



Queensland

# **Justice and Other Legislation Amendment Act 2007**

**Act No. 37 of 2007**





Queensland

# Justice and Other Legislation Amendment Act 2007

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Queensland

# **Justice and Other Legislation Amendment Act 2007**

## **Act No. 37 of 2007**

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**An Act to amend legislation administered by the Attorney-  
General, and for other purposes**

**[Assented to 29 August 2007]**

## The Parliament of Queensland enacts—

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Justice and Other Legislation Amendment Act 2007*.

#### 2 Commencement

This Act, other than part 28, commences on a day to be fixed by proclamation.

### Part 2 Amendment of Acts Interpretation Act 1954

#### 3 Act amended in pt 2

This part amends the *Acts Interpretation Act 1954*.

#### 4 Amendment of s 36 (Meaning of commonly used words and expressions)

(1) Section 36—

*insert—*

*‘notice to appear*, in relation to a proceeding for an offence, see the *Police Powers and Responsibilities Act 2000*, section 382(2).

*senior executive*, in relation to the public service, means a public service officer employed under the *Public Service Act 1996* as a senior executive.’.

(2) Section 36, definition *complaint and summons—*



*omit.*

(2) Section 6 —

*insert—*

**'court** includes—

- (a) a judge or justice, whether sitting in court or acting in another way; and
- (b) a court exercising appellate jurisdiction; and
- (c) a justice or justices conducting an examination of witnesses in relation to an indictable offence; and
- (d) a justice acting under section 15A.

**lawyer** means an Australian lawyer who, under the *Legal Profession Act 2007*, may engage in legal practice in this State.'

(3) Section 6, definition *community justice group*, paragraph (b)(i) and (ii), 'offenders'—

*omit, insert—*

'defendants'.

**10 Amendment of s 14 (Release of persons apprehended on making deposit of money as security for appearance)**

Section 14(7), from 'applies to the court' to 'solicitor'—

*omit, insert—*

'the person's lawyer applies to the court or justice'.

**11 Amendment of s 14A (Magistrates Courts may grant cash bail or permit to go at large)**

Section 14A(5), from 'applies to the court' to 'solicitor'—

*omit, insert—*

'the defendant's lawyer applies to the court'.

**12 Amendment of s 15 (Procedure upon application for bail)**

(1) Section 15(1)(d), 'counsel or solicitor'—



*omit, insert—*

‘lawyer’.

- (2) Section 15(1)(f)(iii), ‘established for offenders’—

*omit.*

### **13 Insertion of new s 15A**

After section 15—

*insert—*

#### **‘15A Applications for bail in special circumstances**

- ‘(1) This section applies if—
- (a) a police officer has refused to grant bail to a person under section 7 for an offence; and
  - (b) a Magistrates Court is authorised under this Act to grant bail to the person for the offence; and
  - (c) having regard to all the circumstances, the person may not reasonably or practicably be brought personally before a court to apply for bail because of the person’s remote location.
- ‘(2) The person may apply to a magistrate for bail for the offence by telephone, radio or by another form of communication (a *remote communication device*).
- ‘(3) The application may only be made when—
- (a) the magistrate is constituting a Magistrates Court; or
  - (b) the court registry where the magistrate usually constitutes the court (the *relevant court registry*) is open for business.
- ‘(4) The police officer who refused the person bail must—
- (a) advise the person that the person may apply to a magistrate for bail by a remote communication device; and
  - (b) allow the person to use a remote communication device for that purpose.

- ‘(5) When making the application, the person must be in the presence of a police officer who may also make submissions on the application.
- ‘(6) The magistrate may decide the application only if the magistrate is satisfied—
  - (a) it was necessary to make the application under subsection (2); and
  - (b) the way the application was made under subsection (2) was appropriate.
- ‘(7) If it is reasonably practicable to fax or email a copy of the magistrate’s order on the application to the police officer present with the person—
  - (a) the magistrate must, after making an order on the application, immediately fax or email a copy of the order to the police officer; and
  - (b) the police officer must give a copy of the order to the person.
- ‘(8) If it is not reasonably practicable to fax or email a copy of the magistrate’s order to the police officer present with the person—
  - (a) the magistrate must tell the police officer—
    - (i) the date and time the order is made; and
    - (ii) the terms of the order; and
  - (b) the police officer must complete a form of order, in the approved form, and write on it—
    - (i) the magistrate’s name; and
    - (ii) the date and time the order was made; and
    - (iii) the terms of the order; and
    - (iv) the police officer’s name; and
  - (c) the police officer must give a copy of the form of order to the person.
- ‘(9) If the magistrate grants bail to the person, the police officer must help the person comply with the requirements of this Act

for the release of the person on bail to the extent that the help—

- (a) is reasonable in the circumstances; and
- (b) would otherwise be available to the person from a Magistrates Court if the person made the application at a Magistrates Court.

*Example of help a police officer may give to a person—*

helping the person locate a justice for entering into an undertaking as to bail

- ‘(10) The police officer, and the magistrate if the magistrate was not constituting a Magistrates Court when the application was made, must, at the first reasonable opportunity, send to the relevant court registry—
  - (a) any document or thing relevant to the application that would otherwise have been filed with the court or tendered as evidence during the application; and
  - (b) a copy of any form of order completed by the police officer under this section.’.

#### **14 Amendment of s 16 (Refusal of bail)**

Section 16(2)(e)(iii), ‘established for offenders’—  
*omit.*

#### **15 Amendment of s 20 (Undertaking as to bail)**

- (1) Section 20(2), from ‘within 25km’ to ‘appear’—  
*omit.*

- (2) Section 20—  
*insert—*

- ‘(2A) For subsection (2), the defendant’s address for service of notices may be the same as the defendant’s residential address.’.

- (3) Section 20(3)(a)(iii), (3AA) and (3A), ‘counsel or solicitor’—  
*omit, insert—*  
‘lawyer’.
- (4) Section 20—  
*insert—*
- ‘(8) A reference in subsection (3)(a)(iii) and (3AA) to a lawyer, for the mention of a matter in a Magistrates Court or the Childrens Court relating to a defendant released on bail in which there is no issue about the bail, includes a person who is undertaking practical legal training.
- ‘(9) For subsection (8), there is no issue about bail if the complainant or prosecutor or person appearing on behalf of the Crown does not oppose the defendant continuing on bail and there is no application to vary, as opposed to enlarge, bail.
- ‘(10) In this section—  
*practical legal training* means practical legal training under the supervision of a lawyer under rules made under the *Supreme Court of Queensland Act 1991*, section 118(1)(b).’.

## **16 Amendment of s 27 (Notice of trial)**

Section 27(4), ‘counsel or solicitor’—  
*omit, insert—*  
‘lawyer’.

## **17 Insertion of new 27B**

After section 27A—  
*insert—*

### **‘27B Warrant for apprehension of defendant if bail granted under s 15A**

- ‘(1) This section applies if a magistrate grants bail to a defendant under section 15A and the defendant leaves the presence of the police officer mentioned in section 15A(5)—

- (a) if the defendant is required to enter into an undertaking under section 20<sup>1</sup>—without entering into the undertaking; or
  - (b) if there are conditions of the bail the defendant must comply with before leaving the presence of the police officer—without fulfilling the conditions.
- ‘(2) A Magistrates Court may issue a warrant for the apprehension of the defendant.
- ‘(3) The warrant must—
- (a) name the defendant against whom it is issued; and
  - (b) state the reason, under subsection (1)(a) or (b), for its issue; and
  - (c) order all police officers to apprehend the defendant and bring the defendant before the court to be dealt with according to law.’.

**18 Amendment of s 28A (Other warrants for apprehension of defendant)**

Section 28A(4)(b), ‘counsel or solicitor’—  
*omit, insert—*  
 ‘a lawyer’.

**Part 5 Amendment of Births, Deaths  
 And Marriages Registration Act  
 2003**

**19 Act amended in pt 5 and schedule**

This part and the schedule amend the *Births, Deaths and Marriages Registration Act 2003*.

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<sup>1</sup> Section 20 (Undertaking as to bail)

**20 Amendment of s 8 (Responsibility to apply to have birth registered)**

Section 8(2)—

*omit, insert—*

‘(2) However, the registrar may accept an application completed by only 1 of the parents if the registrar is satisfied—

(a) the applicant is unable or unwilling to give information as to the other parent’s identity or whereabouts; or

*Examples—*

- 1 The applicant does not know the father’s identity.
- 2 The applicant does not know the other parent’s whereabouts.

(b) the other parent is unable, unlikely or unwilling to sign the application; or

*Examples—*

- 1 The other parent is dead.
- 2 The other parent can not be located.

(c) the requirement under subsection (1)(a) for the other parent to apply to register the birth would cause the applicant unnecessary distress.

*Examples—*

- 1 The applicant is too frightened to contact the other parent because of a domestic violence situation.
- 2 Contact between the applicant and the other parent would breach a domestic violence order.

‘(2A) If the registrar accepts an application under subsection (2)(a) or (b) and has an address for the other parent, the registrar must, before registering the birth—

(a) give the other parent—

- (i) written notice of the application; and
- (ii) at least 14 days written notice of the registrar’s intention to register the birth; and

(b) ask the other parent to sign an application.

- ‘(2B) A failure of the registrar to comply with subsection (2A), or a failure of the parent of a child to sign an application as requested under subsection (2A)(b), does not prevent the registration of the child’s birth or affect the validity of the registration.’.

**21 Amendment of s 20 (Notation of change of name other than by registration)**

- (1) Section 20(1)(b)—

*omit, insert—*

‘(b) the person’s name has been changed—

- (i) by deed poll; or
- (ii) under the law of another State or other legal process; or

*Example of other legal process—*

an order of a Queensland court or of a court of another State

- (iii) by repute or usage resulting from the person’s marriage.’.

- (2) Section 20(7), from ‘changed’—

*omit, insert—*

‘changed—

- (a) by deed poll; or
- (b) under the law of another State or other legal process; or
- (c) by repute or usage resulting from the person’s marriage.’.

**22 Amendment of s 21 (Limit on number of name changes)**

Section 21(1), ‘, or to note,’—

*omit.*

**23 Amendment of s 25 (Marriages that are registrable)**

Section 25—

*insert—*

- ‘(4) The registrar may require a person giving a marriage certificate under subsection (2)(a) to also give it electronically, if it is reasonably practicable for the person to do so.’.

**24 Amendment of s 29 (How to apply to register the death of a person)**

Section 29—

*insert—*

- ‘(5) The registrar may require a person giving an application to give it electronically, if it is reasonably practicable for the person to do so.’.

**25 Amendment of s 44 (Obtaining information from the registrar)**

- (1) Section 44—

*insert—*

- ‘(5A) Despite subsection (5)(a), a certificate need not state a person’s residential address if the person has satisfied the registrar that, because of exceptional circumstances, the person’s residential address should not be disclosed on the certificate.

*Examples of exceptional circumstances—*

- 1 The person is protected by a domestic violence order made under the *Domestic and Family Violence Protection Act 1989* or an interstate order as defined under that Act.
- 2 The person indicates that giving the information may put the person’s life at risk.’.

- (2) Section 44(10), ‘birth’—

*omit.*

- (3) Section 44(11), definition *commemorative birth certificate*—



*omit, insert—*

‘*commemorative certificate* means a certificate that is more decorative than another certificate.’.

