



Queensland

Classification of Computer Games and Images and Other Legislation Amendment Act 2013

Act No. 3 of 2013



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Queensland

Classification of Computer Games and Images and Other Legislation Amendment Act 2013

Act No. 3 of 2013

An Act to amend the Classification of Computer Games and Images Act 1995, the Classification of Films Act 1991, the Classification of Publications Act 1991, the Criminal Code, the Land Act 1994, the Neighbourhood Disputes Resolution Act 2011 and the Recording of Evidence Act 1962 for particular purposes, and to make consequential or minor amendments of other Acts as stated in schedules 1 and 2 for purposes related to those particular purposes

[Assented to 26 February 2013]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Classification of Computer Games and Images and Other Legislation Amendment Act 2013*.

2 Commencement

- (1) The prescribed provisions commence on the later of the following—
 - (a) the day this Act is assented to;
 - (b) 1 January 2013.
- (2) The following provisions commence on a day to be fixed by proclamation—
 - (a) section 28(1), to the extent it omits the definition *approved organisation*;
 - (b) section 36;
 - (c) section 39;
 - (d) section 43(6);
 - (e) parts 6 to 9;
 - (f) schedules 1 and 2.
- (3) In this section—

prescribed provisions means the following provisions—

 - (a) part 2;
 - (b) part 3 other than the following—

- (i) section 28(1), to the extent it omits the definition *approved organisation*;
- (ii) section 36;
- (iii) section 39;
- (c) part 4;
- (d) section 42;
- (e) section 43(1) to (5).

Part 2 Amendment of Classification of Computer Games and Images Act 1995

3 Act amended

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

4 Insertion of new s 2A

After section 2—

insert—

‘2A Exempt computer game excluded from Act

‘This Act does not apply to a computer game that is an exempt computer game.’.

5 Amendment of s 4 (Classification under the Commonwealth Act)

(1) Section 4(1), ‘Subject to subsection (1A), if’—

omit, insert—

‘If’.

[s 6]

- (2) Section 4(1A)—
omit.

6 Amendment of s 9 (Prohibition against demonstration of unclassified computer game)

- (1) Section 9(1), penalty, paragraph (a), after ‘as a’—
insert—
‘G,’.
- (2) Section 9(1), penalty, paragraph (c)—
renumber as paragraph (d).
- (3) Section 9(1), penalty—
insert—
‘(c) 50 penalty units for a computer game that, if it were classified, would be classified as an R 18+ computer game; or’.

7 Replacement of s 10 (Restriction on demonstration of MA 15+ computer game)

Section 10—
omit, insert—

‘10 Restriction on public demonstration of MA 15+ or R 18+ computer game

- ‘(1) A person must not demonstrate, or attempt to demonstrate, in a public place an MA 15+ computer game if a minor under 15 years who is not accompanied by an adult is present.
Maximum penalty—10 penalty units.
- ‘(2) A person does not commit an offence against subsection (1) if the person reasonably believes the minor is at least 15 years or is accompanied by an adult when the game is demonstrated.
- ‘(3) A person must not demonstrate, or attempt to demonstrate, in a public place an R 18+ computer game if a minor is present.

Maximum penalty—50 penalty units.

- ‘(4) A person does not commit an offence against subsection (3) if the person reasonably believes the minor is at least 18 years.
- ‘(5) A person must not demonstrate, or attempt to demonstrate, in a public place an MA 15+ or R 18+ computer game unless the determined markings for the game are displayed before the game is demonstrated.

Maximum penalty—40 penalty units.

- ‘(6) Subsection (7) applies if—
 - (a) the board reclassifies a computer game under the Commonwealth Act, section 39; or
 - (b) the board revokes a classification for a computer game under the Commonwealth Act, section 22B(3).
- ‘(7) Display of the determined markings that applied to the computer game before the reclassification or revocation is sufficient compliance with subsection (5) for the 30-day period after the reclassification or revocation takes effect.’

8 Insertion of new s 10AA

After section 10—

insert—

‘10AA Restriction on private demonstration of R 18+ computer game

‘A person must not demonstrate, or attempt to demonstrate, an R 18+ computer game in a place that is not a public place in the presence of a minor unless the person is a parent or guardian of the minor or has the consent of a parent or guardian of the minor.

Maximum penalty—50 penalty units.’

[s 9]

9 Amendment of s 10B (Computer game available for playing on pay and play basis to bear determined markings and consumer advice)

- (1) Section 10B(3), ‘If’—
omit, insert—
‘Subsection (4) applies if’.
- (2) Section 10B(3), from ‘display’—
omit.
- (3) Section 10B—
insert—
- ‘(4) Display of the determined markings and consumer advice that applied to the computer game before the reclassification or revocation is sufficient compliance with this section for the 30-day period after the reclassification or revocation takes effect.’.

