to the following—
- (a) the provision as originally made, and as amended from time to time since it was originally made;
 - (b) if the provision has been omitted and remade (with or without modification and whether in the law or another law) since the reference was made—the provision as remade, and as amended from time to time since it was remade.
- (3) In this section—
- law* includes a law of the Commonwealth, another State or a Territory.
- make* includes enact.

14I References to changed short titles and citations

- (1) If the short title or citation of a law is amended, a reference in an Act to the short title or citation includes a reference to the short title or citation as amended.
- (2) In this section—

law includes a law of the Commonwealth, another State or a Territory.

14J References to repealed or expired laws

- (1) If an Act refers to another law as repealed or expired, the reference is to the other law as in force immediately before it was repealed or expired.

Example—

The ‘repealed *ABC Act 1950*’ is a reference to the *ABC Act 1950* as in force immediately before it was repealed.

(2) In this section—

law includes a law of the Commonwealth, another State or a Territory.

Part 5 Commencement of Acts

15 References to enactment etc. of Acts

In an Act, a reference to the enactment of an Act or the passing of an Act is a reference to the fact of the Act’s having received the royal assent.

15A Commencement of Acts on date of assent

An Act commences on the date of assent except so far as the Act otherwise expressly provides.

15B Time of commencement of Acts

If an Act or a provision of an Act commences on a day, it commences at the beginning of the day.

15C Commencement of citation and commencement provisions on date of assent etc.

- (1) The provisions of an Act providing for its citation and commencement commence on the date of assent by force of this subsection.
- (2) A reference in an Act to the commencement of the Act, or another Act, (the *Act concerned*), is a reference to—
 - (a) if the provisions of the Act concerned (other than those providing for its citation and commencement) commence, or are required to commence, on a single

-
- day or at a single time—the commencement of the remaining provisions; or
- (b) if paragraph (a) does not apply and the reference is in a provision of the Act concerned—the commencement of the provision; or
 - (c) in any other case—the commencement of the relevant provision of the Act concerned.
- (3) Subsection (1) applies to an Act despite anything in the Act unless the Act expressly provides that it does not apply.

15D Commencement by proclamation etc.

- (1) If an Act or provisions of an Act is or are expressed to commence on a day to be fixed by proclamation or other instrument—
 - (a) a single day or time may be fixed; or
 - (b) different days or times may be fixed for different provisions.
- (2) If the day or time fixed by a proclamation for the commencement of an Act or a provision of an Act happens before the day on which the proclamation is notified (the *notification day*)—
 - (a) the proclamation is valid; but
 - (b) the Act or provision commences on the notification day.

15DA Automatic commencement of postponed law

- (1) In this section—

assent day means the date of assent of—

 - (a) if the postponed law is an Act—the Act; or
 - (b) if the postponed law is a provision of an Act—the Act that enacts the provision.

postponed law means an Act or provision of an Act that does not commence on the assent day because a provision of an Act

postpones its commencement until a day fixed under an instrument.

- (2) If a postponed law has not commenced within 1 year of the assent day, it automatically commences on the next day.
- (3) However, within 1 year of the assent day, a regulation may extend the period before commencement under subsection (2) to not more than 2 years of the assent day.
- (4) The regulation mentioned in subsection (3) may be made under—
 - (a) the Act that is the postponed law; or
 - (b) the Act of which the postponed law is a provision; or
 - (c) an Act that the postponed law amends;

as if the Act mentioned in paragraph (a), (b) or (c) included a provision that had commenced and authorised the regulation to be made.

- (5) This section—
 - (a) only applies to a postponed law enacted after 31 December 1994; and
 - (b) applies to a postponed law unless an Act expressly states it does not apply.

Example—

The *Hypothetical Act 1995* was assented to on 5 April 1995 and was expressed to commence on a day to be fixed by proclamation. If the Act was not commenced by 5 April 1996, it would commence on 6 April 1996 under subsection (2) unless a regulation had been made under subsection (3) extending time for commencement.

15E Commencement of paragraphs etc. in amending Act

If an Act amends another Act and the amendment is in the form of—

- (a) a paragraph, or subparagraph, of a section or subsection of the amending Act; or
- (b) any other provision that is not self-contained;

the amendment may be given a separate commencement.

17 Exercise of powers between enactment and commencement

(1) If a provision of an Act (the *empowering provision*) that does not commence on its enactment would, had it commenced—

- (a) confer a power—
 - (i) to make an appointment; or
 - (ii) to make a statutory instrument of a legislative or administrative character; or
 - (iii) to do any other thing; or
- (b) amend a provision of another Act so that the other Act would confer such a power;

then—

- (c) the power may be exercised; and
- (d) anything may be done for the purpose of—
 - (i) enabling the exercise of the power; or
 - (ii) bringing the appointment, instrument or other thing into effect;

before the empowering provision commences.

(2) If—

- (a) an Act that has commenced confers a power to make a statutory instrument (the *basic instrument-making power*); and
- (b) a provision of an Act that does not commence on its enactment would, had it commenced, amend the Act mentioned in paragraph (a) so as to confer additional power to make a statutory instrument (the *additional instrument-making power*);

then—

- (c) the basic instrument-making power and the additional instrument-making power may be exercised by making a single instrument; and
 - (d) any provision of the instrument that required an exercise of the additional instrument-making power is to be treated as made under subsection (1).
- (3) If an instrument, or a provision of an instrument, is made under subsection (1) that is necessary for the purpose of—
 - (a) enabling the exercise of a power mentioned in subsection (1)(a); or
 - (b) bringing an appointment, instrument or other thing made or done under such a power into effect;the instrument or provision takes effect—
 - (c) on the making of the instrument; or
 - (d) if the instrument or provision is expressed to take effect at a later time—the later time.
- (4) If—
 - (a) an appointment is made under subsection (1); or
 - (b) an instrument, or provision of an instrument, made under subsection (1) is not necessary for a purpose mentioned in subsection (3);the appointment, instrument or provision takes effect—
 - (c) on the commencement of the relevant empowering provision; or
 - (d) if the appointment, instrument or provision is expressed to take effect at a later time—the later time.
- (5) Anything done under subsection (1) does not confer a right, or impose a liability, on a person before the relevant empowering provision commences.
- (6) After the enactment of a provision mentioned in subsection (1)(b) but before the provision's commencement, this section applies as if the references in subsections (1) and (4) to the commencement of the empowering provision were

references to the commencement of the provision mentioned in subsection (1)(b) as amended by the empowering provision.

Part 6 Amendment and repeal of Acts

17A Act may be amended or repealed in same parliamentary session

An Act may be amended or repealed in the session of Parliament in which it is passed.

18 Time of expiry of Act etc.

If an Act or a provision of an Act—

- (a) expires on a day; or
- (b) is expressed to remain or continue in force, or otherwise have effect, until a day;

the Act or provision has effect until the end of the day.

19 Repealed and amended Acts not revived on repeal of repealing and amending Acts

- (1) In this section—

Act includes a provision of an Act.

repeal includes expiry.

- (2) If an Act (the *first Act*) is repealed by another Act (the *other Act*), the first Act is not revived merely because the other Act is repealed.

Examples—

- 1 Act A repeals Act B. Act A is repealed. The repeal of Act A does not revive Act B.
- 2 Act A repeals Act B. Act A is automatically repealed under section 22C. The repeal of Act A does not revive Act B.

- (3) If an Act (the *first Act*) is amended by another Act (the *other Act*), the continuing operation of the amendments made by the

other Act is not affected merely because the other Act is repealed and, in particular, the first Act is not revived in the form that it was in before the amendments took effect merely because of the repeal.

Examples—

- 1 Act A amends Act B. Act A is repealed after it has commenced by a later Act C. The amendments made by Act A continue to operate, even though Act A has been repealed.
 - 2 Act A amends Act B. Act A is automatically repealed under section 22C. The amendments made by Act A continue to operate, even though Act A has been repealed.
- (4) This section is in addition to, and does not limit, sections 20 and 20A, or any provision of the law by which the repeal is made.

19A Commencement not undone if omitted

If a provision of an Act provides for the commencement of a law and the law has commenced, the later omission of the provision does not affect the continuing operation of the law.

20 Saving of operation of repealed Act etc.

- (1) In this section—
- Act* includes a provision of an Act.
- repeal* includes expiry.
- (2) The repeal or amendment of an Act does not—
- (a) revive anything not in force or existing at the time the repeal or amendment takes effect; or
 - (b) affect the previous operation of the Act or anything suffered, done or begun under the Act; or
 - (c) affect a right, privilege or liability acquired, accrued or incurred under the Act; or
 - (d) affect a penalty incurred in relation to an offence arising under the Act; or

-
- (e) affect an investigation, proceeding or remedy in relation to a right, privilege, liability or penalty mentioned in paragraph (c) or (d).
 - (3) The investigation, proceeding or remedy may be started, continued or completed, and the right, privilege or liability may be enforced and the penalty imposed, as if the repeal or amendment had not happened.
 - (4) Without limiting subsections (2) and (3), the repeal or amendment of an Act does not affect—
 - (a) the proof of anything that has happened; or
 - (b) any right, privilege or liability saved by the operation of the Act; or
 - (c) any repeal or amendment made by the Act; or
 - (d) any savings, transitional or validating effect of the Act.
 - (5) This section is in addition to, and does not limit, sections 19 and 20A, or any provision of the law by which the repeal or amendment is made.

20A Repeal does not end saving, transitional or validating effect etc.

- (1) In this section—

Act includes a provision of an Act.
repeal includes expiry.
- (2) If an Act—
 - (a) declares a thing for a saving or transitional purpose (whether or not the Act is expressed to be made for a purpose of that type); or
 - (b) validates a thing that may otherwise be invalid; or
 - (c) declares a thing for a purpose that is consequential on a declaration mentioned in paragraph (a) or a validation mentioned in paragraph (b) (whether or not the Act is expressed to be made for a purpose of that type);

the declaratory or validating effect of the Act does not end merely because of the repeal of the Act.

Example of paragraph (a)—

a provision stating that an existing licence under a repealed law is taken to be a licence of a particular kind under another law and authorising the imposition of conditions under the other law

Example of paragraph (b)—

a provision declaring an instrument to have been validly made and acts done in reliance on the instrument to have been validly done

Examples of paragraph (c)—

- 1 a provision stating that a matter that is declared valid is not justiciable
 - 2 a provision stating that an instrument that is declared valid is taken to have been amended in a particular way
- (3) If an Act (the *savings law*) declares an Act (the *declared law*) to be a law to which this section applies—
- (a) the effect of the declared law does not end merely because of its repeal; and
 - (b) the effect of the savings law does not end merely because of its repeal.
- (4) A declaration may be made for subsection (3) about an Act whether or not the Act is a law to which subsection (2) applies.
- (5) A declaration made for subsection (3) about an Act does not imply that, in the absence of a declaration about it, another Act is not a law to which this section applies.
- (6) This section is in addition to, and does not limit, sections 19 and 20, or any provision of the law by which the repeal is made.

