

Queensland



**STATUTE LAW
(MISCELLANEOUS
PROVISIONS) ACT (No. 2)
1992**

Act No. 68 of 1992

Queensland



STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT (No. 2) 1992

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	6
2	Commencement	6
3	Amended Acts	6
4	Repeals	6
5	Declaratory provisions	6
6	Explanatory notes	6
	SCHEDULE 1	7
MINOR AMENDMENTS		
	ACTS INTERPRETATION ACT 1954	7
	ADMINISTRATION OF COMMERCIAL LAWS ACT 1962	10
	CANALS ACT 1958	10
	CASINO CONTROL ACT 1982	12
	CHILDRENS COURT ACT 1992	17
	COMMONWEALTH AND STATE HOUSING AGREEMENT ACT 1990	18
	CONTAMINATED LAND ACT 1991	18
	CREDIT ACT 1987	20
	EVIDENCE ACT 1977	21
	FAIR TRADING ACT 1989	23
	FISHING INDUSTRY ORGANIZATION AND MARKETING ACT 1982	27
	FORESTRY ACT 1959	30

GURULMUNDI SECURE LANDFILL AGREEMENT ACT 1992	32
HARBOURS ACT 1955	33
JUDICIAL REVIEW ACT 1991	35
JUSTICES OF THE PEACE AND COMMISSIONERS FOR DECLARATIONS ACT 1991	36
LAND ACT 1962	37
LAW REFORM COMMISSION ACT 1968	39
LEGISLATIVE STANDARDS ACT 1992	41
MINERAL RESOURCES ACT 1989	42
MOTOR VEHICLES CONTROL ACT 1975	45
PARLIAMENTARY COMMISSIONER ACT 1974	47
PEACE AND GOOD BEHAVIOUR ACT 1982	56
PLANT PROTECTION ACT 1989	57
PRIMARY PRODUCERS' ORGANISATION AND MARKETING ACT 1926	57
QUEENSLAND BUILDING SERVICES AUTHORITY ACT 1991	58
RENTAL BOND ACT 1989	61
REPRINTS ACT 1992	62
RETIREMENT VILLAGES ACT 1988	65
RURAL TRAINING SCHOOLS ACT 1965	66
SEWERAGE AND WATER SUPPLY ACT 1949	68
SOCCER FOOTBALL POOLS ACT 1976	74
STATUTORY INSTRUMENTS ACT 1992	74
SUPREME COURT ACT 1921	77
TRAFFIC ACT 1949	78
WORKPLACE HEALTH AND SAFETY ACT 1989	79
SCHEDULE 2	89
AMENDMENTS BY WAY OF STATUTE LAW REVISION	
BILLS OF SALE AND OTHER INSTRUMENTS ACT 1955	89
CRIMINAL CODE	92
FIRE SERVICE ACT 1990	93
GAMING MACHINE ACT 1991	93
JUSTICES ACT 1886	93

LAND SALES ACT 1984	94
LEGAL AID ACT 1978	94
LOCAL GOVERNMENT (PLANNING AND ENVIRONMENT) ACT 1990	101
PICTURE THEATRES AND FILMS ACT REPEAL AND OTHER ACTS AMENDMENT ACT 1990	101
PROPERTY LAW ACT 1974	102
SOUTH BANK CORPORATION ACT 1989	112
STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1991	112
STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1992	113
SUPREME COURT OF QUEENSLAND ACT 1991	114
TRANSPORT INFRASTRUCTURE (RAILWAYS) ACT 1991	114
TRANSPORT INFRASTRUCTURE (ROADS) ACT 1991	119
SCHEDULE 3	124
ACTS REPEALED	
SCHEDULE 4	126
DECLARATORY PROVISIONS	
FRUIT MARKETING ORGANISATION AMENDMENT REGULATION 1991	126

Queensland



**Statute Law (Miscellaneous Provisions) Act
(No. 2) 1992**

Act No. 68 of 1992

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

[Assented to 7 December 1992]

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.

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1992*.

Commencement

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

Amended Acts

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

Repeals

4. Each Act mentioned in Schedule 3 is repealed.

Declaratory provisions

5. Schedule 4 has effect.

Explanatory notes

6. Matter appearing under the heading 'Explanatory note' in this Act does not form part of the Act.

SCHEDULE 1

MINOR AMENDMENTS

section 3

ACTS INTERPRETATION ACT 1954

Amendments

1. Long title—

omit, insert—

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

2. Section 6 (definition “Act”)—

omit, insert—

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

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

3. Section 15D(2)—

omit, insert—

(2) If the day or time fixed by a proclamation for the commencement of an Act or a provision of an Act happens before the day on which the proclamation is notified in the Gazette (the **“notification day”**)—

- (a) the proclamation is valid; but
- (b) the Act or provision commences on the notification day.’.

4. After section 27A(3)—

insert—

‘(3A) If the delegator is a body of persons, the delegation—

- (a) may be revoked by resolution of the body (whether or not constituted by the persons who constituted the body when the power was delegated); and
- (b) continues in force despite a change in the members of the body.’.

5. Section 35(2)—

omit, insert—

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

6. Section 49 (heading)—

omit, insert—

‘Forms’.

7. Section 49(2) (after ‘prescribed by’)—

insert ‘or under’.

8. After section 49(2)—

insert—

‘(3) If—

- (a) a form may be prescribed by or under an Act for a purpose; and
- (b) another form may be prescribed by or under the Act or another Act for the same or another purpose;

then, if separate forms are prescribed for each purpose, a single form may also be prescribed, and used by a person, for the purposes.

‘(4) If, under an Act, a form is required or permitted to be filed with, or

served on, a person (whether the expression ‘file’, ‘lodge’, ‘deliver’, ‘give’, ‘notify’, ‘send’ or ‘serve’ or another expression is used), the form may be filed with, or served on, another person under arrangements made between the persons.’.

Explanatory note

Long title

Amendment 1 revises the long title to reflect more accurately (and briefly) the Act’s purpose.

Definition of Act

Amendment 2 replaces the definition of “Act”. The new definition specifically includes British and New South Wales Acts that still have force in Queensland. These Acts form part of the law of Queensland.

Publication of Gazette notice

Amendment 3 makes a minor amendment consequential on the enactment of the *Statutory Instruments Act 1992*. Under section 40(1) of that Act subordinate legislation (including a proclamation that fixes the commencement of an Act or provision of an Act) must be notified in the Gazette. Publication of a Gazette notice of the making of subordinate legislation and of a place or places where copies can be obtained is sufficient compliance with the requirement in section 40(2) of *Statutory Instruments Act 1992*. Publication of the subordinate legislation in the Gazette is no longer essential.

Delegation power

Amendment 4 makes it clear that a delegation given by a body of persons continues in force, and may be revoked, despite a change in the members of the body.

Application of s.35(2) (References to Queensland implied) to statutory offices

Amendment 5 extends existing section 35(2) to statutory offices. The subsection already applies to statutory bodies.

Common form

Amendment 8 gives effect to a recommendation of the Business Regulation Review Unit to enable a common form to be prescribed and used under 1 or more Acts. Use of a common form is to be optional and separate forms will continue to be available to persons who wish to use them. The amendment should assist in achieving significant savings to business in complying with Government regulation.

Amendment 6 is consequential on amendment 8.

Statute law revision

Amendment 7 makes a minor drafting improvement.

ADMINISTRATION OF COMMERCIAL LAWS ACT 1962

Amendments

1. Section 6(1)(d) and (h)—

omit.

2. Section 7(1)(d) and (h)—

omit.

Explanatory note

Appointment as inspectors

Amendments 1 and 2 remove provisions that provide that the Registrar and Deputy Registrars of Commercial Acts are, by virtue of their office, inspectors under the *Hire-purchase Act 1959* and Registrar and Deputy Registrar under the repealed *Money Lenders Act 1916*. In future, any appointments that are necessary will be made under the *Hire-purchase Act 1959*.

CANALS ACT 1958

Amendments

1. Section 3(1)(b)—

omit ‘identified in the Order in Council whereby’,

insert ‘in respect of which’.

2. Section 3(1)(c)—

omit, insert—

‘(c) construct a canal contrary to a term or condition of the final approval to construct the canal; or’.

3. Section 7(3) (1st sentence)—

omit ‘by Order in Council published in the Gazette’.

4. Section 7(3) (1st sentence)—

omit ‘, the Governor in Council deeming fit, are specified in the Order in Council’,

insert ‘the Governor in Council considers appropriate’.

5. Section 7(3) (last sentence)—

omit, insert—

‘(3A) The Director-General must, as soon as practicable after final approval is given to the construction of a canal, give written notice of the details of the approval to—

- (a) the applicant; and
- (b) the Registrar of Titles.’.

6. Section 8(1)(a)—

omit ‘identified in the Order in Council whereby’,

insert ‘in respect of which’.

7. Section 8(1)(b)—

omit ‘specified in such Order in Council’,

insert ‘of the final approval’.

8. Section 8(2)—

omit all words from ‘publication’ to ‘canal’,

insert ‘applicant receives notice of the final approval under section 7(3A) in relation to the canal’.

9. Section 18—

omit.

Explanatory note

Amendments 1 to 8 make further steps in rationalising the use of subordinate legislation. The amendments remove the requirement for orders in council giving final approvals in relation to the construction of canals.

Amendment 9 omits a redundant provision.

CASINO CONTROL ACT 1982

Amendments

1. Section 4(1) (definitions “game” and “the Minister”)—

omit.

2. Section 4(1)—

insert—

“**game**” means a game that is—

- (a) notified under section 63(1); or
- (b) a machine game;

“**gaming machine**” means a device that is designed so that—

- (a) it may be used for the purpose of playing a game of chance or a game of mixed chance and skill; and
- (b) it may be operated, wholly or partly—
 - (i) by the insertion of Australian currency or a chip into the device; or
 - (ii) by the use of gaming machine credits; or

(iii) by the electronic transfer of gaming machine credits to the device; or

(iv) by the use of gaming machine credits held, stored or accredited by the device or elsewhere;

“gaming machine credit” means a credit of Australian currency, or chips, registered by a gaming machine;

“machine game” means a game that—

(a) is designed to be played on a gaming machine and identifiable from all other games by differences in rules or programming; and

(b) is approved by the Director under section 62(3)(a);’.

3. Section 51(3)—

omit, insert—

‘(3) Subject to subsection (4), the amount of the casino tax is to be—

(a) the percentage of the casino gross revenue for the month in question that is applicable under the agreement (as mentioned in section 19) under which the casino licence issues; or

(b) if the agreement provides that an amount is to be payable in specified circumstances and the circumstances have arisen—that amount.

‘(4) If the Governor in Council considers that the percentage specified in the agreement should be varied, the Governor in Council may, by regulation, determine a higher or lower percentage for the purposes of subsection (3)(a).

‘(5) A regulation determining a higher or lower percentage for the purposes of subsection (3)(a) takes effect—

(a) if the regulation is notified in the Gazette on the first day of the month—on that day; or

(b) in any other case—on the first day of the next month.’.

4. After section 62(3)—

insert—

‘**(3A)** The Director’s approval of a gaming machine under subsection (3)(a) must include approval of the machine game to be played on the machine.’.

5. Section 63(7) and (8)—

omit, insert—

‘**(7)** Subject to subsection (8), the casino operator may, having regard to the apparent gaming requirements of casino patrons, at any time conduct a number of games less than the maximum number approved for the particular type of that game.

‘**(8)** The Minister may, by written notice given to the casino operator, direct that a minimum number of a particular type of game must be played.

‘**(9)** The casino operator must ensure that each game conducted in the casino is conducted according to the account of the rules notified under subsection (2) for the playing of the game.

‘**(10)** A notification under subsection (1) is subordinate legislation.

‘**(11)** In this section—

“**game**” does not include a machine game.’.

6. Section 77—

omit, insert—

‘Keeping of bank accounts

‘**77.(1)** A casino operator must keep and maintain separate bank accounts approved by the Minister for use for all banking transactions relating to the operations of the hotel-casino complex or the casino.

‘**(2)** The operator must not use an account approved under subsection (1) for other purposes.’.

7. Section 127—

omit, insert—

‘Regulations

‘127.(1) The Governor in Council may make regulations for the purposes of this Act.

‘(2) A regulation may be made with respect to any of the following matters—

- (a) the types of work a casino key employee or casino employee may be licensed to perform and the compilation of lists in relation to the work;
- (b) arrangements and procedures for the taking of finger prints and palm prints of an applicant for a casino key employee licence or a casino employee licence;
- (c) the forms to be used for the purposes of this Act and the printing of the forms;
- (d) the fees payable for the purposes of this Act;
- (e) the control of advertising by casino licensees, lessees under casino leases and casino operators under casino management agreements;
- (f) the casino tax mentioned in section 51;
- (g) gaming machines and machine games;
- (h) creating offences and prescribing penalties of not more than 10 penalty units for the offences.’.

8. Section 128—

omit.

9. After section 127—

insert—

‘Existing regulations

‘128. A regulation in force under this Act immediately before the commencement of this section continues to have effect, after the commencement, as if it had been made under this Act, as in force immediately after the commencement.’.

Commencement

All amendments of the *Casino Control Act 1982* commence on a day to be fixed by proclamation.

Explanatory note*General Comment*

The opportunity has been taken in making the amendments outlined below to recast certain existing provisions in Plain English.

Amendment 5

Under section 62 of the *Casino Control Act 1982*, all gaming equipment is approved by the Director. Gaming machines have a description of play, and schedule of payouts, displayed as part of the machine’s artwork. The artwork is considered sufficient notice of the description of play for the purposes of the *Gaming Machine Act 1991*. Proposed section 63(11) excludes games played on gaming machines from the process by which the Minister notifies in the Gazette the games to be conducted or played in a casino together with an account for playing the games. The effect of the amendment is to treat gaming machines in the same way for the purposes of both Acts. Except as outlined by the relevant provisions, the effect of the Act has not been altered.

Amendments 1, 2 and 4

These amendments are largely consequential on Amendment 5.

Amendments 3 and 7

These amendments are statute revision amendments. Amendment 3 changes the method of varying the percentage of casino tax from an Order in Council to a regulation. Amendment 7 remakes section 127 in current drafting style for regulation making powers.

Amendment 6

Amendment 6 allows a casino operator to keep or maintain a bank account outside of the State with the Minister’s approval.

Amendment 8

This amendment omits a provision that is redundant because of Amendment 3.

Amendment 9

This amendment saves existing regulations.

CHILDRENS COURT ACT 1992

Amendments

1. After section 27—

insert—

‘References to Childrens Court

‘**28.(1)** A reference in another Act to the Childrens Court or a Childrens Court (whether the expression ‘the Childrens Court’, ‘a Children’s Court’ or ‘a Childrens Court’ or another expression is used) is, in relation to anything done, or proposed to be done, after the commencement of section 4, taken to be a reference to the Childrens Court established under this Act.