10 Amendment of s 12 (Advertisement to contain determined markings and consumer advice)

- Section 12(2)—
omit, insert—
- ‘(2) Subsection (3) applies if—
 - (a) the board reclassifies a computer game under the Commonwealth Act, section 39; or
 - (b) the board revokes a classification or consumer advice for a computer game under the Commonwealth Act, section 22B(3).
 - ‘(3) Display of the determined markings and consumer advice that applied to the computer game before the reclassification or revocation is sufficient compliance with subsection (1) for the 30-day period after the reclassification or revocation takes effect.’.

11 Amendment of s 13 (False advertising of computer games)

- (1) Section 13(2)—
renumber as section 13(4).
- (2) Section 13—
insert—
- ‘(2) Subsection (3) applies if—
- (a) the board reclassifies a computer game under the Commonwealth Act, section 39; or
 - (b) the board revokes a classification for a computer game under the Commonwealth Act, section 22B(3).
- ‘(3) Indicating the computer game has the classification that applied to the computer game before the reclassification or revocation is sufficient compliance with subsection (1) for the 30-day period after the reclassification or revocation takes effect.’.

12 Amendment of s 13A (Prohibition against advertising certain computer games)

Section 13A(2)—
omit.

13 Amendment of s 14 (Markings and consumer advice on containers)

- Section 14—
insert—
- ‘(2) Subsection (3) applies if—
- (a) the board reclassifies a computer game under the Commonwealth Act, section 39; or

[s 14]

- (b) the board revokes a classification or consumer advice for a computer game under the Commonwealth Act, section 22B(3).
- ‘(3) Bearing the determined markings and consumer advice that applied to the computer game before the reclassification or revocation is sufficient compliance with this section for the 30-day period after the reclassification or revocation takes effect.’.

14 Amendment of s 15 (Display of classifications notices)

- (1) Section 15(1), from ‘games,’ to ‘films,’—
omit, insert—
‘games’.
- (2) Section 15(2)—
omit, insert—
- ‘(2) In this section—
classifications notice means a notice, in the form approved by the director and published in the Commonwealth gazette, about the classifications for computer games.’.

15 Amendment of s 16 (Classified computer games containing advertisements for other computer games)

- (1) Section 16(a), ‘M or MA 15+’—
omit, insert—
‘M, MA 15+ or R 18+’.
- (2) Section 16(b), ‘M or MA 15+’—
omit, insert—
‘M, MA 15+ or R 18+’.
- (3) Section 16(c), after ‘MA 15+’—
insert—
‘or R 18+’.

-
- (4) Section 16(d), before ‘objectionable’—
insert—
‘R 18+ or’.
- (5) Section 16(e)—
renumber as section 16(f).
- (6) Section 16—
insert—
‘(e) if the computer game is classified as an R 18+ computer game—an objectionable computer game; or’.
- (7) Section 16, note, ‘(e)’—
omit, insert—
‘(f)’.

16 Amendment of s 17 (Display for sale of MA 15+ computer game)

Section 17, after ‘MA 15+’—

insert—
‘or R 18+’.

17 Replacement of s 18 (Sale of MA 15+ computer game to certain children prohibited)

Section 18—
omit, insert—

‘18 Restriction on sale of MA 15+ or R 18+ computer game

‘(1) A person must not sell or deliver, or attempt to sell or deliver, an MA 15+ computer game to a minor under 15 years unless the minor is accompanied by an adult.

Maximum penalty—20 penalty units.

‘(2) A person must not sell or deliver, or attempt to sell or deliver, an R 18+ computer game to a minor.

[s 18]

Maximum penalty—100 penalty units.

- ‘(3) A person does not commit an offence against subsection (1) if the person reasonably believes the minor is at least 15 years or is accompanied by an adult.
- ‘(4) A person does not commit an offence against subsection (2) if the person reasonably believes the minor is at least 18 years.
- ‘(5) A person does not commit an offence against subsection (1) or (2) about the delivery of a computer game if—
 - (a) the minor is employed by a person in a business of selling computer games; and
 - (b) the delivery takes place in the course of the employment.
- ‘(6) Also, a person does not commit an offence against subsection (1) or (2) about the delivery of a computer game if the person did not know, and could not reasonably be expected to have known, the item was an MA 15+ computer game or R 18+ computer game respectively.’.

18 Amendment of s 19 (Sale of unclassified computer games prohibited)

Section 19(1), penalty—

omit, insert—

‘Maximum penalty—

- (a) 10 penalty units for a computer game that, if it were classified, would be classified as a G, PG or M computer game; or
- (b) 50 penalty units for a computer game that, if it were classified, would be classified as an MA 15+ computer game; or
- (c) 100 penalty units for a computer game that, if it were classified, would be classified as an R 18+ computer game; or

- (d) 150 penalty units for a computer game that has been, or would have been, classified RC.’.

