

Queensland



**TOURISM, RACING AND FAIR  
TRADING (MISCELLANEOUS  
PROVISIONS) ACT 2002**

**Act No. 13 of 2002**



Queensland



**TOURISM, RACING AND FAIR TRADING  
(MISCELLANEOUS PROVISIONS)  
ACT 2002**

**TABLE OF PROVISIONS**

Section		Page
<b>PART 1—PRELIMINARY</b>		
1	Short title . . . . .	10
2	Commencement . . . . .	10
<b>PART 2—AMENDMENT OF ASSOCIATIONS INCORPORATION ACT 1981</b>		
3	Act amended in pt 2 . . . . .	10
4	Amendment of s 3 (Special resolutions) . . . . .	11
5	Amendment of s 93 (Cancellation of incorporation) . . . . .	11
<b>PART 3—AMENDMENT OF BILLS OF SALE AND OTHER INSTRUMENTS ACT 1955</b>		
6	Act amended in pt 3 . . . . .	12
7	Amendment of s 6C (Rents and profits) . . . . .	12
8	Replacement of s 13 (Inspecting the register) . . . . .	12
	13 Inspecting the register . . . . .	12
9	Amendment of s 18J (Application of div 6) . . . . .	13
10	Insertion of new s 45A . . . . .	13
	45A Arrangements for fees . . . . .	13
<b>PART 4—AMENDMENT OF BODY CORPORATE AND COMMUNITY MANAGEMENT ACT 1997</b>		
11	Act amended in pt 4 . . . . .	14
12	Amendment of s 170 (Statement to be given by seller to buyer) . . . . .	14
13	Insertion of new ch 8, pt 2 . . . . .	14
<b>PART 2—TRANSITIONAL PROVISION FOR TOURISM, RACING AND FAIR TRADING (MISCELLANEOUS PROVISIONS) ACT 2002</b>		

294	Transitional provision for information sheets .....	15
<b>PART 5—AMENDMENT OF BUSINESS NAMES ACT 1962</b>		
14	Act amended in pt 5. ....	15
15	Insertion of new ss 3C and 3D .....	15
	3C How prescribed fee may be paid .....	15
	3D How documents may be lodged. ....	16
16	Amendment of s 7 (Registration of business names) .....	16
17	Insertion of new s 10A .....	16
	10A Term of registration .....	17
18	Amendment of s 11 (Renewal of registration) .....	17
19	Amendment of s 19A (Cancellation for nonpayment of prescribed fee) ...	17
20	Insertion of new s 19B. ....	18
	19B Fees not refundable if registration cancelled .....	18
<b>PART 6—AMENDMENT OF CLASSIFICATION OF COMPUTER GAMES AND IMAGES ACT 1995</b>		
21	Act amended in pt 6. ....	18
22	Insertion of new ss 8A to 8C. ....	18
	8A Calling in computer game for reclassification by board .....	18
	8B Obtaining copies for review. ....	19
	8C Calling in unclassified computer game for classification .....	20
23	Insertion of new s10B .....	20
	10B Computer game available for playing on pay and play basis to bear determined markings and consumer advice .....	20
24	Amendment of sch 2 (Dictionary). ....	21
<b>PART 7—AMENDMENT OF CLASSIFICATION OF FILMS ACT 1991</b>		
25	Act amended in pt 7. ....	22
26	Amendment of s 3 (Definitions) .....	22
27	Insertion of new ss 25CA to 25CC .....	24
	25CA Calling in unclassified film for classification. ....	24
	25CB Calling in film for reclassification .....	25
	25CC Obtaining copies for review. ....	25

**PART 8—AMENDMENT OF CLASSIFICATION OF PUBLICATIONS ACT 1991**

28	Act amended in pt 8. . . . .	26
29	Amendment of s 3 (Definitions) . . . . .	26
30	Insertion of new ss 20D and 20E. . . . .	26
	20D Sale or delivery of publications contrary to conditions . . . . .	26
	20E Consumer advice for unrestricted publications . . . . .	27

**PART 9—AMENDMENT OF COLLECTIONS ACT 1966**

31	Act amended in pt 9. . . . .	27
32	Insertion of new s 8A . . . . .	27
	8A Delegation by chief executive . . . . .	27
33	Amendment of schedule . . . . .	27

**PART 10—AMENDMENT OF FAIR TRADING ACT 1989**

34	Act amended in pt 10. . . . .	28
35	Amendment of s 39 (Unconscionable conduct—TPA s 52A). . . . .	28
36	Insertion of new pt 3, div 2B. . . . .	28
	<i>Division 2B—Loan fund schemes</i>	
	55E Definitions for div 2B . . . . .	28
	55F Operating a loan fund scheme . . . . .	29
	55G Implying that a loan fund scheme is operating . . . . .	29
37	Insertion of new s 91IA. . . . .	29
	91IA Undertaking about other matter. . . . .	29
38	Amendment of s 91J (Variation and withdrawal of undertakings) . . . . .	30
39	Amendment of s 94 (Proceedings for offences) . . . . .	30
40	Amendment of s 109 (Limitation of action) . . . . .	30

**PART 11—AMENDMENT OF FUNERAL BENEFIT BUSINESS ACT 1982**

41	Act amended in pt 11. . . . .	31
42	Section 5 (Definitions). . . . .	31

**PART 12—AMENDMENT OF INVASION OF PRIVACY ACT 1971**

43	Act amended in pt 12. . . . .	31
44	Amendment of s 4 (Definitions) . . . . .	31
45	Omission of pt 3 (Credit Reporting Agents) . . . . .	32

46	Amendment of s 51 (Savings of Remedies) . . . . .	32
47	Amendment of s 52 (Regulation making power) . . . . .	32
<b>PART 13—AMENDMENT OF LIENS ON CROPS OF SUGAR CANE ACT 1931</b>		
48	Act amended in pt 13. . . . .	32
49	Replacement of s 7C (Inspecting the register) . . . . .	32
	7C    Inspecting the register . . . . .	32
50	Amendment of s 7P (Application of compensation provision). . . . .	33
51	Insertion of new s 23E. . . . .	33
	23E    Arrangements for fees . . . . .	34
<b>PART 14—AMENDMENT OF LIQUOR ACT 1992</b>		
52	Act amended in pt 14. . . . .	34
53	Amendment of s 12 (Exemptions). . . . .	34
54	Amendment of s 113A (Transfer of licence or permit held for or on behalf of unincorporated association) . . . . .	35
55	Amendment of s 133 (Request to surrender). . . . .	35
<b>PART 15—AMENDMENT OF MOTOR VEHICLES SECURITIES ACT 1986</b>		
56	Act amended in pt 15. . . . .	36
57	Insertion of new s 23A . . . . .	36
	23A    Inspecting searchable application . . . . .	37
<b>PART 16—AMENDMENT OF PARTNERSHIP (LIMITED LIABILITY) ACT 1988</b>		
58	Act amended in pt 16. . . . .	37
59	Amendment of s 16 (Incidents of limited partnerships) . . . . .	37
<b>PART 17—AMENDMENT OF PROPERTY AGENTS AND MOTOR DEALERS ACT 2000</b>		
60	Act amended in pt 17. . . . .	38
61	Amendment of s 5 (Exemption—public officials) . . . . .	38
62	Insertion of new s 31A . . . . .	39
	31A    Defence Housing Authority is a suitable person . . . . .	39
63	Insertion of new s 48A . . . . .	39
	48A    Defence Housing Authority is eligible to obtain particular licences .	39
64	Amendment of s 50 (Licence—public trustee). . . . .	39

*Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2002*      No. 13, 2002

65	Amendment of s 51 (Licence—chief executive of department) . . . . .	40
66	Amendment of s 52 (Licence—Queensland Housing Commission) . . . . .	40
67	Insertion of new s 52A . . . . .	40
	52A Licence—Defence Housing Authority. . . . .	41
68	Amendment of s 74 (Immediate suspension) . . . . .	41
69	Amendment of s 85 (Suitability of applicants) . . . . .	41
70	Amendment of s 86 (Chief executive must consider suitability of applicants) . . . . .	41
71	Amendment of s 92 (Registration certificate—conditions). . . . .	42
72	Replacement of s 105 (Immediate cancellation). . . . .	42
	105 Immediate cancellation . . . . .	42
73	Amendment of s 133 (Appointment of real estate agent—general) . . . . .	42
74	Insertion of new s 134A . . . . .	43
	134A Pre-appointment advice about types of appointment. . . . .	43
75	Amendment of s 135 (Appointment of real estate agent—sole and exclusive agencies) . . . . .	44
76	Amendment of s 136 (Restriction on reappointment of real estate agents for sales of residential property) . . . . .	44
77	Insertion of new s 136A . . . . .	45
	136A Form of reappointment . . . . .	45
78	Replacement of s 137 (Avoidance of appointments). . . . .	45
	137 When appointments and reappointments are ineffective . . . . .	45
79	Amendment of s 138 (Disclosures to prospective buyer) . . . . .	46
80	Amendment of s 173 (Appointment of pastoral house—general) . . . . .	46
81	Insertion of new s 174A . . . . .	46
	174A Pre-appointment advice about types of appointment. . . . .	46
82	Amendment of s 175 (Appointment of pastoral house—sole and exclusive agencies) . . . . .	47
83	Amendment of s 176 (Restriction on reappointment of pastoral house for sales of residential property) . . . . .	48
84	Insertion of new s 176A . . . . .	49
	176A Form of reappointment . . . . .	49
85	Replacement of s 177 (Avoidance of appointments). . . . .	49
	177 When appointments and reappointments are ineffective . . . . .	49

*Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2002*      No. 13, 2002

86	Amendment of s 210 (Appointment of auctioneer—general) . . . . .	49
87	Insertion of new s 211A . . . . .	50
	211A Pre-appointment advice about types of appointment. . . . .	50
88	Amendment of s 212 (Appointment of auctioneer—sole and exclusive agencies) . . . . .	51
89	Amendment of s 213 (Restriction on reappointment of auctioneers for sales of residential property) . . . . .	51
90	Insertion of new s 213A . . . . .	52
	213A Form of reappointment . . . . .	52
91	Replacement of s 214 (Avoidance of appointments). . . . .	52
	214 When appointments and reappointments are ineffective . . . . .	52
92	Amendment of s 237 (Application of pt 4) . . . . .	53
93	Amendment of s 239 (Announcements before auction) . . . . .	53
94	Amendment of s 261 (Meaning of “complete a residential property sale”) . . . . .	53
95	Amendment of s 262 (What a property developer’s licence authorises). . . . .	54
96	Amendment of s 267 (Licensee or salesperson to be in charge of a property developer’s business at a place). . . . .	54
97	Replacement of s 268 (Disclosures to prospective buyer) . . . . .	54
	268 Disclosures to prospective buyer . . . . .	54
98	Replacement of s 365 (When buyer is bound under a relevant contract) . . . . .	56
	365 When parties are bound under a relevant contract . . . . .	56
99	Amendment of s 366 (Warning statement to be attached to relevant contract) . . . . .	57
100	Amendment of s 367 (Buyer’s rights if warning statement not given) . . . . .	57
101	Amendment of s 376 (Account’s name) . . . . .	57
102	Amendment of s 506 (Constitution of tribunal for hearing) . . . . .	58
103	Amendment of s 547 (Entry to places) . . . . .	58
104	Insertion of new div hdg . . . . .	58
105	Amendment of s 556 (Power to require documents to be produced) . . . . .	59
106	Insertion of new s 556A . . . . .	59
	556A Power to require documents to be produced—marketeters . . . . .	59
107	Amendment of s 589 (Proceedings for an offence). . . . .	60
108	Insertion of pt hdg . . . . .	60
109	Amendment of s 603 (Definitions for ch 19) . . . . .	60



*Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2002* No. 13, 2002

110	Amendment of s 614 (Existing appointments to act as licensee) . . . . .	61
111	Insertion of new ch 19, pt 2. . . . .	61
	<b>PART 2—TRANSITIONAL PROVISIONS FOR TOURISM, RACING AND FAIR TRADING (MISCELLANEOUS PROVISIONS) ACT 2002</b>	
631	Transitional provision for relevant contracts mentioned in repealed s 365 . . . . .	61
632	Transitional provision for warning statements. . . . .	62
	<b>PART 18—AMENDMENT OF RACING AND BETTING AMENDMENT ACT 2000</b>	
112	Act amended in pt 18. . . . .	63
113	Amendment of s 45 (Amendment of sch 3 (Acts amended after assent)). . .	63
	<b>PART 19—AMENDMENT OF RETIREMENT VILLAGES ACT 1999</b>	
114	Act amended in pt 19. . . . .	63
115	Amendment of s 45 (Content of residence contract). . . . .	63
116	Amendment of s 46 (Dealing with ingoing contribution) . . . . .	63
117	Amendment of s 87 (Definitions for div 1) . . . . .	64
118	Insertion of new ss 88A and 88B . . . . .	65
	88A Investigations about scheme operators etc. . . . .	65
	88B Criminal history is confidential document. . . . .	65
119	Amendment of s 94 (Payments into capital replacement fund) . . . . .	66
120	Amendment of s 100 (Payments into maintenance reserve fund). . . . .	66
121	Amendment of s 110 (Scheme operator must insure village). . . . .	66
122	Amendment of s 112 (Quarterly financial statements) . . . . .	66
	<b>PART 20—REPEALS AND MINOR AMENDMENTS</b>	
123	Repeals . . . . .	67
124	Acts amended—schedule . . . . .	67
	<b>SCHEDULE . . . . .</b>	
	<b>MINOR AMENDMENTS</b>	
	BUSINESS NAMES ACT 1962. . . . .	68
	COLLECTIONS ACT 1966 . . . . .	68
	COOPERATIVES ACT 1997 . . . . .	69
	LAND SALES ACT 1984. . . . .	69

*Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2002* No. 13, 2002

---

MOTOR VEHICLES SECURITIES AND OTHER ACTS AMENDMENT ACT 2001 .....	69
POLICE POWERS AND RESPONSIBILITES ACT 2000 .....	71
PROPERTY AGENTS AND MOTOR DEALERS ACT 2000 .....	71
QUEENSLAND BUILDING TRIBUNAL ACT 2000 .....	74
RETIREMENT VILLAGES ACT 1999 .....	74
SECURITY PROVIDERS ACT 1993 .....	74
TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995	75

Queensland



**Tourism, Racing and Fair Trading  
(Miscellaneous Provisions) Act 2002**

**Act No. 13 of 2002**

---

**An Act to amend Acts administered by the Minister for Tourism and  
Racing and Minister for Fair Trading, and for other purposes**

*[Assented to 24 April 2002]*

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **1 Short title**

This Act may be cited as the *Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2002*.

### **2 Commencement**

(1) Section 33 is taken to have commenced on 27 June 2000.

(2) Part 18 is taken to have commenced on 23 June 2000.

(3) The following provisions commence on a day to be fixed by proclamation—

- parts 3, 6 to 8, 10, 12 and 15
- sections 16 to 18 and 20
- sections 74 to 78, 81 to 85, 87 to 91, 97 and 99
- schedule, amendments of the *Police Powers and Responsibilities Act 2000*, the *Security Providers Act 1993* and the *Transport Operations (Road Use Management) Act 1995*.

## **PART 2—AMENDMENT OF ASSOCIATIONS INCORPORATION ACT 1981**

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

This part amends the *Associations Incorporation Act 1981*.

#### **4 Amendment of s 3 (Special resolutions)**

Section 3(1), ‘personally or by post’—  
*omit.*

#### **5 Amendment of s 93 (Cancellation of incorporation)**

(1) Section 93(1), ‘the secretary or other officer of the incorporated association’—

*omit, insert—*

‘a relevant officer of the incorporated association’.

(2) Section 93(1)(g), ‘secretary, or other’—

*omit, insert—*

‘relevant’.

(3) Section 93(1)(h), ‘secretary or other’—

*omit, insert—*

‘relevant’.

(4) Section 93(2), from ‘appearing’ to ‘association,’—

*omit, insert—*

‘served with a notice under subsection (1),’.

(5) Section 93—

*insert—*

‘(3) In this section—

**“relevant officer”**, of an incorporated association, means—

- (a) the secretary or another officer of the incorporated association; or
- (b) if the incorporated association has ceased to exist—a person appearing to the chief executive to have been the last known secretary or other officer of the incorporated association.’.

## **PART 3—AMENDMENT OF BILLS OF SALE AND OTHER INSTRUMENTS ACT 1955**

### **6 Act amended in pt 3**

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

### **7 Amendment of s 6C (Rents and profits)**

Section 6C(2), ‘subsection (4)’—

*omit, insert—*

‘subsection (1)’.

### **8 Replacement of s 13 (Inspecting the register)**

Section 13—

*omit, insert—*

#### **‘13 Inspecting the register**

‘(1) On payment of the fee that may be prescribed under a regulation, a person may inspect the register or get a copy of the particulars included in the register (a “**printed search result**”)—

- (a) at an office of the department prescribed under a regulation when the office is open to the public; or
- (b) by using a computer under arrangements approved by the chief executive.

*Example—*

The chief executive may approve arrangements under which a person is given access to particular information held electronically by the department to allow the person to perform a search from a remote location and print the printed search result on the person’s printer.

‘(2) A printed search result may, on application to the chief executive and payment of the fee that may be prescribed under a regulation, be certified by the chief executive.

‘(3) A printed search result certified by the chief executive is evidence of the matters stated in it.

‘(4) In this section—

“**computer**” means a mechanical, electronic or other device that processes data.’.

## 9 Amendment of s 18J (Application of div 6)

Section 18J(e)—

*omit, insert—*

‘(e) the person—

- (i) searches the register for a security interest or particulars of a security interest and there is an error in the register because of a negligent act or omission by the chief executive (the “**incorrect information**”); and
- (ii) relies on the incorrect information contained in a printed search result.’.

## 10 Insertion of new s 45A

After section 45—

*insert—*

### ‘45A Arrangements for fees

‘(1) A person may apply to the chief executive for approval of an arrangement for the payment of fees under this Act.

*Example—*

An arrangement may be for the payment of fees in advance or in arrears.

‘(2) The application must be—

- (a) in writing stating the particulars of the proposed arrangement; and
- (b) accompanied by the fee that may be prescribed under a regulation.

‘(3) If the chief executive approves the proposed arrangement, the person may pay fees under this Act in accordance with the arrangement.’.

## **PART 4—AMENDMENT OF BODY CORPORATE AND COMMUNITY MANAGEMENT ACT 1997**

### **11 Act amended in pt 4**

This part amends the *Body Corporate and Community Management Act 1997*.

### **12 Amendment of s 170 (Statement to be given by seller to buyer)**

(1) Section 170(5)—

*omit, insert—*

‘(5) The seller must attach an information sheet (the “**information sheet**”) in the approved form to the contract—

(a) as the first or top sheet; or

(b) if the proposed lot is residential property under the *Property Agents and Motor Dealers Act 2000*—immediately beneath the warning statement that must be attached as the first or top sheet of the contract under section 366 of that Act.<sup>1</sup>’.

(2) Section 170—

*insert—*

‘(8) In this section—

“**residential property**” see the *Property Agents and Motor Dealers Act 2000*, section 17.’.

### **13 Insertion of new ch 8, pt 2**

After section 293—

*insert—*

---

<sup>1</sup> *Property Agents and Motor Dealers Act 2000*, section 366 (Warning statement to be attached to relevant contract)



## **‘PART 2—TRANSITIONAL PROVISION FOR TOURISM, RACING AND FAIR TRADING (MISCELLANEOUS PROVISIONS) ACT 2002**

### **‘294 Transitional provision for information sheets**

‘(1) This section applies to a contract mentioned in section 170(1) entered into on or after 1 July 2001 and before the commencement of this section that has not been settled or lawfully terminated.

‘(2) Despite section 170(6), a buyer can not cancel the contract because of noncompliance with section 170(5) as in force immediately before the commencement of this section only because an information sheet was attached to the contract immediately beneath a warning statement that was attached as the first or top sheet of the contract.

‘(3) In this section—

“**warning statement**” means a warning statement under the *Property Agents and Motor Dealers Act 2000*, section 366.<sup>2</sup>.

## **PART 5—AMENDMENT OF BUSINESS NAMES ACT 1962**

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

This part amends the *Business Names Act 1962*.

### **15 Insertion of new ss 3C and 3D**

After section 3B—

*insert—*

#### **‘3C How prescribed fee may be paid**

‘(1) This section applies if a provision of this Act requires—

---

<sup>2</sup> *Property Agents and Motor Dealers Act 2000*, section 366 (Warning statement to be attached to relevant contract)

- (a) payment of a prescribed fee; or
- (b) an application to be accompanied by a prescribed fee; or
- (c) a document to be lodged together with the prescribed fee.

‘(2) The fee may be paid in any way approved by the chief executive.

*Example of how prescribed fee may be paid—*

The chief executive may approve that the prescribed fee can be paid by lodging an authorisation to debit a credit account with the application form.

### **‘3D How documents may be lodged**

‘If a person is required to lodge a document under this Act, the person may lodge the document by post, fax or in any other way approved by the chief executive.’.