## **26 Amendment of s 45 (Information policies)**

(1) Section 45(2), from ‘obtain’—

*omit, insert—*

‘obtain—

- (a) information under subsection (1); or
- (b) a certificate or information under section 44.’.

(2) Section 45—

*insert—*

‘(4) However, subsection (3) does not apply to a statement if the registrar reasonably believes withholding the statement is necessary—

- (a) to protect the persons for whom the registrar keeps information from unjustified intrusion on their privacy; or
- (b) to prevent information mentioned in subsection (1) being obtained fraudulently or improperly.’.

## **27 Replacement of pt 10 (Repeal)**

Part 10—

*omit, insert—*

## **‘Division 3 Transitional provisions for Justice and Other Legislation Amendment Act 2007**

### **‘58 Definition for div 3**

‘In this division—

*amending Act* means the *Justice and Other Legislation Amendment Act 2007*.

**‘59 Existing applications to have birth registered**

- ‘(1) This section applies to an application to have a birth registered if, before the commencement of this section, the registrar—
- (a) accepted the application under previous section 8(2); and
  - (b) had not registered the birth before the commencement.
- ‘(2) Section 8 as amended by the amending Act applies to the application.
- ‘(3) In this section—
- previous section 8(2)* means section 8(2) as in force before the commencement of the amending Act.

**‘60 Existing applications to note a person’s name change**

- ‘(1) This section applies if, before the commencement of this section—
- (a) an application to note the change of a person’s name was made under section 20(2) or (3); and
  - (b) the registrar had not noted the change.
- ‘(2) Part 3 as amended by the amending Act applies to the application.

**‘61 Existing applications for a certificate about an event that is, or may be, in a register**

- ‘(1) This section applies if, before the commencement of this section—
- (a) a person or other entity applied for a certificate about an event under section 44(1); and
  - (b) the registrar had not given the certificate to the person or entity.
- ‘(2) Section 44 as amended by the amending Act applies to the application.’.

**28 Amendment of sch 2 (Dictionary)**

Schedule 2—

*insert—*

‘*amending Act*, for part 9, division 3, see section 58.’.

**Part 6 Amendment of Children Services Tribunal Act 2000****29 Act amended in pt 6 and schedule**

This part and the schedule amend the *Children Services Tribunal Act 2000*.

**30 Amendment of s 18 (President’s functions)**

(1) Section 18(1), ‘must’—

*omit.*

(2) Section 18(1)(a) and (b), before ‘ensure’—

*insert—*

‘must’.

(3) Section 18(1)(c) and (d), before ‘compile’—

*insert—*

‘may’.

(4) Section 18(1)(e)—

*omit, insert—*

‘(e) may provide facilitators and independent inquirers with appropriate training.’.

**31 Amendment of s 29 (Presiding member)**

Section 29(1), ‘3 members’—

*omit, insert—*

‘2 or 3 members’.

### **32 Amendment of s 32 (Reconstituting tribunal)**

(1) Section 32(1)(a), ‘3 members’—

*omit, insert—*

‘2 or 3 members’.

(2) Section 32(2)—

*omit, insert—*

‘(2) The president may direct that the tribunal be reconstituted by—

(a) if the tribunal was constituted by 2 members—the remaining member together with another member; or

(b) if the tribunal was constituted by 3 members—the remaining constituting members together with another member.’.

### **33 Amendment of s 34 (Way other question to be decided)**

(1) Section 34(2)(b)—

*renumber* as section 34(2)(c).

(2) Section 34(2)—

*insert—*

‘(b) if the tribunal is constituted by 2 members—the presiding member; or’.

### **34 Amendment of s 41 (Tribunal’s powers to dismiss review application)**

Section 41(1)—

*insert—*

‘(d) the parties have consented to the dismissal.’.

**35 Amendment of s 42 (Tribunal's decision must be in writing etc.)**

(1) Section 42, heading—

*omit, insert—*

**'42 Tribunal's decision'.**

(2) Section 42(1)—

*omit, insert—*

'(1) The tribunal may give its decision on a review—

(a) in writing; or

(b) orally if the tribunal considers it necessary in the circumstances.'

(3) Section 42—

*insert—*

'(4) If the tribunal gives its decision orally, the tribunal must, as soon as practicable after giving the decision, confirm the decision and the reasons for it in writing.'

**36 Amendment of s 71 (Withdrawal of review application)**

Section 71(1)—

*omit, insert—*

'(1) An applicant may withdraw a review application—

(a) by written notice given to the registrar; or

(b) in another way directed by the tribunal, the president or the deputy president.'

**37 Amendment of s 80 (Constitution of tribunal for preliminary conference)**

(1) Section 80(1), '3 members'—

*omit, insert—*

'2 or 3 members'.

(2) Section 80(2), from 'constituted by'—

*omit, insert—*

‘constituted by—

- (a) if the tribunal is constituted by 2 members—a single member; or
- (b) if the tribunal is constituted by 3 members—a single member or 2 members.’.

(3) Section 80(3)—

*omit, insert—*

- ‘(3) However, if under subsection (2) a tribunal is constituted by a single member or 2 members for the preliminary conference, the tribunal may stay the operation of a reviewable decision only if the decision maker does not oppose the staying of the decision’s operation.’.

### **38 Amendment of s 105 (Confidentiality orders)**

(1) Section 105(3), after ‘tribunal’—

*insert—*

‘may’.

(2) Section 105(3)(a), ‘may’—

*omit.*

(3) Section 105(4)—

*insert—*

- ‘(c) there would be undue interference with the privacy of a child or another person.’.

### **39 Amendment of s 141 (Certain information not to be published)**

(1) Section 141(2), after ‘tribunal’—

*insert—*

‘or the president’.

(2) Section 141(3)—

*insert—*



**44 Insertion of new ch 81**

After section 717—

*insert—*

**‘Chapter 81 Transitional provision for  
Justice and Other  
Legislation Amendment Act  
2007****‘718 Appointment of animal valuers**

‘A person appointed as an animal valuer under section 450F, as in force immediately before the commencement of this section, continues to hold the appointment after the commencement, as if the appointment had been made by the chief executive.’.

**Part 9 Amendment of Dispute  
Resolution Centres Act 1990****45 Act amended in pt 9**

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

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

Section 27(3)—

*insert—*

‘Maximum penalty—15 penalty units.’.

**47 Amendment of s 37 (Secrecy)**

(1) Section 37(2), from ‘A person’ to ‘paragraph (e)’—



*omit, insert—*

‘A relevant person’.

- (2) Section 37(2)(e), ‘or an evaluation pursuant to section 34’—

*omit.*

- (3) Section 37(3)—

*omit, insert—*

- ‘(3) A relevant person who discloses information obtained in connection with the administration of this Act otherwise than as authorised under subsection (2) commits an offence against this Act.

Maximum penalty—15 penalty units.’.

- (4) Section 37—

*insert—*

- ‘(9) In this section—

***relevant person*** means a person who is or has been any of the following—

- (a) a member of the council or a subcommittee of the council;
- (b) a mediator;
- (c) a director;
- (d) a member of the staff of a dispute resolution centre;
- (e) a person making an evaluation under section 34, as in force at any time before its repeal;
- (f) a person carrying out research for, or with the approval of, the council.’.

#### **48 Amendment of s 40 (Proceedings)**

Section 40(3)—

*omit.*

## **Part 10                      Amendment of District Court of Queensland Act 1967**

### **49      Act amended in pt 10 and schedule**

This part and the schedule amend the *District Court of Queensland Act 1967*.

### **50      Amendment of s 61 (Limited criminal jurisdiction if maximum penalty more than 14 years)**

Section 61, heading, ‘Limited criminal’—  
*omit, insert—*  
‘**Criminal**’.

## **Part 11                      Amendment of Drug Court Act 2000**

### **51      Act amended in pt 11 and schedule**

This part and the schedule amend the *Drug Court Act 2000*.

### **52      Amendment of s 6 (Who is an *eligible person*)**

- (1) Section 6(1), ‘appearing before a drug court’—  
*omit.*
- (2) Section 6(2)—  
*omit, insert—*
- ‘(2) Without limiting subsection (1)(d), the regulation may require that the person be someone who resides within a stated locality at the time—
  - (a) the person is referred for an indicative assessment; or
  - (b) the person is referred for an assessment; or

- (c) an intensive drug rehabilitation order is made for the person.’.
- (3) Section 6(3)(b)—  
*renumber* as section 6(3)(c).
- (4) Section 6(3)—  
*insert*—  
‘(b) the person is the subject of a parole order that is cancelled by a parole board and the person is to serve the unexpired portion of the person’s period of imprisonment; or’.
- (5) Section 6—  
*insert*—
- ‘(5) In this section—  
*parole order* includes a release under a law of another State or the Commonwealth that is similar to a parole order.’.

### **53 Amendment of s 12A (Application of pt 3A)**

- (1) Section 12A(a), after ‘magistrate’—  
*insert*—  
‘in a Magistrates Court prescribed under a regulation for this section.’.
- (2) Section 12A—  
*insert*—  
‘(e) the maximum number of active intensive drug rehabilitation orders prescribed under a regulation has not been exceeded.’.

### **54 Amendment of s 12C (Indicative assessment reports)**

- Section 12C(2), ‘by the drug court magistrate’—  
*omit, insert*—  
‘by the magistrate’.

**55 Amendment of s 13 (Application of pt 4)**

Section 13(a), ‘magistrate in a drug court’—

*omit, insert—*

‘drug court magistrate’.

**56 Amendment of s 14 (Referral to be decided as soon as practicable)**

Section 14(1), ‘magistrate’—

*omit, insert—*

‘drug court magistrate’.

**57 Amendment of s 15 (Deciding whether to refer for assessment)**

(1) Section 15(1), ‘magistrate’—

*omit, insert—*

‘drug court magistrate’.

(2) Section 15(2), ‘the magistrate’—

*omit, insert—*

‘the drug court magistrate’.

**58 Amendment of s 16 (Referral for assessment)**

(1) Section 16(1), from ‘If’ to ‘may’—

*omit, insert—*

‘If the drug court magistrate (the *referring magistrate*) decides to refer the person for assessment, the referring magistrate may’.

(2) Section 16(2), (3), (4) and (5), ‘the magistrate’—

*omit, insert—*

‘the referring magistrate’.

**59 Amendment of s 16A (Assessment report)**

- (1) Section 16A(1), ‘by a magistrate’—  
*omit, insert—*  
‘under section 16(3) by a referring magistrate’.
- (2) Section 16A(2), ‘under section 16(3) by the magistrate’—  
*omit, insert—*  
‘by the referring magistrate’.

**60 Amendment of s 34 (Terminating rehabilitation programs)**

Section 34(3)(c), after ‘sentence’—  
*insert—*  
‘, even though the magistrate has not addressed the defendant as required under section 104(2).’.

**61 Amendment of schedule (Dictionary)**

Schedule—  
*insert—*  
‘*referring magistrate* see section 16(1).’.

**Part 12 Amendment of Electoral Act 1992****62 Act amended in pt 12**

This part amends the *Electoral Act 1992*.

**63 Amendment of s 127 (Supreme Court to be Court of Disputed Returns)**

Section 127—  
*insert—*

‘(3) For subsection (2), the Chief Justice may be the single judge or appoint another Supreme Court judge to be the single judge.’.

