



Queensland

Justice and Other Legislation Amendment Act 2010

Act No. 42 of 2010



Queensland

Justice and Other Legislation Amendment Act 2010

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Queensland

Justice and Other Legislation Amendment Act 2010

Act No. 42 of 2010

An Act to amend the Acts Interpretation Act 1954, Anti-Discrimination Act 1991, Appeal Costs Fund Act 1973, Appeal Costs Fund Regulation 2010, Bail Act 1980, Child Employment Act 2006, Childrens Court Act 1992, Civil Liability Act 2003, Classification of Films Act 1991, Commissions of Inquiry Act 1950, Contract Cleaning Industry (Portable Long Service Leave) Act 2005, Criminal Code, Criminal Proceeds Confiscation Act 2002, Director of Public Prosecutions Act 1984, Disability Services Act 2006, District Court of Queensland Act 1967, Drug Court Act 2000, Drugs Misuse Act 1986, Electoral Act 1992, Electoral Regulation 2002, Electronic Transactions (Queensland) Act 2001, Evidence Act 1977, Family Responsibilities Commission Act 2008, Financial Transaction Reports Act 1992, Guardianship and Administration Act 2000, Industrial Relations Act 1999, Industrial Relations (Tribunals) Rules 2000, Invasion of Privacy Act 1971, Judges (Pensions and Long Leave) Act 1957, Judicial Review Act 1991, Jury Act 1995, Justices Act 1886, Justices of the Peace and Commissioners for Declarations Act 1991, Law Reform Act 1995, Legal Aid Queensland Act 1997, Legal Profession Act 2007, Limitation of Actions Act 1974, Magistrates Act 1991, Magistrates Courts Act 1921, Maintenance Act 1965, Oaths Act 1867, Ombudsman Act 2001, Payroll Tax Act 1971, Penalties and Sentences Act 1992, Personal Injuries Proceedings Act 2002, Professional Standards Act 2004, Property Law Act 1974, Public Trustee Act 1978, Queensland Civil and Administrative Tribunal Act 2009, Queensland Civil and Administrative Tribunal Regulation 2009, Recording of Evidence Act 1962, Referendums Act 1997, Reprints Act 1992, State Penalties Enforcement Act 1999, Supreme Court Act 1995, Supreme Court of Queensland Act 1991, Torres Strait Islander Land Act 1991, Transport Operations (Passenger Transport) Act 1994, Uniform Civil Procedure (Fees) Regulation 2009 and Workers' Compensation and Rehabilitation Act 2003 for particular purposes

[Assented to 14 October 2010]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Justice and Other Legislation Amendment Act 2010*.

2 Commencement

- (1) Sections 17, 23, 25, 26, 73, 123, 124 and 212 commence on a day to be fixed by proclamation.
- (2) Section 28 commences, or is taken to have commenced, on 30 September 2010.

Part 2 Amendment of Acts Interpretation Act 1954

3 Act amended in pt 2 and schedule

This part and the schedule amend the *Acts Interpretation Act 1954*.

4 Amendment of s 9 (Act to be interpreted not to exceed Parliament's legislative power)

- (1) Section 9, heading—
omit, insert—

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

(2) Section 9—

insert—

‘(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.

‘(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.’.

5 Amendment of s 35C (Headings part of provision etc.)

Section 35C—

insert—

‘(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.’.

6 Insertion of new pt 12

After section 46—

insert—

‘Part 12 Application of particular State laws to coastal waters

‘47 Definitions for pt 12

‘In this part—

[s 6]

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

insert—

‘Part 6 Transitional provisions

‘27 Amendment of regulation

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

‘28 Approved forms

- ‘(1) This section applies if, immediately before the commencement of this section, a form was approved for a purpose under section 13 of the regulation as in force before its repeal by the *Justice and Other Legislation Amendment Act 2010*.
- ‘(2) The form is taken to have been approved under section 25A for the purpose.’.

Part 4 Amendment of Appeal Costs Fund Regulation 2010

12 Regulation amended

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

13 Omission of s 2 (Definition)

Section 2—
omit.

[s 14]

14 Omission of s 13 (Approval of forms)

Section 13—

omit.

Part 5 Amendment of Bail Act 1980

15 Act amended in pt 5 and schedule

This part and the schedule amend the *Bail Act 1980*.

16 Amendment of s 16 (Refusal of bail)

Section 16(3)(d), at the end—

insert—

‘Note—

For this paragraph, a person proceeded against under section 33(3) is taken to be charged with an offence against this Act—see section 33(6).’.

17 Amendment of s 28A (Other warrants for apprehension of defendant)

Section 28A(1)(e), ‘, or varied under section 34BA(3) or 34BB(5)’—

omit.

18 Amendment of s 33 (Failure to appear in accordance with undertaking)

Section 33—

insert—

[s 21]

- ‘(3) The registrar or clerk of a court may give a person access to a record or information from a record under an authorisation under this section.
- ‘(4) In this section—
record means a court record or part of a court record.’

Part 7 Amendment of Criminal Code

21 Code amended

This part amends the Criminal Code.

22 Amendment of s 694 (Costs of defence)

- (1) Section 694, after ‘say—’—
insert—
‘(aa) if an application for leave to present an information against a person (the *accused person*) ends without the application being granted;’
- (2) Section 694, paragraphs (aa) to (c)—
renumber as paragraphs (a) to (d).

23 Renumbering of pt 9, ch 87 (Transitional provisions for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010)

- (1) Part 9, chapter 87 and sections 724 to 726—
renumber as part 9, chapter 88 and sections 725 to 727.
- (2) Section 725, as renumbered, heading, ‘87’—
omit, insert—
‘88’.

[s 28]

28 Amendment of s 241 (Interpretation)

Section 241(1), definition *transitional period*, ‘27’—
omit, insert—
‘33’.

29 Insertion of new s 241A

Part 16, division 3, subdivision 1—
insert—

‘241A Declaration about transitional period

‘To remove doubt, it is declared that for all purposes, including for anything done in relation to the transitional period, the transitional period includes, and is taken to have always included, the period from after 30 September 2010 until the commencement of this section.’.

Part 9 Amendment of District Court of Queensland Act 1967

30 Act amended in pt 9 and schedule

This part and the schedule amend the *District Court of Queensland Act 1967*.

31 Amendment of s 3 (Definitions)

- (1) Section 3, definitions *approval, case appraiser* and *mediator*—
omit.
- (2) Section 3—
insert—

‘*case appraiser*’ means a person appointed as a case appraiser under a referring order.

‘*mediator*’ means a person appointed as a mediator under a referring order.’.

32 Replacement of s 36 (Principal registrar and associates)

Section 36—

omit, insert—

‘36 Principal registrar and associates

‘(1) The Governor in Council may appoint a principal registrar.

‘(2) The Chief Judge may appoint a person nominated by a judge as an associate to the judge.

‘(3) An associate is appointed under this Act and not the *Public Service Act 2008*.

‘(4) The Governor in Council is to decide the salary and conditions of appointment for an associate appointed under subsection (2).’.

33 Omission of ss 93, 94 and 95

Sections 93, 94 and 95—

omit.

34 Omission of pt 7, div 7 (Miscellaneous)

Part 7, division 7—

omit.

35 Omission of s 121 (Appeal against refusal to approve and revocation of approval as mediator or case appraiser)

Section 121—

omit.

[s 36]

36 Insertion of new s 147

Part 12—

insert—

**‘147 Transitional provision for Justice and Other
Legislation Amendment Act 2010**

- ‘(1) To remove any doubt, it is declared that an appointment of an associate to a judge that is in force under section 36 immediately before the section is replaced by a new section 36 under the *Justice and Other Legislation Amendment Act 2010*, section 32 (Replacement of s 36), is taken, from the replacement, to continue in force as if it had been made by the Chief Judge under the new section 36.
- ‘(2) This section does not limit the *Acts Interpretation Act 1954*, section 20B.’.

**Part 10 Amendment of Drugs Misuse
Act 1986**

37 Act amended in pt 10 and schedule

This part and the schedule amend the *Drugs Misuse Act 1986*.

38 Amendment of s 4C (Analysts)

Section 4C—

insert—

- ‘(3) The Minister may delegate the Minister’s function under subsection (1) to—
- (a) the chief executive; or
 - (b) an officer of the department who the Minister is satisfied has the qualifications, experience or standing necessary to perform the function.

Example of standing—

the officer's classification or level in the department

- '(4) In this section—
function includes power.'

Part 11 Amendment of Electoral Act 1992

39 Act amended in pt 11 and schedule

This part and the schedule amend the *Electoral Act 1992*.

40 Amendment of s 60 (Inspection and purchase of publicly available parts of electoral rolls)

- (1) Section 60, heading, 'and purchase'—
omit.
- (2) Section 60(3) and (4)—
omit.

41 Replacement of s 61 (Availability of entire electoral rolls)

Section 61—
omit, insert—

'61 Information on electoral rolls to be provided to particular people and organisations

- '(1) The following table sets out persons and organisations to
whom the commission must give stated information about

[s 41]

electoral rolls and states the information to be given and the circumstances in which it is to be given.

Mandatory provision of information on electoral rolls

Item	Person or organisation	Information to be given	Circumstances in which information is to be given
1	a candidate for an election	a certified copy, in a form decided by the commissioner, of the entire electoral roll for the electoral district for which the candidate is seeking election	(a) on request by the candidate; and (b) as soon as practicable after the cut-off day for the nomination of candidates; and (c) without charge
2	a registered political party	a copy, in electronic form, of the most recent version of the entire electoral roll for any electoral district or all electoral districts	(a) on request by the party; and (b) at a price which reasonably reflects the cost of producing that copy
3	a registered political party	a copy, in electronic form, of the changes to the most recent version of the entire electoral roll for any electoral district or all electoral districts	(a) on request by the party; and (b) at a price which reasonably reflects the cost of producing that copy

Mandatory provision of information on electoral rolls

Item	Person or organisation	Information to be given	Circumstances in which information is to be given
4	a member of the Legislative Assembly	a reasonable number of copies, in printed form, of the most recent version of the entire electoral roll for the electoral district the member represents	(a) as soon as practicable after each of the following happens— (i) the member is declared elected; (ii) the roll is prepared under section 59(1)(c); and (b) without charge
5	a member of the Legislative Assembly	a copy, in electronic form, of the most recent version of the entire electoral roll for the electoral district the member represents	(a) once during each Legislative Assembly; and (b) without charge
6	a member of the Legislative Assembly	a copy, in electronic form, of the changes to the most recent version of the entire electoral roll for the electoral district the member represents	without charge

[s 41]

Mandatory provision of information on electoral rolls

Item	Person or organisation	Information to be given	Circumstances in which information is to be given
7	local government	a copy, in electronic form, of the most recent version of the entire electoral roll for any electoral district wholly or partly within the local government's area	(a) on request by the local government; and (b) at a price fixed or decided under a regulation
8	local government	a copy, in electronic form, of the changes to the most recent version of the entire electoral roll for any electoral district wholly or partly within the local government's area	(a) on request by the local government; and (b) at a price fixed or decided under a regulation

(2) The following table sets out persons and organisations to whom the commission may give a copy, in any form, of information in relation to electoral rolls and states the

information that may be given and the circumstances in which it may be given.