19 Amendment of s 21 (Sale of improperly marked classified computer games)

Section 21—

insert—

- ‘(2) Subsection (3) applies if—
- (a) the board reclassifies a computer game under the Commonwealth Act, section 39; or
 - (b) the board revokes a classification for a computer game under the Commonwealth Act, section 22B(3).
- ‘(3) Indicating the computer game has the classification that applied before the reclassification or revocation is sufficient compliance with subsection (1) for the 30-day period after the reclassification or revocation takes effect.’.

20 Amendment of s 23 (Demonstration of an objectionable computer game before a minor)

Section 23, penalty, ‘10’—

omit, insert—

‘100’.

21 Amendment of s 29 (No liability in certain circumstances)

Section 29, ‘(b), (c) or (d)’—

omit, insert—

‘(a)(ii) or (iii)’.

22 Amendment of s 42 (Additional power of inspector to seize computer games)

Section 42(5), ‘G, G(8+), M(15+) or an MA(15+)’—

[s 23]

omit, insert—

‘G, PG, M, MA 15+ or R 18+’.

23 Insertion of new s 69A

After section 69—

insert—

‘69A Protection of officials from criminal liability

‘(1) An official is not criminally liable for an act done honestly and without negligence in the performance of the official’s functions under this Act.

‘(2) In this section—

official means any of the following persons—

- (a) the computer games classification officer;
- (b) the convenor;
- (c) the director;
- (d) a person appointed as an inspector under section 30;
- (e) a public service employee assisting a person mentioned in paragraph (a) or (d) above.’.

24 Insertion of new pt 9, div 3

Part 9—

insert—

‘Division 3 Classification of Computer Games and Images and Other Legislation Amendment Act 2013

‘75 Definitions for div 3

‘In this division—

commencement means the commencement of this section.

film see the Commonwealth Act, section 5.

‘76 Classification or reclassification under ss 5 and 6

- ‘(1) This section applies to a film if—
- (a) immediately before the commencement, the film was a computer game under this Act; and
 - (b) classification under section 5, or reclassification under section 6, of the film was started but not completed before the commencement.
- ‘(2) The classification or reclassification may be decided as if the film were still a computer game under this Act.
- ‘(3) For the *Classification of Films Act 1991*, the film is taken to have the classification decided under this section.

‘77 Classification applying to particular films

- ‘(1) This section applies to a film that, immediately before the commencement—
- (a) was a computer game under this Act; and
 - (b) had a classification G, PG, M, MA 15+ or RC that was given under this Act.
- ‘(2) For the *Classification of Films Act 1991*, the film is taken to have the classification mentioned in subsection (1)(b).
- ‘(3) Subsection (2) stops applying if the film is classified under the Commonwealth Act.

‘78 Applications for exemption under s 57

- ‘(1) This section applies if—
- (a) an application for an exemption under section 57 was made before the commencement for a film that, immediately before the commencement, was a computer game under this Act; and

[s 24]

(b) the application was not decided before the commencement.

‘(2) The application may be decided as if the film were still a computer game under this Act.

‘(3) If an exemption is given, the exemption is taken, for the *Classification of Films Act 1991*, to be an exemption given under section 58 of that Act.

‘79 Applications for exemption under s 59

‘(1) This section applies if—

(a) an application for an exemption under section 59 was made before the commencement for a film that, immediately before the commencement, was a computer game under this Act; and

(b) the application was not decided before the commencement.

‘(2) The application may be decided as if the film were still a computer game under this Act.

‘(3) If an exemption is given, the exemption is taken, for the *Classification of Films Act 1991*, to be an exemption given under section 59A of that Act.

‘80 Existing exemptions under ss 58 and 59

‘(1) This section applies if an exemption is given under section 58 or 59 before the commencement for a film that, immediately before the commencement, was a computer game under this Act.

‘(2) For the *Classification of Films Act 1991*, the exemption is taken to have been given under section 58 or 59A of that Act respectively.

‘(3) If the exemption is subject to a condition, the exemption remains subject to the condition.

‘81 Entitlement to review by QCAT

- ‘(1) This section applies if, immediately before the commencement, a person could have applied to QCAT for the review of a decision in relation to a film that, immediately before the commencement, was a computer game under this Act.
- ‘(2) The application may be made and decided as if the film were still a computer game under this Act.
- ‘(3) For the *Classification of Films Act 1991*—
 - (a) the film is taken to have any classification decided under this section by QCAT; and
 - (b) an exemption given by QCAT under section 58 or 59 is taken to have been given under section 58 or 59A of the *Classification of Films Act 1991* respectively.