‘**(2)** Subsection (1) applies to a reference in an Act passed before the commencement of section 4 despite the reference being expressly to the Childrens Court or a Childrens Court constituted under an Act other than this Act.’.

2. Section 28—

renumber as section 29.

Explanatory note

Saving of references to Childrens Court

Amendment 1 inserts a new section designed to ensure that existing references to the Childrens Court or a Childrens Court will be taken to be references to the Childrens Court established under the *Childrens Court Act 1992*. The new section applies only to things done, or proposed to be done, after the establishment of the new Childrens Court.

Amendment 2 is consequential on amendment 1.

COMMONWEALTH AND STATE HOUSING AGREEMENT ACT 1990

Amendment

1. After section 3—

insert—

‘Variation of agreement

‘4.(1) Nothing in this Act or the agreement prevents any provision of the agreement (including subclause 39(1) or a provision mentioned in the subclause) from being varied under the agreement as between the State and the Commonwealth.

‘(2) The agreement as varied has the force of law as if it were an enactment of this Act.’.

Explanatory note

This amendment will clarify the ability of the State and the Commonwealth to vary the original agreement, including the provisions of the agreement mentioned in subclause 39(1) that were excluded from variation.

CONTAMINATED LAND ACT 1991

Amendments

1. Section 4 (definitions “Director” and “local authority”)—

omit.

2. Section 4—

insert—

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

3. Section 12—

omit ‘, if any,’.

4. Section 54—

omit, insert—

‘Delegation

‘54. The chief executive may delegate all or any of the powers of the chief executive under this Act or the *Local Government (Planning and Environment) Act 1990* to an officer or employee of the department.’.

5. Sections 4 (definitions “approved”, “authorised person” and “contaminated land”), 6(1), 13(2) and (3), 14(2) to (4), 16(2) and (3), 17 to 25, 28, 30(4), 40, 41(2), 42(2), 44, 45, 46(2), 48(1), 49(1), 50, 53 and 57—

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

Explanatory note*References to Director*

The amendments bring the Act into line with current drafting practice by omitting references to the Director (formerly this was a reference to the Director of the Bureau of Emergency Services) and substituting references to the chief executive of the department. The Act is now administered by the Minister for Environment and Heritage.

Delegation

Amendment 4 also broadens the delegation provision of the Act to allow the chief executive to delegate powers under the *Local Government (Planning and Environment) Act 1990*.

Statute law revision

Amendment 1 also omits a redundant definition.

Amendment 3 omits unnecessary words.

CREDIT ACT 1987

Amendments

1. Long title—

omit, insert—

‘An Act relating to the provision of credit and the regulation of contracts providing credit, and for related purposes’.

2. Section 21(5)—

omit, insert—

‘(5) An order in council made under this section is subordinate legislation.’.

3. Section 122(8) (definitions “commercial broadcasting station”, “commercial television station” and “licensee”)—

omit.

Explanatory note

Long title

Amendment 1 amends the long title to reflect the present purposes of the Act.

Subordinate legislation

Amendment 2 omits a redundant provision and makes it clear that orders in council made under section 21 are subordinate legislation.

Definitions

Amendment 3 omits definitions that do not require specific definition in the Act. The omission of those definitions also avoids references to a Commonwealth Act that may be amended or repealed in the future.

EVIDENCE ACT 1977

Amendment

1. After section 134—

insert—

‘Production of documents by agencies in relation to civil proceedings

‘134A.(1) A person who is a party to a civil proceeding may make written application to the principal officer of an agency to produce for inspection a document that—

- (a) is in the possession of, or under the power of, the agency; and
- (b) is relevant to an issue in the proceeding;

if the agency, the principal officer, or a member, officer or employee of the agency, could be ordered, on the application of the person, to produce the document in the proceeding.

‘(2) The principal officer may permit the person, on payment of the prescribed fee, to inspect the document, and take a copy of, or an extract from, the document, at a time and place nominated by the principal officer.

‘(3) If the principal officer permits the person to inspect and take a copy of, or an extract from, the document, the principal officer, and all persons acting on behalf of the principal officer, are entitled to the same protection as they would have had if the acts concerned had been carried out in obedience to a process of the Supreme Court.

‘(4) The principal officer is not required to notify another party to the proceeding of—

- (a) the making of the application; or
- (b) any action taken in relation to the application.

‘(5) Subject to subsection (6), this section does not affect—

- (a) the operation of any law relating to the disclosure or non-disclosure of information; or
- (b) the operation of another law that authorises the inspection or copying of a document otherwise than as provided in this section; or

- (c) the power of a court to order the inspection or production of a document.

‘(6) If a document mentioned in subsection (1) is a document that contains information to which section 5.1 of the *Health Services Act 1991* applies, the document is, for the purposes of section 5.1(2)(a) of that Act, information that is expressly authorised or permitted to be given under this Act.

‘(7) In this section—

“agency” means—

- (a) a department; or
(b) a public authority within the meaning of the *Freedom of Information Act 1992*; or
(c) a person or body declared by regulation to be an agency;

but does not include a person or body declared by regulation not to be an agency;

“principal officer” means—

- (a) in relation to a department—the chief executive of the department; or
(b) in relation to an agency for which a regulation declares an officer to be the principal officer—the holder of the office; or
(c) in relation to another agency—
(i) if it is an incorporated body that has no members—the person who manages the body’s affairs; or
(ii) if it is a body (whether or not incorporated) that is constituted by 1 person—the person; or
(iii) if it is a body (whether or not incorporated) that is constituted by 2 or more persons—the person who is entitled to preside at a meeting of the body at which the person is present.’.

Commencement

This amendment commences on a day to be fixed by proclamation.

Explanatory note*Simpler procedure for third party discovery*

The amendment provides an administrative mechanism for third party discovery. It will permit an alternative to court-ordered discovery and should result in cost savings to users. A litigant will be able to make a direct application to a department or public authority and only in contentious cases will it be necessary for a litigant to seek a court order.

FAIR TRADING ACT 1989**Amendments****1. Section 5(1) (definitions “Assistant Commissioner”, “Commissioner” and “supply”)—**

omit.

2. Section 5(1)—

insert—

‘ **“Assistant Commissioner”** means an Assistant Commissioner for Consumer Affairs;

“Commissioner” means the Commissioner for Consumer Affairs;

“supply” includes—

- (a) in relation to goods—supply (including resupply) by way of sale, exchange, lease, hire or hire-purchase; and
- (b) in relation to services—provide, grant or confer;’.

3. Section 5(1) (definition “services”)—

omit ‘without limiting the generality of the foregoing, includes’,

insert ‘includes, for example,’.

4. Section 5(11)—

omit, insert—

‘(11) For the purposes of this Act, a corporation is related to another corporation if it is related to the other corporation for the purposes of the Corporations Law.’.

5. Section 10(1)—

omit ‘by Order in Council’, insert ‘, by Gazette notice’,

6. Section 10(2)(c)—

omit ‘by Order in Council’, insert ‘by Gazette notice’.

7. Section 10(2)—

omit ‘whereupon he shall cease to be chairman of the Council’.

8. Section 10(3)—

omit ‘, on the recommendation of the Minister,’.

9. Section 11(2)—

omit ‘whereupon he shall cease to be deputy chairman and the office shall fall vacant’.

10. Section 13(1)(d)—

omit ‘by Order in Council’, insert ‘by Gazette notice’.

11. Section 13(2)—

omit ‘, on the recommendation of the Minister,’.

12. Section 51(3) (definition “prescribed information provider”)—

omit, insert—

‘ **“prescribed information provider”** means a person who carries on a business of providing information, and includes—

- (a) a person to whom, or each of the members of a consortium to which, a broadcasting or television licence has been granted under a law of the Commonwealth; and
- (b) the Australian Broadcasting Corporation; and
- (c) the Special Broadcasting Service Corporation;’.

13. Section 52(9) (definition “directory”)—

omit ‘Australian Telecommunications Commission’,

insert ‘Australian and Overseas Telecommunications Corporation’.

14. Section 85(1)—

omit ‘published in the Gazette’.

15. Section 85(2)—

omit, insert—

‘(2) An order made under subsection (1) is subordinate legislation.’.

16. Section 90(3)(e)—

omit ‘made in accordance with the *Oaths Act 1867–1988*’.

17. Section 94(4)(c)—

omit, insert—

- ‘(c) the maximum term of imprisonment to which a person may be sentenced for an offence against this Act is 1 year.’.

18. Section 94(5)—

omit, insert—

‘(5) The maximum term of imprisonment that a court may order in default of payment of a penalty imposed under this Act is 1 year.’.

19. Section 103(1)—

omit ‘a Judge thereof’, insert ‘a District Court or Supreme Court Judge’.

20. Section 109(2)—

*omit ‘derogating from the foregoing provisions’,
insert ‘limiting subsection (1)’.*

21. Section 111(3)—

omit, insert—

‘(3) The provisions of this section are in addition to the provisions of section 220 of the Corporations Law.’.

Explanatory note*Statutory instruments to be subordinate legislation*

Amendment 15 recasts subsection 85(2) of the Act to provide that an order made under section 85(1) is subordinate legislation. This will result in the order being tabled in, and subject to disallowance by, the Legislative Assembly.

Amendment 14 is consequential on amendment 15.

Consequential amendments

Amendments 17 and 18 make amendments consequential on the *Penalties and Sentences Bill 1992*.

Statute law revision

The remaining amendments make amendments by way of statute revision.

FISHING INDUSTRY ORGANIZATION AND MARKETING ACT 1982

Amendments

1. Section 1—

omit ‘organization’, *insert* ‘organisation’.

2. Section 6(1) (definition “fish”)—

omit ‘Order in Council’, *insert* ‘regulation’.

3. Section 7—

omit ‘Order in Council’ (wherever occurring), *insert* ‘regulation’.

4. Section 45AE—

omit ‘, by notification published in the Gazette,’ (twice occurring).

5. Section 45AG—

omit, insert—

‘Closed season

‘**45AG.** The Governor in Council may, by regulation, declare a closed season in relation to specified Queensland waters.’.

6. Section 45AH—

omit, insert—

‘Closed waters

‘**45AH.** The Governor in Council may, by regulation, declare specified Queensland waters to be closed waters.’.

7. Section 45AHA—

omit ‘published in the Gazette’.

8. Section 45AHA (at the end)—

insert—

‘(2) A notification under subsection (1) is subordinate legislation.’.

9. Section 87(4)—

omit ‘Order in Council’, *insert* ‘regulation’.

10. Section 87(6)—

omit ‘Order in Council’, *insert* ‘regulation’.

11. Section 88(2)—

omit ‘Order in Council’ (wherever occurring), *insert* ‘regulation’.

12. Section 90(3) (2nd and 3rd sentences)—

omit, insert—

‘(3A) An authority under subsection (3) may be given subject to the conditions that the Governor in Council considers appropriate.’.

13. Section 90(4)—

omit all words from ‘generally’, *insert* ‘by regulation.’.

14. Section 110(3)(b)—

omit ‘by Order in Council’.

15. Section 112(1)—

omit all words from ‘Order in Council’, *insert* ‘regulation determines.’.

16. Section 117—

omit, insert—

‘Exemptions

‘**117.** The Governor in Council may, by regulation, exempt a person from this Act or any of the provisions of this Act, subject to any conditions specified in the regulation.’.

17. Section 123—

omit ‘an Order in Council or’.

18. Section 131(2)—

omit ‘, by Order in Council,’.

19. Section 132A—

omit.

20. After section 133—

insert—

‘Existing orders in council

‘**134.** An order in council in force under section 6, 7, 45AG, 45AH, 87, 88, 112 or 117 immediately before the commencement of this section continues to have effect after the commencement, and may be repealed or amended, as if it were a regulation.’.

Explanatory note

Amendment 1 applies the current spelling convention.

Amendments 2 to 19 rationalise and update provisions relating to statutory

instruments made under the Act. Instruments of a legislative nature will in future be made by regulation.

Amendment 20 omits a redundant provision.

Amendment 21 saves the operation of existing orders in council.

FORESTRY ACT 1959

Amendments

1. Section 25(1)—

omit ‘by Order in Council’, *insert* ‘, by regulation.’.

2. Section 26(2)(ii)—

omit ‘Order in Council’, *insert* ‘regulation’.

3. After section 26(2)—

insert—

‘(3) Subsection (2) does not apply to a regulation that merely—

- (a) sets apart and declares a State Forest and an area of Crown land, or a Timber Reserve, as a State Forest; or
- (b) sets apart and declares contiguous State Forests as a single State Forest; or
- (c) divides a State Forest into 2 or more State Forests.’.

4. Section 27—

omit, insert—

‘Amalgamation etc. of State Forests

‘27. The Governor in Council may, by regulation—

- (a) set apart and declare a State Forest and an area of Crown land, or a Timber Reserve, as a State Forest; or

- (b) set apart and declare contiguous State Forests as a single State Forest; or
- (c) divide a State Forest into State Forests.’.

5. Section 28(1)—

omit, insert—

‘**28.(1)** The Governor in Council may, by regulation—

- (a) set apart any Crown land as a Timber Reserve; or
- (b) set apart a Timber Reserve and an area of Crown land as a Timber Reserve; or
- (c) set apart contiguous Timber Reserves as a single Timber Reserve.’.

6. Section 28(4)—

omit ‘by Order in Council’, insert ‘, by regulation,’.

7. Section 28(5)—

omit.

8. Section 32—

omit ‘by Proclamation’, insert ‘, by regulation,’.

9. Section 34A—

omit ‘Order in Council’, insert ‘regulation’.

10. Section 99—

omit.

11. After section 102—

insert—

‘Existing orders in council

‘**103.(1)** An order in council in force under section 25, 27, 28 or 34A immediately before the commencement of this section continues to have effect after the commencement, and may be repealed or amended as if it were a regulation.

‘**(2)** Without limiting subsection (1), but despite section 26(2), an order in council setting apart and declaring a State Forest may be repealed by a regulation without the resolution of the Legislative Assembly if the area of land comprising the State Forest is set apart and declared as a State Forest under the regulation.’.

Explanatory note

Amendments 1 to 9 implement current drafting practice by providing that the statutory instruments to be used for the purposes of the Act are regulations. Amendment 3 also makes it clear that a resolution of the Legislative Assembly is not required when a regulation is made declaring additional land to be part of a State Forest or amalgamating or dividing State Forests.

Amendment 10 omits a redundant provision.

Amendment 11 saves the operation of existing orders in council.

GURULMUNDI SECURE LANDFILL AGREEMENT ACT 1992

Amendment**1. Section 8—**

omit, insert—

‘By-laws are subordinate legislation

‘**8.** By-laws under this Act are subordinate legislation.’.

Explanatory note

This amendment is consequential on the enactment of the *Statutory Instruments Act 1992*. As a result of the amendment, by-laws will continue to be subject to tabling and disallowance.

HARBOURS ACT 1955

Amendments

1. After section 81(4)—

insert—

‘(5) An order in council under this section is not subordinate legislation.’.

2. Section 91 (heading)—

omit ‘by special Act or Order in Council’.