**64 Amendment of s 130 (Requirements for an application to be effective)**

Section 130(3)(a), ‘court’—

*omit, insert—*

‘Supreme Court registry in Brisbane’.

**65 Amendment of s 131 (Copies of application to be given to elected candidate and commission)**

Section 131, ‘The staff of the Supreme Court’—

*omit, insert—*

‘The registrar of the Supreme Court’.

**66 Amendment of s 133 (Parties to application)**

Section 133(3), ‘court’—

*omit, insert—*

‘Supreme Court registry in Brisbane’.

**67 Amendment of s 139 (Copy of final court orders to be sent to Clerk of Parliament)**

Section 139, ‘The Court of Disputed Returns’—

*omit, insert—*

‘The registrar of the Supreme Court’.

**68 Amendment of s 147 (Order to be sent to Assembly)**

Section 147, ‘the court must arrange for a copy of its order’—

*omit, insert—*

‘the registrar of the Supreme Court must arrange for a copy of the court’s order’.

**69 Amendment of s 148F (Copy of final court orders to be sent to Clerk of Parliament)**

Section 148F, ‘The Court of Appeal must arrange for a copy of its final orders’—

*omit, insert—*

‘The registrar of the Supreme Court must arrange for a copy of the Court of Appeal’s final orders’.

## **Part 13 Amendment of Freedom of Information Act 1992**

**70 Act amended in pt 13 and schedule**

This part and the schedule amend the *Freedom of Information Act 1992*.

**71 Amendment of s 39 (Matter relating to investigations by ombudsman, reviews by Service Delivery and Performance Commission or audits by auditor-general etc.)**

(1) Section 39(2), footnote—

*omit.*

(2) Section 39(2)—

*insert—*

*Note—*

The *Financial Administration and Audit Act 1977*, section 92 and the *Service Delivery and Performance Commission Act 2005*, section 62 are confidentiality provisions that prohibit particular persons involved in the administration of those Acts from disclosing protected information other than in particular circumstances.’.

**72 Amendment of s 59 (Particular notations required to be added)**

(1) Section 59(1)(c)—

*omit.*

- (2) Section 59(6)(c), ‘section 34(2)(a), (g) and (h)’—

*omit, insert—*

‘section 34(2)(a), (h) and (i)’.

## **Part 14                      Amendment of Guardianship and Administration Act 2000**

### **73      Act amended in pt 14**

This part amends the *Guardianship and Administration Act 2000*.

### **74      Amendment of s 13 (Advance appointment)**

Section 13(6)—

*omit, insert—*

- ‘(6) The longer period may be—

- (a) if the administrator is the public trustee or a trustee company under the *Trustee Companies Act 1968*—the period decided by the tribunal; or
- (b) otherwise—a period of not more than 5 years.’.

### **75      Amendment of s 14 (Appointment of 1 or more eligible guardians and administrators)**

- (1) Section 14(2) to (4)—

*renumber* as section 14(3) to (5).

- (2) Section 14—

*insert—*

- ‘(2) Despite subsection (1)(a)(ii), the tribunal may appoint the adult guardian as guardian for a matter only if there is no other appropriate person available for appointment for the matter.’.



**76 Insertion of new ch 3, pt 3, div 3**

After section 32A—

*insert—*

**‘Division 3 Directions****‘32B Directions to former guardian or administrator**

- ‘(1) This section applies if an appointment as a guardian or administrator ends under section 26, 27 or 31.
- ‘(2) The tribunal may give directions to the former guardian or administrator that the tribunal considers necessary because of the ending of the appointment.
- ‘(3) The tribunal may give the directions to the former guardian or administrator—
  - (a) if the appointment ends under section 27—when the tribunal gives leave to withdraw as guardian or administrator for a matter; or
  - (b) if the appointment ends under section 31—when the tribunal revokes the order that made the appointment or makes an order removing the guardian or administrator; or
  - (c) in all cases—at any hearing of a proceeding relating to the adult for whom the person was formerly a guardian or administrator.
- ‘(4) However, the directions may relate only to a matter for which the former guardian or administrator was appointed immediately before the appointment ends.’.

**77 Amendment of s 95 (Acting appointment)**

Section 95—

*insert—*

- ‘(2) Despite subsection (1), a deputy president designated by the Minister may act as president whenever—
  - (a) no-one holds a current appointment from the Governor in Council to act as president; or

- (b) someone holds a current appointment from the Governor in Council to act as president, but is not immediately available to act under the appointment.
- ‘(3) While acting as president, a deputy president designated by the Minister under subsection (2) is to be paid the remuneration and allowances that were payable to—
  - (a) the person who holds the current appointment as president; or
  - (b) if no-one holds a current appointment as president—the person who last held an appointment as president.
- ‘(4) In subsection (2)—  
*deputy president* does not include a person who is acting as a deputy president.’.

## **78 Amendment of s 129 (Interim order)**

- (1) Section 129(1)—  
*omit, insert—*
- ‘(1) This section applies if the tribunal is satisfied, on reasonable grounds, there is an immediate risk of harm to the health, welfare or property of the adult concerned in an application, including because of the risk of abuse, exploitation or neglect of, or self-neglect by, the adult.
- ‘(1A) The tribunal may make an interim order in the proceeding without hearing and deciding the proceeding or otherwise complying with the requirements of this Act, including section 118.’.
- (2) Section 129(4), ‘6 months’—  
*omit, insert—*  
‘3 months’.
- (3) Section 129(5) and (6)—  
*omit, insert—*
- ‘(5) An interim order may be renewed, but only if the tribunal is satisfied there are exceptional circumstances justifying the renewal.’.

- (4) Section 129(1A) to (5)—  
*renumber* as section 129(2) to (6).

**79 Amendment of s 143 (Contempt of tribunal)**

- (1) Section 143(d)—  
*renumber* as section 143(e).
- (2) Section 143—  
*insert*—  
‘(d) disobey a lawful order or direction of the tribunal; or’.

**80 Amendment of s 157 (Written reasons for decision)**

- Section 157(1), ‘giving the decision’—  
*omit, insert*—  
‘the direction is given’.

**81 Amendment of s 172 (Enforcement of orders)**

- (1) Before section 172(1)—  
*insert*—  
‘(1A) A section 84 order may be filed in the court.’.
- (2) Section 172(1), after ‘other than’—  
*insert*—  
‘a section 84 order or’.
- (3) Section 172—  
*insert*—  
‘(4) In this section—  
*section 84 order* means a tribunal order in relation to a matter for which the tribunal has exclusive jurisdiction under section 84(1).’.
- (4) Section 172(1A) to (4)—  
*renumber* as section 172(1) to (5).

**82 Amendment of s 226 (Requirement to visit if asked)**

Section 226(1)(b) and (2), ‘in charge of’—

*omit, insert—*

‘employed at’.

**83 Amendment of s 231 (Appointment)**

Section 231(4)(a)—

*omit, insert—*

‘(a) is a public service employee of the department in which any of the following Acts is administered (the *department*)—

(i) the *Disability Services Act 2006*;

(ii) the *Health Act 1937*;

(iii) the *Mental Health Act 2000*; or’.

**84 Amendment of s 232 (Duration of appointment)**

(1) Section 232(4)—

*renumber* as section 232(6).

(2) Section 232—

*insert—*

‘(4) Also, the chief executive may, by written notice given to a person, suspend the appointment of the person as a community visitor if—

(a) the chief executive reasonably suspects a ground mentioned in subsection (3) may exist in relation to the person; and

(b) the chief executive needs to make investigations about the person to help the chief executive decide whether the person is suitable to continue to be a community visitor.

‘(5) A suspension under subsection (4) starts on the day the person is given written notice of the suspension and ends on the earlier of the following—

- (a) the day the chief executive gives the person written notice that the suspension has ended;
- (b) the day the chief executive terminates the person's appointment as a community visitor;
- (c) the day that is 30 days after the day the suspension starts.'.

**85 Insertion of new ch 12, pt 7**

After section 262F—

*insert—*

**'Part 7 Transitional provisions for  
Justice and Other Legislation  
Amendment Act 2007****'263 Directions to former guardian or administrator**

'Section 32B also applies if an appointment mentioned in section 32B(1) ended before the commencement of this section.

**'264 Interim orders**

'An interim order made under section 129 before the commencement of this section continues to have effect for the period specified in the order.'.

**Part 15 Amendment of Industrial  
Relations Act 1999****86 Act amended in pt 15**

This part amends the *Industrial Relations Act 1999*.

**87 Amendment of sch 2 (Appointments)**

- (1) Schedule 2, section 4(3)—  
*renumber* as schedule 2, section 4(4).
- (2) Schedule 2, section 4—  
*insert*—
- ‘(3) In section 15 of that Act, a reference to the prescribed authority is taken to be a reference to the Governor in Council.’.

## **Part 16 Amendment of Judges (Pensions and Long Leave) Act 1957**

**88 Act amended in pt 16**

This part amends the *Judges (Pensions and Long Leave) Act 1957*.

**89 Amendment of s 15 (Leave of absence of judges)**

- (1) Section 15(2), (3) and (4), ‘Governor in Council’—  
*omit, insert*—  
‘prescribed authority’.
- (2) Section 15(5), ‘Governor in Council’s’—  
*omit, insert*—  
‘prescribed authority’s’.
- (3) Section 15—  
*insert*—
- ‘(8) In this section—  
***prescribed authority***, for leave of absence to a judge, means—  
(a) the Governor in Council, if the judge is—

- (i) the Chief Justice; or
- (ii) the Chief Judge; or
- (iii) the Chief Magistrate; or
- (b) the Chief Justice, if the judge is a Supreme Court judge and paragraph (a) does not apply; or
- (c) the Chief Judge, if the judge is a District Court judge and paragraph (a) does not apply.’.

## **Part 17**                      **Amendment of Judicial Review Act 1991**

### **90**      **Act amended in pt 17**

This part amends the *Judicial Review Act 1991*.

### **91**      **Amendment of sch 1, pt 2**

Schedule 1, part 2—

*insert—*

‘8 *Building and Construction Industry Payments Act 2004*, part 3, division 2’.

## **Part 18**                      **Amendment of Justices Act 1886**

### **92**      **Act amended in pt 18 and schedule**

This part and the schedule amend the *Justices Act 1886*.

### **93**      **Amendment of s 22C (Appointment of clerks of the court)**

Section 22C(1), from ‘Governor’ to ‘person’—

*omit, insert—*

‘chief executive may, by gazette notice, appoint an appropriate person’.

**94 Amendment of s 53A (Power, after summons issued, to order mediation)**

- (1) Section 53A(1), after ‘section 53,’—

*insert—*

‘a magistrate or’.

- (2) Section 53A(2), before ‘clerk’—

*insert—*

‘magistrate or’.

- (3) Section 53A(5)(a) and (b)—

*omit, insert—*

‘(a) the magistrate or clerk of the court must give notice of the order to the complainant and defendant; and

(b) the summons may not be served and no other action may be taken on the summons, unless a magistrate or clerk of the court orders that the summons may be proceeded with under section 53B.’.

- (4) After section 53A(5)—

*insert—*

**‘53B Further provision for a summons after mediation is ordered’.**

- (5) Section 53A(6) to (8)—

*renumber* as section 53B(1) to (3).

- (6) Section 53B(1), as renumbered, after ‘If’—

*insert—*

‘a magistrate or’.

- (7) Section 53B(1), as renumbered, ‘subsection (7)’—

*omit, insert—*



‘subsection (2)’.