‘82 Review by QCAT

- ‘(1) This section applies if an application for the review of a decision under section 8 or 60 is made but not decided before the commencement of this section in relation to a film that, immediately before the commencement, was a computer game under this Act.
- ‘(2) The application may be decided as if the film were still a computer game under this Act.
- ‘(3) For the *Classification of Films Act 1991*—
 - (a) the film is taken to have any classification decided under this section by QCAT; and
 - (b) an exemption given by QCAT under section 58 or 59 is taken to have been given under section 58 or 59A of the *Classification of Films Act 1991* respectively.’.

25 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *bulletin board*, *computer game*, *computer-generated image*, *computer program*, *consumer*

[s 25]

advice, determined markings, interactive film, objectionable computer game—

omit.

(2) Schedule 2—

insert—

‘computer game see the Commonwealth Act, section 5A.

consumer advice means the consumer advice about the computer game decided by the board under the Commonwealth Act.

determined markings means the markings determined under the Commonwealth Act.

objectionable computer game—

(a) means a computer game, or an advertisement for a computer game, that—

(i) describes, depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence, or revolting or abhorrent phenomena in a way that offends against standards of morality, decency and propriety generally accepted by reasonable adults; or

(ii) depicts a person who is, or who looks like, a child under 16 years (whether the person is engaged in sexual activity or not) in a way likely to cause offence to a reasonable adult; or

(iii) promotes, incites or instructs in matters of crime or violence; or

(iv) for a computer game—is classified RC; or

(v) for an advertisement—is refused approval under the Commonwealth Act, section 29; but

(b) does not include a computer game that is classified, or if it were classified, would be classified, as an R 18+ computer game.’.

(3) Schedule 2, definition *advertisement*, paragraph (d)—

omit.

- (4) Schedule 2, definition *advertisement*, paragraphs (e) to (g)—
renumber as paragraphs (d) to (f).

Part 3 Amendment of Classification of Films Act 1991

26 Act amended

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

27 Insertion of new s 2A

After section 2—

insert—

‘2A Exempt film excluded from Act

‘This Act does not apply to a film that is an exempt film.’.

28 Amendment of s 3 (Definitions)

- (1) Section 3, definitions *approved organisation*, *computer program* and *film*—

omit.

- (2) Section 3—

insert—

‘*film* see the Commonwealth Act, section 5.’.

29 Amendment of s 22 (Attendance of certain minors at exhibition of certain films—offence by exhibitor)

Section 22(2), penalty, ‘10’—

omit, insert—

[s 30]

‘50’.

30 Amendment of s 26 (Prohibition against publishing certain advertisements)

Section 26(1), before ‘unclassified’—

insert—

‘objectionable or’.

31 Amendment of s 28 (False advertising of films prohibited)

Section 28(2)—

omit.

32 Amendment of s 33 (Sale of MA 15+ or R 18+ film to certain minors prohibited)

(1) Section 33(1)—

omit, insert—

‘(1) A person must not sell or deliver, or attempt to sell or deliver, a film classified as an MA 15+ film to a minor who has not reached 15 years unless the minor is accompanied by an adult.

Maximum penalty—20 penalty units.

‘(1A) A person must not sell or deliver, or attempt to sell or deliver, a film classified as an R 18+ film to a minor.

Maximum penalty—100 penalty units.’.

(2) Section 33(2), ‘(1)(a)’—

omit, insert—

‘(1)’.

(3) Section 33(3), ‘(1)(b)’—

omit, insert—

‘(2)’.

(4) Section 33(4), after ‘(1)’—

insert—

‘or (2)’.

- (5) Section 33(1A) to (4)—

renumber as section 33(2) to (5).

33 Amendment of s 34 (Display and sale of objectionable and unclassified films prohibited)

- (1) Section 34, penalty, paragraph (a), ‘5’—

omit, insert—

‘10’.

- (2) Section 34, penalty, paragraph (b), ‘7’—

omit, insert—

‘50’.

- (3) Section 34, penalty, paragraph (c), ‘10’—

omit, insert—

‘100’.

- (4) Section 34, penalty, paragraph (d), ‘50’—

omit, insert—

‘150’.

34 Amendment of s 38 (Exhibition of an R 18+ or objectionable film before a minor)

- (1) Section 38(1), ‘without’—

omit, insert—

‘unless the person is a parent or guardian of the minor or has’.

- (2) Section 38(1), penalty, ‘10’—

omit, insert—

‘50’.

[s 35]

35 Replacement of pt 7, hdg

Part 7, heading—

omit, insert—

‘Part 7 Exemptions’.

36 Replacement of ss 56–59

Sections 56 to 59—

omit, insert—

‘Division 1 Exemption by director

‘56 Application for exemption

- ‘(1) An entity may apply to the director for an exemption from this Act, or a provision of this Act, in relation to a particular film that the entity intends to exhibit.
- ‘(2) The application must—
- (a) state the film and when the entity intends to exhibit the film; and
 - (b) be accompanied by a synopsis of the story or events depicted in the film; and
 - (c) be lodged with the director in writing.

