

Queensland



# **COURTS REFORM AMENDMENT ACT 1997**

**Act No. 38 of 1997**



Queensland



**COURTS REFORM AMENDMENT ACT  
1997**

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Queensland



## **Courts Reform Amendment Act 1997**

### **Act No. 38 of 1997**

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**An Act to amend various Acts to change the jurisdiction of the Supreme, District and Magistrates Courts, and for other purposes**

*[Assented to 18 July 1997]*

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Courts Reform Amendment Act 1997*.

### **Commencement**

2. This Act commences on a day to be fixed by proclamation.

### **Amended Acts—schedule**

3. The schedule amends the Acts mentioned in it.

## **PART 2—AMENDMENT OF CHILDRENS COURT ACT 1992**

### **Act amended in pt 2**

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

### **Amendment of s 3 (Definitions)**

5. Section 3—

*insert—*

‘**“appellate court”**, for an order made by the Childrens Court, means—

- (a) if the order was made by the Childrens Court constituted by a Childrens Court judge—the Court of Appeal; or
- (b) if the order was made by the Childrens Court constituted by a

Childrens Court magistrate, a stipendiary magistrate or justices—the Childrens Court constituted by a Childrens Court judge.’.

### **Insertion of new pt 4A**

**6.** After part 4—

*insert—*

## **‘PART 4A—APPEALS**

### **‘Application of pt 4A**

**‘21A.** This part applies to appeals from orders of the Childrens Court made under the *Children’s Services Act 1965*, parts 6 and 7.<sup>1</sup>

### **‘Who may appeal**

**‘21B.** The following persons may appeal to the appellate court against an order for a child—

- (a) if the child is 12 or over—the child;
- (b) if the child is under 12—a separate legal representative for the child;
- (c) another party to the proceeding.

### **‘How to start an appeal**

**‘21C.(1)** An appeal is started by filing a written notice of appeal with the registrar of the appellate court.

**‘(2)** The registrar must give the decision-maker a copy of the notice.

**‘(3)** The appellant must serve a copy of the notice on each other party to the proceeding.

**‘(4)** The notice of appeal must be filed within 28 days after the decision

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<sup>1</sup> Part 6 (Children in need of care and protection); part 7 (Children in need of care and control)

is made.

‘(5) The court may at any time extend the period for filing the notice of appeal.

‘(6) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

### **‘Stay of operation of decisions**

‘21D.(1) The appellate court may stay a decision appealed against to secure the effectiveness of the appeal.

‘(2) A stay—

- (a) may be given on the reasonable conditions the court considers appropriate; and
- (b) operates for the period fixed by the court; and
- (c) may be revoked or amended by the court.

‘(3) However, the period of a stay must not extend past the time when the court decides the appeal.

‘(4) An appeal against a decision affects the decision, or carrying out of the decision, only if the decision is stayed.

### **‘Hearing procedures**

‘21E.(1) An appeal must be decided on the evidence and proceedings before the Childrens Court.

‘(2) However, if the appellate court is the Childrens Court constituted by a judge, it may order that the appeal be heard afresh, in whole or part.

### **‘Powers of appellate court**

‘21F. In deciding an appeal, the appellate court may—

- (a) confirm the decision appealed against; or
- (b) vary the decision appealed against; or
- (c) set aside the decision and substitute another decision.’.

**Insertion of new s 30**

7. After section 29—

*insert—*

**‘Transitional provision for Courts Reform Amendment Act 1997**

**‘30.(1)** This section applies if, before the commencement of the *Courts Reform Amendment Act 1997*, section 9<sup>2</sup>—

- (a) a person aggrieved by an order of the Childrens Court under the *Children’s Services Act 1965*, part 6 or 7,<sup>3</sup> started an appeal under the *Children’s Services Act 1965*, section 52A or 68A,<sup>4</sup> as in force immediately before the commencement; and
- (b) the appeal has not been finally decided.

**‘(2)** The appeal may be dealt with as if the *Courts Reform Amendment Act 1997*, sections 6 and 62<sup>5</sup> had not been enacted.

**‘(3)** This section expires 2 years after it commences.’.

## **PART 3—AMENDMENT OF CHILDREN’S SERVICES ACT 1965**

**Act amended in pt 3**

8. This part amends the *Children’s Services Act 1965*.

<sup>2</sup> Section 9 (Amendment of s 52A (Appeals))

<sup>3</sup> Part 6 (Children in need of care and protection)  
Part 7 (Children in need of care and control)

<sup>4</sup> Section 52A (Appeals) or 68A (Appeals)

<sup>5</sup> Sections 6 (Insertion of new pt 4A) and 62 (Amendment of s 222 (Appeal to a single judge))

**Amendment of s 52A (Appeals)**

**9.(1)** Section 52A(1), ‘to the Court of Appeal’—

*omit, insert—*

‘under the *Childrens Court Act 1992*, part 4A’.

**(2)** Section 52A(2)—

*omit.*

**Amendment of s 68A (Appeals)**

**10.(1)** Section 68A(1), ‘to the Court of Appeal’—

*omit, insert—*

‘under the *Childrens Court Act 1992*, part 4A’.

**(2)** Section 68A(2)—

*omit.*

**Amendment of s 101 (Removal of proceeding into Supreme Court)**

**11.(1)** Section 101(4), ‘division 2’—

*omit, insert—*

‘division 1’.

**(2)** Section 101(4)(a), from ‘as if’—

*omit, insert—*

‘as if paragraphs (d) and (e) were omitted; and’.

**PART 4—AMENDMENT OF CRIMINAL CODE****Code amended in pt 4**

**12.** This part amends the Criminal Code.



**Amendment of s 669A (Appeal by Attorney-General)**

**13.(1)** Section 669A(6)—

*renumber* as section 669A(7).

**(2)** After section 669A(5)—

*insert*—

‘**(6)** If a person convicted summarily of an indictable offence appeals to a District Court judge under the *Justices Act 1886*, section 222<sup>6</sup> and, in relation to the same conviction, the Attorney-General appeals under this section—

- (a) the convicted person’s appeal is, by force of this section, removed to the Court of Appeal; and
- (b) both appeals must be heard together by the Court of Appeal.’

**Omission of s 673 (Appeals from summary convictions)**

**14.** Section 673—

*omit.*

**Insertion of new s 708**

**15.** After section 707—

*insert*—

**‘Transitional—provision for Courts Reform Amendment Act 1997**

‘**708.(1)** This section applies if, before the commencement of the *Courts Reform Amendment Act 1997*, section 14<sup>7</sup>—

- (a) a person convicted summarily of an indictable offence started an appeal under section 673 as in force immediately before the commencement; and
- (b) the appeal has not been finally decided.

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<sup>6</sup> Section 222 (Appeal to a single judge)

<sup>7</sup> Section 14 (Omission of s 673 (Appeals from summary convictions))

‘(2) The appeal may be dealt with as if the *Courts Reform Amendment Act 1997*, section 14 had not been enacted.

‘(3) This section expires 2 years after it commences.’

## **PART 5—DISPUTE RESOLUTION CENTRES ACT 1990**

### **Act amended in pt 5**

**16.** This part amends the *Dispute Resolution Centres Act 1990*.

### **Amendment of s 2 (Interpretation)**

**17.** Section 2(1)—

*insert—*

‘**“agency”** means a department or local government, and includes part of an agency.

**“referring order”** means an order referring a dispute for mediation made by—

- (a) the Supreme Court under the *Supreme Court of Queensland Act 1991*, section 102; or
- (b) a District Court under the *District Courts Act 1967*, section 97; or
- (c) a Magistrates Court under the *Magistrates Courts Act 1921*, section 29.<sup>8</sup>.

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<sup>8</sup> *Supreme Court of Queensland Act 1991*, section 102 (Court may consider and order reference to ADR process); *District Courts Act 1967*, section 97 (Court may consider and order reference to ADR process); *Magistrates Courts Act 1921*, section 29 (Court may consider and order reference to ADR process)

**Amendment of s 3 (Establishment of council)**

**18.** Section 3, from ‘Council having functions’—

*omit, insert—*

‘Council.