- (8) Section 53B(1), as renumbered, ‘the clerk’, second mention—  
*omit, insert—*

‘the magistrate or clerk’.

- (9) Section 53B(3), as renumbered, before ‘clerk’—  
*insert—*

‘magistrate or’.

- (10) Section 53B(3), as renumbered—  
*insert—*

‘*Note—*

Under the *Police Powers and Responsibilities Act 2000*, section 388(2)(a), a requirement in a notice to appear that a person appear before a court at a stated time and place is taken to be a summons issued under the *Justices Act 1886*.’.

## **95 Replacement of pt 5, div 3**

Part 5, division 3—

*omit, insert—*

### **‘Division 3 Warrant if summons is disobeyed**

#### **‘103 Disobedience of summons**

- ‘(1) This section applies if—
- (a) a defendant is charged with an indictable offence; and
  - (b) a summons is issued against the defendant; and
  - (c) the defendant does not appear before the justices at the time and place mentioned in the summons when called.
- ‘(2) However, this section does not apply if—
- (a) the defendant is charged on a private complaint; and
  - (b) the charge—
    - (i) can not be dealt with summarily; or

(ii) can be dealt with summarily without the defendant's consent.

'(3) If the justices—

- (a) are satisfied, on oath or by deposition as provided in section 56, that the summons was properly served on the defendant a reasonable time before the time appointed for the defendant's appearance; and
- (b) are satisfied, from information given on oath, that the matter of complaint is substantiated;

the justices may issue their warrant to apprehend the defendant and to bring the defendant before justices to answer the complaint and to be further dealt with according to law.'

**96 Amendment of s 142 (Proceedings in absence of defendant)**

(1) Section 142(1), from 'called,' to 'upon the defendant'—

*omit, insert—*

'called and the justices are satisfied, on oath or by deposition as provided in section 56, that the summons was properly served on the defendant'.

(2) Section 142(1), 'appearance'—

*omit, insert—*

'appearance,'.

**97 Amendment of s 178B (Definitions for part)**

Section 178B, definition *associated place*, paragraph (b)—

*omit, insert—*

'(b) another place where the person is present that the presiding magistrate considers suitable for the conduct of a proceeding under this part.

*Examples—*

- a place appointed for the holding of a Magistrates Court
- a place in a State government or local government building'.

**98 Amendment of s 178C (Use of video link facilities in proceedings)**

Section 178C(1)(c)(ii)—

*omit, insert—*

‘(ii) represented by a lawyer and present at another place that—

(A) the presiding magistrate considers suitable for the conduct of a proceeding under this part; and

(B) has video link facilities linking it and the primary court.’.

**99 Insertion of new pt 11, div 3**

Part 11—

*insert—*

**‘Division 3 Justice and Other Legislation  
Amendment Act 2007****‘274 Appointment of clerks of the court and assistants  
continues**

‘A person appointed as a clerk of the court or assistant clerk of the court under section 22C, as in force immediately before the commencement, continues to hold the appointment after the commencement as if the appointment had been made by the chief executive.’.

## **Part 19**                      **Amendment of Justices of the Peace and Commissioners for Declarations Act 1991**

### **100 Act amended in pt 19 and schedule**

This part and the schedule amend the *Justices of the Peace and Commissioners for Declarations Act 1991*.

### **101 Insertion of new pt 5, div 2**

After section 45—

*insert—*

### **‘Division 2                      Validation provision for approved application forms**

#### **‘46 Validation of approved application forms**

‘(1) An approved application form is taken to have been valid during the relevant period.

‘(2) Without limiting subsection (1), a requirement in an approved application form for the application to be endorsed by a nominator, in a way stated by the form, is taken to have been valid during the relevant period.

‘(3) In this section—

*approved application form* means a form—

(a) made available by the department for use, under the regulation, for applying for appointment as a justice of the peace or commissioner for declarations; and

(b) published in the gazette on 22 April 2005 at page 1301.

*regulation* means the *Justices of the Peace and Commissioners for Declarations Regulation 1991*.

*relevant period* means the period—

(a) starting on 22 April 2005; and

(b) ending on 10 August 2006.’.

## **Part 20                      Amendment of Juvenile Justice Act 1992**

### **102    Act amended in pt 20**

This part amends the *Juvenile Justice Act 1992*.

### **103    Amendment of s 169 (Meaning of *eligible drug offence*)**

Section 169(1)(b), ‘section 10(2)’—

*omit, insert—*

‘section 10(2), (4) or (4A)’.

## **Part 21                      Amendment of Land and Resources Tribunal Act 1999**

### **104    Act amended in pt 21**

This part amends the *Land and Resources Tribunal Act 1999*.

### **105    Amendment of s 11 (Pension and leave of absence arrangements for presiding members)**

Section 11—

*insert—*

- ‘(3) However, for the purpose of applying section 15 of the Judges Pensions Act for leave of absence for presiding members, the prescribed authority is the Governor in Council.’.

### **106    Amendment of s 77 (Finance and staffing of tribunal)**

Section 77(3)—

*omit.*

## **Part 22**                      **Amendment of Land Court Act 2000**

### **107 Act amended in pt 22**

This part amends the *Land Court Act 2000*.

### **108 Insertion of new s 73A**

Part 3, division 5, after section 73—

*insert—*

#### **‘73A Privileges, protection and immunity**

- ‘(1) A member hearing a proceeding in the Land Appeal Court has the same privileges, protection and immunity as the member would have if the member were a Supreme Court judge hearing a proceeding in the Supreme Court.
- ‘(2) The following persons have the same privileges, protection and immunity as the persons would have if the proceeding were in the Supreme Court—
  - (a) a lawyer or agent appearing in the proceeding;
  - (b) a witness attending in the proceeding.’.

## **Part 23**                      **Amendment of Law Reform Commission Act 1968**

### **109 Act amended in pt 23**

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

### **110 Amendment of s 7 (Removal and vacation of office)**

- (1) Section 7(1)(e)—

*omit, insert—*

‘(e) the member resigns from office by signed notice of resignation given to the Governor.’.

- (2) Section 7(1)(d) and (e)—  
*renumber* as section 7(1)(c) and (d).
- (3) Section 7(3)—  
*renumber* as section 7(2).

**111 Amendment of s 10 (Functions and duties of Commission)**

- (1) Section 10(3)(a) to (d), after ‘;’—  
*insert*—  
‘and’.
- (2) Section 10(3)—  
*insert*—  
‘(e) if asked by the Minister, examine particular branches of the law and make recommendations to the Minister about the reform of the branch of the law, including consolidation of the law or statute law revision;’.

**Part 24 Amendment of Magistrates Act 1991**

**112 Act amended in pt 24 and schedule**

This part and the schedule amend the *Magistrates Act 1991*.

**113 Amendment of long title**

Long title, ‘office of magistrates, the judicial independence of the magistracy’—

*omit, insert*—

‘offices of magistrates and judicial registrars, their independence’.

#### **114 Insertion of new s 5A**

After section 5—

*insert—*

#### **‘5A Appointment of acting Deputy Chief Magistrate**

- ‘(1) This section applies if—
- (a) the Deputy Chief Magistrate’s position is vacant; or
  - (b) the Deputy Chief Magistrate is not available to perform the Deputy Chief Magistrate’s functions, because of absence or another reason.
- ‘(2) The Chief Magistrate may appoint a magistrate to act as the Deputy Chief Magistrate.
- ‘(3) The instrument of appointment must state the period of the appointment.
- ‘(4) The period of appointment must not be longer than 6 months.
- ‘(5) However, the appointment may be renewed at any time.
- ‘(6) In this section—
- magistrate* does not include a person who is acting as a magistrate.’.

#### **115 Amendment of s 12 (Functions of Chief Magistrate)**

Section 12—

*insert—*

- ‘(4) In subsection (2)(a) and (c), a reference to magistrates includes a reference to judicial registrars.
- ‘(5) Subsection (4) and this subsection expire on the expiry of part 9A under section 53S.’.



**116 Insertion of new pt 9A**

After section 52—

*insert—*

**‘Part 9A Provisions concerning judicial registrars****‘Division 1 Appointment****‘53 Appointment of judicial registrars**

- ‘(1) The Governor in Council may appoint judicial registrars.
- ‘(2) Before making a recommendation to the Governor in Council about the appointment of a judicial registrar, the Attorney-General must first consult with the Chief Magistrate.
- ‘(3) A person may be appointed as a judicial registrar only if the person is eligible to be appointed to act as a magistrate under section 6(1).
- ‘(4) The appointment may be for a specified period.
- ‘(5) However, a person may not be appointed as a judicial registrar for a period that includes a period after the expiry of this part under section 53S.
- ‘(6) A person’s appointment as a judicial registrar is taken to be an appointment on a full-time basis unless the appointment is stated, in the instrument of appointment, to be on a part-time basis.
- ‘(7) A judicial registrar, although appointed on a full-time basis, may, if the Attorney-General agrees in writing, exercise the jurisdiction, powers and functions of a judicial registrar on a part-time basis.
- ‘(8) A judicial registrar, although appointed on a part-time basis, may, if the Attorney-General agrees in writing, exercise the jurisdiction, powers and functions of a judicial registrar on a full-time basis.

**‘53A Appointment of acting judicial registrars**

- ‘(1) The Governor in Council may appoint a person to act as a judicial registrar.
- ‘(2) Before making a recommendation to the Governor in Council about the appointment of a person to act as a judicial registrar, the Attorney-General must first consult with the Chief Magistrate.
- ‘(3) A person may be appointed to act as a judicial registrar only if the person is eligible to be appointed to act as a magistrate under section 6(1).
- ‘(4) The appointment may be for a specified period or for a specified matter.
- ‘(5) However, a person may not be appointed to act as a judicial registrar for a period that includes a period after the expiry of this part under section 53S.
- ‘(6) For the purpose of the person acting as a judicial registrar—
  - (a) this Act and other Acts apply to the person as if the person were a judicial registrar; and
  - (b) the person has all the powers and functions of a judicial registrar; and
  - (c) the person is to be paid the salary and allowances decided by the Governor in Council, not being less than the salary and allowances paid to a judicial registrar.

**‘53B Acting judicial registrars who are clerks of the court**

- ‘(1) This section applies if a clerk of the court is appointed to act as a judicial registrar.
- ‘(2) The *Public Service Act 1996* does not apply to the clerk while the clerk is acting as a judicial registrar.
- ‘(3) The clerk retains all rights that have accrued to the clerk because of the clerk’s employment, or that would accrue in the future to the clerk because of that employment, as if service acting as a judicial registrar were a continuation of service as a clerk of the court.

**‘53C Conditions of appointment**

- ‘(1) A judicial registrar is to be appointed under this Act and not under the *Public Service Act 1996*.
- ‘(2) A judicial registrar is to be paid the salary and allowances decided by the Governor in Council.
- ‘(3) A judicial registrar holds office on the conditions not provided for by this Act that are decided by the Governor in Council.
- ‘(4) The office of judicial registrar is not subject to any industrial award, industrial agreement or other industrial instrument or any decision or rule of an industrial tribunal.
- ‘(5) When a judicial registrar is appointed, the judicial registrar’s salary, allowances and conditions must be published in the gazette.
- ‘(6) A judicial registrar’s salary and allowances may not be reduced and any change to the judicial registrar’s salary, allowances or conditions must be published in the gazette.

