

Queensland



STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1991

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Queensland



**Statute Law (Miscellaneous Provisions)
Act 1991**

Act No. 97 of 1991

An Act to make various amendments of the statute law of Queensland, to repeal certain Acts, to make certain transitional arrangements and to declare certain matters

[Assented to 17 December 1991]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

Short title

1. This Act may be cited as the *Statute Law (Miscellaneous Provisions) Act 1991*.

Commencement

2. This Act commences on the date of assent except so far as is otherwise expressly provided in Schedules 1, 2, 3 and 4.

Amended Acts

3. Each Act mentioned in Schedules 1 and 2 is amended as set out in those Schedules.

Repeal

4. The Acts mentioned in Schedule 3 are repealed.

Transitional and declaratory provisions

5. Schedules 4 and 5 have effect.

Explanatory notes

6. The matter appearing under the headings "**Explanatory note**" in this Act does not form part of the Act.

SCHEDULE 1—MINOR AMENDMENTS

section 3

ACTS INTERPRETATION ACT 1954**Amendments****(1) Before section 1—***insert—***‘PART 1—PRELIMINARY’.****(2) Section 3 and heading before section 3—***omit, insert—***‘Act applies to all Acts****‘2.(1)** This Act applies to all Acts (including this Act).**‘(2)** In this Act, a reference to “**an Act**” includes a reference to this Act.**‘Act applies to statutory instruments****‘3.(1)** This Act applies to a statutory instrument, and to things that may be done or are required to be done under a statutory instrument, in the same way as it applies to an Act, and things that may be done or are required to be done under an Act, except so far as the context or subject matter indicates or requires.**‘(2)** The fact that a provision of this Act refers to an Act and not also to a statutory instrument does not, by itself, indicate that the provision is intended to apply only to an Act.’.

(3) Section 3A—

renumber as section 4.

(4) Section 4 and headings before and after section 4—

omit, insert—

‘Act binds Crown

‘5. This Act binds the Crown.’

(5) Section 5—

omit, insert—

‘PART 2—MEANING OF ACT**‘References to “Act”**

‘6. In an Act—

“Act” means an Act of Parliament, and includes an enactment of any earlier legislature empowered to pass laws for Queensland.

‘Act includes statutory instruments under Act

‘7. In an Act, a reference to the Act or another Act, or a provision of the Act or another Act, includes a reference to the statutory instruments made under, or in force for the purposes of, the Act or provision.

‘References to “the Act” in statutory instrument

‘8. In a statutory instrument—

“the Act” means the Act under which the instrument is made or in force.’.

(6) Heading before section 6—

omit.

(7) Section 6 (after ‘Parliament’)—

insert ‘, or any earlier legislature empowered to pass laws for Queensland.’.

(8) Section 7(2)(b), (3)(b) and (4)(b)—

omit ‘manner’, insert ‘way’.

(9) Sections 6, 7, 7A, 8 and 9 (as amended by amendments (7) and (8))—

renumber and reposition as sections 14E, 14F, 14G, 14H and 14I respectively.

(10) Sections 10, 11 and 12 and heading before section 10—

omit, insert—

‘PART 3—GENERAL PROVISIONS APPLYING TO ACTS

‘Acts to be construed not to exceed legislative power of Parliament

‘9.(1) An Act is to be construed as operating to the full extent of, but so as not to exceed, the legislative power of Parliament.

‘(2) If a provision of an Act, or the application of a provision of an Act to a person, subject matter or circumstance, would, but for this section, be construed as being in excess of the legislative power of Parliament—

- (a) it is a valid provision to the extent to which it is not in excess of the power; and
- (b) the remainder of the Act, and the application of the provision to other persons, subject matters or circumstances, is not affected.

‘(3) This section applies to an Act in addition to, and without limiting the effect of, any provision of the Act.

‘Section has effect as substantive enactment

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

‘Acts to be public Acts

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

‘Private Acts not to affect rights of others

‘12.(1) A private Act does not—

- (a) affect pre-existing rights in a way prejudicial to the Crown or another person; or
- (b) impose liabilities on the Crown or another person in relation to previous acts or omissions;

except so far as the Act otherwise expressly provides.

‘(2) Subsection (1) does not affect rights conferred, or liabilities imposed, on—

- (a) a person at whose instance, or for whose special benefit, the Act is passed; or
- (b) another person claiming by, through or under such a person.

‘Private Acts amended by public Acts do not become public Acts

‘12A. A private Act does not become a public Act merely because it has been amended by or under a public Act.’.

(11) Section 14(3)—

renumber as section 14(4).

(12) After section 14(2)—

insert—

‘(3) Punctuation in an Act is part of the Act.’.

(13) After section 14D—

insert—

‘PART 4—REFERENCE TO AND CITATION OF ACTS’.

(14) Heading before section 15—

omit, insert—

‘PART 5—COMMENCEMENT OF ACTS’.

(15) Section 15A (heading)—

omit, insert—

‘Commencement of Acts on date of assent’.

(16) Section 15C (heading)—

omit, insert—

‘Commencement of citation and commencement provisions on date of assent etc.’.

(17) Section 17(1)(b)—

omit, insert—

‘(b) amend a provision of another Act so that the other Act would confer such a power;’.

(18) Section 17(2) and (3)—

omit, insert—

‘(2) If—

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

then—

- (c) the basic instrument-making power and the additional instrument-making power may be exercised by making a single instrument; and
- (d) any provision of the instrument that required an exercise of the additional instrument-making power is to be treated as made under subsection (1).

‘(3) If an instrument, or a provision of an instrument, is made under subsection (1) that is necessary for the purpose of—

- (a) enabling the exercise of a power mentioned in subsection (1)(a); or
- (b) bringing an appointment, instrument or other thing made or done under such a power into effect;

the instrument or provision takes effect—

- (c) on the making of the instrument; or
- (d) on such later day (if any) on which, or at such later time (if any) at which, the instrument or provision is expressed to take effect.

‘(4) If—

- (a) an appointment is made under subsection (1); or
- (b) an instrument, or provision of an instrument, made under subsection (1) is not necessary for the purpose mentioned in subsection (3);

the appointment, instrument or provision takes effect—

- (c) on the commencement of the relevant empowering provision; or
- (d) on such later day (if any) on which, or at such later time (if any) at which, the appointment, instrument or provision is expressed to take effect.

‘(5) Anything done under subsection (1) does not confer a right, or impose a liability, on a person before the relevant empowering provision commences.

‘(6) After the enactment of a provision mentioned in subsection (1)(b) but before the provision’s commencement, this section applies as if the references in subsections (1) and (4) to the commencement of the empowering provision were references to the commencement of the provision mentioned in subsection (1)(b) as amended by the empowering provision.’.

(19) Heading before section 18—

omit.

(20) Before section 18—

insert—

‘PART 6—AMENDMENT AND REPEAL OF ACTS

‘Act may be amended or repealed in same parliamentary session

‘17A. An Act may be amended or repealed in the session of Parliament in which it is passed.’.

(21) Section 21 (heading)—

omit ‘etc.’.

(22) Section 21(2) and (3)—

omit.

(23) Section 22 and heading before section 22—

omit, insert—

‘Act and amending Acts to be read as one

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

(24) Heading before section 23—

omit, insert—

‘PART 7— FUNCTIONS AND POWERS CONFERRED BY ACTS’.**(25) Section 24—**

omit, insert—

‘Power to make statutory rules for purposes of Act

‘24.(1) If an Act authorises or requires the making of statutory rules for the purposes of the Act or another Act, the power enables statutory rules to be made with respect to any matter that—

- (a) is required or permitted to be prescribed by the Act or other Act;
or
- (b) is necessary or convenient to be prescribed for carrying out or giving effect to the Act or other Act.

‘(2) Subsection (1) applies to an Act even though the Act also authorises the making of statutory rules for a particular purpose.

‘(3) Power conferred by an Act to make statutory rules for a particular purpose is in addition to, and does not limit the effect of, power conferred by the Act to make statutory rules for the purposes of the Act or another Act unless the Act otherwise expressly provides.

‘Power to make instrument or decision includes power to amend or repeal

‘24AA. If an Act authorises or requires the making of an instrument or decision—

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

(26) Section 24A (after ‘authorises’)—

insert ‘or requires’.

(27) Sections 25 and 26—

omit, insert—

‘Powers of appointment imply certain incidental powers

‘25.(1) If an Act authorises or requires a person or body to appoint a person to an office—

- (a) the power may be exercised from time to time as occasion requires; and
- (b) the power includes—
 - (i) power to remove or suspend, at any time, a person appointed to the office; and
 - (ii) power to appoint another person to act in the office if a person appointed to the office is removed or suspended; and
 - (iii) power to reinstate or reappoint a person removed or suspended; and
 - (iv) power to appoint a person to act in the office if it is vacant (whether or not the office has ever been filled); and
 - (v) power to appoint a person to act in the office if the person appointed to the office is absent or is unable to discharge functions of the office (whether because of illness or otherwise).

‘(2) The power to remove or suspend a person under subsection (1)(b) may be exercised even if the Act under which the person was appointed provides that the holder of the office to which the person was appointed is to hold office for a specified period.

‘(3) The power to make an appointment under subsection (1)(b) may be exercised from time to time as occasion requires.

‘(4) An appointment under subsection (1)(b) may be expressed to have effect only in the circumstances specified in the instrument of appointment.’.

(28) Section 27—

omit, insert—

‘Power to hear and determine includes power to administer oath

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

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

(29) Section 27A(11)—

omit, insert—

‘(11) Subject to subsection (12), this section applies to a subdelegation of a power in the same way as it applies to a delegation of a power.

‘(12) If an Act authorises the delegation of a power, the power may be subdelegated only if the Act expressly authorises the power to be subdelegated.’.

(30) Section 28 and heading before section 28—

omit, insert—

‘Statutory instruments to be construed not to exceed powers conferred by Acts under which made

‘28.(1) A statutory instrument is to be construed as operating to the full extent of, but so as not to exceed, the power conferred by the Act under which it is made.

‘(2) If a provision of a statutory instrument, or the application of a provision of a statutory instrument to a person, subject matter or

circumstance, would, but for this section, be construed as being in excess of the power conferred by the Act under which it is made—

- (a) it is a valid provision to the extent to which it is not in excess of the power; and
- (b) the remainder of the instrument, and the application of the provision to other persons, subject matters or circumstances, is not affected.

‘(3) This section applies to an instrument in addition to, and without limiting the effect of, any provision of the instrument or the Act under which it is made.’

(31) Section 28AA(2), (3), (4), (5) and (6)—

renumber as section 28AA(3), (4), (5), (6) and (7) respectively.

(32) Section 28AA(1)—

omit, insert—

‘(1) If an Act authorises or requires the making of a statutory rule with respect to a matter, a statutory rule made under the Act may make provision for the matter by applying, adopting or incorporating (with or without modification) the provisions of—

- (a) an Act or statutory rule; or
- (b) any other document (whether of the same or a different kind);

as in force at a particular time or as in force from time to time.

‘(2) If a statutory rule made after 1 January 1992 applies, adopts or incorporates the provisions of any document, the statutory rule applies, adopts or incorporates those provisions as in force from time to time, unless the statutory rule otherwise expressly provides.’

(33) Section 28AA(2)(b) (as in force before the commencement of amendment (31))—

omit, insert—

‘(b) apply generally to all persons, matters and things or be limited in its application to—

(i) particular persons, matters or things; or

(ii) particular classes of persons, matters or things; or’.

(34) Section 28AA(3)(b) (as in force before the commencement of amendment (31))—

omit, insert—

‘(b) otherwise make different provision in relation to—

(i) different persons, matters or things; or

(ii) different classes of persons, matters or things.’.

(35) At the end of section 28AA(4) (as in force before the commencement of amendment (31))—

insert—

~~Example~~ provides that an application is to be in a prescribed form, the regulation concerned may provide that the prescribed form is to be that approved by the Minister.’.

(36) At the end of section 28AA—

insert—

‘(8) A statutory rule may provide for the review of, or a right of appeal against, a decision made under the statutory rule, or the Act under which the statutory rule is made or in force, and may, for that purpose, confer jurisdiction on any court, tribunal, person or body.

‘(9) A statutory rule may require a form prescribed by or under the statutory rule, or information or documents included in, attached to or given with the form, to be verified by statutory declaration.’.

(37) After section 28AA—

insert—

‘Presumption of validity

‘28AB. All conditions and preliminary steps required for the making of a statutory instrument are presumed to have been satisfied and performed in the absence of evidence to the contrary.

‘Statutory instruments purporting to be made under a particular power

‘28AC. A statutory instrument is taken to be made under all powers under which it may be made, even though it purports to be made under a particular Act or a particular provision of an Act.’.

(38) Section 28A(1)—

omit, insert—

‘(1) A regulation made under an Act—

- (a) must be published in the Gazette; and
- (b) subject to paragraph (c), commences—
 - (i) on the day on which the regulation is gazetted; or
 - (ii) if a later day or time is fixed in the regulation— on that day or at that time; and
- (c) may give a beneficial provision of the regulation retrospective operation if the regulation expressly provides for that operation; and
- (d) must be laid before the Legislative Assembly within 14 sitting days after publication in the Gazette.’.

(39) After section 28A(6)—

insert—

‘(7) In this section—

“beneficial provision” means a provision that—

- (a) operates to the advantage of a person (other than the State or a State authority) by—
 - (i) increasing the person’s rights; or
 - (ii) relieving the person of liabilities; and

- (b) does not operate to the disadvantage of another person (other than the State or a State authority) by—
 - (i) decreasing the person's rights; or
 - (ii) imposing liabilities on the person.'.

(40) Section 30 and headings before and after section 30—

omit.

(41) Section 31—

renumber and reposition as section 52.

(42) Heading before section 32—

omit, insert—

‘PART 8—TERMS AND REFERENCES IN ACTS’.

(43) After section 32C—

insert—

‘Meaning of may and must etc.

‘32CA.(1) In an Act, the word **“may”**, or a similar word or expression, used in relation to a power indicates that the power may be exercised or not exercised, at discretion.

‘(2) In an Act, the word **“must”**, or a similar word or expression, used in relation to a power indicates that the power is required to be exercised.

‘(3) In relation to an Act passed after 1 January 1992, this section has effect despite any rule of construction to the contrary.

‘Words and expressions used in amending Acts

‘32CB.(1) Words and expressions used in an Act that amends another Act have the same meanings as they have in the other Act.

‘(2) Subsection (1) does not limit section 22 (Act and amending Acts to be read as one).

‘Words and expressions used in statutory instruments

‘**32CC.** Words and expressions used in a statutory instrument have the same meanings as they have, from time to time, in the Act, or relevant provisions of the Act, under which the instrument is made or in force.’.

(44) Section 32D (after ‘person’)—

insert—

‘generally (whether the expression “**person**”, “**party**”, “**someone**”, “**anyone**”, “**no-one**”, “**one**”, “**another**” or “**whoever**” or another expression is used)’.

