

Queensland



**JUSTICE AND OTHER
LEGISLATION
(MISCELLANEOUS
PROVISIONS) ACT 1997**

Act No. 9 of 1997

Queensland



**JUSTICE AND OTHER LEGISLATION
(MISCELLANEOUS PROVISIONS) ACT
1997**

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Queensland



Justice and Other Legislation (Miscellaneous Provisions) Act 1997

Act No. 9 of 1997

An Act to amend various Acts administered by the Attorney-General and Minister for Justice, and for other purposes

[Assented to 15 May 1997]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Justice and Other Legislation (Miscellaneous Provisions) Act 1997*.

Commencement

2.(1) The following provisions of this Act commence on the date of assent—

- parts 2, 3, 4, 7, 10, 12, 15, 20, 22 and 25
- part 13, sections 38 and 41
- part 14, sections 42 and 44
- part 23, other than section 87(1).

(2) Part 9 and schedule 1 are taken to have commenced immediately after the commencement of the *Criminal Law Amendment Act 1997*.

(3) Part 14, section 43 and part 27 are taken to have commenced on 2 April 1997.

(4) Part 23, section 87(1) commences on 1 July 1997.

(5) The remaining provisions commence on a day to be fixed by proclamation.

Act amended in sch 1

3. Schedule 1 amends the *Criminal Law Amendment Act 1997*.

Declaratory provisions

- 4.(1) Schedule 2 has effect.
- (2) This section and schedule 2 expire on the day after they commence.

PART 2—AMENDMENT OF ASSOCIATIONS INCORPORATION ACT 1981

Act amended in pt 2

5. This part amends the *Associations Incorporation Act 1981*.

Insertion of new s 61A

6. After section 61—

insert—

‘Eligibility for election to a management committee

‘**61A.(1)** A person is not eligible to be elected as a member of an incorporated association’s management committee if—

- (a) the person has been convicted—
 - (i) on indictment; or
 - (ii) summarily and sentenced to imprisonment, other than in default of payment of a fine; and
- (b) the rehabilitation period in relation to the conviction has not expired.

‘(2) In this section—

“rehabilitation period” has the meaning given in the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

Amendment of s 64 (Tenure of members of management committee)

7. Section 64(2)—

insert—

‘(e) has been convicted on indictment or summarily and sentenced to imprisonment, other than in default of payment of a fine, and the rehabilitation period in relation to the conviction has not expired.

‘(3) In this section—

“rehabilitation period” has the meaning given in the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

PART 3—AMENDMENT OF BAIL ACT 1980

Act amended in pt 3

8. This part amends the *Bail Act 1980*.

Amendment of s 29 (Apprehension by police officer of defendant on bail)

9. Section 29(2), from ‘Magistrates Court’ to ‘indictable offence’—

omit, insert—

‘court’.

PART 4—AMENDMENT OF BILLS OF SALE AND OTHER INSTRUMENTS ACT 1955

Act amended in pt 4

10. This part amends the *Bills of Sale and Other Instruments Act 1955*.

Amendment of s 19 (Contents of instruments)

11. Section 19—

insert—

‘**(1A)** Subsection (1)(d) does not apply to a mortgage to which the Consumer Credit Code applies.’.

Amendment of s 19A (Further advances)

12. Section 19A—

insert—

‘**(3)** This section does not apply to a mortgage to which the Consumer Credit Code applies.’.

Amendment of s 20 (Instrument to be attested and when registered to have effect of a deed)

13. Section 20(1), ‘each and every instrument’—

omit, insert—

‘each instrument (other than a mortgage to which the Consumer Credit Code applies)’.

Amendment of s 21 (Effect of bill of sale on chattels acquired later)

14.(1) Section 21(1), ‘subsections (2) and (3)’—

omit, insert—

‘this section’.

(2) Section 21—

insert—

‘(4) This section does not apply to a mortgage to which the Consumer Credit Code applies.’.

Amendment of s 22 (Instrument subject to defeasance etc. of no effect in certain cases)

15. Section 22—

insert—

‘(3) Despite subsection (1), a defeasance, condition or declaration of trust contained in a mortgage under, and complying with, the Consumer Credit Code, section 38(1) need not be written on the same paper or parchment on which the instrument is written.¹’.

Amendment of s 45 (Chattels not to be sold until at least 14 days after seizure)

16. Section 45—

insert—

‘(3) This section does not apply to chattels seized under a mortgage to which the Consumer Credit Code applies.’.

¹ Consumer Credit Code, section 38 (Form of mortgage)

PART 5—AMENDMENT OF CHILDRENS COURT ACT 1992

Act amended in pt 5

17. This part amends the *Childrens Court Act 1992*.

Amendment of s 20 (Who may be present at a proceeding)

18. Section 20(2)(c), before ‘a representative’—

insert—

‘in a proceeding, other than a proceeding under the *Children’s Services Act 1965*, part 6 or 7—’.

PART 6—AMENDMENT OF CRIMES (CONFISCATION) ACT 1989

Act amended in pt 6

19. This part amends the *Crimes (Confiscation) Act 1989*.

Amendment of s 40 (Restraining orders)

20. Section 40(15)(c), (d) and (e), ‘specified property’—

omit, insert—

‘property mentioned in the order’.

PART 7—AMENDMENT OF CRIMINAL CODE

Code amended in pt 7

21. This part amends the Criminal Code.

Replacement of ss 238 to 241—

22. Sections 238 to 241—

omit, insert—

‘Contamination of goods

‘238.(1) A person who contaminates or interferes with goods, or makes it appear that goods have been contaminated or interfered with, commits a misdemeanour.

Maximum penalty—3 years imprisonment.

‘(2) If the person commits the offence with intent to cause—

- (a) public alarm or anxiety; or
- (b) members of the public who are aware of the contamination or interference or apparent contamination or interference to refrain from purchasing those goods or goods of that or any similar class; or
- (c) any person to suffer economic loss through taking steps to avoid public alarm or anxiety; or
- (d) members of the public to refrain from purchasing those goods or goods of that or any similar class;

the person commits a crime.

Maximum penalty—10 years imprisonment.

‘(3) A person who, with any intent mentioned in subsection (2), threatens that he or she or any other person will contaminate or interfere with goods or make it appear that goods have been contaminated or interfered with, commits a crime.

Maximum penalty—7 years imprisonment.

‘(4) If the threat is accompanied by the making of a demand, the person commits a crime.

Maximum penalty—14 years imprisonment.

‘**Hoax contamination of goods**

‘239. A person who makes a statement or conveys information to another person that he or she knows or believes to be false with the intention of inducing in that person or another person a belief that goods have been contaminated or interfered with and causes—

- (a) public alarm or anxiety; or
- (b) that person or that other person to refrain from purchasing those goods or goods of that or any similar class; or
- (c) any person to suffer economic loss through taking steps to avoid public alarm or anxiety; or
- (d) members of the public to refrain from purchasing those goods or goods of that or any similar class;

commits a crime.

