

Queensland



# **TRIBUNALS PROVISIONS AMENDMENT ACT 2002**

**Act No. 51 of 2002**



# Queensland



## TRIBUNALS PROVISIONS AMENDMENT ACT 2002

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Queensland



## **Tribunals Provisions Amendment Act 2002**

### **Act No. 51 of 2002**

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

*[Assented to 24 September 2002]*

The Parliament of Queensland enacts—

## PART 1—PRELIMINARY

### 1 Short title

This Act may be cited as the *Tribunals Provisions Amendment Act 2002*.

### 2 Commencement

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

## PART 2—AMENDMENT OF LIQUOR ACT 1992

### 3 Act amended in pt 2

This part amends the *Liquor Act 1992*.

### 4 Amendment of s 4 (Definitions)

Section 4—

*insert—*

‘**“affected by bankruptcy action”**, in relation to an individual, means the individual, in any jurisdiction—

- (a) is bankrupt; or
- (b) has compounded with creditors; or
- (c) has otherwise taken, or applied to take, advantage of any law about bankruptcy.

**“presiding case manager”** means the presiding case manager under the *Queensland Building Tribunal Act 2000*.

**“registrar”**, of the Tribunal, means the director, central tribunals registry under the *Queensland Building Tribunal Act 2000*.’.

**5 Amendment of s 14 (The Tribunal and its members)**

Section 14—

*insert—*

‘(4) The chairperson may hold, or act in, and perform the functions of, another public office in addition to the office of chairperson if the chairperson is appointed to, or appointed to act in, the other office by the Governor in Council.’.

**6 Insertion of new s 15A**

After section 15—

*insert—*

**‘15A Advertising for nominations for appointment**

‘Before recommending a person to the Governor in Council for appointment as a member of the Tribunal, the Minister must advertise in a newspaper circulating throughout the State for applications or expressions of interest from suitably qualified persons to be considered for selection as a member of the Tribunal.’.

**7 Amendment of s 18 (Resignation and removal from office)**

Section 18(2) to (6)—

*omit, insert—*

‘(2) The Governor in Council may terminate the appointment of a member if the Governor in Council is satisfied the member—

- (a) is mentally or physically incapable of satisfactorily performing the member’s duties; or
- (b) performed the member’s duties carelessly, incompetently or inefficiently; or
- (c) has engaged in conduct that could warrant dismissal from the public service if the member were a public service officer; or
- (d) is affected by bankruptcy action.

‘(3) The Governor in Council must terminate the appointment of a member if the member is convicted of an indictable offence, whether dealt with on indictment or summarily.

‘(4) This section applies to a member whether appointed before or after the commencement of this section.’.

## **8 Replacement of s 20B (Annual report)**

Section 20B—

*omit, insert—*

### **‘20B Annual report on operation of tribunal**

‘(1) As soon as practicable after each financial year, but not later than 30 September, the chairperson must give the Minister a report containing—

- (a) a review of the operation of the tribunal during the preceding financial year; and
- (b) proposals for improving the operation of, and forecasts of the workload of, the tribunal in the present financial year.

‘(2) The department’s annual report for a financial year must include a report on the operation of the tribunal during the financial year.’.

## **9 Insertion of new pt 2, div 1A**

After section 20B—

*insert—*

### ***‘Division 1A—Administration of Tribunal***

### **‘20C Chairperson’s role**

‘(1) The chairperson’s role includes the following—

- (a) directing the Tribunal’s adjudicative operations to ensure they are as fair, economical, informal and speedy as practical;
- (b) developing, with the participation of other members, guiding principles that promote high quality and consistent decisions by the tribunal;
- (c) developing and implementing procedures and policies for the Tribunal’s adjudicative operations;
- (d) issuing practice directions of general application to proceedings;
- (e) managing the overall performance of members;

- (f) being responsible for the professional development and training of members of the Tribunal in relation to the discharge of their functions.

‘(2) The chairperson may do all things necessary or convenient to be done for the performance of the chairperson’s role.

### ‘20D Chairperson and registrar to work cooperatively

‘The chairperson and the registrar must work cooperatively to promote the effective and efficient operation of the Tribunal.

### ‘20E Member’s role

‘(1) The role of a member of the Tribunal includes professionally and efficiently performing the functions of the Tribunal assigned or given to the member under this Act.

‘(2) A member must comply with the procedures and policies implemented by the chairperson for the tribunal’s adjudicative operations.

### ‘20F Delegation by chairperson

‘(1) The chairperson may delegate the chairperson’s powers under this Act or another Act to another member of the Tribunal.

‘(2) The chairperson may delegate the chairperson’s power under section 22(2) to the registrar of the Tribunal.

‘(3) The registrar may subdelegate the delegated power to another appropriately qualified officer of the staff of the registry.

‘(4) In this section—

“**appropriately qualified**”, for a subdelegated power, includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

A person’s level of employment in the registry.

“**registry**” means the central tribunals registry under the *Queensland Building Tribunal Act 2000*.’.

**10 Amendment of s 22 (Constitution of Tribunal)**

(1) Section 22(3)—

*renumber* as section 22(5).

(2) Section 22(2)—

*omit, insert*—

‘(2) The chairperson must select the members of the Tribunal for a proceeding, one of whom may be the chairperson.

‘(3) However, for a minor appeal, a conference under section 26A<sup>1</sup> or an application for an order under section 41A(2),<sup>2</sup> the Tribunal may be constituted by a single member selected by the chairperson who is qualified as mentioned in section 15.<sup>3</sup>

‘(4) Also, for a prescribed application or matter under the *Queensland Building Tribunal Act 2000*, section 26C,<sup>4</sup> the chairperson may select the presiding case manager to constitute the Tribunal.’.

**11 Amendment of s 23 (Way of exercising jurisdiction)**

(1) Section 23(b)—

*renumber* as section 23(c).

(2) Section 23(a)—

*omit, insert*—

‘(a) for a minor appeal, a conference under section 26A<sup>5</sup> or an application for an order under section 41A(2)<sup>6</sup> for which the Tribunal is constituted by a single member—the member constituting the Tribunal in the proceeding; or

(b) for a prescribed application or matter under the *Queensland Building Tribunal Act 2000*, section 26C—the person constituting the Tribunal for the application or matter; or’.

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1 Section 26A (Directions)

2 Section 41A (Suppression of sensitive information)

3 Section 15 (Qualification for appointment)

4 *Queensland Building Tribunal Act 2000*, section 26C (Presiding case manager’s power to deal with particular applications to central tribunals)

5 Section 26A (Directions)

6 Section 41A (Suppression of sensitive information)



**12 Amendment of s 26 (Powers of Tribunal in proceedings)**

Section 26—

*insert—*

‘(3) In this section—

“**member**” includes presiding case manager.’.

**13 Amendment of s 26A (Directions)**

Section 26A(2)—

*insert—*

‘(g) giving leave to adduce new evidence under section 35A.’.

**14 Amendment of s 27 (Summons to witnesses)**

(1) Section 27(2), penalty, ‘for subsection (2)’—

*omit.*

(2) Section 27—

*insert—*

‘(3) A person required to attend at a proceeding before the Tribunal is entitled to—

(a) the witness fees and expenses prescribed under a regulation; or

(b) if no witness fees or expenses are prescribed—the reasonable witness fees and expenses decided by the Tribunal.

‘(4) If the notice requiring a person to attend at a proceeding is issued on an application by a party to the proceeding, the party must pay the fees and expenses to which the person is entitled.’.

**15 Amendment of s 29 (Contempt of Tribunal)**

Section 29—

*insert—*

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7 Section 35A (Tribunal may give leave for appeal to be based on new evidence and related matters)

‘(2) In this section—

“**member**” includes presiding case manager.’.

## **16 Replacement of s 35A (Tribunal may give leave for appeal to be based on new evidence and related matters)**

Section 35A—

*omit, insert—*

### **‘35A Tribunal may give leave for appeal to be based on new evidence and related matters**

‘(1) This section applies despite section 34(1).

‘(2) A participant in a proceeding for an appeal against a decision of the chief executive may apply for leave to adduce fresh, additional or substituted evidence (“**new evidence**”) in a way permitted by the Tribunal.