## **16 Amendment of s 7 (Registration of business names)**

(1) Section 7(1)—

*insert—*

‘(ea) whether the term of the proposed registration of the business name is 1 year or 3 years; and’.

(2) Section 7(1)(ca) to (f)—

*renumber* as section 7(1)(d) to (h).

(3) Section 7(3), after ‘the business name’—

*insert—*

‘for the term stated in the application for registration’.

(4) Section 7—

*insert—*

‘(3A) The term of the registration of the business name can not be changed during the current term of the registration.’.

## **17 Insertion of new s 10A**

After section 10—

*insert—*

#### **‘10A Term of registration**

‘The registration of a business name remains in force for the term of 1 year or 3 years registered by the registrar under section 7(3).’.

#### **18 Amendment of s 11 (Renewal of registration)**

(1) Section 11(1)—

*omit, insert—*

‘(1) The person or 1 of the persons in relation to whom a business name is registered may, before the expiry of the registration of the business name, apply to the registrar to renew the registration in any way approved by the chief executive.

‘(1A) The application for renewal must—

- (a) state whether the term of the proposed renewal is 1 year or 3 years; and
- (b) be accompanied by the prescribed fee.’.

(2) Section 11(2), ‘period of 12 months’—

*omit, insert—*

‘term of 1 year or 3 years stated in the application for renewal’.

(3) Section 11—

*insert—*

‘(2A) The term of the renewal of the registration can not be changed during the term of the renewal.’.

#### **19 Amendment of s 19A (Cancellation for nonpayment of prescribed fee)**

Section 19A(1)—

*omit, insert—*

‘(1) The registrar may cancel the registration of a business name if—

- (a) payment of the prescribed fee for the registration or renewal of registration was made in a way that has not been effective; and

- (b) 21 days have passed since the application for registration or renewal was made.

*Examples—*

1. A cheque for payment was not honoured on presentation.
2. Authorisation for payment made by credit card was rejected by the relevant financial institution.’.

## **20 Insertion of new s 19B**

After section 19A—

*insert—*

### **‘19B Fees not refundable if registration cancelled**

‘(1) This section applies if the registrar cancels the registration of a business name, other than under section 10.

‘(2) A person can not obtain any refund of the prescribed fee paid for the registration or renewal of registration of the business name.’.

## **PART 6—AMENDMENT OF CLASSIFICATION OF COMPUTER GAMES AND IMAGES ACT 1995**

### **21 Act amended in pt 6**

This part amends the *Classification of Computer Games and Images Act 1995*.

### **22 Insertion of new ss 8A to 8C**

Part 2, after section 8—

*insert—*

#### **‘8A Calling in computer game for reclassification by board**

‘(1) This section applies if—

- (a) the board proposes to reclassify a computer game under the Commonwealth Act, section 39<sup>3</sup>; and
- (b) the publisher of the computer game resides in Queensland or has an office in Queensland.

‘(2) The director may, by written notice given to the publisher, require the publisher to submit a copy of the computer game for the purpose of reclassifying it.

‘(3) The publisher must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.

‘(4) It is a defence to a prosecution for an offence against subsection (3) for the defendant to prove that the defendant did not have a copy of the computer game.

#### **‘8B Obtaining copies for review**

‘(1) This section applies if—

- (a) an application is made for a review of a classification decision under the Commonwealth Act by a person who is not the original applicant for classification of the computer game concerned; and
- (b) the board or review board does not have a copy of the computer game and a copy is not available to it; and
- (c) the original applicant or the publisher of the computer game resides in Queensland or has an office in Queensland.

‘(2) The director may, by written notice given to the original applicant or publisher, require the original applicant or publisher to make a copy of the computer game available for the purpose of the review.

‘(3) A person to whom the notice is given must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.

‘(4) It is a defence to a prosecution for an offence against subsection (3) for the defendant to prove that the defendant did not have a copy of the computer game.

---

3 Section 39 (Reclassification etc. after 2 years)

### **‘8C Calling in unclassified computer game for classification**

‘(1) This section applies if the director has reasonable grounds to believe that—

- (a) an unclassified computer game is not an exempt computer game; and
- (b) a person (“**publisher**”) is publishing, or will publish, the computer game in Queensland.

‘(2) The director may, by written notice given to the publisher of the computer game, require the publisher to submit an application for classification of the computer game.

‘(3) For the requirement under subsection (2) to have effect, the director must cause notice of the requirement to be published in the Commonwealth gazette.

‘(4) The publisher must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.

‘(5) It is a defence to a prosecution for an offence against subsection (4) for the defendant to prove that the defendant did not intend—

- (a) to publish the computer game in Queensland; or
- (b) to cause, authorise, permit or license the computer game to be published in Queensland.’

## **23 Insertion of new s10B**

Part 3, after section 10A—

*insert—*

### **‘10B Computer game available for playing on pay and play basis to bear determined markings and consumer advice**

‘(1) A person must not make a computer game available for playing on a pay and play basis unless the device used for playing the game bears the determined markings for the game’s classification and any consumer advice for the game.

Maximum penalty—10 penalty units.

*Example of game available on a pay and play basis—*

A coin operated arcade game.

‘(2) If 2 or more computer games are available for playing on a device mentioned in subsection (1), the determined markings and consumer advice to be displayed on the device are those relevant to the computer game with the higher or highest classification under the Commonwealth Act.

‘(3) If—

- (a) the board reclassifies a computer game under the Commonwealth Act, section 39;<sup>4</sup> or
- (b) the board revokes a classification or consumer advice for a computer game under the Commonwealth Act, section 22B(3);<sup>5</sup>

display of the determined markings and consumer advice for the computer game before the reclassification or revocation is sufficient compliance with this section for the 30 day period after the reclassification or revocation takes effect.’.

## 24 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition “**advertisement**”—

*omit.*

(2) Schedule 2—

*insert—*

‘ “**advertisement**”, for a computer game, means any form of advertising for the computer game and includes—

- (a) advertising, whether visual or audible, whether in the form of written or spoken words or other sounds and whether in a book, paper, magazine, poster, photograph, sketch, program, computer game or slide or in any other form; and
- (b) advertising on a container or wrapping enclosing the computer game; and

---

4 Section 39 (Reclassification etc. after 2 years)

5 Section 22B (Classification of a publication, film or computer game that may be the same as or similar to a classified item)

(c) advertising on an item of clothing advertising the computer game;

but does not include—

(d) advertising for an exempt computer game; or

(e) advertising, in an imported publication, for a computer game that has not been published in Australia; or

(f) advertising, in an imported film or computer game that is in a form that can not be modified, for a computer game that has not been published in Australia (“**advertised game**”), whether or not the advertised game is later published in Australia.

“**exempt computer game**” see section 5 of the Commonwealth Act.<sup>6</sup>

“**review board**” see section 5 of the Commonwealth Act.’.

(3) Schedule 2, definition “**computer game**”, paragraph (e)—

*omit, insert—*

‘(e) an exempt computer game; or’.

## **PART 7—AMENDMENT OF CLASSIFICATION OF FILMS ACT 1991**

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

This part amends the *Classification of Films Act 1991*.

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

(1) Section 3, definition “**advertisement**”—

*omit.*

(2) Section 3—

---

<sup>6</sup> Under section 5 (Definitions) of the Commonwealth Act, ‘ “**exempt computer game**” has the meaning given by section 5B, and includes a game for which a certificate is in force under Division 6 of Part 2.’.



*insert—*

‘ **“advertisement”**, for a film, means any form of advertising for the film and includes—

- (a) advertising, whether visual or audible, whether in the form of written or spoken words or other sounds and whether in a book, paper, magazine, poster, photograph, sketch, program, film or slide or in any other form; and
- (b) advertising on a container or wrapping enclosing the film; and
- (c) advertising on an item of clothing advertising the film;

but does not include—

- (d) advertising for an exempt film; or
- (e) advertising, in an imported publication, for a film that has not been published in Australia; or
- (f) advertising, in an imported film or computer game that is in a form that can not be modified, for a film that has not been published in Australia (**“advertised film”**), whether or not the advertised film is later published in Australia.

**“exempt film”** see section 5 of the Commonwealth Act.<sup>7</sup>

**“international flight”**, of an aircraft, means a flight that passes through the air space over the territory of more than 1 country and includes any part of the flight that happens within Australia.

**“international voyage”**, of a vessel, means a voyage, whether direct or indirect, between a place in Australia and a place outside Australia and includes any part of the voyage that happens within Australia.

**“review board”** see section 5 of the Commonwealth Act.’.

(3) Section 3, definition **“film”**, paragraph (b), after ‘produced’—

*insert—*

‘together with its sound track’.

(4) Section 3, definition **“film”**, paragraph (f)—

---

<sup>7</sup> Under section 5 (Definitions) of the Commonwealth Act, ‘ **“exempt film”** has the meaning given by section 5B, and includes a film for which a certificate is in force under Division 6 of Part 2.’.

*omit, insert—*

‘(f) an exempt film.’.

(5) Section 3, definition “**place**”, after ‘aircraft’—

*insert—*

‘, other than a vessel on an international voyage or an aircraft on an international flight’.

(6) Section 3, definition “**premises**”, paragraph (c), after ‘aircraft’—

*insert—*

‘, other than a vessel on an international voyage or an aircraft on an international flight’.

## **27 Insertion of new ss 25CA to 25CC**

Part 3, after section 25C—

*insert—*

### **‘25CA Calling in unclassified film for classification**

‘(1) This section applies if the director has reasonable grounds to believe that—

- (a) an unclassified film is not an exempt film; and
- (b) a person (“**publisher**”) is publishing, or will publish, the film in Queensland.

‘(2) The director may, by written notice given to the publisher of the film, require the publisher to submit an application for its classification.

‘(3) The publisher must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.

‘(4) For the requirement under subsection (2) to have effect, the director must cause notice of the requirement to be published in the Commonwealth gazette.

‘(5) It is a defence to a prosecution for an offence against subsection (3) for the defendant to prove that the defendant did not intend to publish the film, or cause it to be published, in Queensland.

### **‘25CB Calling in film for reclassification**

‘(1) This section applies if—

- (a) the board proposes to reclassify a film under the Commonwealth Act, section 39<sup>8</sup>; and
- (b) the publisher of the film resides in Queensland or has an office in Queensland.

‘(2) The director may, by written notice given to the publisher, require the publisher to submit a copy of the film for the purpose of reclassifying it.

‘(3) The publisher must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.

‘(4) It is a defence to a prosecution for an offence against subsection (3) for the defendant to prove that the defendant did not have a copy of the film.