Maximum penalty—7 years imprisonment.

‘**Dealing in contaminated goods**

‘240. A person who knowingly—

- (a) sells or exposes for sale as goods for human consumption, or has in the person’s possession with intent to sell it as goods for human consumption, any article that the person knows to be contaminated or otherwise unfit as goods for human consumption; or
- (b) takes into a slaughter house used for the slaughter of any animals intended for human consumption the whole or any part of the carcass of an animal that has died of a disease; or
- (c) sells or exposes for sale the whole or part of the carcass of an animal that has died of a disease or that was diseased when

slaughtered;

commits a misdemeanour.

Maximum penalty—3 years imprisonment.

‘Definitions for ch 24

‘241. In this chapter—

“**contaminate**” includes to add, mix or put in a deleterious or poisonous substance.

“**goods**” includes beverage and food for human consumption and any substances whether natural or manufactured and whether or not incorporated in or mixed with other goods.’.

Amendment of s 259 (Examination of person of accused persons in custody)

23. Section 259(1)—

omit, insert—

‘259.(1) If a person is in custody on a charge of an offence—

- (a) a police officer of the same sex as the person in custody; or
- (b) a doctor acting at the direction of a police officer; or
- (c) if the person in custody is a female and no female police officer is available to conduct the search—any female acting at the direction of a police officer; or
- (d) if the person in custody is a male and no male police officer is available to conduct the search—any male acting at the direction of a police officer;

may search the person and take from him or her anything found on the search that the police officer believes on reasonable grounds may provide evidence about the commission of the offence, endanger anyone’s safety or be used for an escape.’.

Amendment of s 359 (Threats)

24. Section 359, from ‘is guilty of’—

omit, insert—

‘or with intent to cause public alarm or anxiety, commits a crime.

Maximum penalty—5 years imprisonment.’.

Amendment of s 671 (Time for appealing)

25. Section 671, ‘28 days’—

omit, insert—

‘1 calendar month’.

PART 8—AMENDMENT OF CRIMINAL INVESTIGATION (EXTRA-TERRITORIAL OFFENCES) ACT 1985

Act amended in pt 8

26. This part amends the *Criminal Investigation (Extra-territorial Offences) Act 1985*.

Amendment of s 2 (Definitions)

27. Section 2, definition “**appropriate authority**”, from ‘means’—

omit, insert—

‘means the following—

- (a) for the Commonwealth—the chairperson of the National Crime Authority established under the *National Crime Authority Act 1984* (Cwlth);
- (b) for the Australian Capital Territory—the Australian Federal Police

-
- commissioner;
- (c) for New South Wales—
- (i) the chairperson of the Independent Commission against Corruption established under the *Independent Commission against Corruption Act 1988* (NSW); or
 - (ii) an authority exercising, in relation to the New South Wales police force, functions corresponding to the Queensland police service commissioner's functions in relation to the Queensland police service;
- (d) for Queensland—
- (i) the chairperson of the Criminal Justice Commission established under the *Criminal Justice Act 1989*; or
 - (ii) the Queensland police service commissioner;
- (e) for another State or territory—an authority exercising, in relation to the police force of the State or territory, functions corresponding to the Queensland police service commissioner's functions in relation to the Queensland police service.²

Amendment of s 7 (Ministerial arrangements for transmission and return of seized objects)

28.(1) Section 7(1)(a)(ii) and (2), 'commissioner of the police service'—

omit, insert—

'appropriate authority'.

(2) Section 7(2), '39(1)(a)(iv)'—

omit, insert—

'39(1)(a)(ii)²'.

(3) Section 7—

insert—

² *Justices Act 1886*, section 39 (Power of court to order delivery of certain property)

‘(3) However, property mentioned in subsection (2) may be dealt with in accordance with the *Justices Act 1886*, section 39 only if the owner of the object is unknown or can not, after reasonable efforts, be located.

‘(4) The commissioner of the police service may delegate the commissioner’s powers under an arrangement made under subsection (1) to—

- (a) a police officer; or
- (b) a person who is a staff member of the police service under the *Police Service Administration Act 1990*, section 2.5(1).³.

PART 9—AMENDMENT OF CRIMINAL LAW AMENDMENT ACT 1997

Act amended in pt 9

29. This part amends the *Criminal Law Amendment Act 1997*.

Amendment of s 96 (Insertion of new pt 8, ch 58A)

30.(1) Section 96, new Criminal Code section 552A(1)—

insert—

‘(e) an offence of becoming an accessory after the fact to any of the above offences.’.

(2) Section 96, new Criminal Code section 552B(1)—

insert—

‘(p) an offence of becoming an accessory after the fact to any of the above offences.’.

(3) Section 96, new Criminal Code section 552B(2), from ‘procuring,’ to

³ *Police Service Administration Act 1990*, section 2.5 (Administration of staff members)

‘court’—

omit, insert—

‘procuring the commission of, or of becoming an accessory after the fact to, any of those offences must be dealt with summarily, unless the defendant informs the magistrate’.

(4) Section 96, new Criminal Code section 552B(5), from ‘procuring,’ to ‘decided’—

omit, insert—

‘procuring the commission of, or of becoming an accessory after the fact to, any of those offences, must be dealt with’.

Amendment of s 118 (Insertion of new s 651)

31. Section 118, new Criminal Code section 651—

insert—

‘(7) If the court hears and decides a charge summarily, the court has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose.’.

Amendment of sch 1 (Provisions of Criminal Code repealed)

31A. Schedule 1—

insert—

‘Section 343 (Common assaults)’.

PART 10—AMENDMENT OF EVIDENCE ACT 1977

Act amended in pt 10

32. This part amends the *Evidence Act 1977*.

Amendment of s 55 (Proof of incorporation or registration of company in Queensland)

33.(1) Section 55(1)—

omit, insert—

‘55.(1) Evidence of the incorporation of a company incorporated or registered in Queensland may be given by the production of—

- (a) a certificate of the incorporation or registration of the company that purports to be given by the Australian securities commission (the **“commission”**), the commission’s delegate or a commission officer; or
- (b) an affidavit or statutory declaration of an officer of the company (**“company verification”**) made under the *Oaths Act 1867*.’.

(2) Section 55(2), after ‘certificate’—

insert—

‘or company verification’.

(3) After section 55(2)—

insert—

‘(2A) Evidence that a company is not incorporated or registered, or no longer incorporated or registered, in Queensland may be given by the production of a certificate that purports to be given by the commission, the commission’s delegate or a commission officer.