‘(3) The Tribunal may give leave to adduce new evidence if it is satisfied—

- (a) the person seeking to adduce the new evidence did not know, and could not reasonably be expected to have known, of the existence of the new evidence on or before the day of the chief executive’s decision; or
- (b) in the special circumstances of the case, it would be unfair not to allow the person to adduce the new evidence.

‘(4) If the Tribunal gives leave to adduce new evidence, the Tribunal may—

- (a) adjourn the proceeding to allow the chief executive to reconsider the decision appealed against together with the new evidence; or
- (b) if the Tribunal considers it appropriate for the participant to make a new application, require the participant to make a new application to the chief executive; or
- (c) continue with the appeal by way of rehearing on the evidence that was before the original decision-maker and on the new evidence.

‘(5) Despite subsection (4), if the chief executive applies for an adjournment to allow the chief executive to reconsider the decision appealed against together with the new evidence, the Tribunal must adjourn the proceeding for a stated reasonable time.

‘(6) In deciding if it is appropriate for the participant to make a new application, the Tribunal must consider whether—

- (a) the new evidence substantially changes the application the subject of the appeal; or
- (b) additional people may be affected by the application and the additional people should have an opportunity to comment on or object to the application.’.

## **17 Replacement of s 41A (Tribunal to keep record of its decisions)**

Section 41A—

*omit, insert—*

### **‘41A Suppression of sensitive information**

‘(1) If, at the time of a proceeding, a participant in the proceeding applies to the Tribunal to suppress sensitive information about a person, the Tribunal may order that the information is not to form part of the record available for inspection by members of the public.

‘(2) If, after a proceeding, a person who was a participant in the proceeding applies to the Tribunal for an order to suppress sensitive information about the person, the Tribunal may order that the information is not to form part of the record available for inspection by members of the public from a day stated in the order.

‘(3) However, the Tribunal must—

- (a) before making an order under subsection (2), ask the registrar to provide information about—
  - (i) the extent of any existing publication of the sensitive information; and
  - (ii) the period reasonably needed for the removal of the sensitive information from the record available for inspection by members of the public; and
- (b) in making the order, have regard to the extent of any publication of the information and the period for removal stated by the registrar.

‘(4) The tribunal, in deciding whether to suppress information, is not limited by subsection (3) or to a consideration of whether or not the information is in fact sensitive.

‘(5) In this section—

“**sensitive information**”, about a person, means information about—

- (a) the person’s reputation; or
- (b) the person’s history of behaviour or attitude in relation to the management and discharge of the person’s financial obligations.’.

## **18 Replacement of s 47A (Publication of information on internet etc.)**

Section 47A—

*omit, insert—*

### **‘47A Publication of information on internet etc.**

‘The chief executive may publish information in the register kept under section 43<sup>8</sup> in a way the chief executive considers appropriate, including, for example, by the internet or other telecommunication.’.

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

After section 232—

*insert—*

### **‘232A Proof of signature unnecessary**

‘A signature purporting to be the signature of a member of the Tribunal, the registrar or the presiding case manager is evidence of the signature it purports to be.’.

## **PART 3—AMENDMENT OF PROPERTY AGENTS AND MOTOR DEALERS ACT 2000**

## **20 Act amended in pt 3**

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

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8 Section 43 (Register of licences, permits and applications to be kept)

**21 Amendment of s 11 (Definitions)**

Section 11, ‘schedule 3’—

*omit, insert—*

‘schedule 2’.

**22 Insertion of new s 451A**

Chapter 13, part 3, before section 452—

*insert—*

**‘451A Advertising for nominations for appointment**

‘Before recommending a person to the Governor in Council for appointment as a member of the tribunal, the Minister must advertise in a newspaper circulating throughout the State for applications or expressions of interest from suitably qualified persons to be considered for selection as a member of the tribunal.’.

**23 Replacement of s 456 (Termination of appointment)**

Section 456—

*omit, insert—*

**‘456 Termination of appointment**

‘(1) The Governor in Council may terminate the appointment of a member of the tribunal if the Governor in Council is satisfied the member—

- (a) is mentally or physically incapable of satisfactorily performing the member’s duties; or
- (b) performed the member’s duties carelessly, incompetently or inefficiently; or
- (c) has engaged in conduct that could warrant dismissal from the public service if the member were a public service officer; or
- (d) is affected by bankruptcy action.

‘(2) The Governor in Council must terminate the appointment of a member if the member—

- (a) ceases to be eligible for appointment as a member; or

- (b) is convicted of an indictable offence, whether dealt with on indictment or summarily.

‘(3) This section applies to a member of the tribunal whether appointed before or after the commencement of this section.’.

## **24 Replacement of s 458 (Chairperson’s role)**

Section 458—

*omit, insert—*

### **‘458 Chairperson’s role**

‘(1) The chairperson’s role includes the following—

- (a) directing the tribunal’s adjudicative operations to ensure they are as fair, economical, informal and speedy as practical;
- (b) developing, with the participation of other members, guiding principles that promote high quality and consistent decisions by the tribunal;
- (c) developing and implementing procedures and policies for the tribunal’s adjudicative operations;
- (d) issuing practice directions of general application to proceedings;
- (e) managing the overall performance of members;
- (f) being responsible for the professional development and training of members of the tribunal in relation to the discharge of their functions.

‘(2) The chairperson may do all things necessary or convenient to be done for the performance of the chairperson’s role.

### **‘459 Chairperson and registrar to work cooperatively**

‘The chairperson and the registrar must work cooperatively to promote the effective and efficient operation of the tribunal.

### **‘460 Member’s role**

‘(1) The role of a member of the tribunal includes professionally and efficiently performing the functions of the tribunal assigned or given to the member under this Act.

‘(2) A member must comply with a procedural direction given by the chairperson.

#### ‘461 Delegation by chairperson

‘(1) The chairperson may delegate the chairperson’s powers under this Act or another Act to another member.

‘(2) The chairperson may delegate the chairperson’s powers under section 514(1)<sup>9</sup> to the registrar.

‘(3) The registrar may subdelegate the delegated power to another appropriately qualified officer of the staff of the registry.

‘(4) In this section—

“**appropriately qualified**”, for a subdelegated power, includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

A person’s level of employment in the registry.

“**registry**” means the central tribunals registry under the *Queensland Building Tribunal Act 2000*.’.

## 25 Omission of ch 13, pt 4

Chapter 13, part 4—

*omit.*

## 26 Replacement of s 468 (Annual report)

Section 468—

*omit, insert—*

### ‘468 Annual report on operation of tribunal

‘(1) As soon as practicable after each financial year, but not later than 30 September, the chairperson must give the Minister a report containing—

9 Section 514 (Establishment of tribunal for hearing)

- (a) a review of the operation of the tribunal during the preceding financial year; and
- (b) proposals for improving the operation of, and forecasts of the workload of, the tribunal in the present financial year.

‘(2) The department’s annual report for a financial year must include a report on the operation of the tribunal during the financial year.’

### **27 Amendment of s 497 (How to start disciplinary proceedings)**

(1) Section 497(3), ‘7 days’—

*omit, insert—*

‘14 days’.

(2) Section 497—

*insert—*

‘(5) The chief executive must notify the registrar of service of the complaint and attendance notice within 7 days after the complaint and attendance notice have been given to the person.’

### **28 Omission of s 499 (Hearing date must be at least 14 days after attendance notice is given)**

Section 499—

*omit.*

### **29 Amendment of s 500B (How to start a proceeding)**

(1) Section 500B(3), ‘7 days’—

*omit, insert—*

‘14 days’.

(2) Section 500B—

*insert—*

‘(5) The chief executive must notify the registrar of service of the complaint and attendance notice within 7 days after the complaint and attendance notice have been given to the marketeer.’



**30 Omission of s 500D (Fourteen days must pass before hearing date)**

Section 500D—

*omit.*

**31 Amendment of s 506 (Constitution of tribunal for hearing)**

(1) Section 506(2), ‘the chairperson’—

*omit, insert—*

‘a lawyer’.

(2) Section 506—

*insert—*

‘(4) Despite subsection (3), for a prescribed application or matter under the *Queensland Building Tribunal Act 2000*, section 26C,<sup>10</sup> the tribunal must be constituted by the presiding case manager except as otherwise provided under that section.’.