‘57 Exemption

- ‘(1) On receipt of an application under section 56, the director may grant a written exemption from this Act or a stated provision of this Act.
- ‘(2) In deciding the application, the director must give effect to any directions or guidelines issued by the Minister about exemptions under this section.
- ‘(3) The director may impose conditions on the exemption.
- ‘(4) If an exemption is granted and the conditions (if any) are complied with—

-
- (a) this Act or the provisions of this Act specified in the exemption do not apply in relation to the exhibition of the film by the entity; and
 - (b) the exhibition of the film is not an indecent or obscene publication for the purposes of the Criminal Code.

‘Division 2 Exemption by films classification officer’.

37 Insertion of new ss 59A and 59B

Part 7—

insert—

‘59A Exemption of entity and film for medical etc. purposes

- ‘(1) On receipt of a written application, the films classification officer may, in writing, exempt an entity from this Act, or specified provisions of this Act, for specified films.
- ‘(2) An exemption may only be given for films that are—
 - (a) of a medical, educational or scientific character; or
 - (b) intended to be used by the entity for a medical, educational or scientific purpose.
- ‘(3) The exemption may be given on conditions.
- ‘(4) If the conditions are complied with, subsection (5) has effect for the entity and the film.
- ‘(5) This Act or the provisions of this Act stated in the exemption do not apply and the film is not indecent or obscene material for the purposes of the Criminal Code.

‘59B Review by QCAT

- ‘(1) This section applies if the films classification officer makes a decision refusing to give an exemption under section 59A.

[s 38]

- ‘(2) The films classification officer must give the entity a QCAT information notice for the decision.
- ‘(3) The entity may apply, as provided under the QCAT Act, to QCAT for a review of the decision.
- ‘(4) In this section—
QCAT information notice means a notice complying with the QCAT Act, section 157(2).’.

38 Insertion of new s 66A

Part 8—

insert—

‘66A Protection of officials from liability

- ‘(1) An official is not criminally liable for an act done honestly and without negligence in the performance of the official’s functions under this Act.
- ‘(2) In this section—
official means any of the following persons—
 - (a) films classification officer;
 - (b) convenor;
 - (c) director;
 - (d) a person appointed as an inspector under section 4(1);
 - (e) a public service employee assisting a person mentioned in paragraph (a) or (d) above.’.

39 Insertion of new pt 9, div 5

Part 9—

insert—

**‘Division 5 Classification of Computer Games
and Images and Other Legislation
Amendment Act 2013**

‘76 Definitions for div 5

‘In this division—

amending Act means the *Classification of Computer Games and Images and Other Legislation Amendment Act 2013*.

‘77 Applications for exemption under s 57

- ‘(1) This section applies to an application for an exemption under section 57 made but not decided before the commencement of this section.
- ‘(2) Sections 58 and 59 as in force immediately before the commencement of this section continue to apply in relation to the application as if the amending Act had not commenced.

‘78 Existing exemptions under s 58

- ‘(1) This section applies to an exemption given under section 58 that was in force immediately before the commencement of this section.
- ‘(2) The exemption continues in force as if it had been granted under section 57 as in force from the commencement.

‘79 Entitlement to review by QCAT

- ‘(1) This section applies if, immediately before the commencement, a person could have applied to QCAT under section 59 for the review of a decision mentioned in section 59(1)(c).
- ‘(2) The application may be made and decided as if the amending Act had not commenced.

[s 40]

‘80 Review by QCAT

- ‘(1) This section applies to an application, made under section 59 but not decided before the commencement of this section, for the review by QCAT of a decision mentioned in section 59(1)(c).
- ‘(2) The application may continue and be decided as if the amending Act had not commenced.

Part 4 Amendment of Classification of Publications Act 1991

40 Act amended

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

41 Insertion of new s 39

Part 5—

insert—

‘39 Protection of officials from liability

- ‘(1) An official is not criminally liable for an act done honestly and without negligence in the performance of the official’s functions under this Act.
- ‘(2) In this section—
official means any of the following persons—
 - (a) publications classification officer;
 - (b) director;
 - (c) a person appointed as an inspector under section 5(1);
 - (d) a public service employee assisting a person mentioned in paragraph (a) or (c) above.’.

Part 5 Amendment of Criminal Code

42 Code amended

This part amends the Criminal Code.

Note—

See also the amendments in schedule 2.

43 Amendment of s 228E (Defences for ss 228A–228D)

(1) Section 228E(3), example—

omit, insert—

Example—

A Brisbane medical school is given an exemption under the *Classification of Publications Act 1991* to allow the medical school to possess photographs of tortured children and to distribute the photographs to medical students. The exemption is subject to a condition that the students are not allowed to distribute the photographs to anyone else or remove the photographs from the premises of the medical school. Amy, a medical student, gives some of the photographs to her brother Bob and also takes some of the photographs home. Neither Amy nor Bob could claim a defence under this subsection, because their possession of the photographs is not consistent with the exemption.’.