‘(2B) The date a company ceased being incorporated or registered in Queensland mentioned in the certificate is evidence of the date on which the company ceased being incorporated or registered.’.

(4) Section 55—

insert—

‘(4) If the prosecution in a criminal proceeding intend to rely on a company verification, the prosecutor must serve a copy of it on the defendant or the defendant’s legal representative—

- (a) for a summary trial or committal proceeding—
 - (i) when the summons is served on the defendant; or

(ii) not later than 14 days after the defendant first appears in court for the alleged offence; or

(b) for a trial on indictment—not later than 14 days after the indictment against the defendant is presented.

‘(5) A defendant who is served with a copy of a company verification under subsection (4) must give the prosecution a written notice stating whether the defendant intends to contest a following matter about the company’s incorporation or registration mentioned in the company verification—

(a) the fact of its incorporation or registration;

(b) the date of its incorporation or registration;

(c) the date on which it ceased being incorporated or registered.

‘(6) The defendant must give the notice by not later than—

(a) 10 days before the day the trial of the proceedings to which the notice relates starts; or

(b) the end of a later period allowed by the court, if the court considers it just to extend the period in the particular circumstances.

‘(7) If, in a proceeding before it, a court considers the defendant or the defendant’s lawyer has unnecessarily caused the prosecution to prove the incorporation or registration of a company, the court may order the defendant to pay the prosecution’s costs of proving the incorporation or registration.

‘(8) For this section, a defendant is taken to be served with a copy of a company verification if the copy is served on the defendant’s lawyer.’.

PART 11—AMENDMENT OF JURY ACT 1995

Act amended in pt 11

34. This part amends the *Jury Act 1995*.

Amendment of s 70 (Confidentiality of jury deliberations)

35.(1) Section 70(1), definition “**confidential information about jury deliberations**”—

omit, insert—

‘**“confidential information about jury deliberations”** means—

- (a) information about statements made, opinions expressed, arguments advanced, or votes cast, in the course of a jury’s deliberations; or
- (b) information identifying or likely to identify a person as, or as having been, a juror in a particular proceeding.’

(2) Section 70—

insert—

‘**(11)** Information identifying or likely to identify a person as, or as having been, a juror in a particular proceeding may be disclosed—

- (a) in the course of the proceeding—by any person with the court’s permission or with lawful excuse; or
- (b) after the proceeding has ended—by the juror or someone else with the juror’s consent.’

**PART 12—AMENDMENT OF JUSTICE
LEGISLATION (MISCELLANEOUS PROVISIONS)
ACT 1996**

Act amended in pt 12

36. This part amends the *Justice Legislation (Miscellaneous Provisions) Act 1996*.

Amendment of s 16 (Amendment of s 5 (Conditions of cremation))

37. Section 16(7), from ‘authorised’—

omit, insert—

‘authorised by subsection (1) to sign a permission and certificate to cremate a body (the “**prescribed person**”)—

- (a) a medical certificate of the cause of death given by a person who appears to the prescribed person, after appropriate inquiry, to be a doctor who personally attended the deceased at the place where the death happened; or
- (b) a certificate given by a person who appears to the prescribed person, after appropriate inquiry, to be a coroner, or to hold a position equivalent to a coroner, at the place where the death happened.’.

PART 13—AMENDMENT OF JUSTICES ACT 1886**Act amended in pt 13**

38. This part amends the *Justices Act 1886*.

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

39.(1) Section 47(2), ‘summary’—

omit.

(2) Section 47(4), from ‘except when’—

omit.

(3) Section 47—

insert—

‘**(5)** However, if the circumstance is that the defendant has been

previously convicted of an offence, the alleged previous conviction must be stated in a notice served with the complaint.’.

Amendment of s 54 (Form of summons and filing of complaint and summons)

40. Section 54(2), after ‘lodged’—

insert—

‘, within 3 days of the summons being issued,’.

Amendment of s 110A (Use of tendered statements in lieu of oral testimony in committal proceedings)

41. Section 110A(5)(c)—

omit, insert—

‘(c) it is signed by the person making it and contains—

- (i) a declaration by the person under the *Oaths Act 1867*; or
- (ii) a written acknowledgment by the person;

that it is true to the best of the person’s knowledge and belief and that the person made the statement knowing that, if it were admitted as evidence, the person may be liable to prosecution for stating in it anything that the person knew was false;’.

PART 14—AMENDMENT OF JUVENILE JUSTICE ACT 1992

Act amended in pt 14

42. This part amends the *Juvenile Justice Act 1992*.

Amendment of s 18F (Form of community conference agreement)

43. Section 18F—

insert—

‘(8) The *Workers’ Compensation Act 1990* applies to the child performing duties under an agreement as a worker (within the meaning of that Act) working under a contract of service with the State.’.

Amendment of s 200 (Application of Corrective Services Act 1988)

44. Section 200, after ‘40,’—

insert—

‘71’.

**PART 15—AMENDMENT OF NATIVE TITLE
(QUEENSLAND) ACT 1993****Act amended in pt 15**

45. This part amends the *Native Title (Queensland) Act 1993*.

Amendment of s 156 (Expiry of Part)

46. Section 156, ‘it commences’—

omit, insert—

‘all its provisions commence’.

PART 16—AMENDMENT OF PEACE AND GOOD BEHAVIOUR ACT 1982

Act amended in pt 16

47. This part amends the *Peace and Good Behaviour Act 1982*.

Amendment of s 4 (Complaint in respect of breach of the peace)

48.(1) Section 4, ‘in writing on oath’—

omit.

(2) Section 4—

insert—

‘(2) A person (the “**complainant**”) may make a complaint to a justice that someone else is engaging in conduct that is adversely affecting, or likely to adversely affect, the complainant’s enjoyment of the complainant’s property.

‘(3) If the justice before whom the complaint mentioned in subsection (2) is made considers that the matter would be better resolved by mediation than by proceedings before a Magistrates Court, the justice may, with the complainant’s consent, order the complainant to submit the matter to mediation under the *Dispute Resolution Centres Act 1990*.

‘(4) In this section—

“**complaint**” means a written complaint made on oath.’.

PART 17—AMENDMENT OF PENALTIES AND SENTENCES ACT 1992

Act amended in pt 17

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

Amendment of s 162 (Definitions)

50.(1) Section 162, definition “**violent offence**”, paragraph (b), ‘208, 215 or 337’—

omit, insert—

‘208, 215, 216, 337 or 347’.

(2) Section 162, definition “**violent offence**”, paragraph (c)—

omit.

**PART 18—AMENDMENT OF PUBLIC TRUSTEE ACT
1978****Act amended in pt 18**

51. This part amends the *Public Trustee Act 1978*.

Amendment of s 6 (Definitions)

52. Section 6, definition “**Common Fund**”—

omit, insert—

‘**“common fund”** means a common fund established under section 19.⁴’.