Discretionary provision of information on electoral rolls

Item	Person or organisation	Information to be given	Circumstances in which information is to be given
1	any department or State public authority	a copy, in electronic form, of the most recent version of the entire, or part of the, electoral roll for any electoral district	(a) on request by the department or State public authority; and (b) without charge

- ‘(3) Subsection (2) does not prevent an entity other than the commission, when providing a person or organisation with services for accessing information given by the commission, charging the person or organisation for the services.
- ‘(4) Other than as provided by this section, the commission must not provide a copy of any part of an electoral roll, other than the publicly available part, to a person other than—
- (a) a senior electoral officer; or
 - (b) a member of the commission’s staff; or
 - (c) a person performing functions under an arrangement mentioned in section 62.’.

42 Amendment of s152 (Misuse of restricted information)

Section 152(1) ‘part of the copy that is not a publicly available part’—

omit, insert—

‘the copy’.

[s 43]

43 Insertion of new pt 11, div 4

After section 189—

insert—

‘Division 4 Transitional provision for Justice and Other Legislation Amendment Act 2010

‘190 Transitional provision for Justice and Other Legislation Amendment Act 2010

‘The amendment of the *Electoral Regulation 2002* by the *Justice and Other Legislation Amendment Act 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.

44 Amendment of schedule, s 320 (Inspection and supply of copies of claims and returns)

Schedule, section 320(5), from ‘A person’ to the end—

omit, insert—

‘(omitted)’.

Part 12 Amendment of Electoral Regulation 2002

45 Regulation amended

This part amends the *Electoral Regulation 2002*.

46 Amendment of sch 2 (Fees)

(1) Schedule 2, item 1—

omit.

-
- (2) Schedule 2, item 2, ‘section 61(6)’—
omit, insert—
‘section 61(1), table, item 7’.
 - (3) Schedule 2, item 3, ‘section 61(7)’—
omit, insert—
‘section 61(1), table, item 8’.
 - (4) Schedule 2, items 2 to 4—
renumber as schedule 2, items 1 to 3.

Part 13 Amendment of Evidence Act 1977

47 Act amended

This part amends the *Evidence Act 1977*.

48 Amendment of s 21AM (Use of prerecorded evidence)

- (1) Section 21AM(1) ‘A video-taped’ to ‘lawfully’—
omit, insert—
‘The affected child’s evidence contained in a videotaped recording made under this subdivision for a proceeding, or in a lawfully’.
- (2) Section 21AM(2), ‘recording or copy’—
omit, insert—
‘evidence’.

[s 49]

Part 14 **Amendment of Family Responsibilities Commission Act 2008**

49 Act amended

This part amends the *Family Responsibilities Commission Act 2008*.

50 Amendment of s 10 (Commission's functions)

Section 10(1)(b), 'compulsory'—
omit.

51 Amendment of s 50 (Constitution of commission for conference)

- (1) Section 50, heading, after 'conference'—
insert—
'generally'.
- (2) Section 50(1), 'For'—
omit, insert—
'Subject to section 50A, for'.

52 Insertion of new ss 50A and 50B

After section 50—
insert—

'50A Constitution of commission for particular conference

- '(1) This section provides for the constitution of the commission for a conference in relation to a relevant person for an agency notice if the commissioner considers it is unlikely that an income management decision will be made for the conference.

-
- ‘(2) For the conference, the commission may be constituted by 3 local commissioners appointed for the welfare reform community area in which the commissioner considers the person the subject of the conference lives or lived.
 - ‘(3) The local commissioners mentioned in subsection (2) are to be nominated by a local registry coordinator, and appointed by the commissioner, under section 51.
 - ‘(4) The commissioner must nominate one of the local commissioners to be the chairperson of the commission for the conference.
 - ‘(5) The chairperson is to preside at the conference.

‘50B Commissioner must monitor particular decisions

‘If the commission is constituted under section 50A for a conference, the commissioner must monitor the decision of the commission for the conference for consistency of the decision with other decisions of the commission when constituted under section 50 or 50A.’.

53 Amendment of s 53 (Reconstituting commission for particular conference)

- (1) Section 53, heading, ‘particular conference’—
omit, insert—
‘conferences generally’.
- (2) Section 53(1), after ‘a conference’—
insert—
‘, other than a constituting member for a conference mentioned in section 50A,’.

54 Insertion of new s 53A

After section 53—
insert—

[s 55]

‘53A Reconstituting commission for particular conferences

- ‘(1) This section applies if the commission is constituted under section 50A for a conference.
- ‘(2) If a constituting member for the conference stops being a member or for any reason is not available for the conference, the commissioner may direct that the commission for the conference be constituted by—
 - (a) the remaining constituting members and another local commissioner appointed by the commissioner; or
 - (b) the commissioner and the remaining constituting members.
- ‘(3) If the commission adjourns a conference under section 64(2), the commissioner must direct that the commission for the conference be constituted by—
 - (a) the commissioner; and
 - (b) 2 local commissioners appointed by the commissioner.
- ‘(4) If practicable, a local commissioner mentioned in subsection (3)(b) is to be a local commissioner who was a constituting member for the conference before the conference was adjourned.
- ‘(5) In appointing another local commissioner under subsection (2)(a) or (3)(b), the commissioner must have regard to the matters mentioned in section 51(2) and (3).
- ‘(6) The commission as reconstituted must continue and finish the conference, and, for that purpose, may have regard to any record relating to the conference made by the commission as previously constituted.’.

55 Amendment of s 62 (Obtaining views of persons not attending conference)

Section 62—

insert—

- ‘(3) For this section, if the commission is constituted under section 50A for a conference, the duty imposed on the commissioner under subsection (1) is taken to be a duty imposed on the chairperson of the commission for the conference.’.

56 Amendment of s 64 (Adjournment of conference)

- (1) Section 64—

insert—

- ‘(1A) However, if the commission is constituted under section 50A for a conference, it must adjourn the conference if it considers the decision for the conference is likely to be an income management decision.

Note—

See section 53A for the reconstitution of the commission if a conference is adjourned under this subsection.’.

- (2) Section 64—

insert—

- ‘(2A) Also, if a conference is adjourned under subsection (2), the chairperson of the commission for the conference must inform the registrar of the adjournment.’.

- (3) Section 64(1A) to (2A)—

renumber as section 64(2) to (4).

57 Amendment of s 73 (Notice about requirement to attend community support service)

Section 73(2), ‘registrar of the decision.’—

omit, insert—

‘registrar—

- (a) of the decision; and
(b) if the agreement or direction includes section 76 matters, that a case plan need not be recorded for the person.

[s 58]

Note—

See section 77(2) for the circumstances in which the registrar need not record a case plan.’.

58 Amendment of s 77 (Recording of case plan)

Section 77—

insert—

- ‘(2) However, the registrar need not record a case plan under subsection (1) if the commission decides to—
- (a) enter into a family responsibilities agreement under section 68(2)(a) and the agreement includes section 76 matters; or
 - (b) make a family responsibilities order to direct a person under section 69(1)(b)(iii) and the order includes section 76 matters.’.

59 Amendment of pt 7, div 2, hdg (Noncompliance with compulsory case plans)

Part 7, division 2, heading, ‘compulsory’—

omit.

60 Amendment of s 81 (Definition for div 2)

- (1) Section 81, heading, ‘Definition’—

omit, insert—

‘Definitions’.

- (2) Section 81—

insert—

‘case plan includes—

- (a) if a family responsibilities agreement includes section 76 matters—the matters; or

- (b) if a family responsibilities order to direct a person to attend a community support service includes section 76 matters—the matters.’.

61 Amendment of s 82 (Show cause notice)

- (1) Section 82(1), ‘compulsory’—
omit.
- (2) Section 82(4), ‘28 days’—
omit, insert—
‘14 days’.

62 Amendment of s 86 (Ending show cause process without taking proposed action)

- Section 86(1)(b), (3), (4) and (5), ‘compulsory’—
omit.

63 Insertion of new pt 9, div 1, hdg

- After part 9 heading—
insert—

‘Division 1 Applications’.

64 Insertion of new pt 9, div 2, and div 3, hdg

- After section 97—
insert—

[s 65]

‘Division 2 Commissioner may dismiss particular applications

‘97A Frivolous or vexatious applications

- ‘(1) This section applies if the commissioner considers an application under division 1 is frivolous or vexatious.
- ‘(2) The commissioner may give the applicant a notice stating that the application may be dismissed unless the applicant makes oral or written representations to the commissioner, within a stated period of at least 14 days, to show that the application is not frivolous or vexatious.
- ‘(3) The commissioner must consider all representations (the *accepted representations*) made under subsection (2).
- ‘(4) The commissioner may dismiss the application if—
 - (a) at the end of the stated period, there are no accepted representations about the application; or
 - (b) after considering the accepted representations about the application, the commissioner still considers the application is frivolous or vexatious.
- ‘(5) If the commissioner decides to dismiss the application, the commissioner must give to the applicant—
 - (a) a notice stating—
 - (i) that the application is dismissed; and
 - (ii) the reasons for the decision; and
 - (b) an appeal notice for the decision.’.

‘Division 3 Hearing and deciding applications’.

65 Amendment of s 98 (Constitution of commission)

Section 98(1), ‘this part’—

omit, insert—

‘division 1’.

66 Amendment of s 100 (Inquiry about application)

Section 100(1), ‘part’—

omit, insert—

‘division’.

67 Amendment of s 101 (Failure to decide application)

Section 101(2)(a), ‘this part’—

omit, insert—

‘division 1’.

68 Amendment of s 103 (Limitation on increasing period of income management)

Section 103(1), ‘part’—

omit, insert—

‘division’.

69 Amendment of s 147 (Preservation of confidentiality)

Section 147(4)—

insert—

‘(d) a person engaged by a community support service who has gained information about a person to whom confidential information relates.

*Example of a person engaged by a community support service—
a volunteer’.*

[s 70]

70 Insertion of new s 157

Part 15—

insert—

‘157 Transitional provision for Justice and Other Legislation Amendment Act 2010

- ‘(1) A reference in section 81, definition *case plan*, paragraph (a) to a family responsibilities agreement does not include a family responsibilities agreement made before the commencement of this section.
- ‘(2) A reference in section 81, definition *case plan*, paragraph (b) to a family responsibilities order does not include a family responsibilities order made before the commencement of this section.’.

71 Amendment of schedule (Dictionary)

- (1) Schedule, definition *case plan*—

omit.

- (2) Schedule—

insert—

‘case plan—

- (a) for part 7, division 2—see section 81; or
- (b) otherwise—see section 76.

income management decision means—

- (a) a decision to enter into a family responsibilities agreement about giving the centrelink secretary a notice requiring that the person be subject to income management; or
- (b) a decision under section 69(1)(b)(iv).

section 76 matters means—

- (a) all of the matters mentioned in section 76(1)(c); and
- (b) any other matters that may be included in a case plan.’.

Part 15 **Amendment of Guardianship and Administration Act 2000**

72 Act amended

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

73 Amendment of s 80ZK (When adult guardian may give short term approval for use of other restrictive practices)

(1) Section 80ZK(3), from ‘there is’—

omit, insert—

‘a guardian for a restrictive practice (general) matter for the adult has given, or refused to give, consent to the use of the restrictive practice for the adult.’.