### **‘25CC Obtaining copies for review**

‘(1) This section applies if—

- (a) an application is made for a review of a classification decision under the Commonwealth Act by a person who is not the original applicant for classification of the film concerned; and
- (b) the board or review board does not have a copy of the film and a copy is not available to it; and
- (c) the original applicant or the publisher of the film resides in Queensland or has an office in Queensland.

‘(2) The director may, by written notice given to the original applicant or publisher, require the original applicant or publisher to make a copy of the film available for the purpose of the review.

‘(3) A person to whom the notice is given must comply with the notice within 3 business days after receiving it.

Maximum penalty—20 penalty units.

---

8 Section 39 (Reclassification etc. after 2 years)

‘(4) It is a defence to a prosecution for an offence against subsection (3) for the defendant to prove that the defendant did not have a copy of the film.’.

## **PART 8—AMENDMENT OF CLASSIFICATION OF PUBLICATIONS ACT 1991**

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

This part amends the *Classification of Publications Act 1991*.

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

(1) Section 3, definition, “**submittable publication**”—

*omit.*

(2) Section 3—

*insert—*

“**submittable publication**” see section 5 of the Commonwealth Act.’.

### **30 Insertion of new ss 20D and 20E**

Part 3, after section 20C—

*insert—*

#### **‘20D Sale or delivery of publications contrary to conditions**

‘If a publication is classified unrestricted subject to a condition imposed under section 13A of the Commonwealth Act,<sup>9</sup> a person must not sell or deliver the publication except in accordance with the condition.

Maximum penalty—25 penalty units.

---

<sup>9</sup> Section 13A (Conditions of certain classifications for publications)

### **‘20E Consumer advice for unrestricted publications**

A person must not sell a publication classified unrestricted for which the board has determined consumer advice under section 20(2) of the Commonwealth Act<sup>10</sup> unless the consumer advice is displayed on the publication or the packaging of the publication.

Maximum penalty—25 penalty units.’.

## **PART 9—AMENDMENT OF COLLECTIONS ACT 1966**

### **31 Act amended in pt 9**

This part amends the *Collections Act 1966*.

### **32 Insertion of new s 8A**

Part 2, after section 8—

*insert—*

#### **‘8A Delegation by chief executive**

‘(1) The chief executive may delegate the chief executive’s powers under this Act to an appropriately qualified public service officer.

‘(2) In this section—

“**appropriately qualified**”, for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing to exercise the power.

*Example of standing—*

A person’s classification level in the public service.’.

### **33 Amendment of schedule**

Schedule, from ‘Limited’—

---

<sup>10</sup> Section 20 (Board to decide consumer advice for publications, films and computer games)

*omit, insert—*

‘Foundation’.

## **PART 10—AMENDMENT OF FAIR TRADING ACT 1989**

### **34 Act amended in pt 10**

This part amends the *Fair Trading Act 1989*.

### **35 Amendment of s 39 (Unconscionable conduct—TPA s 52A)**

Section 39, heading, ‘s 52A’—

*omit, insert—*

‘s 51AB’.

### **36 Insertion of new pt 3, div 2B**

After section 55D—

*insert—*

***‘Division 2B—Loan fund schemes***

#### **‘55E Definitions for div 2B**

‘In this division—

“**loan fund scheme**” means a scheme that, in substance and regardless of its form—

- (a) involves the contribution or subscription of an amount, directly or indirectly, by persons to a fund; and
- (b) confers on each of the persons, or on each of a substantial proportion of them, an entitlement to receive a loan out of the fund at some date, whether ascertainable or not; and

- (c) provides for the amount of the loan to be determined by reference to the amount each person contributes or subscribes, or agrees to contribute or subscribe, to the fund;

and includes—

- (d) all activities, matters and things associated with a scheme; and  
(e) any part of a scheme.

“operate”, a loan fund scheme, includes manage or control the scheme.

### **‘55F Operating a loan fund scheme**

‘A person must not—

- (a) operate a loan fund scheme; or  
(b) promote the operation of a loan fund scheme; or  
(c) invite another person, by an advertisement or another means, to contribute or subscribe to or participate in a loan fund scheme.

Maximum penalty—540 units.

### **‘55G Implying that a loan fund scheme is operating**

‘A person must not—

- (a) if the person is carrying on a business, use words or references in the name or description of the business to represent or imply the person is operating a loan fund scheme; or  
(b) display information at any place that would represent or imply that the person is operating a loan fund scheme.

Maximum penalty—540 units.’.

## **37 Insertion of new s 91IA**

After section 91I—

*insert—*

### **‘91IA Undertaking about other matter**

‘Without limiting section 91H or 91I, the commissioner may accept an undertaking given by a person for this section in relation to any matter in

relation to which the office or the commissioner has a function or the commissioner or an inspector has a power.’.

### **38 Amendment of s 91J (Variation and withdrawal of undertakings)**

Section 91J(1), ‘under section 91H or 91I’—

*omit, insert—*

‘under this division’.

### **39 Amendment of s 94 (Proceedings for offences)**

(1) Section 94(6)(a)—

*omit, insert—*

‘(a) may be started only by an inspector appointed for this Act or with the commissioner’s consent; and’.

(2) Section 94(6)(b), ‘shall be commenced’—

*omit, insert—*

‘must be started’.

### **40 Amendment of s 109 (Limitation of action)**

Section 109(1)(b)—

*omit, insert—*

‘(b) on account of any disclosure or publication made in good faith by the Minister, the commissioner or by someone on the commissioner’s behalf, concerning any of the following matters if the Minister or the commissioner is satisfied it is in the public interest to make the disclosure or publication—

- (i) the supply of goods or services;
- (ii) the commercial or business reputation of any person associated with the supply of goods or services;
- (iii) the quality or standard of goods or services supplied by any person;



- (iv) a contravention or alleged contravention of this Act or the operation or enforcement of this Act.’.

## **PART 11—AMENDMENT OF FUNERAL BENEFIT BUSINESS ACT 1982**

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

This part amends the *Funeral Benefit Business Act 1982*.

### **42 Section 5 (Definitions)**

Section 5, definition “corporation”, after ‘Act’—

‘, but does not include an exempt body within the meaning of that Act’.

## **PART 12—AMENDMENT OF INVASION OF PRIVACY ACT 1971**

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

This part amends the *Invasion of Privacy Act 1971*.

### **44 Amendment of s 4 (Definitions)**

Section 4, definitions “**consumer**”, “**credit report**”, “**credit reporting agent**”, “**credit reporting agent’s licence**”, “**licence**”, “**licensed credit reporting agent**”, “**register**” and “**registered address**”—

*omit.*

**45 Omission of pt 3 (Credit Reporting Agents)**

Part 3—

*omit.*

**46 Amendment of s 51 (Savings of Remedies)**

Section 51, ‘Subject to section 23, no’—

*omit, insert—*

‘No’.

**47 Amendment of s 52 (Regulation making power)**

(1) Section 52(2)—

*omit.*

(2) Section 52(3)—

*renumber* as section 52(2).

## **PART 13—AMENDMENT OF LIENS ON CROPS OF SUGAR CANE ACT 1931**

**48 Act amended in pt 13**

This part amends the *Liens on Crops of Sugar Cane Act 1931*.

**49 Replacement of s 7C (Inspecting the register)**

Section 7C—

*omit, insert—*

**‘7C Inspecting the register**

‘(1) On payment of the fee that may be prescribed under a regulation, a person may inspect the register or get a copy of particulars in the register (a “**printed search result**”)—

- (a) at an office of the department prescribed under a regulation when the office is open to the public; or
- (b) by using a computer under arrangements approved by the chief executive.

*Example—*

The chief executive may approve arrangements under which a person is given access to particular information held electronically by the department to allow the person to perform a search from a remote location and print the printed search result on the person's printer.

‘(2) A printed search result may, on application to the chief executive and payment of the fee that may be prescribed under a regulation, be certified by the chief executive.

‘(3) A printed search result certified by the chief executive is evidence of the matters stated in it.

‘(4) In this section—

“**computer**” means a mechanical, electronic or other device that processes data.’.

## 50 Amendment of s 7P (Application of compensation provision)

Section 7P(e)—

*omit, insert—*

‘(e) the person—

- (i) searches the register for a lien or particulars of a lien and there is an error in the register because of a negligent act or omission by the chief executive (the “**incorrect information**”); and
- (ii) relies on the incorrect information contained in a printed search result.’.

## 51 Insertion of new s 23E

After section 23D—

*insert—*

### **‘23E Arrangements for fees**

‘(1) A person may apply to the chief executive for approval of an arrangement for the payment of fees under this Act.

*Example—*

An arrangement may be for the payment of fees in advance or in arrears.

‘(2) The application must be—

- (a) in writing stating the particulars of the proposed arrangement; and
- (b) accompanied by the fee that may be prescribed under a regulation.

‘(3) If the chief executive approves the proposed arrangement, the person may pay fees under this Act in accordance with the arrangement.’.

## **PART 14—AMENDMENT OF LIQUOR ACT 1992**

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

This part amends the *Liquor Act 1992*.

### **53 Amendment of s 12 (Exemptions)**

(1) Section 12(2)—

*insert—*

- ‘(i) a sale of liquor to a person by the proprietor of a duty free shop described in a warehouse licence under the Customs Act if—
  - (i) the sale takes place at the duty free shop; and
  - (ii) the liquor is goods specified in a permission given to the proprietor under section 96A or 96B of that Act<sup>11</sup>; and

---

11 *Customs Act 1901* (Cwlth), section 96A (Outwards duty free shops) or 96B (Inwards duty free shops)

(iii) the liquor is to be delivered to the person under the permission.’.

(2) Section 12(4)—

*insert—*

‘**“Customs Act”** means the *Customs Act 1901* (Cwlth).

**“duty free shop”** means—

- (a) an outwards duty free shop under section 96A of the Customs Act; or
- (b) an inwards duty free shop under section 96B of the Customs Act.’.

#### **54 Amendment of s 113A (Transfer of licence or permit held for or on behalf of unincorporated association)**

Section 113A(2)—

*omit, insert—*

‘(2) The person and the incorporated association must, within 3 months after the association is incorporated, apply to the chief executive for the licence or permit to be transferred to the incorporated association.’.

#### **55 Amendment of s 133 (Request to surrender)**

(1) Section 133(1), ‘A licensee’—

*omit, insert—*

‘An appropriate person’.

(2) Section 133(3)(a)—

*omit, insert—*

‘(a) must be made in writing by the appropriate person; and’.

(3) Section 133(4), ‘a licensee’—

*omit, insert—*

‘an appropriate person’.

(4) Section 133(4), ‘the licensee’—

*omit, insert—*

‘the appropriate person’.