Amendment of s 16 (Employment of solicitors etc.)

53. Section 16—

insert—

‘**(7)** To remove any doubt, nothing in this section prevents the official solicitor from acting as barrister or solicitor for a person other than the public trustee.’.

⁴ Section 19 (Common Fund and investment thereof and of other moneys)

Amendment of s 19 (Common Fund and investment thereof and of other moneys)

54. Section 19(1)(a), ‘Common Fund’—

omit, insert—

‘or more common funds (the “**common fund**”)’.

Amendment of s 60 (Public Trustee may direct audit of trusts)

55.(1) Section 60(1), from ‘interested’ to ‘contingent,’—

omit.

(2) Section 60(1), ‘the trust’—

omit, insert—

‘a trust’.

(3) Section 60(2), ‘The Public Trustee’—

omit, insert—

‘If, in the public trustee’s opinion, the person’s interests are, or may be, adversely affected by the trust’s operation, the public trustee’.

Amendment of s 67 (Protection order in damages action)

56. Section 67—

insert—

‘**(5)** In this section—

“**court**” includes a District Court.’.

Amendment of s 68 (Court may give directions)

57.(1) Section 68, ‘The Court’—

omit, insert—

‘The Supreme Court or, if a District Court has made or is making a protection order under section 67, a District Court’.

(2) Section 68—

insert—

‘(2) Jurisdiction given to a District Court under subsection (1) extends only in relation to the protected person.

‘(3) The Supreme Court’s jurisdiction is not limited by the jurisdiction conferred on a District Court under subsection (1).’.

Amendment of s 80 (Management by Public Trustee of property of incapacitated person)

58.(1) Section 80(2)(c), from ‘disability,’ to ‘Court’—

omit, insert—

‘disability’.

(2) Section 80(3)(d), ‘exceeding \$50 000’—

omit.

(3) Section 80(3)(d), ‘by such sum’—

omit.

(4) Section 80(3)(d), ‘of such sum’—

omit, insert—

‘of an amount’.

(5) Section 80(3)(d), as amended—

relocate to section 80(2) and *renumber* as section 80(2)(g).

(6) Section 80(3), as amended—

omit.

(7) Section 80(3A)—

omit.

Amendment of pt 8 (Unclaimed property)

59.(1) Part 8, before division 1—

insert—

‘Division 1A—Object

‘Object of pt 8

‘97A.(1) The object of this part is to provide a scheme for paying or giving unclaimed property held by particular persons to the public trustee and for returning unclaimed property to persons lawfully entitled to it.

‘(2) For unclaimed superannuation benefits, the object is to be achieved by satisfying the requirements of the *Superannuation Industry (Supervision) Act 1993* (Cwlth) to enable the benefits to be paid to the public trustee instead of the commissioner of taxation.

‘Application of unclaimed superannuation benefit provisions

‘97B. A regulation may regulate the application of this division in relation to unclaimed superannuation benefits according to specified circumstances connected with the State, whether arising within or outside the State.’

(2) Part 8, before section 98, as a heading—

insert—

‘Subdivision 1—Interpretation’.

Amendment of s 98 (Application of Division)

60.(1) Section 98, heading—

omit, insert—

‘Definitions’.

(2) Section 98, definition **“unclaimed moneys”**, ‘means all’—

omit, insert—

‘means—

(a) all’.

(3) Section 98, definition “**unclaimed moneys**”, ‘upwards’—
omit, insert—

‘or more; and

(b) an unclaimed superannuation benefit’.

Insertion of new s 98A and sdiv heading

61. After section 98—

insert—

‘Meaning of “unclaimed superannuation benefit”

‘98A.(1) An “**unclaimed superannuation benefit**” is a benefit, other than an annuity or a pension, that—

- (a) the trustee of an approved deposit fund or a regulated superannuation fund decides, under the fund’s governing rules, is payable immediately to a member of the fund who has reached the eligibility age for a pension; and
- (b) the trustee can not pay to the member because the trustee, after making reasonable efforts to find the member, can not find the member.

‘(2) Subsection (1) applies whether or not the member has asked the trustee to pay the benefit to the member.

‘(3) An “**unclaimed superannuation benefit**” is also a benefit, other than an annuity or a pension, that—

- (a) the trustee of an approved deposit fund or a regulated superannuation fund decides, under the fund’s governing rules, is payable immediately to a person (the “**beneficiary**”) in relation to a member of the fund who has died; and
- (b) before the member died, the member—
 - (i) had not asked the trustee to pay to the member; or
 - (ii) had asked the trustee to pay to the member, but was not paid before the member died; and

- (c) the trustee can not pay to the beneficiary because the trustee, after making reasonable efforts to find the beneficiary, can not find the beneficiary.

‘(4) In this section—

“**approved deposit fund**” see the *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 10(1).

“**regulated superannuation fund**” see the *Superannuation Industry (Supervision) Act 1993* (Cwlth), sections 10(1) and 19.

‘*Subdivision 2—Registers and other matters about unclaimed moneys*’.

Insertion of new s 99A

62. After section 99—

insert—

‘Public trustee’s register of unclaimed moneys

‘99A.(1) The public trustee must keep a register of unclaimed moneys paid to the public trustee under this division.

‘(2) The register must contain the following details—

- (a) the name, and last known address, of the person for whom the moneys are held;
- (b) the amount held for the person;
- (c) if the moneys are an unclaimed superannuation benefit—
 - (i) the name of the fund in which the unclaimed moneys were held;
 - (ii) the following particulars about the member of the fund to whom, or in relation to whom, the amount was payable—
 - (A) membership number;
 - (B) date of birth;
 - (C) last known address;

(d) any other detail prescribed under a regulation.

‘(3) A person may, on payment of the fee prescribed under a regulation—

(a) inspect the register at the public trustee’s head office when the office is open to the public;⁵ and

(b) take extracts from, or obtain a copy of details in, the register.’.

Amendment of s 100 (Annual register of unclaimed moneys)

63.(1) Section 100, heading—

omit, insert—

‘**Accountable person’s register of unclaimed moneys’.**

(2) Section 100(2), ‘7 years thereafter such register’—

omit, insert—

‘2 years after the entry is made, the entry’.

(3) Section 100(3A), ‘\$200’—

omit, insert—

‘\$500’.

(4) Section 100(3A), ‘\$400’—

omit, insert—

‘\$1 000’.

Insertion of new s 100A

64. After section 100—

insert—

‘**Statement about unclaimed superannuation benefits**

‘**100A.(1)** After the end of each half-year, an accountable person must

⁵ The public trustee’s head office address is 444 Queen Street, Brisbane Q 4000.

give the public trustee a statement about unclaimed superannuation benefits held by the accountable person at the end of the half-year.