‘(2) The principal function of the council is to provide advice to the Minister on the operation of this Act, dispute resolution generally and the provision of mediation services under this Act, other than mediation services provided because of a referring order.’.

**Omission of s 4 (Council must have regard to finances)**

**19.** Section 4—

*omit.*

**Replacement of s 6 (Membership)**

**20.** Section 6—

*omit, insert—*

**‘Membership**

‘**6.(1)** The council consists of at least 4 members appointed by the Minister who the Minister considers have an appropriate level of knowledge of, and experience in, dispute resolution processes or related areas.

‘(2) The Minister may seek nominations for council membership in any way the Minister considers appropriate.’.

**Amendment of s 8 (Term of office)**

**21.(1)** Section 8, ‘An appointed member of the council’—

*omit, insert—*

‘A member of the council’.

**(2)** Section 8, ‘but if otherwise qualified is eligible for reappointment’—

*omit.*

**Amendment of s 10 (Vacation of office)**

**22.(1)** Section 10(1) and (3), ‘an appointed member’—

*omit, insert—*

‘a member’.

**(2)** Section 10(2), ‘appointed’—

*omit.*

**Amendment of s 11 (Meetings of the council)**

**23.(1)** Section 11—

*insert—*

‘**(2A)** A quorum of the council is half the number of members of which the council for the time being consists or, if that number is not a whole number, the next greater whole number.’.

**(2)** Section 11(3), ‘Five members form a quorum at any meeting of the council and any’—

*omit, insert—*

‘Any’.

**(3)** Section 11(2A) to (5)—

*renumber* as section 11(3) to (6).

**Amendment of s 18 (Directors)**

**24.** Section 18(2)—

*omit.*

**Amendment of s 19 (Mediators)**

**25.** Section 19, ‘The Minister’ to ‘the centre’—

*omit, insert—*

‘The chief executive may accredit a person, other than a director, as a mediator for a dispute resolution centre’.

**Amendment of s 23 (Premises of dispute resolution centres)**

**26.** Section 23, ‘order in council’—

*omit, insert—*

‘gazette notice’.

**Amendment of s 24 (Place of operation of dispute resolution centres)**

**27.(1)** Section 24(1), ‘order in council’—

*omit, insert—*

‘gazette notice’.

**(2)** Section 24(2), ‘, subject to’ to ‘the council,’—

*omit.*

**Omission of s 25 (Records)**

**28.** Section 25—

*omit.*

**Amendment of s 27 (Use of certain words)**

**29.** Section 27(1)(b), ‘council’—

*omit, insert—*

‘Minister’.

**Insertion of new s 27A**

**30.** Part 4, before section 28—

*insert—*

**‘Application**

**‘27A.(1)** This part, other than the prescribed sections, does not apply in relation to a dispute that is the subject of a referring order.

**‘(2)** To remove any doubt, it is declared that the Act that applies to the

mediation of a dispute that is the subject of a referring order is the Act under which the referring order is made.

‘(3) In this section—

“prescribed sections” means—

- this section
- section 28(1), (2), (3) and (4).’

### **Amendment of s 28 (Provision of mediation services)**

**31.(1)** Section 28(1), ‘, subject to’ to ‘the council,’—

*omit.*

**(2)** Section 28(1), after ‘mediation services’—

*insert—*

‘, including mediation services necessary to give effect to a referring order.’

**(3)** Section 28—

*insert—*

‘**(2A)** If, under a referring order, the director of a dispute resolution centre is appointed as mediator of the dispute referred for mediation, the director may assign 1 or more appropriately qualified mediators to conduct the mediation.

‘**(2B)** A mediator assigned by the director under subsection (3) is taken to be the mediator appointed for the dispute under the referring order.’

**(4)** Section 28(2A) to (3)—

*renumber* as section 28(3) to (5).

### **Amendment of s 29 (Conduct of mediation sessions)**

**32.** Section 29(1), ‘, subject to’ to ‘the council,’—

*omit.*

**Amendment of s 30 (Disputes)**

**33.** Section 30(1), ‘council may determine’—

*omit, insert—*

‘director of a dispute resolution centre may decide, for the centre,’.

**Amendment of s 31 (Mediation to be voluntary)**

**34.** Section 31(3), after ‘body’—

*insert—*

‘, unless the parties agree in writing that the agreement is to be enforceable’.

**Omission of s 34 (Evaluations)**

**35.** Section 34—

*omit.*

**Amendment of s 36 (Privilege)**

**36.** Section 36—

*insert—*

‘(7) This section does not apply in relation to a dispute that is the subject of a referring order.

‘(8) To remove any doubt, it is declared that the Act that applies to the mediation of a dispute that is the subject of a referring order is the Act under which the referring order is made.’.

**Amendment of s 37 (Secrecy)**

**37.** Section 37—

*insert—*

‘(4) Despite subsections (2) and (3) a director may, if the director considers it is appropriate in the circumstances, disclose to an agency or court—

- (a) the fact that a dispute resolution process has taken place; and
- (b) whether an agreement was reached as a result of that process.

‘(5) Before a director may make the disclosure mentioned in subsection (4), the director must—

- (a) tell the parties of his or her intention to make the disclosure; and
- (b) allow the parties a reasonable time, not less than 5 days, to make written representations to the director about the disclosure; and
- (c) have regard to the representations.

‘(6) Subsection (4) does not permit the disclosure of the content of the agreement reached by the parties without the consent of the parties.

‘(7) This section, other than subsection (1), does not apply in relation to a dispute that is the subject of a referring order.

‘(8) To remove any doubt, it is declared that the Act that applies to the disclosure of information about a dispute that is the subject of a referring order is the Act under which the referring order is made.’

### **Insertion of new s 42**

**38.** After section 41—

*insert—*

#### **‘Transitional provision for Courts Reform Amendment Act 1997**

‘**42.(1)** A person who immediately before the commencement of the *Courts Reform Amendment Act 1997*, section 25<sup>9</sup> was accredited as a mediator for this Act continues after the commencement to be accredited for this Act.

‘(2) This section expires 3 months after it commences.’

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<sup>9</sup> Section 25 (Amendment of s 19 (Mediators))



## PART 6—AMENDMENT OF DISTRICT COURTS ACT 1967

### Act amended in pt 6

39. This part amends the *District Courts Act 1967*.

### Amendment of s 3 (Definitions)

40.(1) Section 3—

*insert—*

‘**“approval”**, of a person as a mediator or case appraiser, means—

- (a) in the case of a mediator—approval under section 93;<sup>10</sup> or
- (b) in the case of a case appraiser—approval under section 94.<sup>11</sup>

**“precincts”**, of a District Court, means any land or building, or the part of any land or building, used for the purposes of the court.’.

(2) Section 3, definition **“mediator”**, after ‘section 93’—

*insert—*

‘or a mediator within the meaning of the *Dispute Resolution Centres Act 1990*’.

### Insertion of new pt 2, div 2A

41. After section 28—

*insert—*

*‘Division 2A—Powers and responsibilities of Chief Judge*

### ‘Arrangement of business

‘28A.(1) The Chief Judge is responsible for the administration of District

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<sup>10</sup> Section 93 (Approval of mediators)

<sup>11</sup> Section 94 (Approval of case appraisers)

Courts and for ensuring the orderly and expeditious exercise of the jurisdiction and powers of District Courts.

‘(2) Subject to any Act, the Chief Judge has power to do all things necessary or convenient to be done for the administration of District Courts and for ensuring the orderly and expeditious exercise of the jurisdiction and powers of District Courts.’.

#### **Omission of s 49 (Bailiff to give security)**

42. Section 49—

*omit.*

#### **Amendment of s 68 (District Courts’ civil jurisdiction)**

43. Section 68(2), definition “**monetary limit**”, ‘\$200 000’—

*omit, insert—*

‘\$250 000’.