**‘53D Preservation of rights**

- ‘(1) This section applies if an employee of a prescribed authority (the *relevant prescribed authority*) is appointed as a judicial registrar.
- ‘(2) The person retains all rights that have accrued to the person because of employment by any prescribed authority, or that would accrue in the future to the person because of that employment, as if service as a judicial registrar were a continuation of service as an employee of the relevant prescribed authority.
- ‘(3) If the person stops being a judicial registrar for a reason other than a reason mentioned in section 53N(1)(d), the person is entitled to be appointed to a position in the relevant prescribed authority at the classification level of the substantive position in which the person was employed at the relevant prescribed authority immediately before the person was appointed as a judicial registrar.
- ‘(4) If the person stops being a judicial registrar because the person is appointed to a position in a prescribed authority, the person’s service as judicial registrar is to be regarded as

service of a like nature with the prescribed authority for deciding the person's rights as an employee of the prescribed authority.

'(5) In this section—

***classification level***, at a prescribed authority, includes another level, however described, reflecting seniority at the prescribed authority.

***employee***, of a prescribed authority, means—

- (a) a public service officer employed by the prescribed authority; or
- (b) a police officer employed by the prescribed authority; or
- (c) a person, other than a person mentioned in paragraph (a) or (b) or a person employed on a temporary or casual basis, employed by the prescribed authority.

***prescribed authority*** means—

- (a) a department; or
- (b) the Crime and Misconduct Commission; or
- (c) Legal Aid Queensland; or
- (d) the police service; or
- (e) another entity, whether or not incorporated, that is declared by regulation to be a prescribed authority.

## 'Division 2            Role

### '53E    Officer of the court

'A judicial registrar is an officer of the Magistrates Courts.

*Note—*

See the *Evidence Act 1977*, section 42 (Signatures of holders of public offices etc. to be judicially noticed).

### '53F    Oath or affirmation

- '(1) A person appointed under section 53 or 53A must not exercise any powers, or perform any functions, of a judicial registrar

unless the person has taken the oath, or made the affirmation, prescribed under the regulation for this section.

- ‘(2) The oath or the affirmation may be taken or made before, and may be administered and received by, a magistrate.
- ‘(3) A person who does not, within 3 months after appointment as a judicial registrar, take the oath or make the affirmation ceases to hold office as a judicial registrar when the period ends.
- ‘(4) A judicial registrar is not required to take an oath or make an affirmation prescribed under any other Act in relation to justices or magistrates.

### **‘53G Independence of judicial registrars**

‘A judicial registrar when constituting a Magistrates Court or otherwise exercising a judicial or quasi-judicial power is not subject to direction or control, other than as provided under this Act.

*Note—*

For example, see section 12 (Functions of Chief Magistrate) and section 53H.

### **‘53H Functions of judicial registrars generally**

- ‘(1) Every judicial registrar must comply with every reasonable direction given, or requirement made, by the Chief Magistrate or by another magistrate authorised in that behalf by the Chief Magistrate.
- ‘(2) A judicial registrar appointed on a full-time basis must devote the whole of his or her time to the duties of the office of a judicial registrar.
- ‘(3) However, a judicial registrar appointed on a full-time basis may hold another office or perform other duties if—
  - (a) the holding of the other office or the performance of the other duties is compatible with the office of judicial registrar; and
  - (b) the Governor in Council approves that the judicial registrar hold the office or perform the duties.

- ‘(4) A judicial registrar appointed on a part-time basis may hold another office, perform other duties or engage in other employment if—
- (a) the holding of the other office, the performance of the other duties or the engagement in the other employment is compatible with the office of judicial registrar; and
  - (b) the Governor in Council approves that the judicial registrar hold the office, perform the duties or engage in the employment.
- ‘(5) A judicial registrar must not practise as a barrister or solicitor for fee or reward.
- ‘(6) A judicial registrar must immediately stop holding an office, performing other duties or engaging in other employment if required to do so by the Governor in Council.

**‘53I Power concerning prescribed applications and matters**

- ‘(1) A judicial registrar may hear and decide an application prescribed under a practice direction given under section 53J(1).
- ‘(2) For those applications, the judicial registrar—
- (a) if the application is to a magistrate—is taken to be, and has all the jurisdiction and powers of, a magistrate; or
  - (b) if the application is to a Magistrates Court—constitutes, and may exercise all the jurisdiction and powers of, a Magistrates Court.
- ‘(3) A judicial registrar may also constitute, and exercise all the jurisdiction and powers of, a Magistrates Court for a matter prescribed under a practice direction given under section 53J(2).
- ‘(4) However, a judicial registrar may not exercise any power of a Magistrates Court to punish for contempt.

**‘53J Practice direction**

- ‘(1) The Chief Magistrate may give a practice direction prescribing any of the following types of applications as an

application that may be heard and decided by a judicial registrar—

- (a) an application that may be made under the *Uniform Civil Procedure Rules 1999* to a magistrate;
- (b) a minor debt claim under the *Magistrates Courts Act 1921*;
- (c) a small claim under the *Small Claims Tribunals Act 1973*;
- (d) an application under the *Domestic and Family Violence Protection Act 1989* for—
  - (i) an adjournment of an application for an order under that Act; or
  - (ii) a temporary protection order; or
  - (iii) a domestic violence order in a form agreed to by, or on behalf of, the aggrieved and the respondent;
- (e) an application under the *Bail Act 1980*, section 8 if—
  - (i) the application is to grant, enlarge or vary bail for a defendant charged with an offence (other than an offence mentioned in section 16(3) of that Act); and
  - (ii) the complainant, the prosecutor or a person appearing on behalf of the Crown does not oppose the application.

‘(2) The Chief Magistrate may give a practice direction prescribing any of the following types of matters as matters for which a judicial registrar may constitute, and exercise all the jurisdiction and powers of, a Magistrates Court—

- (a) an examination for which a person is summoned under the Corporations Act, section 596A or 596B;
- (b) a mention of a criminal proceeding;
- (c) a committal for trial or sentence under the *Justices Act 1886*, section 110A(6) of a defendant who is on bail to appear at the committal.

**‘53K Referring application or matter**

- ‘(1) If a judicial registrar considers it would be proper for an application or matter mentioned in section 53I to be dealt with by a Magistrates Court as constituted by a magistrate, the judicial registrar must refer the application or matter to a Magistrates Court as constituted by a magistrate.
- ‘(2) If a judicial registrar is empowered to hear and decide an application mentioned in section 53J(1)(e) and, after hearing the application, the judicial registrar does not decide to grant it, the judicial registrar must, without deciding the application, refer it to a Magistrates Court as constituted by a magistrate.

**‘53L Decision of judicial registrar taken to be decision of magistrate**

‘If a judicial registrar hears and decides an application under section 53I(1), the judicial registrar’s decision is taken to be a decision of a magistrate for the purposes of the following provisions—

- (a) the *Magistrates Courts Act 1921*, sections 45 and 45A;
- (b) the *Small Claims Tribunals Act 1973*, sections 18 and 19;
- (c) the *Domestic and Family Violence Protection Act 1989*, part 5;
- (d) the *Bail Act 1980*, section 19B(3).

**‘53M Protection and immunity**

‘In performing the functions of a judicial registrar, a judicial registrar has the same protection and immunity as a magistrate performing the functions of a magistrate.

**‘Division 3 Ceasing to hold office****‘53N Ceasing to be a judicial registrar**

- ‘(1) A person ceases to be a judicial registrar if—



- (a) the person's term of appointment ends; or
  - (b) the person resigns by written notice given to the Attorney-General; or
  - (c) having attained 55, the person elects to retire by written notice given to the Attorney-General; or
  - (d) the person is removed from office; or
  - (e) the person attains 65; or
  - (f) the person ceases to hold office under section 53F(3); or
  - (g) this part expires under section 53S.
- '(2) However, a person who ceases to be a judicial registrar, other than under subsection (1)(d) or (f), is taken to continue to be a judicial registrar to the extent necessary to enable a decision to be given in a matter that is partly heard or standing for the decision of the judicial registrar.

**'530 Suspension of judicial registrar by Governor in Council**

- '(1) The Governor in Council may suspend a judicial registrar from office.
- '(2) However, a judicial registrar must not be suspended from office under subsection (1) unless a Supreme Court judge, on the application of the Attorney-General, has decided that there are reasonable grounds for believing that proper cause for removal of the judicial registrar exists.
- '(3) A copy of an application under subsection (2) must be given to the judicial registrar at least 14 days before the application is heard.
- '(4) There is proper cause to remove a judicial registrar from office if the judicial registrar—
- (a) is incompetent or guilty of serious neglect of the duties of office; or
  - (b) is mentally or physically incapable of carrying out satisfactorily the duties of office; or
  - (c) is guilty of proved misbehaviour, misconduct or conduct unbecoming a judicial registrar.

- ‘(5) A suspension under subsection (1) lapses if any of the following happens—
- (a) the Supreme Court decides under section 53R that there is no proper cause to remove the judicial registrar;
  - (b) the Governor in Council lifts the suspension.
- ‘(6) The Attorney-General must give the following notices to the judicial registrar and publish them in the gazette—
- (a) if the judicial registrar is suspended under subsection (1)—notice of the suspension;
  - (b) if the judicial registrar’s suspension lapses under subsection (5)—notice of the lapsing of the suspension.
- ‘(7) However, a failure to comply with subsection (6)(a) does not affect the suspension or the removal of the judicial registrar following suspension.
- ‘(8) A judicial registrar who is suspended from office under subsection (1) may appeal to the Supreme Court against the suspension.
- ‘(9) The appeal may be heard with any application made under section 53R.
- ‘(10) In this section—  
*duties*, of office, includes administrative duties of office.

**‘53P Suspension of judicial registrar in relation to an indictable offence**

- ‘(1) A judicial registrar is suspended from office immediately on the happening of any of the following whether in Queensland or in another State—
- (a) the judicial registrar is arrested by a police officer on a charge of an indictable offence;
  - (b) the judicial registrar appears before a court or justices as required under a complaint and summons issued by a police officer charging the judicial registrar with an indictable offence;

- (c) the judicial registrar is present as a defendant before a court and a further charge or an amended charge of an indictable offence is made against the judicial registrar;

*Example—*

A further charge or an amended charge of an indictable offence may be made against the judicial registrar under the *Justices Act 1886*, section 42(1A).