‘(2) The statement must be in the form approved by the public trustee and must be given to the public trustee by—

- (a) for the half-year ending on 30 June in a year—31 October in that year; and
- (b) for the half-year ending on 31 December in a year—30 April in the next year.

‘(3) However, the public trustee may, by written notice given to the accountable person before or after the day by which the statement must be given under subsection (2), allow the accountable person to give the statement by a later stated day.

‘(4) If the public trustee gives the accountable person a notice under subsection (3), the accountable person, instead of giving the statement by the day mentioned in subsection (2), must give the statement by the day stated in the notice.

‘(5) If, after the end of the half-year to which the statement relates but before the statement is given to the public trustee, the accountable person pays a person an amount of unclaimed superannuation benefits mentioned in the statement, the statement must contain the particulars about the amount required by the public trustee on the approved form.

‘(6) For this section, the form of statement the public trustee may approve includes a disc, tape or other article or any material from which sounds, images, writings or messages are capable of being produced or reproduced (with or without the aid of another article or device).’.

Amendment of s 101 (Public Trustee may examine accounts)

65.(1) Section 101, heading, ‘**accounts**’—

omit, insert—

‘documents’.

(2) Section 101(1), after ‘section 100’—

insert—

‘or statement should have been given under section 100A,’.

(3) Section 101(1), ‘such entry has, or should have, been made’—
omit, insert—

‘the entry or statement has, or should have, been made, or given,’.

(4) Section 101—
insert—

‘(4) If an error is found in a statement given under section 100A, the public trustee may ask the accountable person who gave the statement to amend it and give the amended statement to the public trustee by a stated day.

‘(5) The accountable person must comply with the request.

Maximum penalty—100 penalty units.

‘(6) If, as a result of the error, the accountable person would have been required to pay a further amount to the public trustee under section 102(1A), the accountable person must pay the amount to the public trustee when giving the amended statement under subsection (4).

Maximum penalty—200 penalty units.’.

Amendment of s 102 (Unclaimed moneys to be paid to Public Trustee)

66.(1) Section 102, before subsection (1)—
insert—

‘(1A) When an accountable person gives a statement to the public trustee under section 100A, the accountable person must pay to the public trustee the amount equalling the difference between the following amounts specified in the statement—

- (a) the unclaimed superannuation benefits held by the accountable person at the end of the half-year to which the statement relates;
- (b) the unclaimed superannuation benefits paid to a person after the end of the half-year to which the statement relates, the particulars of which must be contained in the statement under section 100A(5).

Maximum penalty—200 penalty units.’.

(2) Section 102(1), after ‘moneys’—

insert—

‘, other than unclaimed superannuation benefits,’.

(3) Section 102(1), ‘such register’—

omit, insert—

‘the register kept by the accountable person under section 100’.

(4) Section 102(1)—

insert—

‘Maximum penalty—200 penalty units.’.

(5) Section 102(2), ‘An’—

omit, insert—

‘However, an’.

(6) Section 102(2), after ‘unclaimed moneys’—

insert—

‘, other than unclaimed superannuation benefits,’.

Insertion of new s 102A

67. In subdivision 2, after section 102—

insert—

‘Public trustee may refund certain amounts to accountable persons

‘102A.(1) This section applies if an accountable person—

- (a) has paid an unclaimed superannuation benefit to the public trustee under this subdivision; and
- (b) satisfies the public trustee that the amount of the benefit paid to the public trustee is more than the amount that would have been paid to the person entitled to its payment had section 102(1A) not been enacted.

‘(2) The public trustee must refund the amount of the overpayment, less the public trustee’s reasonable expenses, to the accountable person.’.

Insertion of new pt 8, div 4

68. After part 8, division 3—

insert—

‘Division 4—Enforcement

‘Subdivision 1—Inspectors

‘Appointment

‘**117B.** The public trustee may appoint a public service officer as an inspector if, in the public trustee’s opinion, the person has the necessary expertise or experience to be an inspector.

‘Limitation of inspector’s powers

‘**117C.** The powers of an inspector may be limited—

- (a) under a regulation; or
- (b) under a condition of appointment; or
- (c) by written notice of the public trustee given to the inspector.

‘Inspector’s conditions of appointment

‘**117D.(1)** An inspector holds office on the conditions specified in the instrument of appointment.

‘(2) An inspector—

- (a) if the appointment provides for a term of appointment—ceases holding office at the end of the term; and
- (b) may resign by signed notice of resignation given to the public trustee; and
- (c) if the conditions of appointment provide—ceases holding office

as an inspector on ceasing to hold another office stated in the conditions of appointment.

‘Inspector’s identity card

‘**117E.(1)** The public trustee must give each inspector an identity card.

‘**(2)** The identity card must—

- (a) contain a recent photograph of the inspector; and
- (b) be in a form approved by the public trustee; and
- (c) be signed by the inspector; and
- (d) identify the person as an inspector under this Act.

‘**(3)** A person who ceases to be an inspector must return the person’s identity card to the public trustee within 21 days after the person ceases to be an inspector, unless the person has a reasonable excuse for not returning it.

Maximum penalty—10 penalty units.

‘Production or display of inspector’s identity card

‘**117F.(1)** An inspector may exercise a power in relation to someone else (the “**other person**”) only if the inspector—

- (a) first produces the inspector’s identity card for inspection by the other person; or
- (b) has the identity card displayed so it is clearly visible to the other person.

‘**(2)** However, if for any reason, it is not practicable to comply with subsection (1) before exercising the power, the inspector must produce the identity card for the other person’s inspection at the first reasonable opportunity.

‘Subdivision 2—Inspectors’ powers

‘Entry to places

‘117G.(1) An inspector may enter a place if—

- (a) its occupier consents to the entry or the purpose of the entry is to get the occupier’s consent; or
- (b) it is a public place and the entry is made when it is open to the public; or
- (c) it is an accountable person’s place of business and is—
 - (i) open for carrying on the business; or
 - (ii) otherwise open for entry; or
- (d) the entry is permitted by a warrant.

‘(2) Subsection (1)(c) does not apply if the accountable person’s place of business is, or is part of, a dwelling house.

‘Consent to entry

‘117H.(1) This section applies if an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place.

‘(2) Before asking for the consent, the inspector must tell the occupier—

- (a) the purpose of the entry; and
- (b) that the occupier is not required to consent.

‘(3) If the consent is given, the inspector may ask the occupier to sign an acknowledgment of the consent (a **“consent acknowledgment”**).

‘(4) The acknowledgment must state—

- (a) the occupier was told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
- (b) the purpose of the entry; and

- (c) the occupier gives the inspector consent to enter the place and exercise powers under this part; and
- (d) the time and date the consent was given.

‘(5) If the occupier signs a consent acknowledgment, the inspector must promptly give a copy to the occupier.