3. Section 91(2)(a)—

omit ‘from time to time, by Order in Council published in the Gazette,’.

4. Section 91(2)(aa)—

omit ‘Order in Council’, insert ‘authority’.

5. Section 91(2)(c)—

omit all words from ‘and set out in the Order in Council’ to ‘fixed for different terms and conditions’.

6. Section 92 (heading)—

omit ‘Order in Council authorizing reclamation’,

insert ‘authority to reclaim’.

7. Section 92(1)—

omit ‘Order in Council’ (1st occurring), *insert* ‘authority’.

8. Section 92(1)—

omit ‘under and for the purpose of that Order in Council’.

9. Section 93—

omit ‘Order in Council to authorize reclamations of’,
insert ‘authority to reclaim’.

10. Section 136A(1)—

omit ‘by Order in Council’.

11. Section 136A(3)—

omit ‘by Order in Council’.

12. Section 136A(4) and (5)—

omit, insert—

‘(4) An agreement, or a variation of an agreement, under this section takes effect from the day of its approval by the Governor in Council or, if a later day is specified in the agreement or variation, the later day.’.

13. After section 142(4)—

insert—

‘(5) An order in council under this section is not subordinate legislation.’.

14. After section 166(6)—

insert—

‘(7) This section does not apply to an order in council under section 81, 142 or 195.’.

15. Section 195 (1st sentence)—

number as subsection (1).

16. Section 195 (2nd sentence)—

number as subsection (2).

17. After section 195—

insert—

‘(3) An order in council under this section is not subordinate legislation.’.

Commencement

Amendments 2 to 9 commence on a day to be fixed by proclamation.

Explanatory note

Amendments 1 and 13 to 17 provide that an order in council vesting Crown land in, or divesting Crown land from, a Harbour Board or the Harbours Corporation, is not subordinate legislation.

Amendments 2 to 12 remove the requirement for a statutory instrument in relation to authorities to reclaim land and agreements in relation to payments instead of harbour dues.

JUDICIAL REVIEW ACT 1991

Amendments

1. Section 34—

omit, insert—

‘Content of statement

‘34. The statement must contain the reasons for the decision.’.

2. Schedule 2, clause 9(c)—

omit, insert—

‘(c) an appeal against a police officer’s promotion or selection for the temporary performance of duties.’.

3. Schedule 4, rule 5(a)—

omit ‘rule 2 or 3’, insert ‘rule 2 or 4’.

4. Schedule 4, rule 7(b)(ii)(A) (after ‘findings’)—

insert ‘on material questions’.

Explanatory note*Clarification of provision*

Amendment 2 adds the words ‘a police officer’s’ to the existing paragraph to make it clear that reasons are not required only in relation to appeals against a promotion of the type mentioned in clause 9(a) or a selection for the temporary performance of duties mentioned in clause 9(b)(ii). These decisions relate only to police officers.

Statute law revision

Amendment 1 recasts the provision for the sake of greater clarity and to avoid possible overlap with the definition ‘reasons’ in section 3 of the Act.

Amendments 3 and 4 correct minor errors.

JUSTICES OF THE PEACE AND COMMISSIONERS FOR DECLARATIONS ACT 1991

Amendments**1. Section 3.05(6)(a)—**

omit, insert—

‘(a) a justice of the peace or a commissioner for declarations; or’.

2. Section 3.16(4) (Table)—

omit ‘ “J.P. (Q)” ’, *insert* ‘ “J.P. (Qual.)” ’.

3. After section 6.05—

insert—

‘Validation of oaths and affirmations

‘6.06 To remove any doubt, it is declared that the oath or affirmation mentioned in section 3.05 (5) could be taken before a justice of the peace from the commencement of the subsection.’.

Explanatory note

JPs can swear in commissioners for declarations

Amendment 1 makes it clear that the oath or affirmation that must be made before a commissioner for declarations can perform the functions of that office can be taken or made before a justice of the peace. Amendment 3 validates any oaths or affirmations that were made before a justice of the peace before amendment 1 takes effect.

Clarification of meaning of abbreviation

Amendment 2 removes any suggestion that the omitted abbreviation, read by itself, might stand for Justice of the Peace (Queensland).

LAND ACT 1962

Amendments**1. Section 339—**

omit, insert—

‘By-laws

‘339.(1) The trustees of land granted in trust or of a reserve may make by-laws for the following purposes—

- (a) regulating their meetings and the management of trust business;
- (b) protecting trust property;

- (c) regulating the use and enjoyment of trust property;
- (d) imposing fees and charges for the use and enjoyment of trust property;
- (e) imposing a penalty of not more than 100 penalty units for a contravention of a by-law;
- (f) defining the powers and duties of authorised officers;
- (g) generally, for carrying out the objects and purposes of the trust.

‘(2) A by-law may declare that specified land is a public place for the purposes of an Act—

- (a) that confers on a police officer a power in relation to a public place; or
- (b) that provides for an offence committed in a public place.

‘(3) The land must be specified with reasonable certainty.

‘(4) If the land is not a public place, the land becomes a public place in accordance with the terms of the declaration.

‘(5) If the trustee of a reserve is a local authority, the local authority may make by-laws under this Act or another Act under which it is authorised to make by-laws for the purpose of the management of the reserve.

‘(6) A by-law made under this section—

- (a) must be approved by the Governor in Council; and
- (b) is subordinate legislation.

‘(7) In this section—

“**by-law**”, in relation to the Brisbane City Council, includes ordinance;

“**trust property**” includes a property placed under the control of trustees.’.

2. Section 383A—

omit, insert—

‘Fees

‘**383A.(1)** A regulation may be made with respect to fees to be paid in relation to matters and proceedings in the Land Court or the Land Appeal

Court and the purposes and documents in relation to which the fees are payable, whether the matters and proceedings concern the jurisdiction conferred by this Act or another Act.

‘(2) An order in council in force under this section immediately before the commencement of this subsection continues to have effect after the commencement, and may be repealed or amended as if it were a regulation.’.

Explanatory note

Statutory instruments to be subordinate legislation

Amendments 1 and 2 recast the provisions in accordance with current drafting practice and provide that the statutory instruments made under the provisions are subordinate legislation. This will result in the instruments being tabled in, and subject to disallowance by, the Legislative Assembly.

LAW REFORM COMMISSION ACT 1968

Amendments

1. Section 4(1)(b)—

omit, insert—

‘(b) be appointed by the Governor in Council by Gazette notice—

- (i) in the case of the holder of judicial office—for a term fixed by the Governor in Council; and
- (ii) in any other case—for a term of not more than 3 years fixed by the Governor in Council.

‘(1A) A member holds office on the terms not provided for by this Act as are determined by the Governor in Council.’.

2. Section 4(3) and (4)—

omit, insert—

‘(3) The *Public Service Management and Employment Act 1988* does not apply to the appointment or duties of a person as a member.

‘(4) An officer of the public service who is appointed as a member may hold the appointment in conjunction with the public service office held by the officer.’.

3. Section 7(1)(c)—

omit ‘*The Mental Health Acts 1962 to 1964*’,

insert ‘*the Mental Health Act 1974*’.

4. Section 7(1)(d)—

omit, insert—

‘(d) the member is convicted of an indictable offence punishable by imprisonment of at least 1 year; or’.

5. Section 7(2)—

omit.

6. Section 11(2)—

omit ‘*mutatis mutandis*’, *insert* ‘with necessary changes’.

7. Section 14—

omit, insert—

‘Secretary and other staff

‘**14.** The secretary and other staff of the Commission are to be appointed under the *Public Service Management and Employment Act 1988*.’.

Explanatory note

Terms and conditions of Law Reform Commissioners

Amendment 1 allows the Governor in Council to determine the terms of appointment of members of the Law Reform Commission as and when required.

Statute law revision

The remaining amendments effect statute law revision by updating and recasting provisions and replacing a Latin term with its English equivalent.

LEGISLATIVE STANDARDS ACT 1992

Amendments

1. Section 4(5)(e)(ii)—

omit, insert—

‘(ii) if authorised by an Act.’.

2. Section 7(f)—

omit, insert—

‘(f) draft, on request, other instruments for use in or in connection with the Legislative Assembly (whether or not in relation to a Bill or amendment); and’.

3. Section 20 (after ‘staff’)—

insert ‘or another officer of, or person employed in, the public service’.

Explanatory note

Amendment 1 amends the provision relating to subdelegation of legislative power to cover cases where subdelegation is authorised not by the Act itself, but by another Act or the Act itself and another Act (eg. the *Statutory Instruments Act 1992*).

Amendment 2 clarifies the Office’s role in relation to the drafting of instruments that are not subordinate legislation, but are for use in connection with the Legislative Assembly. The amendment may, for example, assist in clarifying the Office’s role in relation to the drafting of certain documents necessary to enable a new Parliament to be formed.

Amendment 3 clarifies the Parliamentary Counsel’s power to delegate. The amendment will, for example, put beyond doubt the Parliamentary Counsel’s power

to delegate powers to officers of the department to which the Office of the Queensland Parliamentary Counsel is attached who are providing support services to the Office.

MINERAL RESOURCES ACT 1989

Amendments

1. Section 2.1—

omit ‘from time to time by Order in Council’, *insert* ‘, by regulation’.

2. Section 4.6(2)(b)—

omit ‘Order in Council’, *insert* ‘regulation’.

3. Section 4.57(1)—

omit ‘from time to time as he thinks fit, by Order in Council’,
insert ‘by regulation.’.

4. Section 4.57(2)—

omit, insert—

‘(2) A person purporting to act under a mining claim to which a declaration under subsection (1) applies must comply with the declaration.’.

5. Section 4.57(3)—

omit ‘Order in Council’, *insert* ‘regulation’.

6. Section 4.58—

omit ‘, from time to time as he thinks fit, by Order in Council’,
insert ‘by regulation’.

7. Section 4.59—

omit, insert—

‘Mining registrar may authorise use of prohibited machinery for purposes other than mining etc.

‘4.59(1) Despite section 4.58, the mining registrar may authorise the use of prohibited machinery for purposes other than prospecting, exploring or mining in, on or under land the subject of a mining claim within an area specified in a declaration under that section.

‘(2) In subsection (1)—

“prohibited machinery” means machinery, mechanical devices and other equipment specified in the declaration under section 4.58.’.

8. Section 4.60—

omit all words from ‘in an Order in Council’ to ‘in the Order in Council’,

insert ‘by a declaration under section 4.58 in, on or under land the subject of a mining claim within an area specified in the declaration.’.

9. Section 7.45(2)(b)—

omit, insert—

‘(b) in a defined area of the State declared by regulation, by a method detailed in the regulation; or’.

10. Section 10.9(1)—

omit ‘from time to time may by Order in Council’, *insert* ‘may’.

11. Section 10.24(2)—

omit, insert—

‘(2) The Governor in Council may make rules of court for the purpose of regulating practice and procedure in the Wardens Court.’.

12. Section 11.5—

omit, insert—

‘Restriction on grants etc.

‘11.5 The Governor in Council may, by regulation—

- (a) prohibit the grant, or applications for the grant, of prospecting permits, mining claims, exploration permits, mineral development licences or mining leases; or
- (b) determine that a prospecting permit, mining claim, exploration permit, mineral development licence or mining lease must not be granted over an area that exceeds a specified area; or
- (c) provide that a single person must not, at any time, be the holder (whether alone or with others) of more than a specified number of exploration permits, mineral development licences or mining leases; or
- (d) provide that a single person must not, at any time, be the holder (whether alone or with others) of—
 - (i) mining leases the aggregate area of which exceeds a specified area; or
 - (ii) mineral development licences the aggregate area of which exceeds a specified area; or
 - (iii) exploration permits the aggregate area of which exceeds a specified area; or
- (e) determine that an application for the grant of a prospecting permit, mining claim, exploration permit, mineral development licence or mining lease is to be referred to a specified Commonwealth Government department, local authority or statutory body, seeking its views on the application.’

13. Section 11.32—

omit, insert—

‘Existing orders in council and rules of court

‘11.32(1) An order in council in force under section 2.1, 4.6, 4.57, 4.58,

4.60, 7.45 or 11.5 immediately before the commencement of this section continues to have effect after the commencement, and may be repealed or amended as if it were a regulation.

‘(2) Rules of court in force under section 10.24 immediately before the commencement of this section continue to have effect after the commencement, and may be repealed and amended, as if they had been made under that section immediately after that commencement.

14. Schedule 2, clause 19—

omit.

Explanatory note

Amendments 1 to 12 implement current drafting practice by providing that the statutory instruments to be used for the purposes of the Act are regulations or rules of court.

Amendment 13 saves the operation of existing orders in council.

Amendment 14 omits a redundant provision.

MOTOR VEHICLES CONTROL ACT 1975

Amendments

1. Section 4 (definition “Local Authority”)—

omit.

2. Section 4 (definition “Public place”, paragraph (c))—

omit, insert—

‘(c) a place that is declared under section 25 not to be a public place;’.

3. Section 6 (paragraph (c))—

omit, insert—

‘(c) a vehicle of a type that is declared under section 25 to be a type of vehicle to which this Part does not apply.’.

4. Section 18—

omit ‘Order in Council’, *insert* ‘regulation’.

5. Section 19—

omit ‘Order in Council’ (wherever occurring), *insert* ‘regulation’.

6. Section 20(1)—

omit ‘Order in Council’ (wherever occurring), *insert* ‘regulation’.

7. Section 20(2)—

omit ‘Order’, *insert* ‘regulation’.

8. Section 25—

omit, insert—

‘Declarations in relation to public places and exempt vehicles

‘25.(1) The Governor in Council may, by regulation, declare that a specified place is, or is not, a public place for the purposes of this Act.

‘(2) The Minister may, by Gazette notice, declare that a specified place is not a public place for the purposes of this Act.

‘(3) A declaration under subsection (2) may operate for a specified period not longer than 3 days.

‘(4) The Governor in Council may, by regulation, declare that Part 2 does not apply to—

- (a) a specified type of vehicle; or
- (b) any vehicle other than a specified type of vehicle.’.

9. Section 38(2) and (3)—

omit.

10. After section 38—

insert—

‘Existing orders in council

‘**39.** An order in council in force under section 6(c), 18 or 25 immediately before the commencement of this section continues to have effect after the commencement, and may be repealed or amended, as if it were a regulation.’.

11. Part 7—

omit.

Explanatory note

“Local authority” defined elsewhere

Amendment 1 omits a definition that is defined in the *Acts Interpretation Act 1954*.

Current drafting practice

Amendments 2 to 8 implement current drafting practice by providing that the statutory instruments to be used for the purposes of the Act are regulations.

Amendment 9 omits matters that are dealt with in the *Acts Interpretation Act 1954*.

Amendment 10 saves the operation of existing orders in council.

Amendment 11 omits a redundant Part of the Act.

PARLIAMENTARY COMMISSIONER ACT 1974**Amendments****1. Long title—**

omit ‘Government Departments and Authorities’, insert ‘agencies’.