(5) Section 133—

*insert—*

‘(8) In this section—

“**appropriate person**”, in relation to the surrender of a licence, means—

- (a) the licensee, if the licensee is sole owner of the licensed premises; or
- (b) the owner, lessee or mortgagee of the licensed premises, if any of the following apply—
  - (i) the licensee has been lawfully evicted from, or has abandoned, the licensed premises;
  - (ii) the lease, sublease, tenancy or right to occupy the licensed premises of the licensee has been lawfully terminated;
  - (iii) the licensee has ceased to conduct business in the licensed premises and has not agreed to the application; or
- (c) the licensee and the owner of the licensed premises, if paragraph (a) or (b) does not apply.’.

## **PART 15—AMENDMENT OF MOTOR VEHICLES SECURITIES ACT 1986**

### **56 Act amended in pt 15**

This part amends the *Motor Vehicles Securities Act 1986*.

### **57 Insertion of new s 23A**

After section 23—

*insert—*

### **‘23A Inspecting searchable application**

‘(1) A person may, on payment of the fee prescribed under a regulation, inspect a searchable application.

(2) In this section—

“**searchable application**” means an application under any of the following provisions—

- (a) section 7(1);
- (b) section 8(2);
- (c) section 14(1);
- (d) section 42(2).’

## **PART 16—AMENDMENT OF PARTNERSHIP (LIMITED LIABILITY) ACT 1988**

### **58 Act amended in pt 16**

This part amends the *Partnership (Limited Liability) Act 1988*.

### **59 Amendment of s 16 (Incidents of limited partnerships)**

(1) Section 16(1A), (2) and (3)—

*renumber* as section 16(2), (4) and (5) respectively.

(2) Section 16—

*insert*—

‘(3) A limited partner must not be regarded as taking part in the management of the business of the limited partnership only because the limited partner—

- (a) is an employee or an independent contractor of the partnership or of a general partner; or
- (b) is an officer of a general partner that is a corporation; or

- (c) gives advice to, or for, the limited partnership or a general partner—
  - (i) as part of the proper exercise of the functions arising from the engagement of the limited partner in a professional capacity; or
  - (ii) arising from business dealings between the limited partner and the partnership or a general partner; or
- (d) gives a guarantee or indemnity for a debt or obligation of the partnership or of a general partner; or
- (e) participates in an action by the limited partners to enforce the rights, or safeguard the interests, of the limited partners; or
- (f) if authorised by the partnership agreement, participates in a general meeting of all the partners; or
- (g) exercises a right mentioned in subsection (2).’.

## **PART 17—AMENDMENT OF PROPERTY AGENTS AND MOTOR DEALERS ACT 2000**

### **60 Act amended in pt 17**

This part amends the *Property Agents and Motor Dealers Act 2000*.

### **61 Amendment of s 5 (Exemption—public officials)**

Section 5(1)—

*omit, insert—*

‘(1) Section 354<sup>12</sup> does not apply to—

- (a) a bailiff serving a notice, claim, application, summons or other process; or

---

12 Section 354 (Acting as commercial agent)



- (b) a person, other than a commercial agent, who is an enforcement officer or a member of the staff of the State Penalties Enforcement Registry under the *State Penalties Enforcement Act 1999*—
- (i) collecting, or requesting payment of, debts; or
  - (ii) serving a notice, claim, application, summons or other process.’.

## **62 Insertion of new s 31A**

After section 31—

*insert—*

### **‘31A Defence Housing Authority is a suitable person**

‘The Defence Housing Authority is taken to be a suitable person to hold a licence.’.

## **63 Insertion of new s 48A**

In chapter 2, part 5, division 8, after section 48—

*insert—*

### **‘48A Defence Housing Authority is eligible to obtain particular licences**

‘The Defence Housing Authority is taken to be eligible to obtain the following licences—

- (a) restricted letting agent’s licence;
- (b) real estate agent’s licence;
- (c) auctioneer’s licence;
- (d) property developer’s licence.’.

## **64 Amendment of s 50 (Licence—public trustee)**

Section 50—

*insert—*

‘(2) A licence issued to the public trustee authorises an officer or employee of the public trustee to perform any activity authorised by the public trustee that the public trustee may perform under the licence.

‘(3) To remove any doubt, it is declared that an officer or employee performing an activity authorised by the public trustee is not required to be licensed or registered under this Act to perform the activity.’.

### **65 Amendment of s 51 (Licence—chief executive of department)**

Section 51—

*insert—*

‘(4) A licence issued to the chief executive authorises an officer or employee of the department of which the chief executive is chief executive to perform any activity authorised by the chief executive that the chief executive may perform under the licence.

‘(5) To remove any doubt, it is declared that an officer or employee performing an activity authorised by the chief executive is not required to be licensed or registered under this Act to perform the activity.’.

### **66 Amendment of s 52 (Licence—Queensland Housing Commission)**

Section 52—

*insert—*

‘(2) A licence issued to the Queensland Housing Commission authorises an officer or employee of the commission to perform any activity authorised by the commission that the commission may perform under the licence.

‘(3) To remove any doubt, it is declared that an officer or employee performing an activity authorised by the commission is not required to be licensed or registered under this Act to perform the activity.’.

### **67 Insertion of new s 52A**

After section 52—

*insert—*

### **‘52A Licence—Defence Housing Authority**

‘(1) The chief executive may issue a licence to the Defence Housing Authority in the name ‘Defence Housing Authority’.

‘(2) A licence issued to the Defence Housing Authority authorises an officer or employee of the authority to perform any activity authorised by the authority that the authority may perform under the licence.

‘(3) To remove any doubt, it is declared that an officer or employee performing an activity authorised by the authority is not required to be licensed or registered under this Act to perform the activity.’.

### **68 Amendment of s 74 (Immediate suspension)**

Section 74(2)(b), ‘suspend’—

*omit, insert—*

‘without limiting paragraph (a), for subsection (1)(a), suspend’.

### **69 Amendment of s 85 (Suitability of applicants)**

(1) Section 85(1)(a)—

*omit.*

(2) Section 85(1)(b) to (d)—

*renumber* as section 85(1)(a) to (c).

### **70 Amendment of s 86 (Chief executive must consider suitability of applicants)**

Section 86(1)(g)—

*omit, insert—*

‘(g) if the person is affected by bankruptcy action—

- (i) the circumstances giving rise to the person being affected by bankruptcy action; and
- (ii) whether the person took all reasonable steps to avoid the coming into existence of the circumstances that resulted in the person being affected by bankruptcy action; and

- (iii) whether the person is in a position to influence significantly the management of a licensee's business;’.

## **71 Amendment of s 92 (Registration certificate—conditions)**

Section 92(1), from ‘desirable’—

*omit, insert—*

‘desirable—

- (a) for the proper performance of the activities authorised by the certificate; or
- (b) for another purpose consistent with the achievement of the objects of this Act.

*Example—*

If the chief executive decides to issue a registration certificate to a person who is or has been affected by bankruptcy action, the chief executive may issue the certificate subject to a condition that the person not receive, bank or otherwise be responsible for dealing with trust account moneys.’.

## **72 Replacement of s 105 (Immediate cancellation)**

Section 105—

*omit, insert—*

### **‘105 Immediate cancellation**

‘(1) The registration certificate of a registered employee is cancelled if the employee is convicted of a serious offence.

‘(2) The employee must return the certificate to the chief executive within 14 days after the conviction, unless the employee has a reasonable excuse.

Maximum penalty for subsection (2)—100 penalty units.’.

## **73 Amendment of s 133 (Appointment of real estate agent—general)**

(1) Section 133(3)(f)—

*insert—*

*Note—*

For additional requirements for an appointment for a sole or exclusive agency, see section 135.’

(2) Section 133(4)(b), ‘the appointment’—

*omit, insert—*

‘that the appointment, other than to the extent it relates to the sale of land or interests in land,’.

## **74 Insertion of new s 134A**

After section 134—

*insert—*

### **‘134A Pre-appointment advice about types of appointment**

‘If the appointment is for the sale of a place of residence or land or an interest in a place of residence or land, before the appointment is signed, the real estate agent must specifically bring to the client’s notice the information in the form of appointment about—

(a) the effect of the following—

(i) an open listing;<sup>13</sup>

(ii) an exclusive agency;<sup>14</sup>

(iii) a sole agency;<sup>15</sup> and

(b) the difference between sole agency and exclusive agency.

Maximum penalty—200 penalty units.

*Note—*

The commission of an offence against this section also renders the appointment ineffective under section 137(3).’

---

13 See section 16 (Meaning of “open listing”).

14 See section 19(2) (Difference between “exclusive agency” and “sole agency”).

15 See section 19(3) (Difference between “exclusive agency” and “sole agency”).

**75 Amendment of s 135 (Appointment of real estate agent—sole and exclusive agencies)**

(1) Section 135(1)—

*omit, insert—*

‘(1) If the appointment is for a sole or exclusive agency, before the appointment is signed, the real estate agent must discuss with the client whether the appointment is to be for a sole agency or an exclusive agency and specifically bring to the client’s notice the information in the form of appointment about—

- (a) the proposed term of the appointment; and
- (b) if the appointment is for the sale of residential property, the client’s entitlement to negotiate the term of the appointment up to a maximum term of 60 days; and
- (c) the difference between sole agency and exclusive agency, unless the information has been brought to the client’s notice under section 134A; and
- (d) the consequences for the client if the property is sold by someone other than the agent during the term of the appointment.

Maximum penalty—200 penalty units.

*Note—*

The commission of an offence against this subsection also renders an appointment for the sale of a place of residence or land or an interest in a place of residence or land ineffective under section 137(3).’.

(2) Section 135(3)—

*omit, insert—*

‘(3) Subsection (1)(b) does not apply if the appointment is for the sale of 3 or more residential properties.’.

**76 Amendment of s 136 (Restriction on reappointment of real estate agents for sales of residential property)**

Section 136(2)—

*omit, insert—*

‘(2) The limitation on the term of reappointment under subsection (1) does not apply if the reappointment is for the sale of 3 or more residential properties.

‘(3) A real estate agent appointed for the sale of residential property under a sole or exclusive agency commits an offence if the agent is reappointed for the sale earlier than 14 days before the term of the sole or exclusive agency ends.

Maximum penalty for subsection (3)—200 penalty units.

*Note—*

The commission of an offence against this subsection in relation to the reappointment also renders the reappointment ineffective under section 137.’.

## **77 Insertion of new s 136A**

After section 136—

*insert—*

### **‘136A Form of reappointment**

‘(1) The reappointment of a real estate agent under section 136 must be made in the approved form.

‘(2) A reappointment that does not comply with subsection (1) is ineffective from the time it is made.’.