(2) Section 80ZK(7), paragraphs (a) and (b)—

renumber as paragraphs (b) and (c).

(3) Section 80ZK(7)—

insert—

‘(a) if a guardian for a restrictive practice (general) matter for the adult gives, or refuses to give, consent to the use of the restrictive practice for the adult; or’.

74 Insertion of new ch 11, pt 2A

Chapter 11—

insert—

‘Part 2A **Access to record of proceedings**

‘244A Access to record of proceedings

‘(1) This section applies if—

[s 75]

- (a) the tribunal is considering making an appointment or reviewing the appointment of a guardian or an administrator for an adult; and
 - (b) the adult has been a party to a civil proceeding in a court; and
 - (c) the court has not made an order under section 245.
- ‘(2) The tribunal may request from the registrar of the court a copy of the part of the record of proceedings for the civil proceeding that is relevant to the tribunal’s consideration.
- ‘(3) The registrar may, if the registrar considers the part of the record of proceedings is relevant to the tribunal’s consideration, comply with a request under subsection (2).
- ‘(4) A fee is not payable to the court for a copy of part of the record of proceedings under this section.
- ‘(5) In this section—
court means the Supreme Court or the District Court.’.

75 Amendment of s 245 (Settlements or damages awards)

- (1) Section 245(5)—
renumber as section 245(7).
- (2) Section 245—
insert—
- ‘(5) Also, after the order is made, the registrar must, if requested by the tribunal, give the tribunal a copy of the part of the record of proceedings that is relevant to making the order.
- ‘(6) A fee is not payable to the court for a copy of part of the record of proceedings under subsection (5).’.

76 Amendment of sch 4 (Dictionary)

- Schedule 4—
insert—

[s 79]

- (a) for adoption leave—a child who is under the age of 5 years, but does not include a child who—
 - (i) has previously lived continuously with the employee for a period of at least 6 months; or
 - (ii) is the child or stepchild of the employee or employee’s spouse; or
- (b) for surrogacy leave—a child born as a result of a surrogacy arrangement.’.
- (3) Section 17, definition *parental leave*, ‘or adoption leave’—
omit, insert—
‘, adoption leave or surrogacy leave’.
- (4) Section 17, definition *parental leave entitlement*, ‘or (4)’—
omit, insert—
‘, (4) or (4A)’.

79 Amendment of s 18 (Entitlement)

- (1) Section 18—
insert—
(4A) An employee who is an intended parent under a surrogacy arrangement is entitled to the following leave—
 - (a) an unbroken period of up to 1 week’s unpaid short surrogacy leave;
 - (b) a further unbroken period of up to 51 weeks unpaid long surrogacy leave.’.
- (2) Section 18(5), after ‘adopted’—
insert—
‘or started residing with the employee under the surrogacy arrangement’.

80 Amendment of s 20 (Notices and documents—parental leave other than maternity or adoption leave)

(1) Section 20, heading, ‘or adoption leave’—

omit, insert—

‘, adoption or surrogacy leave’.

(2) Section 20(1), ‘or adoption leave’—

omit, insert—

‘, adoption leave or surrogacy leave’.

81 Insertion of new s 21A

After section 21—

insert—

‘21A Notices and documents—surrogacy leave

‘(1) This section applies if an employee wants to take surrogacy leave.

‘(2) The employee must give the employer—

(a) for long surrogacy leave—written notice of intention to take the leave at least 10 weeks before the expected date when a child is to start residing with the employee under the surrogacy arrangement (the *expected residence date*); and

(b) at least 4 weeks written notice of the dates on which the employee wants to start and end the leave.

‘(3) The employee must, before starting the leave, give the employer a statutory declaration by the employee stating—

(a) the employee is an intended parent under a surrogacy arrangement; and

(b) the expected residence date; and

(c) for long surrogacy leave—

(i) the period of leave sought by the employee; and

[s 82]

- (ii) the period of any surrogacy leave sought by the employee's spouse; and
- (iii) the employee is seeking the leave to be the child's primary caregiver.'.

82 Amendment of s 22 (Reasons not to give notice or documents)

(1) Section 22(1), 'or 21'—

omit, insert—

' , 21 or 21A'.

(2) Section 22(1)—

insert—

'(ba) the child starting to reside with the employee before the expected residence date; or'.

83 Amendment of s 23 (Notice of change to situation)

Section 23, 'or 21'—

omit, insert—

' , 21 or 21A'.

84 Amendment of s 25 (Spouses not to take parental leave at same time)

Section 25(1), 'or short adoption leave'—

omit, insert—

' , short adoption leave or short surrogacy leave'.

85 Amendment of s 26 (Cancelling parental leave)

(1) Section 26(1)—

insert—

‘(d) a child does not start residing with the employee under the surrogacy arrangement.’.

(2) Section 26(2)—

insert—

‘(d) the residence of the child with the employee under the surrogacy arrangement does not start or continue;’.

86 Amendment of s 29A (Extending period of parental leave by agreement)

Section 29A—

insert—

‘(3A) An employee entitled to parental leave under section 18(4A), or who is taking surrogacy leave, may apply to the employer for either or both of the following—

(a) an extension of the short surrogacy leave for an unbroken period of up to 8 weeks in total;

(b) an extension of the long surrogacy leave for an unbroken period of up to 96 weeks in total.’.

87 Amendment of s 29C (Application for extension or part-time work)

(1) Section 29C(1)(b)(i), ‘or short adoption leave’—

omit, insert—

‘, short adoption leave or short surrogacy leave’.

(2) Section 29C(1)(b)(ii), ‘or long adoption leave’—

omit, insert—

‘, long adoption leave or long surrogacy leave’.

(3) Section 29C(1)(f)(i), ‘or long adoption leave’—

omit, insert—

‘, long adoption leave or long surrogacy leave’.

[s 88]

88 Amendment of s 29D (Employer to give proper consideration to application for extension or part-time work)

Section 29D(3)(a), ‘or short adoption leave’—

omit, insert—

‘, short adoption leave or short surrogacy leave’.

89 Amendment of s 31 (Effect on parental leave of ceasing to be the primary caregiver)

Section 31(1)(a), after ‘leave’—

insert—

‘, long adoption leave or long surrogacy leave’.

90 Amendment of s 33 (Employer’s obligation to advise about parental leave entitlements)

Section 33(1), after ‘child,’—

insert—

‘, or that an employee is an intended parent under a surrogacy arrangement,’.

91 Amendment of s 34 (Dismissal because of pregnancy or parental leave)

Section 34(1)—

insert—

‘(ba) the employee is an intended parent under a surrogacy arrangement or a child has started residing with the employee under a surrogacy arrangement; or’.

92 Insertion of new s 38AA

After section 38—

insert—

‘38AA Special surrogacy leave

‘An employee who is an intended parent under a surrogacy arrangement is entitled to up to 2 days unpaid leave to attend compulsory interviews or court hearings associated with the surrogacy arrangement.’

93 Amendment of s 243 (President of the court)

Section 243—

insert—

- ‘(4) A non-judicial appointee is taken to be appointed on a full-time basis unless the appointment is stated, in the instrument of appointment, to be on a part-time basis.
- ‘(5) A non-judicial appointee appointed on a full-time basis may, by written agreement between the Minister and the appointee, perform the functions of the office of the president on a part-time basis.
- ‘(6) An appointment or agreement for a non-judicial appointee to perform the functions of the office of the president on a part-time basis must state the percentage of the full-time basis the appointee is to perform.
- ‘(7) A non-judicial appointee appointed on a part-time basis may, by written agreement between the Minister and the appointee, perform the functions of the office of the president on a full-time basis.
- ‘(8) A non-judicial appointee performing the functions of the office of the president on a part-time basis may hold another office, perform other duties or engage in employment if—
 - (a) the Minister is satisfied that holding the other office, performing the other duties or engaging in the employment is compatible with, and is not a conflict of interest issue for, the office of the president; and
 - (b) the Minister has given written approval for the non-judicial appointee to hold the other office, perform the other duties or engage in the employment.’

[s 94]

94 Amendment of s 246 (Acting president of the court)

Section 246(2)(b), after ‘vice president’—

insert—

‘or if the vice president temporarily can not perform the functions of the office, a presidential member who is a lawyer of at least 5 years standing’.

95 Amendment of s 258 (Vice president of the commission)

Section 258—

insert—

- ‘(3) The person is taken to be appointed on a full-time basis unless the appointment is stated, in the instrument of appointment, to be on a part-time basis.
- ‘(4) A person appointed on a full-time basis may, by written agreement between the Minister and the person, perform the functions of the office of the vice president on a part-time basis.
- ‘(5) An appointment or agreement for a vice president to perform the functions of the office of the vice president on a part-time basis must state the percentage of the full-time basis the vice president is to perform.
- ‘(6) A person appointed on a part-time basis may, by written agreement between the Minister and the person, perform the functions of the office of the vice president on a full-time basis.
- ‘(7) A person performing the functions of the office of the vice president on a part-time basis may hold another office, perform other duties or engage in employment if—
 - (a) the Minister is satisfied that holding the other office, performing the other duties or engaging in the employment is compatible with, and is not a conflict of interest issue for, the office of the vice president; and

-
- (b) the Minister has given written approval for the person to hold the other office, perform the other duties or engage in the employment.’.

96 Amendment of s 258A (Deputy presidents of the commission)

Section 258A—

insert—

- ‘(3) The person is taken to be appointed on a full-time basis unless the appointment is stated, in the instrument of appointment, to be on a part-time basis.
- ‘(4) A person appointed on a full-time basis may, by written agreement between the Minister and the person, perform the functions of the office of a deputy president on a part-time basis.
- ‘(5) An appointment or agreement for a deputy president to perform the functions of the office of a deputy president on a part-time basis must state the percentage of the full-time basis the deputy president is to perform.
- ‘(6) A person appointed on a part-time basis may, by written agreement between the Minister and the person, perform the functions of the office of a deputy president on a full-time basis.
- ‘(7) A person performing the functions of the office of a deputy president on a part-time basis may hold another office, perform other duties or engage in employment if—
- (a) the Minister is satisfied that holding the other office, performing the other duties or engaging in the employment is compatible with, and is not a conflict of interest issue for, the office of a deputy president; and
- (b) the Minister has given written approval for the person to hold the other office, perform the other duties or engage in the employment.’.

[s 97]

97 Amendment of s 259 (Commissioners)

Section 259—

insert—

- ‘(3) The person is taken to be appointed on a full-time basis unless the appointment is stated, in the instrument of appointment, to be on a part-time basis.
- ‘(4) A person appointed on a full-time basis may, by written agreement between the Minister and the person, perform the functions of the office of a commissioner on a part-time basis.
- ‘(5) An appointment or agreement for a commissioner to perform the functions of the office of a commissioner on a part-time basis must state the percentage of the full-time basis the commissioner is to perform.
- ‘(6) A person appointed on a part-time basis may, by written agreement between the Minister and the person, perform the functions of the office of a commissioner on a full-time basis.
- ‘(7) A person performing the functions of the office of a commissioner on a part-time basis may hold another office, perform other duties or engage in employment if—
 - (a) the Minister is satisfied that holding the other office, performing the other duties or engaging in the employment is compatible with, and is not a conflict of interest issue for, the office of a commissioner; and
 - (b) the Minister has given written approval for the person to hold the other office, perform the other duties or engage in the employment.’.