**32 Amendment of s 513 (Attendance notice)**

(1) Section 513(3), penalty, ‘for subsection (3)’—

*omit.*

(2) Section 513—

*insert—*

‘(4) A person required to appear before the tribunal is entitled to—

- (a) the witness fees and expenses prescribed under a regulation; or
- (b) if no fees or expenses are prescribed—the reasonable witness fees and expenses decided by the tribunal.

‘(5) If the notice requiring a person to attend at a proceeding is issued on an application by a party to the proceeding, the party must pay the fees and expenses to which the person is entitled.’.

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<sup>10</sup> *Queensland Building Tribunal Act 2000*, section 26C (Presiding case manager’s power to deal with particular applications to central tribunals)

### 33 Replacement of s 514 (Establishment of tribunal for hearing)

Section 514—

*omit, insert—*

#### **‘514 Establishment of tribunal for hearing**

‘(1) The chairperson must select the members of the tribunal for a hearing, one of whom (who may be the chairperson) must be a legally qualified member.

‘(2) The legally qualified member is to be the presiding member of the tribunal for the hearing.

‘(3) However, if the hearing is for a prescribed application or matter under the *Queensland Building Tribunal Act 2000*, section 26C,<sup>11</sup> the presiding case manager is to constitute the tribunal for the hearing except as otherwise provided under that section.

‘(4) The registrar must keep a record of the name of the person or persons constituting the tribunal for each hearing and why the hearing was held.

‘(5) In this section—

“**legally qualified member**” means the chairperson or a member who is a lawyer of at least 5 years standing.’.

### 34 Amendment of s 524 (Contempt of tribunal)

(1) Section 524(1)—

*insert—*

‘(ea) without reasonable excuse, fails to attend before the tribunal as required by attendance notice or fails to continue to attend as required by the presiding member until excused from further attendance; or’.

(2) Section 524—

*insert—*

‘(4) In this section—

“**member**”, of the tribunal, includes the presiding case manager.’.

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<sup>11</sup> *Queensland Building Tribunal Act 2000*, section 26C (Presiding case manager’s power to deal with particular applications to central tribunals)

**35 Renumbering of ch 14, pt 5, divs 6A–10**

Chapter 14, part 5, divisions 6A to 10—

*renumber* as chapter 14, part 5, divisions 8 to 13.

**36 Insertion of new ch 14, pt 5, div 7**

Chapter 14, part 5, after section 528—

*insert*—

***‘Division 7—Reference committee*****‘528AA Reference committee**

‘(1) A reference committee is established.

‘(2) The reference committee consists of—

(a) the commissioner for fair trading; and

(b) 2 community representatives who are not public service employees.

‘(3) One of the community representatives must have a demonstrated interest in civil liberties and the other must be a person the Minister considers has appropriate and relevant experience in fair trading issues.

‘(4) Community representatives are to be appointed by the Governor in Council.

‘(5) The community representatives’ appointment term and conditions are as decided by the Governor in Council.

**‘528AB Reference committee functions**

‘The reference committee’s function is to decide whether conduct of a marketeer that is being investigated under this Act should be the subject of an application to the tribunal for a public examination.

**‘528AC Reference committee may authorise application for public examination**

‘(1) If the chief executive considers that a public examination may help the chief executive decide whether or not to start a marketeer proceeding

against a marketeer, the chief executive may refer the conduct to the reference committee.

‘(2) After considering all relevant issues, the reference committee may authorise the chief executive to make an application to the tribunal for a public examination under division 8.

‘(3) The reference committee must not authorise the chief executive to make the application unless satisfied—

- (a) it is unlikely further investigation of the conduct by an inspector will be effective for deciding whether to start a marketeer proceeding; and
- (b) a public examination may help find out whether a marketeer has contravened section 573A, 573B or 573C; and
- (c) it is in the public interest to make the application.’.

### **37 Amendment of s 528B (Procedure before public examination starts)**

Section 528B(1), from ‘in writing—’

*omit, insert—*

‘in writing the grounds for the public examination.’.

### **38 Insertion of new s 528BA**

Chapter 14, part 5, division 8, as renumbered—

*insert—*

#### **‘528BA Person must answer certain questions**

‘(1) This section applies if a person being examined at a public examination refuses to answer a question put to the person.

‘(2) If the tribunal requires the person to answer the question, the tribunal must advise the person of the following—

- (a) that if the answer might tend to incriminate the person, the person may claim, before giving the answer, that giving the answer might tend to incriminate the person;
- (b) the effect that making the claim will have on the admissibility of the answer in any proceeding against the person.

‘(3) The person must answer the question, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

‘(4) Despite section 519(3),<sup>12</sup> it is not a reasonable excuse to fail to answer the question that answering might tend to incriminate the person.

‘(5) Subsection (6) applies if an answer might tend to incriminate the person and the person claims, before giving the answer, that giving the answer might tend to incriminate the person.

‘(6) The answer is not admissible in any criminal or civil proceeding against the person, other than a proceeding in which the falsity or misleading nature of the answer is relevant.’.

### **39 Replacement of ss 533 and 534**

Sections 533 and 534—

*omit, insert—*

#### **‘533 Form of decisions of tribunal**

‘A decision of the tribunal that finally decides matters the subject of a proceeding—

- (a) must be in writing; and
- (b) must state the decision, and the reasons for the decision; and
- (c) may be published.’.

### **40 Omission of s 536 (Publication of tribunal decisions)**

Section 536—

*omit.*

### **41 Amendment of s 587 (Evidentiary provisions)**

Section 587(3), after ‘tribunal’—

*insert—*

‘, the registrar, the presiding case manager’.

<sup>12</sup> Section 519 (Powers of tribunal relating to taking of evidence)

**42 Amendment of sch 3 (Dictionary)**

(1) Schedule 3—

*insert—*

‘ **“commissioner for fair trading”** means the commissioner for fair trading under the *Fair Trading Act 1989*.

**“presiding case manager”** means the presiding case manager under the *Queensland Building Tribunal Act 2000*.

**“public examination”** means a public examination conducted under chapter 14, part 5, division 8.

**“reference committee”** means the reference committee established under section 528AA.

**“registrar”**, other than in chapter 19, means the director, central tribunals registry under the *Queensland Building Tribunal Act 2000*.’

(2) Schedule 3—

*renumber* as schedule 2.

**PART 4—AMENDMENT OF QUEENSLAND BUILDING TRIBUNAL ACT 2000****43 Act amended in pt 4**

This part amends the *Queensland Building Tribunal Act 2000*.

**44 Amendment of s 4 (Objects of Act)**

Section 4—

*insert—*

‘(2) A further object of this Act is to establish a central tribunals registry to support particular tribunals established under Acts administered by the Minister.’

**45 Amendment of s 6 (Definitions)**

Section 6, ‘schedule 2’—

*omit, insert—*

‘the schedule’.

**46 Insertion of new s 10A**

After section 10—

*insert—*

**‘10A Advertising for nominations for appointment**

‘Before recommending a person to the Governor in Council for appointment as a member of the tribunal, the Minister must advertise in a newspaper circulating throughout the State for applications or expressions of interest from suitably qualified persons to be considered for selection as a member of the tribunal.’.

**47 Amendment of s 11 (Appointment of chairperson and membership of tribunal)**

Section 11—

*insert—*

‘(7) The chairperson may hold, or act in, and perform the functions of, another public office in addition to the office of chairperson if the chairperson is appointed to, or appointed to act in, the other office by the Governor in Council.’.

**48 Replacement of s 13 (Chairperson to direct business of tribunal)**

Section 13—

*omit, insert—*

**‘13 Chairperson’s role**

‘(1) The chairperson’s role includes the following—

- (a) directing the tribunal’s adjudicative operations to ensure they are as fair, economical, informal and speedy as practical;

- (b) developing, with the participation of other members, guiding principles that promote high quality and consistent decisions by the tribunal;
- (c) developing and implementing procedures and policies for the tribunal's adjudicative operations;
- (d) issuing practice directions of general application to proceedings;
- (e) managing the overall performance of members;
- (f) being responsible for the professional development and training of members of the tribunal in relation to the discharge of their functions.