(2) Section 228E(5)—

omit, insert—

‘(5) It is a defence for the person to prove that the material alleged to be child exploitation material is a computer game, film or publication that is classified as something other than RC.’.

(3) Section 228E(8), definition *certificate*—

insert—

‘(iii) for a film—a certificate mentioned in the *Classification of Films Act 1991*, section 60(1) signed or purporting to be signed by the director or convenor within the meaning of that Act.’.

[s 44]

- (4) Section 228E(8), definition *classification exemption*, paragraph (b)—
renumber as paragraph (c).
- (5) Section 228E(8), definition *classification exemption*—
insert—
‘(b) for a film—the *Classification of Films Act 1991*, section 59A; or’.
- (6) Section 228E(8), definition *classification exemption*, paragraph (b), before ‘59A’—
insert—
‘57 or’.

Part 6 Amendment of Land Act 1994

44 Act amended

This part amends the *Land Act 1994*.

45 Replacement of ch 9, pt 11

Chapter 9, part 11—

omit, insert—

‘Part 11 **Transitional provision for
Classification of Computer
Games and Images and Other
Legislation Amendment Act
2013**

‘521ZB References to the repealed Dividing Fences Act 1953

- ‘(1) In a document under this Act, a reference to the repealed *Dividing Fences Act 1953* may, if the context permits, be taken to be a reference to the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.
- ‘(2) Subsection (1) applies subject to the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, section 98.’.

Part 7 **Amendment of Neighbourhood
Disputes Resolution Act 2011**

46 **Act amended**

This part amends the *Neighbourhood Disputes Resolution Act 2011*.

47 **Amendment of s 1 (Short title)**

Section 1, ‘*Neighbourhood Disputes Resolution Act 2011*’—
omit, insert—

‘*Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*’.

Part 8 Amendment of Recording of Evidence Act 1962

48 Act amended

This part amends the *Recording of Evidence Act 1962*.

49 Amendment of s 4 (Definitions)

- (1) Section 4, definitions *master-tape*, *recorder*, *shorthand reporter* and *tape*—

omit.

- (2) Section 4—

insert—

‘master recording means the medium containing a complete record under this Act of a legal proceeding.

medium means a disc, tape or other thing from which a record under this Act may be reproduced.

recorder means a person who carries out a recording service.

recording service means—

- (a) the recording of relevant matter in a legal proceeding under section 5; or
 - (b) the transcription of a record under this Act under an arrangement under section 5A or 5C; or
 - (c) the transcription of a record under this Act by a public service employee in the department.’.
- (3) Section 4, definition *court*, after ‘any court’—

insert—

‘or tribunal’.

- (4) Section 4, definition *dictation-tape*, ‘tape (other than a master-tape)’—

omit, insert—

-
- ‘medium (other than a master recording)’.
- (5) Section 4, definition *judicial person*, ‘any magistrate’—
omit, insert—
‘any judge, magistrate’.
- (6) Section 4, definition *legal proceeding*, ‘, tribunal,’—
omit.
- (6A) Section 4, definition *legal proceeding*, ‘inquiry, examination, or arbitration’—
omit, insert—
‘inquiry or examination, but not including an arbitration’.
- (7) Section 4, definition *record under this Act*, paragraph (a), from ‘in any manner’ to ‘master-tape’—
omit, insert—
‘under section 5 and includes, if the record on a master recording’.

50 Replacement of s 5 (Power to direct recording under this Act)

Section 5—
omit, insert—

‘5 Recording of relevant matter in legal proceedings

- ‘(1) All relevant matter in a legal proceeding is to be recorded.
Examples of ways of recording—
- in shorthand
 - by recording equipment
- ‘(2) The recording may be done—
- (a) for any legal proceeding—
- (i) under an arrangement under section 5A; or
 - (ii) by a public service employee in the department; or

[s 50]

- (b) for a legal proceeding before QCAT—by a member of QCAT or an adjudicator under the QCAT Act; or
 - (c) for an inquiry or examination—under an arrangement under section 5C.
- ‘(3) Subsection (1) applies subject to any direction given by the court in which, or judicial person before whom, the legal proceeding is being taken.
- ‘(4) In this section—
- relevant matter***, in a legal proceeding, means—
- (a) evidence given in the legal proceeding; and
 - (b) a ruling, direction, address, summing-up or other matter in the legal proceeding.

‘5A Arrangements for recording services

- ‘(1) The chief executive may enter into an arrangement with a person to provide either or both of the following services—
- (a) the recording of relevant matter in legal proceedings under section 5;
 - (b) the transcription of records under this Act.