- (d) the judicial registrar is committed for trial or sentence by a court on a charge of an indictable offence;
  - (e) an indictment is presented to a court by a person authorised to present the indictment by the State, another State or the Commonwealth charging the judicial registrar with an indictable offence.
- ‘(2) A judicial registrar’s suspension from office under subsection (1) continues if, on appeal from a conviction of an indictable offence, the appellate court quashes the conviction but orders a new trial.
- ‘(3) A suspension under subsection (1) lapses if the Governor in Council lifts the suspension or either of the following happens in proceedings arising from the charging of the offence—
- (a) the judicial registrar is not convicted of any indictable offence;
  - (b) no charge of an indictable offence is proceeded with.
- ‘(4) A suspension under subsection (2) lapses if the Governor in Council lifts the suspension or either of the following happens in proceedings arising from the order for a new trial—
- (a) the judicial registrar is not convicted of any indictable offence;
  - (b) no charge of an indictable offence is proceeded with.
- ‘(5) A suspension also lapses if the Supreme Court decides under section 53R that there is no proper cause to remove the judicial registrar.
- ‘(6) The Attorney-General must give the following notices to the judicial registrar and publish them in the gazette—
- (a) if the judicial registrar is suspended under subsection (1)—notice of the suspension;

- (b) if the judicial registrar's suspension lapses under subsection (3), (4) or (5)—notice of the lapsing of the suspension.
- '(7) However, a failure to comply with subsection (6)(a) does not affect the suspension or the removal of the judicial registrar following suspension.
- '(8) For this section, proceedings arise from the charging of an indictable offence or from an order for a new trial if the proceedings relate to the same, or the same set of, circumstances as those giving rise to the charging of the indictable offence.
- '(9) In this section—
- committed***, by a court, includes any form of requirement by a court under which a person must appear for trial or sentence on a charge of an offence.
- complaint and summons*** includes—
- (a) a notice to appear under the *Police Powers and Responsibilities Act 2000*; and
- (b) an instrument under a law of another State or the Commonwealth requiring a person to appear before any court in relation to a charge of an offence alleged to have been committed by the person.

***indictment***, in relation to an indictment presented outside the State, means any allegation of an offence made in a way that is the same as, or substantially the same as, an indictment under a law of the State.

*Note—*

For indictments under a law of the State, see the Criminal Code, section 1 and the *Acts Interpretation Act 1954*, section 36.

### **'53Q Remuneration during suspension and after conviction**

- '(1) A judicial registrar is entitled to remuneration during a period of suspension under section 53O(1) or section 53P(1) or (2).
- '(2) However, but subject to subsection (3), if a judicial registrar is convicted of an indictable offence, the judicial registrar is not

entitled to remuneration on and from the day of the conviction.

- ‘(3) A judicial registrar who is convicted of an indictable offence is entitled to remuneration during the period the judicial registrar is subject to the conviction if—
- (a) the judicial registrar’s conviction is quashed on appeal and proceedings for the offence are at an end; or
  - (b) the judicial registrar’s conviction is quashed on appeal but a new trial is ordered; or
  - (c) the Supreme Court decides under section 53R that there is no proper cause to remove the judicial registrar.
- ‘(4) Subsection (2) has effect despite section 53C.

### **‘53R Removal of judicial registrar from office**

- ‘(1) A judicial registrar must not be removed from office unless the Supreme Court decides that proper cause exists to remove the judicial registrar—
- (a) on an application under subsection (2) or (3); or
  - (b) under subsection (5).
- ‘(2) If a judicial registrar is suspended from office under section 53O(1), the Attorney-General must, as soon as practicable, apply to the Supreme Court for a decision whether proper cause exists to remove the judicial registrar.
- ‘(3) If—
- (a) a judicial registrar is suspended from office under section 53P(1) or (2); and
  - (b) all proceedings arising from the charging of, or the conviction of, the indictable offence, including proceedings arising from an order for a new trial mentioned in section 53P(2), have ended without the suspension having lapsed;
- the Attorney-General must, as soon as practicable after proceedings have ended, apply to the Supreme Court to decide whether proper cause exists to remove the judicial registrar.

*Examples of proceedings ending—*

- 1 The appeal period has ended and an appeal has not started.
  - 2 If an appeal has started, the appeal has been finally decided or the appeal has been abandoned.
- ‘(4) For subsection (3), proper cause to remove the judicial registrar may include the conviction of the judicial registrar of an indictable offence.
- ‘(5) On appeal by a judicial registrar under section 53O(8), the Supreme Court must decide whether proper cause exists to remove the judicial registrar whether or not the Attorney-General has made an application under subsection (2) or (3).
- ‘(6) If a judicial registrar is removed from office, the Attorney-General must publish notice of the judicial registrar’s removal in the gazette and give a copy of the notice to the judicial registrar.
- ‘(7) For this section, proceedings arise from the charging of an indictable offence or from an order for a new trial if the proceedings relate to the same, or the same set of, circumstances as those giving rise to the charging of the indictable offence.

## **‘Division 4            Expiry**

### **‘53S    Expiry of part and amendment of Act**

- ‘(1) This part expires 2 years after it commences.
- ‘(2) However, before the end of the 2 years, a regulation may extend the period before expiry to not more than 3 years after the part commences.
- ‘(3) Despite the expiry, section 53L continues to apply to a decision of a judicial registrar, including a decision provided for under section 53N(2).
- ‘(4) Immediately before the expiry, the Act is amended as follows—  
long title—

*omit, insert—*

‘An Act relating to the office of magistrates, the judicial independence of the magistracy, and for related purposes’.

## **Part 25                      Amendment of Mental Health Act 2000**

### **117    Act amended in pt 25 and schedule**

This part and the schedule amend the *Mental Health Act 2000*.

### **118    Amendment of s 58 (Court may make court assessment order for person)**

Section 58(3)(b), ‘accordingly’—

*omit, insert—*

‘in custody’.

### **119    Amendment of s 77 (Court may grant bail and proceedings may be discontinued)**

(1) Section 77, heading—

*omit, insert—*

### **‘77    Bail, remand and discontinuance of proceedings etc.’.**

(2) Section 77(b)—

*renumber* as section 77(d).

(3) Section 77—

*insert—*

‘(b) a court remanding a classified patient in custody in relation to proceedings for an offence; or

(c) a court adjourning proceedings for an offence until a stated date; or’.

**120 Amendment of s 244 (Court may grant bail and proceedings may be discontinued)**

- (1) Section 244, heading—

*omit, insert—*

**‘244 Bail, remand and discontinuance of proceedings etc.’.**

- (2) Section 244(b)—

*omit, insert—*

- ‘(b) a court remanding the patient in custody in relation to proceedings for an offence; or
- (c) a court adjourning the proceedings for an offence until a stated date; or
- (d) the prosecution of the patient for the offence mentioned in section 236(1)(a) being discontinued at any time by the complainant or director of public prosecutions.’.

**121 Amendment of s 260 (Court may grant bail and proceedings may be discontinued)**

- (1) Section 260, heading—

*omit, insert—*

**‘260 Bail, remand and discontinuance of proceedings etc.’.**

- (2) Section 260(b)—

*renumber* as section 260(d).

- (3) Section 260—

*insert—*

- ‘(b) a court remanding the person in custody in relation to proceedings for an offence; or
- (c) a court adjourning the proceedings for an offence until a stated date; or’.

**122 Replacement of s 544 (When patient or surety not liable)**

Section 544—

*omit, insert—*



**‘544 When prescribed person or surety not liable**

- ‘(1) This section applies if proceedings for an offence against a prescribed person are suspended under this Act.
- ‘(2) The prescribed person or a surety of the prescribed person does not incur any liability merely because of the prescribed person’s failure to appear before a court for the offence.
- ‘(3) In this section—
- prescribed person* means—
- (a) a person mentioned in section 75; or
  - (b) a patient mentioned in section 243; or
  - (c) a person mentioned in section 259.’.

**Part 26 Amendment of Ombudsman Act 2001****123 Act amended in pt 26**

This part amends the *Ombudsman Act 2001*.

**124 Amendment of s 23 (Refusal to investigate complaint)**

Section 23(4), ‘in writing’—

*omit, insert—*

‘in a way the ombudsman considers appropriate’.



- (c) the offender has not breached the community service order or probation order.’.

**128 Amendment of s 15D (Meaning of *eligible drug offence*)**

Section 15D(1)(b), ‘section 10(2)’—

*omit, insert—*

‘section 10(2), (4) or (4A)’.

**129 Amendment of s 125 (Powers of Magistrates Court that convicts offender of offence against s 123(1))**

Section 125(4)(a), after ‘Court—’—

*insert—*

‘subject to section 126A,’.

**130 Amendment of s 126 (Powers of Supreme Court or District Court to deal with offender)**

Section 126(4), after ‘also’—

*insert—*

‘, subject to section 126A,’.

**131 Insertion of new s 126A**

After section 126—

*insert—*

**‘126A Particular provision for driver licence disqualifications**

‘(1) This section applies if—

- (a) a court decides to deal with an offender under section 125(4)(a) or 126(4) in relation to an offence for which a community based order was made; and
- (b) the offence is an offence for which a period of disqualification from holding or obtaining a Queensland driver licence—
- (i) may be imposed under this Act; or

- (ii) may or must be imposed under the *Transport Operations (Road Use Management) Act 1995*; and
  - (c) a period of disqualification has been imposed for the offence.
- ‘(2) In taking action under section 125(4)(a) or 126(4), the court may not change or revoke the period of disqualification imposed for the offence.’.

### **132 Amendment of schedule (Serious violent offences)**

- (1) Schedule, entry for Criminal Code, items 15 and 44—  
*omit, insert—*
  - ‘15 sections 303 (Definition of *manslaughter*) and 310 (Punishment of manslaughter)
  - 44 section 419(1) (Burglary), if section 419(3)(b)(i) or (ii) applies’.
- (2) Schedule, entries for *Corrective Services Act 2006*, *Corrective Services Act 2000* (Provisions repealed by *Corrective Services Act 2006*) and *Drugs Misuse Act 1986—*  
*omit, insert—*

### **‘Corrective Services Act 2006**

- 1 section 122(2) (Unlawful assembly, riot and mutiny)
- 2 section 124(a) (Other offences)

### **‘Corrective Services Act 2000 (Provisions repealed by Corrective Services Act 2006)**

- 1 section 92(2) (Unlawful assembly, riot and mutiny)
- 2 section 94(a) (Other offences)

## **‘Drugs Misuse Act 1986**

- 1 section 5 (Trafficking in dangerous drugs)
- 2 section 6 (Supplying dangerous drugs), if the offence is one of aggravated supply as mentioned in that section
- 3 section 8 (Producing dangerous drugs), if the circumstances mentioned in paragraph (a) or (b) of the penalty apply’.

## **Part 28 Amendment of Professional Standards Act 2004**

### **133 Act amended in pt 28**

This part amends the *Professional Standards Act 2004*.

### **134 Insertion of new s 7A**

Part 1, division 4—

*insert—*

### **‘7A References to amounts payable in relation to an occupational liability**

‘A reference in this Act to the amount payable under an insurance policy in relation to an occupational liability includes a reference to—

- (a) defence costs payable in relation to a claim, or notification that may lead to a claim (other than reimbursement of the defendant for time spent in relation to the claim), but only if those costs are payable out of the 1 sum insured under the policy in relation to the occupational liability; and
- (b) the amount payable under or in relation to the policy by way of excess.’.

**135 Replacement of s 22 (Limitation of liability by insurance arrangements)**

Section 22—

*omit, insert—*

**‘22 Limitation of liability by insurance arrangements**

‘A scheme may provide that if a person to whom the scheme applies and against whom a cause of action relating to occupational liability is brought is able to satisfy the court that—

- (a) the person has the benefit of an insurance policy insuring the person against the occupational liability; and
- (b) the amount payable under the insurance policy in relation to the occupational liability is at least the amount of the monetary ceiling specified in the scheme in relation to the class of person and the kind of work to which the cause of action relates;

the person is not liable in damages in relation to that cause of action above the amount of that monetary ceiling.’.

**136 Amendment of s 23 (Limitation of liability by reference to amount of business assets)**

- (1) Section 23(a)—

*omit, insert—*

‘(a) that the person has business assets the net current market value of which is at least the amount of the monetary ceiling specified in the scheme in relation to the class of person and the kind of work to which the cause of action relates; or’.