20B Continuance of appointments etc. made under amended provisions

- (1) This section applies if—
 - (a) a provision of a law expressly or impliedly authorises or requires—

- (i) the making of an appointment; or
 - (ii) the delegation of a function or power; or
 - (iii) the doing of anything else (other than the making of a statutory instrument); and
- (b) the provision is amended by an Act; and
- (c) under the amended provision—
- (i) the appointment may be made; or
 - (ii) the function or power may be delegated; or
 - (iii) the thing may be done.
- (2) An appointment, delegation or other thing mentioned in subsection (1) that was in force immediately before the commencement of the amendment continues to have effect after the commencement as if it had been done under the amended provision.
- (3) In this section—
- amend* includes omit and re-enact in the same law (with or without modification), but does not include omit and re-enact in another law.

20C Creation of offences and changes in penalties

- (1) In this section—
- Act* includes a provision of an Act.
- (2) If an Act makes an act or omission an offence, the act or omission is only an offence if committed after the Act commences.
- (3) If an Act increases the maximum or minimum penalty, or the penalty, for an offence, the increase applies only to an offence committed after the Act commences.

21 Continuance of repealed provisions

If an Act repeals some or all of the provisions of an Act and enacts new provisions in substitution for the repealed provisions, the repealed provisions continue in force until the new provisions commence.

22 Act and amending Acts to be read as one

An Act and all Acts amending the Act are to be read as one.

22A Insertion of provisions by amending Act

- (1) If an Act amends a provision of a law by inserting a subsection that is to form part of a series of subsections, and does not specify the position in the provision where it is to be inserted, the subsection is to be inserted in the appropriate numerical or alphanumerical position.
- (2) If an Act amends a provision of a law by inserting a paragraph that is to form part of a series of paragraphs, and does not specify the position in the provision where it is to be inserted, the paragraph is to be inserted in the appropriate alphabetical position.
- (3) If an Act amends a provision of a law by inserting a subparagraph that is to form part of a series of subparagraphs, and does not specify the position in the provision where it is to be inserted, the subparagraph is to be inserted in the appropriate numerical or alphanumerical position.
- (4) If an Act amends a provision of a law by inserting a sub-subparagraph that is to form part of a series of sub-subparagraphs, and does not specify the position in the provision where it is to be inserted, the sub-subparagraph is to be inserted in the appropriate alphabetical position.
- (5) If an Act amends a provision of a law by inserting a definition that is to form part of a series of definitions, and does not specify the position in the provision where it is to be inserted, the definition is to be inserted in the appropriate alphabetical position, determined on a letter-by-letter basis.

- (6) If an Act otherwise amends a provision of a law by inserting a provision that is to form part of a series of provisions, and does not specify the position in the first provision where it is to be inserted, the second provision is to be inserted in the appropriate numerical or alphanumerical position.
- (7) If an Act amends a provision of a law by inserting an example, note or penalty, and does not specify the position in the provision where it is to be inserted, the example, note or penalty is to be inserted at the end of the provision.
- (8) In determining the appropriate position in which a provision is to be inserted, regard may be had to current Queensland legislative drafting practice.

22B Amendment to be made wherever possible in provision

If an Act amends a provision of a law—

- (a) by omitting a word; or
- (b) by omitting a word and inserting another word; or
- (c) by inserting a word before or after a particular word;

the amendment is to be made wherever possible in the provision.

22C Automatic repeal of amending Act

- (1) An amending Act enacted after 30 June 1994 is automatically repealed at the beginning of the day after all of its provisions have commenced.
- (2) A repeal under subsection (1) has effect for all purposes, including, for example, sections 19 to 20A.
- (3) This section is in addition to, and does not limit the operation of, any other provision of this Act about repeals.
- (4) In this section—

amending Act means an Act that consists only of provisions of the following types—

- (a) the Act's long title;
- (b) the Act's preamble (if any);
- (c) a provision about the Act's citation;
- (d) a provision (if any) about the Act's commencement;
- (e) a provision providing for the amendment or repeal of an Act or other instrument (including a provision identifying the amended or repealed instrument);
- (f) a provision providing for the extension of the period before commencement, under section 15DA(2), of an Act or a provision of an Act that has not commenced within 1 year of the assent day;
- (g) a provision declaring an Act or a provision of an Act to be a law to which section 20A applies.

Example 1—

The *Hypothetical Amending Act 1995* amends the *ABC Act* and the *LMN Act*. It also repeals a list of Acts set out in a schedule. Apart from—

- a long title
- a provision about the Act's citation (that is, the Act's short title)
- a provision about the Act's commencement
- amending provisions (that is, provisions stating that the *ABC Act* and the *LMN Act* are amended and the provisions amending the Acts)
- repealing provisions (that is, a provision stating that the Acts set out in the schedule are repealed and a schedule)
- a provision about the application of section 20A to a provision being repealed;

the *Hypothetical Amending Act 1995* contains no other provisions. Its repealing provisions commence on assent, 21 March 1995. Its amending provisions commence on proclamation, 12 April 1995. Under subsection (1), the *Hypothetical Amending Act 1995* is automatically repealed at the beginning of 13 April 1995.

Example 2—

The *Example Act 1995* contains provisions establishing a new scheme. It also amends several Acts and repeals others. Because it contains the scheme provisions, it is not an amending Act covered by subsection (1).

24AA Power to make instrument or decision includes power to amend or repeal

If an Act authorises or requires the making of an instrument or decision—

- (a) the power includes power to amend or repeal the instrument or decision; and
- (b) the power to amend or repeal the instrument or decision is exercisable in the same way, and subject to the same conditions, as the power to make the instrument or decision.

24A Appointments may be made by name or office

- (1) If an Act authorises or requires a person or body—
 - (a) to appoint a person to an office; or
 - (b) to appoint a person or body to exercise a power; or
 - (c) to appoint a person or body to do another thing;the person or body may make the appointment by—
 - (d) appointing a person or body by name; or
 - (e) appointing a specified officer, or the holder of a specified office, by reference to the title of the office concerned.
- (2) An appointment of a specified officer, or the holder of a specified office, is taken to be the appointment of the person for the time being occupying or acting in the office concerned.

24B Acting appointments

- (1) If an Act authorises a person or body to appoint a person to act in an office, the person or body may, in accordance with the Act, appoint—
 - (a) a person by name; or
 - (b) a specified officer, or the holder of a specified office, by reference to the title of the office concerned;

to act in the office.

- (2) The appointment may be expressed to have effect only in the circumstances specified in the instrument of appointment.
- (3) The appointer may—
 - (a) determine the terms and conditions of the appointment, including remuneration and allowances; and
 - (b) end the appointment at any time.
- (3A) If the appointer is a body, the appointment may be made or ended by a resolution of the body.
- (4) The appointment, or the ending of the appointment under subsection (3)(b), must be in, or evidenced by, writing, signed by the appointer or, if the appointer is a body, by a person authorised by the body for the purpose.
- (5) The appointee must not act for more than 1 year during a vacancy in the office.
- (6) If the appointee is acting in the office otherwise than because of a vacancy in the office and the office becomes vacant, then, subject to subsection (2), the appointee may continue to act until—
 - (a) the appointer otherwise directs; or
 - (b) the vacancy ends; or
 - (c) the end of a year from the day of the vacancy;whichever happens first.
- (7) The appointment ends if the appointee resigns by writing signed and delivered to the appointer.
- (7A) If the vacancy in the office in which a person is acting ends, the person's appointment to act in the office because of the vacancy also ends.
- (7B) If the holder of the office in which a person is acting resumes the office, the person's appointment to act in the office because of the absence of the holder of the office ends.

- (7C) Subsections (7A) and (7B) apply even if a contrary intention appears in the instrument of, or evidencing the, appointment to act.
- (7D) A person's substantive appointment to an office does not end merely because the person acts in another office.
- (7E) To avoid any doubt, it is declared that subsections (7A) to (7D) do not change the law of Queensland.
- (8) While the appointee is acting in the office—
- (a) the appointee has all the functions and powers of the holder of the office; and
 - (b) laws apply to the appointee, and to other persons in relationship to the appointee, as if the appointee were the holder of the office.
- (9) Anything done by or in relation to a person purporting to act in the office is not invalid merely because—
- (a) the occasion for the appointment had not arisen; or
 - (b) the appointment had ended; or
 - (c) the occasion for the person to act had not arisen or had ended.
- (10) If the Act authorises the appointer to appoint a person to act during a vacancy in the office, an appointment to act in the office may be made by the appointer whether or not an appointment has previously been made to the office.
- (11) If—
- (a) the appointer is a specified officer or the holder of a specified office; and
 - (b) the person who was the specified officer or holder of the specified office when the appointment was made ceases to be the officer or holder of the office;
- then—
- (c) the appointment continues in force; and

- (d) the person for the time being occupying or acting in the office concerned is taken to be the appointer for the purposes of this section.
- (12) If—
- (a) the appointer is a body; and
 - (b) there is a change in the membership of the body;
- then—
- (c) the appointment continues in force; and
 - (d) the body as constituted for the time being is taken to be the appointer for the purposes of this section.
- (13) Writing purporting to be, or to contain, an appointment, or the ending of an appointment under subsection (3)(b), is evidence of the appointment or the ending of the appointment.
- (14) A certificate signed by the appointer (or, if the appointer is a body, by a person authorised by the body for the purpose) stating anything in relation to an appointment is evidence of the thing.
- (15) A document purporting to be a certificate mentioned in subsection (14) is taken to be the certificate, and to have been properly given, unless the contrary is established.

24C Acting person nominated by Act etc.

- (1) This section applies if an Act provides that a specified officer, or the holder of a specified office, (the *nominated person*) acts as another specified officer or in another specified office on a specified occasion.
- (2) While the nominated person is acting as the other officer or in the other office—
 - (a) the nominated person has all the functions and powers of the officer or holder of the office; and
 - (b) laws apply to the nominated person, and to other persons in relationship to the nominated person, as if the

nominated person were the officer or holder of the office.

- (3) Anything done by or in relation to the nominated person while the nominated person is purporting to act as the other officer or in the other office is not invalid merely because the occasion for the nominated person to act had not happened or had ceased.

25 Powers of appointment imply certain incidental powers

- (1) If an Act authorises or requires a person or body to appoint a person to an office—
- (a) the power may be exercised as occasion requires; and
 - (b) the power includes—
 - (i) power to remove or suspend, at any time, a person appointed to the office; and
 - (ii) power to appoint another person to act in the office if a person appointed to the office is removed or suspended; and
 - (iii) power to reinstate or reappoint a person removed or suspended; and
 - (iv) power to appoint a person to act in the office if it is vacant (whether or not the office has ever been filled); and
 - (v) power to appoint a person to act in the office if the person appointed to the office is absent or is unable to discharge the functions of the office (whether because of illness or otherwise); and
 - (c) the power also includes power to reappoint a person to the office if the person is eligible to be appointed to the office.
- (2) The power to remove or suspend a person under subsection (1)(b) may be exercised even if the Act under which the person was appointed provides that the holder of

the office to which the person was appointed is to hold office for a specified period.