#### **Amendment of s 95 (ADR register)**

44. Section 95—

*insert—*

‘(5) However, subsection (4) does not require the registrar to enter in the register the name and address of, and the other information about, a mediator under the *Dispute Resolution Centres Act 1990*.’.

#### **Amendment of s 97 (Court may consider and order reference to ADR process)**

45. Section 97—

*insert—*

‘(4) If the court decides to refer the dispute to a mediator under the *Dispute Resolution Centres Act 1990*, it is sufficient if the order appoints the director of a specified dispute resolution centre as mediator.’.

**Amendment of s 110C (Use of video link facilities in proceedings)**

**46.(1)** Section 110C(1)(b)—

*omit, insert—*

‘(b) the proceeding is—

- (i) about an offence with which the detainee is charged, including a proceeding for the detainee’s bail or remand; or
- (ii) an appeal under the *Justices Act 1886*, section 222<sup>12</sup> in relation to an offence of which the detainee has been convicted (“**appeal proceeding**”); and’.

**(2)** Section 110C(2) and (3), after ‘remand’—

*insert—*

‘or an appeal proceeding’.

**Replacement of s 118 (Appeal to the Court of Appeal in certain cases)**

**47.** Section 118—

*omit, insert—*

**‘Appeal to the Court of Appeal in certain cases**

‘**118.(1)** This section does not apply to an appeal from a judgment of a District Court exercising criminal jurisdiction, other than an appeal brought before a District Court under the *Justices Act 1886*, section 222.<sup>13</sup>

‘**(2)** A party who is dissatisfied with a final judgment of a District Court in its original jurisdiction may appeal to the Court of Appeal if the judgment—

(a) is given—

- (i) for an amount equal to or more than the Magistrates Courts jurisdictional limit; or
- (ii) in relation to a matter at issue with a value equal to or more than the Magistrates Courts jurisdictional limit; or

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<sup>12</sup> Section 222 (Appeal to a single judge)

<sup>13</sup> Section 222 (Appeal to a single judge)

- (b) involves directly or indirectly any claim, demand or question in relation to any property or right with a value equal to or more than the Magistrates Courts jurisdictional limit.

‘(3) A party who is dissatisfied with any other judgment of a District Court, whether in the court’s original or appellate jurisdiction, may appeal to the Court of Appeal with the leave of that court.

‘(4) In deciding whether there is a right of appeal under this section, the Court of Appeal may—

- (a) inform itself in any way it considers appropriate, including by reference to the appeal record; and
- (b) decide the question summarily without hearing evidence.

‘(5) If it is reasonably arguable that a right of appeal under this section exists, the Court of Appeal may treat that circumstance as a ground for granting leave to appeal.

‘(6) If the Court of Appeal grants leave under subsection (3), it may grant it on the conditions it considers appropriate.

‘(7) A single judge of the Court of Appeal may—

- (a) grant (with or without condition) or refuse leave mentioned in subsection (3); or
- (b) make the decision mentioned in subsection (4)(b).

‘(8) The *Supreme Court Act 1995*, section 254,<sup>14</sup> does not apply to an order of a single judge of the Court of Appeal under this section.

‘(9) An appeal from a District Court in its original jurisdiction is by way of rehearing.

‘(10) In this section—

“**final judgment**”, of a District Court, includes a judgment that grants leave to enter a judgment mentioned in subsection (2).

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<sup>14</sup> Section 254 (As to appeals from orders made by single judge)

**“Magistrates Courts jurisdictional limit”** means the amount of the jurisdictional limit of Magistrates Courts for personal actions stated in the *Magistrates Courts Act 1921*, section 4(a).<sup>15</sup>.

### **Insertion of new s 130A**

**48.** After section 130—

*insert—*

#### **‘Annual report**

**‘130A.(1)** As soon as practicable after the end of each financial year, but within 4 months after the end of the financial year, the Chief Judge must prepare and give to the Minister a written report about the operation of District Courts during the year.

**‘(2)** The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.’.

### **Amendment of s 131 (Regulation making power)**

**49.** Section 131—

*insert—*

**‘(2)** A regulation may make provision for the control and management of the precincts of District Courts.’.

### **Insertion of new s 138**

**50.** After section 137—

*insert—*

#### **‘Transitional—provision for Courts Reform Amendment Act 1997**

**‘138.(1)** This section applies if, before the commencement of the *Courts Reform Amendment Act 1997*, section 47<sup>16</sup>—

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<sup>15</sup> Section 4 (Jurisdiction of Magistrates Courts)

<sup>16</sup> Section 47 (Replacement of s 118 (Appeal to the Court of Appeal in certain cases))

- (a) a party dissatisfied with a judgment of a District Court started an appeal, or applied for leave to appeal, under section 118 as in force immediately before the commencement; and
- (b) the appeal or application has not been finally decided.

‘(2) The appeal or application, and any appeal allowed on the application, may be dealt with as if the *Courts Reform Amendment Act 1997*, section 47 had not been enacted.

‘(3) This section expires 2 years after it commences.’

## **PART 7—AMENDMENT OF JUDGES (SALARIES AND ALLOWANCES) ACT 1967**

### **Act amended in pt 7**

**51.** This part amends the *Judges (Salaries and Allowances) Act 1967*.

### **Amendment of s 2 (Salary and allowances of Supreme Court judges)**

**52.** Section 2, ‘, senior judges’—

*omit.*

### **Amendment of s 12 (Inquiry and report on judicial salaries and allowances)**

**53.** Section 12(1)(a), ‘, senior judges’—

*omit.*

## **PART 8—AMENDMENT OF JUDICIAL REVIEW ACT 1991**

### **Act amended in pt 8**

**54.** This part amends the *Judicial Review Act 1991*.

### **Amendment of sch 1**

**55.(1)** Schedule 1, part 1, items 1 to 7—

*omit, insert—*

- 1.** *Casino Control Act 1982*, sections 28(3), 31(23), 32(7), 38(3) and 44(4)
- 2.** *District Courts Act 1967*, section 28
- 3.** *Family Security Friendly Society (Distribution of Moneys) Act 1991*, section 25
- 4.** *Magistrates Courts Act 1921*, sections 43, 48(1) and 50
- 5.** *Queensland Building Services Authority Act 1991*, section 100
- 6.** *Retail Shop Leases Act 1994*, section 88
- 7.** *Small Claims Tribunals Act 1973*, section 19
- 8.** *Workplace Relations Act 1997*, sections 259 and 353.’.

**(2)** Schedule 1, part 2, items 1 to 3—

*omit, insert—*

- 1.** *District Courts Act 1967*, sections 93, 94 and 110(1)
- 2.** *Justices Act 1886*, section 225
- 3.** *Magistrates Courts Act 1921*, sections 25, 26 and 42(1)
- 4.** *Supreme Court of Queensland Act 1991*, sections 98, 99 and 115(1).’.

## PART 9—AMENDMENT OF JUSTICES ACT 1886

### Act amended in pt 9

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

### Amendment of s 23 (Vacancy in office of clerk of court etc.)

57.(1) Section 23—

*insert—*

‘(3A) If, in relation to a place appointed for holding a Magistrates Court—

- (a) the person appointed as clerk of the court for the place is a police officer; and
- (b) there is no magistrate available at the place to discharge the duties of the clerk of the court during the clerk’s absence from the place;

a magistrate may require another appropriately qualified police officer to perform, or assist in performing, the duties or a specified part of the duties during the clerk’s absence.’.

(2) Section 23(4), after ‘subsection (3)’—

*insert—*

‘or (3A)’.

### Omission of ss 23F and 23G

58. Sections 23F and 23G—

*omit.*

### Amendment of s 158A (Exercise of discretion in relation to an award of costs)

59. Section 158A(5)—

*omit, insert—*



‘(5) If an appeal against an order for costs is made under section 222—

- (a) payment of the amount shown in the certificate is stayed until the appeal is decided; and
- (b) payment is to be made of the amount (if any) ordered or confirmed by further order made on the appeal.’