98 Amendment of s 259A (Commissioner may be appointed ombudsman)

Section 259A(3)—

omit, insert—

- ‘(3) A commissioner who holds an appointment as ombudsman may, by written agreement of the Minister, the president and

the commissioner, perform the functions of office of both commissioner and ombudsman.’.

99 Insertion of new s 259AA

After section 259A—

insert—

‘259AA Dealing with matters as commissioner and ombudsman

- ‘(1) This section applies if—
- (a) a commissioner who holds, or held, an appointment as ombudsman has dealt with a matter while performing the functions of the office of ombudsman; and
 - (b) the matter is or has become a matter or proceeding before the commission.
- ‘(2) The commissioner must not deal with the matter or proceeding.
- ‘(3) The commissioner must inform the president why the commissioner is not dealing with the matter or proceeding.’.

100 Amendment of s 264 (Administrative responsibilities for the commission and registry)

Section 264(4)—

omit, insert—

- ‘(4) Subsection (4AA) applies if a member has dealt with, or is dealing with, a particular issue while performing the functions of the ombudsman.
- ‘(4AA) The president must not constitute the commission, including the full bench, with the member for a matter or proceeding that will, or is likely to, consider, or have regard to, the particular issue.’.

[s 101]

101 Amendment of s 278 (Power to recover unpaid wages and superannuation contribution etc.)

Section 278(6), from ‘The’ to ‘president’, second mention—

omit, insert—

‘A presidential member may, either before or after the start of a hearing, remit the application to a magistrate if the presidential member’.

102 Amendment of s 281 (Reference to full bench)

(1) Section 281(2), (4), (5) and (7), ‘vice’—

omit.

(2) Section 281(3) and (6)—

omit.

(3) Section 281(7), ‘subsection (4)’—

omit, insert—

‘subsection (3)’.

(4) Section 281(4) to (8)—

renumber as section 281(3) to (6).

103 Amendment of s 338 (Rules)

Section 338(3)(c), from ‘the’—

omit, insert—

‘2 commissioners’.

104 Insertion of new s 339GA

Chapter 8A, part 2—

insert—

‘339GA Dealing with matters as ombudsman and commissioner

- ‘(1) This section applies if—
- (a) an ombudsman who holds an appointment as a commissioner has dealt with a matter or proceeding while performing the functions of the office of a commissioner; and
 - (b) the matter or proceeding is or has become a matter for the ombudsman.
- ‘(2) The ombudsman must not deal with, or continue to deal with, the matter.’.

105 Amendment of s 339H (Appointment of ombudsman)

Section 339H—

insert—

- ‘(3) The ombudsman is taken to be appointed on a full-time basis unless the appointment is stated, in the instrument of appointment, to be on a part-time basis.
- ‘(4) A person appointed on a full-time basis may, by written agreement between the Minister and the person, perform the functions of the office of ombudsman on a part-time basis.
- ‘(5) An appointment or agreement for an ombudsman to perform the functions of the office of ombudsman on a part-time basis must state the percentage of the full-time basis the ombudsman is to perform.
- ‘(6) A person appointed on a part-time basis may, by written agreement between the Minister and the person, perform the functions of the office of ombudsman on a full-time basis.
- ‘(7) A person performing the functions of the office of ombudsman on a part-time basis may hold another office, perform other duties or engage in employment if—
- (a) the Minister is satisfied that holding the other office, performing the other duties or engaging in the

[s 106]

employment is compatible with, and is not a conflict of interest issue for, the office of ombudsman; and

- (b) the Minister has given written approval for the person to hold the other office, perform the other duties or engage in the employment.

‘(8) If the ombudsman holding appointment as a commissioner performs the functions of both offices concurrently, the ombudsman may, when the appointment as ombudsman ends, perform the functions of the office of a commissioner on a full-time basis.’.

106 Omission of s 339Z (Quarterly report)

Section 339Z—

omit.

107 Amendment of s 365 (Revocation and suspending industrial officer’s authorisation)

Section 365(1), after ‘employer’—

insert—

‘or a person required to produce a record under section 373A’.

108 Amendment of s 373 (Right to inspect and request information—authorised industrial officer)

- (1) Section 373—

insert—

‘(2A) The officer may also inspect a record required to be kept under the code made under section 400I.’.

- (2) Section 373(3)—

insert—

‘(c) must allow the officer to inspect the record mentioned in subsection (2A).’.

(3) Section 373(3A), ‘the record’—

omit, insert—

‘the time and wages record or the record mentioned in subsection (2A)’.

109 Insertion of new s 373A

After section 373—

insert—

‘373A Right to request information about outworkers under code

‘(1) An authorised industrial officer of a relevant employee organisation may, by notice, require a person to produce a record required to be kept by the person under the code made under section 400I—

(a) at a reasonably convenient place for the person as nominated by the officer; and

(b) at a reasonable time.

Maximum penalty—27 penalty units.

‘(2) The officer may make a copy of the record, but can not require any help from the person.

‘(3) In this section—

relevant employee organisation means an employee organisation that is entitled to represent the industrial interests of an employee under the code made under section 400I.’.

110 Amendment of s 400I (Mandatory code of practice for outworkers)

Section 400I—

insert—

‘(8) A magistrate may hear and decide a complaint for an offence under this section.’.

[s 111]

111 Amendment of s 408F (Commission may order repayment of fees received by private employment agent)

Section 408F(5), from ‘The’ to ‘president’, second mention—
omit, insert—

‘A presidential member may, either before or after the start of a hearing, remit the application to a magistrate if the presidential member’.

112 Amendment of s 412 (Meaning of office for ch 12)

Section 412(a), ‘vice-president’—
omit, insert—

‘vice president’.

113 Insertion of new ch 20, pt 11

After section 762—
insert—

‘Part 11 Transitional provisions for Justice and Other Legislation Amendment Act 2010

‘763 Amendment of tribunals rules under the Justice and Other Legislation Amendment Act 2010

‘The amendment of the *Industrial Relations (Tribunals) Rules 2000* under the *Justice and Other Legislation Amendment Act 2010* does not affect the power of the Governor in Council to further amend or repeal the rules.

‘764 Final quarterly report by ombudsman

‘(1) Despite the *Justice and Other Legislation Amendment Act 2010*, section 106, the ombudsman must prepare a report

under the pre-amended Act, section 339Z, for the period from 1 October 2010 to 31 December 2010.

‘(2) In this section—

pre-amended Act means this Act as it was in force immediately before the commencement of this section.

‘765 Appointment of associates

‘(1) To remove any doubt, it is declared that an appointment of an associate to a member of the commission that is in force under schedule 2, part 1A, section 4C immediately before the section is amended under the *Justice and Other Legislation Amendment Act 2010*, section 114, is taken, from the amendment, to continue in force as if it had been made by the Minister under the new schedule 2, part 1A, section 4C.

‘(2) This section does not limit the *Acts Interpretation Act 1954*, section 20B.’.

114 Amendment of sch 2 (Appointments)

(1) Schedule 2, part 1, section 1(4) and (5)—

renumber as section 1(5) and (6).

(2) Schedule 2, part 1, section 1—

insert—

‘(4) If a relevant member performs the functions of the office of a member on a part-time basis under an appointment or agreement, the salary and allowances payable to the relevant member are worked out by multiplying the percentage of the part-time basis stated in the appointment or agreement by the salary and allowances payable to a member who performs the functions of the office on a full-time basis.

Example for subsection (4)—

The annual salary of a full-time member is \$200000 and the allowances are \$5000. The salary of a relevant member who is appointed on a 50% part-time basis will be \$100000 and the allowances will be \$2500.’.

[s 114]

(3) Schedule 2, part 1, section 1—

insert—

‘(7) In this section—

relevant member means a member other than a president who is a Supreme Court judge.’

(4) Schedule 2, part 1—

insert—

‘2A Benefits for part-time members

‘(1) This section applies if a relevant member performs the functions of the office on a part-time basis under an appointment or agreement.

‘(2) For the pensions Act, sections 3, 4 and 5, the period served by the relevant member is taken to be the total number of years, including any part of a year, that the person serves as a relevant member regardless of whether the person performs the functions of the office on a full-time or part-time basis.

‘(3) For the pensions Act, sections 3, 4 and 5, the salary of the relevant member is taken to be the amount worked out using the formula—

$$FTS \times \frac{PS}{TS}$$

where—

FTS means the salary under schedule 2, part 1, section 1 payable to a relevant member who performs the functions of the office on a full-time basis.

PS means the sum of the period served on a full-time basis and each period of equivalent full-time service of the relevant member.

TS means the total number of years, including any part of a year, that the person serves as a relevant member regardless of whether the person performs the functions of the office on a full-time or part-time basis.

Example of TS—

A person works as a commissioner full-time for 5 years 6 months and then works part-time on a 50% part-time basis for 5 years. The TS of the person is 10 ½ years (5 ½ years plus 5 years).

- ‘(4) The amount of the salary of the relevant member worked out under subsection (3) is to be calculated to 2 decimal places and rounded up or down.
- ‘(5) If the sum of the period served on a full-time basis and each period of equivalent full-time service for a relevant member is 10 years or more—
- (a) subsection (3) does not apply to the relevant member for the pensions Act, sections 3, 4 and 5; and
 - (b) the salary of the relevant member for the pensions Act, sections 3, 4 and 5 is taken to be the salary under schedule 2, part 1, section 1 payable to a relevant member who performs the functions of the office on a full-time basis.
- ‘(6) In this section—
- equivalent full-time service***, for each period of part-time service, means the period of service multiplied by the percentage stated in the appointment or agreement.
- relevant member*** means a member other than a president who is a Supreme Court judge.’
- (5) Schedule 2, part 1, section 4(3)(a) to (c)—
- omit, insert—*
- ‘(a) the Minister if the member is the president or a member holding appointment as ombudsman; or
 - (b) the president for any other member.’
- (6) Schedule 2, part 1, section 4A(1), ‘vice president’—
- omit, insert—*
- ‘a member holding appointment as ombudsman’.
- (7) Schedule 2, part 1, section 4A(2), from ‘a deputy’—

[s 115]

omit, insert—

‘any other member on the terms the president considers appropriate.’

- (8) Schedule 2, part 1, section 4A(3)—

omit.

- (9) Schedule 2, part 1, after section 4A—

insert—

‘4AA Leave for part-time members

- ‘(1) If a relevant member performs the functions of the office of a member on a part-time basis under an appointment or agreement, the entitlement to leave of the relevant member is worked out by multiplying the percentage stated in the appointment or agreement by the entitlement to the leave of a relevant member who performs the functions of the office on a full-time basis.

- ‘(2) In this section—

relevant member means a member other than a president who is a Supreme Court judge.’

- (10) Schedule 2, part 1A, section 4C(1) and (2), ‘Governor in Council’—

omit, insert—

‘Minister’.