- (3) The power to make an appointment under subsection (1)(b) may be exercised as occasion requires.
- (4) An appointment under subsection (1)(b) may be expressed to have effect only in the circumstances specified in the instrument of appointment.

26 Appointment not affected by defect etc.

The appointment of a person to an office, to act in an office, to exercise a power or to do anything else is not invalid merely because of a defect or irregularity in relation to the appointment.

27 Power to hear and determine includes power to administer oath

A person or body authorised by law, or by consent of parties, to conduct a hearing for the purpose of the determination (by that or another person or body) of any matter has authority—

- (a) to receive evidence; and
- (b) to examine witnesses, and to administer oaths to witnesses, who have been lawfully called before the person or body.

27A Delegation of functions or powers

- (1) If an Act authorises a person or body to delegate a function or power, the person or body may, in accordance with the Act and any other applicable law, delegate the function or power to—
 - (a) a person or body by name; or
 - (b) a specified officer, or the holder of a specified office, by reference to the title of the office concerned.
- (2) The delegation may be—

- (a) general or limited; and
 - (b) made from time to time; and
 - (c) revoked, wholly or partly, by the delegator.
- (3) The delegation, or a revocation of the delegation, must be in, or evidenced by, writing signed by the delegator or, if the delegator is a body, by a person authorised by the body for the purpose.
- (3A) If the delegator is a body, the delegation may be made or revoked by a resolution of the body.
- (3B) All conditions and preliminary steps required for the exercise of a delegation are presumed to have been satisfied and performed unless the contrary is established.
- (3C) Laws apply to the delegate, and to other persons in relationship to the delegate, in the performance of the delegated function or in the exercise of a delegated power as if the delegate were the delegator.
- (3D) Anything done by or in relation to the delegate in relation to the delegation is taken to have been done by or in relation to the delegator.

Example—

Under an Act an evidentiary certificate purporting to be signed by an office holder is evidence of the content in any proceeding (the **facilitation provision**). The Act confers a general power of delegation on the office holder. The office holder uses the power to delegate the function of issuing the certificate to someone else. Under subsections (3C) and (3D) (and (6) and (7)), the facilitation provision is taken to provide for the certificate purporting to be signed by the delegate as having been signed by the delegator.

- (4) A delegated function or power may be exercised only in accordance with any conditions to which the delegation is subject.
- (5) The delegate may, in the performance of a delegated function or in the exercise of a delegated power, do anything that is incidental to the delegated function or power.
- (6) A delegated function or power that purports to have been performed or exercised by the delegate is taken to have been

properly performed or exercised by the delegate unless the contrary is proved.

- (7) A delegated function or power that is properly performed or exercised by the delegate is taken to have been performed or exercised by the delegator.
- (8) If, when performed or exercised by the delegator, a function or power is dependent on the delegator's opinion, belief or state of mind, then, when performed or exercised by the delegate, the function or power is dependent on the delegate's opinion, belief or state of mind.
- (8A) If—
- (a) the delegator is a specified officer or the holder of a specified office; and
 - (b) the person who was the specified officer or holder of the specified office when the delegation was made ceases to be the officer or holder of the office;
- then—
- (c) the delegation continues in force; and
 - (d) the person for the time being occupying or acting in the office concerned is taken to be the delegator for the purposes of this section.
- (8B) If—
- (a) the delegator is a body; and
 - (b) there is a change in the membership of the body;
- then—
- (c) the delegation continues in force; and
 - (d) the body as constituted for the time being is taken to be the delegator for the purposes of this section.
- (9) If a function or power is delegated to a specified officer or the holder of a specified office—
- (a) the delegation does not cease to have effect merely because the person who was the specified officer or the

holder of the specified office when the function or power was delegated ceases to be the officer or the holder of the office; and

- (b) the function or power may be performed or exercised by the person for the time being occupying or acting in the office concerned.
- (10) A function or power that has been delegated may, despite the delegation, be performed or exercised by the delegator.
- (10A) The delegation of a function or power does not relieve the delegator of the delegator's obligation to ensure that the function or power is properly performed or exercised.
- (11) Subject to subsection (12), this section applies to a subdelegation of a function or power in the same way as it applies to a delegation of a function or power.
- (12) If an Act authorises the delegation of a function or power, the function or power may be subdelegated only if the Act expressly authorises the function or power to be subdelegated.
- (13) Writing purporting to be, or to contain, a delegation, or the revocation of a delegation, is evidence of the delegation or revocation.
- (14) A certificate signed by the delegator (or, if the delegator is a body, by a person authorised by the body for the purpose) stating anything in relation to a delegation is evidence of the thing.
- (15) A document purporting to be a certificate mentioned in subsection (14) is taken to be the certificate, and to have been properly given, unless the contrary is established.
- (15A) Authority to delegate a person's or body's powers includes authority to delegate doing an act or making a decision for performing a function of the person or body.
- (16) In this section—
power includes doing an act or making a decision for the purpose of performing a function.

27B Content of statement of reasons for decision

If an Act requires a tribunal, authority, body or person making a decision to give written reasons for the decision (whether the expression ‘reasons’, ‘grounds’ or another expression is used), the instrument giving the reasons must also—

- (a) set out the findings on material questions of fact; and
- (b) refer to the evidence or other material on which those findings were based.

29 Legislative Assembly’s resolutions to be interpreted not to exceed authority

- (1) A resolution of the Legislative Assembly, or a committee of the Legislative Assembly, made under an Act is to be interpreted as operating—
 - (a) to the full extent of, but not to exceed, the Legislative Assembly’s constitutional powers; and
 - (b) subject to the Act; and
 - (c) distributively.
- (2) Without limiting subsection (1), if part of a resolution would, apart from this section, be interpreted as exceeding authority—
 - (a) the resolution is valid to the extent to which it does not exceed authority; and
 - (b) the remainder of the resolution is not affected.
- (3) Without limiting subsection (1), if the application of part of a resolution to a person, matter or circumstance would, apart from this section, be interpreted as exceeding authority, the part’s application to other persons, matters or circumstances is not affected.
- (4) This section applies to an Act in addition to, and without limiting, any provision of the Act.

29B Working out number of sitting days

In working out a particular number of sitting days of the Legislative Assembly, it does not matter whether the days are within the same or different Parliaments or within different sessions of Parliament.

Part 8 Terms and references in Acts

32 Defined terms—other parts of speech and grammatical forms

If an Act defines a word or expression, other parts of speech and grammatical forms of the word or expression have corresponding meanings.

32A Definitions to be read in context

Definitions in or applicable to an Act apply except so far as the context or subject matter otherwise indicates or requires.

32AA Definitions generally apply to entire Act

A definition in or applying to an Act applies to the entire Act.

32AB Terms defined both in this Act and another Act

If—

- (a) a word or expression is defined non-exhaustively for the purposes of an Act other than this Act (the *non-exhaustive definition*); and
- (b) the word or expression is also defined in this Act (the *Interpretation Act definition*);

then, for the purposes of the first Act—

- (c) the non-exhaustive definition does not exclude or limit, but may extend, the meaning of the word or expression given by the Interpretation Act definition; and

- (d) the non-exhaustive and Interpretation Act definitions are to be read in the context of each other and the other provisions of the first Act, but, if the definitions so read are inconsistent, the Interpretation Act definition is displaced.

32B Gender

In an Act, words indicating a gender include each other gender.

32C Number

In an Act—

- (a) words in the singular include the plural; and
- (b) words in the plural include the singular.

32CA Meaning of *may* and *must* etc.

- (1) In an Act, the word *may*, or a similar word or expression, used in relation to a power indicates that the power may be exercised or not exercised, at discretion.
- (2) In an Act, the word *must*, or a similar word or expression, used in relation to a power indicates that the power is required to be exercised.
- (3) To remove any doubt, it is declared that this section applies to an Act passed after 1 January 1992 despite any presumption or rule of interpretation.

32CB Words and expressions used in amending Acts

- (1) Words and expressions used in an Act that amends another law have the same meanings as they have in the other law.
- (2) Subsection (1) does not limit section 22 (Act and amending Acts to be read as one).

32D References to persons generally

- (1) In an Act, a reference to a person generally includes a reference to a corporation as well as an individual.
- (2) Subsection (1) is not displaced merely because there is an express reference to either an individual or a corporation elsewhere in the Act.

Examples of references to a person generally—

another
anyone
no-one
one
party
person
someone
whoever

Examples of express references to a corporation—

body corporate
company
corporation sole

Examples of express references to an individual—

adult
child
spouse

32DA Meaning of *de facto partner*

- (1) In an Act, a reference to a *de facto partner* is a reference to either 1 of 2 persons who are living together as a couple on a genuine domestic basis but who are not married to each other or related by family.
- (2) In deciding whether 2 persons are living together as a couple on a genuine domestic basis, any of their circumstances may be taken into account, including, for example, any of the following circumstances—

- (a) the nature and extent of their common residence;
 - (b) the length of their relationship;
 - (c) whether or not a sexual relationship exists or existed;
 - (d) the degree of financial dependence or interdependence, and any arrangement for financial support;
 - (e) their ownership, use and acquisition of property;
 - (f) the degree of mutual commitment to a shared life, including the care and support of each other;
 - (g) the care and support of children;
 - (h) the performance of household tasks;
 - (i) the reputation and public aspects of their relationship.
- (3) No particular finding in relation to any circumstance is to be regarded as necessary in deciding whether 2 persons are living together as a couple on a genuine domestic basis.
- (4) Two persons are not to be regarded as living together as a couple on a genuine domestic basis only because they have a common residence.
- (5) For subsection (1)—
- (a) the gender of the persons is not relevant; and
 - (b) a person is related by family to another person if the person and the other person would be within a prohibited relationship within the meaning of the *Marriage Act 1961* (Cwlth), section 23B, if they were parties to a marriage to which that section applies.
- (6) In an Act enacted before the commencement of this section, a reference to a spouse includes a reference to a de facto partner as defined in this section unless the Act expressly provides to the contrary.

32E Production of records kept in computers etc.

If a person who keeps a record of information by way of a mechanical, electronic or other device is required by or under an Act—

- (a) to produce the information or a document containing the information to a court, tribunal or person; or
- (b) to make a document containing the information available for inspection by a court, tribunal or person;

then, unless the court, tribunal or person otherwise directs—

- (c) the requirement obliges the person to produce or make available for inspection, as the case may be, a document that reproduces the information in a form capable of being understood by the court, tribunal or person; and
- (d) the production to the court, tribunal or person of the document in that form complies with the requirement.

32F References to commencement

- (1) In an Act, a reference to *commencement* for an Act or a provision of an Act is a reference to the time the Act or provision comes into operation.
- (2) In a provision of an Act, a reference to *the commencement* without indicating a particular Act or provision is a reference to the commencement of the provision in which the reference occurs.