2. Section 4—

omit, insert—

‘Interpretation

‘4.(1) In this Act—

“administrative action” means any action relating to a matter of administration, and includes—

- (a) a decision and an act; and
- (b) the failure to make a decision or do an act (including the failure to provide a written statement of reasons in relation to a decision); and
- (c) the formulation of a proposal or intention; and
- (d) the making of a recommendation (including a recommendation made to a Minister);

“agency” means—

- (a) a department; or
- (b) a local authority; or
- (c) a public authority; or
- (d) a person or body declared by regulation to be an agency;

but does not include a person or body declared by regulation not to be an agency;

“appropriate agency”, in relation to an investigation, means the agency by, in which or on behalf of which the administrative action that is the subject of investigation was taken;

“Commissioner” means the Parliamentary Commissioner for Administrative Investigations;

“enactment” means an Act or subordinate legislation;

“function” includes a power;

“officer”, in relation to an agency, includes—

- (a) the agency’s principal officer; and
- (b) a member of the agency; and

- (c) a member of the agency's staff; and
- (d) a person employed by or for the agency;

“officer of the Commissioner” has the meaning given by section 10(1);

“person aggrieved”, in relation to a complaint, means the person or body of persons (whether incorporated or unincorporated) that appears from the complaint to be the person or body directly affected by the administrative action to which the complaint relates;

“principal officer” means—

- (a) in relation to a department—the chief executive of the department; or
- (b) in relation to a local authority—the chairperson or mayor (however described) of the authority; or
- (c) in relation to an agency for which a regulation declares an officer to be the principal officer—the holder of the office; or
- (d) in relation to another agency—
 - (i) if it is an incorporated body that has no members—the person who manages the body's affairs; or
 - (ii) if it is a body (whether or not incorporated) that is constituted by 1 person—the person; or
 - (iii) if it is a body (whether or not incorporated) that is constituted by 2 or more persons—the person who is entitled to preside at a meeting of the body at which the person is present;

“public authority” has the same meaning as in the *Freedom of Information Act 1992*;

“responsible Minister”—

- (a) in relation to a department, local authority or public authority—has the same meaning as in the *Freedom of Information Act 1992*; or
- (b) in relation to any other agency—means the Minister declared by regulation to be the responsible Minister in relation to the agency;

“**tribunal**” includes the person constituting a tribunal consisting of a single person.

‘(2) In this Act, a reference to an agency includes a reference to a body that—

- (a) forms part of the agency; or
- (b) exists mainly for the purpose of enabling the agency to perform its functions.’.

3. Section 5(8)—

omit ‘Section 25’, insert ‘Section 25(1)(b)’.

4. Section 7(5)—

*omit ‘Public Service Act 1922-1973’,
insert ‘Public Service Management and Employment Act 1988’.*

5. Section 7(6)—

omit.

6. Section 7(7)—

omit ‘and who immediately before his appointment as the Commissioner was not an officer of the Public Service’.

7. Section 7(7)—

omit ‘after consideration of a report by the Treasurer’.

8. Section 8(4)—

*omit ‘Public Service Act 1922-1973’,
insert ‘Public Service Management and Employment Act 1988’.*

9. Section 10(2)—

omit ‘Public Service Act 1922-1973’,

insert ‘Public Service Management and Employment Act 1988’.

10. Section 10(12)—

omit ‘Public Service Act 1922-1973’ (1st occurring),

insert ‘Public Service Management and Employment Act 1988’.

11. Section 10(12)(c)—

omit ‘within the meaning of the Public Service Act 1922-1973’,

insert ‘of the public service’.

12. Section 10(13)—

omit ‘Public Service Board’,

insert ‘Public Sector Management Commission or, if another person or body is prescribed by regulation, that person or body’.

13. Section 11—

omit, insert—

‘Delegation

‘11. The Commissioner may delegate the Commissioner’s powers under this Act (other than the power to make a report or recommendation) to an officer of the Commissioner.’.

14. Section 12—

omit, insert—

‘Agencies subject to investigations

‘12.(1) This Act applies to all agencies and their officers.

‘(2) This Act does not apply to a person who is a police officer in the

person's capacity as a police officer.

'(3) Administrative action by, in or on behalf of an officer of an agency is taken to be administrative action of the agency.'

15. Section 13(1)—

omit 'any Government Department or an Authority to which this Act applies',

insert 'an agency'.

16. Section 13(3)—

omit 'Her Majesty's', *insert* 'the royal'.

17. Section 13(7) to (10)—

omit, insert—

'(7) The powers of the Commissioner under this Act may be exercised in relation to administrative action of an agency even though the action was taken on behalf of, or in the exercise of functions conferred on, an authority or body that is not an agency.

'(8) However, the Commissioner is not authorised or required to question the merits of a decision taken by an authority or body that is not an agency.

'(9) If administrative action of an authority or body that is not an agency is taken under functions conferred on, or instructions given by, an agency, the action is taken, for the purposes of this Act, to be the action of the agency.

'(10) The Commissioner may investigate administrative action despite a provision in an enactment to the effect that action of that kind is final or must not be appealed against, challenged, reviewed, quashed or called in question.

'(11) The Commissioner may investigate administrative action taken before the commencement of this Act.'

18. Section 18(1)—

omit ‘a Government Department or an Authority he’,

insert ‘an agency, the Commissioner’.

19. Section 18(4)—

omit ‘any Government Department or Authority to which this Act applies he’,

insert ‘an agency, the Commissioner’.

20. Section 18(5) and (6)—

omit ‘of the Crown’ (wherever occurring).

21. Section 18(7)—

omit ‘any member, officer or employee of any Government Department or Authority to which this Act applies’,

insert ‘an officer of an agency’.

22. Section 18(7)(a)—

omit ‘that Government Department or Authority’, *insert* ‘the agency’.

23. Section 19(2)—

omit ‘members, officers or employees of any Government Department or Authority to which this Act applies’,

insert ‘officers of an agency’.

24. Section 19(3)—

omit ‘The Crown or a Government Department or an Authority to which this Act applies’,

insert ‘The State or an agency’.

25. Section 20(1)—

omit ‘Commission’, *insert* ‘Commissioner’.

26. Section 20(1)—

omit ‘any Government Department or Authority to which this Act applies’,

insert ‘an agency’.

27. Section 20(2)—

omit ‘a Government Department or an Authority’,

insert ‘an agency’.

28. Section 21(2)—

omit ‘Under Secretary, Premier’s Department’,

insert ‘chief executive of the department administered by the Premier’.

29. Section 24(2)—

omit ‘Government Department or Authority’(wherever occurring),

insert ‘agency’.

30. Section 24(3) and (4)—

omit ‘a Government Department or Authority’, *insert* ‘an agency’.

31. Section 27—

omit ‘Government Department, Authority’, *insert* ‘agency’.

32. Section 28(3)—

omit ‘a Government Department or an Authority’, *insert* ‘an agency’.

33. Section 28(3)—

omit ‘that Department or Authority’, *insert* ‘the agency’.

34. Section 30(1)—

omit ‘one thousand dollars’, *insert* ‘a fine of 100 penalty units’.

35. Section 32—

omit, insert—

‘Regulations

‘**32.** The Governor in Council may make regulations for the purposes of this Act.’.

36. Schedule—

omit.

Commencement

All amendments of the *Parliamentary Commissioner Act 1974* commence on a day to be fixed by proclamation.

Explanatory note*Agencies*

The list of Government Departments and Authorities in the Schedule to the Act is considerably out of date. The amendments provide mechanisms to update the agencies to which the Act applies and ensure that they will be kept up-to-date in the future. The amendments take the approach of allowing the *Acts Interpretation Act 1954* definitions of department and local authority to apply. The amendments also adopt the *Freedom of Information Act 1992* definition of public authority. In general terms, under the amendments an agency is a department, local authority or public authority. However, the amendments include power to add persons and bodies to, or exclude persons or bodies from, the Act by regulation. Any regulation would, of course, be subject to tabling and disallowance. A similar power exists in the present Act but is exercised by order in council.

Increase in monetary penalty

Amendment 34 converts a penalty expressed as a monetary amount to penalty units

and increases the penalty to an amount that better reflects the term of imprisonment that may be imposed.

Consequential amendments and amendments by way of statute law revision

The amendments also include a large number of amendments of a consequential nature or by way of statute law revision. The amendments will enable the Act to be reprinted in a more modern drafting style.

PEACE AND GOOD BEHAVIOUR ACT 1982

Amendments

1. Section 8—

omit ‘such modifications, if any, as are requisite’,

insert ‘any necessary modifications and any modifications prescribed by regulation’.

2. Section 10(1) (penalty)—

omit, insert—

‘Maximum penalty—100 penalty units, imprisonment for 1 year or both.’.

3. Section 14—

omit, insert—

‘Regulations

‘14. The Governor in Council may make regulations for the purposes of this Act.’.

Explanatory note

Filing fee

At present a filing fee is payable for the filing of a complaint under this Act because of the interaction between this Act and the *Justices Act 1886*. Amendment 1 will enable a regulation to be made to overcome the automatic imposition of a filing fee.

Increase in monetary penalty

Amendment 2 converts a penalty expressed as a monetary amount to penalty units and increases the penalty to an amount that better reflects the term of imprisonment that may be imposed.

Statute law revision

Amendment 3 brings the regulation making section of the Act into line with current drafting practice.

PLANT PROTECTION ACT 1989

Amendment

1. After section 6—

insert—

‘Delegation

‘6A. The Minister may delegate the Minister’s power under section 6 to the chief executive of the department.’

Explanatory note

Delegation

Amendment 1 gives a power of delegation to the Minister.

PRIMARY PRODUCERS’ ORGANISATION AND MARKETING ACT 1926

Amendment

1. After section 30F—

insert—

‘(13) A prescribed instrument made under subsection (10)(b) is subordinate legislation.’

Explanatory note*Subordinate legislation*

This amendment provides that a prescribed instrument made under subsection (10)(b) is subordinate legislation. This will result in the instrument being subject to tabling and disallowance.

QUEENSLAND BUILDING SERVICES AUTHORITY ACT 1991

Amendments**1. Section 4(1) (definition “engineer”)—**

omit, insert—

“**engineer**” means a person who is a registered professional engineer under the *Professional Engineers Act 1988*;

2. Section 91—

omit, insert—

‘Registration and enforcement of determinations

‘91.(1) A person (the “**applicant**”) may register a determination made by the Tribunal in a District Court by filing in a District Court registry—

- (a) a copy of the determination certified as true by the chairperson; and
- (b) the applicant’s affidavit deposing to—
 - (i) service of a certified copy of the determination on the party against whom the determination has been made (the “**respondent**”); and
 - (ii) noncompliance, or the extent of noncompliance, with the determination by the respondent.

‘(2) On registration of the determination in the District Court—

- (a) the determination has, for the purposes of enforcement, the same force and effect; and

- (b) proceedings may be taken on the determination; and
- (c) the amount (if any) for which the determination is registered carries interest; and
- (d) the District Court has the same control over the enforcement of the determination;

as if the determination had been originally given as a judgment of the District Court and entered on the day of registration.

‘(3) No court fee is payable for filing the determination and affidavit in the District Court registry.’.

3. After section 101(4)(c)—

insert—

‘(d) if—

- (i) a respondent’s licence is cancelled or suspended; and
- (ii) the sole ground for taking disciplinary action was that the respondent was no longer able to satisfy the prescribed financial requirements for the licence; and
- (iii) the respondent is not otherwise disqualified from holding another specified licence;

an order that the respondent be issued with another specified licence.’.

4. After section 101(4)—

insert—

‘(5) The Authority may recover an amount ordered by the Tribunal to be imposed as a penalty as a debt due to it.’.

5. After section 114—

insert—

‘Rules

‘115.(1) The chairperson of the Tribunal may make rules with respect to—

- (a) the practice and procedure in the Tribunal; and
- (b) the conduct of the business of the Tribunal.

‘(2) A rule made under subsection (1) is subordinate legislation.’.

6. Section 115—

renumber as section 116.

Explanatory note*Definition of “engineer”*

Amendment 1 updates the cross reference to the *Professional Engineers Act 1988* as the present definition refers to a repealed Act.

Enforcement of Tribunal determinations

Amendment 2 clarifies the enforcement procedures in relation to determinations made by the Tribunal.

Power of Tribunal to substitute one class of licence for another

Amendment 3 allows the Tribunal to order that a person who holds one kind of licence be issued with another specified licence if that person can no longer meet the financial requirements placed on a holder of the first licence and is not otherwise disqualified from holding the second licence.

Recovery of unpaid penalties

Amendment 4 allows the Authority to recover unpaid penalties in the same way an unpaid debt may be recovered.

Rule-making power

Amendment 5 provides power to the chairperson of the Tribunal to make rules (that are subject to tabling and disallowance) in relation to proceedings before the Tribunal. Amendment 6 is consequential on amendment 5.

RENTAL BOND ACT 1989

Amendments

1. Section 4(1) (definition “residential premises”, paragraph (c))—

omit ‘Order in Council’, *insert* ‘regulation’.

2. Section 6—

omit, insert—

‘Act’s application in declared areas

‘6. A regulation may—

- (a) declare a specified area of the State to be a declared area; and
- (b) declare that this Act, or a specified provision of this Act, does not apply to residential premises in the area.’.

3. Section 6B—

omit, insert—

‘Exemption from operation of Act

‘6B. A regulation may exempt a person from this Act, or a specified provision of this Act, subject to any specified conditions.’.

4. Section 56A—

omit.

5. Part 8—

omit, insert—

‘PART 8—SAVINGS AND TRANSITIONAL**‘Existing orders in council**

‘57. An order in council in force under section 6 or 6B immediately before the commencement of this section continues to have effect after the commencement, and may be repealed or amended as if it were a regulation.’.

Explanatory note*Use of regulations*

Amendments 1 to 4 implement current drafting practice by providing that the statutory instruments to be used for the purposes of the Act are regulations. Amendment 5 saves the operation of existing orders in council.

REPRINTS ACT 1992**Amendments****1. Section 5(c) (after ‘that commenced’)—**

insert ‘on or’.

2. After section 23—

insert—

‘Replacement of body etc.

‘23A.(1) If—

- (a) reference is made in a law to a body, office, person, place or other thing (the **“first thing”**); and
- (b) the first thing has been replaced, either generally or in a relevant respect, by another body, office, person, place or other thing (the **“second thing”**);

the reference may be given using the second thing.

‘(2) Subsection (1) has effect according to its tenor, and has that effect despite section 35 of the *Acts Interpretation Act 1954*.

‘(3) If a law provides that reference to a body, office, person, place or other thing (the “**first thing**”) is a reference to another body, office, person, place or other thing (the “**second thing**”), the first thing is taken to have been replaced by the second thing in all appropriate contexts.