- (2) Section 23(b)(ii)—

*omit, insert—*

‘(ii) the net current market value of the business assets and the amount payable under the insurance policy in relation to the occupational liability, if combined, would total an amount that is at least the amount of the monetary ceiling specified in the

scheme in relation to the class of person and the kind of work to which the cause of action relates;’.

**137 Amendment of s 24 (Limitation of liability by multiple of charges)**

(1) Section 24(1)(a)(ii)—

*omit, insert—*

‘(ii) under which the amount payable in relation to the occupational liability is at least an amount (**limitation amount**), being a reasonable charge for the services provided by the person or which the person failed to provide and to which the cause of action relates, multiplied by the multiple specified in the scheme in relation to the class of person and the kind of work to which the cause of action relates; or’.

(2) Section 24(1)(c)(ii)—

*omit, insert—*

‘(ii) the net current market value of the assets and the amount payable under the insurance policy in relation to the occupational liability, if combined, would total an amount that is at least the limitation amount;’.

(3) Section 24(3), ‘in relation to the person’—

*omit, insert—*

‘in relation to the class of person and the kind of work concerned’.

**138 Insertion of new s 27A**

After section 27—

*insert—*

**‘27A Liability in damages not reduced to below relevant limit**

‘The liability in damages of a person to whom a scheme applies is not reduced below the relevant limitation imposed

by a scheme in force under this Act because the amount available to be paid to the claimant under the insurance policy required for the purposes of this Act in relation to that liability is less than the relevant limitation.

*Note—*

Section 7A permits a defence costs inclusive policy for the purposes of this Act that may reduce the amount available to be paid to a client in relation to occupational liability covered by the policy. Section 27A makes it clear that this does not reduce the cap on the liability of the scheme participant to the client, and accordingly the scheme participant will continue to be liable to the client for the amount of any difference between the amount payable to the client under the policy and the amount of the cap.’.

**139 Amendment of s 29 (Limit of occupational liability by schemes)**

Section 29(4), ‘happens’—

*omit, insert—*

‘giving rise to the cause of action concerned happened’.

**140 Amendment of s 42 (Legal status of council)**

Section 42—

*insert—*

‘(3) The council is a statutory body for the *Financial Administration and Audit Act 1977* and the *Statutory Bodies Financial Arrangements Act 1982*.

‘(4) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the council’s powers under this Act are affected by that Act.’.

**141 Amendment of sch 2 (Dictionary)**

(1) Schedule 2, definition *damages*—

*omit.*

(2) Schedule 2—

*insert—*





**‘15 Transitional provision for Justice and Other Legislation Amendment Act 2007**

‘A person appointed as a shorthand reporter or recorder under section 6, as in force immediately before the commencement of this section, continues to hold the appointment after the commencement as if the appointment had been made by the chief executive.’.

## **Part 30 Amendment of Referendums Act 1997**

**145 Act amended in pt 30**

This part amends the *Referendums Act 1997*.

**146 Amendment of s 49 (Requirements for an application to be effective)**

Section 49(3)(a), ‘court’—

*omit, insert—*

‘Supreme Court registry in Brisbane’.

**147 Amendment of s 50 (Copies of application to be given to clerk of the Parliament and commission)**

Section 50, ‘The staff of the Supreme Court’—

*omit, insert—*

‘The registrar of the Supreme Court’.

**148 Amendment of s 59 (Copy of final court orders to be sent to clerk of Parliament)**

Section 59, ‘The court must arrange for a copy’—

*omit, insert—*

‘The registrar of the Supreme Court must arrange for a copy’.

**149 Amendment of s 62F (Copy of final court orders to be sent to Clerk of Parliament)**

Section 62F, ‘The Court of Appeal must arrange for a copy of its final orders’—

*omit, insert—*

‘The registrar of the Supreme Court must arrange for a copy of the Court of Appeal’s final orders’.

**Part 31 Amendment of Small Claims Tribunals Act 1973**

**150 Act amended in pt 31**

This part amends the *Small Claims Tribunals Act 1973*.

**151 Replacement of s 19 (Immunity from judicial supervision)**

Section 19—

*omit, insert—*

**‘19 Limitation on orders Supreme Court may make for tribunal proceedings**

‘The Supreme Court may not make a statutory order of review or give a declaratory judgment in relation to a proceeding taken, or to be taken, before a small claims tribunal, or in relation to an order made by a small claims tribunal, unless the court is satisfied that—

- (a) the tribunal had or has no jurisdiction under this Act to take the proceeding; or
- (b) during the proceeding there has been a denial of natural justice to a party to the proceeding.’

## **Part 32**                      **Amendment of Supreme Court of Queensland Act 1991**

### **152 Act amended in pt 32**

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

### **153 Omission of pt 2, div 4 (Judicial registrars)**

Part 2, division 4—

*omit.*

### **154 Amendment of s 56 (Single judge to constitute the court)**

(1) Section 56(3), ‘or judicial registrar’—

*omit.*

(2) Section 56(4), ‘judicial registrar,’—

*omit.*

### **155 Amendment of pt 7, div 2, sdiv 1 hdg (Constitution of court by judicial registrar)**

Part 7, division 2, subdivision 1, heading, ‘court’—

*omit, insert—*

**‘District Court’.**

### **156 Amendment of s 73 (Judicial registrar’s power to hear and decide applications)**

(1) Section 73(2) and (3), ‘court’—

*omit, insert—*

**‘District Court’.**

(2) Section 73(3)—

*insert—*

*Note—*

*judicial registrar* means a judicial registrar of the District Court—see schedule 2.’.

**157 Amendment of s 132 (Judicial registrar may exercise certain judicial or quasi-judicial power of registrar)**

- (1) Section 132(a), ‘Supreme Court or’—

*omit.*

- (2) Section 132(b), ‘of the court’—

*omit.*

**158 Amendment of sch 1 (Subject matter for rules)**

- (1) Schedule 1, item 12—

*insert—*

*Note—*

*judicial registrar* means a judicial registrar of the District Court—see schedule 2.’.

- (2) Schedule 1, item 16, ‘including contempt of the court’—

*omit, insert—*

‘including, for the District Court, contempt of the District Court’.

- (3) Schedule 1, item 16—

*insert—*

*Note—*

*judicial registrar* means a judicial registrar of the District Court—see schedule 2.’.

**159 Amendment of sch 2 (Dictionary)**

Schedule 2, definition *judicial registrar*—

*omit, insert—*

‘**judicial registrar** means a judicial registrar of the District Court.’.

## **Part 33**                      **Amendment of Vexatious Proceedings Act 2005**

### **160**    **Act amended in pt 33**

This part amends the *Vexatious Proceedings Act 2005*.

### **161**    **Amendment of s 9 (Notification and register of orders)**

Section 9, after example—

*insert—*

- ‘(4) The registrar of the Court may remove a copy of an order from the register mentioned in subsection (2)(b) if the registrar is satisfied that the person in relation to whom the order was made has died.’

## **Part 34**                      **Minor and consequential amendments**

### **162**    **Acts amended in schedule**

- (1) The schedule amends the Acts it mentions.
- (2) However, subsection (1) does not apply in relation to a particular Act if another provision of this Act states that the schedule amends the particular Act.

## **Schedule**                      **Minor and consequential amendments**

sections 5, 8, 19, 29, 42, 49, 51, 70, 92, 100, 112, 117, 125 and 162

### **Anti-Discrimination Act 1991**

**1**        **Section 106A(1)(l)—**

*omit.*

**2**        **Section 213D(c) and (b)—**

*renumber* as section 213D(b) and (c).

### **Bail Act 1980**

**1**        **Section 36(d), ‘sections 14(2) and 14(3)’—**

*omit, insert—*

‘section 14(2) and (3)’.

**2**        **Schedule, heading—**

*omit, insert—*

**‘Schedule**                      **Offences for which bail must not be granted under section 14 or 14A’.**

## Schedule (continued)

**Births, Deaths and Marriages Registration Act 2003**

**1** Section 57, heading—

*omit, insert—*

**‘Division 1 Transitional provisions for Act No.  
31 of 2003**

**‘57 Transitional provisions’.**

**2** Section 57A, heading—

*omit, insert—*

**‘Division 2 Transitional provision for Justice  
and Other Legislation Amendment  
Act 2003**

**‘57A Transitional provision’.**

**Children Services Tribunal Act 2000**

**1** Sections 3, 87(2) and 104(2), ‘schedule 2’—

*omit, insert—*

‘the schedule’.

**2** Section 6(a), ‘that is’—

*omit, insert—*

‘that are’.



## Schedule (continued)

**3 Section 30(3)(b), ‘section 107’—***omit, insert—*

‘section 104’.

**4 Section 95(3)—***omit, insert—*

- ‘(3) Before the child gives evidence, the tribunal must tell the child that—
- (a) he or she may be cross-examined by the tribunal or a party to the proceeding; and
  - (b) he or she may, at any time while the cross-examination is continuing, refuse to be further cross-examined; and
  - (c) if he or she acts under paragraph (b), the review application is taken to have been withdrawn and the review ceases.’.

**5 Section 96(3)—***omit, insert—*

- ‘(3) Before the parent gives evidence, the tribunal must tell the parent that—
- (a) he or she may be cross-examined by the tribunal or a party to the proceeding; and
  - (b) he or she may, at any time while the cross-examination is continuing, refuse to be further cross-examined; and
  - (c) if he or she acts under paragraph (b), this may effect the weight given by the tribunal to his or her evidence.’.

**6 Section 152, definition *repealed Act*, ‘*Tribunal*’—***omit, insert—*‘*Tribunals*’.

## Schedule (continued)

- 7 Schedule 2—**  
*renumber* as schedule.
- 8 Schedule 2, definition *child-related employment decision*,  
after ‘*People*’—**  
insert—  
‘*and Child Guardian*’.

**Coroners Act 2003**

- 1 Section 17(1), second example, after ‘harm’—**  
*insert—*  
‘or risk of harm’.
- 2 Section 17(3)(a), example, ‘213(2)’—**  
*omit, insert—*  
‘214(2)’.

**Crime and Misconduct Act 2001**

- 1 Section 146J(1)(e)—**  
*omit.*
- 2 Section 166(6), definition *prescribed information*,  
paragraph (b)—**  
*omit, insert—*

## Schedule (continued)

‘(b) a disclosure of information under section 130(2)(f)(ii) or (g).’.

**3 Section 270(1), ‘407,’ and footnote—**

*omit, insert—*

‘674,<sup>2</sup>’.

**4 Section 279(3), after ‘People’—**

*insert—*

‘and Child Guardian’.

**5 Section 324(5)(a), after ‘People’—**

*insert—*

‘and Child Guardian’.

**6 Section 326(1)(b), ‘, or under section 131,’ and footnote—**

*omit.*

**Criminal Code****1 Section 227C(3), definition *supervision order*, paragraph (d)—**

*omit, insert—*

‘(d) an intensive drug rehabilitation order under the *Drug Court Act 2000*;’.

---

<sup>2</sup> *Police Powers and Responsibilities Act 2000*, section 674 (Who may inspect CMC’s register)

## Schedule (continued)

**2 Section 228H(1)(b), examples—**

*omit, insert—*

*‘Examples of conduct that may be reasonable for the performance of a law enforcement officer’s duties—*

- copying child exploitation material for the purposes of preparing a brief for police prosecutors
- supplying child exploitation material to a classification officer for classification or to the Office of the Director of Public Prosecutions for use during the prosecution of a person for an offence
- keeping child exploitation material obtained during an investigation for legitimate intelligence purposes’.