Note—

Under an arrangement, a recording or transcription may be carried out by the person who entered into the arrangement or someone else (for example, an employee, agent or subcontractor of the person who entered into the arrangement).

- ‘(2) A certificate given by the chief executive that, on a stated day, an arrangement was in force under this section with a stated person for the provision of a stated recording service, is evidence of the matter.

‘5B Availability of copies of records and transcriptions

- ‘(1) The chief executive must ensure appropriate arrangements are in place to ensure the availability to any person, by purchase or otherwise, of—

-
- (a) copies of records under this Act; and
 - (b) copies of transcriptions of records under this Act.
- ‘(2) Subsection (1) does not apply to the extent that, under this or another Act or under an order of a court or judicial person, a copy of a record or transcription must not be made available to a person.
- ‘(3) The arrangements must include arrangements for providing copies of records or transcriptions on request—
- (a) to judicial persons at no cost; and
 - (b) to other persons, at no cost or at a cost that is less than the amount that would otherwise be payable, in accordance with the entitlements prescribed under a regulation.
- ‘(4) The chief executive may delegate, to an appropriately qualified officer of the department, a function of the chief executive under this section.

Example of a function—

Under a regulation made under subsection (3)(b), the chief executive may have a function of making a decision about whether a person qualifies for an entitlement to a free copy of a transcription.

- ‘(5) In this section—
- appropriately qualified* includes having the qualifications, experience or standing appropriate to exercise the function.
- function* includes a power.’.

‘5C Inquiries and examinations

- ‘(1) This section applies in relation to a legal proceeding that is an inquiry or examination.
- ‘(2) The court or person before whom the inquiry or examination is conducted may arrange for either or both of the following to be carried out—
- (a) the recording of relevant matter in the proceeding under section 5;

[s 51]

- (b) the transcription of a record under this Act of the proceeding.
- ‘(3) An arrangement under subsection (2) may be for a recording or transcription to be carried out by an officer or employee of the court or person or by someone else (for example, a person who also provides services under an arrangement with the chief executive under section 5A).
- ‘(4) Section 5B does not apply in relation to a record under this Act of the proceeding (whether or not the record was made or transcribed under an arrangement under subsection (2)).’.

51 Omission of ss 6–9

Sections 6 to 9—

omit.

52 Amendment of s 10 (Record and transcription to be evidence)

Section 10(2)—

omit, insert—

- ‘(2) A document purporting to be a transcription of a record under this Act, produced by a recorder, is to be received by a court or judicial person as evidence of anything recorded in the document, except to the extent the document is shown not to be an accurate transcription of the record.’.

53 Amendment of s 11 (Depositions of witnesses)

- (1) Section 11(2), ‘under this Act certified under section 10(2)’—

omit, insert—

‘by a recorder’.

- (2) Section 11(3), ‘(certified as aforesaid) made under this Act of such a record’—

omit, insert—

‘by a recorder of a record under this Act’.

54 Amendment of s 11A (Retention and destruction of records)

- (1) Section 11A(2), (3), (5) and (6), ‘master-tape’—
omit, insert—
‘master recording’.
- (2) Section 11A(4)—
omit, insert—
- ‘(4) A relevant court or judicial person for a legal proceeding may make—
- (a) an order that a record under this Act of the proceeding on a master recording be retained for the period, and on the conditions, that the court or judicial person considers appropriate; or
- (b) if a transcription of a record under this Act of the proceeding has been made, an order authorising the destruction of the record on a master recording (whether or not an order has been made under paragraph (a)).’.
- (3) Section 11A—
insert—
- ‘(8) In this section—
relevant court or judicial person, for a legal proceeding, means a court in which or judicial person before whom—
- (a) the legal proceeding is being taken; or
- (b) an application, appeal or other matter relating to the proceeding is being heard or may be heard.’.

55 Amendment of s 11B (Access to out-of-session recording prohibited)

Section 11B(2), ‘the person’s functions under this Act’—

[s 56]

omit, insert—
'a recording service'.

56 Amendment of s 12 (Offences)

- (1) Section 12(1) and (1A)—
omit.
- (2) Section 12(2), 'a shorthand reporter or'—
omit.
- (3) Section 12(2)(c), 'thereof or any certificate under and for the purposes of this Act; or'—
omit, insert—
'of a record under this Act;'
- (4) Section 12(2)(d)—
omit.

57 Amendment of s 13 (Regulations)

- (1) Section 13(2)(a)—
omit.
- (2) Section 13(2)(e), after 'transcriptions'—
insert—
'or copies'.

58 Omission of s 15 (Transitional provision for Justice and Other Legislation Amendment Act 2007)

Section 15—
omit.

59 Insertion of new s 17

After section 16—

insert—

‘17 Transitional provision for *Classification of Computer Games and Images and Other Legislation Amendment Act 2013*

- ‘(1) This section applies to an appointment as a shorthand reporter or recorder that was in force under section 6 immediately before the commencement.
- ‘(2) The appointment ends on the commencement.
- ‘(3) In this section—
commencement means the commencement of this section.’.