‘(4) In subsection (3)—

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

3. Section 29 (after Example 18)—

insert—

~~The column 1 (or for replaced expressions) appropriate following table, corresponding bolded expression in column 2 or another expression more suitable in the context.~~

TABLE

Column 1	Column 2
as a result	because
by reason	because
by reason only	merely because
by virtue of	under
firstmentioned	first
forthwith	immediately
hereby	then
in accordance with	under
in lieu	instead
notwithstanding	despite, even though or even if
pursuant to	under
save	other than

save as prescribed by	subject to
thereafter	afterwards
therefrom	from it
therewith	in the
whereby	under which

‘Example 20 (use of ‘therein’)—

‘the direction is taken to have the extended time specified in it’
may replace

‘the direction is taken to have the extended time specified therein’

‘Example 21 (use of ‘thereto’)—

‘to bring to the Commission’s notice any matter arising before the Review Committee and to make such recommendations with respect to the matter as it considers appropriate’

may replace

‘to bring to the Commission’s notice any matter arising before the Review Committee and to make such recommendations with respect thereto as it considers appropriate’.’.

Explanatory note

Reprint to include amendments to day of reprint

Amendment 1 allows amendments of an Act made on the day that the Act is to be reprinted to be included in the reprint.

Power to update references

Amendment 2 allows for the updating of outdated references.

Use of contemporary expressions in reprint

Amendment 3 clarifies further the scope of section 29 of the Act by providing other examples of its operation in relation to outdated expressions.

RETIREMENT VILLAGES ACT 1988

Amendments

1. Section 12—

omit, insert—

‘Exemptions

‘**12.(1)** The Governor in Council may, whether or not an application has been made under section 11, declare, by regulation—

- (a) that an organisation of a kind mentioned in section 11(2) is an exempt organisation; or
- (b) that a retirement village is an exempt retirement village.

‘**(2)** An exemption under subsection (1)—

- (a) may be unconditional or subject to conditions; or
- (b) may be for a limited or unlimited time; or
- (c) may be an exemption from the application of all or specified provisions of this Act.’

2. Section 13—

omit, insert—

‘Withdrawal or variation of exemption

‘**13.(1)** In this section—

“**exempt organisation**” means an organisation named in a declaration under section 12;

“**exempt retirement village**” means a retirement village named in a declaration under section 12.

‘**(2)** The Minister may, by written notice, call on—

- (a) an organisation that is an exempt organisation; or
- (b) a person who operates or proposes to operate an exempt retirement village;

on a specified day and at a specified time and place to show cause why the exemption should not be withdrawn or varied.

‘(3) If the person or body does not show cause to the satisfaction of the Minister, the Governor in Council may, by regulation, withdraw the exemption or vary the terms of the exemption.’

3. After section 60—

insert—

‘Existing orders in council

‘61. An order in council in force under section 12 or 13 immediately before the commencement of this section continues to have effect after the commencement, and may be repealed or amended as if it were a regulation.’

Explanatory note

Use of regulations

Amendments 1 and 2 recast the provisions and implement current drafting practice by providing that the statutory instruments to be used for the purposes of the Act are regulations.

Amendment 3 is a savings provision consequential on amendments 1 and 2.

RURAL TRAINING SCHOOLS ACT 1965

Amendments

1. Section 3(1) (definitions “Financial Year” and “Local Authority”)—

omit.

2. Section 9(1)(g)—

omit, insert—

‘(g) to make, with the approval of the Minister, rules with respect to—

(i) fees and charges to be paid in relation to students enrolled or

to be enrolled at the school; and

- (ii) the management and control of the school; and
- (iii) the discipline and conduct of students enrolled at the school;’.

3. Section 9(1)(i)—

omit, insert—

- ‘(i) to perform, in relation to the school, other functions that are prescribed by regulation.’.

4. Sections 39 and 40—

omit, insert—

‘Regulations

‘**39.(1)** The Governor in Council may make regulations for the purposes of this Act.

‘(2) A regulation may create offences and prescribe penalties of not more than 2 penalty units for the offences.

‘Orders in council

‘**40.** An order in council made under this Act is—

- (a) subordinate legislation; and
- (b) an exempt instrument for the purposes of the *Legislative Standards Act 1992*.’.

Commencement

Amendments 2 and 3 commence on a day to be fixed by proclamation.

Explanatory note

Provisions relating to statutory instruments

Amendments 3 and 4 rationalise and update provisions relating to statutory instruments made under the Act. Instruments of a non-legislative nature will continue to be made by order in council. Orders in council will continue to be subject to tabling and disallowance, but will not be drafted by the Office of the Queensland

Parliamentary Counsel. Instruments of a legislative nature will in future be made by regulation.

Power of boards to make rules

Amendment 2 removes a requirement that rules must first be approved by the Governor in Council before they can be made by the Board. However, ministerial control over the making of the rules remains to ensure that the level of fees is scrutinised. The amendment also clarifies the fee making power and recasts the paragraph.

Statute law revision

Amendment 1 removes redundant definitions.

SEWERAGE AND WATER SUPPLY ACT 1949

Amendments

1. Long title—

omit, insert—

‘An Act to provide standard by-laws for local authorities in relation to sewerage and water supply and to provide for the constitution of a board for the examination and licensing of plumbers and drainers’.

2. Section 2 (2nd sentence)—

omit.

3. Section 4 (definitions “Area”, “By-law”, “Local Authority”, “Minister”, “Prescribed”, “Regulations”, “Standard By-laws”, “Standard Sewerage By-laws”, “Standard Water Supply By-laws” and “This Act”)—

omit.

4. Section 4—

insert—

“**area**” has the same meaning as in the *Local Government Act 1936*, and includes the area of the City of Brisbane;

“**by-law**” means a by-law or ordinance made by a local authority;

“**standard by-laws**” means the standard sewerage by-laws and the standard water supply by-laws;

“**standard sewerage by-laws**” means the standard sewerage by-laws made under this Act;

“**standard water supply by-laws**” means the standard water supply by-laws made under this Act.’

5. Section 5—

omit, insert—

‘Standard by-laws

‘5.(1) The Governor in Council may make—

- (a) standard sewerage by-laws; and
- (b) standard water supply by-laws.

(2) Standard by-laws may be made with respect to any of the following matters—

- (a) the powers of inspectors to enter premises and inspect drainage or plumbing works;
- (b) the performance of works by, or on behalf of, local authorities and the recovery of reasonable costs in relation to the works;
- (c) the creation of offences and prescribing of penalties of not more than 40 penalty units for the offences.’

6. Section 6—

omit, insert—

‘Operation of standard by-laws

‘6.(1) The standard by-laws apply to all areas.

‘(2) The standard by-laws are to be administered in an area by the local

authority for the area.

‘(3) If a by-law of a local authority is inconsistent with a standard by-law, the standard by-law prevails and the by-law of the local authority is invalid to the extent of the inconsistency.

‘(4) The by-law of the local authority is taken to have been repealed to the extent of the inconsistency.’.

7. Section 7(2)(i)—

omit ‘Queensland Water Resources Commission’,

insert ‘the department that deals with matters arising under the *Local Government (Planning and Environment) Act 1990*’.

8. Section 7(2)(ii)—

omit all words from ‘Employment, Vocational Education and Training Department’,

insert ‘department that deals with matters arising under the *Vocational Education, Training and Employment Act 1991*’.

9. Section 7(2)(iii)—

omit all words from ‘Department of Health’,

insert ‘department that deals with matters arising under the *Health Act 1937*’.

10. Section 7(2)—

omit all words from ‘On and from’.

11. Section 10—

omit.

12. Section 11—

omit, insert—

‘Licences

‘11. A person is entitled to be granted a licence if the person satisfies the Board that the person has the prescribed practical experience and qualifications.’.

13. Section 12A—

omit, insert—

‘Duration of licence

‘12A. A licence remains in force for the period prescribed.’.

14. Section 13—

omit.

15. Section 14A—

omit ‘first granted by the Board after the commencement of the *Sewerage and Water Supply Act Amendment Act 1982*’,

insert ‘granted by the Board’.

16. Section 16(1)—

omit, insert—

‘16.(1) A person must not perform work regulated by the standard by-laws unless the person holds a licence or interim licence that entitles the person to perform the work.

Maximum penalty—1 penalty unit.’.

17. Section 16(2)(b)—

omit ‘*Industry and Commerce Training Act 1979-1980*’,

insert ‘Vocational Education, Training and Employment Act 1991’.

18. Section 17(2)—

omit ‘\$10’, insert ‘1 penalty unit’.

19. Section 18(2)—

omit ‘\$200’, insert ‘4 penalty units’.

20. Section 18(2) (2nd sentence)—

omit.

21. Section 18(4)(a)—

omit ‘pursuant to By-law 5 of’, insert ‘under’.

22. Section 18A(1)—

omit, insert—

‘18A.(1) A person must not obtain or attempt to obtain a licence or an interim licence by a false statement or misrepresentation.

Maximum penalty—4 penalty units.’.

23. Section 19(2)(iii) (after ‘examiners,’)—

insert ‘exemptions from examinations’.

24. Section 19(2)(ix)—

omit ‘\$40’, insert ‘1 penalty unit’.

25. Section 19(2)(ixa)—

omit ‘pursuant to By-law 5 of’, insert ‘under’.

26. Section 20—

omit, insert—

‘Savings and transitional

‘20.(1) The standard sewerage by-laws in force immediately before the commencement of this section continue to have effect after the commencement, and may be repealed or amended, as if they had been made by by-law under section 5, subject to the following amendment—

by-law 1 is omitted and the following by-law inserted—

‘Short title

‘1. These by-laws may be cited as the *Standard Sewerage By-laws 1981.*’.

‘(2) The standard water supply by-laws in force immediately before the commencement of this section continue to have effect after the commencement, and may be repealed or amended, as if they had been made by by-law under section 5, subject to the following amendment—

by-law 1 is omitted and the following by-law inserted—

‘Short title

‘1. These by-laws may be cited as the *Standard Water Supply By-laws 1949.*’.

27. Schedules 1 to 3—

omit.

Commencement

Amendment 12 commences on a day to be fixed by proclamation.

Explanatory note

Amendments 5, 14 and 27 omit ‘Henry VIII’ clauses. The standard by-laws will be made by subordinate legislation.

Amendment 12 provides that the experience and qualifications required for obtaining a licence are to be prescribed by regulation.

Amendment 26 saves the existing orders in council and standard by-laws.

The remaining amendments effect statute law revision by omitting redundant or unnecessary provisions and by updating and recasting provisions in accordance with current drafting practice.

SOCCER FOOTBALL POOLS ACT 1976

Amendment

1. Section 11(2)—

omit, insert—

‘(2) A rule made under subsection (1) is subordinate legislation.’.

Explanatory note

The amendment implements current drafting practice by providing that soccer football pool rules are subordinate legislation.

STATUTORY INSTRUMENTS ACT 1992

Amendments

1. After section 7—

insert—

‘(3) An instrument is also a statutory instrument if it is made—

- (a) under power conferred by an Act or statutory instrument; and
- (b) also under power conferred otherwise by law.

Example—

An instrument made partly under an express or implied statutory power and partly under the Royal Prerogative is a statutory instrument.’.

2. After section 20 (in Subdivision A)—

insert—

‘Regulation may be used instead of another type of subordinate legislation

‘20A.(1) If—

- (a) an Act authorises or requires the Governor, the Governor in Council, a Minister, an officer of the public service or the holder of a prescribed office established by or under an Act to make provision with respect to a matter by subordinate legislation; and
- (b) the Act or another Act—
 - (i) does not specify the type of subordinate legislation to be used; or
 - (ii) specifies that a type of subordinate legislation other than a regulation is to be used;

the Governor in Council may make provision with respect to the matter by regulation made under the Act.

‘(2) Subsection (1) applies even though the Act would not, apart from this section, confer power on the Governor in Council to make a regulation for the purposes of the Act.

~~Example~~ ~~provides~~ that provision may be made with respect to a matter by order in council, provision may now be made by regulation.

~~Example~~ ~~provision~~ has already been made with respect to a matter by order in council, the order in council may be repealed or amended by a regulation.’.

3. Section 21(1)—

omit ‘or statutory instrument’,

insert ‘, statutory instrument or law’.

4. After section 23—

insert—

‘Statutory instrument may make provision in relation to land by reference to map, plan or register

‘23A.(1) This section applies if an Act authorises or requires provision to

be made by statutory instrument in relation to land, whether the expression ‘declare’, ‘dedicate’, ‘set apart’, ‘specify’, or another expression is used.

‘(2) Provision may be made by reference to—

- (a) a map or plan held by a person, department or body; or
- (b) a particular entry in a register kept by a person, department or body;

if the map, plan or register is available for inspection by members of the public.

‘(3) In this section—

“**land**” includes Queensland waters.’.

5. Section 34(2)—

omit, insert—

‘(2) In this section—

“**beneficial provision**” means a provision that does not operate to the disadvantage of a person (other than the State, a State authority or a local authority) by—

- (a) decreasing the person’s rights; or
- (b) imposing liabilities on the person.’.

6. Heading to Subdivision E of Division 3 of Part 4—

relocate to immediately before section 37.

Explanatory note

Instrument made partly under Act or statutory instrument

Amendment 1 makes it clear that the concept of ‘statutory instrument’ applies to instruments that are partly made under an Act or statutory instrument and partly under other law eg. the Royal Prerogative.

Amendment 3 clarifies the operation of section 21 of the Act (Statutory instruments to be construed not to exceed powers conferred by law under which made) to instruments of this kind.

Use of regulations

Amendment 2 is a further step in the rationalisation and reduction of the number of different kinds of statutory rules being used under Acts. The amendment will allow, in appropriate cases, for the use of regulations instead of other kinds of statutory instruments. It will also provide a statutory base for the concept that regulations are to be the primary form of subordinate legislation.

Describing land

Amendment 4 makes it clear that a statutory instrument may make provision in relation to land by describing the land by reference to a particular map, plan or register kept by a person, department or body provided the map, plan or register is kept open for inspection by members of the public.

Beneficial provisions

Amendment 5 allows a statutory instrument to have retrospective effect if a person or body (other than the State, a State authority or a local authority) is not disadvantaged. It will no longer be necessary to show that the retrospective effect operates to the positive advantage of a person. The amendment also treats a local authority in the same way as the State or a State authority.

Minor correction

Amendment 6 corrects the location of a subdivision heading.

SUPREME COURT ACT 1921

Amendment

1. After section 6(3)—

insert—

‘(4) An order in council under this section is not subordinate legislation.’.

Explanatory note

Amendment 1 implements current drafting practice by declaring that orders in council under section 6 are not subordinate legislation. The orders in council concerned are essentially of an administrative character.

TRAFFIC ACT 1949

Amendments

1. Section 20(5A)—

omit ‘Commissioner for Transport’, *insert* ‘Director-General’.

2. Schedule, clause 16A—

omit, insert—

‘Regulation of vehicles exceeding prescribed dimensions

‘16A.(1) Providing for the regulation of movement of—

- (a) vehicles that have dimensions that exceed prescribed dimensions;
or
- (b) vehicles that with their loads exceed prescribed dimensions.