(45) After section 35B—

insert—

‘Naming of certain statutory instruments

‘**35BA.** If a statutory instrument was, immediately before the commencement of this section, called by a name indicating the type of instrument in the plural, the instrument may be called by a name indicating the type of instrument in the singular.

A ~~statutory~~ *statutory* instrument that was called by a name set out in column 1 of the Table may be called by the corresponding name in column 2.

TABLE

Column 1	Column 2
Regulations	Regulation
By-laws	By-law
Rules	Rule

Thus, the *Traffic Regulations 1962* may now be referred to as the *Traffic Regulation 1962*.

‘Name of provision units in statutory instruments

‘35BB. If a provision of a statutory instrument was, immediately before the commencement of this section, called a regulation, subregulation, sub-subregulation, rule, subrule, by-law, sub-by-law, clause, subclause, sub-subclause, paragraph, subparagraph, sub-subparagraph, item, subitem, or any other name, the provision may be called—

- (a) if the provision is a provision unit equivalent to a section of an Act—a section; or
- (b) if the provision is a provision unit equivalent to a subsection of an Act—a subsection; or
- (c) if the provision is a provision unit equivalent to a paragraph of an Act—a paragraph; or
- (d) if the provision is a provision unit equivalent to a subparagraph of an Act—a subparagraph; or
- (e) if the provision is a provision unit equivalent to a sub-subparagraph of an Act—a sub-subparagraph.

~~Regulation 2~~ may now be called section 2.

~~Example 2(a)~~ may now be called section 5(2)(a), that is, paragraph (a) of subsection (2) of section 5.’.

(46) After section 35C—

insert—

‘Reference to provisions of an Act is inclusive

‘35D. In an Act, a reference to a portion of that or another Act includes—

- (a) a reference to the Chapter, Part, Division, Subdivision, section, subsection or other provision of the Act referred to that forms the beginning of the portion; and
- (b) a reference to the Chapter, Part, Division, Subdivision, section, subsection or other provision of the Act referred to that forms the end of the portion.

~~Example 1~~ to ‘sections 5 to 9’ includes both section 5 and section 9. It is not necessary to refer to ‘sections 5 to 9 (both inclusive)’ to ensure that the

reference is given an inclusive interpretation.’.

(47) Section 36 (definitions “Governor” and “Industrial Commission” or “Industrial Relations Commission”)—

omit.

(48) Section 36—

insert—

‘ **“Administrator”** means a person for the time being administering the Government;

“adult” means an individual who is 18 years of age or more;

“business day” means a day that is not—

(a) a Saturday or Sunday; or

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

“Deputy Governor” means the person for the time being appointed to act for the Governor as the Governor’s deputy;

“fix” includes determine and appoint;

“Governor” means—

(a) except in relation to another State—the Governor of Queensland, and includes the Lieutenant Governor, the Administrator and the Deputy Governor; or

(b) in relation to another State—the Governor of that State, and includes a person for the time being administering the Government of that State;

“Industrial Commission” means the Industrial Relations Commission;

“Industrial Relations Commission” means the commission established under the *Industrial Relations Act 1990* under the name the Queensland Industrial Relations Commission;

“local authority” means—

(a) a local authority within the meaning of section 3 of the *Local Government Act 1936*; or

(b) the Brisbane City Council; or

- (c) a council constituted under the *Community Services (Aborigines) Act 1984* or the *Community Services (Torres Strait) Act 1984*;

“insert”, in relation to a provision of an Act, includes substitute;

“Lieutenant Governor” means the person for the time being appointed as Lieutenant Governor;

“reprint” includes a reprint of an Act that has not been amended;’.

(49) Section 36 (definition “Australia”)—

omit ‘and’, insert ‘but’.

(50) Section 36 (definition “estate”)—

omit ‘interest,’.

(51) Section 36 (definition “interest”, after ‘land’ (wherever occurring))—

insert ‘or other property’.

(52) Section 36 (definition “order in council”, paragraph (a), after ‘made’)—

insert ‘or in force’.

(53) Section 36 (definition “prescribed”, after ‘made’)—

insert ‘or in force’.

(54) Section 36 (definition “regulation”, after ‘made’)—

insert ‘or in force’.

(55) Section 36 (definition “rule”, after ‘made’)—

insert ‘or in force’.

(56) Heading before section 37—

omit, insert—

‘PART 9—DISTANCE, TIME AND AGE’.

(57) Section 38—

omit, insert—

‘Reckoning of time

‘38.(1) If a period beginning on a given day, act or event is provided or allowed for any purpose by an Act, the period is to be calculated by excluding the day, or the day of the act or event, and—

- (a) if the period is expressed to be a specified number of clear days or at least a specified number of days—by excluding the day on which the purpose is to be fulfilled; and
- (b) in any other case—by including the day on which the purpose is to be fulfilled.

‘(2) If the last day of a period provided or allowed by an Act for doing anything is not a business day in the place in which the thing is to be or may be done, the thing may be done on the next business day in the place.

‘(3) If the last day of a period provided or allowed by an Act for the filing or registration of a document is a day on which the office is closed where the filing or registration is to be or may be done, the document may be filed or registered at the office on the next day that the office is open.

‘(4) If no time is provided or allowed for doing any thing, the thing is to be done as soon as possible, and as often as the prescribed occasion arises.’.

(58) Heading before section 39—

omit, insert—

‘PART 10—SERVICE OF DOCUMENTS’.**(59) Section 40 and heading before section 40—**

omit.

(60) Section 41 and heading before section 41—

omit, insert—

‘PART 11—OFFENCES AND CRIMINAL PROCEEDINGS

‘Penalty at end of provision

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

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

indicates that an offence mentioned in the section, subsection or part is punishable on conviction or, if no offence is mentioned, a contravention of the section, subsection or part constitutes an offence against the provision that is punishable on conviction—

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

‘Penalty other than at end of provision

‘41A.(1) In an Act, a penalty specified for an offence, or a contravention of a provision, indicates that the offence is punishable on conviction, or the contravention constitutes an offence against the provision that is punishable on conviction—

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

‘(2) This section does not apply to a penalty to which section 41 applies.’.

(61) Headings before sections 44, 45 and 46—

omit.

(62) Heading before section 47—

omit, insert—

‘PART 12—REPRINTS OF LEGISLATION’.**(63) At the end of section 47(1) (before the examples)—**

insert—

‘; and

(g) omitting the enacting words.’.

(64) Section 47A(1) (after ‘after’)—

insert ‘the year or’.

(65) At the end of section 47A—

insert—

‘Year of enactment not included in citation

‘(8) If an Act has a citation that does not include a year, the citation may be given including the year of enactment.

‘The Judicature Act’ may be cited as the ‘Judicature Act 1876’.

‘Word “Act” not included in citation

‘(9) If an Act has a citation that does not include the word “Act”, the citation may be given including the word “Act” and any necessary consequential amendments made to the citation.

Example— ‘The Defamation Law of Queensland’ may be cited as the ‘Defamation Act 1889’.

(66) At the end of section 47B—*insert—***‘Substitution of single-year citation for double-year citation**

‘(3) In a provision of an Act, a reference to another Act may be given by omitting from the reference any words after the first year if the omission would not alter or otherwise affect the substance or operation of the provision.

Example— In the following reference, the bolded words may be omitted—

‘*Liquor Act 1912-1990*’.

‘Act includes law of other jurisdictions

‘(4) In this section—

“Act” includes any law of the Commonwealth, another State or Territory or a foreign country.’.

(67) At the end of section 47C(7)—*insert—*

‘*Example 7—* ‘%’ replaces ‘per centum’ or ‘percent’.

Example 8— ‘**“Commission”** means the Licensing Commission;’
replaces
‘“Commission”—The Licensing Commission;’.

Example 9— ‘**“land”** includes land covered by water;’
replaces
‘“Land”—Includes land covered by water;’.

Example 10— ‘In a provision heading, **“Industrial matter”**
replaces
‘SECTION 2.2 INDUSTRIAL MATTER’.

Example 11— ‘**“A”** means the allocated amount;’
replaces
‘“A” represents the allocated amount;’.

Example 12— ‘the Licensing Commission’
replaces
‘The Licensing Commission’
even though ‘The’ forms part of the Commission’s
given name.’.

(68) At the end of section 47D(2)—

insert—

Example 1— ‘(1) In this section—
“person” includes an unincorporated body.’
replaces

‘(1) In this section, the term “person” includes an
unincorporated body.’.

Example 2— ‘**“variation”**, in relation to a permit, includes a
variation of conditions of the permit;’
replaces

‘**“variation”** in relation to a permit includes a
variation of conditions of the permit;’.

(69) At the end of section 47D(6)—

insert—

Example— In the following provisions, the bolded words may be
omitted—

1. ‘In this Act, **unless the context otherwise
indicates, the following terms have the meanings
respectively assigned to them, that is to say,—**’.

2. ‘In this Act, **unless the contrary intention
appears—**’.

(70) Section 47D(8)—

renumber as section 47D(9).

(71) After section 47D(7)—

insert—

‘Omission of historical notes etc.

‘**(8)** Notes in a provision of an Act indicating the legislative history, the source of the provision or corresponding provisions in other jurisdictions may be omitted from the Act.’

(72) Section 47F(1)(a) to (f)—

renumber as 47F(1)(c) to (h) respectively.

(73) Section 47F(1) (after ‘printed—’)—

insert—

‘(a) using the names permitted by section 35BA; and

(b) using the provision unit names permitted by section 35BB; and’.

(74) Section 47F(1)(e) (as in force before the commencement of amendment (72))—

omit ‘(3), (4), (5), (6) and (7)’, *insert* ‘, (3) to (8)’.

(75) Add at the end of section 47F(1)—

‘; and

(i) making all necessary consequential amendments.’.

(76) Heading before section 48—

omit, insert—

‘PART 13—MISCELLANEOUS’.

(77) Section 49 and headings before and after section 49—

omit, insert—

‘Compliance with forms

‘49.(1) If a form is prescribed by or under an Act or statutory rule, strict compliance with the form is not necessary but substantial compliance is sufficient.

‘(2) If a form prescribed by an Act or a statutory rule requires—

- (a) the form to be completed in a specified way; or
- (b) specified information or documents to be included in, attached to or given with the form; or
- (c) the form, or information or documents included in, attached to or given with the form, to be verified in a specified way;

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

(78) Section 53—

omit.

Commencement

Amendments (21) and (22) commence on 1 January 1992.

Explanatory note*General*

This Act makes a number of amendments of the *Acts Interpretation Act 1954*. Each of the amendments is of a technical nature without substantial policy content.

Most of the amendments are concerned with—

- (a) reordering the Act into a more logical, easier to follow structure; or
- (b) recasting provisions in Plain English; and
- (c) making minor improvements of a technical nature.

Although each of the amendments taken separately is minor, taken together they will allow substantial continuing improvement of the Queensland statute book and will allow work to continue on establishing a data-base of Queensland legislation. In the short term, they will allow the *Acts Interpretation Act 1954* to be reprinted in a more user-friendly form.

The more significant amendments are explained separately below.

Reordering of provisions

To allow existing provisions and proposed new provisions to be compared, the following comparative table is provided—

<i>Existing provision</i>		<i>Proposed provision</i>
3(1)(a)		2(1)
3(1)(b)		3(1)
3(2)		—
3(3)		3(2)
3(4)		5
3A	(renumbered as)	4
4		9
5(1)		6
5(2)		7
5(3)		2(2)
new		8
6, 7, 7A, 8 and 9	(renumbered as)	14E, 14, 14G, 14H and 14I
10(1)		—
10(2)		10
11		11
new		12A
12		17A
new		14(3)
new		17(2), (3) and (6)
17(2) and (3)		17(4) and (5)
21(2) and (3)		—
22		22 and 32CB
new		24
24		24AA
25		25
26		32CA
27		27

<i>Existing provision</i>		<i>Proposed provision</i>
27A(11)		27A(11) and (12)
28		3, 28 and 32CC
28AA(1)		28AA(1)
new		28AA(2), (8) and (9)
28AA(2) to (6)	(renumbered as)	28AA (3) to (7)
new		28AC
28A(1)		28A(1)
new		28A(7) (see also 28A(1)(c))
30		12
31	(renumbered as)	52
new		32CC
new		35BA
new		35BB
new		35D
new		36 (some definitions)
38		38
40		49
41(1)		41A
41(2)		41
41(3)		—
new		47A(8) and (9)
new		47B(3) and (4)
new		47D(8)
47D(8)	(renumbered as)	47D(9)
new	47F(1)(a) and (b)	
47F(1)(a) to (f)	(renumbered as)	47F(c) to (h)
49		28AB
53		—

New Parts

When the Act is amended, it will be divided into the following Parts—

PART 1—PRELIMINARY	(ss. 1 to 5)
PART 2—MEANING OF ACT	(ss. 6 to 8)
PART 3—GENERAL PROVISIONS RELATING TO ACTS	(ss. 9 to 14D)
PART 4—REFERENCE TO AND CITATION OF ACTS	(ss. 14E to 14I)
PART 5—COMMENCEMENT OF ACTS	(ss. 15 to 17)
PART 6—AMENDMENT AND REPEAL OF ACTS	(ss. 17A to 22A)
PART 7—FUNCTIONS AND POWERS CONFERRED BY ACTS	(ss. 23 to 29A)
PART 8—TERMS AND REFERENCES IN ACTS	(ss. 32 to 36)
PART 9—DISTANCE, TIME AND AGE	(ss. 37 to 38A)
PART 10—SERVICE OF DOCUMENTS	(ss. 39 to 39A)
PART 11—OFFENCES AND CRIMINAL PROCEEDINGS	(ss. 41 to 46)
PART 12—REPRINTS OF LEGISLATION	(ss. 47 to 47G)
PART 13—MISCELLANEOUS	(ss. 48 to 52)

Application of Act

The Act is proposed to apply to all Queensland Acts (see proposed section 2). Previously the Act only applied to Acts enacted on or after 31 December 1867 (but see existing section 26).

Application of Act to statutory instruments

Proposed section 3 will bring together in a single section the provisions relating to the application of the Act to statutory instruments.

Statutory instruments in force under Act

The existing provisions of the Act relating to statutory instruments refer only to statutory instruments made under an Act. These provisions will be extended to apply also to statutory instruments that were made under another Act (e.g. a repealed Act), but continued in force under the Act (see proposed sections 7 and 32CC and amendments of definitions of various statutory instruments in section 36).

Construction of Acts not to exceed legislative power of Parliament

Existing section 4 has been recast to emphasise that Acts are to be construed as operating **to the full extent** of the legislative power of Parliament (see proposed section 9). The existing section emphasises merely the reading down of Acts to keep within legislative power.

A similar revision has been made to the section dealing with the construction of statutory instruments so as not to exceed the power conferred by the Act under which the instrument is made (compare existing section 28 and proposed section 28).

Private and public Acts

Existing provisions dealing with private Acts (sections 11 and 30) have been grouped together (see proposed sections 11 and 12) and recast in Plain English. A new section (proposed section 12A) has been included dealing with the effect of a private Act being amended by a public Act. The section, which is declaratory of the common law, provides that the Act remains a private Act.