‘Evidence of consent

‘117L.(1) Subsection (2) applies if—

- (a) an issue arises in a court proceeding whether the occupier of a place consented to an inspector entering the place under this part; and
- (b) a consent acknowledgment is not produced in evidence for the entry; and
- (c) it is not proved the occupier consented to the entry.

‘(2) The court may presume the occupier did not consent.

‘Application for warrant

‘117J.(1) An inspector may apply to a magistrate for a warrant for a place.

‘(2) The application must be sworn and state the grounds on which the warrant is sought.

‘(3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

‘Issue of warrant

‘117K.(1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the “**evidence**”) that may provide evidence of an offence against this Act; and
- (b) the evidence is at the place, or may be at the place within the next 7 days.

‘(2) The warrant must state—

- (a) that a stated inspector may, with necessary and reasonable help and force, enter the place and exercise the inspector’s powers under this division; and
- (b) the offence for which the warrant is sought; and
- (c) the evidence that may be seized under the warrant; and
- (d) the hours of the day or night when the place may be entered; and
- (e) the date, within 14 days after the warrant’s issue, the warrant ends.

‘**General powers after entering places**

‘**117L.(1)** This section applies to an inspector who enters a place.

‘(2) However, if an inspector enters a place to get the occupier’s consent to enter premises, this section applies to the inspector only if the consent is given or the entry is otherwise authorised.

‘(3) For enforcing compliance with this Act, the inspector may—

- (a) search any part of the place; or
- (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or
- (c) copy a document at the place; or
- (d) take into or onto the place any persons, equipment and materials the inspector reasonably requires for exercising a power under this division; or
- (e) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the inspector’s powers under paragraphs (a) to (d); or

- (f) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector ascertain whether this Act is being complied with.

‘(4) When making a requirement mentioned in subsection (3)(e) or (f), the inspector must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

‘Failure to help inspector

‘117M.(1) A person required to give reasonable help under section 117L(3)(e) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

‘(2) If the requirement is to be complied with by the person giving information, or producing a document (other than a document required to be kept by the person under this Act), it is a reasonable excuse for the person to fail to comply with the requirement, if complying with the requirement might tend to incriminate the person.

‘Failure to give information

‘117N.(1) A person of whom a requirement is made under section 117L(3)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

‘(2) It is a reasonable excuse for the person to fail to comply with the requirement if complying with the requirement might tend to incriminate the person.

‘Role of police officers

‘117O.(1) An inspector may ask a police officer to help the inspector in the exercise of a power under this division.

‘(2) The police officer must give the inspector the reasonable help the inspector requires, if it is practicable to give the help.

‘Seizing evidence at places

‘117P.(1) If an inspector enters a place under this division with the occupier’s consent, the inspector may seize a thing at the place if—

- (a) the inspector reasonably believes the thing is evidence of an offence against this Act; and
- (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier’s consent.

‘(2) If the inspector enters the place with a warrant, the inspector may seize the evidence for which the warrant was issued.

‘(3) The inspector also may seize anything else at the place if the inspector reasonably believes—

- (a) the thing is evidence of an offence against this Act; and
- (b) the seizure is necessary to prevent the thing being—
 - (i) hidden, lost or destroyed; or
 - (ii) used to continue, or repeat, the offence.

‘(4) Also, the inspector may seize a thing at the place if the inspector reasonably believes it has just been used in committing an offence against this Act.

‘Securing seized things

‘117Q. Having seized a thing, an inspector may—

- (a) move the thing from the place where it was seized (the **“place of seizure”**); or
- (b) leave the thing at the place of seizure, but take reasonable action to restrict access to it.

Examples of restricting access to a thing—

1. Sealing a thing and marking it to show access to it is restricted.
2. Sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted.

‘Tampering with seized things

‘117R. If an inspector restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an inspector’s approval.

Maximum penalty—40 penalty units.

‘Receipt for seized things

‘117S.(1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.

‘(2) However, if for any reason it is not practicable to comply with subsection (1), the inspector must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.

‘(3) The receipt must describe generally each thing seized and its condition.

‘(4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt (given the thing’s nature, condition and value).

‘Return of seized things

‘117T.(1) The inspector must return a seized thing to its owner—

- (a) at the end of 3 months; or
- (b) if a proceeding for an offence involving the thing is started within 3 months—at the end of the proceeding and any appeal from the proceeding.

‘(2) Despite subsection (1), the inspector must promptly return a thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.

‘Access to seized things

‘117U.(1) Until a seized thing is returned, an inspector must allow its owner to inspect it and, if it is a document, to copy it.

‘(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.’.

Amendment of s 122 (Public Trustee may require property to be transferred and may summon persons for examination)

69. Section 122(11), after ‘Court’—

insert—

‘or Magistrates Court’.

Amendment of s 139 (Service of notices)

70.(1) Section 139(1), (1A) and (4)—

omit.

(2) Section 139(2) and (2A), ‘the person’—

omit, insert—

‘a person’.

(3) Section 139(2) and (2A), ‘the notice’—

omit, insert—

‘a notice’.

(4) Section 139(2), from ‘delivered’ to ‘(1A)’—

omit, insert—

‘given’.

(5) Section 139(2A), ‘so delivered’—

omit, insert—

‘given’.

(6) Section 139(3), ‘the person’—

omit, insert—

‘a person to whom a notice is to be given’.

(7) Section 139(3), from ‘delivered’ to ‘may be’—

omit, insert—

‘given in the way’.

PART 19—AMENDMENT OF SECURITY PROVIDERS ACT 1993

Act amended in pt 19

71. This part amends the *Security Providers Act 1993*.

Amendment of schedule (Disqualifying offence provisions under the Criminal Code)

72.(1) Schedule 1, before item 1, as a heading—

insert—

‘PART 1—EXISTING PROVISIONS’.

(2) Schedule, items 1 to 20, items 22 and 23 and item 30—

omit.

(3) Schedule—

insert—

- 1.** Chapter 9 (Unlawful assemblies—breaches of the peace)
- 2.** Chapter 16 (Offences relating to the administration of justice)
- 3.** Chapter 20 (Miscellaneous offences against public authority)
- 4.** Chapter 28 (Homicide-Suicide-Concealment of birth)
- 5.** Chapter 29 (Offences endangering life or health)
- 30.** Chapter 40 (Other fraudulent practices)’.

(4) Schedule, items 1 to 37—

renumber as items 1 to 20.

(5) Schedule, after item 20, as renumbered—

insert—

**‘PART 2—PROVISIONS REPEALED BY CRIMINAL
LAW AMENDMENT ACT 1997**

1. Section 343A (Assaults occasioning bodily harm)
2. Section 344 (Aggravated assaults)’.

**PART 20—AMENDMENT OF STATUTORY
INSTRUMENTS ACT 1992**

Act amended in pt 20

73. This part amends the *Statutory Instruments Acts 1992*.

**Amendment of s 61 (Transitional provisions about expiry of
subordinate legislation)**

74. Section 61, ‘1997’—

omit, insert—

‘1998’.