‘(2) The chairperson may do all things necessary or convenient to be done for the performance of the chairperson’s role.

#### **‘13A Chairperson and director to work cooperatively**

‘The chairperson and the director must work cooperatively to promote the effective and efficient operation of the tribunal.

#### **‘13B Member’s role**

‘(1) A member’s role includes professionally and efficiently performing the functions of the tribunal assigned or given to the member under this Act.

‘(2) A member must comply with the procedures and policies implemented by the chairperson for the tribunal’s adjudicative operations.’.

### **49 Replacement of s 14 (Delegation of powers by chairperson)**

Section 14—

*omit, insert—*

#### **‘14 Delegation of powers by chairperson**

‘(1) The chairperson may delegate the chairperson’s powers under this Act or another Act to another member.

‘(2) The chairperson may delegate the chairperson’s power under section 27(1) to the director.



‘(3) The director may subdelegate the delegated power to another appropriately qualified member of the staff of the registry.

‘(4) In this section—

“**appropriately qualified**”, for a subdelegated power, includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

A person’s level of employment in the registry.’.

## 50 Replacement of s 17 (Termination of appointment of a member)

(1) Section 17—

*omit, insert—*

### ‘17 Termination of appointment of a member

‘(1) The Governor in Council may terminate the appointment of a member of the tribunal if the Governor in Council is satisfied the member—

- (a) is mentally or physically incapable of satisfactorily performing the member’s duties; or
- (b) performed the member’s duties carelessly, incompetently or inefficiently; or
- (c) has engaged in conduct that could warrant dismissal from the public service if the member were a public service officer; or
- (d) is affected by bankruptcy action.

‘(2) The Governor in Council must terminate the appointment of a member if the member—

- (a) ceases to be eligible for appointment as a member; or
- (b) is convicted of an indictable offence, whether dealt with on indictment or summarily.

‘(3) This section applies to a member of the tribunal whether appointed before or after the commencement of this section.’.

## 51 Replacement of pt 3 (Registrar and other staff)

Part 3—

*omit, insert—*

### **‘PART 3—CENTRAL TRIBUNALS REGISTRY, DIRECTOR AND OTHER STAFF**

#### **‘20 Director, central tribunals registry and registry**

- ‘(1) There is to be a director, central tribunals registry.
- ‘(2) The central tribunals registry is established.
- ‘(3) The registry consists of the director and the staff of the registry.
- ‘(4) The registry is the registry for each central tribunal.

#### **‘21 Director’s functions and powers for central tribunals**

‘(1) Subject to the chief executive, the director is responsible for managing the central tribunals registry and the administrative affairs of each central tribunal.

- ‘(2) The director has the following functions for each central tribunal—
- (a) to keep a register containing details of all applications made to the tribunal, which may be kept in any form allowing it to be inspected as mentioned in paragraph (b);
  - (b) to ensure the register is available for inspection by a person paying any fee that may be prescribed under a regulation made under a central tribunal Act for the inspection;
  - (c) to supply a certificate as to the correctness of a matter in the register to a person paying any fee that may be prescribed under a regulation made under a central tribunal Act for the certificate;
  - (d) to sign and issue summonses and attendance notices, however described, for the tribunal;
  - (e) to keep the tribunal’s records and decisions;
  - (f) to notify the participants in or parties to a proceeding of the tribunal’s final decision in the proceeding and any reasons given for the decision;
  - (g) to publish decisions of the tribunal approved for publication by the chairperson of the tribunal under arrangements, and in the way, approved by the chairperson of the tribunal;

- (h) to keep account of fees paid and payable to the tribunal;
- (i) to collect statistical data and other information relevant to the administration of the central tribunals registry for inclusion in the tribunal's annual report.

‘(3) The director may exercise the powers given to the director under a central tribunal Act.

‘(4) Subsection (2) does not limit the functions of the director under this or another central tribunal Act.

## **‘22 Keeping and disclosure of records and information**

‘(1) The director may keep the records of and information for a central tribunal the director considers appropriate, and may make the records and information available to the public.

‘(2) Without limiting subsection (1), the director must keep the records of and information about proceedings before each central tribunal the director considers appropriate, and must make the records and information available to the public.

‘(3) Despite subsections (1) and (2), the director must not make a record or information available to the public if the relevant central tribunal orders that the record or information must not be made available to the public.

## **‘23 Particular powers of director for this Act**

‘(1) For this Act, the director may—

- (a) appoint mediators and decide whether a proceeding should be the subject of a mediation or expedited hearing and the times and places of mediations or expedited hearings; and
- (b) give decisions by default under section 121; and
- (c) keep account of moneys paid into and out of the tribunal's trust account.

‘(2) Subsection (1)(a) does not limit the tribunal's power to appoint a mediator under section 123.’.

## **‘24 Engagement of consultants**

‘(1) The director may engage persons having suitable qualifications and experience as consultants to perform services for a central tribunal.

‘(2) Without limiting subsection (1), the services a consultant may be engaged to perform include conducting research for the tribunal.

‘(3) An engagement under subsection (1) must be made for the State under a written agreement.

‘(4) This section does not limit the power of a central tribunal to engage experts under a central tribunal Act.

## **‘25 Delegation by director**

‘(1) The director may delegate the director’s powers under this Act or another Act to an appropriately qualified member of the staff of the central tribunals registry.

‘(2) In this section—

**“appropriately qualified”** includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

A person’s seniority level as a member of the staff of the central tribunals registry.

## **‘26 Employment provisions for director and staff of registry**

‘(1) A person is eligible for appointment as the director only if the person has particular knowledge and experience of—

- (a) public administration; and
- (b) something else of substantial relevance to the functions of the director.

‘(2) The director and other staff of the central tribunals registry are to be appointed under the *Public Service Act 1996*.

‘(3) The director may hold, or act in, and perform the functions of, another public office in addition to the office of director, central tribunals registry.

**‘26A Appointment of acting director**

‘(1) The chief executive may appoint an appropriately qualified person to act as director.

‘(2) The appointee is to act as director if—

- (a) the director is not available to carry out the director’s duties; or
- (b) there is a vacancy in the office of director.

‘(3) In this section—

“**appropriately qualified**” includes having particular knowledge and experience of—

- (a) public administration; and
- (b) something else of substantial relevance to the functions of the director.

**‘PART 3A—PRESIDING CASE MANAGER****‘26B Presiding case manager**

‘There is to be a presiding case manager.

**‘26C Presiding case manager’s power to deal with particular applications to central tribunals**

‘(1) The presiding case manager may deal with a prescribed application or matter to, or before, any central tribunal if selected by the chairperson of the relevant central tribunal to constitute the central tribunal for the prescribed application or matter.

‘(2) For the prescribed application or matter, the presiding case manager constitutes, and may exercise all the jurisdiction and powers of, the central tribunal.

‘(3) The presiding case manager may exercise the other powers in relation to a direction given or a decision made by the presiding case manager that are incidental to the direction or decision and prescribed under a regulation made under a central tribunal Act for this section.

*Example—*

A regulation may provide that the presiding case manager may correct a clerical error or accidental slip or omission in a direction given by the presiding case manager.

‘(4) The exercise of power by the presiding case manager under subsection (3) is taken to be an exercise of power by the relevant central tribunal.

‘(5) Subsection (6) applies if the presiding case manager has jurisdiction to deal with a prescribed application or matter under the *Property Agents and Motor Dealers Act 2000*, the *Retirement Villages Act 1999* or this Act.

‘(6) The presiding case manager is to constitute the tribunal to deal with the application or matter unless the chairperson of the central tribunal decides that the presiding case manager should not constitute the tribunal for the prescribed application or matter because it would result in undue delay or it would otherwise be inappropriate.

‘(7) If the chairperson of the relevant central tribunal decides that the presiding case manager should not constitute the tribunal, the chairperson must—

- (a) deal with the prescribed application or matter personally; or
- (b) select a legally qualified member of the relevant central tribunal to constitute the tribunal to deal with it.

‘(8) The presiding case manager may refer any prescribed application or matter, including an application or matter to which subsection (6) applies, to a member of the relevant central tribunal to be dealt with if the presiding case manager decides that it is an application or matter that should be dealt with by a member of the relevant central tribunal.