- (11) Schedule 2, part 1A, section 4C—

insert—

- ‘(4) The Minister may delegate the Minister’s function under this section to the chief executive.’

115 Amendment of sch 5 (Dictionary)

- (1) Schedule 5—

insert—

'conflict of interest issue has the meaning given by the *Integrity Act 2009*, section 10.

intended parent, for chapter 2, part 2, see section 17.

long surrogacy leave, for chapter 2, part 2, see section 17.

short surrogacy leave, for chapter 2, part 2, see section 17.

surrogacy arrangement, for chapter 2, part 2, see section 17.

surrogacy leave, for chapter 2, part 2, see section 17.'

Part 17 **Amendment of Industrial Relations (Tribunals) Rules 2000**

116 **Rules amended in pt 17 and schedule**

This part and the schedule amend the *Industrial Relations (Tribunals) Rules 2000*.

117 **Amendment of r 201A (Vacations and holidays)**

Rule 201A(1), 'vice'—
omit.

[s 118]

Part 18 **Amendment of Judges (Pensions and Long Leave) Act 1957**

118 Act amended

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

119 Amendment of s 15 (Leave of absence of judges)

Section 15(8), definition *prescribed authority*—
omit, insert—

'prescribed authority, for leave of absence to a judge,
means—

- (a) the Governor in Council, if the judge is the Chief Justice and the leave of absence is more than 1 month; or
- (b) the Chief Justice, if the judge is—
 - (i) the Chief Judge; or
 - (ii) the Chief Magistrate and paragraph (c)(i) does not apply; or
 - (iii) a Supreme Court judge, other than the Chief Justice; or
- (c) the Chief Judge, if the judge is—
 - (i) a District Court judge who is the Chief Magistrate; or
 - (ii) a District Court judge, other than the Chief Judge; or
- (d) the Minister, if the judge is the Chief Justice and the leave of absence is 1 month or less.'

Part 19 Amendment of Justices Act 1886

120 Act amended in pt 19 and schedule

This part and the schedule amend the *Justices Act 1886*.

121 Amendment of s 47 (What is sufficient description of offence)

Section 47(3) and (3A)—

omit, insert—

- ‘(3) Any person who serves a notice specifying any alleged previous conviction of the defendant may—
- (a) if the proceeding for the offence was started by a notice to appear—serve, and document service of, the notice in the same way as is provided for the service and documenting of service of a notice to appear under the *Police Powers and Responsibilities Act 2000*; or
 - (b) otherwise—serve the notice and depose to the service in the same way as is provided for the service and deposition of a summons under this Act.

Note—

- 1 For documenting service under paragraph (a), see the *Police Powers and Responsibilities Act 2000*, section 389(2).
- 2 For depositing as to service under paragraph (b), see section 56.

- ‘(3A) Without limiting section 56, a document of service or a deposition as to service of a notice under subsection (3) is, on production to the court—
- (a) evidence of the matters contained in the document or deposition; and
 - (b) sufficient proof of the service of the notice on the defendant.’.

[s 122]

122 Omission of s 64 (Sunday warrants)

Section 64—

omit.

123 Replacement of s 151 (Formal convictions and orders)

Section 151—

omit, insert—

‘151 Formal convictions and orders

‘(1) The conviction or order must afterwards, if required under section 152, be drawn up in proper form by the justices or the clerk of the court.

‘(2) The formal conviction or order must be filed with or by the clerk of the court.

‘(3) Whether or not a requirement is made under section 152, the clerk of the court must make a record of the conviction or order and any other matter (a ***verdict and judgment record***) as required under the *Criminal Practice Rules 1999*.

Editor’s note—

See the *Criminal Practice Rules 1999*, rule 62.

‘(4) A verdict and judgment record relating to a conviction or order is a sufficiently proper form of the conviction or order for subsection (1).’.

124 Amendment of s 152 (Formal record of conviction not necessary, except for special purposes)

Section 152, from ‘Provided that’ to ‘justices’—

omit, insert—

‘Subject to the *Criminal Practice Rules 1999*, it is unnecessary for justices or a clerk of the court’.

125 Amendment of s 154 (Copies of record)

Section 154—

insert—

- ‘(5) Subsections (2) and (3) do not prevent the giving of access to a record or information under the *Childrens Court Act 1992*, section 28A.’.

Part 20 Amendment of Justices of the Peace and Commissioners for Declarations Act 1991

126 Act amended in pt 20 and schedule

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

127 Amendment of s 3 (Interpretation)

Section 3—

insert—

‘*contact details*, of a justice of the peace or commissioner for declarations, means the telephone number and suburb or other locality of the residence of the justice of the peace or commissioner for declarations.

registered particulars means particulars about justices of the peace and commissioners for declarations mentioned in section 13(2)(b) stated on the register.’.

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

- (1) Section 13(2)(b)(i)—

omit, insert—

[s 129]

‘(i) the name and contact details; and’.

(2) Section 13—

insert—

‘(3) Despite subsection (2)(a), the registrar may withhold the contact details of a particular person from inspection if the registrar considers it necessary to do so to protect the safety or wellbeing of the person or a relative of the person.

Examples of persons whose contact details may need to be withheld—

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

129 Amendment of s 14 (Correction of register)

Section 14, ‘names and addresses and other’—

omit.

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

Section 21(2)(a)—

omit, insert—

‘(a) the name and contact details of the person; and’.

131 Amendment of s 22 (Registrar to be notified of change to registered particulars)

Section 22(1), ‘address’—

omit, insert—

‘contact details’.

132 Amendment of s 23 (Resignation)

Section 23(3)(b), ‘name’—

omit, insert—

‘registered particulars’.

133 Amendment of s 24 (Revocation of appointment)

Section 24(2)(b), ‘name’—

omit, insert—

‘registered particulars’.

134 Amendment of s 25 (Prohibition on acting in office)

Section 25(4)(a) and (b), ‘name’—

omit, insert—

‘registered particulars’.

135 Amendment of s 26 (Notification of cessation of office)

Section 26(2)(b)—

omit, insert—

‘(b) remove the person’s registered particulars from the register.’.

136 Amendment of s 38 (Publication of office holders)

(1) Section 38(2), after ‘directs’—

insert—

‘, other than contact details withheld from inspection by the registrar under section 13(3)’.

(2) Section 38(3), ‘addresses’—

omit, insert—

‘contact details’.

[s 137]

137 Insertion of new pt 5, div 3

Part 5—

insert—

**‘Division 3 Transitional provision for Justice
and Other Legislation Amendment
Act 2010**

‘47 Correction of register to comply with amended Act

‘(1) This section applies to any corrections the registrar is required to make to the register because of the amendment of section 13 made by the *Justice and Other Legislation Amendment Act 2010*.

‘(2) The registrar may correct the register as soon as the registrar considers it practicable to do so after the commencement of the amendment of the section.’

**Part 21 Amendment of Legal
Profession Act 2007**

138 Act amended in pt 21 and schedule

This part and the schedule amend the *Legal Profession Act 2007*.

**139 Amendment of s 25 (Prohibition on representing or
advertising entitlement to engage in legal practice when
not entitled)**

(1) Section 25(4)—

renumber as section 25(5).

(2) Section 25—

insert—

‘(4) Also, subsection (1) does not apply to a representation or advertisement about a person being entitled to engage in legal practice as mentioned in section 24(3).’.

140 Amendment of s 330 (Bills)

Section 330(7), from ‘electronically’—

omit, insert—

‘electronically if the client requests the bill to be given electronically.’.

141 Amendment of s 683 (Delegation)

Section 683(1)(b), after ‘committee’—

insert—

‘of the law society’.

142 Insertion of new ch 10, pt 3

Chapter 10—

insert—

**‘Part 3 Transitional provision for
Justice and Other Legislation
Amendment Act 2010**

‘778 Amended definition of *previous admission rules*

‘The definition *previous admission rules* as inserted into the schedule by the *Justice and Other Legislation Amendment Act 2010*, section 143, is taken to have always been the definition of the term for the purposes of the Act from the commencement of section 5.’.

[s 143]

143 Amendment of sch 2 (Dictionary)

Schedule 2, definition *previous admission rules*—

omit, insert—

‘previous admission rules means rules made for the Supreme Court providing for the admission of barristers and solicitors as in force at any time before 1 July 2004.

Note—

See, for example, the following—

- (a) the repealed Barristers’ Admission Rules 1975 and the rules repealed by those rules;
- (b) the repealed Solicitors’ Admission Rules 1968 and the rules repealed by those rules.’.

Part 22 Amendment of Magistrates Act 1991

144 Act amended in pt 22 and schedule

This part and the schedule amend the *Magistrates Act 1991*.

145 Amendment of s 4 (Qualifications for appointment of magistrates)

Section 4(1), ‘65’—

omit, insert—

‘70’.

146 Amendment of s 6 (Appointment of acting magistrates)

Section 6(5), definition *retired magistrate*—

omit, insert—

‘retired magistrate means a person who—

- (a) ceases to be a magistrate under section 42(a) or (b); and
- (b) has not attained the age of 70’.

147 Amendment of s 12 (Functions of Chief Magistrate)

Section 12(5)—

omit.

148 Amendment of s 42 (Tenure of office)

Section 42(d), ‘65’—

omit, insert—

‘70’.

149 Amendment of s 53 (Appointment of judicial registrars)

(1) Section 53(5)—

omit.

(2) Section 53(6) to (8)—

renumber as section 53(5) to (7).

150 Amendment of s 53A (Appointment of acting judicial registrars)

(1) Section 53A(5)—

omit.

(2) Section 53A(6)—

renumber as section 53A(5).

151 Amendment of s 53N (Ceasing to be a judicial registrar)

(1) Section 53N(1)(e), ‘65’—

omit, insert—

‘70’.

[s 152]

- (2) Section 53N(1)(g)—
omit.

152 Omission of pt 9A, div 4

Part 9A, division 4—
omit.

153 Insertion of new pt 10, div 7

Part 10—
insert—

**‘Division 7 Transitional provisions for Justice
and Other Legislation Amendment
Act 2010**

‘65 Acting magistrates

- ‘(1) This section applies if—
- (a) a person ceased to be a magistrate under pre-amended section 42(d); and
 - (b) the person has not attained the age of 70.
- ‘(2) The person is taken to be a retired magistrate for section 6(5), definition *retired magistrate* until the person has attained the age of 70.
- ‘(3) In this section—
pre-amended section 42(d) means section 42(d) as in force before its amendment by the *Justice and Other Legislation Amendment Act 2010*.

‘66 Tenure of office of particular acting magistrates

- ‘(1) This section applies if—
- (a) before the commencement, a retired magistrate was appointed under section 6 to act as a magistrate; and

[s 157]

157 Omission of s 49 (Appeal against refusal to approve and revocation of approval as mediator or case appraiser)

Section 49—

omit.

158 Omission of pt 5, div 7

Part 5, division 7—

omit.

Part 24 Amendment of Payroll Tax Act 1971

159 Act amended

This part amends the *Payroll Tax Act 1971*.

160 Amendment of s 14A (Exemption for parental and adoption leave)

(1) Section 14A, heading, ‘and adoption leave’—

omit, insert—

‘, adoption or surrogacy leave’.