PART 21—AMENDMENT OF SUCCESSION ACT 1981

Act amended in pt 21

75. This part amends the *Succession Act 1981*.

Amendment of s 5 (Definitions)

76. Section 5(1)—

insert—

‘**“stepchild”** for part 4, see section 40A.’.

Amendment of s 29 (Construction of residuary dispositions)

77.(1) Section 29, heading, ‘**residuary**’—

omit, insert—

‘**particular**’.

(2) Section 29(b), ‘where a residuary’—

omit, insert—

‘if a’.

(3) Section 29(b), ‘residuary’ (second mention)—

omit.

(4) Section 29—

insert—

‘**(2)** In subsection (1)(b)—

“disposition” means a disposition of all property or a residuary disposition.’.

Amendment of s 40 (Definitions for pt 4)

78. Section 40, definition **“stepchild”**—

omit.

Insertion of new s 40A

79. After section 40—

insert—

‘Meaning of “stepchild”

‘40A.(1) A person is a **“stepchild”** of a deceased person for this part if—

- (a) the person is the child of a spouse of the deceased person; and
- (b) a relationship of stepchild and stepparent between the person and the deceased person did not stop under subsection (2).

‘(2) The relationship of stepchild and stepparent stops on the divorce of the deceased person and the stepchild’s parent.

‘(3) To remove any doubt, it is declared that the relationship of stepchild and stepparent does not stop merely because—

- (a) the stepchild’s parent died before the deceased person, if the deceased person’s marriage to the parent subsisted when the parent died; or
- (b) the deceased person remarried after the death of the stepchild’s parent, if the deceased person’s marriage to the parent subsisted when the parent died.’.

Amendment of s 44 (Protection of personal representative)

80.(1) Section 44(3), from ‘representative after the expiration of 6 months’—

omit, insert—

‘representative—

- (a) not earlier than 6 months after the deceased’s death and without notice of any application or intended application under section 41(1) or 42 in relation to the estate; or
- (b) if notice under section 41(1) or 42 has been received—not earlier than 9 months after the deceased’s death, unless the personal representative receives written notice that the application has been commenced in the court or is served with a copy of the application.’.

(2) Section 44(4), before ‘intention’ (first mention)—

insert—

‘an application or’.

(3) Section 44(4), from ‘and shall lapse’

omit.

PART 22—AMENDMENT OF TRAFFIC ACT 1949

Act amended in pt 22

81. This part amends the *Traffic Act 1949*.

Amendment of s 44P (Interpretation)

82. Section 44P, definition “**transport Act**”—

omit, insert—

‘“**transport Act**” means an Act administered by the Minister or the *Motor Accident Insurance Act 1994*.’.

PART 23—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994

Act amended in pt 23

83. This part amends the *Transport Infrastructure Act 1994*.

Amendment of s 228 (Continuation of harbours under Harbours Act or port under Port of Brisbane Authority Act etc.)

84. Section 228(3), ‘3 years’—

omit, insert—

‘4 years’.

Amendment of s 232 (Harbours Corporation of Queensland)

85.(1) Section 232(4), last dot point—

omit.

(2) Section 232(8), ‘3 years’—

omit, insert—

‘4 years’.

Amendment of s 233 (Continuation of certain by-laws)

86.(1) Section 233(10), first and third dot points—

omit.

(2) Section 233(11)—

omit, insert—

‘**(11)** Subsections (1) to (6) expire 5 years after they commence or, if an earlier date is prescribed by regulation, on that date.

‘**(12)** Subsections (7), (9) and (10) expire 4 years after they commence or, if an earlier date is prescribed by regulation, that date.

‘**(13)** Subsection (8) expires 3 years after it commences or, if an earlier date is prescribed by regulation, on that date.’.

Amendment of s 235 (Continuation of certain provisions of Harbours Act about jetties and ramps etc.)

87.(1) Section 235(1), first dot point—

omit.

(2) Section 235(1), eighth dot point—

omit.

(3) Section 235(5)—

omit, insert—

‘(5) This section, other than subsection (3), expires 4 years after it commences or, if an earlier date is prescribed by regulation, on that date.

‘(5A) Subsection (3) expires 3 years after it commences or, if an earlier date is prescribed by regulation, on that date.’.

(4) Section 235(6), ‘3 years’—

omit, insert—

‘4 years’.

Amendment of s 236 (Continuation of certain provisions of Harbours Act requiring approval for certain matters)

88. Section 236(8), ‘4 years’—

omit, insert—

‘5 years’.

Amendment of s 240 (Application of Acts Interpretation Act, s 20A to this part)

89. Section 240(2), ‘3 years’—

omit, insert—

‘4 years’.

PART 24—AMENDMENT OF TRANSPORT OPERATIONS (PASSENGER TRANSPORT) ACT 1994

Act amended in pt 24

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

Amendment of sch 1 (Disqualifying offences—provisions of the Criminal Code)

91.(1) Schedule 1, before item 1, as a heading—

insert—

‘PART 1—EXISTING PROVISIONS’.

(2) Schedule 1, items 7, 8 and 16—

omit.

(3) Schedule 1—

insert—

‘1AAA. Chapter 9 (Unlawful assemblies—breaches of the peace)

1AA. Chapter 16 (Offences relating to the administration of justice)

1A. Chapter 20 (Miscellaneous offences against public authority)

16. Chapter 40 (Other fraudulent practices)’.

(4) Schedule, items 1AAA to 23—

renumber as items 1 to 24.

(5) Schedule, after item 24—

insert—

‘PART 2—PROVISIONS REPEALED BY CRIMINAL LAW AMENDMENT ACT 1997

1. Section 343A (Assaults occasioning bodily harm)
2. Section 344 (Aggravated assaults)'.

PART 25—AMENDMENT OF TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995

Act amended in pt 25

92. This part amends the *Transport Operations (Road Use Management) Act 1995*.

Amendment of s 93 (Repeal of Acts)

93.(1) Section 93(3), '2 years'—

omit, insert—

'3 years'.

(2) Section 93(6), '3 years'—

omit, insert—

'4 years'.

PART 26—AMENDMENT OF VEXATIOUS LITIGANTS ACT 1981

Act amended in pt 27

94. This part amends the *Vexatious Litigants Act 1981*.

Amendment of s 2 (Meaning of terms)

95. Section 2(2)—

omit, insert—

‘(2) For this Act—

- (a) an appeal, challenge, review or calling into question in any way of a decision made under section 9A(6) is taken to be legal proceedings; and
- (b) the following applications are taken not to be legal proceedings—
 - (i) an application for variation mentioned in section 3(3);
 - (ii) an application for revocation mentioned in section 4;
 - (iii) an application for leave mentioned in section 8 or 9.’.