## **78 Replacement of s 137 (Avoidance of appointments)**

Section 137—

*omit, insert—*

### **‘137 When appointments and reappointments are ineffective**

‘(1) The appointment of a real estate agent for the sale of residential property under a sole or exclusive agency is ineffective from the time it is made if the term of the appointment is more than 60 days.

‘(2) Subsection (1) does not apply if the appointment is for the sale of 3 or more residential properties.

‘(3) The appointment of a real estate agent for the sale of a place of residence or land or an interest in a place of residence or land is ineffective

from the time it is made if the real estate agent commits an offence against section 134A or 135(1).

‘(4) The reappointment of a real estate agent for a further term of sole or exclusive agency for the sale of residential property is ineffective from the time it is made if the real estate agent commits an offence against section 136(3) in relation to the reappointment.’.

### **79 Amendment of s 138 (Disclosures to prospective buyer)**

Section 138(1)(b)—

*omit, insert—*

‘(b) whether the agent derives or expects to derive any benefit from a person to whom the agent has referred the buyer and, if so, the amount or value of the benefit;’.

### **80 Amendment of s 173 (Appointment of pastoral house—general)**

Section 173(4)(b), ‘the appointment’—

*omit, insert—*

‘that the appointment, other than to the extent it relates to the sale of land or interests in land,’.

### **81 Insertion of new s 174A**

After section 174—

*insert—*

#### **‘174A Pre-appointment advice about types of appointment**

‘If the appointment is for the sale of a place of residence or land or an interest in a place of residence or land, before the appointment is signed, the pastoral house must specifically bring to the client’s notice the information in the form of appointment about—

(a) the effect of the following—

(i) an open listing;<sup>16</sup>

---

16 See section 16 (Meaning of “open listing”).



- (ii) an exclusive agency;<sup>17</sup>
- (iii) a sole agency;<sup>18</sup> and
- (b) the difference between sole agency and exclusive agency.

Maximum penalty—

- (a) for an individual guilty under chapter 2 of the Criminal Code of an offence or for section 591<sup>19</sup>—200 penalty units; or
- (b) for a pastoral house—1 000 penalty units.

*Note—*

The commission of an offence against this section also renders the appointment ineffective under section 177(3).<sup>1</sup>

## **82 Amendment of s 175 (Appointment of pastoral house—sole and exclusive agencies)**

(1) Section 175(1)—

*omit, insert—*

‘(1) If the appointment is for a sole or exclusive agency, before the appointment is signed, the pastoral house must discuss with the client whether the appointment is to be for a sole agency or an exclusive agency and specifically bring to the client’s notice the information in the form of appointment about—

- (a) the proposed term of the appointment; and
- (b) if the appointment is for the sale of residential property, the client’s entitlement to negotiate the term of the appointment up to a maximum term of 60 days; and
- (c) the difference between sole agency and exclusive agency, unless the information has been brought to the client’s notice under section 174A; and
- (d) the consequences for the client if the property is sold by someone other than the agent during the term of the appointment.

---

17 See section 19(2) (Difference between “exclusive agency” and “sole agency”).

18 See section 19(3) (Difference between “exclusive agency” and “sole agency”).

19 Section 591 (Executive officers must ensure corporation complies with Act)

Maximum penalty—

- (a) for an individual guilty under chapter 2 of the Criminal Code of an offence or for section 591<sup>20</sup>—200 penalty units; or
- (b) for a pastoral house—1 000 penalty units.

*Note—*

The commission of an offence against this subsection also renders an appointment for the sale of a place of residence or land or an interest in a place of residence or land ineffective under section 177(3).<sup>21</sup>

**(2)** Section 175(3)—

*omit, insert—*

‘**(3)** Subsection (1)(b) does not apply if the appointment is for the sale of 3 or more residential properties.’.

### **83 Amendment of s 176 (Restriction on reappointment of pastoral house for sales of residential property)**

Section 176(2)—

*omit, insert—*

‘**(2)** The limitation on the term of reappointment under subsection (1) does not apply if the reappointment is for the sale of 3 or more residential properties.

‘**(3)** A pastoral house appointed for the sale of residential property under a sole or exclusive agency commits an offence if the pastoral house is reappointed for the sale earlier than 14 days before the term of the sole or exclusive agency ends.

Maximum penalty for subsection (3)—

- (a) for an individual guilty under chapter 2 of the Criminal Code of an offence or for section 591<sup>21</sup>—200 penalty units; or
- (b) for a pastoral house—1 000 penalty units.

*Note—*

---

20 Section 591 (Executive officers must ensure corporation complies with Act)

21 Section 591 (Executive officers must ensure corporation complies with Act)

The commission of an offence against this subsection in relation to the reappointment also renders the reappointment ineffective under section 177.’.

## **84 Insertion of new s 176A**

After section 176—

*insert—*

### **‘176A Form of reappointment**

‘(1) The reappointment of a pastoral house under section 176 must be made in the approved form.

‘(2) A reappointment that does not comply with subsection (1) is ineffective from the time it is made.’.

## **85 Replacement of s 177 (Avoidance of appointments)**

Section 177—

*omit, insert—*

### **‘177 When appointments and reappointments are ineffective**

‘(1) The appointment of a pastoral house for a sole or exclusive agency for the sale of residential property is ineffective from the time it is made if the term of the appointment is more than 60 days.

‘(2) Subsection (1) does not apply if the appointment is for the sale of 3 or more residential properties.

‘(3) The appointment of a pastoral house for the sale of a place of residence or land or an interest in a place of residence or land is ineffective from the time it is made if the pastoral house commits an offence against section 174A or 175(1).

‘(4) The reappointment of a pastoral house for a further term of sole or exclusive agency for the sale of residential property is ineffective from the time it is made if the pastoral house commits an offence against section 176(3) in relation to the reappointment.’.

## **86 Amendment of s 210 (Appointment of auctioneer—general)**

(1) Section 210(4)(b), ‘the appointment’—

*omit, insert—*

‘that the appointment, other than to the extent it relates to the sale of land or interests in land,’.

(2) Section 210(7), penalty—

*omit, insert—*

‘Maximum penalty—200 penalty units.

‘(8) This section does not apply if the service to be performed is the sale of livestock.’.

## **87 Insertion of new s 211A**

After section 211—

*insert—*

### **‘211A Pre-appointment advice about types of appointment**

‘If the appointment is for the sale of a place of residence or land or an interest in a place of residence or land, before the appointment is signed, the auctioneer must specifically bring to the client’s notice the information in the form of appointment about—

(a) the effect of the following—

(i) an open listing;<sup>22</sup>

(ii) an exclusive agency;<sup>23</sup>

(iii) a sole agency;<sup>24</sup> and

(b) the difference between sole agency and exclusive agency.

Maximum penalty—200 penalty units.

*Note—*

The commission of an offence against this section also renders the appointment ineffective under section 214(3).’.

---

22 See section 16 (Meaning of “open listing”).

23 See section 19(2) (Difference between “exclusive agency” and “sole agency”).

24 See section 19(3) (Difference between “exclusive agency” and “sole agency”).

**88 Amendment of s 212 (Appointment of auctioneer—sole and exclusive agencies)**

(1) Section 212(1)—

*omit, insert—*

‘(1) If the appointment is for a sole or exclusive agency, before the appointment is signed, the auctioneer must discuss with the client whether the appointment is to be for a sole agency or an exclusive agency and specifically bring to the client’s notice the information in the form of appointment about—

- (a) the proposed term of the appointment; and
- (b) if the appointment is for the sale of residential property, the client’s entitlement to negotiate the term of the appointment up to a maximum term of 60 days; and
- (c) the difference between sole agency and exclusive agency, unless the information has been brought to the client’s notice under section 211A; and
- (d) the consequences for the client if the property is sold by someone other than the auctioneer during the term of the sole or exclusive agency.

Maximum penalty—200 penalty units.

*Note—*

The commission of an offence against this subsection also renders an appointment for the sale of a place of residence or land or an interest in a place of residence or land ineffective under section 214(3).’.

(2) Section 212—

*insert—*

‘(3) Subsection (1)(b) does not apply if the appointment is for the sale of 3 or more residential properties.’.

**89 Amendment of s 213 (Restriction on reappointment of auctioneers for sales of residential property)**

Section 213(2)—

*omit, insert—*

‘(2) The limitation on the term of reappointment under subsection (1) does not apply if the reappointment is for the sale of 3 or more residential properties.

‘(3) An auctioneer appointed for the sale of residential property under a sole or exclusive agency commits an offence if the auctioneer is reappointed for the sale earlier than 14 days before the term of the sole or exclusive agency ends.

Maximum penalty for subsection (3)—200 penalty units.

*Note—*

The commission of an offence against this subsection in relation to the reappointment also renders the reappointment ineffective under section 214.’.

## **90 Insertion of new s 213A**

After section 213—

*insert—*

### **‘213A Form of reappointment**

‘(1) The reappointment of an auctioneer under section 213 must be made in the approved form.

‘(2) A reappointment that does not comply with subsection (1) is ineffective from the time it is made.’.

## **91 Replacement of s 214 (Avoidance of appointments)**

Section 214—

*omit, insert—*

### **‘214 When appointments and reappointments are ineffective**

‘(1) The appointment of an auctioneer for a sole or exclusive agency for the sale of residential property is ineffective from the time it is made if the term of the appointment is more than 60 days.

‘(2) Subsection (1) does not apply if the appointment is for the sale of 3 or more residential properties.

‘(3) The appointment of an auctioneer for the sale of a place of residence or land or an interest in a place of residence or land is ineffective from the

time it is made if the auctioneer commits an offence against section 211A or 212(1).

‘(4) The reappointment of an auctioneer for a further term of sole or exclusive agency for the sale of residential property is ineffective from the time it is made if the auctioneer commits an offence against section 213(3) in relation to the reappointment.’.

## **92 Amendment of s 237 (Application of pt 4)**

Section 237(2), after ‘part’—

*insert—*

‘, other than sections 238 and 239,’.

## **93 Amendment of s 239 (Announcements before auction)**

Section 239(2)—

*omit, insert—*

‘(2) An auctioneer does not contravene subsection (1) if—

- (a) 2 or more vehicles that do not have a statutory warranty are to be auctioned in consecutive lots; and
- (b) immediately before the first vehicle is to be auctioned, the auctioneer identifies the vehicles and announces that the identified vehicles do not have a statutory warranty.

*Example—*

Lots 10 to 25 are vehicles that do not have a statutory warranty. The auctioneer does not contravene subsection (1) if, immediately before the auction of lot 10, the auctioneer announces lots 10 to 25 are vehicles that do not have a statutory warranty.’.