(2) Section 14A(1), ‘or adoption leave’—

omit, insert—

‘, adoption leave or surrogacy leave’.

(3) Section 14A(2), from ‘immaterial’—

omit, insert—

‘immaterial whether—

(a) the parental leave is taken during or after the pregnancy;
or

[s 162]

162 Amendment of s 15D (Meaning of *eligible drug offence*)

(1) Section 15D(1)(b)—

renumber as section 15D(1)(c).

(2) Section 15D(1)—

insert—

‘(b) an offence against the *Drugs Misuse Act 1986*, section 10(1), if the court considers the possession of each thing mentioned in the charge was related to its personal use by the person in connection with the commission of the offence.’.

163 Amendment of s 32 (Recognisance instead of imposing any other sentence)

Section 32—

insert—

‘(2) In making an order under subsection (1), the court may impose any additional conditions that it considers appropriate.’.

164 Insertion of new s 219

Part 14—

insert—

‘219 Transitional provision for the Justice and Other Legislation Amendment act 2010

‘This Act as amended by the *Justice and Other Legislation Amendment Act 2010*, part 25 applies to a sentence imposed after the commencement of part 25, whether the offence was committed before or after the commencement of part 25.’.

Part 26 Amendment of Professional Standards Act 2004

165 Act amended

This part amends the *Professional Standards Act 2004*.

166 Amendment of s 14 (Schemes are subject to disallowance)

Section 14(5)—

omit, insert—

- ‘(5) A reference in this section to an interstate scheme includes a reference to—
- (a) an instrument amending an interstate scheme; and
 - (b) an instrument amending a scheme prepared under the corresponding law of another jurisdiction so that the scheme indicates an intention to operate as a scheme of this jurisdiction.’.

167 Amendment of s 15 (Commencement of schemes)

- (1) Section 15(1)—

omit, insert—

- ‘(1) If the Minister gives notice under section 14 of the approval of a scheme, the scheme commences—
- (a) if the scheme states a commencement day that is after the day the notice is gazetted—on the day stated in the scheme; or
 - (b) otherwise—2 months after the day the notice is gazetted.’.
- (2) Section 15(4), ‘amending that scheme’—
- omit, insert—*
- ‘mentioned in section 14(5)’.

[s 168]

168 Amendment of s 16 (Challenges to schemes)

Section 16(6), ‘amending that scheme’—
omit, insert—
‘mentioned in section 14(5)’.

Part 27 Amendment of Property Law Act 1974

169 Act amended in pt 27 and schedule

This part and the schedule amend the *Property Law Act 1974*.

170 Amendment of s 82 (Tacking and further advances)

Section 82(4), ‘aforesaid’—
omit, insert—
‘mentioned in subsection (1)’.

Part 28 Amendment of Public Trustee Act 1978

171 Act amended

This part amends the *Public Trustee Act 1978*.

172 Amendment of s 77 (Definitions)

Section 77, definition *proper officer*, ‘Protective Commissioner’—

omit, insert—

‘NSW Trustee and Guardian’.

Part 29 **Amendment of Queensland Civil and Administrative Tribunal Act 2009**

173 Act amended

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

174 Insertion of new ch 4, pt 4A

Chapter 4—

insert—

‘Part 4A Dual appointments

‘206A Dual appointment

- ‘(1) A person may hold appointment as an ordinary member and an adjudicator.
- ‘(2) The appointment mentioned in subsection (1) may be made in the same instrument or separate instruments.
- ‘(3) Any thing done under this Act for removing or suspending a person from office as an ordinary member or adjudicator may be expressed to be done for the person holding another office under this Act.’.

[s 175]

175 Omission of s 242A (Expiry of ss 198A and 242A and amendment of Act)

Section 242A—

omit.

176 Insertion of new ch 9

After section 280—

insert—

‘Chapter 9 Transitional and validation provisions for Justice and Other Legislation Amendment Act 2010

‘281 Effect of regulation amendment in Justice and Other Legislation Amendment Act 2010

‘The amendment of the *Queensland Civil and Administrative Tribunal Regulation 2009* by the *Justice and Other Legislation Amendment Act 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

‘282 Validation relating to dual appointments

- ‘(1) This section applies to the purported appointment, at any time before the commencement of this section, of a person as an ordinary member and an adjudicator.
- ‘(2) The purported appointment is taken to be, and to have always been, as valid as if section 206A had been in force at the time of the appointment.
- ‘(3) Every decision, order or declaration made or direction given by the person is taken to be, and to have always been, as valid as if section 206A had been in force at the time the decision, order or declaration was made or the direction was given.’

177 Amendment of sch 3 (Dictionary)

Schedule 3, definition *prescribed amount*—
omit, insert—
'*prescribed amount* means \$25000.'

**Part 30 Amendment of Queensland
Civil and Administrative
Tribunal Regulation 2009**

178 Regulation amended

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

179 Omission of pt 5 (Other provisions)

Part 5—
omit.

**Part 31 Amendment of Reprints Act
1992**

180 Act amended

This part amends the *Reprints Act 1992*.

181 Amendment of s 26 (Spelling)

Section 26(2), example 4—
omit.

[s 182]

182 Amendment of s 40 (Omission of amending and repealing provisions)

Section 40, ‘another’—

omit, insert—

‘a’.

Part 32 Amendment of State Penalties Enforcement Act 1999

183 Act amended

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

184 Amendment of s 24 (Registration of instalment payments for infringement notices)

Section 24—

insert—

- ‘(4A) The registrar may, if satisfied that it is appropriate, allow the unpaid amount to be paid by stated instalments of less than the minimum instalment.’.

185 Amendment of s 30 (Application to cancel infringement notice for mistake of fact)

- (1) Section 30(1)(a), ‘in an infringement’—

omit, insert—

‘in the infringement’.

- (2) Section 30(1)(a), ‘for an infringement’—

omit, insert—

‘for the relevant infringement’.

-
- (3) Section 30(3), ‘subsection (1)’—
omit, insert—
‘subsection (2)’.
- (4) Section 30(1) to (3)—
renumber as section 30(2) to (4).
- (5) Section 30—
insert—
- ‘(1) This section applies to an infringement notice for which a default certificate for the relevant infringement notice offence has been given to SPER for registration under section 33(1).’.

186 Amendment of s 32 (Proceedings after cancellation of infringement notice)

Section 32—
insert—

- ‘(4) Subsection (3) provides some other time limit for making complaint for the purposes of the *Justices Act 1886*, section 52.’.

187 Amendment of s 46 (Fine option order only for unpaid fine)

Section 46—
insert—

- ‘(2) To remove any doubt, it is declared that a fine option order cannot be made for an amount ordered to be paid under the *Penalties and Sentences Act 1992* by way of restitution or compensation.’.

188 Amendment of s 55 (Application of div 6)

Section 55, after ‘offence’—

[s 189]

insert—

‘registered with SPER under section 33’.

189 Amendment of s 56 (Applications for cancellation of enforcement orders)

(1) Section 56(1)(d)—

omit, insert—

‘(d) the person is electing to have the matter of the offence to which the relevant enforcement order relates decided in a Magistrates Court.’

(2) Section 56(3), ‘subsection (1)(d)’—

omit, insert—

‘subsection (1)’.

190 Amendment of s 57 (Decision on application)

Section 57(5)—

omit, insert—

‘(5) The administering authority may—

- (a) start a proceeding against the applicant for the offence;
or
- (b) accept payment of the fine in full as stated in the infringement notice for the offence; or
- (c) issue a fresh infringement notice for the offence.’

191 Amendment of s 60 (Provisions relating to cancellation of enforcement order)

Section 60—

insert—

‘(6) Subsection (4)(c) provides some other time limit for making complaint for the purposes of the *Justices Act 1886*, section 52.’

192 Amendment of s 110 (Registration of interests)

(1) Section 110(1) and (2)—

omit, insert—

‘(1) The registrar may register with the registrar of titles or any other person required or permitted to keep a register about dealing with property, an interest in land or an interest in any other property if—

(a) the total amount owing by the enforcement debtor is—

(i) for an interest in a motor vehicle—more than \$500;
or

(ii) otherwise—more than \$1000; and

(b) the registrar issues an enforcement warrant for the amount.’.

(2) Section 110(2A), ‘subsection (2)’—

omit, insert—

‘subsection (1)’.

(3) Section 110(2A)—

renumber as section 110(2).

193 Amendment of s 112 (Order of satisfaction of other amounts)

(1) Section 112(2)(d) and (e)—

omit.

(2) Section 112(2)(f) to (k)—

renumber as section 112(2)(d) to (i).

(3) Section 112(2)—

insert—

‘(j) any amount liable to be paid to the State under the *Victims of Crime Assistance Act 2009*, section 117(4);

[s 194]

- (k) any amount liable to be paid to the State under the *Victims of Crime Assistance Act 2009*, section 191(4).’.
- (4) Section 112(3), ‘subsection (2)(i)’—
omit, insert—
‘subsection (2)(g)’.

194 Amendment of s 118 (Good behaviour order when imprisonment not appropriate)

Section 118—

insert—

- ‘(11) To remove any doubt, it is declared that the registrar cannot make a good behaviour order for an enforcement debtor for an amount ordered to be paid under the *Penalties and Sentences Act 1992* by way of restitution or compensation.’.

195 Amendment of s 137 (Enforcement order)

Section 137(1)(i)—

omit, insert—

- ‘(i) that the registrar may also register with the registrar of titles or any other person required or permitted to keep a register about dealing with property, an interest in land or an interest in any other property for the amount outstanding if the total amount owing is—
 - (i) for an interest in a motor vehicle—more than \$500;
or
 - (ii) otherwise—more than \$1000.’.

Part 33 Amendment of Supreme Court Act 1995

196 Act amended

This part amends the *Supreme Court Act 1995*.

197 Replacement of s 210 (Principal registrar and associates)

Section 210—

omit, insert—

‘210 Principal registrar and associates

- ‘(1) The Governor in Council may appoint a principal registrar.
- ‘(2) The Chief Justice may appoint a person nominated by a judge as an associate to the judge.
- ‘(3) An associate is appointed under this Act and not the *Public Service Act 2008*.
- ‘(4) The Governor in Council is to decide the salary and conditions of appointment for an associate appointed under subsection (2).’.

198 Insertion of new s 306

After section 305—

insert—

‘306 Transitional provision for Justice and Other Legislation Amendment Act 2010

- ‘(1) To remove any doubt, it is declared that an appointment of an associate to a judge that is in force under section 210 immediately before the section is replaced by a new section 210 under the *Justice and Other Legislation Amendment Act 2010*, section 197 (Replacement of s 210), is taken, from the replacement, to continue in force as if it had been made by the Chief Justice under the new section 210.

[s 199]

‘(2) This section does not limit the *Acts Interpretation Act 1954*, section 20B.’.

Part 34 Amendment of Supreme Court of Queensland Act 1991

199 Act amended

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

200 Omission of ss 98, 99 and 100

Sections 98, 99 and 100—
omit.

201 Omission of pt 8, div 7 (Miscellaneous)

Part 8, division 7—
omit.