**3 Section 228H(2)(a)(i), ‘chapter 5 or 5A;’ and footnote—**

*omit, insert—*

‘chapter 10 or 11;<sup>3</sup>’.

**4 Section 228H(3)—**

*omit.*

**5 Section 408A, heading, ‘user’—**

*omit, insert—*

‘use’.

**6 Section 590AI(1)(b), before ‘590AO(2)’—**

*insert—*

‘section’.

---

3 *Police Powers and Responsibilities Act 2000*, chapter 10 (Controlled activities) or 11 (Controlled operations)

## Schedule (continued)

- 7 Section 590AK(1)(b)(ii), before ‘590AO(2)’—**  
*insert—*  
 ‘section’.
- 8 Section 679A(1), ‘has been is being is about to be or may be committed’—**  
*omit, insert—*  
 ‘has been, is being, is about to be, or may be, committed’.

**Criminal Law (Rehabilitation of Offenders) Act 1986**

- 1 Section 3(1)—**  
*insert—*  
 ‘*indictment*, for this subsection, definition *rehabilitation period*, paragraph (a), for a conviction recorded elsewhere than in Queensland, means a written charge preferred against an accused person before a court other than a court of like jurisdiction to a Magistrates Court exercising summary jurisdiction.’.
- 2 Section 3(1), definition *rehabilitation period*, paragraph (a), after ‘expire;’—**  
*insert—*  
 ‘or’.
- 3 Section 3(1A)—**  
*omit.*

## Schedule (continued)

- 4 Section 9A(1), table, column 1, heading, ‘Position’—**  
*omit, insert—*  
**‘Position,’.**
- 5 Section 9A(1), table, column 2, item 5, ‘Criminal Code chapter 22, 32, 33, 34, or in’—**  
*omit, insert—*  
**‘Criminal Code, chapter 22, 32, 33 or 34 or’.**
- 6 Section 9A(1), table, columns 1 and 2, item 19—**  
*omit.*

**Criminal Offence Victims Act 1995**

- 1 Section 15(4)(b)—**  
*omit, insert—*  
**‘(b) *Penalties and Sentences Act 1992*, sections 160B to 160D;<sup>4</sup>’.**

**Dangerous Prisoners (Sexual Offenders) Act 2003**

- 1 Sections 40(2) and 47, ‘(corrective services)’—**  
*omit.*

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<sup>4</sup> *Penalties and Sentences Act 1992*, sections 160B to 160D provide for the fixing of a parole date for the offender by the court.

## Schedule (continued)

- 2 Section 48(1), from ‘person’ to ‘custody’—**  
*omit, insert—*  
‘chief executive’.
- 3 Section 48(2), ‘person in charge’—**  
*omit, insert—*  
‘chief executive’.

**District Court of Queensland Act 1967**

- 1 Section 3, definition *rules*, after ‘*Rules*’—**  
*insert—*  
‘1999’.
- 2 Section 20(3) and (4)—**  
*renumber* as section 20(2) and (3).

**Drug Court Act 2000**

- 1 Section 21(b)(i), ‘general manager of the prison’—**  
*omit, insert—*  
‘chief executive (corrective services)’.
- 2 Part 7, division 2, heading, ‘provision’—**  
*omit, insert—*  
‘provisions’.

## Schedule (continued)

**Drugs Misuse Act 1986**

- 1 **Section 4, definition *approved form*, '58A' and footnote—**  
*omit, insert—*  
'133'.
- 2 **Section 113(4)(b), first occurrence—**  
*renumber* as section 113(4)(a).
- 3 **Section 121(7), '186 and 187' and footnote—**  
*omit, insert—*  
'192 and 193'.

**Evidence Act 1977**

- 1 **Section 94(1), 'paragraphs (a) or (b)'—**  
*omit, insert—*  
'paragraph (a) or (b)'.
- 2 **Schedule 1, heading, 'Schedules'—**  
*omit.*



## Schedule (continued)

**Freedom of Information Act 1992**

- 1 Section 9(1)(d), ‘subsection (3)’—**  
*omit, insert—*  
‘subsection (2)’.
- 2 Section 25(4), ‘subsection (5)’—**  
*omit, insert—*  
‘subsection (3)’.
- 3 Section 25(7), note, from ‘section 28B’—**  
*omit, insert—*  
‘section 28A except in the circumstances mentioned in section 28A(4)’.
- 4 Section 48(1), ‘the schedule 1’—**  
*omit, insert—*  
‘schedule 1’.
- 5 Part 7, division 1—**  
*omit.*
- 6 Schedule 3, ‘Sugar Industry Act 1999, section 107T’ and footnote—**  
*omit, insert—*  
‘*Sugar Industry Act 1999*, section 271<sup>5</sup>’.

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5 *Sugar Industry Act 1999*, section 271 (Exempt matter after commencement)

## Schedule (continued)

**Justices Act 1886**

- 1 Section 23D(7)(a), ‘lodged’—**  
*omit, insert—*  
‘filed’.
- 2 Section 47(7)—**  
*omit.*
- 3 Section 54(2), lodged’—**  
*omit, insert—*  
‘filed’.
- 4 Section 54(5)(a), ‘lodgement’—**  
*omit, insert—*  
‘filing’.
- 5 Section 57(e), ‘have’—**  
*omit, insert—*  
‘to have’.
- 6 Section 69A(3), before ‘computer’, first mention—**  
*insert—*  
‘the’.
- 7 Section 102C(1A) and (1B), ‘lodged’—**  
*omit, insert—*  
‘filed’.

## Schedule (continued)

- 8 Section 110A(13)(a), ‘in manner’—**  
*omit, insert—*  
‘in the manner’.
- 9 Section 113A(2), after ‘corporation’, first mention—**  
*insert—*  
‘do either or both of the following’.
- 10 Section 143, heading—**  
*omit, insert—*
- ‘143 Adjourment of hearing if warrant to apprehend defendant issued’.**
- 11 Section 151, from ‘lodged’—**  
*omit, insert—*  
‘filed with the clerk of the court.’.
- 12 Section 221, ‘In this part’—**  
*omit, insert—*  
‘In this division’.
- 13 Section 273(1), ‘2002’—**  
*omit, insert—*  
‘2003’.

## Schedule (continued)

**Justices of the Peace and Commissioners for  
Declarations Act 1991**

- 1 Section 17(d)**—  
*renumber* as section 17(c).
- 2 Section 26(1), ‘other than section 17(c) is to’**—  
*omit, insert*—  
‘must’.
- 3 Section 27(1), ‘(d)’**—  
*omit, insert*—  
‘(c)’.
- 4 Part 5, heading**—  
*omit, insert*—
- ‘Part 5 Transitional and savings  
provisions**
- ‘Division 1 Transitional provisions for Act No.  
50 of 1991’.**

**Limitation of Actions Act 1974**

- 1 Part 5, as inserted by Act No. 55 of 2005**—  
*renumber* as part 6.

## Schedule (continued)

- 2 Section 44, as inserted by Act No. 55 of 2005—**  
*renumber* as section 45.

**Magistrates Act 1991**

- 1 Part 10, division 1, heading, ‘1995’—**  
*omit, insert—*  
**‘1991’.**

**Mental Health Act 2000**

- 1 Attachment, flowchart for involuntary patient charged with an offence—chapter 7, ‘s 244(b)’—**  
*omit, insert—*  
**‘s 244(d)’.**

**Penalties and Sentences Act 1992**

- 1 Section 4—**  
*insert—*  
*‘Queensland driver licence see the Transport Operations (Road Use Management) Act 1995, schedule 4.’.*

## Schedule (continued)

- 2 Section 13A(10), penalty, paragraph (a), after ‘;’—**  
*insert—*  
‘or’.
- 3 Section 15E(1)(c), second dot point, ‘340(a)’—**  
*omit, insert—*  
‘340(1)(a)’.
- 4 Section 15E(1)(c), third dot point, ‘340(b)’—**  
*omit, insert—*  
‘340(1)(b)’.
- 5 Section 82(1), ‘78(1)(a)’—**  
*omit, insert—*  
‘78(a)’.
- 6 Section 82(5), definition *PP*, example, ‘If the fine converted to fine’—**  
*omit, insert—*  
‘If a fine has been converted to a fine’.
- 7 Section 187(1), before ‘driver licence’—**  
*insert—*  
‘Queensland’.
- 8 Section 187(3), definition *driver licence*—**  
*omit.*

## Schedule (continued)

**Public Trustee Act 1978**

- 1 Section 17B(4), ‘subsection’—**  
*omit, insert—*  
‘section’.
- 2 Section 31(5A), ‘applies’—**  
*omit, insert—*  
‘apply’.
- 3 Section 36(7)(a), ‘shall in no wise’—**  
*omit, insert—*  
‘is not to’.
- 4 Section 41(8), ‘The regulations’—**  
*omit, insert—*  
‘A regulation’.
- 5 Section 41(8), ‘the regulations’—**  
*omit, insert—*  
‘a regulation’.
- 6 Section 54(4), ‘sections’—**  
*omit, insert—*  
‘section’.
- 7 Section 117G—**  
*insert—*

## Schedule (continued)

(3) In this section—  
*accountable person* see section 98.’.

**8 Sections 117H(4)(c) and 117I(1)(a), ‘part’—**

*omit, insert—*

‘division’.

**9 Part 10, division 1, heading, ‘provision’—**

*omit, insert—*

‘provisions’.

## State Penalties Enforcement Act 1999

**1 Section 49(2), after ‘hours’—**

*insert—*

‘of’.

**2 Section 150(1)(b), ‘credit, card’—**

*omit, insert—*

‘credit card,’.

**3 Section 150(2)(b), before ‘payment’—**

*insert—*

‘until’.

**4 Schedule 2, definition *chief executive (corrective services)*—**

*omit.*



## Schedule (continued)

**Trustee Companies Act 1968**

- 1** Schedule 2, part 1, ‘Permanent Trustee Company Limited’, ‘Perpetual Trustees Australia Limited’ and ‘Trust Company of Australia Limited’—

*omit.*

- 2** Schedule 2, part 1—

*insert—*

‘Perpetual Limited

Trust Company Fiduciary Services Limited

Trust Company Limited’.

- 3** Schedule 2, part 2, entries for ‘Permanent Trustee Company Limited’, ‘Perpetual Trustees Australia Limited’ and ‘Trust Company of Australia Limited’—

*omit.*

- 4** Schedule 2, part 2—

*insert—*

**‘Perpetual Limited**

- (1) The paid-up capital of the company must be at least \$2000000.
- (2) A member must not be the beneficial holder of more than 10% of the capital of the company from time to time on issue.

## Schedule (continued)

**‘Trust Company Fiduciary Services Limited**

The paid-up capital of the company must be at least \$2000000.

**‘Trust Company Limited**

- (1) A member must not be the beneficial holder of more than 15% of the capital of the company from time to time on issue.
- (2) Subject to this Act, the company may alter its share capital in any manner permitted by the Corporations Act other than by reducing its share capital.’.

**Witness Protection Act 2000****1 Schedule 2, definition *non-disclosure certificate*, second mention—**

*omit.*