Example of subsection (2)—

If section 24(3) of an Act stated ‘This section expires 1 month after the commencement’, ‘the commencement’ referred to is the commencement of section 24(3).

33 References to Ministers, departments and chief executives

- (1) In an Act—
 - (a) a reference to a Minister is a reference to a Minister of the State; and

-
- (b) a reference to a particular Minister by title, or to *the Minister* without specifying a particular Minister by title, includes a reference to another Minister, or member of the Executive Council, who is acting for the Minister.
- (2) In a provision of an Act, a reference to *the Minister* without specifying a particular Minister by title is a reference to—
- (a) the Minister administering the provision; or
 - (b) if, for the time being, different Ministers administer the provision in relation to different matters—
 - (i) if only 1 Minister administers the provision in relation to the relevant matter—the Minister; or
 - (ii) if 2 or more Ministers administer the provision in relation to the relevant matter—any 1 of the Ministers; or
 - (c) if paragraph (b) does not apply and, for the time being, 2 or more Ministers administer the provision—any 1 of the Ministers.
- (3) If a provision of an Act refers to a Minister and specifies the Minister merely by reference to the fact that the Minister administers a specified Act or enactment, subsection (2) applies as if references in paragraphs (a) to (c) to the provision were references to the specified Act or enactment.
- (4) If an Act defines the expression ‘Minister’ or ‘the Minister’ for the purposes of the Act or a provision of the Act in a way that does not specify a particular Minister by title, subsections (2) and (3) apply to the provision despite that definition of the expression.
- (5) In an Act, a reference to a specified Minister who no longer exists—
- (a) is a reference to the Minister specified by notification by the Governor in Council; and
 - (b) includes another Minister, or a member of the Executive Council, who is acting for the specified Minister.

- (6) In an Act, a reference to a department is a reference to an entity that is a department of government under the *Public Service Act 2008*.
- (7) In a provision of an Act, a reference to *the department* without specifying a particular department of government by name is a reference to—
- (a) if, for the time being, different Ministers administer the provision in relation to different matters—the department of government that—
 - (i) deals with the relevant matter; and
 - (ii) is administered by the Minister or Ministers administering the provision in relation to the matter; or
 - (b) in any other case—the department of government that—
 - (i) deals with the matters to which the provision relates; and
 - (ii) is administered by the Minister or Ministers for the time being administering the provision.
- (8) In an Act, a reference to a specified department of government that no longer exists is a reference to the department specified by notification by the Governor in Council.
- (9) If a provision of an Act refers to a department of government and specifies the department by reference to the administration (however described) of a specified Act or enactment, subsection (7) applies as if references in paragraphs (a) and (b) to the provision were references to the specified Act or enactment.
- (10) In an Act, a reference to a chief executive is a reference to a chief executive of a public sector unit.
- (11) In a provision of an Act, a reference to the *chief executive* without specifying a particular public sector unit by name is a reference to the chief executive of—

- (a) if, for the time being, different Ministers administer the provision in relation to different matters—the public sector unit that—
 - (i) deals with the relevant matter; and
 - (ii) is administered by the Minister or Ministers administering the provision in relation to the matter; or
 - (b) in any other case—the public sector unit that—
 - (i) deals with the matters to which the provision relates; and
 - (ii) is administered by the Minister or Ministers for the time being administering the provision.
- (12) If a provision of an Act refers to a chief executive by reference to the administration (however described) of a specified Act or enactment, subsection (11) applies as if references in paragraph (a) or (b) to the provision were references to the specified Act or enactment.
- (13) To remove any doubt, it is declared that if—
- (a) a provision of an Act is administered by 2 or more Ministers; and
 - (b) under this section, the provision authorises or requires anything to be done by or in relation to any 1 of the Ministers;

the provision does not authorise or require it to be done in a particular case by or in relation to more than 1 of the Ministers.

33A References to States include Territories

- (1) In an Act, a reference to a State (other than a reference to Queensland or a particular State by name) includes a reference to the Australian Capital Territory and the Northern Territory.

Examples—

- 1 'A law of a State' includes a law of the Australian Capital Territory and a law of the Northern Territory.
 - 2 'A law of the Commonwealth or another State' includes a law of the Australian Capital Territory and a law of the Northern Territory.
- (2) Subsection (1) is not displaced merely because there is an express reference to a Territory elsewhere in the Act.
- (3) This section applies to an Act (other than this Act) enacted before 1 July 1994 only if the Act includes a definition to the effect that a reference to a State includes a reference to a Territory.

34 References to officers and holders of offices

In an Act, a reference to a particular officer, or to the holder of a particular office, includes a reference to the person for the time being occupying or acting in the office concerned.

34A Chair titles

- (1) If an Act establishes an office with a chair title (the *statutory title*), a person holding the office may choose to be referred to by the statutory title or another chair title (the *alternative title*).
- (2) For performing functions and exercising powers, it is irrelevant that the person holding the office uses the alternative title.
- (3) In this section—

chair title means the title of chair, chairperson, chairman or chairwoman or another similar title.

34B Deputy chair titles

- (1) If an Act establishes an office with a deputy chair title (the *statutory title*), a person holding the office may choose to be referred to by the statutory title or another deputy chair title (the *alternative title*).

(2) For performing functions and exercising powers, it is irrelevant that the person holding the office uses the alternative title.

(3) In this section—

deputy chair title means the title of deputy chair, deputy chairperson, deputy chairman or deputy chairwoman or another similar title.

35 References to Queensland to be implied

(1) In an Act—

(a) a reference to an officer, office or entity is a reference to such an officer, office or entity in and for Queensland; and

(b) a reference to a locality, jurisdiction or other thing is a reference to such a locality, jurisdiction or other thing in and of Queensland.

(2) In an Act, a reference to an office or entity established by or under an Act need not include the words ‘Queensland’ or ‘of Queensland’ merely because the words form part of its name or title.

35A References to person with interest in land includes personal representative etc.

In an Act, a reference to a person as proprietor, transferor, transferee, mortgagor, mortgagee, lessor, lessee, trustee or as having an interest in land includes a reference to the person’s personal representatives, successors and assigns.

35B References to provisions designated by number without mentioning another Act

(1) **Definitions**

In this section—

body of the Act means the Act apart from any preamble, schedule or appendix of the Act.

provision unit means—

- (a) the body of the Act or the preamble, a schedule or appendix of the Act; or
- (b) a chapter, part, division, subdivision, section, subsection, paragraph, subparagraph or sub-subparagraph of the body of the Act or a schedule or appendix of the Act; or
- (c) another provision of the body of the Act or a schedule or appendix of the Act; or
- (d) a provision of a preamble of the Act.

(2) **Purpose of section**

This section explains the meaning of a reference in an Act (the **Act concerned**) to a provision, designated by a number, that does not mention another Act.

Examples of references to which section applies—

- 1 ‘chapter 10’
- 2 ‘part 5, division 4’
- 3 ‘section 10 of this Act’
- 4 ‘paragraph (a) of this subsection’

(3) **References in a provision unit of an Act mentioning the Act or larger provision unit of Act**

If a reference in an Act to a provision also mentions the Act or a larger provision unit of the Act, the reference itself indicates the provision of the Act to which it refers.

Examples—

- 1 A reference in the body of the Act to ‘section 10 of this Act’ is a reference to section 10 of the body of the Act concerned.
- 2 A reference in a schedule of an Act to ‘section 10 of this schedule’ is a reference to section 10 of the schedule where the reference occurs.
- 3 A reference to ‘paragraph (a) of this subsection’ is a reference to paragraph (a) of the subsection where the reference occurs.

-
- (4) For subsection (3), a reference in a schedule or appendix of an Act to a provision, designated by a number, together with the words ‘of the Act’ is a reference to the provision, designated by the number, of the body of the Act concerned.

Example—

A reference in a schedule of an Act to ‘section 10 of the Act’ is a reference to section 10 of the body of the Act.

(5) **Other references in body of Act**

If—

- (a) the reference is in the body of an Act; and
(b) subsection (4) does not apply to the reference;

the reference is a reference to the provision, designated by the number, of the body of the Act or, if there are 2 such provisions, the provision, designated by the number, of the next larger, appropriate provision unit where the reference occurs.

Examples in the body of an Act—

- 1 A reference in the body of an Act to ‘chapter 10’ is a reference to chapter 10 of the body of the Act.
- 2 A reference to ‘part 1’ is a reference to—
 - (a) if the body of the Act is divided into chapters (that is, at least 2 of the chapters are further divided into parts)—part 1 of the chapter where the reference occurs; or
 - (b) if the body of the Act is not divided into chapters (that is, there is only 1 part 1)—part 1 of the body of the Act.
- 3 A reference in the body of an Act to ‘division 2’ is a reference to division 2 of the part of the Act where the reference occurs.
- 4 A reference in the body of an Act to ‘subdivision 3’ is a reference to subdivision 3 of the division of the Act where the reference occurs.
- 5 A reference in the body of an Act to ‘section 10’ is a reference to section 10 of the body of the Act.
- 6 A reference in the body of an Act to ‘subsection (1)’ is a reference to subsection (1) of the section of the Act where the reference occurs.

- 7 A reference in the body of an Act to ‘paragraph (a)’ is a reference to—
- (a) if the section where the reference occurs is divided into subsections—paragraph (a) of the subsection where the reference occurs; or
 - (b) if the section where the reference occurs is not divided into subsections—paragraph (a) of the section of the Act where the reference occurs.
- 8 A reference to ‘subparagraph (i)’ is a reference to subparagraph (i) of the paragraph where the reference occurs.

(6) Other references in preamble, schedule or appendix

If—

- (a) the reference is in the preamble or a schedule or appendix of an Act; and
- (b) subsection (4) does not apply to the reference; and
- (c) the reference is a reference to a provision that does not occur in the preamble, schedule or appendix;

the reference is a reference to the provision, designated by the number, of the body of the Act.

Examples—

- 1 A reference in a schedule that is not divided into chapters to ‘chapter 10’ is a reference to chapter 10 in the body of the Act.
- 2 A reference in a dictionary schedule to ‘section 30’ is a reference to section 30 in the body of the Act.

(7) If—

- (a) the reference is in the preamble or a schedule or appendix of an Act; and
- (b) subsection (4) does not apply to the reference; and
- (c) the reference is a reference to a provision that does occur in the preamble, schedule or appendix;

the reference is a reference to the provision designated by the number, of the schedule, appendix or preamble or, if there are 2 such provisions, the provision, designated by the number, of the next larger, appropriate provision unit where the reference occurs.

Examples—

- 1 A reference in a schedule divided into parts to ‘part 1’ is a reference to—
 - (a) if the schedule is divided into chapters (that is, at least 2 of the chapters are further divided into parts)—part 1 of the chapter where the reference occurs; or
 - (b) if the schedule is not divided into chapters (that is, there is only 1 part 1)—part 1 of the schedule.
- 2 A reference in a schedule divided into sections to ‘section 10’ is a reference to section 10 of the schedule.
- 3 A reference in a schedule divided into a single series of items to ‘item 5’ is a reference to item 5 of the schedule.
- 4 A reference in a schedule divided into 2 or more series of items to ‘item 5’ is a reference to item 5 of the series in which the reference occurs.