202 Insertion of new s 140

Part 11—
insert—

‘140 Transitional provision for Justice and Other Legislation Amendment Act 2010

‘The amendment of the *Uniform Civil Procedure (Fees) Regulation 2009* by the *Justice and Other Legislation Amendment Act 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.

203 Amendment of sch 1 (Subject matter for rules)

Schedule 1, section 9(1)(d)(i)—

omit.

204 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *approval*, *case appraiser* and *mediator*—

omit.

(2) Schedule 2—

insert—

‘*case appraiser* means a person appointed as a case appraiser under a referring order.

mediator means a person appointed as a mediator under a referring order.’.

**Part 35 Amendment of Torres Strait
Islander Land Act 1991**

205 Act amended

This part amends the *Torres Strait Islander Land Act 1991*.

206 Amendment of s 126 (Annual report)

(1) Section 126(2) to (5)—

renumber as section 126(3) to (6).

(2) Section 126—

insert—

‘(2) Despite subsection (1) and the *Financial Accountability Act 2009*, section 63, the chairperson of the Land Tribunal is not

[s 207]

required to prepare and give a report to the Minister if during the year no claims have been made to, or heard or determined by, the tribunal.’.

Part 36 Amendment of Transport Operations (Passenger Transport) Act 1994

207 Act amended

This part amends the *Transport Operations (Passenger Transport) Act 1994*.

208 Insertion of new ch 13, pt 10

Chapter 13—
insert—

‘Part 10 Validation of regulation

‘188 Validation of Transport Legislation Amendment (Postponement) Regulation (No. 1) 2008

‘(1) The postponement regulation is, and is taken to always have been, validly made under the *Acts Interpretation Act 1954*, section 15DA(3) despite the 2 year limitation imposed by that provision.

‘(2) In this section—

postponement regulation means the *Transport Legislation Amendment (Postponement) Regulation (No. 1) 2008*, SL No. 350.’.

[s 213]

213 Amendment of sch 4 (Adjacent areas)

- (1) Schedule 4, section 2(1), '*Petroleum (Submerged Lands) Act 1967* (Cwlth), schedule 2'—
omit, insert—
'*Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cwlth), schedule 1'.
- (2) Schedule 4, section 2(2)(a), '*Petroleum (Submerged Lands) Act 1967* (Cwlth), schedule 2'—
omit, insert—
'*Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cwlth), schedule 1'.
- (3) Schedule 4, section 2(2)(b), '*Petroleum (Submerged Lands) Act 1967* (Cwlth), section 5A(7)'—
omit, insert—
'*Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cwlth), section 8(2)'.
- (4) Schedule 4, section 2(3), '*Petroleum (Submerged Lands) Act 1967* (Cwlth), schedule 2'—
omit, insert—
'*Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cwlth), schedule 1'.
- (5) Schedule 4, section 2(3)(b), 'Area A of the Zone of Cooperation'—
omit, insert—
'the Joint Petroleum Development Area'.
- (6) Schedule 4, section 2(4)(a), '*Petroleum (Submerged Lands) Act 1967* (Cwlth), schedule 2'—
omit, insert—
'*Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cwlth), schedule 1'.

-
- (7) Schedule 4, section 2(4)(a)(ii), ‘Area A of the Zone of Cooperation’—
omit, insert—
‘the Joint Petroleum Development Area’.
- (8) Schedule 4, section 2(4)(b), ‘adjacent’—
omit, insert—
‘offshore’.
- (9) Schedule 4, section 2(4)(b), ‘*Petroleum (Submerged Lands) Act 1967* (Cwlth), section 5A(3)’—
omit, insert—
‘*Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cwlth), section 8(1)’.
- (10) Schedule 4, section 2—
insert—
- ‘(6) A reference in this section to the area described in the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cwlth), schedule 1 in relation to a State or Territory is a reference to the scheduled area for the State or Territory under the schedule.’.

Part 39 Minor amendments

214 Legislation amended in schedule

- (1) The schedule amends the legislation it mentions.
- (2) However, subsection (1) does not apply in relation to particular legislation if another provision of this Act states that the schedule amends the particular legislation.

Schedule Minor amendment of legislation

sections 3, 15, 30, 37, 39, 116, 120, 126, 138, 144, 154, 169 and
214

Acts Interpretation Act 1954

- 1 Section 19(3), ‘in which’—**
omit, insert—
‘that’.

- 2 Section 22A(6), after ‘appropriate’—**
insert—
‘numerical or alphanumerical’.

- 3 Section 22C(3), after ‘operation of’—**
insert—
‘,’.

- 4 Section 36, definitions *Standards Association of
Australia* and *Standards Australia*, ‘International’—**
omit.

Anti-Discrimination Act 1991

- 1 Section 32(3) ‘73(2)(k)’—**
omit, insert—
‘73(2)(m)’.

-
- 2 Section 98(b)(i), ‘; or’—**
omit, insert—
‘;’.
- 3 Sections 127(1), penalty, paragraph (a), 128, penalty, paragraph (a), 129, penalty, paragraph (a), 131A(1), penalty, paragraph (a), 145(2), penalty, paragraph (a), 220(1), penalty, paragraph (a), 221, penalty, paragraph (a) and 222, penalty, paragraph (a), at the end—**
insert—
‘or’.
- 4 Section 134(1)(a) and (b), ‘or’—**
omit.
- 5 Section 263C, heading, ‘of’—**
omit, insert—
‘for’.
- 6 Schedule, definition *human rights*, from ‘*Human*’—**
omit, insert—
‘*Australian Human Rights Commission Act 1986 (Cwlth)*’.
- 7 Schedule, definitions *Human Rights and Equal Opportunity Commission*, *non-State school* and *non-State school authority*—**
omit.

Bail Act 1980

- 1** Sections 8(1)(a)(iii), 14(2)(a)(iv), 15(1)(c)(i)(A) and (B), 20(3A)(a)(i) to (iv), 20(3C)(a), 20(5)(a), 31(2)(a)(ii) and 36(a), (b), (ba) and (c), at the end—

insert—

‘and’.

- 2** Sections 11(2)(a), 16(1)(a)(i), 20(6)(a) and (b), 29A(1)(c), 30(4)(a) and (4)(b)(ii), 36(a)(i) and (b)(i) to (iv) and 36A(a) and (b), at the end—

insert—

‘or’.

- 3** Section 33(4), after ‘law or practice’—

insert—

‘, the following applies’.

Child Employment Act 2006

- 1** Section 6(5)—

omit, insert—

- ‘(5) Despite subsections (1), (3) and (4), a reference in this Act to a parent of a child is a reference only to—
- (a) if a person is granted guardianship of a child under the *Child Protection Act 1999*—the person granted guardianship; or
 - (b) if paragraph (a) does not apply but a person otherwise exercises parental responsibility for a child under a decision or order of a Federal Court or a court of a

State—the person who exercises parental responsibility for the child under the decision or order.’

- 2 Section 15O(6)(a), ‘or’—**
omit.

Civil Liability Act 2003

- 1 Section 60(3), ‘Interest rates and yields—capital market’—**
omit, insert—
‘Capital Market Yields—Government Bonds—Daily—F2’.
- 2 Schedule 2, definition *motor vehicle*, ‘1999’—**
omit, insert—
‘2010’.

Classification of Films Act 1991

- 1 Section 3, definition *classification certificate*—**
omit.

Commissions of Inquiry Act 1950

- 1 Sections 5(2A)(a), 28(1)(a) and (b) and 30(2)(a) and (b), at the end—**

insert—

‘and’.

- 2 Section 14(1)(a), at the end—**

insert—

‘or’.

Contract Cleaning Industry (Portable Long Service Leave) Act 2005

- 1 Section 151 and note, ‘Act,’—**

omit, insert—

‘Act or’.

Criminal Proceeds Confiscation Act 2002

- 1 Sections 17(1)(c) and 200(1)(b)(i) ‘; or’—**

omit, insert—

‘;’.

- 2 Section 219(1)(a)(ii), at the end—**

insert—

‘or’.

-
- 3 Section 219(3)(c), ‘220(a)’—**
omit, insert—
‘220(1)(a)’.
- 4 Section 238, heading, ‘Division’—**
omit, insert—
‘Pt 3’.
- 5 Section 238, ‘division’—**
omit, insert—
‘part’.
- 6 Section 247(4), ‘and (2)’—**
omit, insert—
‘or (2)’.
- 7 Schedule 1, sections 3(5) and (6)(a), 6(4) and (7), 11(2)(a) and (3), 12(5) and (6)(a) and 13(3), ‘\$1000000’—**
omit, insert—
‘\$1m’.
- 8 Schedule 1, section 14(5), ‘\$2500000’—**
omit, insert—
‘\$2.5m’.
- 9 Schedule 6, definition *examination order*, first mention—**
omit.

- 10** **Schedule 6, definition *relevant person*, paragraph (a), ‘4’—**
omit, insert—
‘5’.

Director of Public Prosecutions Act 1984

- 1** **Sections 10(1)(a)(i) to (iii), (1)(b), (1)(c)(i) and (ii), (1)(d) and (1)(e) and 27(2)(a)(iii), at the end—**
insert—
‘and’.
- 2** **Section 29(2)(a), at the end—**
insert—
‘or’.

District Court of Queensland Act 1967

- 1** **Section 68(1)(a), after ‘including’—**
insert—
‘the following’.
- 2** **Section 68(1)(b), before ‘actions’—**
insert—
‘the following’.

- 3 Sections 68(3)(a) and (b), 69(2)(a) to (c), 69(4)(a), 77(6)(a) and 78(6)(a), at the end—**
insert—
‘and’.
- 4 Section 69(2A)—**
renumber as section 69(3).
- 5 Section 74, after ‘cause’—**
insert—
‘of’.

Drug Court Act 2000

- 1 Section 7(1)(b), ‘340(a)’—**
omit, insert—
‘340(1)(a)’.
- 2 Section 7(1)(b), ‘340(b)’—**
omit, insert—
‘340(1)(b)’.
- 3 Section 7(2), ‘6(3)(b)’—**
omit, insert—
‘6(3)(c)’.

- 4 Section 36(7), '161'—**
omit, insert—
'159A'.
- 5 Schedule, definition *initial sentence*, '20(a)(i)'—**
omit, insert—
'20(1)(a)(i)'.