‘(9) In this section—

“**legally qualified member**”, of a relevant central tribunal, means a member of the tribunal who is a lawyer of at least 5 years standing.

“**prescribed application or matter**” means an application or matter that—

- (a) may be heard and decided by a central tribunal; and
- (b) is of a kind prescribed under a regulation made under a central tribunal Act for this section.

**‘26D Particular powers of presiding case manager for this Act**

‘For this Act, the presiding case manager may appoint mediators and decide whether a proceeding should be the subject of a mediation or expedited hearing and the times and places of mediations or expedited hearings.

**‘26E Independence of presiding case manager**

‘(1) The presiding case manager when constituting a central tribunal is not subject to direction or control, other than as provided under this Act.

‘(2) However, the presiding case manager must comply with any procedural directions given by the chairperson of the central tribunal the presiding case manager is constituting.

**‘26F Employment provisions for presiding case manager**

‘(1) The presiding case manager is to be appointed by the Governor in Council.

‘(2) A person is eligible for appointment as the presiding case manager only if the person is a lawyer of not less than 5 years standing.

‘(3) The presiding case manager may be appointed on a full-time or part-time basis.

‘(4) The presiding case manager is a member of the staff of the central tribunals registry.

‘(5) The presiding case manager may hold, or act in, and perform the functions of, another public office in addition to the office of presiding case manager.

**‘26G Disclosure of interests**

‘(1) If the presiding case manager becomes aware that he or she has a conflict of interest about a prescribed application or matter before the presiding case manager, the presiding case manager must disclose the issue giving rise to the conflict to the chairperson of the relevant central tribunal and the parties to the application or matter.

‘(2) After making the disclosure, the presiding case manager may disqualify himself or herself.

‘(3) However, the presiding case manager may deal with the prescribed application or matter, or exercise a power for the application or matter, if the chairperson of the relevant central tribunal and the parties agree.

‘(4) The presiding case manager has a conflict of interest about a prescribed application or matter if he or she has an interest, financial or otherwise, that could conflict with the proper performance of the presiding case manager’s functions for the application or matter.

### **‘26H Protection of presiding case manager**

‘The presiding case manager has, in the performance of the presiding case manager’s duties when constituting a central tribunal or exercising a power under section 26C(3), the same protection and immunity as a District Court judge has in the performance of the judge’s duties.

### **‘26I Appointment of acting presiding case manager**

‘(1) The chief executive may appoint a person who is eligible to be appointed as the presiding case manager to act as the presiding case manager.

‘(2) The appointee is to act as the presiding case manager if—

- (a) the presiding case manager is not available to carry out the presiding case manager’s duties; or
- (b) there is a vacancy in the office of presiding case manager.’.

## **52 Amendment of s 27 (Constitution of tribunal)**

(1) Section 27, ‘by a single member’—

*omit, insert—*

‘by the chairperson or a single member selected by the chairperson’.

(2) Section 27—

*insert—*



‘(2) However, if the proceeding is for a prescribed application or matter under section 26C,<sup>13</sup> the presiding case manager must constitute the tribunal except as otherwise provided under that section.’.

### **53 Amendment of s 79 (Contempt of tribunal)**

(1) Section 79(1)(a), ‘member of the tribunal staff’—

*omit, insert—*

‘member of the staff of the central tribunals registry’.

(2) Section 79(3), ‘member of the tribunal staff’—

*omit, insert—*

‘member of the staff of the central tribunals registry’.

(3) Section 79—

*insert—*

‘(4) In this section—

“**member**” includes presiding case manager.’.

### **54 Amendment of s 93 (Tribunal may decide building dispute)**

Section 93(2)(c)—

*omit, insert—*

‘(c) award damages, and interest on the damages at the rate, and calculated in the way, prescribed under a regulation;’.

### **55 Amendment of s 106 (Stay of operation of decision)**

Section 106(3)(a), ‘as to costs or damages’—

*omit, insert—*

‘, including an undertaking as to costs or damages,’.

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13 Section 26C (Presiding case manager’s power to deal with particular applications to central tribunals)

**56 Amendment of s 110 (Proper grounds for disciplinary action against person not a licensee)**

(1) Section 110(a), after ‘carries out’—

*insert—*

‘, or undertakes to carry out,’.

(2) Section 110—

*insert—*

‘(2) In this section—

‘**“undertakes to carry out”**, building work, means enters into a contract to carry out building work or submits a tender or makes an offer to carry out building work, unless the contract, submission or offer is conditional on the person obtaining a licence of the appropriate class.’.

**57 Amendment of s 113 (Procedure before public examination starts)**

Section 113(4), from ‘The tribunal’ to ‘the authority’—

*omit, insert—*

‘The authority must serve on each person who is the subject of the public examination’.

**58 Amendment of s 125 (Matters about mediation)**

(1) Section 125(1)—

*omit, insert—*

‘(1) Evidence of anything done or said, or an admission made, at a mediation is admissible in a proceeding before the tribunal or elsewhere only if all parties to the mediation agree.’.

(2) Section 125—

*insert—*

‘(7) In subsection (1)—

‘**“proceeding”** does not include a proceeding founded on fraud, or about an offence, alleged to be connected with, or to have happened during, the mediation.’.

**59 Insertion of new s 125A**

After section 125—

*insert—*

**‘125A Mediators to maintain secrecy**

‘(1) A mediator must not, without reasonable excuse, disclose information coming to the mediator’s knowledge during a mediation.

Maximum penalty—40 penalty units.

‘(2) It is a reasonable excuse to disclose information if the disclosure is made—

- (a) with the agreement of all parties to the mediation; or
- (b) for this Act; or
- (c) for statistical purposes without revealing, or being likely to reveal, the identity of a person about whom the information relates; or
- (d) for an inquiry or proceeding about an offence happening during the mediation; or
- (e) for a proceeding founded on fraud alleged to be connected with, or to have happened during, the mediation; or
- (f) under a requirement imposed under an Act.’.

**60 Amendment of s 131 (Summary decision for applicant)**

Section 131(1), ‘at any time after a respondent serves a defence on the applicant’—

*omit, insert—*

‘at any time after the end of the 14 day period allowed for the filing of a defence’.

**61 Amendment of s 162 (Finance and staffing of tribunal)**

Section 162(2)—

*omit.*

**62 Replacement of s 164 (Annual report)**

Section 164—

*omit, insert—*

**‘164 Annual report on operation of tribunal**

‘(1) As soon as practicable after each financial year, but not later than 30 September, the chairperson must give the Minister a report containing—

- (a) a review of the operation of the tribunal during the preceding financial year; and
- (b) proposals for improving the operation of, and forecasts of the workload of, the tribunal in the present financial year.

‘(2) The department’s annual report for a financial year must include a report on the operation of the tribunal and the central tribunals registry during the financial year.’.

**63 Amendment of s 171 (Proof of signature unnecessary)**

Section 171, ‘registrar’—

*omit, insert—*

‘director, the presiding case manager’.

**64 Amendment of s 173 (Protection from liability)**

Section 173(3), definition “official”, paragraph (a), ‘tribunal’—

*omit, insert—*

‘registry, other than the presiding case manager’.

**65 Replacement of pt 8, hdg**

Part 8, heading—

*omit, insert—*

**‘PART 8—TRANSITIONAL PROVISIONS FOR ACT  
No. 10 of 2000’.**

**66 Insertion of new pt 9**

After section 182—

*insert—*

**‘PART 9—TRANSITIONAL PROVISIONS FOR  
TRIBUNALS PROVISIONS AMENDMENT ACT 2002**

**‘183 Registrar of tribunal**

‘The person holding office as the registrar of the tribunal immediately before the commencement of section 47 of the *Tribunals Provisions Amendment Act 2002*<sup>14</sup> is taken, on the commencement, to be the director, central tribunals registry.

**‘184 Staff of tribunal**

‘A person who, immediately before the commencement of section 47 of the *Tribunals Provisions Amendment Act 2002*, is a member of the staff of the tribunal is taken, on the commencement, to be a member of the staff of the central tribunals registry.