Punctuation

A provision has been included providing that punctuation is part of an Act (see proposed section 14(3)). The provision merely confirms the existing status of punctuation as part of an Act.

Exercise of statutory powers between enactment and commencement of Act

Section 17 is proposed to be revised to deal with a number of possible technical shortcomings in the section. The main change is that the section now deals expressly with a case in which there is already an instrument-making power and an enhanced instrument-making power is enacted but has not commenced. The status of instruments that are necessary for the making of appointments etc. after enactment, but before commencement, has also been clarified.

Automatic saving of statutory instruments under repealed Act

It is proposed to omit existing section 21(2) and (3) from 1 January 1992. The then existing operation of the subsections will be preserved—(see Schedule 4).

Section 21(2) and (3) automatically saves statutory instruments made under a repealed Act and treats them as having been made under the Act that replaces the repealed Act. In some cases the provisions have led to instruments being carried forward (or apparently being

carried forward) through a number of repealed Acts. This can result in the instruments becoming increasingly inappropriate for the Acts under which they are in force and may lead to considerable uncertainty as to the exact status and applicability of instruments.

In future, it is proposed that instruments will be saved, where necessary, by an express provision in the repealing Act. They would only be saved for sufficient time to enable new instruments to be made.

Short standard statutory rule-making powers

Proposed section 24(1) will make it possible to insert the relevant type of short standard statutory rule-making power in each Act under which that type of statutory rule is permitted to be made. For example, the new regulation-making power would be along the following lines—

Regulations

00. The Governor in Council may make regulations for the purposes of this Act.

The new subsection will allow existing case-law in relation to regulation-making powers to be used in relation to the proposed short standard regulation-making power.

Proposed section 24(2) and (3) deals with cases in which there is an additional statutory rule-making power for a particular purpose. The additional power does not displace the application of proposed section 24(1) or limit the standard statutory rule-making power.

Subdelegation of powers

Existing section 27A has been revised to make it clear that a power may be subdelegated only with **express** statutory authority.

Matters for which statutory rules may make provision

Existing section 28AA deals with matters for which statutory rules may make provision. The section has been clarified in a number of respects. Firstly, it has been made clearer that a statutory rule may apply, adopt or incorporate an Act, statutory rule or document as in force from time to time. Secondly, it has been made clearer that a statutory rule may be limited in its application by reference to classes of persons, matters and things and may make different provision for different persons, matters or things by reference to class. Thirdly, it has been made clear, by an example, that the regulations can prescribe forms by authorising the Minister to approve them. Fourthly, a provision has been included (proposed section 28AA(8)) to provide that statutory rules can provide for review and appeal rights for decisions made under the statutory rule or the Act under which the statutory rule is made or in force. Finally, a provision (proposed subsection 28AA(9)) has been included to enable a statutory rule to require a form, or information provided with or in a form, to be verified by statutory declaration. This overcomes the need for the Act under which the statutory rule is made to specifically enable this: Grech v Bird (1936) 56 CLR 228.

Presumption of validity

Proposed section 28AB creates a statutory presumption of validity that facilitates proof of statutory instruments. The presumption makes it unnecessary to establish that any formal steps (such as gazettal and tabling in the case of regulations) have

been taken. The presumption also makes it unnecessary to establish that any precondition (such as the authority making the statutory instrument being satisfied of certain facts or opinions before doing so) exists. The proposed section, which restates the common law presumption of regularity, replaces existing section 49. That section is to be omitted.

Instrument purporting to be made under particular Act or provision

Proposed section 28AC provides that a statutory instrument is taken to be made under all powers under which it may be made, even though it purports to be made under a particular Act or a particular provision of an Act. Without a provision such as the proposed section, it seems that reliance cannot be placed on another provision contained in the empowering legislation that is not mentioned in the statutory instrument but that may support it: Abbott v Shire of Heidelberg [1926] VLR 199. Given that if no empowering provision is expressly referred to in a statutory instrument, any provision of the empowering legislation may be used to support the instrument, new section 28AC adopts the same approach if an empowering provision is expressly referred to.

Regulations with beneficial retrospective operation

Existing section 28A does not allow regulations that have a beneficial effect to be given a retrospective operation. This is permitted in other jurisdictions (see, e.g. *Commonwealth Acts Interpretation Act 1901*, section 48(2)). In reality, regulations with a beneficial effect can be given a retrospective operation by using various drafting devices (see Pearce, Delegated Legislation (1977) at pp. 293-297). The amendments of the section will permit this to be done directly.

“May” is discretionary, “must” is obligatory

Proposed section 32CA(1) and (2) restates the common law rule of construction previously found in section 26. Under this rule, “may” used in relation to a power merely gives a discretion, while “must” imposes a duty.

Judicial interpretation has, until now, only used the the common law rule of construction as a starting point. Particularly in relation to powers given to public officials, courts have often interpreted “may” as imposing a duty after assessing the intended effect of the Act in which the word appears (see Pearce and Geddes, Statutory Interpretation in Australia (1988) at pp. 198-199). Proposed section 32CA does away with any such approach for Acts passed after 1 January 1992.

Naming of statutory instruments

The practice until recently in Queensland has been to use the plural form to refer to statutory instruments made under a regulation-making, by-law making or rule-making power. Accordingly, an instrument was called the “ABC” Regulations, the “XYZ” By-laws or the “MNO” Rules. In future, the singular form will be used, with limited exceptions, for all such instruments as part of standardising primary and subordinate legislative drafting. This means the instrument will be called the “ABC” Regulation or the “ABC” Amendment Regulation etc.

Proposed section 35BA enables references to existing statutory instruments to be made in the singular form.

Name of provision units of statutory instruments

Until recently the practice in Queensland has been to give provision units of statutory instruments different names according to the type of the instrument. In both amending and non-amending statutory instruments, the name of provision units, with limited exceptions, now follows that used in Acts, namely, section, subsection, paragraph, subparagraph and sub-subparagraph. Rationalisation of the name of provision units is part of the process of standardising legislative drafting and will ultimately assist in computer searches of legislation and production of computer-generated reprints.

Proposed section 35BB enables references to provisions of existing subordinate instruments to be given using the name of the equivalent unit of an Act. Accordingly, a regulation will become a section; a subregulation will become a subsection; a by-law will become a section; a clause will become a section; and a subclause will become a subsection etc.

Reference to provisions is inclusive

Proposed section 35D will make it clear that a reference to a portion of an Act is to be given an inclusive interpretation.

Amendments relating to reprints

The Bill proposes to make a number of discrete amendments of the provisions of the Act relating to reprints of legislation (existing sections 47 to 47G). The amendments, although minor, will be of considerable assistance in standardising Queensland legislation, in preparing a database of Queensland legislation and in enabling the production of computer generated reprints.

APPEAL COSTS FUND ACT 1973

Amendments

(1) Section 4 (definition “Minister”)—

omit.

(2) Section 22(1)(a) (after ‘judge,’)—

insert ‘master,’.

Commencement

Amendment (2) is taken to have commenced on 6 November 1980.

Explanatory note

Abortive proceedings—Masters

Under section 22 of the *Appeal Costs Fund Act 1973*, a party to a proceeding rendered abortive by the death or illness of a Judge, Magistrate or Justice may recover from the Appeal Costs Fund additional costs incurred because of the death or illness. The section presently does not apply to the death or illness of a Master.

Amendment (2) will correct this unintended discrimination against parties who have their proceedings heard by a master rather than another judicial officer.

The amendment is beneficial and is accordingly given retrospective effect to the day on which the office of master was created.

Statute Law Revision

Amendment (1) omits a definition made redundant by recent amendments of the *Acts Interpretation Act 1954*.

CLEAN AIR ACT 1963

Amendments

(1) Section 32C(6)—

omit.

(2) At the end of section 39—

insert—

‘(6) Nothing in this section limits appeal rights available under any other provision of this Act or a regulation.’

Commencement

Amendment (1) commences immediately after the commencement of section 6 of the *Clean Air Act Amendment Act 1990* or on the date of assent of this Act, whichever is the later.

Explanatory note

Amendment (1) will allow a statutory rule to be made granting rights of appeal against a determination of the chief executive to refuse an application for exemption from a statutory rule.

Amendment (2) allays any doubt that a statutory rule may be made in relation to appeals against determinations of the chief executive.

CREDIT SOCIETIES ACT 1986

Amendments

(1) Section 3—

omit.

(2) Section 4(1) (Definitions “Bankruptcy Act 1966” “Minister” and “Territory”)—

omit.

(3) Section 42(6)—

omit ‘(4)’, *insert* ‘(5)’.

(4) Section 122(2)(b)—

omit ‘125(4)’, *insert* ‘125(6)’.

(5) Section 123(3)(b)—

omit ‘125(4)’, *insert* ‘125(6)’.

(6) Section 123(3)(c)—

omit ‘125(4)’, *insert* ‘125(6)’.

(7) Section 123(4)(c)—

omit ‘125(4)’, *insert* ‘125(6)’.

(8) Section 127(1)—

omit, insert—

‘(1) It is competent for a credit society to—

- (a) amalgamate with; or
- (b) transfer its engagements to; or
- (c) undertake to fulfil the engagements of;

a body (whether incorporated or unincorporated) formed in another State or Territory if the society—

- (d) obtains the written approval of the Minister; and
- (e) complies with the terms and conditions of the approval.’.

(9) Section 131(1)—

omit ‘until the appointment of the administrator is revoked’,

insert ‘until the administrator ceases to hold office’.

(10) Section 180(3)—

omit ‘in paragraph (b) or (c) of subsection (1)’,

insert ‘in subsection (1)(b) or (d)’.

(11) Section 232(3)(a) (after ‘Act’)—

insert ‘that’.

Explanatory note

Credit union may act on behalf of another interstate body

Amendment (8) allows a credit union to undertake, with the written approval of the Minister, to fulfil the engagements of a body formed in another State or a Territory. The provision has been remade in accordance with current drafting practice.

Statute Law Revision

Amendments (1) and (2) omit unnecessary or obsolete provisions.

Amendments (3) to (7) correct cross-references.

Amendment (9) ensures that regard is had to other ways by which an administrator may cease to hold office.

Amendment (10) corrects a cross-reference.

Amendment (11) corrects a grammatical error.

DISTRICT COURTS ACT 1967**Amendment**

Section 91—

omit, insert—

‘Warrant empowers bailiff to enter on land

‘91. A warrant to a bailiff to give possession of land empowers the bailiff named in the warrant to enter on the land with such assistance as the bailiff determines and to give possession accordingly.’.

Explanatory note

Warrant empowers bailiff to enter on land

This amendment removes a time restriction on the bailiff's power to enter on land. There is no similar restriction placed on the bailiff under the *Supreme Court Acts*. The amendment will lessen the need for bailiffs to be withdrawn from court room duties to execute these warrants. The section has been remade in accordance with current drafting practice.

EDUCATION (GENERAL PROVISIONS) ACT 1989**Amendments**

(1) Section 3(1) (definitions "Department" and "Minister")—

omit.

(2) Section 10—

omit, insert—

'Delegation by Minister

'10. The Minister may delegate to a person any of the Minister's powers under this Act (other than powers under sections 3(2), 6(1)(a)(ii), 58(2)(a), 58(2)(e), 75(1), 75(6) and 76(1)).'.

(3) Section 30(3)—

omit, insert—

'(3) Instruction of a kind mentioned in subsection (2) is not to include any teaching in the distinctive tenets or doctrines of any religious denomination, society or sect.'

(4) After section 77—

insert—

‘Delegation by chief executive

‘77A.(1) The chief executive of the department may delegate to an officer of the public service all or any of the chief executive’s powers under this Act (other than powers under sections 24 and 25).

‘(2) The chief executive is taken always to have had the powers of delegation mentioned in subsection (1).’.

Explanatory note*Delegation by Minister*

Amendment (2) replaces, without altering the effect of, the existing provision providing for the Minister’s powers of delegation. The proposed section is drafted according to current drafting practice and in reliance on section 27A of the *Acts Interpretation Act 1954*.

Religious teaching in primary and special schools

Amendment (3) removes any doubt about whether the amended provision has application to the teaching of religious instruction in schools other than State primary and special schools. The proposed provision makes it clear that the limitations it imposes relate only to State primary and special schools by making specific reference to the subsection dealing only with those schools.

Delegation by chief executive

Amendment (4) is a new provision to clarify the chief executive’s power of delegation.

Statute Law Revision

Amendment (1) removes definitions made obsolete by recent amendments of the *Acts Interpretation Act 1954* (see sections 33 and 36 of that Act).

EDUCATION (TERTIARY ENTRANCE PROCEDURES AUTHORITY) ACT 1990

Amendments

(1) Section 4 (definitions “financial year” and “Minister”)—

omit.

(2) Section 6(1)(c)—

omit, insert—

‘(c) to issue—

(i) Tertiary Entrance Statements; and

(ii) other statements and documents under a regulation;’.

Explanatory note

Removal of possible ambiguity

Amendment (2) restates the existing provision in terms designed to remove any possible ambiguity about whether Tertiary Entrance Statements need to be prescribed by regulation.

Statute Law Revision

Amendment (1) omits definitions that are no longer necessary.

FIRE SERVICE ACT 1990

Amendments

(1) Section 104I(2)(a)—

omit ‘be in the form and’.

(2) Section 104L—

omit ‘in or to the effect of the prescribed form and’.

Commencement

Amendments (1) and (2) commence immediately after the commencement of sections 3.13 and 3.15 of the *Fire Service Act Amendment and Fire Safety Act Repeal Act 1991* or on the date of assent of this Act, whichever is the later.

Explanatory note*Repeal of prescribed forms*

These amendments allow the department to vary the style of forms administratively as the necessity arises. Under the present scheme the forms must be prescribed by Governor in Council. This adds to the overall administrative burden placed on the Governor in Council and retards the speed with which the department can respond to necessary change.

FOREIGN OWNERSHIP OF LAND REGISTER ACT 1988

Amendments**(1) Section 3—**

omit.

(2) Section 4(1) (definitions “Minister” and “statutory declaration”)—

omit.

(3) Section 4(1)—

insert—

‘ “prescribed form” means—

- (a) a form prescribed by regulation; or
- (b) a form approved by the Registrar;’.

(4) Section 4(2)—

omit.

(5) After section 44—

insert—

‘Combination of forms

‘44A. A form that is a prescribed form for the purposes of this Act may—

- (a) be combined with, and form part of, a prescribed form for the purposes of the *Valuation of Land Act 1944* or any other Act; or
- (b) form part of a form that makes provision for the giving of information required under or for the purposes of the *Valuation of Land Act 1944* or any other Act.’

Explanatory note

Omission of unnecessary provisions

Amendments (1), (2) and (4) omit provisions that are now unnecessary because of recent amendments of the *Acts Interpretation Act 1954*.

Combination of forms

Amendments (3) and (5) will enable the use of a common form to replace a number of forms separately prescribed under this Act, the *Valuation of Land Act 1944*, the *Land Tax Act 1915* and the *Stamp Act 1894*.