35C Headings part of provision etc.

- (1) The heading to a chapter, part, division, subdivision, section, subsection, schedule or another provision of an Act forms part of the provision to which it is a heading.
- (2) An example of the operation of a provision of an Act at the end of the provision is part of the provision unless the example relates to a different provision.

Example of subsection (2)—

This example forms part of subsection (2) and an amendment omitting subsection (2) would omit this example.

- (3) A note to a provision of an Act at the end of the provision is part of the provision unless the note relates to a different provision.
- (4) A penalty at the end of a subsection of an Act—
 - (a) is part of the subsection unless the penalty relates to other subsections of the section; or
 - (b) in any other case—is part of the section.
- (5) A penalty at the end of a section of an Act that is not divided into subsections is part of the section.

[s 35CA]

- (6) The word ‘and’, ‘or’ or ‘but’, or a similar word, at the end of a paragraph, subparagraph, sub-subparagraph or another provision of an Act forms part of the provision concerned.
- (7) The word ‘and’, ‘or’ or ‘but’, or a similar word, between paragraphs, subparagraphs, sub-subparagraphs or other provisions of an Act forms part of the first of the provisions.
- (8) A provision reference associated with a heading to a schedule is part of the heading.

Note—

The provision referred to is the authorising provision or another provision relevant to the schedule.

35CA References to items at the end of a provision

In an Act, a penalty, example or note (*end item*) is taken to be at the end of a provision even if there is another end item also at the end of the provision.

35D Reference to provisions of a law is inclusive

In an Act, a reference to a part of a law (including the Act) is a reference to the following—

- (a) the provision of the law that forms the beginning of the part;
- (b) the provision of the law that forms the end of the part;
- (c) any provision of the law between the beginning and end of the part.

Example 1—

A reference to ‘sections 5 to 9’ includes both section 5 and section 9. It is not necessary to refer to ‘sections 5 to 9 (both inclusive)’ to ensure that the reference is given an inclusive interpretation.

Example 2—

A reference to ‘sections 260 to 264’ includes a provision such as a part heading between sections 260 and 261.

35E Instrument made under the Act

In an Act, a reference to a type of statutory instrument is a reference to an instrument of that type made or in force under the Act in which the reference is used.

Example—

The word ‘by-law’ means a by-law made under the Act in which the word is used.

36 Meaning of commonly used words and expressions

- (1) In an Act, a term defined in schedule 1 has the meaning stated in that schedule.
- (2) In an Act, a reference to schedule 1 of this Act includes, if the context permits, a reference to this section.

Part 9 Distance, time and age

37 Measurement of distance

In applying an Act, distance is to be measured along the shortest road ordinarily used for travelling unless there is a contrary intention that distance is to be measured in a straight line on a horizontal plane or in another way.

38 Reckoning of time

- (1) If a period beginning on a given day, act or event is provided or allowed for a purpose by an Act, the period is to be calculated by excluding the day, or the day of the act or event, and—
 - (a) if the period is expressed to be a specified number of clear days or at least a specified number of days—by excluding the day on which the purpose is to be fulfilled; and
 - (b) in any other case—by including the day on which the purpose is to be fulfilled.

[s 38A]

- (2) If the time, or last day of a period, calculated forwards that is provided or allowed by an Act for doing anything falls on an excluded day, the time, or last day, is taken to fall on the next day later that is not an excluded day.
- (3) If the time, or earliest day of a period, calculated backwards that is provided or allowed by an Act for doing anything falls on an excluded day, the time, or earliest day, is taken to fall on the next day earlier that is not an excluded day.
- (4) If no time is provided or allowed for doing anything, the thing is to be done as soon as possible, and as often as the relevant occasion happens.
- (5) In this section—
excluded day—
 - (a) for filing or registering a document—means a day on which the office is closed where the filing or registration must or may be done; or
 - (b) otherwise—means a day that is not a business day in the place in which the thing must or may be done.

38A Age

For the purposes of an Act, a person is an age in years at the beginning of the person's birthday for the age.

Part 10 Service of documents

39 Service of documents

- (1) If an Act requires or permits a document to be served on a person, the document may be served—
 - (a) on an individual—
 - (i) by delivering it to the person personally; or
 - (ii) by leaving it at, or by sending it by post, telex, facsimile or similar facility to, the address of the

place of residence or business of the person last known to the person serving the document; or

- (b) on a body corporate—by leaving it at, or sending it by post, telex, facsimile or similar facility to, the head office, a registered office or a principal office of the body corporate.
- (2) Subsection (1) applies whether the expression ‘deliver’, ‘give’, ‘notify’, ‘send’ or ‘serve’ or another expression is used.
- (3) Nothing in subsection (1)—
- (a) affects the operation of another law that authorises the service of a document otherwise than as provided in the subsection; or
 - (b) affects the power of a court or tribunal to authorise service of a document otherwise than as provided in the subsection.

39A Meaning of service by post etc.

- (1) If an Act requires or permits a document to be served by post, service—
- (a) may be effected by properly addressing, prepaying and posting the document as a letter; and
 - (b) is taken to have been effected at the time at which the letter would be delivered in the ordinary course of post, unless the contrary is proved.
- (2) If an Act requires or permits a document to be served by a particular postal method, the requirement or permission is taken to be satisfied if the document is posted by that method or, if that method is not available, by the equivalent, or nearest equivalent, method provided for the time being by Australia Post.
- (3) Subsections (1) and (2) apply whether the expression ‘deliver’, ‘give’, ‘notify’, ‘send’ or ‘serve’ or another expression is used.

- (4) Without limiting subsection (2), the requirement or permission mentioned in the subsection is taken to be satisfied, and is taken always to have been satisfied, for the service of a document if the document is, or was, posted by certified mail provided by Australia Post.

Part 11 Offences and criminal proceedings

41 Penalty at end of provision

In an Act, a penalty specified at the end of—

- (a) a section (whether or not the section is divided into subsections); or
- (b) a subsection (but not at the end of a section); or
- (c) a section or subsection and expressed in such a way as to indicate that it applies only to part of the section or subsection;

indicates that an offence mentioned in the section, subsection or part is punishable on conviction (whether or not a conviction is recorded) or, if no offence is mentioned, a contravention of the section, subsection or part constitutes an offence against the provision that is punishable on conviction (whether or not a conviction is recorded)—

- (d) if a minimum as well as a maximum penalty is specified—by a penalty not less than the minimum and not more than the maximum; or
- (e) in any other case—by a penalty not more than the specified penalty.

41A Penalty other than at end of provision

- (1) In an Act, a penalty specified for an offence, or a contravention of a provision, indicates that the offence is punishable on conviction (whether or not a conviction is

recorded), or the contravention constitutes an offence against the provision that is punishable on conviction (whether or not a conviction is recorded)—

- (a) if a minimum as well as a maximum penalty is specified—by a penalty not less than the minimum and not more than the maximum; or
 - (b) in any other case—by a penalty not more than the specified penalty.
- (2) This section does not apply to a penalty to which section 41 applies.

42 Any person may prosecute etc.

Any person may take a proceeding for the imposition or enforcement of a penalty, or the making of a forfeiture order, under an Act.

43 Appropriation of penalties

- (1) The following rules apply to an amount recovered because of the imposition of a penalty or the making of a forfeiture order—
- (a) any part of the amount that is ordered under subsection (2) to be paid to the party prosecuting must first be paid to the party;
 - (b) the remaining part of the amount must then be paid to the consolidated fund.
- (2) The court that imposes the penalty, or makes the forfeiture order, may order that not more than half of the amount recovered be paid to the party prosecuting.
- (3) Subsection (2) does not apply if the party prosecuting is prosecuting as an officer or employee of the State or an officer of the public service.

44 Summary proceedings

- (1) In an Act, a provision of the type mentioned in subsection (2) means that a proceeding for an offence, or a specified offence, against the Act is a summary proceeding under the *Justices Act 1886*.
- (2) Subsection (1) applies to provisions of the following type—
 - (a) a provision to the effect that a proceeding for the offence is to be heard and decided summarily;
 - (b) a provision to the effect that a proceeding for the offence is to be heard and decided by or before justices or a magistrate;
 - (c) a provision to the effect that the offence is a summary offence or is punishable on summary conviction or summarily;
 - (d) a provision for an offence that does not expressly or impliedly make the offence an indictable offence.
- (3) In an Act, a provision that provides that another type of proceeding is to be heard and decided summarily, or before justices or a magistrate, means that the proceeding is a summary proceeding under the *Justices Act 1886*.
- (4) A provision providing for the imposition of a penalty or the making of a forfeiture order, without providing how the penalty is to be recovered or the order made, is taken to mean that the penalty may be recovered, or the order made, under the *Justices Act 1886*.

45 Offence punishable only once

- (1) If an act or omission is an offence under each of 2 or more laws, the offender may be prosecuted and punished under any of the laws, but the offender may not be punished more than once for the same offence.
- (2) Subsection (1) applies to a law unless an Act otherwise expressly provides.
- (3) In this section—

law includes the common law.

46 Bodies corporate

A provision of an Act relating to offences punishable on indictment or summary conviction applies to bodies corporate as well as individuals.

Part 12 Application of particular State laws to coastal waters

47 Definitions for pt 12

In this part—

cooperative scheme means the cooperative scheme as defined under the *Crimes at Sea Act 2001*, section 3.

criminal laws means the substantive criminal law, and the law of criminal investigation, procedure and evidence, within the meaning of the cooperative scheme.

laws of the State means the laws, whether written or unwritten and whether substantive or procedural, that are from time to time in force in the State, but does not include—

- (a) laws of the Commonwealth; or
- (b) criminal laws.

47A Application of laws of the State to coastal waters

The laws of the State apply in and in relation to—

- (a) the coastal waters of the State; and
- (b) the seabed and subsoil beneath, and the airspace above, the coastal waters of the State;

as if the coastal waters of the State, as extending from time to time, were within the limits of the State.

47B Laws with specific application not to apply

- (1) Nothing in this part makes a provision of the laws of the State applicable in or in relation to a particular place—
 - (a) to the extent the provision is incapable of applying in or in relation to that place; or
 - (b) if those laws expressly provide that the provision does not extend or apply in or in relation to that place; or
 - (c) if those laws expressly provide that the provision applies only in a stated locality in the State that does not include that place.
- (2) A provision of the laws of the State is not to be taken to be a provision to which subsection (1) applies merely because it is limited in its application to acts, matters and things within Queensland waters, coastal waters or the adjacent area, however described, of the State.

47C Extent of jurisdiction in relation to coastal waters

- (1) A person who has a function or power conferred on the person under a law for the purposes of or in connection with a provision of the laws of the State has and may perform the function for the purposes of or in connection with that provision, as applying because of this part, as if the coastal waters of the State, as extending from time to time, were within the limits of the State.
- (2) All courts of the State are invested with jurisdiction in all matters arising under the provisions of the laws of the State, as applying because of this part, as if the coastal waters of the State, as extending from time to time, were within the limits of the State.