‘(2) Vehicles mentioned in this clause may be regulated by, for example, imposing conditions and limitations on the movement of the vehicles.’.

Explanatory note

Amendment 1 updates the reference to the relevant public official so as to reflect current administrative arrangements.

Amendment 2 clarifies that under clause 16A of the Schedule regulations may apply to a vehicle, or to a vehicle and its load.

WORKPLACE HEALTH AND SAFETY ACT 1989

Amendments

1. Long title—

omit all words after ‘certain plant’, *insert* ‘, and for related purposes’.

2. Section 6(1) (definition “Crown”)—

omit ‘notification published in the Industrial Gazette’,
insert ‘Gazette notice’.

3. Section 6(1) (definition “function”)—

omit, insert—

‘**“function”** includes responsibility and power;’.

4. Section 6(1) (definition “owner”, paragraph (b))—

omit, insert—

‘(b) in relation to a workplace or any other premises (other than a project)—

- (i) the person or persons whose property it is (whether jointly or severally); or
- (ii) a mortgagee in possession; or
- (iii) a lessee; or’.

5. Section 6(1) (definition “project”, paragraph (a))—

omit, insert—

‘(a) a workplace (other than a ship or floating structure unless the ship or floating structure is in a dock or at a wharf or other place outside of the tidal influence) where any of the following classes of work are carried out—the construction, digging, filling, erection, installation, alteration, repair, maintenance, cleaning, painting, renewal, removal, dismantling or demolition of, or addition to, a building or structure; or’.

6. Section 6(5)—

omit.

7. Section 8—

omit, insert—

‘Act not to apply in certain circumstances

‘**8.(1)** The Governor in Council may, by regulation, declare that all or any

of the provisions of this Act do not apply in relation to any of the following matters—

- (a) a workplace or part of a workplace;
- (b) premises or part of premises;
- (c) plant;
- (d) a substance;
- (e) a method of work.

‘(2) The declaration may be made subject to a condition specified in the regulation.

‘(3) If—

- (a) the declaration is made subject to a condition; and
- (b) the condition is not complied with in relation to a particular matter;

the declaration ceases to have effect in relation to the matter on and from the day of noncompliance.’.

8. Section 16—

omit, insert—

‘Director may designate projects

‘**16.(1)** If the Director is satisfied that work carried on, or proposed to be carried on, at a workplace is, or is likely to be, dangerous for—

- (a) employees or other persons involved in the work; or
- (b) other persons in or near the workplace;

the Director may, by notice, designate the workplace to be a project for the purposes of this Act.

‘(2) A notice under subsection (1) is subordinate legislation.’.

9. Section 19(1) (after ‘may’)—

insert ‘, by notice,’.

10. After section 19(2)—

insert—

‘(3) A notice under subsection (1) is subordinate legislation.’.

11. Section 26—

omit, insert—

‘Duty under this Division is additional to other duties

‘26. A duty imposed on a person under this Division is in addition to, and not in substitution for, a duty imposed on the person under another provision of this Act.’.

12. Section 30—

omit, insert—

‘Scene not to be interfered with

‘30.(1) If—

- (a) a person suffers serious bodily injury or a work-related illness; or
- (b) a dangerous occurrence happens;

of a kind that is required to be notified to the Director under section 28 or 29, a person must not move or otherwise interfere with any plant or other thing involved in the injury, illness or happening without the prior permission of an inspector or, if an inspector is not available, a police officer.

‘(2) Subsection (1) does not apply if the movement or interference is necessary—

- (a) to save life or relieve suffering; or
- (b) to prevent damage to property or injury to persons.’.

13. Section 34(1) and (3)—

omit ‘upon the recommendation of the Director’.

14. Section 34(4)—

omit, insert—

‘(4) An approval or revocation of approval under this section must be by notice.

‘(4A) A notice mentioned in subsection (4) is subordinate legislation.’.

15. Section 34(6) and (7)—

omit, insert—

‘(6) A code of practice or a revised code of practice commences when the relevant approval commences.

‘(7) A code of practice ceases to have effect when the relevant revocation of approval commences.’.

16. Section 38(1)—

omit, insert—

‘38.(1) The Council is to consist of 9 members appointed by the Governor in Council.’.

17. Section 43(3) (after ‘(2)’)—

insert ‘or (2A)’.

18. Section 45(1)—

omit, insert—

‘45.(1) Members of the Workplace Health and Safety Council are to be paid the remuneration and allowances that are approved by the Governor in Council.’.

19. Section 57(1)—

omit, insert—

‘57.(1) Members of industry workplace health and safety committees are

to be paid the remuneration and allowances that are approved by the Governor in Council.’

20. Section 58(1)(b)—

omit, insert—

‘(b) the Minister has determined, by notice, that nomination of a health and safety officer is required from a day fixed by the Minister for a workplace or industry described in the notice.’

21. After section 58(1)—

insert—

‘(1A) A notice under subsection (1)(b) is subordinate legislation.’

22. Section 71(1)—

omit, insert—

‘71.(1) An employer or principal contractor for a workplace where work is performed for, or under the control of, the employer or principal contractor may establish a health and safety committee for the workplace.

‘(1A) An employer or principal contractor for a workplace where work is performed for, or under the control of, the employer or principal contractor must—

- (a) if required to do so by regulation—establish a health and safety committee for the workplace within the prescribed period; or
- (b) if requested to do so by a health and safety representative—establish a health and safety committee for the workplace within 1 month after receiving the request.’

23. Section 76—

omit, insert—

‘Delegation

‘76. The Director may delegate the Director’s powers under this Act to an officer or employee of the department or another person.’.

24. Section 85(1)—

omit ‘Crown’, *insert* ‘State’.

25. Section 95(2)(a)—

omit ‘order in council’, *insert* ‘the Governor in Council’.

26. Section 95(3)—

omit ‘in the order in council by which the appointment is made’,
insert ‘by the Governor in Council’.

27. Section 110(2)(a)—

omit, insert—

‘(a) must be by way of notice, if it is made on the Director’s own initiative; and’.

28. After section 110(3)—

insert—

‘(4) A notice mentioned in subsection (2)(a) is subordinate legislation.’.

29. Section 116(1)—

omit, insert—

‘116.(1) Members of boards of reference are to be paid the remuneration and allowances that are approved by the Governor in Council.’.

30. Section 126(1)—

omit ‘Crown’, *insert* ‘State’.

31. Section 134(1)—

omit ‘notification published in the Industrial Gazette’,
insert ‘notice’.

32. After section 134(2)—

insert—

‘(3) A notice under subsection (1) is subordinate legislation.’.

33. After section 135(9)—

insert—

‘(10) A special standard under this section is subordinate legislation.’.

34. Section 137(1) to (3A)—

omit, insert—

‘137.(1) The Governor in Council may make regulations for the purposes of this Act.’.

35. Section 137(4)—

renumber as subsection (2).

36. Section 137(2)(q)—

omit, insert—

‘(q) may provide for the matters for which charges and fees (“charges”) are payable for the purposes of this Act, the amounts of charges, the persons who are liable to pay or receive charges, when charges are payable, the waiver of charges and the recovery

of unpaid amounts of charges; and

(qa) may provide for the matters for which allowances, costs and expenses are payable for the purposes of this Act;’.

37. Section 137(2)(t)—

omit, insert—

‘(t) may provide for the grant (with or without condition) of permits, certificates and authorities (“**licences**”) under this Act, prerequisites (including eligibility and educational standards that are to be met by applicants) for the grant of licences, circumstances in which exemptions from meeting prerequisites may be given, and the surrender, transfer, renewal, revocation, cancellation, suspension or endorsement of licences; and’.

38. Section 137(2)(w)—

omit, insert—

‘(w) may make provision with respect to examinations for persons applying for accreditation; and’.

39. Sections 138 and 139—

omit, insert—

‘Existing instruments

‘138.(1) An order in council in force under section 8 immediately before the commencement of this section continues to have effect after the commencement and may be repealed or amended as if it were a regulation.

‘(2) An instrument in force under section 16, 19(1), 34, 58(1), 134(1) or 135 immediately before the commencement of this section continues to have effect after the commencement, and may be amended and repealed as if it were an instrument of the type now specified in the provision.

‘(3) A regulation in force under this Act immediately before the commencement of this section, continues to have effect after the commencement, as if it had been made under this Act as in force

immediately after the commencement.’.

Explanatory note*Amendment of long title*

Amendment 1 amends the long title to reflect the present purposes of the Act.

Use of regulations

Amendment 7 implements current drafting practice by providing that the statutory instruments to be used for the purposes of the relevant provision are regulations.

Subordinate legislation

Notices or instruments mentioned in amendments 8, 9, 10, 14, 21, 31, 32, and 33 deal with matters that are considered to be sufficiently important to be subject to tabling and disallowance requirements. They have therefore been declared to be subordinate legislation.

Publication in the Gazette

Amendments 2, 14 and 31 remove a requirement that certain notices be published in the Industrial Gazette. This is partly consequential on notices affected by amendments 14 and 31 being declared to be subordinate legislation.

Savings

Amendment 39 so far as it inserts a new section continues the effect of existing instruments as if they were instruments of the type now provided for. The new instruments are subordinate legislation.

Statute law revision

The remaining amendments effect statute law revision by recasting provisions, removing inappropriate recommendation requirements and omitting obsolete or redundant provisions.

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

section 3

**BILLS OF SALE AND OTHER INSTRUMENTS ACT
1955****Amendments****1. Section 6(1) (definition “Bill of Sale”, paragraph (c))—***omit, insert—*

‘(c) transfers of any ship or a share in any ship that is registered under the *Shipping Registration Act 1981* of the Commonwealth;’.

2. Section 6(1) (definition “book debts”, 2nd paragraph)—*omit.***3. Section 6(1) (definition “chattels”)—**

‘“chattels” means—

- (a) furniture, goods, chattels and other articles capable of complete transfer by delivery; and
- (b) fixtures, if separately assigned or charged; and
- (c) book debts; and
- (d) trade machinery;

but does not include—

- (a) chattel interests in real estate, title deeds, negotiable instruments or choses in action; or

- (b) fixtures (except trade machinery) when assigned together with a freehold or leasehold interest in any land or building to which they are affixed; or
- (c) growing crops when assigned with any interest in the land on which they grow; or
- (d) shares and interests in the stock, funds or securities of—
 - (i) a Government; or
 - (ii) a Crown corporation or instrumentality or corporation or instrumentality representing the Crown; or
 - (iii) any local authority; or
- (e) shares and interests in the capital or property of a body corporate; or
- (f) debentures and interest coupons issued by—
 - (i) a Government; or
 - (ii) a Crown corporation or instrumentality or corporation or instrumentality representing the Crown; or
 - (iii) a local authority; or
 - (iv) a body corporate; or
- (g) stock, or wool on the sheep's back.'.

4. Section 6(1) (definition “instruments”)—

omit, insert—

‘**“instrument”** means—

- (a) a bill of sale; or
- (b) a stock mortgage; or
- (c) a lien on crops; or
- (d) a lien on wool;

“primary produce” means stock and crops and the derivatives and by-products of stock including offspring, skins, hides, tallow and wool;’.

5. Section 6(1) (definition “trade machinery”)—

omit, insert—

‘**“trade machinery”** means machinery used in or attached to any factory, but does not include—

- (a) fixed motive powers, including water wheels, steam engines, donkey engines and gas engines, together with boilers and other fixed accessories of the motive powers; and
- (b) fixed power on machinery, including shafts, wheels, drums and their fixed accessories, which transmit the action of the motive powers to other machinery, whether fixed or loose; and
- (c) pipes for steam, gas or water in the factory.’.

6. Section 6(3) and (4) (Headings)—

omit.

7. Section 6(5) (2nd sentence)—

omit, insert—

‘**(6)** For the purposes of subsection (5)—

“hire-purchase agreement” has the same meaning as in the *Hire-purchase Act 1959*;

“owner” has the same meaning as in the *Hire-purchase Act 1959*.’.

8. Heading before section 12—after section 11B (the heading “Renewal of registration of bills of sale”)—

omit.

9. Section 12(5)—

omit, ‘in the column provided therefore’.

10. Section 40—

omit ‘*The Hire-purchase Agreement Act 1933 to 1946*’,
insert ‘*the Hire-purchase Act 1959*’.

11. Schedule 5, clause 2—

omit words from ‘Parts XI and XII of the *Bankruptcy Act*’ to ‘or in substitution therefore?’.

insert ‘Part X *Bankruptcy Act 1966* of the Commonwealth.’.

12. Schedule 5, (under the heading “Covenants implied in instrument by way of security (other than stock mortgages, liens upon crops and liens on wool)”) clause 4—

omit ‘sections 96 and 108 of the *Credit Act 1955-1987*’, *insert* ‘Part 8 of the *Credit Act 1987*’.

Explanatory note

The amendments effect statute law revision by omitting redundant provisions and updating and recasting provisions and updating references to legislation.

CRIMINAL CODE

Amendment**1. Section 22(4)(b)—**

omit ‘or notify the making of the subordinate legislation in the Gazette’.

Explanatory note

This amendment corrects a minor drafting error.

FIRE SERVICE ACT 1990

Amendment

1. Section 66(2)(b)—

omit ‘of the chief executive’.

Explanatory note

This amendment removes redundant words.

GAMING MACHINE ACT 1991

Amendment

1. Section 6.14(3)(b) (1st sentence)—

omit ‘then’.

Explanatory note

This amendment removes a redundant word.

JUSTICES ACT 1886

Amendment

1. Section 98C(1) (definition “prescribed”)—

omit.

Explanatory note

Amendment 1 is consequential on the enactment of the *Justice Legislation (Miscellaneous Provisions) Act 1992*. That Act made numerous amendments of the *Justices Act 1886* including a revised regulation making power that made redundant (and omitted) the regulation making power previously contained in section 98C.

LAND SALES ACT 1984

Amendment

‘1. Section 19(3)—

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

Explanatory note

The amendment corrects a minor drafting error.

LEGAL AID ACT 1978

Amendments

1. Long title—

omit ‘to amend the *Legal Assistance Act 1965*’.

2. Section 5—

omit.

3. Section 6(1) (definitions “Director-General” and “Minister”)—

omit.

4. Section 6(1)—

insert—

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

5. Section 8(1)(e)(i)—

omit, insert—

‘(i) a registered company auditor within the meaning of the Corporations Law; or’.

6. Section 8(3)—

omit, insert—

‘(3) The appointment of a person as a Commissioner is not invalid merely because of a defect or irregularity in relation to the appointment.’.

7. Section 22—

omit, insert—

‘Delegation

‘22. The Director may delegate the Director’s powers under this Act to an officer of the Commission.’.

8. Section 23(5A)—

omit, insert—

‘(5A) An officer mentioned in subsection (5) is entitled to exercise right of audience as both barrister and solicitor in any court of the State.’.

9. Section 26(4)—

omit ‘sections 29(1) to (2C) and (3),’, *insert* ‘sections 29(1) to (5) and (8),’.