Drugs Misuse Act 1986

- 1 Section 4, definitions *correctional institution*, *supply* and *visual surveillance device*—**
omit.
- 2 Section 4—**
insert—
- 'affected by bankruptcy action*, for part 5B, see section 46.
 - cannabis*, for part 5B, see section 46.
 - category 1 researcher*, for part 5B, see section 46.
 - category 1 researcher licence*, for part 5B, see section 46.
 - category 2 researcher*, for part 5B, see section 46.
 - category 2 researcher licence*, for part 5B, see section 46.
 - certified cannabis seed*, for part 5B, see section 46.
 - class A research cannabis plant*, for part 5B, see section 46.
 - class A research cannabis seed*, for part 5B, see section 46.
 - class B research cannabis plant*, for part 5B, see section 46.
 - class B research cannabis seed*, for part 5B, see section 46.
 - close associate*, for part 5B, see section 46.

controlled thing, for part 5A, see section 43A.

convicted, for part 5B, see section 46.

court, for part 5, see section 30(1).

criminal history, for part 5B, see section 46.

denatured, for part 5B, see section 46.

executive officer—

(a) for part 5A, see section 43A; or

(b) for part 5B, see section 46.

grower, for part 5B, see section 46.

grower licence, for part 5B, see section 46.

industrial cannabis fibre, for part 5B, see section 46.

industrial cannabis plant, for part 5B, see section 46.

industrial cannabis seed, for part 5B, see section 46.

information notice, for part 5B, see section 46.

inspector, for part 5B, see section 46.

licence, for part 5B, see section 46.

licensee, for part 5B, see section 46.

obstruct, for part 5A, see section 43A.

prescribed documents, for part 5A, see section 43A.

prescribed photograph, for part 5B, see section 46.

proceeds, for part 5, see section 30(1).

processed cannabis, for part 5B, see section 46.

register, for part 5A, see section 43A.

relevant position, for part 5B, see section 46.

relevant power, for part 5B, see section 46.

relevant transaction, for part 5A, see section 43A.

serious offence, for part 5B, see section 46.

supply—

Schedule

- (a) for part 5A—see section 43A; or
- (b) otherwise, means—
 - (i) give, distribute, sell, administer, transport or supply; or
 - (ii) offering to do any act specified in subparagraph (i); or
 - (iii) doing or offering to do any act preparatory to, in furtherance of, or for the purpose of, any act specified in subparagraph (i).’.

3 Sections 5, penalty, paragraph (a), 6(1), penalty, paragraphs (a) to (c), 8, penalty, paragraphs (a), (b)(ii), (c) and (d), 9, penalty, paragraphs (a), (b)(i) and (ii) and (c) and 43(1)(a) to (c), at the end—

insert—

‘or’.

4 Section 37(5), after ‘include’—

insert—

‘the following’.

5 Sections 41(3)(a) and (b) and 129(1)(a) to (d), at the end—

insert—

‘and’.

6 Section 46, definition *certified cannabis seed*, paragraphs (a) and (b), ‘; or’—

omit, insert—

‘;’.

- 7 Section 82(5)(a), ‘licensee’—**
omit, insert—
‘licence’.

Electoral Act 1992

- 1 Section 125(4), ‘106(1)(c)’—**
omit, insert—
‘106(c)’.
- 2 Section 164(6)(b), ‘,—**
omit.
- 3 Section 182, heading, ‘Regulations’—**
omit, insert—
‘Regulation-making power’.

Electronic Transactions (Queensland) Act 2001

- 1 Section 16(3)(b), before ‘immaterial’—**
insert—
‘any’.

Financial Transaction Reports Act 1992

1 Section 6, heading, before ‘dealers’—

insert—

‘cash’.

Industrial Relations (Tribunals) Rules 2000

1 Rule 76, ‘281(4)’—

omit, insert—

‘281(3)’.

2 Rule 76, ‘vice’—

omit.

Invasion of Privacy Act 1971

1 Section 7(1), after ‘time’—

insert—

‘do any or all of the following’.

2 Section 43(2)(a), (b), (c)(i) and (ii), at the end—

insert—

‘or’.

-
- 3 Section 46(3), after ‘substance’—**
insert—
‘,’.
- 4 Section 48A(1A)(a) to (d) and (2)(a), at the end—**
insert—
‘or’.

Judicial Review Act 1991

- 1 Schedule 1, part 2—**
omit, insert—

‘Part 2 Enactments to which this Act does not apply

Building and Construction Industry Payments Act 2004, part 3, division 2

Criminal Organisation Act 2009

Justices Act 1886, section 225

Magistrates Act 1991, sections 5(5), 12(2)(a), 26 and 30

Magistrates Courts Act 1921, sections 42T and 42U(1)

Police Service Administration Act 1990, part 5A

Witness Protection Act 2000’.

Jury Act 1995

- 1 Section 59(1)(a)(iii), ‘or’—**
omit.

Justices Act 1886

- 1 Section 4—**
insert—

‘address, for part 3 division 2A, see section 23A.

associated place, for part 6A, see section 178B.

facility user, for part 6A, see section 178B.

fine, for part 7, see section 179.

primary court, for part 6A, see section 178B.

proceeding, for part 6A, see section 178B.

reciprocating court, for part 7, see section 179.

reciprocating State or Territory, for part 7, see section 179.’.

- 2 Section 4, definition *defendant*—**

omit, insert—

‘defendant—

(a) for part 3, division 2A—see section 23A; or

(b) otherwise—means a person complained against before a Magistrates Court or before justices for a simple offence, breach of duty or an indictable offence.’.

-
- 3 Section 23A, definitions *metropolitan district* and *motor vehicle*—**
omit.
- 4 Sections 23D(7)(a) and (b), 40(3)(a) to (c), 51(a), 56(4)(a), 91(2)(a), 102C(3)(a) and (b), 103A(1)(a), 104(1)(a), 104(2)(a), 104A(2)(a) and (b), 142(7)(a) and (b), 142A(12A)(a) and (b) and 146A(2A)(a), at the end—**
insert—
‘and’.
- 5 Sections 43(1)(a), (1)(b)(iv) and (3)(a), 53(2)(a)(i) and (ii), 71B(1)(a) and (b), 88(1)(a), 102E(2)(a) and (b), 108(2)(a), 113(4)(a) and 147A(3)(a) and (b), at the end—**
insert—
‘or’.
- 6 Section 56—**
insert—
‘(9) In this section—
motor vehicle see the *Transport Operations (Road Use Management) Act 1995*.’.
- 7 Section 222C(1)(b), ‘given’—**
omit.

Justices of the Peace and Commissioners for Declarations Act 1991

- 1 Sections 27(1) and 39(1)(a)(iv), ‘17(a)’—**
omit, insert—
‘17(1)(a)’.

- 2 Section 40, heading, ‘Regulations’—**
omit, insert—
‘Regulation-making power’.

Law Reform Act 1995

- 1 Section 6, after ‘not)’—**
insert—
‘the following apply’.

- 2 Sections 14(a) and 16(a), at the end—**
insert—
‘or’.

Legal Aid Queensland Act 1997

- 1 Section 62(3), after ‘otherwise’—**
insert—
‘the member’.

- 2 Section 62(3)(a), ‘the member’—**
omit.
- 3 Schedule, definition *approved form*, ‘see’—**
omit, insert—
‘means a form approved under’.

Legal Profession Act 2007

- 1 Sections 74(1)(a)(iii) and 175(1)(b)(ii), ‘\$1.5 million’—**
omit, insert—
‘\$1.5m’.
- 2 Section 218, ‘section’—**
omit, insert—
‘part’.
- 3 Section 225(1)(b), ‘barrister’—**
omit, insert—
‘barristers’.
- 4 Section 232(5), ‘230(2)(l)’—**
omit, insert—
‘231(2)(l)’.
- 5 Section 327(2) and (3), ‘319(b)’—**
omit, insert—
‘319(1)(b)’.

- 6 Section 420, before ‘The’—**
insert—
‘(1)’.
- 7 Section 516(3)—**
renumber as section 516(2).
- 8 Section 595(1), ‘607(3)’—**
omit, insert—
‘592(3)’.
- 9 Chapter 7, part 7.6, division 6, heading, ‘rule’—**
omit, insert—
‘rules’.
- 10 Section 696, heading, ‘Rule’—**
omit, insert—
‘Rules’.
- 11 Section 713, heading, ‘(Trust Accounts Act, section 33)’—**
omit.
- 12 Section 771—**
omit.
- 13 Schedule 2, definitions *barristers rules, protections, solicitors rules*—**
omit.

14 Schedule 2—*insert—**‘barristers rules*, for chapter 3, part 3.2, see section 218.*protection*, for chapter 9, see section 717.*solicitors rules*, for chapter 3, part 3.2, see section 218.’.**Limitation of Actions Act 1974****1 Sections 5(3)(a) and (6)(a), 6(3)(a) and (b)(i), 8(1)(a), 26(5A)(a), 29(3)(a) and 32(3)(a), at the end—***insert—*

‘or’.

2 Sections 5(7)(a), (b), (d) and (e), 10(6)(a), 24(2)(a) and 29(2)(a) and (b), at the end—*insert—*

‘and’.

3 Section 41(4), after ‘served’—*insert—*

‘in any of the following ways’.

4 Section 41(4), ‘manner’—*omit, insert—*

‘way’.

Magistrates Act 1991

- 1 Section 52, heading, ‘Regulations’—**
omit, insert—
‘Regulation-making power’.

Magistrates Courts Act 1921

- 1 Section 2, definition *rules*, after ‘*Rules*’—**
insert—
‘1999’.
- 2 Section 42E(c), example, ‘Uniform Civil Procedure Rules’—**
omit, insert—
‘Uniform Civil Procedure Rules 1999’.
- 3 Section 42S, ‘industrial commission’—**
omit, insert—
‘industrial relations commission’.
- 4 Section 43(2), after ‘passed’—**
insert—
‘.’
- 5 Section 47, after ‘may’—**
insert—
‘do any of the following’.

- 6 Section 50(2), ‘Uniform Civil Procedure Rules’—**
omit, insert—
‘rules’.

Maintenance Act 1965

- 1 Sections 4(1A)(a) and (b)(i) to (xii), 5(3)(a), 93(a) and (b), 107(1)(a), 115(2)(a) and 140(1)(a) to (c), at the end—**
insert—
‘and’.
- 2 Sections 31(4)(a)(i), 37(4)(a), 67, definition *interstate order*, paragraph (a) and 106(1)(a) and (b), at the end—**
insert—
‘or’.
- 3 Section 5(6), after ‘under’—**
insert—
‘any of the following’.
- 4 Sections 133 and 138(1)(b), ‘Children’s Services Act 1965’—**
omit, insert—
‘Child Protection Act 1999’.

Oaths Act 1867

1 Schedule, heading—

omit, insert—

‘Schedule Form of solemn affirmation

section 39’.

Ombudsman Act 2001

1 Schedule 3, definition *operational action*, after ‘for example’—

insert—

‘, the following’.

Personal Injuries Proceedings Act 2002

1 Section 9A(3)(h), ‘and’—

omit.

2 Schedule, definitions *Australian legal practitioner* and *professional misconduct*, ‘2004, schedule 5’—

omit, insert—

‘2007, schedule 2’.

Property Law Act 1974

- 1 Section 5(2), ‘Where’—**
omit, insert—
‘Where.’

Recording of Evidence Act 1962

- 1 Sections 6(1)(a) and (2)(a), 8(a) and 11A(4)(a), at the end—**
insert—
‘and’.
- 2 Sections 6(4)(a) and (b) and 12(2)(a) to (c), at the end—**
insert—
‘or’.

Referendums Act 1997

- 1 Section 42(1)(a) and (b), 91(a), at the end—**
insert—
‘and’.
- 2 Schedule 3, definitions *Antarctic elector, Court of Disputed Returns, cut-off day for electoral rolls, deputy electoral commissioner, electoral commissioner and electoral district*, after ‘see’—**

Schedule

insert—

‘the’.

3 **Schedule 3, definition *Commonwealth Electoral Act*—**
omit.

4 **Schedule 3, definition *polling day*, paragraph (a), at the**
end—

insert—

‘or’.

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