### **Insertion of new s 158B**

**60.** After section 158A—

*insert—*

#### **‘Costs for division**

**‘158B.(1)** In deciding the costs that are just and reasonable for this division, the justices may award costs only—

- (a) for an item allowed for this division under a scale of costs prescribed under a regulation; and
- (b) up to the amount allowed for the item under the scale.

‘(2) However, the justices may allow a higher amount for costs if the justices are satisfied that the higher amount is just and reasonable having regard to the special difficulty, complexity or importance of the case.’

### **Amendment of pt 9 (Appeals from the decisions of justices)**

**61.(1)** Part 9, division 1—

*omit.*

**(2)** Part 9, divisions 2 and 3—

*renumber* as part 9, divisions 1 and 2.

### **Amendment of s 222 (Appeal to a single judge)**

**62.(1)** Section 222(1), from ‘judge of District Courts’—

*omit, insert—*

‘District Court judge.<sup>17</sup>’.

(2) Section 222(1A)—

*omit, insert—*

‘(1A) However, if the order the subject of the proposed appeal is an order of justices dealing summarily with an indictable offence, a complainant aggrieved by the decision may appeal under this section only against sentence or an order for costs.’.

(3) Section 222(2)(a)(i), ‘28 days’ to ‘as the case may be,’—

*omit, insert—*

‘1 calendar month after the decision’.

(4) Section 222(2)(d), ‘if the appellant is in custody’—

*omit, insert—*

‘subject to subsection (2D), if the appellant is in custody under the order appealed against’.

(5) Section 222(2)(e)—

*omit.*

(6) Section 222(2)(f)—

*renumber* as section 222(2)(e).

(7) Section 222—

*insert—*

‘(2C) For subsection (2)(a)(i) or (2)(c), if the appellant is a person aggrieved as defendant, it is sufficient if the appellant or the registrar, as the case requires, gives the notice to—

- (a) if the complainant was a police officer—the commissioner of the police service; or
- (b) if the complainant was an officer of a department of

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<sup>17</sup> Under the Criminal Code, s 669A(6), an appeal against a decision by a defendant under this section to a District Court is removed directly to the Court of Appeal if the Attorney-General also appeals against the decision under s 669A.

government—the chief executive of the department.

‘(2D) Subsection (2)(d) does not apply if the appellant is in custody on summary conviction by justices for an indictable offence.<sup>18</sup>’.

### **Replacement of s 223 (Appeal to be on original materials unless rehearing ordered or agreed to)**

**63.** Section 223—

*omit, insert—*

#### **‘Appeal generally a rehearing on the evidence**

‘**223.(1)** An appeal under section 222 is by way of rehearing on the evidence (“**original evidence**”) given in the proceeding before the justices.

‘(2) However, a District Court may give leave to adduce fresh, additional or substituted evidence (“**new evidence**”) if the court is satisfied there are special grounds for giving leave.

‘(3) If the court gives leave under subsection (2), the appeal is—

- (a) by way of rehearing on the original evidence; and
- (b) on the new evidence adduced.’.

### **Insertion of new s 224A**

**64.** After section 224—

*insert—*

#### **‘Right of appellant to be present**

‘**224A.(1)** An appellant is entitled to be present on the hearing of the appellant’s appeal, unless it is on a ground involving a question of law alone.

‘(2) Subsection (1) applies even if the appellant is in custody.

‘(3) On an appeal, or application for leave to appeal, on a ground involving a question of law alone, and on any proceeding preliminary or

<sup>18</sup> A person seeking release from custody in these circumstances must apply for release under the *Bail Act 1980*.

incidental to an appeal, the appellant is entitled to be present only with the leave of a District Court.

‘(4) The power of a District Court to pass any sentence may be exercised even though the appellant is not present.’.

### **Amendment of s 232 (Costs of appeal)**

**65.** Section 232—

*insert—*

‘(4) No order as to costs may be made on—

- (a) the hearing or determination of an appeal in relation to an indictable offence that was dealt with summarily by justices; or
- (b) any proceeding preliminary or incidental to an appeal mentioned in paragraph (a).’.

### **Insertion of new s 232A**

**66.** Part 9, division 1 (as renumbered), after section 232—

*insert—*

#### **‘Costs for division**

‘**232A.(1)** In deciding the costs that are just for this division, the judge may award costs only—

- (a) for an item allowed for this division under a scale of costs prescribed under a regulation; and
- (b) up to the amount allowed for the item under the scale.

‘(2) However, the judge may allow a higher amount for costs if the judge is satisfied that the higher amount is just having regard to the special difficulty, complexity or importance of the appeal.’.

**Amendment of pt 11 (Savings and transitional)**

**67.** Part 11, heading—

*omit, insert—*

**‘PART 11—VALIDATIONS, SAVINGS AND  
TRANSITIONAL’.**

**Insertion of new ss 273–275**

**68.** After section 272—

*insert—*

**‘Transitional—provision for Courts Reform Amendment Act 1997**

**‘273.(1)** This section applies if, immediately before the commencement of the *Courts Reform Amendment Act 1997*, section 61(1)<sup>19</sup>—

- (a) an application for an order to review under section 209 was made but not decided; or
- (b) an order for review under section 209 was granted but not finally dealt with.

**‘(2)** The application, and any order to review made on the application, mentioned in subsection (1)(a) or an order to review mentioned in subsection (1)(b) may be dealt with as if part 9, division 1 had not been repealed by the *Courts Reform Amendment Act 1997*, section 61(1).

**‘(3)** This section expires 2 years after it commences.

**‘Validation—acting clerks of the court**

**‘274.(1)** This section applies to the performance of a function or the exercise of a power or jurisdiction on or after 1 January 1990 that, under this Act or another Act or law, may be performed or exercised only by a clerk of the court.

**‘(2)** The performance of the function or the exercise of the power or jurisdiction by a person under the authority of an administrative or other

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<sup>19</sup> Section 61 (Amendment of pt 9 (Appeals from the decisions of justices))

arrangement of the State or a department of the State to perform the functions and exercise the powers and jurisdiction of a clerk of the court, is taken to be as validly performed or exercised as it would have been if the person had been appointed a clerk of the court under section 22C<sup>20</sup> to the place where the function was performed or the power or jurisdiction was exercised.

‘(3) This section expires the day after it commences.

**‘Validation—clerks of the court, metropolitan district**

‘275.(1) This section applies to the following—

- (a) the performance of a function or the exercise of a power or jurisdiction on or after the relevant day that, under this Act or another Act or law, may be performed or exercised only by a clerk of the court at a place within the metropolitan district;
- (b) the continuation of the appointment of a person who, immediately before the relevant day, held office as a clerk of the court at a place within the metropolitan district as a clerk of the court for the place;
- (c) any purported appointment by the Governor in Council, on or after the relevant day, of a person to the office of clerk of the court at a place within the metropolitan district.

‘(2) For subsection (1)(a) and to remove any doubt, it is declared that the performance of the function or the exercise of the power or jurisdiction by a person under the authority of a purported appointment as a clerk of the court at a place within the metropolitan district is taken to be as validly performed or exercised as it would have been if it had been performed or exercised by a validly appointed clerk of the court for the place.

‘(3) Subsection (2) has effect only for the performance of functions and the exercise of powers and jurisdiction by the person during the period the person purportedly held the office of clerk of the court at the place.

‘(4) For subsection (1)(b) and to remove any doubt, it is declared that a person who, immediately before the relevant day, held office as a clerk of

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<sup>20</sup> Section 22C (Appointment of clerks of the court)

the court at a place within the metropolitan district is taken to have continued to hold office as a clerk of the court for the place after the relevant day despite the amendments of the *Decentralisation of Magistrates Courts Act 1965* made by the *Justice Legislation (Miscellaneous Provisions) Act 1992*.

‘(5) For subsection (1)(c) and to remove any doubt, it is declared that a purported appointment by the Governor in Council, on or after the relevant day, of a person as a clerk of the court at a place within the metropolitan district is taken to be, and to always have been, valid.

‘(6) This section does not limit section 274.