**‘185 Tribunal continues to have jurisdiction to deal with matters that  
presiding case manager may deal with**

‘(1) This section applies if, immediately after the commencement of section 47 of the *Tribunals Provisions Amendment Act 2002*, the presiding case manager may or must deal with a matter under a central tribunal Act that was started before the commencement.

‘(2) The central tribunal may continue to deal with all aspects of the matter, to the extent of the jurisdiction it possessed immediately before the commencement, after the commencement.

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14 *Tribunals Provisions Amendment Act 2002*, section 47 (Replacement of pt 3 (Registrar and other staff))

‘(3) Subsection (2) does not prevent the presiding case manager from dealing with the matter under arrangements approved by the chairperson of the relevant central tribunal.’.

## 67 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition “registrar”—

*omit.*

(2) Schedule 2—

*insert—*

‘**“affected by bankruptcy action”**, in relation to an individual, means the individual, in any jurisdiction—

- (a) is bankrupt; or
- (b) has compounded with creditors; or
- (c) has otherwise taken, or applied to take, advantage of any law about bankruptcy.

**“central tribunal”** means—

- (a) the Liquor Appeals Tribunal; or
- (b) the Property Agents and Motor Dealers Tribunal; or
- (c) the Queensland Building Tribunal; or
- (d) the Racing Appeals Authority; or
- (e) the Retirement Villages Tribunal.

**“central tribunal Act”** means—

- (a) the *Liquor Act 1992*; or
- (b) the *Property Agents and Motor Dealers Act 2000*; or
- (c) the *Racing and Betting Act 1980*; or
- (d) the *Retirement Villages Act 1999*; or
- (e) this Act.

**“director”** means the director, central tribunals registry.

**“Liquor Appeals Tribunal”** means the Liquor Appeals Tribunal under the *Liquor Act 1992*, section 14.

“**Property Agents and Motor Dealers Tribunal**” means the Property Agents and Motor Dealers Tribunal established under the *Property Agents and Motor Dealers Act 2000*, section 448.

“**Racing Appeals Authority**” means the Racing Appeals Authority established under the *Racing and Betting Act 1980*, section 115B.

“**registry**” means the central tribunals registry.

“**Retirement Villages Tribunal**” means a tribunal appointed under the *Retirement Villages Act 1999*, section 172.’.

(3) Schedule 2—

*renumber* as schedule.

## PART 5—AMENDMENT OF RACING AND BETTING ACT 1980

### 68 Act amended in pt 5

This part amends the *Racing and Betting Act 1980*.

### 69 Amendment of s 5 (Definitions)

Section 5—

*insert*—

‘ “**affected by bankruptcy action**”, in relation to an individual, means the individual, in any jurisdiction—

- (a) is bankrupt; or
- (b) has compounded with creditors; or
- (c) has otherwise taken, or applied to take, advantage of any law about bankruptcy.’.

### 70 Amendment of s 115A (Definitions)

Section 115A—

*insert*—

‘**“presiding case manager”**’ means the presiding case manager under the *Queensland Building Tribunal Act 2000*.

**“secretary”**, to the authority, means the director, central tribunals registry under the *Queensland Building Tribunal Act 2000*.’.

## **71 Insertion of new s 115BA**

After section 115B—

*insert—*

### **‘115BA Constitution of authority**

‘(1) The authority is constituted by—

- (a) 1 member selected by the chairperson, who may be the chairperson; or
- (b) more than 1 members selected by the chairperson, one of whom may be the chairperson.

‘(2) However, for a prescribed application or matter under the *Queensland Building Tribunal Act 2000*, section 26C,<sup>15</sup> the chairperson may select the presiding case manager to constitute the authority.

‘(3) The authority, as differently constituted by 1 or more members, may sit at the same time and exercise the jurisdiction and powers of the authority.’.

## **72 Replacement of s 115D**

Section 115D—

*omit, insert—*

### **‘115D Disqualification for appointment**

‘Each of the following persons is not qualified to be appointed, or to continue, as a member—

- (a) a member of a control body or an employee or official of a control body;

---

15 *Queensland Building Tribunal Act 2000*, section 26C (Presiding case manager’s power to deal with particular applications to central tribunals)



- (b) a member of a racing association;
- (c) a member of the Regional Racing Council.

#### **‘115DA Advertising for nominations for appointment**

‘Before recommending a person to the Governor in Council for appointment as a member of the authority, the Minister must advertise in a newspaper circulating throughout the State for applications or expressions of interest from suitably qualified persons to be considered for selection as a member.’.

#### **73 Amendment of s 115E (Tenure of office)**

Section 115E(3)—

*omit, insert—*

‘(3) A member may at any time, by signed notice given to the Minister, resign his or her appointment as a member.’.

#### **74 Insertion of new s 115EA**

After section 115E—

*insert—*

#### **‘115EA Termination of appointment**

‘(1) The Governor in Council may terminate the appointment of a member if the Governor in Council is satisfied the member—

- (a) is mentally or physically incapable of satisfactorily performing the member’s duties; or
- (b) performed the member’s duties carelessly, incompetently or inefficiently; or
- (c) has engaged in conduct that could warrant dismissal from the public service if the member were a public service officer; or
- (d) is affected by bankruptcy action.

‘(2) The Governor in Council must terminate the appointment of a member if the member—

- (a) ceases to be qualified for appointment as a member; or

- (b) is convicted of an indictable offence, whether dealt with on indictment or summarily.

‘(3) This section applies to a member whether appointed before or after the commencement of this section.’

## **75 Amendment of s 115F (Vacation of office)**

Section 115F(c), ‘section 115E(3)(a)’—

*omit, insert—*

‘section 115E(3)’.

## **76 Insertion of new ss 115HA–115HD**

After section 115H—

*insert—*

### **‘115HA Chairperson’s role**

‘(1) The chairperson’s role includes the following—

- (a) directing the authority’s adjudicative operations to ensure they are as fair, economical, informal and speedy as practical;
- (b) developing, with the participation of other members, guiding principles that promote high quality and consistent decisions by the authority;
- (c) developing and implementing procedures and policies for the authority’s adjudicative operations;
- (d) issuing practice directions of general application to proceedings;
- (e) managing the overall performance of members;
- (f) being responsible for the professional development and training of members of the authority in relation to the discharge of their functions.

‘(2) The chairperson may do all things necessary or convenient to be done for the performance of the chairperson’s role.’

**‘115HB Chairperson and secretary to work cooperatively**

‘The chairperson and the secretary to the authority must work cooperatively to promote the effective and efficient operation of the authority.

**‘115HC Member’s role**

‘(1) A member’s role includes professionally and efficiently performing the functions of the authority assigned or given to the member under this Act.

‘(2) A member must comply with the procedures and policies implemented by the chairperson for the tribunal’s adjudicative operations.

**‘115HD Delegation**

‘(1) The chairperson may delegate the chairperson’s powers under this Act to another member.

‘(2) The chairperson may delegate the chairperson’s power under section 115BA(1) to the secretary to the authority.

‘(3) The secretary may subdelegate the delegated power to another appropriately qualified officer of the staff of the registry.

‘(4) In this section—

**“appropriately qualified”**, for a subdelegated power, includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

A person’s level of employment in the registry.

**“registry”** means the central tribunals registry under the *Queensland Building Tribunal Act 2000*.’.

**77 Replacement of s 115I (Officers of authority)**

Section 115I—

*omit, insert—*

**‘115I Disclosure of interests**

‘(1) If a member becomes aware that the member has a conflict of interest about a proceeding before the authority, the member must disclose the issue giving rise to the conflict—

- (a) if the member is the chairperson—to the parties to the proceeding; or
- (b) otherwise—to the chairperson and the parties to the proceeding.

‘(2) After making the disclosure, the member may disqualify himself or herself.

‘(3) However, the member may take part in the proceeding, or exercise a power for the proceeding—

- (a) if the member is the chairperson—if the parties agree; or
- (b) otherwise—if the chairperson and the parties agree.

‘(4) A member has a conflict of interest about a proceeding if the member has an interest, financial or otherwise, that could conflict with the proper performance of the member’s functions for the proceeding.

**‘115IA Protection of members**

‘A member has, in the performance of the member’s duties as a member, the same protection and immunity as a District Court judge has in the performance of the judge’s duties.’