Use of a common form should result in substantial savings to the public and private sectors.

INDUSTRIAL RELATIONS ACT 1990**Amendments**

(1) Section 2.1(1) (definitions “chief executive”, “Industrial Commission” or “Commission”, “Industrial Court or Court”, “Industrial Gazette”, “Minister” and “the department”)—

omit.

(2) Section 2.1(1)—*insert—*

‘**“Commission”** means the Industrial Commission;

“Industrial Commission” means the Queensland Industrial Relations Commission established under this Act;’.

(3) Section 2.1(1)—*insert—*

‘**“Court”** means the Industrial Court;’.

(4) Section 2.1(1) (definition “wages”)—*omit, insert—*

‘**“wages”** means an amount payable to an employee in relation to—

- (a) work performed, or to be performed, by the employee; or
- (b) a public holiday; or
- (c) leave to which the employee has an entitlement; or
- (d) termination of employment;

and includes an amount payable from wages or salary, with the employee’s written consent, on account of the employee;’.

(5) Section 4.1(1)—*omit, insert—*

“4.1(1) The Industrial Conciliation and Arbitration Commission is continued in existence and constituted under this Act under the name the Queensland Industrial Relations Commission.’.

Explanatory note*Name of Commission*

Amendment (5) renames the Commission to distinguish it clearly from other tribunals.

Amendment (2) is consequential on the amendment of the name of the Commission.

Wages

Amendment (4) removes doubt whether a payment instead of notice or severance pay is “wages” within the meaning of the Act. This will ensure that recovery provisions of the Act can be used in appropriate cases to recover such amounts.

Statute Law Revision

Amendment (1) omits definitions made redundant by recent amendments of the *Acts Interpretation Act 1954*.

Amendment (3) is consequential on the omission of a definition.

JUSTICES OF THE PEACE AND COMMISSIONERS FOR DECLARATIONS ACT 1991

Amendments**(1) Section 1.04—**

insert—

‘“training course” includes—

- (a) a training course with or without an examination; or
- (b) an examination only.’.

(2) Section 2.01—

omit ‘Attorney-General’, *insert* ‘Minister’.

(3) Section 3.03—

omit ‘as a justice of the peace or as a commissioner for declarations’,

insert ‘as an appointed justice of the peace or as an appointed commissioner for declarations’.

(4) After section 3.03—

insert—

‘Cessation of office on disqualification

‘3.03A. A person holding office as an appointed justice of the peace or appointed commissioner for declarations ceases to hold the office on becoming disqualified from continuing in the office.’.

(5) Section 3.04(4)—

renumber as (5).

(6) After section 3.04(3)—

insert—

(4) A person—

- (a) who is mentioned in subsection (2) or (3); and
- (b) who was, on 31 October 1991, a justice of the peace under section 9(vi) of the repealed Act;

is, without further appointment and despite subsections (2) and (3), a justice of the peace (magistrates court)—

- (c) while the person continues to be employed as an officer of the public service in an office of the Supreme Court, a District Court or a Magistrates Court; but
- (d) only until 1 November 1996.

(7) Section 3.06(1) (after ‘may be, a commissioner for declarations’)—

insert ‘, unless subsection (7) applies’.

(8) At the end of section 3.06—

insert—

(7) If, 6 months after the appointment by the Governor in Council of a person as a justice of the peace or a commissioner for declarations—

- (a) the appointment has not been registered under subsection (1); and
- (b) proof of the matters mentioned in subsection (1)(a), (b) and (c) has not been provided to the registrar's satisfaction;

the appointment lapses.’.

(9) Section 3.07(1) (after ‘register’)—

insert ‘within 30 days of the change’.

(10) Section 3.11(1)—

omit ‘paragraph (a), (b) or (d) of section 3.03’,

insert ‘a provision of this Act other than section 3.03(c)’.

(11) Section 3.11(2)—

omit ‘section 3.03’, insert ‘this Act’.

(12) Section 3.12(1) (at the foot)—

insert —

‘Penalty—10 penalty units.’.

(13) At the end of section 4.08(2)(b)—

insert ‘or’.

(14) At the end of section 4.08(2)—

insert—

‘ ; or

- (d) prescribing fees payable in connection with the administration of this Act’.

(15) Section 6.04(2)—

omit ‘in the prescribed form and be accompanied by the prescribed fee’,

insert ‘made in accordance with the regulations’.

Commencement

Amendments (6) , (7), (14) and (15) are taken to have commenced on 1 November 1991.

Explanatory note*Training course*

Amendment (1) clarifies that examinations may be part of, or comprise, a training course required of persons seeking to hold or holding office as a justice of the peace or commissioner for declarations.

Minister

Amendment (2) ensures consistency in the mention of the Minister throughout the Act.

Disqualifications

Amendment (3) clarifies that the automatic disqualifications mentioned in the amended section only apply to appointed office holders.

Amendment (4) clarifies what happens if a person who is an appointed justice of the peace or commissioner for declarations becomes disqualified from holding office. The person ceases to hold office.

Clerks

Amendment (6) ensures that clerks in court offices who were performing the functions of justices of the peace before the commencement of the Act will continue to be available to perform some of those duties for a limited period of time.

Amendment (5) is a consequential amendment to amendment (6).

Appointment lapse

Amendment (8) places a practical time limit on the period an appointee may delay completing the formalities of appointment as a justice of the peace or commissioner for declarations. Amendment (7) is a consequential amendment to amendment (8).

Limit on notification of change

Amendment (9) places a practical time limit on the existing obligation of appointed justices of the peace and commissioners for declarations to inform the registrar of changes in their registered particulars.

Notification of disqualification

Amendments (10) and (11) ensure that disqualifications because of the regulations will be subject to rules applying to disqualifications under the Act .

Missing words

Amendment (12) inserts a missing penalty.

Amendment (13) supplies a missing “or”.

Regulation power

Amendment (14) confirms a power to prescribe relevant fees.

Prescribed form

Amendment (15) ensures that it is not necessary to prescribe a particular document for an application.

LAW REFORM COMMISSION ACT 1968

Amendments

(1) Section 2 (definition “Minister”)—

omit.

(2) After section 15—

insert—

‘Reports to be tabled

‘**16.** The Minister must cause a copy of each report made by the Commission to be laid before the Legislative Assembly within 14 sitting days after its receipt by the Minister.’.

Explanatory note

Tabling reports

Amendment (2) implements a recommendation of the Public Sector Management Report into the Department of the Attorney-General that reports made by the Commission be tabled.

Statute Law Revision

Amendment (1) omits an unnecessary definition (see section 33, *Acts Interpretation Act 1954*).

LIBRARIES AND ARCHIVES ACT 1988

Amendments

(1) Sections 3 and 4—

omit.

(2) Section 5(1) (definition “departmental head”)—

omit.

(3) Section 5(1) (definitions “financial year” and “Minister”)—

omit.

(4) Section 9(a)—

omit, insert—

‘(a) one is to be the chief executive of the department or a nominee of the chief executive or, if the Minister directs in writing that the chief executive of a specified department is to be a member, that chief executive or that chief executive’s nominee; and’.

(5) Section 9 (proviso)—

omit.

(6) Section 54(b)—

omit ‘Under Secretary, Department of Justice’,

insert ‘chief executive of the department that deals with matters arising under that Act’.

(7) Section 55(5)—

omit ‘Under Secretary, Department of Justice’,

insert ‘chief executive of the department that deals with matters arising under that Act’.

Explanatory note

Administrative responsibility

Amendments (2) and (4) recognise the proposed transfer of responsibility for Queensland State Archives to the Administrative Services Department, but ensure that, for the time being, the chief executive of the Department of the Premier,

Economic and Trade Development can remain a member of the Board.

Amendments (6) and (7) recognise the transfer of the administration of the *Commission of Inquiry Act 1950* (to which the provisions refer) from the Minister for Justice to the Attorney-General.

Statute Law Revision

Amendments (1), (3) and (5) omit unnecessary and or obsolete provisions.

PAWNBROKERS ACT 1984

Amendments

(1) Sections 3, 4 and 5—

omit.

(2) Sections 6(1) (definitions “Magistrates Court” and “Minister”)—

omit.

(3) Section 34(3)—

omit ‘\$40’,

insert ‘\$40 or, if a higher amount is prescribed, that amount, ’.

(4) Section 34(4)—

omit ‘\$40 or more’,

insert ‘not less than \$40 or, if a higher amount is prescribed, that amount,’.

Explanatory note

Omission of unnecessary or obsolete provisions

Amendments (1) and (2) omit unnecessary or obsolete provisions.

Prescribed amount

Section 34(3) and (4) of the Act prescribe, by reference to an amount, which articles not redeemed may be kept by a pawnbroker and which must be sold.

Amendments (3) and (4) allow the amount to be increased by regulation.

POLICE SUPERANNUATION ACT 1974

Amendments

(1) Section 2—

omit.

(2) Section 4(1) (definition “Minister”)—

omit.

(3) Section 4(8) and (9)—

omit.

(4) Section 18(3)—

omit ‘Save the costs of administering this Act and the 1968 Act, all’,
insert ‘All’.

(5) Section 30(2)(h) and (i)—

omit ‘section 3(1)’, *insert* ‘section 3’.

(6) Section 33(1)—

omit ‘or section 58A(1) or (1A)’.

(7) Section 33(2)(b)—

omit, insert—

- ‘(b) termination of employment as a member before attaining an age that is 5 years before the age for retirement, otherwise than for misconduct or because of incapacity; or’.

Explanatory note

Administration expenses

Amendment (4) makes an amendment consequential on a 1988 amendment to section 48 of the Act. The 1988 amendment provided that, from a date to be proclaimed, the expenses of administering the Police Superannuation Acts would be met by the Fund.

Preservation of entitlement

Amendment (7) disentitles members who leave the police service because of incapacity from electing to preserve their refund entitlement in the Fund. Their entitlements are granted under another section of the Act.

Statute Law Revision

Amendment (1) omits an unnecessary provision.

Amendments (2) and (3) omit provisions made redundant by recent amendments of the *Acts Interpretation Act 1954*.

Amendment (5) corrects cross-references.

Amendment (6) omits a reference to subsections that have been repealed.

PRIMARY PRODUCERS' ORGANISATION AND MARKETING ACT 1926

Amendments**(1) Section 1A—**

omit.

(2) Section 2 (definitions “Department”, “Minister” and “Regulations”)—

omit.

(3) Heading before section 3—

omit.

(4) Section 3—

omit.

(5) Section 4(20)(b)—

omit, insert—

‘(b) the Committee of Direction of Fruit Marketing is taken to be a Board.’.

(6) Section 9(2)—

omit ‘Primary Producers’ Organisation and Marketing Act 1987’,

insert ‘Primary Producers’ Organisation and Marketing Act Amendment Act 1987’.

(7) Section 14A(3)—

omit, insert—

‘(3) For the purposes of subsections (1) and (2), the Committee of Direction of Fruit Marketing is a Board.

‘(3A) For the purposes of subsection (2), the Queensland Commercial Fishermen’s State Council is a Board.’.

(8) Section 27—

omit ‘of Part IIA’.

(9) Section 34C(1)—

omit ‘27C, 27D,’.

(10) Section 34D—

omit ‘27C, 27D,’.

(11) First Schedule—

omit, insert—

‘SCHEDULE 1

SPECIFIED BOARDS

Atherton Tableland Maize Marketing Board

Central Queensland Egg Marketing Board

Egg Marketing Board

Navy Bean Marketing Board

Peanut Marketing Board

Rice Marketing Board

Tobacco Leaf Marketing Board
Committee of Direction of Fruit Marketing
Queensland Cane Growers' Council
Queensland Dairyfarmers' State Council
Queensland Pork Producers' State Council
Queensland Commercial Fishermen's State Council'.

Commencement

Amendments (5), (7) and (11) commence immediately after the commencement of the *Grain Industry (Restructuring) Act 1991*.

Explanatory note*Omission of references to dissolved Boards*

Amendments (5), (7) and (11) omit references to Boards dissolved or to be dissolved on the passing of the *Grain Industry (Restructuring) Act 1991*.

Minor error

Amendment (6) corrects a minor citation error.

Audits

Amendment (8) ensures the Council and the various Boards must comply fully with the provisions of the *Financial Administration and Audit Act 1977*.

Statute Law Revision

Amendments (1) to (4) omit unnecessary or obsolete provisions.

Amendments (9) and (10) omit cross-references to sections of the Act that have been repealed.

PUBLIC SECTOR MANAGEMENT COMMISSION ACT 1990

Amendments

(1) Section 2.2 (after ‘consists of’)—

insert ‘not more than’.

(2) Section 2.2—

omit ‘two’.

(3) Section 2.4(b)—

omit ‘whether an indictment’, *insert* ‘whether on indictment’.

(4) Section 3.3(2) (after ‘31’)—

insert ‘(other than subsection (2)(a) or (b))’.

(5) Section 5.4(4)(b)—

omit ‘as prescribed’.

Explanatory note

Number of Members of Commission

Amendments (1) and (2) allow for less than 3 members of the Commission.

Statute Law Revision

Amendment (3) corrects a typographical error.

Amendment (4) removes inappropriate references to the *Public Service Management and Employment Act 1988* relating to chief executives.

Amendment (5) removes unnecessary words.

ROADS (CONTRIBUTION TO MAINTENANCE) ACT 1957

Amendments

(1) Section 1A—

omit.

(2) Section 2 (definition “Schedule”)—

omit.

(3) Section 7—

omit, insert—

‘Payments to Consolidated Fund

‘**7.(1)** All amounts received by the Director-General by way of charges under this Act are to be paid into the Consolidated Fund.

‘**(2)** Any amount standing to the credit of the Roads Maintenance Account at the commencement of this section is to be paid into the Consolidated Fund.’.

Explanatory note

Payments to Consolidated Fund

Amendment (3) repeals an existing section that provides for amounts received under the Act by way of charges to be paid into a special account called the “Roads Maintenance Account”. The charges have long been discontinued and arrears still being collected amount to about \$10 000 per year. The amount is not large enough to cover the cost of any significant road maintenance and is usually disbursed as a grant to a local authority for that purpose. By providing for payment directly to the Consolidated Fund, administrative effort in budget management and financial accounting is saved.

Any money standing to the credit of the account on the commencement of the amendment is to be paid into the Consolidated Fund.

Statute Law Revision

Amendments (1) and (2) omit unnecessary or obsolete provisions.

SAWMILLS LICENSING ACT 1936

Amendments

(1) Section 5(1)(a)—

omit ‘in or to the effect of the prescribed form’.

(2) Section 5(3)—

omit ‘shall be in or to the effect of the prescribed form and’.

(3) Section 6(2)(a)—

omit ‘shall be in or to the effect of the prescribed form and’.

(4) Section 13(2)—

omit ‘shall be in or to the effect of the prescribed form and’.

(5) Section 15(1)(b)—

omit ‘in or to the effect of the prescribed form and’.

(6) Section 15(2)(d)—

omit ‘shall be in or to the effect of the prescribed form,’.