‘(7) In this section—

“**purported appointment**” means a purported appointment made—

- (a) by the Governor in Council; or
- (b) under an administrative or other arrangement of the State or a department of the State.

“**relevant day**” means 14 August 1992.

‘(8) This section expires the day after it commences.’.

## PART 10—AMENDMENT OF LAW REFORM COMMISSION ACT 1968

### Act amended in pt 10

**69.** This part amends the *Law Reform Commission Act 1968*.

### Amendment of s 10 (Functions and duties of Commission)

**70.(1)** Section 10(2) to (5)—

*renumber* as section 10(3) to (6).

**(2)** After section 10(1)—

*insert*—

‘(2) To remove any doubt, it is declared that the law applicable to the

State includes both substantive law and procedural law, including, for example, court rules.’.

## **PART 11—AMENDMENT OF MAGISTRATES COURTS ACT 1921**

### **Act amended in pt 11**

**71.** This part amends the *Magistrates Courts Act 1921*.

### **Amendment of s 2 (Definitions)**

**72.(1)** Section 2—

*insert—*

‘**“approval”**, of a person as a mediator or case appraiser, means—

- (a) in the case of a mediator—approval under section 25;<sup>21</sup> or
- (b) in the case of a case appraiser—approval under section 26.<sup>22</sup>’.

**(2)** Section 2, definition **“mediator”**, after ‘section 25’—

*insert—*

‘or a mediator within the meaning of the *Dispute Resolution Centres Act 1990*’.

### **Amendment of ss 4–6**

**73.** Sections 4, 5 and 6, ‘\$40 000’—

*omit, insert—*

‘\$50 000’.

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<sup>21</sup> Section 25 (Approval of mediators)

<sup>22</sup> Section 26 (Approval of case appraisers)



**Amendment of s 27 (ADR register)**

74. Section 27—

*insert—*

‘(5) However, subsection (4) does not require the registrar to enter in the register the name and address of, and the other information about, a mediator under the *Dispute Resolution Centres Act 1990*.’.

**Amendment of s 29 (Court may consider and order reference to ADR process)**

75. Section 29—

*insert—*

‘(4) If the court decides to refer the dispute to a mediator under the *Dispute Resolution Centres Act 1990*, it is sufficient if the order appoints the director of a specified dispute resolution centre as mediator.’.

**Amendment of pt 9 (Transitional and savings)**

76. Part 9, heading—

*omit, insert—*

**‘PART 9—VALIDATIONS, SAVINGS AND  
TRANSITIONAL’.**

**Insertion of new s 61**

77. After section 60—

*insert—*

**‘Validation—exercise of registrar’s duties by deputy registrars at certain places**

‘**61.(1)** This section applies if the powers and authorities and jurisdiction conferred and the duties imposed on the registrar (“**registrar’s official duties**”) by the *Magistrates Courts Rules 1960* have been exercised or performed by a deputy registrar at a place outside Brisbane that has not been appointed by the Minister under the *Magistrates Courts Rules 1960*,

section 301(1).

‘(2) The exercise or performance, before the commencement of this section, of the registrar’s official duties by a deputy registrar at the place is taken to have been as validly exercised or performed by the deputy registrar as it would be if the place had been appointed by the Minister under the *Magistrates Courts Rules 1960*, section 301(1).

‘(3) This section expires the day after it commences.

### ‘Validation—acting deputy registrars

‘**62.(1)** This section applies to the performance of a function or the exercise of a power or jurisdiction on or after 1 January 1990 that, under this Act or another Act or law, may be performed or exercised by a deputy registrar.

‘(2) The performance of the function or the exercise of the power or jurisdiction by a person under the authority of an administrative or other arrangement of the State or a department of the State to perform the functions and exercise the powers and jurisdiction of a deputy registrar, is taken to have been as validly performed or exercised as it would have been if the person had been appointed a deputy registrar under the *Magistrates Courts Rules 1960*, section 301.<sup>23</sup>

‘(3) This section expires the day after it commences.’.

## **PART 12—AMENDMENT OF SUPREME COURT ACT 1995**

### **Act amended in pt 12**

**78.** This part amends the *Supreme Court Act 1995*.

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<sup>23</sup> Section 301 (Deputy registrar)

**Omission of s 215 (Sheriff's recognisances)**

**79.** Section 215—

*omit.*

**Amendment of s 232 (Governor may appoint high bailiffs or bailiffs when necessary)**

**80.** Section 232, from 'and every person'—

*omit.*

**Amendment of s 238 (Duties and status of northern sheriff defined)**

**81.(1)** Section 238, heading—

*omit, insert—*

**'Jurisdiction and accountability of sheriff'.**

**(2)** Section 238(2), (3) and (4)—

*omit.*

**(3)** Section 238(5), 'northern sheriff'—

*omit, insert—*

'central, northern or far northern sheriff'.

**(4)** Section 238(5)—

*renumber* as subsection (2).

**Amendment of s 266 (Definitions for pt 16)**

**82.(1)** Section 266, definitions "central district", "northern district", "the Central Court" and "the Northern Court"—

*omit.*

**(2)** Section 266—

*insert—*

' "Central Court" means the court as held within the central district as provided by this part.

**“Far Northern Court”** means the court as held within the far northern district as provided by this part.

**“Northern Court”** means the court as held within the northern district as provided by this part.’.

### **Insertion of new s 266A**

**83.** After section 266—

*insert—*

#### **‘Central, northern and far northern districts**

**‘266A.(1)** The central district of the Supreme Court is the part of the State comprised within the boundaries described in schedule 1.

**‘(2)** The northern district of the Supreme Court is the part of the State comprised within the boundaries described in schedule 2.

**‘(3)** The far northern district of the Supreme Court is the part of the State comprised within the boundaries described in schedule 3.<sup>24</sup>’.

### **Amendment of s 267 (Sittings in central and northern districts)**

**84.(1)** Section 267, heading—

*omit, insert—*

#### **‘Sittings in central, northern and far northern districts’.**

**(2)** Section 267(1), ‘central district and northern district respectively’—

*omit, insert—*

‘central district, northern district and far northern district’.

**(3)** Section 267(2), ‘Central Court and the Northern Court’—

*omit, insert—*

‘Central Court, Northern Court and Far Northern Court’.

**(4)** Section 267(2), ‘central district or the northern district’—

<sup>24</sup> There are references to Supreme Court districts in various Acts. See, for example, the *Bills of Sale and Other Instruments Act 1955*.

*omit, insert—*

‘central, northern or far northern district’.

(5) Section 267(2), ‘holden at Rockhampton and Townsville respectively’—

*omit, insert—*

‘held at Rockhampton, Townsville and Cairns respectively’.

### **Amendment of s 268 (Jurisdiction etc. of judges sitting in Central and Northern Courts)**

**85.(1)** Section 268, heading—

*omit, insert—*

**‘Jurisdiction etc. of judges sitting in Central, Northern and Far Northern Courts’.**

(2) Section 268, ‘Central Court and Northern Court’—

*omit, insert—*

‘Central Court, Northern Court and Far Northern Court’.

(3) Section 268, ‘central district and northern district’—

*omit, insert—*

‘central district, northern district and far northern district’.

### **Replacement of s 269 (Central and northern judges)**

**86.** Section 269—

*omit, insert—*

**‘Central, northern and far northern judges**

**‘269.(1)** One of the judges of the court must be called ‘the central judge’, and must be designated as the central judge in the judge’s commission of appointment as a judge.

**‘(2)** One of the judges of the court must be called ‘the northern judge’, and must be designated as the northern judge in the judge’s commission of appointment as a judge.

‘(3) One of the judges of the court must be called ‘the far northern judge’, and must be designated as the far northern judge in the judge’s commission of appointment as a judge.

‘(4) The northern judge or another judge may act as the far northern judge until the appointment of the far northern judge.’.