47D Constitutional basis

In addition to any other power under which the provisions of this part may be enacted, the provisions of this part are enacted under the legislative power of Parliament as extended by the *Coastal Waters (State Powers) Act 1980* (Cwlth),

section 5 and the *Coastal Waters (State Title) Act 1980* (Cwlth), section 4.

47E Saving

Nothing in this part limits any law, other than this part, that provides for the application of the laws of the State, or any part of those laws, beyond the limits of the State.

Note—

Some Acts have special application provisions, for example, the following—

Fisheries Act 1994, section 11

Offshore Minerals Act 1998, section 16

Petroleum Act 1923, section 7A

Petroleum (Submerged Lands) Act 1982, section 14.

Part 12A Forms

48 Forms—notification and availability

- (1) This section applies if under an Act (the *authorising law*) forms are to be approved or made available by an entity.
- (2) A form under the authorising law must have a heading stating the name of the authorising law and briefly indicating the form's purpose.
- (3) All forms under the authorising law must be numbered using a system that gives each form a unique number.

Examples—

- 1 Forms may be numbered consecutively starting with the number 1.
 - 2 Forms may be numbered to reflect the provisions of the Act to which they relate.
- (4) All versions of a form under the authorising law must be numbered consecutively using a system that gives each version of the form a unique number.

- (5) The approval or availability under the authorising law of a form, or a new version of a form, must be notified in the gazette or on a relevant website.
- (6) Subsection (5) may be complied with by—
- (a) publishing in the gazette or on a relevant website—
 - (i) the form or the new version; or
 - (ii) a notice stating—
 - (A) the approval or availability of the form or the new version; and
 - (B) the heading, number and version number of the form or the new version; and
 - (C) a place or places where copies of the form or the new version are available; and
 - (b) if the form or the new version, or the notice, is published on a relevant website—stating on the website the date on which it is first published.
- (7) For subsection (5), a form, a new version of a form or a notice is published on a relevant website if it is published on, or accessible through, the website.
- (8) On the day the approval or availability of the form is notified or as soon as practicable after the day, copies of the form must be available (for purchase or free of charge) at the place, or each of the places, stated in the notice.
- (9) Failure to comply with this section does not affect a form's validity.
- (10) In this section—
- relevant department***, in relation to an entity that approves or makes available forms under an authorising law, means the department in which the authorising law is administered.
- relevant website*** means—
- (a) for publication in relation to a form, or a new version of a form, approved or made available by a local government—the local government's website; or

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- (b) for publication in relation to a form, or a new version of a form, approved or made available by another entity—
- (i) the whole-of-government website; or
 - (ii) the entity's website; or
 - (iii) if the entity does not have a website—
 - (A) the relevant department's website; or
 - (B) a website identified on the relevant department's website as a website for this purpose.

whole-of-government website means—

- (a) www.qld.gov.au; or
- (b) another website prescribed by regulation.

48A Compliance with forms

- (1) If a form is prescribed or approved under an Act, strict compliance with the form is not necessary and substantial compliance is sufficient.
- (2) If a form prescribed or approved under an Act requires—
 - (a) the form to be completed in a specified way; or
 - (b) specified information or documents to be included in, attached to or given with the form; or
 - (c) the form, or information or documents included in, attached to or given with the form, to be verified in a specified way;

the form is not properly completed unless the requirement is complied with.

- (3) If—
 - (a) a form (*form 1*) may be prescribed or approved under an Act for a purpose or 2 or more purposes; and

(b) another form (*form 2*) may be prescribed or approved under the Act or another Act for the same or another purpose or purposes;

then, if separate forms 1 and 2 are prescribed or approved, a combined form 1 and 2 may be prescribed or approved and used for the purpose or all the purposes.

- (4) If a form may be prescribed or approved under an Act for a purpose or 2 or more purposes, the form may only require information or documents to be included in, attached to or given with the form that are reasonably necessary for the purpose or 1 or more of the purposes.

Example 1—

A prescribed or approved form may not require the provision of personal information irrelevant to a purpose for which the form is required.

Example 2—

A prescribed or approved form may not require the provision of personal information that has some relevance to a purpose for which the form is required, but is excessively intrusive to personal privacy.

Part 13 Miscellaneous

49 Verification of documents

If an Act requires that, for a purpose of the Act or another law, a document, or information or a document included in, attached to or given with a document, be verified in a specified way, the purpose is not fulfilled unless the requirement is satisfied.

Example—

If an Act requires a document accompanying an application form to be verified by statutory declaration and the document is lodged without being verified in this way, the document has not been properly lodged for the purposes of the Act.

49A Jurisdiction of courts and tribunals

If a provision of an Act, whether expressly or by implication, authorises a proceeding to be instituted in a particular court or tribunal in relation to a matter, the provision is taken to confer jurisdiction in the matter on the court or tribunal.

50 Making or amendment of subordinate legislation by an Act

- (1) The making or amendment of subordinate legislation by an Act does not affect—
 - (a) the power of the empowered entity for the subordinate legislation to amend or further amend the subordinate legislation or to repeal it; or
 - (b) for subordinate legislation required under a law to be approved by another entity—the power of the other entity to approve, or to disapprove, an amendment or further amendment of the subordinate legislation or the repeal of it.
- (2) In this section—

approve means approve, confirm or otherwise consent to.

disapprove means disapprove or otherwise disallow.

empowered entity, for subordinate legislation, means the entity empowered under a law to make the subordinate legislation.

51A References to Acts Shortening Act 1867

In an Act or document, a reference to the Acts Shortening Act or *Acts Shortening Act 1867* may, if the context permits, be taken to be a reference to this Act.

52 References to the Crown etc.

In every Act—

- (a) reference to the Sovereign reigning at the time of the passing of such Act, or to ‘Her Majesty’, ‘His Majesty’, ‘the Queen’, ‘the King’, or ‘the Crown’, shall be construed as references to the Sovereign for the time being, and, where necessary, shall include the heirs and successors of such Queen or King; and
- (b) references to any style or titles appertaining to the Crown at the time of the passing of such Act, shall be construed as references to the style and titles appertaining to the Crown for the time being adopted, with the assent of the Parliament of the Commonwealth of Australia, by the Sovereign for the time being for use in relation to the Commonwealth of Australia and its Territories.

52A Evidentiary provision

- (1) A certificate purporting to be signed by or for an approving entity and stating any of the following matters is evidence of the matter—
 - (a) a stated form—
 - (i) was approved or made available by the entity under a stated authorising law on a stated day; and
 - (ii) was first notified under section 48(5) on a stated relevant website on a stated day in a stated way;
 - (b) a stated document is a copy of a stated form that was first notified under section 48(5) on a stated relevant website on a stated day in a stated way.
- (2) An approving entity may, in writing, authorise a person to issue certificates under subsection (1) for the entity.
- (3) In this section—

approving entity means an entity authorised under an authorising law to approve forms or make forms available.

authorising law see section 48(1).

form includes a new version of a form.

52B Regulation-making power

The Governor in Council may make regulations under this Act.

Part 14 Transitional provisions

**Division 1 Transitional provision for
Parliamentary Service and Other
Acts Amendment Act 2011**

**53 Transitional—extrinsic material—speech in Legislative
Assembly**

- (1) This section applies in relation to a Bill introduced in the Legislative Assembly before the commencement of this section.
- (2) A reference in section 14B(3), definition *extrinsic material*, paragraph (f) to a speech made to the Legislative Assembly by the member when introducing the Bill is taken to be a reference to a speech made to the Legislative Assembly by the member in moving a motion that the Bill be read a second time.

**Division 2 Transitional provisions for Treasury
and Trade and Other Legislation
Amendment Act 2013**

54 Definitions for div 2

In this division—

commencement means the commencement of this section.

subordinate legislation does not include exempt subordinate legislation.

55 References to s 36, 48A or 49

- (1) This section applies to references made before the commencement in an instrument.
- (2) If the context permits, from the commencement—
 - (a) a reference to section 36 of this Act is taken to include a reference to schedule 1 of this Act; and
 - (b) a reference to section 48A of this Act is taken to be a reference to section 49 of this Act; and
 - (c) a reference to section 49 of this Act is taken to be a reference to section 48A of this Act.

56 References to gazetted

In an instrument, a reference to gazetted in relation to subordinate legislation is taken to be a reference to—

- (a) for subordinate legislation notified or published in the gazette before the commencement—notified or published in the gazette; or
- (b) otherwise—notified under the *Statutory Instruments Act 1992*, section 47.

57 References to notified in the gazette

In an instrument, a reference to notified in the gazette in relation to subordinate legislation is taken to be a reference to—

- (a) for subordinate legislation notified in the gazette before the commencement—notified in the gazette under the *Statutory Instruments Act 1992*, section 47 as in force before the commencement; or
- (b) otherwise—notified under the *Statutory Instruments Act 1992*, section 47.

Division 3 **Transitional provision for Court and
Civil Legislation Amendment Act
2017**

58 **Form approved or made available, but not notified in
gazette, before commencement**

- (1) This section applies if before the commencement—
- (a) a form was approved or made available by an entity under an authorising law; and
 - (b) there had been no notification of the approval or availability of the form under previous section 48(5).
- (2) On or after the day of commencement, the entity may notify the approval or availability of the form under amended section 48.

- (3) In this section—

amended section 48 means section 48 as in force after the commencement.

authorising law see section 48(1).

form includes a new version of a form.

previous section 48(5) means section 48(5) as in force immediately before the commencement.

Schedule 1 **Meaning of commonly used words and expressions**

section 36

Aboriginal people means people of the Aboriginal race of Australia.

Aboriginal tradition means the body of traditions, observances, customs and beliefs of Aboriginal people generally or of a particular community or group of Aboriginal people, and includes any such traditions, observances, customs and beliefs relating to particular persons, areas, objects or relationships.

Aborigine means a person of the Aboriginal race of Australia.

Act has the meaning given by sections 6 and 7.

Acting Governor means a person administering the Government of the State under the *Constitution of Queensland 2001*, section 41.

adjacent area in respect of the State means the area the boundary of which is described in the *Petroleum (Submerged Lands) Act 1967* (Cwlth), schedule 2, as in force immediately before the commencement of the *Coastal Waters (State Powers) Act 1980* (Cwlth).

Administrative Arrangements means the administrative arrangements made by the Governor in Council by order under the *Constitution of Queensland 2001*, section 44.

adult means an individual who is 18 or more.

affidavit, in relation to a person allowed by law to affirm, declare or promise, includes affirmation, declaration and promise.

amend includes—

- (a) for an Act, instrument or provision of an Act or instrument—omit, insert, and omit and insert; and

-
- (b) for an Act or provision of an Act—amend by implication; and
 - (c) for an instrument or provision of an instrument—alter or vary.

appoint includes reappoint.

appropriately qualified—

- (a) for a function or power—means having the qualifications, experience or standing appropriate to perform the function or exercise the power; or
- (b) for appointment to an office—means having the qualifications, experience or standing appropriate to perform the functions of the office.