(7) Section 15(5)(a)—

omit ‘shall be in or to the effect of the prescribed form and’.

(8) Section 15A(1)—

omit ‘in or to the effect of the prescribed form’.

Explanatory note

Repeal of prescribed forms

These amendments allow the department to vary the style of forms administratively as the necessity arises. Under the present scheme the forms must be prescribed by Governor in Council. This adds to the overall administrative burden placed on the Governor in Council and retards the speed with which the department can respond to necessary change.

STAMP ACT 1894

Amendments

(1) Section 2(1) (definitions “Minister” and “statutory declaration”)—

omit.

(2) Section 2(3)—

omit.

(3) Section 16(1)(a)—

omit ‘(where the instrument at the time of that lodgement does not set forth all the facts and circumstances affecting the liability of the instrument to duty or the amount of the duty with which it is chargeable)’.

(4) Section 49(3)(a)—

omit ‘transaction; or’, *insert* ‘transaction; and’.

Explanatory note

Common form

Amendments (3) and (4) correct a minor error and at the same time facilitate the introduction of the proposed common form. See the note to the *Foreign Ownership of Land Register Act 1988* in this Schedule for information on the common form.

Statute Law Revision

Amendments (1) and (2) omit provisions made redundant by recent amendments of the *Acts Interpretation Act 1954*.

SUGAR INDUSTRY ACT 1991

Amendments

(1) Section 1.4(1) (definition “Department” and “Minister”)—

omit.

(2) Section 10.5(c)—

omit ‘sugar’, insert ‘sugar cane’.

(3) At the end of section 13.8—

insert—

‘(2) A person who contravenes subsection (1) commits an offence against this Act.’

Explanatory note

Contravention of section

Amendment (3) expressly provides that a person who contravenes section 13.8(1) (a section prohibiting the improper use of information) commits an offence.

Statute Law Revision

Amendment (1) omits definitions that are no longer necessary.

Amendment (2) corrects a minor error.

TOW-TRUCK ACT 1973

Amendments

(1) Section 3—

omit.

(2) Section 4(1) (definition “department”)—

omit.

(3) Section 6(1)—

omit ‘in the prescribed form’.

(4) Section 7(1)(a)—

omit.

(5) Section 10—

omit ‘prescribed form of’.

(6) Section 11(1)—

omit ‘in the prescribed form’.

(7) Section 11(2)(a)—

omit.

(8) Section 14(1)—

omit ‘in the prescribed form’.

(9) Section 15(a)—

omit.

(10) Section 16—

omit ‘prescribed form of’.

(11) Section 19(1)—

omit ‘in the prescribed form’.

(12) Section 19(2)(a)—

omit.

(13) Section 31(1)—

omit ‘in the prescribed form (if any)’.

Explanatory note*Repeal of prescribed forms*

Amendments (3) to (13) allow the department to vary the style of forms administratively as the necessity arises. Under the present scheme the forms must be prescribed by Governor in Council. This adds to the overall administrative burden placed on the Governor in Council and retards the speed with which the department can respond to necessary change.

Statute Law Revision

Amendments (1) and (2) omit unnecessary provisions.

TRAFFIC ACT 1949**Amendments****(1) Sections 2 and 3—**

omit.

(2) Section 4—

omit all words after ‘are hereby repealed.’.

(3) Sections 6 and 7—

omit.

(4) Section 9(1) (definitions “Department” and “Minister”)

omit.

(5) Sections 9(2) and (3)—

omit.

(6) Section 45(1)—

omit ‘or fails to comply with’.

(7) Section 45(2)—

omit ‘or fails to comply with’.

(8) Section 45(2)—

omit ‘therefor’,

insert ‘for the offence and a regulation does not provide that the contravention is not punishable as an offence’.

(9) Schedule (after clause 16)—

insert—

‘Notification to be issued for loaded vehicle exceeding prescribed dimensions

‘16A. Providing for the regulation and control of movement of vehicles that, when loaded, exceed prescribed dimensions, including—

- (a) the imposition of conditions and limitations on the movement of such vehicles; and
- (b) the fees and charges payable under the regulations and the purposes for which they are payable.’.

Explanatory note

Contravention of regulations

Amendment (8) will allow the regulations to specify contraventions of the regulations that are not to be offences. It is inappropriate for all contraventions of the regulations to be offences.

Movement of vehicles carrying loads exceeding prescribed dimensions

Amendment (9) will allow the introduction of a new system to provide for the movement of vehicles carrying loads exceeding prescribed dimensions as of right but subject to strict compliance with prescribed conditions and limitations e.g. the roads on which the vehicles will be allowed to travel and the times during which they may travel.

Statute Law Revision

Amendments (1) to (5) omit unnecessary or obsolete provisions.

Amendments (6) and (7) omit wording that is unnecessary after recent amendments of the *Acts*

Interpretation Act 1954 (see definition “contravene”, section 36).

TRANSPORT INFRASTRUCTURE (RAILWAYS) ACT 1991

Amendment

Section 8.4(2) and (3)—

omit, insert—

‘(2) To allay any doubt, Queensland Railways may, subject to subsection (3), exercise its powers under this Act in relation to a matter mentioned in subsection (1).

‘(3) In the exercise of its powers under this Act in relation to a matter mentioned in subsection (1), Queensland Railways must not act in a way that is inconsistent with a regulation.’

Explanatory note

Power of Queensland Railways

This amendment clarifies Queensland Railways’s powers under the Act by making express reference to its ability to exercise its powers in relation to a matter about which a regulation can be made. It also omits provisions made redundant by recent amendments of the *Acts Interpretation Act 1954*.

VALUATION OF LAND ACT 1944

Amendments

(1) Section 4—

omit.

(2) Section 5(1) (definitions “Minister”, “Prescribed” and “This Act”)—

omit.

(3) Section 5(1)—

insert—

“prescribed form” means—

- (a) a form prescribed by regulation; or
- (b) a form approved by the Valuer-General;’.

(4) Section 5(2)—

omit.

(5) After section 46—

insert—

‘Combination of forms

‘46A. A form that is a prescribed form for the purposes of this Act may—

- (a) be combined with, and form part of, a form that is a prescribed form for the purposes of the *Foreign Ownership of Land Register Act 1988* or any other Act; or
- (b) form part of a form that makes provision for the giving of information required under or for the purposes of the *Foreign Ownership of Land Register Act 1988* or any other Act.’.

Explanatory note*Combination of forms*

Amendments (3) and (5) will enable the use of a common form to replace a number of forms prescribed under this Act, the *Foreign Ownership of Land Register Act 1988*, the *Land Tax Act 1915* and the *Stamp Act 1894*.

Use of a common form should result in substantial savings to the public and private sectors.

Statute Law Revision

Amendments (1), (2) and (4) omit unnecessary or obsolete provisions.

VOCATIONAL EDUCATION, TRAINING AND EMPLOYMENT ACT 1991

Amendment**Section 1.4 (definition “accredited course”)—**

omit, insert—

“accredited course” means any course or subject of a course that has been accredited under this Act;’.

Explanatory note*Correction of error*

This amendment corrects a minor error.

WEAPONS ACT 1990

Amendments

(1) Section 1.5(1)(e)—

omit ‘Director of Corrective Services’,

insert ‘Director of Custodial Corrections’.

(2) Section 1.6 (definition “Minister”)—

omit.

(3) Section 1.6 (definition “unlawfully”)—

omit.

(4) Section 2.2(2)—

omit ‘in the conduct of business at the premises or location specified in the licence’,

insert ‘in the conduct of the business’.

(5) Section 2.5(b)—

omit, insert—

‘(b) made personally by—

- (i) in the case of an application by a natural person—the person; or
- (ii) in the case of an application by a body (whether incorporated or unincorporated) or a firm—a natural person who is nominated by the body or firm for endorsement on the licence as the representative of the body or firm;

in accordance with the regulations;’.

(6) Section 2.5(c), (d) and (e)—

omit, insert—

‘(c) accompanied by—

- (i) the prescribed fee; and
- (ii) proof of identity; and

- (iii) such particulars as are prescribed; and
- (iv) such other relevant particulars as the person to whom the application is made requires’.

(7) At the end of section 2.5—

insert—

‘(2) An application that is made in accordance with this section is to be dealt with as prescribed.’.

(8) At the end of section 2.8—

insert —

‘(2) A condition or any other information required by this Act to be endorsed on a licence may be endorsed on the licence by a word the meaning of which is specified in a prescribed code.’.

(9) Section 3.1—

omit ‘A person is not unlawfully to have possession of a weapon.’,

insert ‘A person must have possession of a weapon only under the authority of a licence or with other lawful authority, justification or excuse.’.

(10) After section 3.38(3)—

insert—

‘(4) An authorised officer may revoke an approval given under subsection (2) by written notice, given to the president or another officer of the governing body of the club or organisation, that sets out the reasons for the revocation.’.

(11) After section 3.49(4)—

insert—

‘(5) An authorised officer may revoke an approval given under subsection (3) by written notice, given to the person granted the approval, that sets out the reasons for the revocation.’.

(12) Schedule 3 (Heading)—

omit, insert—

‘UNRESTRICTED WEAPONS’.

Explanatory note*Clarification of unlawfully*

Amendment (3) repeals the definition “unlawfully” and amendment (9) clarifies the lawfulness of possessing weapons by providing that possession may only be under the authority of a licence or with other lawful authority, justification or excuse.

Removal of ambiguity

Amendment (4) resolves an ambiguity as to whether weapons owned, for example, by pastoral companies and used by their employees were licensed only in relation to specified premises. The ambiguity is resolved by removing that restriction.

Procedures for making application

Amendments (5), (6) and (7) allow increased flexibility in the procedures for making applications.

Particulars on licence

Amendment (8) enables the use of symbols, defined by a prescribed code, to represent information appearing on licences. This will make more efficient use of the available space on a licence.

Revocation of approval

Amendments (10) and (11) enable an authorised officer to revoke an approval previously given. The authorised officer must provide reasons for the revocation. An appeal system is provided under Part 5 of the Act.

Statute Law Revision

Amendment (1) corrects the reference to a title.

Amendment (2) omits an unnecessary definition.

Amendment (6) corrects a minor error by recasting the provisions.

Amendment (12) provides a more meaningful heading to Schedule 3.

WORKERS' COMPENSATION ACT 1990

Amendments

(1) Section 1.3(1)—

omit.

(2) Section 2.1(1) (definitions “Industrial Magistrate”, “Industrial Relations Commission” and “Minister”)—

omit.

(3) Section 2.3(a)—

omit.

(4) Section 2.3(e)—

omit ‘apprenticeship,’, *insert ‘apprenticeship’.*

(5) Section 5.5(2)(a)(i)—

omit ‘that section,’ *insert ‘section 5.4’.*

(6) Section 5.5(2)(a)(ii)—

omit ‘that section,’ *insert ‘section 5.4’.*

(7) After section 5.10 (in Part 5)—

insert—

‘Appeals concerning claims and entitlements

‘5.11(1) In this section—

“decision” does not include—

- (a) a decision made in exercise of a power expressed by this Act, otherwise than by the use of the word “may” alone, to be in the discretion of the Board or General Manager; or
- (b) a decision in respect of which a right of appeal is conferred by another provision of this Act.

‘(2) A claimant for entitlement to compensation may appeal to an Industrial Magistrate against a decision of the Board or General Manager.

‘(3) An appeal under this section is to be made by written notice given to the Board or General Manager within 60 days of receipt by the claimant of written notice of the decision.

‘(4) On receipt of the notice, the Board must immediately refer the matter to an Industrial Magistrate.

‘(5) After hearing the matter, the magistrate must set aside, affirm or vary the decision.’.

(8) Section 7.14—

omit, insert—

‘Appeals against decisions under this Part

7.14 (1) A worker or relict who is dissatisfied with a decision made by the Board under section 7.2, 7.4(1), 7.5 or 7.6 may appeal to an Industrial Magistrate.

‘(2) An appeal under this section is to be made by written notice given to the Board within 60 days of receipt by the worker or relict of written notice of the decision.

‘(3) On receipt of the notice, the Board must immediately refer the matter to an Industrial Magistrate.

‘(4) After hearing the matter, the magistrate must set aside, affirm or vary the decision.’.

(9) At the end of section 8.1—

insert—

‘(2) Despite section 8.3, if, at the time the injury is suffered—

- (a) the worker is employed under concurrent contracts of service in 2 or more callings; and
- (b) the worker’s employment under one of those contracts of service is other than as a casual employee;

the General Manager may determine that the worker’s entitlement to compensation under subsection (1) be calculated by reference to an award or agreement that governs a calling of the worker and increases the worker’s entitlement to compensation.

‘(3) If the General Manager makes a determination under subsection (2)—

- (a) the entitlement to compensation is calculated by reference to the award or agreement determined by the General Manager; and
- (b) the expression “**guaranteed weekly wage**” in the Table in subsection (1) is taken to be the expression “**weekly rate of salary or wages**”.’.

(10) Section 8.2 (TABLE—Column (Description of person), paragraph (b))—

omit, insert —

- ‘(b) a person who is not a worker, but is a member of a rural fire brigade under the *Fire Service Act 1990*, and is injured while discharging duties or participating in training as a member of the rural fire brigade.’.

(11) After section 8.3(5)—

insert —

‘(6) If the General Manager makes a determination under section 8.1(2) in respect of a worker, this section is to be applied—

- (a) with all adaptations made necessary by construing the Table in subsection 8.1(1) in accordance with subsection 8.1(3); and
- (b) as if the worker engaged, at the time the injury was suffered, in the calling governed by the industrial award or registered industrial agreement determined by the General Manager.’.

(12) Section 8.5(2)—

omit, insert —

‘(2) In subsection (1)—

“**loss of earnings**” means the difference between—

- (a) the amount of the worker’s average weekly earnings at the time of injury; and
- (b) the amount—

- (i) of the worker's average weekly earnings from employment during the period of partial incapacity; or
- (ii) if the worker is not in employment during that period—that could be reasonably expected to be derived by the worker during that period having regard to the worker's incapacity and the availability of employment.'.

(13) After section 8.5(3)—

insert—

'(4) A worker suffering partial incapacity is not entitled, under this section, to compensation in an amount that is more than the component MC mentioned in subsection (1).'

(14) Section 8.35—

omit '\$254.80', insert '\$258.10'.

(15) After section 10.9 (in Part 10)—

insert—

'Meaning of "this Act"

'10.10 In this Part—

"this Act" includes the *Workers' Compensation Act 1916*'.

Commencement

Amendment (3) commences on a day to be fixed by proclamation.

Amendments (14) and (15) are taken to have commenced on 1 January 1991.

Explanatory note

Police officers to be "workers"

Amendment (3) omits a provision denying police officers access to workers' compensation.

Right of appeal

Amendment (7) provides a general right of appeal against decisions of the Board or General Manager (other than decisions involving an exercise of discretion). The proposed amendment will not alter the present arrangements in relation to decisions of medical assessment tribunals.

Amendment (8) extends the decisions that are appealable under section 7.14 of the Act. The section has been redrafted in accordance with current drafting practice.