Part 9 Other amendments

60 Acts amended in sch 1

Each provision of an Act listed in schedule 1 is amended by omitting ‘*Neighbourhood Disputes Resolution Act 2011*’ and inserting ‘*Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*’.

61 Acts amended in sch 2

Schedule 2 amends the Acts it mentions.

Schedule 1 Provisions amended by section 60

section 60

- 1 Animal Management (Cats and Dogs) Act 2008**
 - Section 103(1), (2) and (4)(a)

- 2 Body Corporate and Community Management Act 1997**
 - Section 311(1), (3) and examples

- 3 Building Act 1975**
 - Schedule 2, definitions *dividing fence*, second mention and *Neighbourhood Disputes Act*

- 4 Building Units and Group Titles Act 1980**
 - Section 123

- 5 Land Protection (Pest and Stock Route Management) Act 2002**
 - Section 7

- 6 Queensland Civil and Administrative Tribunal Act 2009**
 - Section 12(4), definition *relevant person*, paragraph (g)
 - Section 13(2)(c)
 - Schedule 3, definition *minor civil dispute*, item 1(f)

- 7 Stock Act 1915**
 - Section 16(2)

Schedule 2 Acts amended

section 61

Child Protection (Offender Prohibition Order) Act 2008

- 1 **Section 20(1)(f), example, ‘or shorthand reporter’—**
omit.

Criminal Code

- 1 **Section 671K(1)—**
omit, insert—
‘(1) The *Recording of Evidence Act 1962*, section 5 provides for recording the proceedings at a trial of a person on indictment.’
- 2 **Section 671K(6), ‘or any shorthand reporter or recorder’—**
omit, insert—
‘, a recorder under the *Recording of Evidence Act 1962*’.

Criminal Organisation Act 2009

- 1 **Section 105(1)(b), ‘reporting officer’—**
omit, insert—
‘ROE chief executive’.

Schedule 2

2 Section 109(2)—

omit, insert—

- ‘(2) On request by the commissioner, the ROE chief executive must give the commissioner an electronic copy of a transcript for a hearing of an application under this Act.’.

3 Schedule 2, definition *reporting officer*—

omit.

4 Schedule 2—

insert—

‘*ROE chief executive* means the chief executive of the department in which the *Recording of Evidence Act 1962* is administered.’.

5 Schedule 2, definition *court staff*, ‘*court reporter*’—

omit, insert—

‘recorder under the *Recording of Evidence Act 1962*’.

Criminal Proceeds Confiscation Act 2002

1 Section 39D(1), editor’s note—

omit.

2 Section 39D—

insert—

- ‘(1A) Subsection (1) applies despite the *Recording of Evidence Act 1962*, section 5.

Note—

The *Recording of Evidence Act 1962*, section 5, requires evidence given in a legal proceeding to be recorded under that Act, subject to any direction

given by the court in which, or judicial person before whom, the legal proceeding is being taken.’.

3 Section 131D(1), editor’s note—

omit.

4 Section 131D—

insert—

‘(1A) Subsection (1) applies despite the *Recording of Evidence Act 1962*, section 5.

Note—

The *Recording of Evidence Act 1962*, section 5, requires evidence given in a legal proceeding to be recorded under that Act, subject to any direction given by the court in which, or judicial person before whom, the legal proceeding is being taken.’.

Dangerous Prisoners (Sexual Offenders) Act 2003

1 Section 44(2)(b), ‘certified’—

omit.

2 Section 45(4)(b), ‘certified’—

omit.

3 Schedule, definition *certified transcription*—

omit.

4 Schedule—

insert—

‘***transcription***, of a proceeding, means a transcription of a record under the *Recording of Evidence Act 1962* of the proceeding.’.

Justices Act 1886

- 1 Section 111(1) and (2), ‘and the transcription is certified to as correct in accordance with that Act’—**

omit.

- 2 Section 154(1B) to (1D)—**

omit.

- 3 Section 154(2), ‘Save where the application is made’—**

omit, insert—

‘Except where an application is made under subsection (1A), or a request is made under the *Recording of Evidence Act 1962* for a transcription of a record under that Act of the proceeding.’.

Penalties and Sentences Act 1992

- 1 Section 167(3), ‘certified’—**

omit.

- 2 Section 167—**

insert—

- ‘(5) In this section—

transcript, of a proceeding, means a transcription of a record under the *Recording of Evidence Act 1962* of the proceeding.’.

Public Officers Superannuation Benefits Recovery Act 1988

- 1 Section 24(1)—**
omit.

Youth Justice Act 1992

- 1 Section 285(1)(f), after ‘child’—**
insert—
‘(including a recorder under that Act)’.

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