Example of standing—

a person's classification level in the public service

AS means Australian Standard made or published by Standards Australia.

ASC Law has the same meaning as *ASIC Law*.

ASC Regulations has the same meaning as *ASIC Regulations* has when *ASIC Regulations* is used in relation to the *ASIC Law*.

ASIC means the Australian Securities and Investments Commission.

ASIC Act means the *Australian Securities and Investments Commission Act 2001* (Cwlth).

ASIC Law has the meaning given by the *Corporations (Queensland) Act 1990*, part 11.

ASIC Regulations—

- (a) when used in relation to the *ASIC Law*, has the meaning given by the *Corporations (Queensland) Act 1990*, part 11; and
- (b) when used in relation to the *ASIC Act*, means regulations made, or that have effect as if they were made, under the *ASIC Act*.

asset includes property of any type.

Australia means the Commonwealth of Australia but, when used in a geographical sense, does not include an external Territory.

Australia Acts means the *Australia Act 1986* (Cwlth) and the *Australia Act 1986* (UK).

Australian Standard means a standard made or published by Standards Australia.

bank means a financial institution that has a consent under the *Banking Act 1959* (Cwlth), section 66, to assume or use—

- (a) the word ‘bank’, ‘banker’ or ‘banking’; or
- (b) any other word (whether or not in English) that is of like import to a word covered by paragraph (a).

breach includes fail to comply with.

British Act means an Act of the British Parliament.

British Parliament means—

- (a) the Parliament of England; or
- (b) the Parliament of Great Britain; or
- (c) the Parliament of the United Kingdom of Great Britain and Ireland; or
- (d) the Parliament of the United Kingdom of Great Britain and Northern Ireland;

as the case requires.

burial includes cremation.

business day means a day that is not—

- (a) a Saturday or Sunday; or
- (b) a public holiday, special holiday or bank holiday in the place in which any relevant act is to be or may be done.

calendar month means a period starting at the beginning of any day of 1 of the 12 named months and ending—

-
- (a) immediately before the beginning of the corresponding day of the next named month; or
 - (b) if there is no such corresponding day—at the end of the next named month.

calendar year means a period of 12 months beginning on 1 January.

change includes change by addition, exception, omission or substitution.

charge, of an offence, means a charge in any form, including, for example, the following—

- (a) a charge on an arrest;
- (b) a complaint under the *Justices Act 1886*;
- (c) a charge by a court under the *Justices Act 1886*, section 42(1A) or another provision of an Act;
- (d) an indictment.

cheque includes payment order.

chief executive—

- (a) for a department specified by name—means the chief executive of the department; or
- (b) for a public service office specified by name—means the head of the office under the *Public Service Act 2008*; or
- (c) for the police service—the commissioner of the police service; or
- (d) for another public sector unit specified by name—means the chief executive (however described) in charge of the unit; or
- (e) in any other case—see section 33.

chief executive (corrective services) means the chief executive of the department in which the *Corrective Services Act 2006* is administered.

chief executive officer of a local government includes the town clerk of the Brisbane City Council.

child, if age rather than descendency is relevant, means an individual who is under 18.

Childrens Court judge means—

- (a) a District Court judge appointed as a Childrens Court judge; or
- (b) a District Court judge when constituting a Childrens Court under the *Childrens Court Act 1992*, section 5(2)(b).

Childrens Court magistrate means—

- (a) a magistrate appointed as a Childrens Court magistrate; or
- (b) a magistrate or 2 justices of the peace when constituting a Childrens Court under the *Childrens Court Act 1992*, section 5(3)(b) or (c).

citation of an Act includes the Act's short title.

civil partner means a person who is a party to a civil partnership.

civil partnership means a civil partnership registered under the *Civil Partnerships Act 2011*.

coastal waters of the State means—

- (a) the parts of the territorial sea of Australia that are within the adjacent area in respect of the State, other than any part mentioned in the *Coastal Waters (State Powers) Act 1980* (Cwlth), section 4(2); or
- (b) any sea that is on the landward side of any part of the territorial sea of Australia and within the adjacent area in respect of the State, but is not within the limits of the State.

commencement see section 32F.

committal proceeding means an examination of witnesses under the *Justices Act 1886* about an indictable offence.

Commonwealth means the Commonwealth of Australia but, when used in a geographical sense, does not include an external Territory.

Commonwealth Constitution means the Constitution of the Commonwealth.

Commonwealth Minister means a Minister of the Crown in right of the Commonwealth.

community or group of Aboriginal people includes—

- (a) the descendants of the community or group; and
- (b) if there is only 1 surviving member of a community or group of Aboriginal people—that person.

community or group of Torres Strait Islanders includes—

- (a) the descendants of the community or group; and
- (b) if there is only 1 surviving member of a community or group of Torres Strait Islanders—that person.

complaint and summons means a complaint and summons under the *Justices Act 1886*.

Note—

See also the *Police Powers and Responsibilities Act 2000*, section 388.

confer, in relation to a function, includes impose.

consolidated fund means the consolidated fund established under the *Financial Accountability Act 2009*, section 16.

Constitution of Queensland means the following—

- (a) *Constitution of Queensland 2001*;
- (b) *Constitution Act 1867*;
- (c) *Constitution Act Amendment Act 1934*.

contravene includes fail to comply with.

corporation includes a body politic or corporate.

Corporations Act means the *Corporations Act 2001* (Cwlth).

Corporations Law has the meaning given by the *Corporations (Queensland) Act 1990*, part 3.

Corporations legislation means the Corporations legislation to which the *Corporations Act*, part 1.1A applies.

Corporations Regulations—

- (a) when used in relation to the Corporations Law, has the meaning given by the *Corporations (Queensland) Act 1990*, part 3; and
- (b) when used in relation to the Corporations Act, means regulations made, or that have effect as if they were made, under the Corporations Act.

Crime and Corruption Commission means the Crime and Corruption Commission established under the *Crime and Corruption Act 2001*.

CSIRO means the Commonwealth Scientific and Industrial Research Organisation.

date of assent, in relation to an Act, means the day on which the Act receives the royal assent.

de facto partner see section 32DA.

de facto relationship means the relationship existing between 2 persons as a couple because each is the de facto partner of the other.

definition means a provision of an Act (however expressed) that—

- (a) gives a meaning to a word or expression; or
- (b) limits or extends the meaning of a word or expression.

Examples of definitions—

- 1 X means Y.
- 2 A reference to X is a reference to Y.
- 3 Words and expressions used in the *XYZ Act* have the same respective meanings in this Act.
- 4 X see section 3.
- 5 X see *XYZ Act*, schedule 3.

department see section 33.

Deputy Governor means a person exercising a power of the Governor under a delegation under the *Constitution of Queensland 2001*, section 40.

descendant includes—

- (a) in relation to Aboriginal people—a descendant under Aboriginal tradition; and
- (b) in relation to Torres Strait Islanders—a descendant under Island custom.

District Court judge means a judge of the District Court of Queensland.

doctor means medical practitioner.

document includes—

- (a) any paper or other material on which there is writing; and
- (b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for a person qualified to interpret them; and
- (c) any disc, tape or other article or any material from which sounds, images, writings or messages are capable of being produced or reproduced (with or without the aid of another article or device).

enactment, in relation to an Act, has the meaning given by section 15.

entity includes a person and an unincorporated body.

establish includes constitute and continue in existence.

estate includes easement, charge, right, title, claim, demand, lien and encumbrance, whether at law or in equity.

exempt subordinate legislation has the same meaning as in the *Legislative Standards Act 1992*.

expire includes lapse or otherwise cease to have effect.

external Territory means a Territory, other than an internal Territory, for the government of which as a Territory provision is made by a Commonwealth Act.

fail includes refuse.

Federal Court means the Federal Court of Australia.

federal industrial instrument see the *Industrial Relations Act 2016*, schedule 5.

file includes lodge.

financial institution means an authorised deposit-taking institution within the meaning of the *Banking Act 1959* (Cwlth), section 5.

financial year means a period of 1 year beginning on 1 July.

finding, in relation to an indictment, includes taking, exhibiting or making.

fix includes determine and appoint.

foreign country means a country (whether or not an independent sovereign state) outside Australia and the external Territories.

freehold land register means the freehold land register established under the *Land Title Act 1994*.

function includes duty.

fundamental legislative principles has the meaning given by the *Legislative Standards Act 1992*.

gazette means the Queensland Government Gazette.

gazetted means published in the gazette.

gazette notice means notice published in the gazette.

GOC (or **government owned corporation**) has the same meaning as in the *Government Owned Corporations Act 1993*.

Government Gazette means the Queensland Government Gazette.

government printer means the Government Printer of Queensland, and includes any other person authorised by the Government to print an Act or instrument.

Governor—

- (a) for Queensland—has the meaning given by the *Constitution Act 1867*, section 11A(3); or
- (b) for another State (other than the Australian Capital Territory or the Northern Territory)—means the State's Governor, and includes a person administering the State's Government; or

- (c) for the Northern Territory—means the Territory’s Administrator, and includes a person administering the Territory’s Government.

Governor-General means the Governor-General of the Commonwealth, and includes a person for the time being administering the Government of the Commonwealth.

Governor in Council means—

- (a) for Queensland—the Governor acting with the advice of Executive Council; or
- (b) for another State (other than the Australian Capital Territory)—the State’s Governor acting with the advice of the State’s Executive Council.

grant of representation, for a deceased person, means a grant of probate of the will or letters of administration of the deceased person’s estate, and includes the grant of an order to administer and the filing of an election to administer the deceased person’s estate.

GST has the same meaning as it has in the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth) and includes notional GST of the kind for which payment may be made under the *GST and Related Matters Act 2000*, section 5.

Health Practitioner Regulation National Law means—

- (a) the Health Practitioner Regulation National Law—
- (i) as in force from time to time, set out in the schedule of the *Health Practitioner Regulation National Law Act 2009*; and
- (ii) as it applies as a law of Queensland or another State, with or without modification; or
- (b) the law of a State that substantially corresponds to the law mentioned in paragraph (a).

High Court means the High Court of Australia.

Imperial Act means a British Act.

Imperial Parliament means the British Parliament.

indictable offence includes an act or omission committed outside Queensland that would be an indictable offence if it were committed in Queensland.

indictment includes information, inquisition and presentment.

individual means a natural person.

industrial commission means the Industrial Relations Commission.

industrial commissioner means a commissioner under the *Industrial Relations Act 2016*.

industrial court means the court under the *Industrial Relations Act 2016*.

industrial magistrate means a magistrate under the *Industrial Relations Act 2016*.

Industrial Magistrates Court means the Industrial Magistrates Court constituted under the *Industrial Relations Act 2016*, section 504.

industrial relations commission means the commission under the *Industrial Relations Act 2016*.

insert, in relation to a provision of an Act, includes substitute.

instrument means any document.

interest, in relation to land or other property, means—

- (a) a legal or equitable estate in the land or other property;
or
- (b) a right, power or privilege over, or in relation to, the land or other property.

internal Territory means the Australian Capital Territory, the Jervis Bay Territory or the Northern Territory.