Payment of benefits

Amendment (9) allows the General Manager to align benefits to the award rate of the worker's highest paid employment. At present, an injured worker engaged in employment in 2 or more positions is only entitled to weekly benefits based on the worker's earnings in the industry in which the worker was injured.

Amendment (11) is a machinery provision necessary to give effect to the amendments to section 8.1.

Amendments (12) and (13) ensure that a partially incapacitated worker will not receive a greater entitlement to compensation than the worker would have received had the worker been totally incapacitated.

Governing award

Amendment (14) corrects an unforeseen variation to the governing award made one week prior to the date on which the Act received the Royal Assent.

Recovery of compensation payments

Amendment (15) allays any doubt about whether compensation payable under the previous Act can be recovered in cases where the injured worker has been awarded damages for the same injury.

Statute Law Revision

Amendments (1) and (2) omit unnecessary or obsolete provisions.

Amendment (4) omits a comma that may have had the unintended effect of altering the meaning of the provision.

Amendments (5) and (6) clarify cross-references.

Amendment (10) corrects terminology following the commencement of the *Fire Service Act 1990*.

WORKPLACE HEALTH AND SAFETY ACT 1989

Amendments

(1) Section 6(1) (definition “industrial magistrate” and “Minister”)—

omit.

(2) Section 6(1) (definition “air-conditioning unit”)—

omit ‘air-conditioning unit’, *insert* ‘air conditioning unit’.

(3) Section 6(1)—

insert—

‘**“personal protective equipment”** includes any clothing, equipment and substance designed—

(a) to be worn by a person; and

(b) to protect the person from risks of injury or disease;’.

(4) Section 6(1) (definition “plant”)—

omit, insert—

‘**“plant”** includes—

(a) machinery, equipment, appliance, pressure vessel, implement and tool; and

(b) personal protective equipment; and

(c) plant specified in Schedule 3; and

(d) a component of plant and a fitting, connection, accessory or adjunct to plant;’.

(5) Section 6(1) (definition “premises”)—

omit, insert—

‘**“premises”** includes—

(a) land (whether or not improved or enclosed); and

(b) a building (whether completely or partly erected or constructed or in the course of being erected or constructed); and

- (c) a part of a building; and
- (d) a road, street or bridge or another structure on, in or over or under a road or street; and
- (e) a structure or area (whether or not enclosed and whether above or below ground); and
- (f) a vehicle, vessel or aircraft; and
- (g) an installation on land, on the bed of any waters or floating on any waters; and
- (h) a tent or removable structure; and
- (i) any other place (whether on or under any waters or on the bed of any waters and whether the place is in a natural or undeveloped state);’.

(6) Section 8(1)—

omit ‘, upon the recommendation of the Authority,’.

(7) Section 8(4)—

omit ‘, upon the recommendation of the Authority,’.

(8) After section 11(3)—

insert—

‘(4) In this section—

“**premises**” does not include premises of a kind mentioned in paragraph (i) of the definition “**premises**” in section 6(1) unless premises of that kind are prescribed by regulation for the purposes of this section.’.

(9) Section 18(1)(a)—

omit , *insert—*

- ‘(a) a person appointed by the owner by notice, in a form approved by the Director by Industrial Gazette notice, to be principal contractor; and’.

(10) Section 28(3)—

omit ‘paragraphs’, *insert* ‘subsections’.

(11) Section 58 (heading to section)—
omit, insert ‘Health and Safety Officers’.

(12) Section 130 (heading to section)—
omit ‘act’, insert ‘Act’.

Explanatory note

Definitions

Amendment (3) defines the meaning of the term “personal protective equipment”.

Amendment (4) includes “personal protective equipment” in the definition “plant”.

Premises

Amendment (5), to allay any doubt, extends the definition “premises” to cover all places in which work is performed whether the place is on land, in the air or under water. Amendment (8) ensures that places of a kind that may not previously have been caught by the definition must be prescribed by regulation if they are to be premises for the purposes of section 11 (Persons in control of workplaces, etc., used by non-employees to ensure health and safety).

Governor in Council

Amendments (6) and (7) remove any suggestion that the Governor in Council is required, by legislation, to act only on the recommendation of the Authority (which, in fact, has ceased to exist).

Notice regarding principal contractors

Amendment (9) provides that the approved form of notice be published in the Industrial Gazette.

Statute Law Revision

Amendment (1) omits unnecessary definitions.

Amendment (2) corrects a spelling error.

Amendments (10) to (12) correct minor errors.

**SCHEDULE 2—AMENDMENTS BY
WAY OF STATUTE LAW
REVISION**

section 3

AMBULANCE SERVICE ACT 1991

Amendments

(1) Section 4.4(2)(g)—

omit ‘Mental Health Services Act 1974’,

insert ‘Mental Health Act 1974’.

(2) Section 6.3(3)(a)—

omit, insert—

‘(a) St John Ambulance Australia-Queensland; and’.

(3) Section 6.3(3)(b)—

omit.

(4) Section 6.4(3)(b)—

omit, insert—

‘(b) in respect of that part of Ambulance services that comprises first aid services—does not apply to St John Ambulance Australia-Queensland.’.

(5) Section 6.7(2)(b)—

omit, insert—

‘(b) the use of the word “Ambulance” by St John Ambulance Australia-Queensland as part of its name; and’.

(6) Sections 8.1, 8.3, 8.4, 8.6, 8.7, 8.9 and 8.12 (including Table)—

omit.

Explanatory note

Amendment (1) updates a reference to an Act.

Amendments (2) to (5) correct the title of the Association “St John Ambulance Australia-Queensland”.

Amendment (6) omits provisions whose operation has expired.

ART UNIONS AND AMUSEMENTS ACT 1976**Amendments****(1) Sections 3 and 6—**

omit.

(2) Section 7 (definition “closing date”)—

omit ‘Under Secretary’, *insert* ‘chief executive of the department’.

(3) Section 7(1) (definition “Director-General”)—

omit, insert—

‘“**chief executive**” means the chief executive of the department;’.

(4) Section 7(1) (definitions “Director General” and “Minister”)—

omit.

(5) Sections 12, 13, 14, 16, 19, 21, 22, 24, 38, 39, 40, 42, 47A, 47B, 66, 68, 68A, 69, 70, 71, 72, 76, 78, 79, 81, 82, 83, 84, 85, 86, 87 and 89—

omit ‘Director-General’ (wherever occurring), *insert* ‘chief executive’.

(6) Section 83(3)(vii)—

omit ‘Director-General’s’, *insert* ‘chief executive’s’.

(7) Sections 71, 72 and 79(2)(b)—

omit ‘Under Secretary’ (wherever occurring), *insert* ‘chief executive’.

Explanatory note

The amendments omit redundant provisions and update references in accordance with recently enacted provisions of the *Acts Interpretations Act 1954* (see section 33

and definitions “chief executive”, “department” and “Minister” in section 36).

AUCTIONEERS AND AGENTS ACT 1971

Amendments

(1) Sections 3 and 4—

omit.

(2) Section 5(1) (definition “Commercial agent”)—

omit ‘:The term’, insert ‘, but’.

(3) Section 5(1) (definition “Commercial agent”)—

omit ‘-1980’ and ‘-1976’.

(4) Section 5(1) (definition “Court”)—

omit ‘to 1968’.

(5) Section 5(1) (definition “Individual”)—

omit.

(6) Section 5(1) (definition “Land”)—

omit ‘-1984’.

(7) Section 5(1) (definitions “Minister”, “Person” and “Property”)—

omit.

(8) Section 5(2)(g)—

omit ‘to 1965’.

(9) Section 5(3)—

omit ‘, or public accountant within the meaning of The Public Accountants Registration Acts 1946 to 1968’,

insert ‘ or accountant’.

(10) Section 5(3)—

omit ‘to 1959’.

(11) Section 5(4)—

omit ‘-1968’ and ‘to 1966’.

(12) Section 6(2B)(a)—

omit ‘(a)’.

(13) Section 6(2B)(b)—

renumber as **(2BA)**.

(14) Section 7(b)—

omit ‘The Mental Health Acts 1962 to 1964’,
insert ‘the Mental Health Act 1974’.

(15) Section 10—

omit ‘to 1954’.

(16) Section 14(3) (before ‘that’ (first and last occurring))—

insert ‘(a)’ and ‘(b)’ respectively.

(17) Section 14A(2) (before ‘act’ (first occurring))—

insert ‘(a)’.

(18) Section 14A(2) (before ‘carry’ (first occurring))—

insert ‘(b)’.

(19) Section 14A(3)(a)—

omit, insert—

‘(a) unless the corporation is—

(i) a company within the meaning of the Corporations Law; or

(ii) a recognised company within the meaning of the Corporations Law;’.

(20) Section 15(5) (second sentence)—

number as **(6)**.

(21) Section 15(5) (second sentence)—

omit ‘Notwithstanding the provisions of the preceding paragraph’,
insert ‘Despite subsection (5)’.

(22) Section 15(5) (second sentence, paragraphs (i) and (ii))—
renumber as (a) and (b) respectively.

(23) Section 17(3) (second sentence)—
number as **(3A)**.

(24) Section 18(3)(i), (ii) and (iii)—
renumber as (c), (d) and (e) respectively.

(25) Section 21(1)(f)—
omit, insert—

- ‘(f) for an auctioneer’s licence and any one or more of the following licences—
 - (i) a real estate agent’s licence; or
 - (ii) a commercial agent’s licence; or
 - (iii) a motor dealer’s licence; ’.

(26) Section 23(2)(b)—
omit ‘-1974’.

(27) Section 27(3) (second sentence)—
number as **(3A)**.

(28) Section 28(4)(i), (ii) and (iii)—
renumber as (c), (d) and (e) respectively.

(29) Section 28(6) (second sentence)—
number as **(6A)**.

(30) Section 28(6) (second sentence)—
omit ‘Notwithstanding the provisions of the preceding paragraph’,
insert ‘Despite subsection (6)’.

(31) Section 28(6) (second sentence, paragraphs (i) and (ii))—
renumber as (a) and (b) respectively.

(32) Section 33(5) (before ‘has’ (first and last occurring))—
insert ‘(a)’ and ‘(b)’ respectively.

(33) Section 33(5)—

omit ‘therein’, *insert* ‘in the certificate’.

(34) Section 34(1) (second sentence)—

number as (2).

(35) Section 34(1) (second sentence)—

omit ‘Notwithstanding the provisions of the preceding paragraph’,
insert ‘Despite subsection (1)’.

(36) Section 34(1) (second sentence, paragraphs (i) and (ii))—

renumber as (a) and (b) respectively.

(37) Section 35(6) (second sentence)—

number as (7).

(38) Section 35(6) (second sentence)—

omit ‘Notwithstanding the provisions of the preceding paragraph’,
insert ‘Despite subsection (6)’.

(39) Section 36(4) (second sentence)—

number as (5).

(40) Section 36(4) (second sentence)—

omit ‘Notwithstanding the provisions of the preceding paragraph’,
insert ‘Despite subsection (4)’.

(41) Section 36(4) (second sentence, paragraphs (i) and (ii))—

renumber as (a) and (b) respectively.

(42) Section 42(1) (second sentence)—

number as (1A).

(43) Section 42(1) (second sentence)—

omit ‘Notwithstanding the provisions of the preceding paragraph’,
insert ‘Despite subsection (1)’.

(44) Section 42(1) (second sentence, paragraphs (i) and (ii))—

renumber as (a) and (b) respectively.

(45) Section 42(2)—

omit ‘-1984’ (wherever occurring).

(46) Section 46(1) (second sentence)—

number as (1A).

(47) Section 46(1) (second sentence)—

omit ‘Notwithstanding the provisions of the preceding paragraph’,

insert ‘Despite subsection (1)’.

(48) Section 46(1) (second sentence, paragraphs (i) and (ii))—

renumber as (a) and (b) respectively.

(49) Section 54(1) (second sentence)—

number as (2).

(50) Section 54(1) (second sentence)—

omit ‘Notwithstanding the provisions of the preceding paragraph’,

insert ‘Despite subsection (1),’.

(51) Section 54(1) (second sentence, paragraphs (i) and (ii))—

renumber as (a) and (b) respectively.

(52) Section 58(2) (before ‘a financier’ and ‘another’)—

insert ‘(a)’ and ‘(b)’ respectively.

(53) Section 62(4)(a)—

omit ‘to 1954’.

(54) Section 62(4)(b) (before ‘in the case of’ (first and last occurring))—

insert ‘(i)’ and ‘(ii)’ respectively.

(55) Section 62(4) (second sentence)—

number as (4A).

(56) Section 62(4) (second sentence)—

omit ‘paragraph (b)’, *insert* ‘subsection (4)(b)’.

(57) Section 63(6)—

omit ‘subsections (4), (7), (8) and (9) of section 62’,

insert ‘section 62(4), (4A), (7), (8) and (9)’.

(58) Section 64(2)—

omit, insert—

‘(2) For the purposes of—

- (a) section 62—an auctioneer, a real estate agent or motor dealer is taken to be beneficially interested in the purchase or sale of property; and
- (b) section 63—an auctioneer or real estate agent is taken to be beneficially interested in an option to purchase land;

if the purchase or sale is made or the option is obtained, as the case may be, on behalf of—

- (c) if the auctioneer, real estate agent or motor dealer is an individual—
 - (i) the individual or a prescribed relative of the individual; or
 - (ii) a corporation of which the individual or a prescribed relative of the individual is an executive officer; or
 - (iii) a corporation, having not more than 100 members, of which the individual or a prescribed relative of the individual is a member; or
- (d) if the auctioneer, real estate agent or motor dealer is a corporation—
 - (i) the corporation or an executive officer or a prescribed relative of an executive officer of the corporation; or
 - (ii) if the corporation has not more than 100 members, a member or a prescribed relative of a member of the corporation; or
 - (iii) another corporation that has at least one executive officer in common with the corporation; or
 - (iv) another corporation, having not more than 100 members, of which the corporation is a member or has at least one

member in common with the corporation; or

- (e) if the auctioneer, real estate agent or motor dealer carries on the business as a member of a firm or partnership—a person who is a member of the firm or partnership or a prescribed relative of a member; or
- (f) a person carrying on for profit or gain a business if the auctioneer, real estate agent or motor dealer, or a prescribed relative of the auctioneer, real estate agent or motor dealer, has, directly or indirectly, a right to participate in the income or profits of the business of the person.’.

(59) Section 64(4) (before ‘section’ (first and third occurring))—

insert ‘(a)’ and ‘(b)’ respectively.

(60) Section 66(4) (before ‘by’ (first and third occurring))—

insert ‘(a)’ and ‘(b)’ respectively.

(61) Section 68(1)(b)—

omit ‘-1970’.

(62) Section 70A—

omit ‘-1980’.

(63) Section 81(4)—

omit ‘to 1965’.

(64) Section 81(6) (second sentence)—

number as (6A).

(65) Section 81(6) (second sentence)—

omit ‘this subsection’ (wherever occurring), *insert* ‘subsection (6)’.