### **Amendment of s 270 (Transfer of judge)**

**87.** Section 270, from ‘may at any time’—

*omit, insert—*

‘may—

- (a) in the event of a vacancy, appoint—
  - (i) the far northern judge to be the northern judge or the central judge; or
  - (ii) the northern judge to be the central judge or the far northern judge; or
  - (iii) the central judge to be the northern judge or the far northern judge, or
  - (iv) a judge at Brisbane to be the central judge, northern judge or far northern judge; or
- (b) transfer the central judge, the northern judge or the far northern judge to the Supreme Court at Brisbane.’.

### **Omission of s 271 (Central judge and northern judge defined)**

**88.** Section 271—

*omit.*

### **Amendment of s 272 (General jurisdiction of central judge and northern judge)**

**89.(1)** Section 272, heading—

*omit, insert—*

**‘General jurisdiction of central judge, northern judge and far northern judge’.**

(2) Section 272, ‘and by the northern judge within the northern district’—

*omit, insert—*

‘by the northern judge within the northern district, and by the far northern judge within the far northern district’.

**Amendment of s 273 (Officers may be appointed)**

**90.(1)** Section 273(1), ‘Central Court and of the Northern Court’—

*omit, insert—*

‘Central, Northern and Far Northern Courts’.

(2) Section 273(2), ‘central district or the northern district’—

*omit, insert—*

‘central, northern or far northern district’.

(3) Section 273(3)—

*omit, insert—*

(3) The person appointed to perform the duties of sheriff is to be called—

- (a) for the Central Court—the central sheriff; and
- (b) for the Northern Court—the northern sheriff; and
- (c) for the Far Northern Court—the far northern sheriff.’.

**Insertion of new s 273A**

**91.** After section 273—

*insert—*

**‘Duties and status of central, northern and far northern sheriffs**

**‘273A.(1)** The central sheriff, the northern sheriff and the far northern sheriff are deputies of the sheriff of Queensland for the execution of all

writs, summonses, rules, orders, warrants, precepts, commands and processes of the court that are to be executed within their respective districts.

‘(2) A writ, summons, rule, order, warrant, precept, command or process of the court wherever it is to be executed must be directed to the sheriff of Queensland.

‘(3) For the purpose of deciding any question of priority between writs of execution or other process, the office of the sheriff at Brisbane and the offices of the central sheriff, northern sheriff and far northern sheriff are taken to be the same office.’.

#### **Amendment of s 274 (Causes may be transferred)**

92. Section 274, ‘, or in the Central Court, or in the Northern Court’—

*omit, insert—*

‘or in the Central, Northern or Far Northern Court’.

#### **Amendment of s 275 (Construction of Acts in which Brisbane is mentioned)**

93.(1) Section 275, ‘or the word ‘Bowen’ ’—

*omit.*

(2) Section 275, ‘or Bowen’—

*omit.*

(3) Section 275, ‘Central Court or of the Northern Court’—

*omit, insert—*

‘Central, Northern or Far Northern Court’.

(4) Section 275, ‘or the word ‘Townsville’ ’—

*omit, insert—*

‘or ‘Townsville’ or ‘Cairns’ ’.

(5) Section 275, ‘therein respectively’—

*omit.*



**Amendment of s 276 (Process where returnable)**

**94.(1)** Section 276—

*insert—*

‘**(2A)** A writ or other process issued out of the Far Northern Court is returnable in the Far Northern Court.’.

**(2)** Section 276(4)—

*omit.*

**(3)** Section 276(2A) and (3)—

*renumber* as section 276(3) and (4).

**Amendment of s 277 (Performance of duties of registrar within central and northern districts)**

**95.(1)** Section 277, ‘the central district or within the northern district’—

*omit, insert—*

‘the central, northern or far northern district,’.

**(2)** Section 277, ‘Central Court or Northern Court’—

*omit, insert—*

‘Central, Northern or Far Northern Court’.

**Insertion of new s 277A**

**96.** Part 16, after section 277—

*insert—*

**‘Transitional—references to northern district and Northern Court**

‘**277A.(1)** This section applies if, under an Act as in force immediately before the commencement of this section, a thing is required or permitted to be done in the northern district or the Northern Court.

‘**(2)** The thing may be done in the far northern district or Far Northern Court if, having regard to the place where the thing happens or some other relevant factor, it is more appropriate for the thing to be done in the far northern district or Far Northern Court.’.

### Omission of pt 17 (Provisions from Supreme Court Act 1899)

**97.** Part 17—

*omit.*

### Amendment of s 287 (District sittings are Circuit Courts)

**98.(1)** Section 287(3), before ‘northern judge’—

*insert—*

‘far northern judge,’.

**(2)** Section 287(3), before ‘northern district’—

*insert—*

‘far northern district,’.

**(3)** Section 287(5), definition “**sheriff**”, ‘central district or the northern district, means the central sheriff or the northern sheriff’—

*omit, insert—*

‘central district, northern district or the far northern district, means the central sheriff, northern sheriff or the far northern sheriff’.

### Amendment of sch 2

**99.** Schedule 2, at the end—

*insert—*

‘However, after the commencement of the *Courts Reform Amendment Act 1997*, section 82,<sup>25</sup> the northern district does not include any part of the State comprised within the boundaries of the far northern district.’.

### Insertion of new sch 3

**100.** After schedule 2—

*insert—*

<sup>25</sup> Section 82 (Amendment of s 266 (Definitions for pt 16))

**‘SCHEDULE 3****‘FAR NORTHERN DISTRICT**

section 266A

‘The far northern district comprises the part of the State within the boundaries of the Supreme Court district containing Cairns as constituted from time to time under part 19.<sup>26</sup>’.

**PART 13—AMENDMENT OF SUPREME COURT OF QUEENSLAND ACT 1991****Act amended in pt 13**

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

**Amendment of title**

**102.** Title, ‘and the Litigation Reform Commission’—  
*omit.*

**Amendment of s 2 (Definitions)**

**103.(1)** Section 2, definitions “**commission**” and “**precincts**”—  
*omit.*

**(2)** Section 2—  
*insert—*

‘ “**approval**”, of a person as a mediator or case appraiser, means—

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<sup>26</sup> Part 19 (Provisions from Supreme Court Act 1921)

- (a) in the case of a mediator—approval under section 98;<sup>27</sup> or
- (b) in the case of a case appraiser—approval under section 99.<sup>28</sup>

**“Supreme Court precincts”** means any land or building, or the part of any land or building, used for the purposes of the court.’.

(3) Section 2, definition **“mediator”**, after ‘section 98’—

*insert—*

‘or a mediator within the meaning of the *Dispute Resolution Centres Act 1990*’.

(4) Section 2, definition **“rules”**, from ‘, the Trial Division’—

*omit, insert—*

‘and the Trial Division.’.

### **Omission of s 5 (Interpretation—control and management of precincts)**

**104.** Section 5—

*omit.*

### **Omission of s 10 (Existing judges etc.)**

**105.** Section 10—

*omit.*

### **Amendment of s 11 (Composition of court)**

**106.** Section 11, ‘senior judges and’—

*omit.*

<sup>27</sup> Section 98 (Approval of mediators)

<sup>28</sup> Section 99 (Appeal of case appraisers)

**Insertion of new s 13A**

**107.** After section 13—

*insert—*

**‘Administrative responsibility of Chief Justice**

**‘13A.(1)** Without limiting the responsibilities, functions or powers of the Chief Justice, the Chief Justice, subject to this Act, is responsible for the administration of the Supreme Court and its divisions and the orderly and expeditious exercise of the court’s jurisdiction and power.

**‘(2)** Subject to this Act, the Chief Justice has power to do all things necessary or convenient to be done to perform responsibilities under subsection (1).’.

**Amendment of s 14 (Acting judges)**

**108.(1)** Section 14(1), ‘and Senior Judge Administrator’—

*omit.*

**(2)** Section 14(2), ‘If the Senior Judge Administrator, after consultation with the Chief Justice,’—

*omit, insert—*

‘If the Chief Justice’.