## **94 Amendment of s 261 (Meaning of “complete a residential property sale”)**

Section 261(2)(a)—

*omit, insert—*

- ‘(a) the person appointed a real estate agent, pastoral house or auctioneer (the “**agent**”) to sell the interest in the residential

property on the person's behalf and the agent is the effective cause of the sale; or'.

**95 Amendment of s 262 (What a property developer's licence authorises)**

Section 262—

*insert—*

'(4) A property developer who is an individual may be the person in charge of the business of a property developer that is a corporation at the corporation's registered office or at another place where the corporation conducts its business.'

**96 Amendment of s 267 (Licensee or salesperson to be in charge of a property developer's business at a place)**

(1) Section 267(2)(a), after 'corporate developer'—

*insert—*

'or another property developer'.

(2) Section 267(2)(b), 'property developer director or'—

*omit, insert—*

'property developer director, or a property developer who is an individual or a'.

**97 Replacement of s 268 (Disclosures to prospective buyer)**

Section 268—

*omit, insert—*

**'268 Disclosures to prospective buyer**

'(1) A property developer agent marketing residential property must disclose the following to any prospective buyer of the property—

- (a) any relationship, and the nature of the relationship (whether personal or commercial), the property developer agent has with anyone to whom the agent refers the buyer for professional services associated with the sale;



*Examples of relationships for paragraph (a)—*

1. A family relationship.
  2. A business relationship, other than a casual business relationship.
  3. A fiduciary relationship.
  4. A relationship in which 1 person is accustomed, or obliged, to act in accordance with the directions, instructions, or wishes of the other.
- (b) whether the property developer agent derives or expects to derive any benefit from a person to whom the agent has referred the buyer and, if so, the amount, value or nature of the benefit;
- (c) the amount, value or nature of any benefit any person has received, receives, or expects to receive in connection with the sale, or for promoting the sale, or for providing a service in connection with the sale, of the property.

*Examples for paragraph (c) of persons who may receive a benefit—*

- seller
- finance broker
- financial adviser
- financier
- property valuer
- solicitor
- residential property developer.

Maximum penalty—200 penalty units.

‘(2) The disclosure is effective for subsection (1) only if it is—

- (a) given to the prospective buyer in the approved form; and
- (b) acknowledged by the prospective buyer in writing on the approved form; and
- (c) given and acknowledged before a contract for the sale of the residential property is entered into.

‘(3) The approved form must include a statement that a residential property developer marketing residential property must hold an interest of at least 15% in the property.

‘(4) Also, for subsection (1)(c), disclosure in compliance with the approved form is sufficient.

‘(5) In this section—

“**benefit**” means monetary or other benefit.

“**property developer agent**” means—

- (a) a residential property developer; or
- (b) a property developer salesperson; or
- (c) a person acting as a property developer salesperson in contravention of section 276.<sup>25</sup>

“**residential property developer**” means—

- (a) a property developer; or
- (b) a person acting as a property developer in contravention of section 275.<sup>26</sup>.

## **98 Replacement of s 365 (When buyer is bound under a relevant contract)**

Section 365—

*omit, insert—*

### **‘365 When parties are bound under a relevant contract**

‘(1) The buyer and the seller under a relevant contract are bound for all purposes by the contract when the buyer or the buyer’s agent receives a copy of the contract signed by the buyer and the seller.

‘(2) For subsection (1) and without limiting how the buyer or the buyer’s agent may receive a copy of the signed contract, the buyer or the buyer’s agent may receive the copy by fax.

‘(3) Without limiting how the buyer may withdraw the offer to purchase made in the contract form, the buyer may withdraw the offer at any time before being bound by the contract under subsection (1) by giving written notice of withdrawal, including notice by fax, to the seller or the seller’s agent.

---

25 Section 276 (Pretending to be property developer salesperson)

26 Section 275 (Acting and marketing offences)

‘(4) For this section, a thing sent by fax is taken to be received by the person to whom it is sent if the sender’s fax machine indicates that transmission has been successful.

‘(5) If a dispute arises about when the buyer and the seller are bound by the contract, the onus is on the seller to prove when the parties were bound by the contract.

‘(6) In this section—

“**buyer’s agent**” includes a lawyer or licensee acting for the buyer and a person authorised by the buyer or by law to sign the contract on the buyer’s behalf.’.

#### **99 Amendment of s 366 (Warning statement to be attached to relevant contract)**

Section 366(4)(a), ‘before a witness’—

*omit.*

#### **100 Amendment of s 367 (Buyer’s rights if warning statement not given)**

(1) Section 367(5) to (7)—

*renumber* as section 367(6) to (8).

(2) Section 367—

*insert—*

‘(5) If the seller, acting under subsection (4), instructs a licensee acting for the seller to refund the deposit paid under the contract to the buyer, the licensee must immediately refund the deposit to the buyer.

Maximum penalty—200 penalty units.’.

#### **101 Amendment of s 376 (Account’s name)**

Section 376(1), ‘general’ (second mention)—

*omit.*

### **102 Amendment of s 506 (Constitution of tribunal for hearing)**

Section 506(3)—

*omit, insert—*

‘(3) Also, the tribunal must be constituted by the chairperson sitting alone, or another member who is a lawyer sitting alone, for the following proceedings—

- (a) a marketeer proceeding;<sup>27</sup>
- (b) a public examination under section 528A.<sup>28</sup>.

### **103 Amendment of s 547 (Entry to places)**

(1) Section 547(1)—

*insert—*

‘(d) it is a licensee’s place of business and is—

- (i) open for carrying on business; or
- (ii) otherwise open for entry; or
- (iii) required to be open for inspection under, or as a condition of, the licensee’s licence; or

(e) it is a marketeer’s place of business and is—

- (i) open for carrying on business; or
- (ii) otherwise open for entry.’.

(2) Section 547—

*insert—*

‘(3) For subsection (1)(d) and (e), a place of business does not include a part of the place where a person resides.’.

### **104 Insertion of new div hdg**

After section 554—

---

27 See chapter 14 (Claims against the fund and other proceedings), part 3A (Marketeer proceedings).

28 Section 528A (Tribunal may conduct public examination)

*insert—*

***‘Division 4—Other powers’.***

**105 Amendment of s 556 (Power to require documents to be produced)**

Section 556, heading, after **‘produced’**—

*insert—*

**‘—licensees’.**

**106 Insertion of new s 556A**

After section 556—

*insert—*

**‘556A Power to require documents to be produced—marketeers**

**‘(1)** An inspector may require a marketeer, or another person having possession, custody, or control of relevant documents on behalf of the marketeer, to produce any document relating to—

- (a) the sale, or promotion of the sale, or provision of a service in connection with the sale, of residential property in which the marketeer has or had an interest; or
- (b) the employment of a person by the marketeer in the sale, or promotion of the sale, or provision of a service in connection with the sale, of residential property in which the marketeer has or had an interest.

**‘(2)** The inspector may require the marketeer or other person to produce a document immediately or at a stated reasonable place at a stated reasonable time.

**‘(3)** The marketeer or other person must comply with a requirement under subsection (1) or (2), unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

**‘(4)** It is a reasonable excuse for an individual to fail to produce a document if producing the document might tend to incriminate the individual.

**‘(5)** The inspector may—

- (a) inspect a produced document; or
- (b) audit or copy a produced document; or
- (c) seize a produced document if the inspector believes, on reasonable grounds—
  - (i) the document is evidence of an offence against this Act; and
  - (ii) the seizure is necessary to prevent—
    - (A) the document being hidden, lost or destroyed; or
    - (B) the document being used to commit, continue or repeat an offence against this Act.’.

#### **107 Amendment of s 589 (Proceedings for an offence)**

Section 589(8), ‘2 years or more’—

*omit, insert—*

‘more than 2 years’.

#### **108 Insertion of pt hdg**

Chapter 19, before section 603—

*insert—*

### **‘PART 1—TRANSITIONAL AND SAVINGS PROVISIONS FOR REPEALED ACT’.**

#### **109 Amendment of s 603 (Definitions for ch 19)**

(1) Section 603, heading, ‘ch 19’—

*omit, insert—*

‘pt 1’.

(2) Section 603, ‘chapter’—

*omit, insert—*

‘part’.

## **110 Amendment of s 614 (Existing appointments to act as licensee)**

Section 614—

*insert—*

‘(3) Also, if the engagement, appointment or agreement is for an exclusive agency (as defined under this Act), the engagement, appointment or agreement ends on the earlier of the following days—

- (a) the day it ends according to its terms;
- (b) a day 60 days after the commencement of this subsection.’.

## **111 Insertion of new ch 19, pt 2**

Chapter 19, after section 630—

*insert—*

### **‘PART 2—TRANSITIONAL PROVISIONS FOR TOURISM, RACING AND FAIR TRADING (MISCELLANEOUS PROVISIONS) ACT 2002**

#### **‘631 Transitional provision for relevant contracts mentioned in repealed s 365**

‘(1) This section applies to a relevant contract for chapter 11 if, on the commencement—

- (a) the buyer under the contract has the contract, or a copy of the contract, signed by the buyer and the seller; and
- (b) the seller has given the buyer a notice in the approved form for the repealed section 365 signed and dated by the seller and declaring the date on which the seller signed the contract; and
- (c) the buyer has not given the seller or the seller’s agent—
  - (i) a copy of the signed contract; and
  - (ii) the notice mentioned in paragraph (b); and
- (d) the contract has not been settled or lawfully terminated.

‘(2) The buyer is taken to be bound under the contract on the earlier of the following days—

- (a) the day the buyer would be bound under the contract if repealed section 365 were still in force;
- (b) the end of the seventh day after the commencement of this section.

‘(3) To remove any doubt, it is declared that the cooling-off period for the contract starts on the day the buyer is taken to be bound under the contract.

‘(4) In this section—

“**commencement**” means the commencement of this section.

“**repealed section 365**” means section 365 as in force immediately before the commencement.’.

### ‘632 Transitional provision for warning statements

‘(1) This section applies to a relevant contract for chapter 11 entered into on or after 1 July 2001 and before the commencement of this section.

‘(2) The seller or a person acting for the seller who prepared the contract does not commit an offence against section 366(2) if the warning statement was attached to the contract immediately beneath an information sheet if the information sheet was attached as the first or top sheet of the contract.

‘(3) Also, if the contract has not been settled or lawfully terminated, the buyer can not terminate the contract because of noncompliance with section 366(1) only because a warning statement was attached to the contract immediately beneath an information sheet if the information sheet was attached as the first or top sheet of the contract.

‘(4) Subsection (3) has effect despite section 367(2).

‘(5) In this section—

“**information sheet**” means an information sheet under the *Body Corporate and Community Management Act 1997*, section 170(5).<sup>29</sup>’.