(66) Section 81E (first and second sentences)—

number as (1) and (2) respectively.

(67) Section 81E (second sentence)—

omit ‘the preceding paragraph’, *insert* ‘subsection (1)’.

(68) Section 81H (first and second sentences)—

number as (1) and (2) respectively.

(69) Section 81H (second sentence)—

omit ‘therein’, *insert* ‘in the certificate’.

(70) Section 81K(2) (second sentence)—

number as (2A).

(71) Section 81L(2) (second sentence)—

number as (3).

(72) Section 83(5) (second sentence)—

number as (5A).

(73) Section 83(5) (second sentence)—

omit ‘provision (a)’, *insert* ‘subsection (5)(a)’.

(74) Section 83(5) (second sentence)—

omit ‘provision (b)’, *insert* ‘subsection (5)(b)’.

(75) Section 83(5) (second sentence, paragraphs (i) and (ii))—

renumber as (a) and (b) respectively.

(76) Section 83(12) (before ‘in’ (first and last occurring))—

insert ‘(a)’ and ‘(b)’ respectively.

(77) Section 87(1)—

omit ‘a notification of the name and address of a person registered as a public accountant under *The Public Accountants Registration Acts 1946 to 1968* or, in the case of an application made on or after 1 January 1991,’.

(78) Section 87(1)—

omit ‘hereinafter, in either case, referred to as’,

insert ‘in this section called’.

(79) Section 89(1) (first sentence, before ‘in respect of’ (first and last occurring))—

insert ‘(a)’ and ‘(b)’ respectively.

(80) Section 89(1) (second, third, fourth and fifth sentences)—

number as (1A), (1B), (1C) and (1D) respectively.

(81) Section 89(4) (paragraphs (i), (ii) and (iii))—

renumber as (a), (b) and (c) respectively.

(82) Section 89(4) (subparagraphs (a), (b) and (c))—

renumber as (i), (ii) and (iii) respectively.

(83) Section 98(1) (second sentence)—

number as (1A).

(84) Section 98(1) (second sentence)—

omit ‘In this subsection the expression’, *insert* ‘In subsection (1),’.

(85) Section 106(5)—

omit ‘to 1960’.

(86) Section 130(2)—

omit ‘to 1968’.

(87) Section 131(1) (paragraphs (i) to (xix))—

renumber as (a) to (s) respectively.

(88) Section 131(1)(xiv) (subparagraphs (a) to (f))—

renumber as (i) to (vi) respectively.

(89) Section 132—

omit, insert—

‘Publication of proclamations and orders in council

‘132. Section 28A of the *Acts Interpretation Act 1954* (Regulations) applies to a proclamation or order in council made under this Act as if it were a regulation.’.

Explanatory note

These amendments effect Statute Law Revision by—

- (a) numbering and renumbering provisions of the Act; and
- (b) updating citation of Acts; and
- (c) omitting unnecessary or obsolete provisions; and
- (d) updating language used in the Act; and
- (e) updating a provision dealing with the publication, tabling and disallowance of statutory instruments.

COAL INDUSTRY (CONTROL) ACT 1948**Amendments**

(1) Sections 2, 4 and 5—

omit.

(2) Section 6(1) (definitions “Industrial Court”, “Minister”, “Person”, “Prescribed”, “Regulations” and “This Act”)—

omit.

(3) Section 6(2)—

omit.

(4) Section 61(2) and (3)—

omit.

Explanatory note

These amendments omit unnecessary or obsolete provisions.

COAL MINING ACT 1925

Amendments

(1) Section 4 (definition “Minister” and “This Act”)—

omit.

(2) Section 4 (second sentence and note to sentence)—

omit.

(3) Section 4 (definition “Mining Act”)—

omit, insert—

‘“Mining Act” means the *Mineral Resources Act 1990*’.

(4) Section 31B(1) (second sentence)—

number as (1A).

(5) Section 31B(2) (second and third sentences)—

number as (2A) and (2B) respectively.

(6) Section 31B(2B) (third sentence)—

omit ‘Queensland Department of Mines’, insert ‘the department’.

(7) Section 57(1)(a)—

renumber as (1).

(8) Section 57(1)(b)—

renumber as (1A).

(9) Section 57(1) (second occurring)—

renumber as (1B).

(10) Section 64(2)—

omit ‘Department of Mines’, insert ‘the department’.

(11) Section 70A (first, second and third sentences)—

number as (1), (2) and (3) respectively.

(12) Section 70A (first sentence)—

omit ‘Queensland Colliery Employees’ Union of Employees’,

insert ‘United Mine Workers Federation of Australia’.

(13) Section 76(3)(a)—

omit ‘Department of Mines’, *insert* ‘department’.

Explanatory note

Amendments (1) and (2) omit unnecessary or obsolete provisions.

Amendments (3), (4), (6), (10), (12) and (13) update references or number provisions.

Amendments (5), (7), (8), (9) and (11) effect Statute Law Revision by numbering provisions in accordance with current drafting practice.

CORRECTIVE SERVICES (ADMINISTRATION) ACT 1988

Amendments

(1) Section 4—

omit.

(2) Section 6 (definition “Minister”)—

omit.

(3) Section 10(1)(h)—

omit, insert—

‘(h) another person.’.

Explanatory note

Amendments (1) and (2) omit unnecessary or obsolete provisions.

Amendment (3) corrects a minor misdescription of a commissioner.

CREDIT ACT 1987

Amendments

(1) Long title—

omit ‘-1986’ (wherever occurring) and ‘-1981’.

(2) Section 3—

omit.

(3) Section 4—

omit ‘-1986’.

(4) Section 7(1) (definition “body corporate”)—

omit ‘-1986’.

(5) Section 7(1) (definition “commission charge”)—

omit ‘corporation within the meaning of the *Companies (Queensland) Code*’,

insert ‘body corporate within the meaning of the Corporations Law’.

(6) Section 7(1) (definition “guarantor”, paragraph (a))—

omit ‘corporation within the meaning of the *Companies (Queensland) Code* or a director or officer of a related corporation’,

insert ‘body corporate within the meaning of the Corporations Law or a director or officer of a related body corporate’.

(7) Section 7(1) (definition “land”)—

omit ‘-1986’.

(8) Section 7(1) (definition “Minister”)—

omit.

(9) Section 7(1) (definition “motor vehicle”)—

omit , *insert*—

“**motor vehicle**” means a motor vehicle within the meaning of the *Transport Infrastructure (Roads) Regulation 1991* made under the *Transport Infrastructure (Roads) Act 1991*;

(10) Section 7(1) (definition “officer”)—

omit ‘5(1) of the *Companies (Queensland) Code*’,
insert ‘9 of the Corporations Law’.

(11) Section 7(1) (definition “Registrar”)—

omit ‘-1987’.

(12) Section 7(1) (definition “Territory”)—

omit.

(13) Section 7(3) and (4)—

omit.

(14) Section 11—

omit ‘*Workers’ Compensation Act 1916-1983*’,
insert ‘*Workers’ Compensation Act 1990*’.

(15) Section 21(5)—

omit ‘*Acts Interpretation Act 1954-1977 (Tabling of Regulations)*’,
insert ‘*Acts Interpretation Act 1954 (Regulations)*’.

(16) Section 82(2)(a)—

omit ‘(a)’.

(17) Section 82(2)(b), (c) and (d)—

renumber as **(2A)**, **(2B)** and **(2C)** respectively.

(18) Section 123—

omit, insert—

‘Prohibition of credit hawking

‘123. (1) Subject to subsection (2), a credit provider must not canvass, or employ a person for the purpose of canvassing, at the place of residence of another person with a view to inducing the other person to apply for or obtain credit under a regulated contract.

Maximum penalty—100 penalty units.

‘(2) Subsection (1) does not apply to an invitation by or on behalf of a credit provider in respect of the provision of credit in relation to—

- (a) the purchase of goods of a particular kind by a supplier who deals in goods of that kind; or
- (b) the purchase of goods or services from a supplier if the invitation and supply are made by the same person.

‘(3) If a debtor suffers loss because of entering into a regulated contract initiated by a person in contravention of subsection (1), the credit provider is liable to the debtor for the loss.

‘(4) Subsection (3)—

- (a) does not prevent a person from being convicted of an offence against this section; and
- (b) is in addition to all other rights of the debtor exercisable against the credit provider in relation to the contract (whether under this Act or any other Act or law).

‘(5) For the purposes of subsection (1)—

“*canvass*” does not include communicate by post, telephone or telex.’.

(19) Section 142(3) (second sentence)—

number as (4).

(20) Section 155(4)—

omit ‘Acts Interpretation Act 1954-1977 (Tabling of Regulations)’,

insert ‘Acts Interpretation Act 1954 (Regulations)’.

(21) Section 164(2)(a)—

omit ‘-1985’.

(22) Section 173(4)(a)—

omit ‘(a)’.

(23) Section 173(4)(b), (c) and (d)—

renumber as (5), (6) and (7) respectively.

(24) Section 173(4)(c)(i) and (ii)—

renumber as (a) and (b) respectively.

(25) Section 173(4)(d)—

omit ‘this subsection’, *insert* ‘subsections (4), (5) and (6)’.

(26) Schedule 9 (clause 3(a))—

omit ‘-1985’.

(27) Schedule 9 (clause 5(1)(b))—

omit ‘corporation within the meaning of the *Companies (Queensland) Code*’,

insert ‘body corporate within the meaning of the Corporations Law’.

Explanatory note

These amendments effect Statute Law Revision by—

- (a) renumbering provisions of the Act in accordance with current drafting practice; and
- (b) updating citation of Acts within the Act; and
- (c) omitting provisions made redundant by recent amendments of the *Acts Interpretation Act 1954*; and
- (d) revising provisions in accordance with current drafting practice.

CRIMES (CONFISCATION OF PROFITS) ACT 1989**Amendments****(1) Section 3(1) (definitions “Magistrates Court” and “property”)—**

omit.

(2) Section 61(2) (after “if”)—

insert ‘received’.

Explanatory note

Amendment (1) omits definitions made redundant by recent amendments of the *Acts Interpretation Act 1954*.

Amendment (2) corrects a minor error by inserting the word “received”.

CRIMINAL LAW (REHABILITATION OF OFFENDERS) ACT 1986

Amendments

(1) Section 3(1) (definition “Minister”)—

omit.

(2) Section 9A(1) (Table)—

omit ‘Justice of the Peace’,

insert ‘justice of the peace or commissioner for declarations’.

Explanatory note

Amendment (1) omits an unnecessary definition.

Amendment (2) is consequential on the enactment of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

CULTURAL RECORD (LANDSCAPES QUEENSLAND AND QUEENSLAND ESTATE) ACT 1987

Amendments

(1) Sections 3 and 4—

omit.

(2) Section 5(1) (definitions “department” and “Minister”)—

omit.

(3) Section 6(1), (2) and (4)—

omit.

(4) Section 62—

omit ‘(1)’.

Explanatory note

Amendments (1) to (3) omit unnecessary or obsolete provisions.

Amendment (4) corrects a numbering error.

ELECTRICITY ACT 1976**Amendments****(1) Section 3—**

omit.

(2) Section 4(1), (2) and (3)—

omit.

(3) Section 5(8)—

omit.

(4) Section 6 (definitions “the Industrial Gazette” and “the Minister”)—

omit.

(5) First Schedule (Parts A and B)—

omit.

(6) Third Schedule—

omit.

Explanatory note

These amendments omit unnecessary and obsolete provisions.

FACTORIES AND SHOPS ACT 1960

Amendments

(1) Sections 2, 3 and 4—

omit.

(2) Section 5(1) (definition “Australia”, “Industrial magistrate” and “Minister”)—

omit.

(3) Section 5(2)—

omit.

(4) Heading to Part 7—

omit.

(5) Heading before section 44—

omit.

(6) Heading to Schedules—

omit.

(7) First Schedule—

omit.

Explanatory note

Amendments (1), (2), (3), (6) and (7) omit obsolete or unnecessary provisions and definitions (see especially sections 4, 35 and 36 of the *Acts Interpretation Act 1954*).

Amendments (4) and (5) omit headings in a Part in which all sections have been repealed.

FAIR TRADING ACT 1989

Amendments

(1) Section 5(1) (definition “Minister”)—

omit.

(2) Section 5(7), (8) and (10)—

omit.

(3) Section 113(3) and (4)—

omit.

Explanatory note

These amendments omit provisions that are unnecessary because of recent amendments of the *Acts Interpretation Act 1954*.

FARM PRODUCE MARKETING ACT 1964

Amendments

(1) Section 1—

omit, insert—

‘Short title

‘1. This Act may be cited as the *Farm Produce Marketing Act 1964*.’.

(2) Sections 3 and 4—

omit.

(3) Section 5(1) (definitions “Minister” and “The Department”)—

omit.

(4) Section 33(1)(b)—

omit ‘a trust account’, *insert* ‘an account’.

(5) Section 51—

omit, insert—

‘Publication of proclamations

‘51. Section 28A of the *Acts Interpretation Act 1954* (Regulations) applies to a proclamation made under this Act as if it were a regulation.’.

(6) Schedule—

omit.

Explanatory note

Amendment (1) changes the short title of the Act to reflect a 1981 amendment that allowed the Act to be cited in this way.

Amendments (2), (3) and (6) omit unnecessary or obsolete provisions.

By section 21 of Act No. 46 of 1986 the need to maintain a trust account was removed. Amendment (4) removes an overlooked reference to ‘trust account’.

Amendment (5) removes a requirement to publish regulations made under the Act by laying them before Parliament. This requirement is now recognised in section 28A of the *Acts Interpretation Act 1954*. A similar requirement in relation to proclamations has been preserved by remaking the section in accordance with current drafting practice.

FOOD ACT 1981

Amendments

(1) Sections 3 and 4—

omit.

(2) Section 5(1) (definitions “Minister” and “person”)—

omit.

(3) Section 24(1)—

omit ‘or a health surveyor’.

(4) First Schedule—

omit.

Explanatory note

Amendments (1), (2) and (4) omit unnecessary or obsolete provisions.

Amendment (3) recognises that an “inspector” (a term used in the subsection) includes, by definition, a health surveyor. A proposed amendment to the *Health Act 1937* (see this Schedule) will substitute the term “environmental health officer” for “health surveyor”.

FORESTRY ACT 1959

Amendments

(1) Sections 2, 3 and 4—

omit.

(2) Section 5 (definitions “Department”, “Magistrates Court”, “Minister”, “Order in Council”, “Proclamation”, “Regulations” and “This Act”)—

omit.

(3) Section 5 (definition “Forest products”, paragraph (e))—

omit ‘artifacts’, insert ‘artefacts’.

(4) Section 39A(2)—

omit ‘part of parts’, insert ‘part’.

(5) Section 99—

omit, insert—

‘Publication of proclamations and orders in council etc.

‘99. Section 28A of the *Acts Interpretation Act 1954* (Regulations) applies to a proclamation or order in council made under this Act as if it were a regulation.’.