10. Section 29—

omit, insert—

‘Circumstances in which legal assistance may be provided

‘29.(1) Subject to this section, legal assistance, other than legal assistance consisting of the giving of legal advice or the provision of duty lawyer services, may be provided to a person (the “**applicant**”) only if—

- (a) the applicant is in need of the legal assistance because of the applicant’s inability to afford the cost of obtaining from private legal practitioners the legal services for which legal assistance is sought; and

- (b) it is reasonable in all the circumstances to provide the legal assistance.

‘(2) In deciding whether the applicant is in need of legal assistance because of inability to afford the cost of obtaining legal services from private practitioners, regard must be had to all relevant matters, including—

- (a) subject to subsection (5), the applicant’s assets and income; and
- (b) the cash that is, or can be made, readily available to the applicant; and
- (c) the applicant’s debts, liabilities and other financial obligations; and
- (d) the cost of living in the locality where the applicant resides; and
- (e) the ability of—
 - (i) the applicant’s spouse or de facto spouse; and
 - (ii) any person of whom the applicant is a dependant; and
 - (iii) any spouse or de facto spouse of any person of whom the applicant is a dependant;

to assist the applicant to obtain legal services from private legal practitioners having regard to all relevant matters (including those mentioned in paragraphs (a) to (d)) that would be relevant if the spouse or other person were the applicant for legal assistance; and

- (f) the cost of obtaining the legal services from private legal practitioners; and
- (g) any other matter affecting the ability of the person to meet the cost of obtaining legal services from private legal practitioners.

‘(3) If the applicant is a corporation, in addition to the matters to which regard must be had under this section that are relevant and applicable to a corporation, regard must be had to the matters that would be relevant if the application for legal assistance were made on behalf of the persons who are the directors and members of the corporation.

‘(4) Guidelines determined for the purposes of this section under section 13 may provide for the exemption of a corporation or class of corporation from consideration of the additional matters mentioned in subsection (3).

‘(5) If the applicant is an individual, the value of any interest the applicant

may have in the dwelling house in which the applicant resides must be disregarded in determining the applicant's ability to afford the cost of obtaining the legal services from private legal practitioners.

‘(6) Despite subsection (5), if the Commission, in special circumstances, determines that it is not reasonable to provide legal assistance to the applicant, having regard to—

- (a) the value of the applicant's interest in the dwelling house in which the applicant resides; and
- (b) other matters mentioned in this section that may be relevant;

the Commission may deal with the application or any decision made on the application to provide legal assistance as if it were a matter referred to the Commission under section 27(4A)(a) or (b).

‘(7) A decision of the Commission under subsection (6)—

- (a) may be varied only by the Commission; and
- (b) is not subject to review under Part 6.

‘(8) In deciding whether it is reasonable in all the circumstances to provide legal assistance to the applicant, regard must be had to all relevant matters, including—

- (a) the nature and extent of—
 - (i) any benefit that may accrue to the applicant, to the public or to any section of the public from the provision of the assistance; and
 - (ii) any detriment that may be suffered by the applicant, by the public or by any section of the public if the assistance is not provided; and
- (b) subject to paragraph (c), in the case of assistance in relation to a proceeding in a court or before a tribunal—whether the proceeding is likely to end in a way favourable to the applicant; and
- (c) the desirability of an accused person in a prescribed criminal proceeding consisting of—
 - (i) the trial or sentence of the applicant on a charge of an indictable offence; or

- (ii) a proceeding before a justice taking an examination of witnesses in relation to an indictable offence with which the applicant is charged;

being represented by a legal practitioner, whether or not the proceeding is likely to end in a way favourable to the applicant; and

- (d) any recommendation made by a court or tribunal under section 36A.

‘(9) If the applicant is not ordinarily resident in the State, legal assistance may only be provided if the assistance relates to—

- (a) a proceeding in a court, or before a tribunal, in the State; or
(b) a matter arising under the law in force in the State.

‘(10) Legal assistance must not be provided to the applicant in, or in connection with, a review by a Review Committee under Part 6.

‘(11) In this section—

“**dwelling house**” means the building or structure, or part of the building or structure, used for the purpose or principally for the purpose of a residence by the applicant or the applicant’s family.’.

11. Section 34(2) and (2A)—

omit, insert—

‘(2) The fact that a party to a proceeding is a legally assisted person does not affect—

- (a) the rights or liabilities of the party or another party to the proceeding; or
(b) the discretion of a court or tribunal to make an order in relation to costs.

Example 1— Judgment is given in favour of a legally assisted person against an unassisted person—a costs order may be made in favour of the legally assisted person as though the first person were not a legally assisted person.

Example 2— Judgment is given against a legally assisted person in favour

of an unassisted person—a costs order may be made in favour of the unassisted person as though the first person were not a legally assisted person.’.

12. Section 34A(6) and (6A)—

omit, insert—

‘(6) If—

- (a) a legally assisted person is liable to pay to the Commission an amount under this section; and
- (b) the solicitor for the person is in possession of an amount actually recovered by the person in the matter in which the person was legally assisted;

the solicitor must pay to the Commission the amount mentioned in paragraph (b) or the part of that amount necessary to discharge the amount the legally assisted person is liable to pay.

‘(6A) The Commission’s receipt for an amount paid to it by a solicitor under subsection (6) constitutes a discharge to the solicitor for the amount.’.

13. Section 34A(10) to (12)—

omit, insert—

‘(10) In this section—

- (a) a reference to a legally assisted person includes a reference to a person to whom legal assistance is provided under this Act but who, before finalisation of the matter in relation to which legal assistance is provided, stops receiving legal assistance; and
- (b) an ex gratia payment made to a legally assisted person in relation to a matter for which legal assistance has been provided to the person is taken to be an amount recovered by the person in relation to the matter.

‘(11) In this section—

“**judgment**” includes order.’.

14. Section 39(3)(b)—

omit, insert—

‘(b) in the case of a member mentioned in section 38(2)(b)—a Commissioner, or officer of the Commission, who is—

- (i) a legal practitioner; and
- (ii) if the Commissioner or officer is a solicitor—the holder of a current practising certificate; and’.

15. Section 44A(1)—

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

16. Section 49—

omit.

17. Section 58(3)—

omit ‘of the department within which this Act is administered’.

18. Section 62(1)—

omit ‘of the department within which this Act is administered’.

Commencement

Amendment 16 commences on the commencement of section 3 of the *Audit Legislation Amendment Act 1992*.

Explanatory note

Long title

Amendment 1 amends the long title to reflect the present purposes of the Act.

Amendment consequential on Audit Legislation Amendment Bill 1992

Amendment 16 omits section 49 consequentially on the *Audit Legislation Amendment Bill 1992*. The matters dealt with in the section are all to be dealt with under the *Financial Administration and Audit Act 1977*.

Statute law revision

The remaining amendments effect statute law revision by recasting provisions in accordance with current drafting practice, omitting obsolete or redundant provisions and updating references.

LOCAL GOVERNMENT (PLANNING AND ENVIRONMENT) ACT 1990

Amendments

1. Section 7.1(4)—

omit ‘or part’ (1st occurring).

2. Section 7.2(5)—

omit ‘or part’ (1st occurring).

3. Section 7.4(3)—

omit ‘Full Court of the Supreme Court of Queensland’,
insert ‘Court of Appeal’.

Explanatory note

Amendments 1 and 2 correct minor drafting errors.

Amendment 3 effects a statute law revision by updating a reference.

PICTURE THEATRES AND FILMS ACT REPEAL AND OTHER ACTS AMENDMENT ACT 1990

Amendments

1. Section 5—

omit.

2. Section 6—

omit.

Commencement

These amendments commence, or are taken to have commenced, as the case requires, on the commencement of Part 2 of the *Classification of Films Act 1991*.

Explanatory note

These amendments omit provisions that will be made redundant when Part 2 of the *Classification of Films Act 1991* commences.

PROPERTY LAW ACT 1974

Amendments**1. ‘Mining Act’ to ‘Mineral Resources Act’**

Sections 5(1)(d)(iv), 77(1) and (2), 83(5), 84(5), 86(4)(c), 87(2)(c), 88(2)(b), 92(1A)(c), 101(4)(e) and 123(1)—

omit ‘Mining Act’ (wherever occurring), *insert* ‘Mineral Resources Act’.

2. ‘Her Majesty’ to ‘the State’

Section 20(6), (7)(b), (8A) and Schedule 1, clause 7—

omit ‘Her Majesty’ (wherever occurring), *insert* ‘the State’.

3. ‘Her Majesty in right of the Crown’ to ‘the State’

Schedule 1, Clauses 1 and 2—

omit ‘Her Majesty in right of the Crown’ (wherever occurring),
insert ‘the State’.

4. ‘Her Majesty’s’ to ‘the State’s’

Schedule 1, Clause 7—

omit ‘Her Majesty’s’, *insert* ‘the State’s’.

5. ‘Crown’ to ‘State’

Section 20(11)—

omit ‘Crown’ (wherever occurring), *insert* ‘State’.

6. ‘backward person’ to ‘intellectually disabled citizen’

Sections 38(5A) and 39(1)—

omit ‘backward person’ (wherever occurring),

insert ‘intellectually disabled citizen’.

7. Omission of ‘the fee simple or other’

Section 29(1) and (2)—

omit ‘the fee simple or other’ (wherever occurring).

8. ‘instrument of subordinate legislation’ to ‘statutory instrument’

Section 57A (heading), (2) and (3)—

omit ‘instrument of subordinate legislation’ (wherever occurring),

insert ‘statutory instrument’.

9. ‘An instrument of subordinate legislation’ to ‘A statutory instrument’

Section 57A(1)—

omit ‘An instrument of subordinate legislation’,

insert ‘A statutory instrument’.

10. ‘Form 2 of Schedule 2’ to ‘the prescribed form’

Sections 72(1) and (4)—

omit ‘Form 2 of Schedule 2’ (wherever occurring),
insert ‘the prescribed form’.

11. Section 4 (definitions “backward person”, “department”, “instrument of subordinate legislation”, “lease”, “lessee”, “lessor”, “Mining Act”, “property”, “Public Trustee” and “warden”)—

omit.

12. Section 4—

insert—

‘**“intellectually disabled citizen”** means an intellectually disabled citizen within the meaning of the *Intellectually Disabled Citizens Act 1985*;

‘**“Mineral Resources Act”** means the *Mineral Resources Act 1989*;

‘**“warden”** has the meaning given by the *Mineral Resources Act 1989*.’.

13. Section 14(5)—

omit, insert—

‘(5) In subsection (4)—

‘**“or more of themselves”** includes all the persons by whom the conveyance or lease is or has been made.’.

14. Section 20(3)(b)—

omit ‘*Succession Acts 1867*, but subject to the provisions (including the provisions of Part 5) of those Acts’,

insert ‘*Succession Act 1981*, but subject to the provisions (including Part 4) of that Act’.

15. Section 20(5)(c)—

omit, insert—

‘(c) any persons to whom the State would, if the State’s title had been

duly proved by inquisition, have the power to grant such property;’.

16. Section 20(12)—

omit, insert—

‘(12) In this section—

“**intestate**” has the meaning given by section 5 of the *Succession Act 1981*.’.

17. Section 22(4)—

omit, insert—

‘(4) The Registrar is authorised, on a request in the prescribed form, to make recordings in the Register necessary to give effect to this section.’.

18. Section 48(1)(b)—

omit ‘a corporation’, *insert* ‘an individual and a corporation’.

19. Section 48(1)(c) and (d)—

omit, insert—

‘(c) words indicating a gender include each other gender; and

(d) words in the singular include the plural and words in the plural include the singular.’.

20. Section 66(2)—

omit, insert—

‘(2) In this section—

“**banker**” means a person acting in the person’s official capacity as a general manager or manager of a bank, and includes the agent of the banker;

“**conveyancer**” includes the agent of the conveyancer;

“**instrument**” includes a discharge of mortgage;

“**solicitor**” includes the agent of the solicitor.’.

21. Section 72(2)—

omit ‘said form of the said Schedule’, *insert* ‘prescribed form’.

22. Section 73(2)(b)—

omit ‘\$500’, *insert* ‘9 penalty units’.

23. Section 75(9)(b)—

omit ‘\$500’, *insert* ‘9 penalty units’.

24. Section 79(2)—

omit ‘shall be in the form or such one of Forms 3, 4, 5 and 6 of Schedule 2 as is applicable’,

insert ‘must be in the prescribed form’.

25. Section 84(2)—

omit ‘Form 7 of Schedule 2’, *insert* ‘the prescribed form’.

26. Section 85(2)—

omit ‘Form 8 of Schedule 2’, *insert* ‘the prescribed form’.

27. Section 85(4)—

omit ‘\$100’, *insert* ‘2 penalty units’.

28. Section 92(9)—

omit ‘Form 9 of the Schedule 2’, *insert* ‘the prescribed form’.

29. Section 103—

omit.

30. Section 124(2)—

omit ‘the foregoing provisions of this section’, *insert* ‘subsection (1)’.

31. Section 124(8)—

omit ‘Form 10 of Schedule 2’, *insert* ‘the prescribed form’.

32. Section 131(4)—

omit, insert—

‘(4) A notice need not be in a particular form, but a notice—

- (a) by a landlord to a tenant; or
- (b) by a tenant to a landlord;

may be in the prescribed form.’.

33. Section 137(1)—

omit, insert—

‘**137.(1)** A notice to terminate a tenancy, including a tenancy at will, must be for a reasonable period.’.

34. After section 137(2)—

insert—

‘(3) Subsection (1) does not apply to—

- (a) a tenancy for which a period of notice has, expressly or impliedly, been agreed on by the parties; and
- (b) a weekly, monthly, yearly or other periodic tenancy subject to this Act with respect to notices to terminate; and

- (c) a tenancy at will arising because of the abolition by this Act of the implication of a tenancy from year to year.’.

35. Section 143(2)—

omit, insert—

‘(2) The complaint may be in the prescribed form.’.

36. Section 144(1A)—

omit, insert—

‘(1A) The summons may be in the prescribed form.’.

37. Section 146(1)—

omit ‘form set out in Form 15 of Schedule 2’,

insert ‘prescribed form’.

38. Section 170(1)—

omit ‘Form 16 of Schedule 2’,

insert ‘the prescribed form’.

39. Section 170(2)—

omit ‘Form 17 of Schedule 2’,

insert ‘the prescribed form’.

40. Section 175(3)—

omit, insert—

‘(3) In this section—

“**stock broker**” means a member of a securities exchange or a stock exchange within the meaning of Chapter 7 or 8 of the Corporations Law.’.

41. Section 175A—

omit ‘or to the effect of Form 16A of Schedule 2’,

insert ‘the prescribed form’.

42. Section 205(3)—

omit ‘Form 18 of Schedule 2’,

insert ‘the prescribed form’.

43. Section 206(1)—

omit ‘, and references to the interest disposed of shall be construed accordingly’.