**78 Amendment of s 115L (Institution of appeal)**

Section 115L(1)(a)—

*omit, insert—*

- ‘(a) by lodging with the secretary to the authority written notice of appeal and paying to the secretary the following in the amounts prescribed under a regulation—
  - (i) an administration fee that is non-refundable;
  - (ii) an appeal deposit that is refundable in the circumstances prescribed under a regulation; and’.

**79 Amendment of s 115O (Hearing of appeals)**

Section 115O—

*insert—*

‘**(5A)** A person summonsed to appear before the authority is entitled to—

- (a) the witness fees and expenses prescribed under a regulation; or
- (b) if no fees or expenses are prescribed—the reasonable witness fees and expenses decided by the authority.

‘**(5B)** If the summons requiring a person to attend at a proceeding is issued on an application by a party to the proceeding, the party must pay the fees and expenses to which the person is entitled.’

**80 Insertion of new ss 115QA and 115QB**

Part 3, division 3A—

*insert—*

**‘115QA Contempt of authority**

‘**(1)** A person must not—

- (a) insult the member, or any of the members, constituting the authority in a proceeding; or
- (b) deliberately interrupt a proceeding before the authority; or
- (c) create or continue, or join in creating or continuing, a disturbance in or near a place where the authority is conducting a proceeding; or
- (d) do anything that would constitute a contempt of court if the authority were a court of record.

Maximum penalty—100 penalty units.

‘**(2)** In this section—

“**member**” includes presiding case manager.

**‘115QB Annual report on operation of authority**

‘**(1)** As soon as practicable after each financial year, but not later than 30 September, the chairperson must give the Minister a report containing—

- (a) a review of the operation of the authority during the preceding financial year; and
- (b) proposals for improving the operation of, and forecasts of the workload of, the authority in the present financial year.

‘(2) The department’s annual report for a financial year must include a report on the operation of the authority during the financial year.’.

### **81 Amendment of s 256 (Evidentiary provisions)**

Section 256(b)—

*insert—*

- ‘(ii) the presiding case manager; or’.

## **PART 6—AMENDMENT OF RETIREMENT VILLAGES ACT 1999**

### **82 Act amended in pt 6**

This part amends the *Retirement Villages Act 1999*.

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

Section 4, ‘schedule 2’—

*omit, insert—*

‘the schedule’.

### **84 Replacement of s 168 (Chief executive to refer dispute to tribunal)**

Section 168—

*omit, insert—*

#### **‘168 Referral of dispute, appointment of tribunal panel and notice**

‘(1) Within 14 days after the application is made, the registrar must refer the dispute to the chairperson.

‘(2) The chairperson must—

- (a) appoint a tribunal from the tribunal panel to hear the dispute; and
- (b) give written notice to the tribunal panel members of their appointment to hear the dispute.

‘(3) The registrar must give written notice to the parties to the dispute of the appointment and composition of the tribunal to hear the dispute.’

## **85 Replacement of s 172 (Chief executive to refer dispute to tribunal)**

Section 172—

*omit, insert—*

### **‘172 Referral of application, appointment of tribunal panel and notice**

‘(1) Within 7 days after an application for an order under section 169, 170 or 171 is received, the registrar must refer the application to the chairperson.

‘(2) The chairperson must—

- (a) appoint from tribunal panel members a tribunal (which may include the chairperson) to hear the application; and
- (b) give written notice to the tribunal panel members of their appointment to hear the application.

‘(3) The registrar must give written notice to the applicant and scheme operator of the appointment and composition of the tribunal to hear the application.

‘(4) The notice to the scheme operator must state the grounds on which the order is sought.’

## **86 Amendment of s 174 (Chairperson may hold directions hearing)**

(1) Section 174, heading—

*omit, insert—*

**‘Directions hearings’.**

(2) Section 174(4)(a)—

*omit, insert—*

- ‘(a) the tribunal is constituted by the chairperson or, for a prescribed application or matter under the *Queensland Building Tribunal Act 2000*, section 26C,<sup>16</sup> the presiding case manager except as otherwise provided under that section; and’.

### **87 Replacement of s 175 (Presiding member)**

Section 175—

*omit, insert—*

#### **‘175 Presiding member**

‘(1) If the chairperson is a member of the tribunal for a hearing of a retirement village issue or a directions hearing, the chairperson is the presiding member for the hearing.

‘(2) If the chairperson is not a member of the tribunal for the hearing, the presiding member for the hearing must be—

- (a) if the presiding case manager alone is constituting the tribunal at a directions hearing under section 174—the presiding case manager; or
- (b) otherwise—a person mentioned in section 207(1)(a) or (2).’.

### **88 Amendment of s 184 (Powers of tribunal)**

(1) Section 184(2)—

*renumber* as section 184(3).

(2) Section 184—

*insert—*

‘(2) The tribunal may issue an attendance notice on the application of a party to a proceeding or on its own initiative.’.

### **89 Amendment of s 190 (Contempt of tribunal)**

Section 190—

*insert—*

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<sup>16</sup> *Queensland Building Tribunal Act 2000*, section 26C (Presiding case manager’s power to deal with particular applications to central tribunals)



‘(2) In this section—

“**member**” includes presiding case manager.’.

## **90 Replacement of s 201 (Allowance to witness)**

Section 201—

*omit, insert—*

### **‘201 Allowance to witness**

‘(1) A person required to appear before the tribunal is entitled to—

- (a) the witness fees and expenses prescribed under a regulation; or
- (b) if no fees or expenses are prescribed—the reasonable witness fees and expenses decided by the tribunal.

‘(2) If the notice requiring a person to attend at a proceeding is issued on an application by a party to the proceeding, the party must pay the fees and expenses to which the person is entitled.’.

## **91 Amendment of s 203 (Appointment of members of tribunal panel)**

Section 203—

*insert—*

‘(2) The Governor in Council must appoint 1 of the persons mentioned in subsection (1)(a) as the chairperson of tribunals.

‘(3) The chairperson may hold, or act in, and perform the functions of, another public office in addition to the office of chairperson if the chairperson is appointed to, or appointed to act in, the other office by the Governor in Council.’.

## **92 Insertion of new s 203A**

After section 203—

*insert—*

### **‘203A Advertising for nominations for appointment**

‘Before recommending a person to the Governor in Council for appointment as a member of the tribunal panel, the Minister must advertise in a newspaper circulating throughout the State for applications or

expressions of interest from suitably qualified persons to be considered for selection as a member of the tribunal panel.’.

### **93 Replacement of s 206 (Removal from office)**

Section 206—

*omit, insert—*

#### **‘206 Termination of appointment**

‘(1) The Governor in Council may terminate the appointment of a tribunal panel member if the Governor in Council is satisfied the member—

- (a) is mentally or physically incapable of satisfactorily performing the member’s duties; or
- (b) performed the member’s duties carelessly, incompetently or inefficiently; or
- (c) has engaged in conduct that could warrant dismissal from the public service if the member were a public service officer; or
- (d) is affected by bankruptcy action.

‘(2) The Governor in Council must terminate the appointment of a tribunal panel member if the member—

- (a) ceases to be eligible for appointment as a member; or
- (b) is convicted of an indictable offence, whether dealt with on indictment or summarily.

‘(3) This section applies to a tribunal panel member whether appointed before or after the commencement of this section.’.

### **94 Insertion of new pt 12, div 1A**

After section 206—

*insert—*

#### ***‘Division 1A—Administration of tribunal***

#### **‘206A Chairperson’s role**

‘(1) The chairperson’s role includes the following—

- (a) directing the adjudicative operations of tribunals to ensure they are as fair, economical, informal and speedy as practical;
- (b) developing, with the participation of other tribunal panel members, guiding principles that promote high quality and consistent decisions by tribunals;
- (c) developing and implementing procedures and policies for the adjudicative operations of tribunals;
- (d) issuing practice directions of general application to proceedings;
- (e) managing the overall performance of tribunal panel members;
- (f) being responsible for the professional development and training of tribunal panel members in relation to the discharge of their functions.

‘(2) The chairperson may do all things necessary or convenient to be done for the performance of the chairperson’s role.