Island custom, known in the Torres Strait as Ailan Kastom, means the body of customs, traditions, observances and beliefs of Torres Strait Islanders generally or of a particular community or group of Torres Strait Islanders, and includes any such customs, traditions, observances and beliefs relating to particular persons, areas, objects or relationships.

Jervis Bay Territory means the Territory referred to in the *Jervis Bay Territory Acceptance Act 1915* (Cwlth).

justice means a justice of the peace.

land includes messuages, tenements and hereditaments, corporeal or incorporeal, of any tenure or description, and whatever may be the interest in the land.

Land and Resources Tribunal means the Land and Resources Tribunal established under the *Land and Resources Tribunal Act 1999*.

Land Appeal Court means the Land Appeal Court established under the *Land Court Act 2000*.

Land Court means the Land Court established under the *Land Court Act 2000*.

land registry means the land registry established under the *Land Title Act 1994*.

law of a State includes—

- (a) a law of the State; and
- (b) a law in force in the State as part of the law of the State.

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

lease includes demise, tenancy and sublease, whether for a term, for a period or at will.

lessee includes tenant.

lessor includes landlord.

liability means any liability or obligation (whether liquidated or unliquidated, certain or contingent, or accrued or accruing).

Lieutenant Governor means the person for the time being appointed as Lieutenant Governor.

local government means—

- (a) the Brisbane City Council; or
- (b) a local government under the *Local Government Act 2009*.

local government area means a local government area under the *Local Government Act 2009*.

local law means a local law made by a local government, and includes a by-law or ordinance made by a local government.

magistrate means a magistrate appointed under the *Magistrates Act 1991*.

Magistrates Court means a Magistrates Court established under the *Justices Act 1886*.

make includes issue and grant.

medical practitioner means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession, other than as a student.

midnight, in relation to a particular day, means the point of time at which the day ends.

Minister has the meaning given by section 33.

minor means an individual who is under 18.

modification includes addition, exception, omission and substitution.

month means a calendar month.

mortgage includes a charge on a property for securing money or money's worth.

mortgagee in possession means a mortgagee who in right of a mortgage has entered into and is in possession of the mortgaged property.

named month means 1 of the 12 months of the year.

National Gas (Queensland) Law means the provisions applying because of the *National Gas (Queensland) Act 2008*, section 7, and includes the *National Gas (Queensland) Regulations*.

National Gas (Queensland) Regulations means the provisions applying because of the *National Gas (Queensland) Act 2008*, section 8.

native title means the communal, group or individual rights and interests of Aboriginal people or Torres Strait Islanders in land or waters if—

- (a) the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed, by the Aboriginal people or Torres Strait Islanders; and
- (b) the Aboriginal people or Torres Strait Islanders, by the laws and customs, have a connection with the land or waters; and
- (c) the rights and interests are recognised by the common law of Australia.

Examples of rights and interests—

hunting, gathering and fishing rights and interests

Northern Territory means the Northern Territory of Australia.

notice to appear, in relation to a proceeding for an offence, see the *Police Powers and Responsibilities Act 2000*, section 382(2).

notified, for subordinate legislation, means notified under the *Statutory Instruments Act 1992*, section 47.

number means—

- (a) a number expressed in figures or words; or
- (b) a letter; or
- (c) a combination of a number so expressed and a letter.

oath, in relation to a person allowed by law to affirm, declare or promise, includes affirmation, declaration and promise.

office includes position.

officer, in relation to the public service, see *public service officer*.

official copy, in relation to Queensland legislation, means a copy of the legislation—

- (a) printed by or under the authority of the government printer; or

- (b) authorised by the parliamentary counsel and published on the Queensland legislation website.

of this Act, when used in a schedule or appendix of an Act, means the Act apart from a schedule or appendix of the Act.

ombudsman means the ombudsman under the *Ombudsman Act 2001*.

omit, in relation to a provision of an Act, includes repeal.

order in council has the meaning given by the *Statutory Instruments Act 1992*.

Parliament means—

- (a) for Queensland—the Sovereign and the Legislative Assembly; or
- (b) for another State—the State’s legislature.

parliamentary counsel means the Queensland Parliamentary Counsel under the *Legislative Standards Act 1992*.

party includes an individual and a corporation.

passing, in relation to an Act, has the meaning given by section 15.

payable, in relation to GST, includes capable of being paid under the *GST and Related Matters Act 2000*, section 5.

penalty includes forfeiture and punishment.

penalty unit has the meaning given under the *Penalties and Sentences Act 1992*, section 5.

person includes an individual and a corporation.

personal representative of a deceased individual means the executor (whether original or by representation) or administrator of the individual’s estate.

Planning and Environment Court means the court continued in existence as the Planning and Environment Court under the *Planning and Environment Court Act 2016*.

police officer means a police officer within the meaning of the *Police Service Administration Act 1990*.

possession of land includes the receipt of income from the land.

power includes authority.

prescribed means prescribed by, or by a statutory rule made or in force under, the Act in which the word is used.

printed includes typewritten, lithographed or produced or reproduced by any mechanical or electronic means.

proceeding means a legal or other action or proceeding.

proceedings in the Legislative Assembly means proceedings in the Assembly within the meaning of the *Parliament of Queensland Act 2001*.

proclamation has the meaning given by the *Statutory Instruments Act 1992*.

property means any legal or equitable estate or interest (whether present or future, vested or contingent, or tangible or intangible) in real or personal property of any description (including money), and includes things in action.

provision, in relation to an Act, means words or other matter that form or forms part of the Act, and includes—

- (a) a chapter, part, division, subdivision, section, subsection, paragraph, subparagraph, sub-subparagraph, of the Act apart from a schedule or appendix of the Act; and
- (b) a schedule or appendix of the Act or a section, subsection, paragraph, subparagraph, sub-subparagraph, item, column, table or form of or in a schedule or appendix of the Act; and
- (c) the long title and any preamble to the Act.

public holiday means a day appointed under the *Holidays Act 1983* or another Act as a public holiday.

public sector unit means—

- (a) a department or part of a department; or
- (b) a public service office or part of a public service office.

public service means the Queensland public service under the *Public Service Act 2008*, section 5.

public service employee see the *Public Service Act 2008*, section 9(1).

public service office see the *Public Service Act 2008*, section 21(1).

public service officer see the *Public Service Act 2008*, section 8.

published, in relation to the QIRC website, means published as provided under the *Industrial Relations Act 2016*, section 524.

purpose, for an Act, includes policy objective.

QCAT means the Queensland Civil and Administrative Tribunal established under the QCAT Act.

QCAT Act means the *Queensland Civil and Administrative Tribunal Act 2009*.

QIRC website see the *Industrial Relations Act 2016*, section 523.

Queensland lawyer means a barrister or solicitor of the Supreme Court.

Queensland legislation means—

- (a) an Act, including an agreement or other instrument in or attached to the Act; or
- (b) subordinate legislation, including an agreement or other instrument in or attached to the subordinate legislation; or
- (c) an agreement or other instrument not mentioned in paragraph (a) or (b) that has the same force of law as an Act or subordinate legislation; or
- (d) a reprint.

Queensland legislation website means the website with the URL www.legislation.qld.gov.au or another website authorised by the parliamentary counsel to provide access to Queensland legislation.

Queensland waters means all waters that are—

- (a) within the limits of the State; or
- (b) coastal waters of the State.

record includes information stored or recorded by means of a computer.

repeal includes—

- (a) for a provision of an Act or instrument—repeal the provision by omitting it; and
- (b) for an Act, instrument or provision of an Act or instrument—abrogate or limit its effect or exclude from its application any person, matter or circumstance; and
- (c) for an instrument or a provision of an instrument—revoke or rescind it.

reprint means—

- (a) a reprint authorised under the *Legislative Standards Act 1992*, section 10A; or
- (b) a pre-1992 reprint within the meaning of the *Reprints Act 1992*.

rules of court has the meaning given by the *Statutory Instruments Act 1992*.

see, followed by a reference to, or to a provision of, any Act, law or document, when used to define a word, entity, thing or matter, means the word, entity, thing or matter has the same meaning as it has in the provision, Act, law or document.

senior executive, in relation to the public service, means a public service officer employed under the *Public Service Act 2008* as a senior executive.

serve has the meaning given by section 39.

serve by post has the meaning given by section 39A.

sign includes the attaching of a seal and the making of a mark.

sitting day, in relation to the Legislative Assembly, means a day on which the Legislative Assembly actually sits.

Speaker means the Speaker of the Legislative Assembly.

spouse includes de facto partner and civil partner.

Standards Association of Australia, for anything done or to be done on or after 1 July 1999, includes a reference to Standards Australia Limited ACN 087 326 690.

Standards Australia means Standards Australia Limited ACN 087 326 690, and includes a reference to the Standards Association of Australia as constituted before 1 July 1999.

State means a State of the Commonwealth, and includes the Australian Capital Territory and the Northern Territory.

statutory declaration means—

- (a) a declaration made under the *Oaths Act 1867*; or
- (b) a declaration made under another Act, or under a Commonwealth Act or an Act of another State or a Territory, that authorises a declaration to be made otherwise than in the course of a judicial proceeding.

statutory instrument has the meaning given by the *Statutory Instruments Act 1992*.

statutory rule has the meaning given by the *Statutory Instruments Act 1992*.

subordinate legislation has the meaning given by the *Statutory Instruments Act 1992*.

subordinate local law means a subordinate local law made by a local government.

summary, for an offence or proceeding, has the meaning given by section 44.

supply, in relation to GST, has the same meaning as it has in the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth).

Supreme Court judge or **judge** means a judge of the Supreme Court.

swear, in relation to a person allowed by law to affirm, declare or promise, includes affirm, declare and promise.

table in the Legislative Assembly means lay before the Assembly.

territorial sea of Australia means the territorial sea of Australia within the limits mentioned in the *Coastal Waters (State Powers) Act 1980* (Cwlth), section 4(1).

Territory means a Territory of the Commonwealth.

the State means the State of Queensland.

Torres Strait Islander is a person who is a descendant of an Indigenous inhabitant of the Torres Strait Islands.

transfer of an interest in land means the passing of the interest other than by transmission.

transmission of an interest in land means the passing of the interest because of death or under a law about bankruptcy, insolvency or the liquidation of corporations.

under, for an Act or a provision of an Act, includes—

- (a) by; and
- (b) for the purposes of; and
- (c) in accordance with; and
- (d) within the meaning of.

United Kingdom means the United Kingdom of Great Britain and Northern Ireland.

valuer-general means the Valuer-General appointed under the *Land Valuation Act 2010*.

will includes codicil.

word includes any drawing, expression, figure and symbol.

writing includes any mode of representing or reproducing words in a visible form.

year, without specifying the type of year, means calendar year.