---

<sup>29</sup> *Body Corporate and Community Management Act 1997*, section 170 (Statement to be given by seller to buyer)



## **PART 18—AMENDMENT OF RACING AND BETTING AMENDMENT ACT 2000**

### **112 Act amended in pt 18**

This part amends the *Racing and Betting Amendment Act 2000*.

### **113 Amendment of s 45 (Amendment of sch 3 (Acts amended after assent))**

Section 45, ‘1998’—

*omit, insert—*

‘1980’.

## **PART 19—AMENDMENT OF RETIREMENT VILLAGES ACT 1999**

### **114 Act amended in pt 19**

This part amends the *Retirement Villages Act 1999*.

### **115 Amendment of s 45 (Content of residence contract)**

(1) Section 45(1)(h) to (m)—

*renumber* as section 45(1)(i) to (n).

(2) Section 45(1)—

*insert—*

‘(h) all conditions precedent to the resident’s right to reside in the retirement village;’.

### **116 Amendment of s 46 (Dealing with ingoing contribution)**

(1) Section 46(3)—

*insert—*

- ‘(c) if the ingoing contribution relates to an accommodation unit that has not previously been occupied—the day the resident’s accommodation unit is suitable for habitation and the resident is entitled to vacant possession of the unit.’.

(2) Section 46—

*insert—*

‘(4A) For subsection (3)(c), without limiting when an accommodation unit is not suitable for habitation, an accommodation unit is not suitable for habitation if—

- (a) reticulated water is not connected to the unit; or
- (b) all sanitary installations are not installed or are not operational in the unit.’.

## 117 Amendment of s 87 (Definitions for div 1)

(1) Section 87—

*insert—*

‘**“criminal history”**, of a person, means criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than a spent conviction.

**“spent conviction”** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.<sup>30</sup>

(2) Section 87, definition “relevant conviction”, ‘conviction for’—

*omit, insert—*

‘conviction, other than a spent conviction, for’.

---

<sup>30</sup> *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

## **118 Insertion of new ss 88A and 88B**

Part 5, division 1, after section 88—

*insert—*

### **‘88A Investigations about scheme operators etc.**

‘(1) The chief executive may ask the commissioner of the police service for a written report about the criminal history of a person who—

- (a) applies to the chief executive to register a retirement village scheme; or
- (b) the chief executive reasonably suspects—
  - (i) is a scheme operator; or
  - (ii) promotes a retirement village scheme; or
  - (iii) sells rights to reside in a retirement village; or
  - (iv) is concerned, directly or indirectly, in managing a retirement village.

‘(2) The commissioner must give the report to the chief executive.

‘(3) However, the report is required to contain only criminal history in the commissioner’s possession or to which the commissioner has access.

### **‘88B Criminal history is confidential document**

‘(1) An officer, employee or agent of the department (“**representative**”) must not, directly or indirectly, disclose to anyone else a report about a person’s criminal history, or information contained in the report, given under section 88A.

Maximum penalty—100 penalty units.

‘(2) However, the representative does not contravene subsection (1) if—

- (a) disclosure of the report or information to someone else is authorised by the chief executive to the extent necessary to perform a function under or in relation to this Act; or
- (b) the disclosure is otherwise required or permitted by law.

‘(3) The chief executive must destroy the report as soon as practicable after considering it unless the report is to be used for a prosecution.’.

**119 Amendment of s 94 (Payments into capital replacement fund)**

Section 94(1), 'The following amounts must be'—

*omit, insert—*

'The scheme operator must ensure that the following amounts are'.

**120 Amendment of s 100 (Payments into maintenance reserve fund)**

Section 100(1), 'The following amounts must be'—

*omit, insert—*

'The scheme operator must ensure that the following amounts are'.

**121 Amendment of s 110 (Scheme operator must insure village)**

Section 110(2)—

*omit, insert—*

'(2) The scheme operator must ensure that insurance taken out under this section—

- (a) covers, to the greatest practicable extent—
  - (i) damage; and
  - (ii) costs incidental to the reinstatement or replacement of insured buildings, including the cost of taking away debris and the fees of architects and other professional advisers; and
  - (iii) public liability; and
- (b) provides for the reinstatement of property to its condition when new.

Maximum penalty for subsection (2)—540 penalty units.'

**122 Amendment of s 112 (Quarterly financial statements)**

(1) Section 112(2), 'The'—

*omit, insert—*

'For subsection (1), the'.

(2) Section 112(2), penalty—  
*omit.*

## **PART 20—REPEALS AND MINOR AMENDMENTS**

### **123 Repeals**

(1) The following Acts are repealed—

- Hawkers Act 1984 No. 46
- Loan Fund Companies Act 1982 No. 1.

(2) The following regulation is repealed—

- Invasion of Privacy Regulation 1998 SL No. 154.

### **124 Acts amended—schedule**

The schedule amends the Acts it mentions.

## SCHEDULE

### MINOR AMENDMENTS

section 124

### BUSINESS NAMES ACT 1962

**1 Section 3—**

*insert—*

‘**“prescribed fee”** means the fee prescribed under a regulation.’.

### COLLECTIONS ACT 1966

**1 Section 5, definition “art union”, ‘Art Unions and Public Amusements Act 1992’—**

*omit, insert—*

‘*Charitable and Non-Profit Gaming Act 1999*’.

**2 Section 20(3), ‘of charity’—**

*omit, insert—*

‘of a charity’.

**3 Section 30(1), ‘Art Unions and Public Amusements Act 1992’—**

*omit, insert—*

‘*Charitable and Non-Profit Gaming Act 1999*’.

## SCHEDULE (continued)

**COOPERATIVES ACT 1997**

- 1 Sections 143(4)(c) and 242(1)(b) and (d)(i), ‘section 232(1)’—**  
*omit, insert—*  
‘section 232(2)’.

**LAND SALES ACT 1984**

- 1 Sections 22(1) and 25(1)(a) and (c) and (2)(b), after**  
**‘section 21(4)’—**  
*insert—*  
‘or (6)’.

**MOTOR VEHICLES SECURITIES AND OTHER ACTS  
AMENDMENT ACT 2001**

- 1 Section 6(2), definitions “existing security interest”, “holder”,**  
**“primary section” and “transferred security interest”, ‘part 6’—**  
*omit, insert—*  
‘part 7’.
- 2 Section 25, new part 5, division 3—**  
*renumber* as part 5, division 2.

## SCHEDULE (continued)

**3 Section 25, new part 5, division 4—**

*renumber* as part 5, division 3.

**4 Section 27, heading—**

*omit, insert—*

**‘27 Insertion of new s 40 and pts 7 and 8’.**

**5 Section 27, new part 6—**

*renumber* as part 7.

**6 Section 27, new section 41, heading—**

*omit, insert—*

**‘41 Definitions for pt 7’.**

**7 Section 27, new section 42(4), ‘section 8’—**

*omit, insert—*

‘section 8(1)’.

**8 Section 27, new part 7—**

*renumber* as part 8.

**9 Section 27, new part 8 as renumbered, after section 46—**

*insert—*

**‘46A Declaration about commencement of certain provisions**

‘To remove any doubt, it is declared that the *Motor Vehicles Securities and Other Acts Amendment Act 2001*, section 19(4), part 3, sections 35, 36, 38 to 40, 42 and 46(2) are always taken to have commenced on 7 June 2001.’.



SCHEDULE (continued)

**10 Section 27, new section 47, heading—**

*omit, insert—*

**‘47 Expiry of pt 8’.**

**11 Schedule 1, entry for Motor Vehicles Securities Act 1986, item 3—**

*omit, insert—*

**‘3 Sections 7AA, 7AB, 7AC and 7A—**

*renumber as sections 7A, 7B, 7C and 7D.’.*

**POLICE POWERS AND RESPONSIBILITIES ACT 2000**

**1 Schedule 4, definition “identifying particulars offence”, paragraph (b), entry for *Hawkers Act 1984*—**

*omit.*

**PROPERTY AGENTS AND MOTOR DEALERS ACT 2000**

**1 Section 17(4)—**

*insert—*

‘ “**vacant land**” means land on which there are no structural improvements, other than fencing.’.

**2 Section 20(b), after ‘estate’—**

*insert—*

‘agent’.

SCHEDULE (continued)

**3 Section 149(3)(d)(ii), ‘; and’—**

*omit, insert—*

‘;’.

**4 Section 153(4), penalty—**

*omit.*

**5 Section 153(5)—**

*omit, insert—*

‘(5) The real estate agent must keep a copy of the signed statement at the real estate agent’s registered office and make it available for the immediate inspection of an inspector who asks to see it.

Maximum penalty for subsection (5)—200 penalty units.’.

**6 Section 238, ‘An unwarranted vehicle may be advertised or displayed for sale’—**

*omit, insert—*

‘An auctioneer may advertise or display for sale an unwarranted vehicle’.

**7 Section 316, ‘An unwarranted vehicle may be advertised or displayed for sale’—**

*omit, insert—*

‘A motor dealer may advertise or display for sale an unwarranted vehicle’.

**8 Section 386(1), after ‘account’—**

*insert—*

‘as required under this section’.

SCHEDULE (continued)

**9 Section 386(2) and (3), penalty—**

*omit.*

**10 Section 532(2)(i) to (vi)—**

*renumber* as section 532(a) to (f).

**11 Section 556(5)(c), ‘seize a document’—**

*omit, insert—*

‘seize a produced document’.

**12 Section 591(3), ‘committed’—**

*omit, insert—*

‘been convicted of’.

**13 Schedule 3, definition “livestock”—**

*omit, insert—*

‘“livestock” means horses, cattle, sheep or swine.’.

**14 Schedule 3, definitions “commencement”, “committee” and “former fund”, after ‘chapter 19,’—**

*insert—*

‘part 1.’.

## SCHEDULE (continued)

**QUEENSLAND BUILDING TRIBUNAL ACT 2000****1 Section 79(2), ‘contravenes’—**

*omit, insert—*

‘is in contempt under’.

**RETIREMENT VILLAGES ACT 1999****1 Section 10(3)(b), ‘a right,’—**

*omit, insert—*

‘, a right’.

**2 Section 116(1), after ‘a retirement village’—**

*insert—*

‘scheme’.

**SECURITY PROVIDERS ACT 1993****1 Section 6(2)(b)—**

*omit.*

**2 Section 6(2)(c)—**

*renumber* as section 6(2)(b).

## SCHEDULE (continued)

**TRANSPORT OPERATIONS (ROAD USE  
MANAGEMENT) ACT 1995****1 Section 66(5)—**

*omit.*

**2 Section 66(6), (7) and (8)—**

*renumber* as section 66(5), (6) and (7).