**Amendment of s 16 (Divisions of court etc.)**

**109.** Section 16(2), from ‘subject to’—

*omit.*

**Omission of ss 17–20**

**110.** Sections 17 to 20—

*omit.*

**Amendment of s 21 (Seniority)**

**111.(1)** Section 21(6) and (7)—

*omit.*

**(2)** Section 21(10), ‘subsections (8) and (9)’—

*omit, insert—*

‘subsections (6) and (7)’.

**(3)** Section 21(10), ‘or a senior judge’—

*omit.*

**(4)** Section 21(8) to (10), as amended by this Act—

*renumber* as section 21(6) to (8).

**Amendment of s 22 (Accepting and holding of other public offices)**

**112.** Section 22(2)(b), after ‘that office’—

*insert—*

‘, or the conditions on which it is held,’.

**Amendment of s 23 (Retirement of judges)**

**113.** Section 23(3)—

*omit.*

**Omission of s 24 (Leave of absence)**

**114.** Section 24—

*omit.*

**Amendment of s 26 (Temporary judicial office holders)**

**115.(1)** Section 26(3) and (4)—

*omit.*

(2) Section 26(5) to (8)—  
*renumber* as section 26(3) to (6).

### **Amendment of s 30 (Way in which court may be constituted)**

**116.** Section 30(4), ‘made under section 32’—  
*omit.*

### **Amendment of s 32 (Arrangement of business of Court of Appeal)**

**117.(1)** Section 32(1), from ‘The President’ to ‘responsible’—  
*omit, insert—*

‘Subject to section 13A, the President of the Court of Appeal is responsible for the administration of the Court of Appeal and’.

(2) Section 32(2), from ‘and to such consultation’ to ‘practicable’—  
*omit.*

(3) Section 32(2), from ‘, including, for example’—  
*omit.*

(4) Section 32(3), (4) and (5)—  
*omit.*

### **Insertion of new s 32A**

**118.** Part 3, division 1, after section 32—  
*insert—*

#### **‘Annual report**

**‘32A.(1)** As soon as practicable after the end of each financial year, but within 2 months after the end of the financial year, the President of the Court of Appeal must prepare and give to the Chief Justice a written report about the operation of the Court of Appeal during the year.

‘(2) The report must be prepared in consultation with the other judges of appeal, other than the judges of appeal who are absent from duty or otherwise unavailable.’.

### **Amendment of s 34 (Judge of appeal continues to be judge)**

**119.** Section 34, from ‘President’—

*omit, insert—*

‘Chief Justice, sit as, and exercise any of the powers of, a judge in the Trial Division’.

### **Amendment of s 36 (Appointment of President)**

**120.** Section 36—

*insert—*

‘(3) To remove any doubt, it is declared that the Governor in Council may act under section 33 and this section to appoint a judge, or a person qualified to be appointed as a judge, to be the President of the Court of Appeal.’.

### **Omission of s 38 (Holding office as Chief Justice and President)**

**121.** Section 38—

*omit.*

### **Amendment of s 39 (Additional judges of appeal)**

**122.(1)** Section 39(1), ‘and President of the Court of Appeal’—

*omit.*

**(2)** Section 39(2) and (3)—

*omit, insert—*

‘(2) A judge who is willing to act as an additional judge of appeal for a particular period, or for the purposes of a particular proceeding, may so act if the Chief Justice directs it.’.



(3) Section 39(4) to (7)—  
*renumber* as section 39(3) to (6).

### **Amendment of s 43 (Powers of judge of appeal)**

**123.** Section 43(1)(b), ‘made under section 32’—  
*omit, insert*—  
‘about the practices and procedures of the Court of Appeal’.

### **Insertion of new s 44A**

**124.** After section 44—  
*insert*—

### **‘Remuneration of new judges of appeal after Courts Reform Amendment Act 1997**

‘**44A.** Under section 44, the remuneration and conditions of a judge of appeal, other than the President of the Court of Appeal, appointed after the commencement of this section are to be the same as the remuneration and conditions of a judge of the Trial Division.’.

### **Omission of pt 3, div 3 (Management of the Court of Appeal)**

**125.** Part 3, division 3—  
*omit.*

### **Amendment of pt 4, div 2, heading (Senior Judge Administrator, senior judges and other judges)**

**126.** Part 4, division 2, heading, ‘, *senior judges*’—  
*omit.*

### **Amendment of s 57 (Appointment of Senior Judge Administrator)**

**127.(1)** Section 57(1)—

*omit.*

(2) Section 57(2) to (4)—

*renumber* as section 57(1) to (3).

### **Amendment of s 60 (Arrangement of business of Trial Division)**

**128.(1)** Section 60(1), ‘The’—

*omit, insert—*

‘Subject to section 13A, the’.

(2) Section 60(2), ‘and to consultation with the Chief Justice’—

*omit.*

(3) Section 60(2), from ‘, including, for example’—

*omit.*

(4) Section 60(3)—

*omit.*

### **Replacement of ss 61–67**

**129.** Sections 61 to 67—

*omit, insert—*

#### **‘Annual report**

‘**61.(1)** As soon as practicable after the end of each financial year, but within 2 months after the end of the financial year, the Senior Judge Administrator must prepare and give to the Chief Justice a written report about the operation of the Trial Division during the year.

‘(2) The report must be prepared in consultation with the other judges of the Trial Division, other than the judges who are absent from duty or otherwise unavailable.’.

**Amendment of s 68 (Removal and remission)**

**130.(1)** Section 68(1), ‘the Trial Division,’—

*omit, insert—*

‘another court.’

**(2)** Section 68(1)(a) and (d), ‘Trial Division’—

*omit, insert—*

‘other court’.

**(3)** Section 68(2), ‘the Trial Division—’—

*omit, insert—*

‘another court—’.

**(4)** Section 68(2)(b) and (c), ‘Trial Division’—

*omit, insert—*

‘other court’.

**(5)** Section 68(3), ‘the Trial Division’—

*omit, insert—*

‘another court’.

**(6)** Section 68(4), ‘Trial Division’—

*omit, insert—*

‘other court’.

**(7)** Section 68(5), from ‘the Trial Division)’ to ‘the Trial Division’—

*omit, insert—*

‘another court), is started in the other court’.

**(8)** Section 68(7)—

*omit, insert—*

‘(7) In this section—

**“another court”** means the Trial Division or a District Court.’.

**Amendment of s 69 (Appeal in proceedings in the court)**

**131.(1)** Section 69(1)(b)(iii), after ‘Trial Division’—

*insert—*

‘or a District Court’.

**(2)** Section 69(2), ‘made under section 32’—

*omit.*

**Omission of pt 7 (Litigation Reform Commission)**

**132.** Part 7—

*omit.*

**Amendment of s 98 (Approval of mediators)**

**133.** Section 98, ‘in consultation with’—

*omit, insert—*

‘subject to the direction of’.

**Amendment of s 99 (Approval of case appraisers)**

**134.** Section 99, ‘in consultation with’—

*omit, insert—*

‘subject to the direction of’.

**Amendment of s 100 (ADR register)**

**135.(1)** Section 100(4)(c), after ‘Administrator’—

*insert—*

‘and agreed to by the Chief Justice’.

**(2)** Section 100—

*insert—*

‘**(5)** However, subsection (4) does not require the registrar to enter in the

register the name and address of, and the other information about, a mediator under the *Dispute Resolution Centres Act 1990*.’.

**Amendment of s 102 (Court may consider and order reference to ADR process)**

**136.** Section 102—

*insert—*

‘(4) If the court decides to refer the dispute to a mediator under the *Dispute Resolution Centres Act 1990*, it is sufficient if the order appoints the director of a specified dispute resolution centre as mediator.’.

**Amendment of s 115 (Revocation of approval as mediator or case appraiser)**

**137.** Section 115(1), ‘in consultation with’—

*omit, insert—*

‘subject to the direction of’.

**Amendment of s 116C (Use of video link facilities in proceedings)**

**138.(1)** Section 116C(1)(b)—

*omit, insert—*

‘(b) the proceeding is—

- (i) about an offence with which the detainee is charged, including a proceeding for the detainee’s bail or remand; or
- (ii) an appeal under the *District Courts Act 1967*, section 118<sup>29</sup> or the Criminal Code, chapter 67<sup>30</sup> in relation to an offence of which the detainee has been convicted (“**appeal proceeding**”); and’.