Amendment of s 8 (Proceedings by or with vexatious litigants require leave)

96.(1) Section 8(4)—

omit, insert—

‘(4) Subsection (4A) applies if a person who is declared to be a vexatious litigant does not start a legal proceeding before the end of the limitation period for the proceeding only because the person has not obtained leave, under this Act, to start the proceeding.

‘(4A) The limitation period for the proceeding is taken—

- (a) not to have ended if the person, within the limitation period for the proceeding, applied to the Supreme Court or a Supreme Court judge for leave to start the proceeding; and
- (b) if leave is granted—to end 14 days after the day on which the leave is granted.’.

(2) Section 8—

insert—

‘(6) In this section—

“**limitation period**” means the time limited by any law or practice for instituting or taking the proceeding.’.

Insertion of new s 9A

97. After section 9—

insert—

‘Application for leave

‘9A.(1) An application for leave mentioned in section 8 or 9 must be made by the applicant filing the following documents relating to the proceedings or step in the proceedings in the relevant court or tribunal—

- (a) an originating application;
- (b) an affidavit of relevant evidence;
- (c) submissions on which the applicant intends to rely;
- (d) if the application is for leave to institute or take legal proceedings—a draft of the proposed documents to be used to institute or take the legal proceedings;
- (e) if the application is for leave to procure the issue of any subpoena, summons to a witness, warrant or process for any legal proceedings—a draft of the proposed subpoena, summons to a witness, warrant or process.

‘(2) The applicant must—

- (a) give a service copy of each filed document and the notice mentioned in subsection (4) to each other party within 7 days of the filing; and
- (b) file an affidavit about service of the documents within 10 days of the filing.

‘(3) Subsection (2) does not apply to an application for leave in relation to proceedings instituted against the applicant.

‘(4) The notice must state that the person to whom it is given may, within 45 days after the notice is given (the “**response period**”), file a written response to the application in the relevant court or tribunal.

‘(5) If the person wishes to respond to the application, the person must file an affidavit in response in the relevant court or tribunal before the response period ends.

‘(6) The court, judge or other person to whom the application is made must, in the parties’ absence, decide the application—

- (a) if the application is for leave in relation to proceedings instituted against the applicant—as soon as possible, by reference to the documents mentioned in subsection (1); or
- (b) otherwise—after the last response period ends, by reference to the documents mentioned in subsection (1) and the written responses, if any, received under this section.

‘(7) If leave is refused, the registrar of the relevant court or tribunal must refuse to accept a further originating application under this section dealing with the same, or substantially the same, issue.

‘(8) An application for leave may not be made in relation to a decision made under subsection (6).

‘(9) In this section—

“**proceedings**” means the proceedings or proposed proceedings in relation to which the leave is sought.

“**relevant court or tribunal**” means—

- (a) for an application under section 8—the Supreme Court; or
- (b) for an application under section 9—the court or tribunal in which the step in the proceedings is to be taken.’.

Amendment of s 10 (Conditions for hearing applications for leave)

98.(1) Section 10, heading, ‘**hearing**’—

omit.

(2) Section 10(1), ‘for hearing’—

omit.

(3) Section 10(2) and (3)—

omit, insert—

‘(2) Before an application for leave mentioned in section 8 or 9 proceeds, the applicant must have complied with an order, if any, made under subsection (1).’.

(4) Section 10(4), ‘hears the matter of’—

omit, insert—

‘decides’.

Amendment of s 11 (Conditions for granting leave)

99.(1) Section 11, after ‘other person’—

insert—

‘(“**judicial officer**”)’.

(2) Section 11—

insert—

‘(2) Without limiting the orders a judicial officer may make, the judicial officer may, as a condition of granting leave—

- (a) order the applicant to lodge security for costs for the proceedings or deposit an amount stated by the judicial officer with the registrar or other responsible person as security; and
- (b) order the proceedings not proceed until the security has been lodged or the amount deposited.’.

Amendment of s 12 (Application of ss 8 and 9 affected by order of Judge etc.)

100. Section 12(1), ‘heard the matter of’—

omit, insert—

‘decided’.

**PART 27—AMENDMENT OF WORKCOVER
QUEENSLAND ACT 1996**

Act amended in pt 28

101. This part amends the *WorkCover Queensland Act 1996*.

Amendment of sch 2 (Consequential amendments of other Acts)

102. Schedule 2, **JUVENILE JUSTICE ACT 1992**, after amendment 2—

insert—

‘3. Section 18F(8)—

omit.’.

SCHEDULE 1**MINOR AMENDMENTS OF CRIMINAL LAW
AMENDMENT ACT 1997**

section 3

1. Section 62(3), after ‘her’—*insert—*

‘(first and second mention)’.

2. Section 92, new Criminal Code section 501A, after ‘but the jury’—*insert—*

‘is’.

3. Section 96, new Criminal Code section 552A(1), after ‘charge’—*insert—*

‘before a Magistrates Court’.

**4. Section 96, new Criminal Code section 552A(1)(d), after
‘procuring’—***insert—*

‘the commission’.

5. Section 96, new Criminal Code section 552B(1), after ‘charge’—*insert—*

‘before a Magistrates Court’.

SCHEDULE 1 (continued)

**6. Section 96, new Criminal Code section 552B(1)(o), after
'procuring'—***insert—*

'the commission'.

7. Section 96, new Criminal Code section 552C(2), after '1991'—*insert—*

' , section 3'.

8. Section 96, new Criminal Code section 552F, 'court'—*omit, insert—*

'magistrate'.

9. Section 96, new Criminal Code sections 522E to 522G—*renumber* as sections 552E to 552G.**10. Section 96, new Criminal Code section 552I(2)(c), 'consents to the
charge being'—***omit, insert—*

'wants the charge to be'.

11. Section 96, new Criminal Code section 552I(3), 'desires'—*omit, insert—*

'wants'.

SCHEDULE 1 (continued)

12. Section 96, new Criminal Code section 552I ‘court’—*omit, insert—*

‘magistrate’.

13. Section 118, heading, ‘s 651’—*insert—*

‘ss 651 and 652’.

SCHEDULE 2

DECLARATORY PROVISIONS

section 4

Commencement of amendments of Juvenile Justice Act 1992

1.(1) The amendments of the *Juvenile Justice Act 1992* in the *WorkCover Queensland Act 1996*, schedule 2, commence on 1 July 1997.

(2) The proclamation of 19 December 1996, SL 1996, No. 442, to the extent it commenced the amendments of the *Juvenile Justice Act 1992*, is declared to have been of no effect.