(6) Section 102—

omit, insert—

‘Saving of certain Acts

‘102.(1) Unless otherwise expressly provided, the provisions of this Act are in addition to, and do not limit the operation of, the following Acts—

- (a) *Criminal Code*;
- (b) *Fauna Conservation Act 1974*;

- (c) *Fire Service Act 1990*;
- (d) *Fisheries Act 1976*;
- (e) *Harbours Act 1955*;
- (f) *Petroleum (Submerged Lands) Act 1982*;
- (g) *Queensland Marine Act 1958*;
- (h) *Sawmills Licensing Act 1936*;
- (i) *Timber Utilization and Marketing Act 1987*.

‘(2) If there is any inconsistency between this Act and the *Petroleum (Submerged Lands) Act 1982*, the later Act is to prevail to the extent of the inconsistency.’.

(7) Heading to Schedules—

omit.

(8) First Schedule—

omit.

Explanatory note

Amendments (1), (2), (7) and (8) remove unnecessary or obsolete provisions.

Amendment (3) corrects a spelling error.

Amendment (4) corrects a grammatical error.

Amendment (5) updates a provision dealing with the publication, tabling and disallowance of statutory instruments.

Amendment (6) updates references to certain Acts.

HEALTH ACT 1937

Amendments

(1) Sections 2A, 3 and 4—

omit.

(2) Section 5 (definition “Inspector”)—

omit, insert—

‘**“inspector”** includes a chief inspector, a medical or engineering inspector, an assistant inspector and an environmental health officer;’.

(3) Section 5 (definition “Minister”, “Regulations” and “This Act”)—

omit.

(4) Section 62(1)—

omit ‘or to a charitable institution within the meaning of “The Charitable Institutions Management Act of 1885” ’.

(5) Section 131WD(3)—

omit.

(6) Section 131WG(3)—

omit.

(7) Section 180(a)—

omit.

(8) Schedule A—

omit.

Explanatory note

Amendments (1), (3) and (8) omit unnecessary or obsolete provisions.

Amendment (2) recognises a change in job designation from health surveyor to environmental health officer.

Amendment (4) omits an obsolete reference to a repealed Act.

Amendments (5), (6) and (7) omit provisions that have been rendered obsolete by recent amendments of the *Acts Interpretation Act 1954* (see section 28AA).

HEALTH SERVICES ACT 1991

Amendments

(1) Section 1.5(1) (definition “chief executive”)—

omit, insert—

“chief executive” means the chief executive of the department;’.

(2) Section 1.5(1) (definition “Minister”)—

omit.

(3) Section 3.6(1)(b)—

omit, insert —

‘(b) is to have a common seal;’.

Explanatory note

Amendment (1) updates a definition.

Amendment (2) omits a definition made redundant by recent amendments of the *Acts Interpretation Act 1954*.

Amendment (3) corrects a minor error.

LEGAL PRACTITIONERS ACTS AMENDMENT ACT 1968

Amendments

(1) Section 7(2)(a)(iv)—

omit, insert—

‘(iv) any other division or other part of the Department of the Attorney-General;’.

(2) Section 7(2)(a)(v)—

omit, insert—

‘(v) the Parliamentary Counsel’s Office;’.

(3) Section 7(2)(a)(viii)—

omit, insert—

‘(viii) the Public Trust Office and any branch of the Public Trust Office;’.

(4) Section 8(1)(a)(iv)—

omit, insert—

‘(iv) the Parliamentary Counsel’s Office;’.

(5) Section 8(a)(vi)—

omit, insert—

‘(vi) the Public Trust Office and any branch of the Public Trust Office;’.

(6) After section 8(1)(a)(viii)—

insert—

‘(ix) any division or other part of the department of the Attorney-General that was before 23 October 1989 known as the Solicitor-General’s Office or the Crown Solicitor’s Office; or’.

(7) Section 9—

omit.

Explanatory note*Renaming of Crown Solicitor's Office as Crown Law Division*

Amendment (1) will ensure that Crown Law clerks undertaking legal studies and relying on service in the Crown Solicitor's Office for purposes of admission as a solicitor will not be prejudiced because of the change of name of the office.

Amendment (6) will ensure that Crown Law solicitors relying on service in the Crown Solicitor's Office for purposes of admission as a barrister will not be prejudiced because of the change of name of the office.

Updating of name of Parliamentary Counsel's Office

Amendments (2) and (4) update the name of the Parliamentary Counsel's Office.

Updating of name of Public Trust Office

Amendments (3) and (5) update the name of the Public Trust Office.

Omission of expired section

Amendment (7) omits a transitional provision that has expired.

LOCAL GOVERNMENT ACT AND OTHER ACTS AMENDMENT ACT 1990

Amendments**(1) Section 3.2(b)—**

omit 'subsection (1)', insert 'subsection (2)'.

(2) Section 3.2(b)—

omit '(2)', insert '(2A)'.

Commencement

These amendments are taken to have commenced on the date of assent of the *Local Government Act and Other Acts Amendment Act 1990*.

Explanatory note

These amendments correct a numbering error.

MARINE PARKS ACT 1982**Amendments****(1) Section 6—**

omit ‘(1)’.

(2) Section 9(1) (definition “Minister”)—

omit.

Explanatory note

Amendment (1) corrects a numbering error.

Amendment (2) omits a definition that is no longer necessary.

MINERAL RESOURCES ACT 1989**Amendments****(1) Section 1.8(1) (definition “Director-General”)—**

omit, insert—

‘“Director-General” means the chief executive of the department;’.

(2) Section 1.8(1) (definition “Minister”)—

omit.

(3) Section 1.8(2) and (3)—

omit.

Explanatory note

Amendment (1) updates a definition.

Amendments (2) and (3) omit provisions that are no longer necessary.

**MINING (FOSSICKING) ACT AMENDMENT ACT
1990****Amendment****Section 10(c)(i)—**

omit, insert—

- ‘(i) omitting the words “and any person acting under the authority of a warden” and substituting the words “, mining registrar, field officer or other authorised person”;’.

Commencement

This amendment is taken to have commenced on the date of assent of the *Mining (Fossicking) Act Amendment Act 1990*.

Explanatory note

This amendment corrects an error in Act No. 33 of 1990 that may have prevented this amendment taking effect.

PRIMARY PRODUCERS' CO-OPERATIVE ASSOCIATIONS ACT 1923

Amendments

(1) Section 2—

omit.

(2) Section 3(1) (definitions “Minister”, “Prescribed”, “Property”, “Regulations” and “This Act”)—

omit.

(3) Section 3(1) (definition “Primary producer”, paragraph (fa))—

omit ‘Fisheries Act 1976’,

insert ‘Fishing Industry Organisation and Marketing Act 1982’.

Explanatory note

Amendments (1) and (2) omit unnecessary or obsolete provisions.

Amendment (3) updates a reference to an Act.

PROFESSIONAL ENGINEERS ACT 1988

Amendments

(1) Sections 3 and 4—

omit.

(2) Section 5 (definition “Minister”)—

omit.

(3) Section 26(5)—

omit ‘Judge o at risbane’, *insert* ‘Judge at Brisbane’.

Explanatory note

Amendments (1) and (2) omit unnecessary or obsolete provisions.

Amendment (3) corrects a minor typographical error.

PUBLIC SERVICE SUPERANNUATION ACT 1958

Amendments

(1) Sections 2 and 3—

omit.

(2) Section 4(1) (definitions “Minister” and “Part”)—

omit.

(3) Section 4(3)—

omit.

(4) At the end of section 35(2)(b)—

insert ‘or’.

(5) Section 36(3)—

omit ‘where there are more than one child’,

insert ‘if there are 2 or more children’.

(6) Section 36(4)—

omit ‘where there are more than one child’,

insert ‘if there are 2 or more children’.

(7) Section 84—

omit ‘ “The Audit Acts, 1874 to 1958.”’,

insert ‘the *Financial Administration and Audit Act 1977.*’.

Explanatory note

Amendments (1), (2) and (3) omit unnecessary or obsolete provisions.

Amendment (4) inserts a missing disjunctive “or” between paragraphs.

Amendments (5) and (6) correct the awkward language of the existing provisions.

Amendment (7) updates a reference to an Act.

PUBLIC TRUSTEE ACT 1978**Amendments****(1) Section 3—**

omit.

(2) Section 6 (definitions “land” and “Minister”)—

omit.

(3) Section 5(3)—

omit.

(4) Section 85—

omit ‘clause 2(2)’, *insert* ‘clause 6(1)’.

(5) First Schedule (Part C)—

omit.

Explanatory note

Amendments (1), (2), (3) and (5) omit unnecessary or obsolete provisions.

Amendment (4) corrects a cross-reference.

RETIREMENT VILLAGES ACT 1988

Amendments

(1) Section 3—

omit.

(2) Section 6(1) (definition “Minister”)—

omit.

(3) Section 49(3)(b)—

omit ‘subsection (1)’, *insert* ‘subsection (2)’.

Explanatory note

Amendments (1) and (2) omit unnecessary or obsolete provisions.

Amendment (3) corrects a cross-reference.

STATE SERVICE SUPERANNUATION ACT 1972

Amendments

(1) Section 2—

omit.

(2) Section 4(1) (definition “Minister”)—

omit.

(3) Section 4(10)—

omit.

(4) Section 29(2)(a)—

omit ‘section 41(1)’, *insert* ‘section 41’.

(5) Section 29(4A)—

omit ‘section 41(1)’, insert ‘section 41’.

(6) Section 32(6)—

omit ‘where there are more than one child’,

insert ‘if there are 2 or more children’.

(7) Section 32(6A)—

omit ‘where there are more than one child’,

insert ‘if there are 2 or more children’.

(8) Section 73 (heading)—

omit, insert—

‘Application of *Public Service Superannuation Act 1958*’.

(9) Section 74 (heading)—

omit, insert—

‘Amendment of *Public Service Superannuation Act 1958*’.

Explanatory note

Amendments (1) to (3) omit unnecessary or obsolete provisions.

Amendments (4) and (5) correct cross-references.

Amendments (6) and (7) correct the awkward language of the existing provisions.

Amendments (8) and (9) replace the existing section headings with headings that more clearly indicate the subject matter of the sections.

STATE TRANSPORT ACT 1960

Amendments

(1) Sections 2, 3 and 4—

omit.

(2) Section 5(1) (definitions “Minister”, “Part” and “Person”)—

omit.

(3) Section 5(2)—

omit.

Explanatory note

These amendments omit unnecessary or obsolete provisions.

SUPERANNUATION (STATE PUBLIC SECTOR) AMENDMENT ACT 1990

Amendment

Section 3.4(5)—

omit ‘subsection (3)’, *insert* ‘subsection (4)’.

Commencement

This amendment is taken to have commenced immediately after the commencement of section 7.5 of the *Superannuation (Miscellaneous Acts) Amendment Act 1990*.

Explanatory note

This amendment corrects a cross-reference.

UNIVERSITY OF CENTRAL QUEENSLAND ACT 1989

Amendments

(1) Section 4(1) (definition “Minister”)—

omit.

(2) Section 150(2)—

omit ‘University College’ (first occurring), *insert* ‘Institute’.

Explanatory note

Amendment (1) omits a definition that is no longer necessary.

Amendment (2) corrects a minor error.

UNIVERSITY OF SOUTHERN QUEENSLAND ACT 1989

Amendments

(1) Section 4(1) (definition “Minister”)—

omit.

(2) Section 150(2)—

omit ‘University College’ (first occurring), *insert* ‘Institute’.

Explanatory note

Amendment (1) omits a definition that is no longer necessary.

Amendment (2) corrects a minor error.

SCHEDULE 3—REPEALS

section 4

1. *Cash Orders Regulation Act 1946*

Explanatory note

The *Cash Orders Regulation Act 1946* has been the subject of a review by the Business Regulation Review Unit. That review found that only one store in Queensland still issues “Cash Orders”. (Cash Orders can be described as a line of credit issued to a customer by a “Licensed Credit Trader”).

The *Credit Act 1987* covers the same field as the *Cash Orders Regulation Act 1946* and allows the implementation of a similar system of credit provision. The Credit Act also has the advantage of ensuring that credit providers disclose to their clients the effective interest rate being charged.

2. *State Securities Registration Act 1925*

Commencement

This provision takes effect on a day fixed by proclamation.

Explanatory note

This Act is no longer of public utility. Schedule 4 to this Act provides that the provisions of the Act continue to apply to those securities still registered.

Section 20 of the *Acts Interpretation Act 1954* ensures that the repeal of the Act will not affect the previous operation of the Act or anything done, or to be done, under the Act.

SCHEDULE 4—TRANSITIONAL PROVISIONS

section 5

Savings provision relating to section 21(2) and (3) of Acts Interpretation Act

1. Section 21(2) and (3) of the *Acts Interpretation Act 1954*, as in force immediately before 1 January 1992, continues to apply to statutory rules made or in force under an Act repealed before that day.

Explanatory note

This provision preserves the operation of regulations and other statutory instruments whose operation is saved under section 21(2) and (3) of the *Acts Interpretation Act 1954* immediately before the omission of the subsections.

Savings provision relating to Justices of the Peace and Commissioners for Declarations Act

2. The validity of an act done, before the date of assent of this Act, by a person mentioned in section 3.04(4) of the *Justices of the Peace and Commissioners for Declarations Act 1991* as amended by this Act, in performing a function of the office of commissioner of declarations or justice of the peace of any category is unaffected by whether the person used the designation commissioner of declarations or justice of the peace of any category.

Explanatory note

This provision ensures that actions of court clerks are unaffected by the designation used by them before the commencement of the relevant amendments.

Savings provision relating to States Securities Registration Act

3. Despite the repeal of the *State Securities Registration Act 1925*, that Act continues to apply to securities registered under the Act immediately before the commencement of Schedule 3.

Commencement

This provision commences immediately after the *State Securities Registration Act 1925* is repealed.

Explanatory note

The proposed savings provision ensures that the *State Securities Registration Act 1925* continues to apply to existing securities registered under that Act.

SCHEDULE 5—DECLARATORY PROVISIONS

section 5

**Aborigines and Torres Strait Islanders (Land Holding) Act
1985****Declaration**

1. To allay any doubt, it is declared that the amendment of this Act made by Part C of the Third Schedule to the *Public Service (Administrative Arrangements) Act 1990 (No. 2)* commenced on 1 December 1990.

Explanatory note

To remove doubt, this declaration fixes the commencement date of the amending provision.

Community Services (Aborigines) Act 1984

Declaration

2. To allay any doubt, it is declared that the amendment of this Act made by Part C of the Third Schedule to the *Public Service (Administrative Arrangements) Act 1990 (No. 2)* commenced on 1 December 1990.

Explanatory note

To remove doubt, this declaration fixes the commencement date of the amending provision.

Community Services (Torres Strait) Act 1984

Declaration

3. To allay any doubt, it is declared that the amendment of this Act made by Part C of the Third Schedule to the *Public Service (Administrative Arrangements) Act 1990 (No. 2)* commenced on 1 December 1990.

Explanatory note

To remove doubt, this declaration fixes the commencement date of the amending provision.