### **‘206B Chairperson and registrar to work cooperatively**

‘The chairperson and the registrar must work cooperatively to promote the effective and efficient operation of tribunals.

### **‘206C Tribunal panel member’s role**

‘(1) A tribunal panel member’s role includes professionally and efficiently performing the functions of a tribunal assigned or given to the member under this Act.

‘(2) A tribunal panel member must comply with the procedures and policies implemented by the chairperson for the adjudicative operations of tribunals.

### **‘206D Delegation by chairperson**

‘(1) The chairperson may delegate the chairperson’s powers under this Act or another Act to another tribunal panel member.

‘(2) The chairperson may delegate the chairperson’s power under section 168(2)(a) or 172(2) to the registrar.

‘(3) The registrar may subdelegate the delegated power to another appropriately qualified officer of the staff of the registry.

**(4)** In this section—

**“appropriately qualified”**, for a subdelegated power, includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

A person’s level of employment in the registry.

**“registry”** means the central tribunals registry under the *Queensland Building Tribunal Act 2000*.’.

## **95 Amendment of s 207 (Composition of retirement village tribunals)**

**(1)** Section 207, after ‘members’—

*insert—*

‘selected by the chairperson’.

**(2)** Section 207(a), ‘section 203(a)’—

*omit, insert—*

‘section 203(1)(a)’.

**(3)** Section 207—

*insert—*

**(2)** However, if the tribunal is to be constituted for a prescribed application or matter under the *Queensland Building Tribunal Act 2000*, section 26C,<sup>17</sup> the presiding case manager must constitute the tribunal except as otherwise provided under that section.’.

## **96 Omission of s 217 (Reports on discharge of tribunals’ function)**

Section 217—

*omit.*

## **97 Amendment of s 220 (Appointments and authority)**

Section 220(1)—

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<sup>17</sup> *Queensland Building Tribunal Act 2000*, section 26C (Presiding case manager’s power to deal with particular applications to central tribunals)

*omit, insert—*

‘(1) It is not necessary to prove in a proceeding under this Act—

- (a) the chief executive’s appointment; or
- (b) the registrar’s appointment; or
- (c) an inspector’s appointment; or
- (d) the authority of the chief executive, the registrar or an inspector to do anything under this Act.’.

## **98 Amendment of s 221 (Evidentiary provisions)**

(1) Section 221(2), after ‘chief executive’—

*insert—*

‘, the registrar, the presiding case manager’.

(2) Section 221(3), ‘or an inspector’—

*omit, insert—*

‘or the registrar’.

(3) Section 221(3)(e) and (5), after ‘chief executive’—

*insert—*

‘or the registrar’.

(4) Section 221(5), as amended—

*renumber* as section 221(4).

## **99 Replacement of s 226 (Annual report on operation of Act)**

Section 226—

*omit, insert—*

### **‘226 Annual report on operation of Act**

‘(1) As soon as practicable after each financial year, but not later than 30 September, the chairperson must give the Minister a report containing—

- (a) a review of the operation of tribunals during the preceding financial year; and

- (b) proposals for improving the operation of, and forecasts of the workload of, tribunals in the present financial year.

‘(2) The department’s annual report for a financial year must include a report on the operation of tribunals during the financial year.’

### **100 Amendment of sch 2 (Dictionary)**

(1) Schedule 2—

*insert—*

‘**“affected by bankruptcy action”**, in relation to an individual, means the individual, in any jurisdiction—

- (a) is bankrupt; or  
(b) has compounded with creditors; or  
(c) has otherwise taken, or applied to take, advantage of any law about bankruptcy.

**“chairperson”** means the person appointed as chairperson of tribunals under section 203(2).

**“presiding case manager”** means the presiding case manager under the *Queensland Building Tribunal Act 2000*.

**“registrar”** means the director, central tribunals registry under the *Queensland Building Tribunal Act 2000*.’

(2) Schedule 2—

*renumber* as schedule.

## **PART 7—GENERAL**

### **101 Acts amended in schedule**

The schedule amends the Acts it mentions.

## SCHEDULE

### MINOR AND CONSEQUENTIAL AMENDMENTS

section 97

#### AMENDMENT OF LIQUOR ACT 1992

**1 Section 15(a), ‘District Courts’—**

*omit, insert—*

‘the District Court’.

**2 Section 43(5), definition “sensitive information”,  
‘section 41A(6)’—**

*omit, insert—*

‘section 41A(5)’.

#### AMENDMENT OF QUEENSLAND BUILDING SERVICES AUTHORITY ACT 1991

**1 Section 25(3), ‘and the Tribunal Act’—**

*omit.*

#### AMENDMENT OF QUEENSLAND BUILDING TRIBUNAL ACT 2000

**1 Section 10(2), ‘registrar’—**

*omit, insert—*

‘director’.

## SCHEDULE 1 (continued)

- 2 Section 42(2), ‘section 13(2)(c)’—**  
*omit, insert—*  
‘section 13’.
- 3 Section 59(2), ‘registrar’—**  
*omit, insert—*  
‘director’.
- 4 Section 62, ‘of otherwise’—**  
*omit, insert—*  
‘or otherwise’.
- 5 Section 85(1)(a), ‘registrar’—**  
*omit, insert—*  
‘director’.
- 6 Section 121(3), ‘registrar’—**  
*omit, insert—*  
‘director or the presiding case manager’.
- 7 Section 123(3) and (4), ‘registrar’—**  
*omit, insert—*  
‘director or the presiding case manager’.
- 8 Section 127, ‘registrar’—**  
*omit, insert—*  
‘director or the presiding case manager’.



## SCHEDULE 1 (continued)

**9 Section 152(3), ‘registrar’—***omit, insert—*

‘director’.

**10 Section 172, ‘registrar’—***omit, insert—*

‘director’.

**AMENDMENT OF RETIREMENT VILLAGES ACT 1999****1 Section 126, ‘registrar,’—***omit, insert—*

‘registrar of titles,’.

**2 Section 157(1) and (2)(c), ‘chief executive’—***omit, insert—*

‘registrar’.

**3 Section 158, heading, ‘Chief executive’—***omit, insert—*

‘Registrar’.

**4 Section 158(1), ‘chief executive’—***omit, insert—*

‘registrar’.

## SCHEDULE 1 (continued)

**5 Section 163(3), ‘chief executive’—***omit, insert—*

‘registrar’.

**6 Section 165(1) and (3), ‘chief executive’—***omit, insert—*

‘registrar’.

**7 Section 166(c), ‘chief executive’—***omit, insert—*

‘registrar’.

**8 Section 167, ‘chief executive’—***omit, insert—*

‘registrar’.

**9 Section 169(2), ‘chief executive’—***omit, insert—*

‘registrar’.

**10 Section 170(2), ‘chief executive’—***omit, insert—*

‘registrar’.

**11 Section 171(2), ‘chief executive’—***omit, insert—*

‘registrar’.

## SCHEDULE 1 (continued)

- 12 Section 182(2), ‘chairperson’—**  
*omit, insert—*  
‘presiding member’.
- 13 Section 186(1)(b) and (2)(a), ‘chairperson’—**  
*omit, insert—*  
‘presiding member’.
- 14 Section 195(2)(a)(i), ‘chief executive’—**  
*omit, insert—*  
‘registrar’.
- 15 Section 195(3), ‘the registrar must’—**  
*omit, insert—*  
‘the registrar of the District Court must’.
- 16 Section 196(3)(a)(i), ‘chief executive’—**  
*omit, insert—*  
‘registrar’.
- 17 Section 196(4), ‘the registrar must’—**  
*omit, insert—*  
‘the registrar of the court must’.
- 18 Section 202(1) and (3), ‘chief executive’—**  
*omit, insert—*  
‘registrar’.

## SCHEDULE 1 (continued)

**19 Part 12, heading—***omit, insert—***‘PART 12—THE TRIBUNAL’.****20 Section 208, ‘207(a) is the chairperson’—***omit, insert—*

‘207(1)(a) is the presiding member’.

**21 Section 215, ‘chief executive’—***insert—*

‘registrar’.

**22 Section 216(3)—***omit.***23 Section 231(5)(b), ‘registrar’—***omit, insert—*

‘registrar of titles’.