44. Section 226(7)(a),(aa) and (b)—

omit, insert—

‘(a) the *Associations Incorporation Act 1981*; or

(b) the Corporations Law; or’.

45. Section 226(8)—

(1) *omit* ‘Companies (Queensland) Code or under the *Companies Act 1961*’,

insert ‘Corporations Law’.

(2) *omit* ‘Commissioner for Corporate Affairs’,

insert ‘Australian Securities Commission’.

46. Section 227(5)(b)—

omit ‘incorporated under the Companies (Queensland) Code or under the *Companies Act 1961*, or any corresponding previous enactment’,

insert ‘within the meaning of the Corporations Law’.

47. Section 244(1)—

omit ‘at Brisbane’.

48. Section 259(1)—

omit ‘form, or to the like effect of a form, specified in this Act’,
insert ‘prescribed form’.

49. Section 259(2)—

omit ‘declaration in the form prescribed by the *Oaths Act 1867*’,
insert ‘statutory declaration’.

50. Section 260—

omit, insert—

‘Regulations

‘260.(1) The Governor in Council may make regulations for the purposes of this Act.

‘(2) The regulations may provide with respect to the matters in respect of which fees are payable for the purposes of this Act, the amounts of fees, the persons who are liable to pay fees, when fees are payable, the waiver of fees and the recovery of unpaid amounts of fees.’.

51. After section 260—

insert

‘Existing regulations

‘261. A regulation in force under this Act immediately before the commencement of this section continues to have effect, after the commencement, as if it had been made under this Act as in force immediately after the commencement.’.

52. Schedule 1, clause 8(3)—

omit.

53. Schedule 1, clause 9 (heading)—

insert ‘**Application of Supreme Court rules**’.

54. Schedule 1, clause 10 (heading)—

insert ‘**Interpretation**’.

55. Schedule 2—

omit.

56. Schedule 3, clause 17, column 1—

omit ‘hotelkeeper’,

insert ‘licensee within the meaning of the *Liquor Act 1992*’.

57. Schedule 3, clause 17, column 2—

omit ‘licensed victualler or hotelkeeper’,

insert ‘licensee within the meaning of the *Liquor Act 1992*’.

58. Schedule 3, clause 18, column 2—

omit ‘licensed victualler or hotelkeeper’,

insert ‘licensee within the meaning of the *Liquor Act 1992*’.

59. Schedule 5, Part 1, clause 1—

omit ‘for Primary Industries, herein called the Minister.’.

Commencement

Amendments 10, 17, 21, 24, 25, 26, 28, 31, 32, 35, 36, 37, 38, 39, 41, 42, 48, 50, 51 and 55 of the *Property Law Act 1974* commence on a day to be fixed by proclamation.

Explanatory note

Statute law revision

The amendments effect statute law revision by recasting provisions in accordance with current drafting practice and updating references.

SOUTH BANK CORPORATION ACT 1989**Amendments****1. Section 41(5)—**

omit ‘Authority’, *insert* ‘Corporation’.

2. Schedule 7 (Schedule 2, Part 1, clause 6(3) (after ‘for considering that matter’))—

insert ‘at the adjourned meeting within one-half hour after that matter’.

Explanatory note

Amendment 1 corrects a minor error.

Amendment 2 corrects a typographical error by inserting words inadvertently omitted.

**STATUTE LAW (MISCELLANEOUS PROVISIONS)
ACT 1991****Amendments****1. Schedule 2, Legal Practitioners Acts Amendment Act 1968,
amendment 5—**

omit ‘Section 8(a)(vi)’, *insert* ‘Section 8(1)(a)(vi)’.

2. Schedule 2, Superannuation (State Public Sector) Act 1990, commencement provision—

*omit ‘Superannuation (Miscellaneous Acts) Amendment Act 1990’,
insert ‘Superannuation (Miscellaneous Acts) Amendment Act 1991’.*

Commencement

Amendment 1 commences on 17 December 1991.

Explanatory note

Amendments 1 and 2 correct references.

**STATUTE LAW (MISCELLANEOUS PROVISIONS)
ACT 1992****Amendments****1. Schedule 2, Health Rights Commission Act 1991, commencement provision—**

*omit ‘the Act is proclaimed into force’,
insert ‘section 123 of the Act commences’.*

2. Schedule 2, Local Government (Planning and Environment) Act 1990, amendment 36—

omit ‘Section 7.2(2)(c)’, insert ‘Section 7.4(3)’.

Commencement

Amendment 1 commences on 1 July 1992.

Explanatory note

Amendments 1 and 2 correct minor errors.

SUPREME COURT OF QUEENSLAND ACT 1991

Amendment

1. Schedule 2, Mineral Resources Act 1990 (heading)—

omit, insert—

‘Mineral Resources Act 1989’.

Explanatory note

This amendment corrects a citation.

TRANSPORT INFRASTRUCTURE (RAILWAYS) ACT 1991

Amendments

1. Section 1.3(1) (definitions “local authority”, “Minister” and “statutory declaration”)—

omit.

2. Section 1.3(1) (definition “railway”)—

omit, insert—

‘ “**“railway”** means any part or portion, extension or branch of a railway constructed or worked under this Act or vested in Queensland Railways, and includes all lands, buildings, structures, works, matters and conveniences connected with or appurtenant to a railway, whether of an electrical nature or otherwise;’.

3. Section 1.3(2)—

omit.

4. Section 3.6(1)—

omit ‘on the recommendation of the Minister’.

5. Section 3.7(1)—

omit ‘, on the recommendation of the Minister,’.

6. Section 3.8(3)—

omit ‘on the recommendation of the Minister’.

7. Section 6.1(b)—

omit ‘without limiting the generality of the foregoing’,
insert ‘for example’.

8. Section 6.2(1)(b)—

omit ‘without limiting the generality of the foregoing’,
insert ‘for example’.

9. Section 6.2(3)—

omit, insert—

‘(3) If required to do so by the owner or occupier of the land occupied, Queensland Railways is to separate the land from any adjoining land by a sufficient fence, with the gates that are necessary for the convenient occupation of the adjoining land.

‘(3A) If any difference arises about the necessity for fences or gates, it is sufficient compliance with subsection (3) if Queensland Railways separates the land with the fences and gates that are reasonably necessary for the security of the adjoining land.’.

10. Section 6.7(2)—

omit, insert—

‘(2) Any dispute about the value of the piece of land, or about what would be the expense of constructing the accommodation works, is to be determined by the Land Court under the *Acquisition of Land Act 1967*.

‘(3) When the value of the land required or taken is determined, the Court must, if required by either party, determine the value of the severed piece of land and also what would be the expense of constructing the accommodation works.’.

11. Section 6.9(4)—

omit, insert—

‘(4) The *Acquisition of Land Act 1967* applies to Queensland Railways with any modification necessary to give effect to subsection (1).

‘(5) Any reference in the *Acquisition of Land Act 1967* to the Registrar of Titles is taken to be a reference to the person or authority charged with registering instruments evidencing the title to the estate or interest in the land held from the Crown.’.

12. Section 6.15—

omit, insert—

‘Width of road over which railway passes

‘**6.15(1)** If a railway is constructed over a road (whether an existing road or a road substituted for it under section 6.17), the width of the part of the road under the railway bridge or other structure is to be not less than 5 m between the piers or walls of the bridge or structure.

‘(2) The part of the road mentioned in subsection (1), other than the piers, walls or other railway works, is to be under the control of the relevant authority and maintained by it.’.

13. Section 6.18(6)—

omit, insert—

‘(6) Neither Queensland Railways, nor any officer or employee of Queensland Railways, is subject to any duty or liability in respect of the works or the use and operation of the works for a purpose mentioned in subsection (3).

‘(6A) Any duty or liability that Queensland Railways, or any officer or employee of Queensland Railways, would otherwise have is a duty or liability of the local authority.’.

14. Section 7.1—

omit, insert—

‘Delegation by Board

‘7.1 The Board may delegate the powers of Queensland Railways under this or another Act to the chief executive or an officer or employee of Queensland Railways.

‘Delegation by chief executive

‘7.1A The chief executive may delegate the chief executive’s powers under this or another Act to an officer or employee of Queensland Railways.’.

15. Section 7.10(5)—

omit, insert—

‘(5) The holding of a public auction may be dispensed with if the chief executive considers that the holding of a public auction is not justified, having regard to the expenses associated with the holding of a public auction and the likely proceeds resulting from the auctioning of the abandoned property.

‘(5A) In a case to which subsection (5) applies, the chief executive may dispose of the abandoned property, not earlier than it would have been sold by public auction, in a way, and on terms, determined by the chief executive.’.

16. Section 8.2(4) (definition “dangerous goods”)—

omit ‘order in council’ (wherever occurring), *insert* ‘regulation’.

17. After section 8.2—

insert—

‘(5) An order in council in force under this section immediately before the commencement of this subsection continues to have effect after the commencement, and may be repealed and amended as if it were a regulation.’.

18. Section 8.3(5)—

omit, insert—

‘(5) A person must not wilfully obstruct an inspector or other person in the exercise of a power under this section.

Maximum penalty—2 penalty units.

‘(5A) The owner, agent or manager of a mine must not fail to give to an inspector or other person the reasonable assistance necessary for making an entry, inspection, examination, inquiry or survey under this section in relation to the mine.

Maximum penalty—2 penalty units.’.

19. Section 8.5(1)(a)—

omit.

20. Section 8.8—

omit.

Commencement

Amendment 20 commences on a day fixed by proclamation.

Explanatory note*Use of regulations*

Amendment 16 implements current drafting practice by providing that the statutory instruments to be used for the purposes of the section are regulations.

Amendment 17 saves the operation of existing orders in council.

Statute law revision

The remaining amendments effect statute law revision by recasting provisions, omitting inappropriate recommendation requirements and omitting obsolete or redundant provisions.

TRANSPORT INFRASTRUCTURE (ROADS) ACT 1991**Amendments****1. Section 1.3—**

omit.

2. Section 1.4—

omit.

3. Section 1.5(1) (definitions “Area”, “department”, “Director-General”, “local authority” and “Minister”)—

omit.

4. Section 1.5(1)—

insert—

‘ **“area”**, in relation to a local authority, means the area of the local authority;

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

“repealed Acts” means the Acts that were repealed on the commencement of section 1.3;’.

5. Section 1.5(2) and (3)—

omit.

6. Section 2.9—

omit, insert—

‘Statutory instruments that are subordinate legislation

‘2.9 An order in council made under this Act and a notification under Division 4 or 7 of Part 3 are subordinate legislation.’.

7. Section 3.2(2)—

omit ‘Upon the recommendation of the Corporation, if’, *insert* ‘If’.

8. Section 3.2(2A)—

omit, insert—

‘(3) On gazettal of the notification, the land on which the road or deviation is constructed becomes a road.’.

9. Section 3.5(6)—

omit, insert—

‘(6) This section does not prevent the granting of an authority under the *Mineral Resources Act 1989* over any mineral under a declared road and the payment of royalties to the State in respect of the mineral.’.

10. Section 3.8(1)—

omit ‘Upon the recommendation of the Corporation, the Minister’,
insert ‘The Minister’.

11. Section 3.17(1)—

omit ‘Upon the recommendation of the Corporation the Minister’,
insert ‘The Minister’.

12. Section 3.17(3)—

omit ‘(in either case made upon the recommendation of the Corporation)’.

13. Section 5.3(7)—

omit.

14. Section 5.7(1)—

omit ‘Upon the recommendation of the Corporation, the Governor in Council’,

insert ‘The Governor in Council’.

15. Section 5.7(4A)—

omit ‘Forthwith upon receipt of a requisition under subsection (4)’,

insert ‘Immediately it receives a requisition under subsection (4)’.

16. After section 5.7(5)—

insert—

‘(6) An order in council made under this section is an exempt instrument for the purposes of the *Legislative Standards Act 1992*.’.

17. Section 5.8—

omit ‘from’, *insert* ‘by’.

18. Section 7.13(1)—

omit, insert—

‘7.13(1) The Minister may, by Gazette notice, approve the erection of a building on a declared road.’.

19. Section 9.18(2)—

omit ‘Corporation’, insert ‘body corporate’.

20. Section 9.24(3)—

omit.

21. Section 9.24(4)—

omit.

22. Section 9.24(8)—

omit.

23. Schedule 3, clause 1—

omit.

24. Schedule 3, clause 7(1)(d)—

omit.

25. Schedule 3, clause 10—

omit.

26. Schedule 3, clause 11—

omit.

27. Schedule 3, clause 13—

omit.

28. Schedule 3, clause 14—

omit.

29. Schedule 3, clause 16—

omit.

30. Section 1.5(1) (definition “employee”), Part 2 Division 1 (heading), sections 2.1, 2.4, 2.6(1), 2.7, 2.10, 6.2(1), 7.8(3), 9.1, 9.7(9), 9.16(1), 9.22(1), 9.23(1), 9.24(1), Schedule 1 (Administration) and Schedule 3 clause 4(f)—

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

Explanatory note*Statute law revision*

These amendments effect statute law revision by recasting provisions, omitting inappropriate recommendation requirements, correcting minor errors, omitting obsolete and redundant provisions and renumbering provisions.

SCHEDULE 3

ACTS REPEALED

section 4

1. *Canned Fruits Marketing Act 1981*

Canned Fruits Marketing Act Amendment Act 1985

Explanatory note

The marketing scheme provided for by these Acts and a Commonwealth Act is no longer operative. The Commonwealth Act has already been repealed.

2. *Grain Industry Levy Poll Act 1991*

Explanatory note

This Act set up a once only poll that has been completed. The Act has therefore served its purpose.

3. *Sandalwood Act Repeal Act 1981*

Explanatory note

The sole purpose of this Act is to repeal the *Sandalwood Act 1934*. The Act has therefore served its purpose.

4. *Censorship of Films Act 1947*

Censorship of Films Act Amendment Act 1971

Censorship of Films Act Amendment Act 1973

Films Review Act 1974

Films (Censorship and Review) Acts Amendment Act 1984

*Films (Censorship and Review) Acts Amendment Act 1988***Commencement**

These repeals commence, or are taken to have commenced, as the case requires, on the commencement of Part 2 of the *Classification of Films Act 1991*.

Explanatory note

This amendment repeals Acts that will be made redundant when Part 2 of the *Classification of Films Act 1991* commences.

SCHEDULE 4

DECLARATORY PROVISIONS

section 5

FRUIT MARKETING ORGANISATION AMENDMENT REGULATION 1991

Validation of regulation

1. It is declared that the *Fruit Marketing Organisation Amendment Regulation 1991* is, and always has been, as valid as it would be, and have been, if it had been laid before the Legislative Assembly as required by law.

Validation of acts etc.

2. All acts, matters and things done before the commencement of this clause in reliance on the *Fruit Marketing Organisation Amendment Regulation 1991* are taken to be as validly done as they would be if they had been done after that commencement.

Explanatory note

This validation overcomes the failure to table the amending regulation.