---

<sup>29</sup> Section 118 (Appeal to the Court of Appeal in certain cases)

<sup>30</sup> Chapter 67 (Appeal—Pardon)

(2) Section 116C(2) and (3), after ‘remand’—  
*insert—*  
‘or an appeal proceeding’.

### **Amendment of s 117 (Rule making power)**

**139.(1)** Section 117(4)—  
*omit.*

(2) Section 117(5)—  
*renumber* as section 117(4).

### **Insertion of new ss 119A–119C**

**140.** After section 119—  
*insert—*

#### **‘Supreme Court precincts**

‘**119A.** Subject to this Act, the Chief Justice has power to do all things necessary or convenient to be done for the control and management of the Supreme Court precincts, including power to obtain, grant, prohibit or limit access to and from the precincts or part of the precincts.

#### **‘Annual report**

‘**119B.(1)** As soon as practicable after the end of each financial year, but within 4 months after the end of the financial year, the Chief Justice must prepare and give to the Minister a written report about the operation of the Supreme Court during the year.

‘(2) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.

#### **‘Finances and staffing of court**

‘**119C.(1)** The court is part of the department for the purposes of the *Financial Administration and Audit Act 1977*.

‘(2) The staff of the court (other than the judges’ associates) are to be appointed under the *Public Service Act 1996*.’.

### **Insertion of new s 127**

**141.** After section 126—

*insert—*

#### **‘Transitional provisions for Courts Reform Amendment Act 1997**

‘**127.(1)** A rule in force immediately before the commencement of this section that was made under section 32, as in force immediately before the commencement, is taken to be made under section 117.

‘(2) Despite the *Legislative Standards Act 1992*, section 9A, the Parliamentary Counsel and any member of the Office of the Queensland Parliamentary Counsel is to disclose to an officer of the department or the Law Reform Commission instructions from the Litigation Reform Commission for the drafting of court rules not completed at the time of the commission’s abolition to enable the preparation of the rules of court to continue.’.

## **PART 14—AMENDMENT OF CRIMINAL LAW AMENDMENT ACT 1997**

### **Act amended in pt 14**

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

### **Amendment of sch 2 (Other Acts amended)**

**143.(1)** Schedule 2, amendments of *Justices Act 1886*, item 4—

*omit, insert—*

‘**4. Section 147A(1)**—

*omit, insert—*

‘(1) This section does not apply to an error in a sentence, or to an error consisting of a failure to impose a sentence, for which a court may reopen a proceeding under the *Penalties and Sentences Act 1988*, section 188.’.

‘5. Section 147A(5), ‘(1) or’—

*omit.*

‘6. Section 147A(6)—

*omit.*’.

(2) Schedule 2, amendments of *Juvenile Justice Act 1992*, after item 1—

*insert—*

‘2. Section 98(3)—

*omit.*

‘3. Section 98(4)—

*renumber* as section 98(3).

(3) Schedule 2, amendments of *Juvenile Justice Act 1992*, item 2, from

‘2. Section 98’ to ‘98.(1)’—

*omit, insert—*

‘4. After section 98—

*insert—*

‘Court may reopen sentencing proceedings

‘98A.(1)’.



## SCHEDULE

### CONSEQUENTIAL AMENDMENTS

section 3

#### BILLS OF SALE AND OTHER INSTRUMENTS ACT 1955

**1. Section 6(1), definitions “Central District”, “Northern District”, “office of the registrar” and “Southern District”—**

*omit.*

**2. Section 6(1)—**

*insert—*

‘**“central district”** means the central district of the Supreme Court.<sup>31</sup>’.

**3. Section 6(1)—**

*insert—*

‘**“far northern district”** means the far northern district of the Supreme Court.<sup>32</sup>

**“northern district”** means the northern district of the Supreme Court.<sup>33</sup>

**“office of the registrar”** means—

- (a) for the central district—the office of the registrar of the Supreme Court at Rockhampton; and

<sup>31</sup> The central district is declared under the *Supreme Court Act 1995*, section 266A.

<sup>32</sup> The far northern district is declared under the *Supreme Court Act 1995*, section 266A.

<sup>33</sup> The northern district is declared under the *Supreme Court Act 1995*, section 266A.

- (b) for the far northern district—the office of the registrar of the Supreme Court at Cairns; and
- (c) for the northern district—the office of the registrar of the Supreme Court at Townsville; and
- (d) for the southern district—the office of the department at Brisbane.

**“southern district”** means the part of the State not included in the central, northern or far northern district.’.

#### 4. Section 9(1)(a) to (c)—

*omit, insert—*

- ‘(a) in the far northern district; or
- (b) in the northern district; or
- (c) in the central district; or
- (d) in the southern district;’.

## CHARITABLE FUNDS ACT 1958

### 1. Section 2—

*insert—*

‘ **“central district”** means the central district of the Supreme Court.<sup>34</sup>

**“far northern district”** means the far northern district of the Supreme Court.<sup>35</sup>

**“northern district”** means the northern district of the Supreme Court.<sup>36</sup>’.

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<sup>34</sup> The central district is declared under the *Supreme Court Act 1995*, section 266A.

<sup>35</sup> The far northern district is declared under the *Supreme Court Act 1995*, section 266A.

<sup>36</sup> The northern district is declared under the *Supreme Court Act 1995*, section 266A.

**2. Section 8(3), ‘Rockhampton or Townsville’—**

*omit, insert—*

‘Rockhampton, Townsville or Cairns’.

**3. Section 8(3), from ‘Central District’ to ‘1900’ (second mention)—**

*omit, insert—*

‘central, northern or far northern district’.

## **DISTRICT COURTS ACT 1967**

**1. Section 111—**

*insert—*

‘**“far northern district”** means the far northern district of the Supreme Court.’.

**2. Section 116(4), definition “district”, paragraphs (a) to (c)—**

*omit, insert—*

- ‘(a) the far northern district; or
- (b) the northern district; or
- (c) the central district; or
- (d) the southern district.<sup>37</sup>’.

**3. Section 116(4), definition “southern district”, ‘northern or central district’—**

*omit, insert—*

‘central, northern or far northern district’.

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<sup>37</sup> The far northern, northern and central districts of the Supreme Court are declared under the *Supreme Court Act 1995*, section 266A.

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## JUSTICES ACT 1886

### 1. Section 126(1)(a), ‘northern district’—

*omit, insert—*

‘northern or far northern district’.

### 2. Section 126(2)—

*omit, insert—*

‘(2) In this section—

‘ **“far northern district”** means the far northern district of the Supreme Court.<sup>38</sup>

**“northern district”** means the northern district of the Supreme Court.’.

## LIENS ON CROPS OF SUGAR CANE ACT 1931

### 1. Section 1, heading ‘and commencement’—

*omit.*

### 2. Section 1, after ‘1931’—

*omit.*

### 3. Section 2, definitions “Central District”, “Northern District” and “Southern District”—

*omit.*

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<sup>38</sup> The far northern district is declared under the *Supreme Court Act 1995*, section 266A.

**4. Section 2—**

*insert—*

‘ **“central district”** means the central district of the Supreme Court.<sup>39</sup>

**“far northern district”** means the far northern district of the Supreme Court.<sup>40</sup>

**“northern district”** means the northern district of the Supreme Court.<sup>41</sup>

**“southern district”** means the part of the State not included in the central, northern or far northern district.’.

**5. Section 18(2)(a) to (c)—**

*omit, insert—*

‘(a) in the far northern district; or

(b) in the northern district; or

(c) in the central district; or

(d) in the southern district;’.

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<sup>39</sup> The central district is declared under the *Supreme Court Act 1995*, section 266A.

<sup>40</sup> The far northern district is declared under the *Supreme Court Act 1995*, section 266A.

<sup>41</sup> The northern district is declared under the *Supreme Court Act 1995*, section 266A.