

**STATUTE LAW REVISION BILL 1995****EXPLANATORY NOTE****Policy objective and reasons for it**

The objective of this Bill, and its companion Bill (the Statute Law (Minor Amendments) Bill 1995), is to further the aim of ensuring that the Queensland statute book is of the highest standard. This Bill does so by making amendments and repeals of Acts for statute law revision purposes only.

Statute law revision amendments are required to be concise, of a minor nature, and non-controversial. Most statute law revision amendments are initiated by the Office of the Queensland Parliamentary Counsel. Amendments to give effect to minor policy changes unconnected with the overall state of the Queensland statute book are included in the Statute Law (Minor Amendments) Bill 1995 and not in this Bill.

The Queensland statute book is all Queensland legislation taken as a body of law. A statute book that is well maintained significantly enhances access to legislation by making it easier to find in an up-to-date form and easier to read and understand.

Maintenance of the statute book is necessary for a number of reasons. First, the law is constantly changing and the statute book needs to be updated continuously to take account of the changes. Second, the Queensland statute book has been created over a period of some 135 years. Drafting practices, language usage, and printing formats and styles, have changed markedly during this period, and maintaining a minimum level of consistency requires continuous amendments. Third, the statute book is created by a complex mosaic of individual amending and non-amending items of legislation. Individual items of legislation interact with other items (and the common law) to produce the totality of the statute book and cannot be considered in isolation. Changes to the law often generate consequential amendments elsewhere, without which this interaction would fall into confusion.

Statute Law Bills are an important part of maintaining and enhancing the

standard of Queensland law. The Bills provide an opportunity to make amendments and repeals that, taken alone, would be of insufficient importance to justify separate legislation. However, the cumulative effect of the amendments and repeals can have a substantial impact on the overall quality of Queensland law.

### **Ways in which policy objective will be achieved by the Bill**

The Office of the Queensland Parliamentary Counsel is responsible under the *Legislative Standards Act 1992* for ensuring that Queensland legislation is of the highest standard (section 7(j)). To give effect to this responsibility, the office is undertaking a number of current projects that are supported or implemented by amendments and repeals in this Bill.

First, the office is identifying and accounting for all Queensland legislation. This includes an examination of all Queensland Acts passed since Queensland was established as a colony and all earlier New South Wales Acts that apply (or could apply) in Queensland. At the present time, it is not possible to know with complete certainty the exact status of the Queensland statute book; for example, how many Acts and instruments of subordinate legislation are in force in Queensland and what they are. As spent or obsolete Acts are identified, they are repealed in Statute Law Bills. This Bill continues that process.

Second, the office is reprinting all current Queensland Acts and subordinate legislation. The office is endeavouring to have all Acts reprinted by early next year and all subordinate legislation reprinted by mid-1996. The Bill includes a number of amendments to facilitate the reprinting of particular Acts. The reprinting process is also supported by the repeal of spent and obsolete Acts, which reduces the number of Acts requiring reprinting.

Third, the office is rationalising the types of subordinate legislation currently in use and standardising the legislative provisions dealing with subordinate legislation. The existence of older provisions dealing with subordinate legislation is a source of confusion and potential difficulty. The provisions can also operate to prevent appropriate parliamentary oversight. In addition, subordinate legislation types need to be rationalised to enable subordinate legislation to be reprinted efficiently and then kept up to date. The Bill includes many amendments which support this project and the reprinting of subordinate legislation.

Finally, as part of the process of reprinting and updating subordinate legislation, the office is removing forms from legislation. The *Statutory Instruments Act 1992* contains provisions dealing with the notification and availability of forms (see section 58). In addition, under the *Acts Interpretation Act 1954*, section 49(5), a form may only require information reasonably necessary for the form's purpose.

### **Alternatives to the Bill**

The policy objective can only be achieved by statutory amendments.

### **Administrative cost to government**

Apart from costs associated with the need to approve and notify forms, there will be no administrative costs to government of implementing the Bill. Increased access to legislation flowing from the Bill will produce substantial savings in costs for government and other users of legislation.

### **Consistency with fundamental legislative principles**

The Bill is consistent with fundamental legislative principles. Moreover, the Bill significantly advances fundamental legislative principles, especially by ensuring that Acts have sufficient regard to the institution of Parliament. The Bill contains, for example, numerous amendments to ensure that the exercise of delegated legislative power is subject to the scrutiny of the Legislative Assembly and omits provisions authorising the amendment of Acts by subordinate legislation.

### **Consultation**

All Government departments were consulted on at least 3 separate occasions and agree with the amendments of the Acts administered in their departments.

### **Notes on clauses**

*Clause 1* provides for the Act's citation.

*Clause 2* deals with the Act's commencement. Subclause (1) draws

attention to the fact that commencement provisions are provided in schedules 1 and 2 for some amendments. Subclause (2) deals with the commencement of repeals made by the Bill. As the Bill contains amendments relocating provisions from Acts that are to be repealed, all repeals commence on the day after the day of assent.

*Clause 3* states the Act's purpose.

*Clause 4* gives effect to the amendments made by schedules 1 and 2, and schedule 3, part 1.

*Clause 5* gives effect to the repeals made by schedule 3, part 2 and schedules 4 to 8 and the transitional provisions made by schedules 9 and 10.

*Clause 6* declares that explanatory notes, and certain provision references, in the Bill do not form part of it. They are, however, available as extrinsic aids to interpretation in the same way as this explanatory note (see *Acts Interpretation Act 1954*, section 14B).

*Schedule 1* contains both minor amendments for statute law revision and statute law revision amendments of lesser importance. If an Act has amendments of both types made by this Bill, all the amendments of the Act are included in schedule 1. *Schedule 2* contains only statute law revisions of lesser importance (for example, correction of minor technical errors).

*Schedule 3, part 1* repeals provisions that have remained uncommenced for at least 2 years. *Schedule 3, part 2* repeals amending Acts with provisions that have remained uncommenced for at least 2 years. Uncommenced provisions in Acts made on or after 1 January 1995 commence automatically under the *Acts Interpretation Act 1954*, section 15DA.

*Schedules 4 and 5* deal with the repeal of amending Acts. Schedule 4 repeals amending Acts with substantive provisions (usually of a savings or transitional nature) that are no longer needed. Schedule 5 repeals other amending Acts. The operation of amending Acts that have commenced is not affected by their repeal (see *Acts Interpretation Act 1954*, section 19). Amending Acts passed since 1 July 1994 are automatically repealed under the *Acts Interpretation Act* (see section 22C).

*Schedules 6, 7 and 8* deal with the repeal of non-amending Acts. Schedule 6 repeals Acts that are spent. Schedule 7 repeals other obsolete Acts. Schedule 8 repeals obsolete Imperial and New South Wales Acts that may still apply in Queensland.

*Schedules 9 and 10* contain savings provisions. Under the *Acts Interpretation Act 1954*, section 20A the declaratory effect of savings or transitional provisions, and the effect of validating provisions, are not ended by their repeal or expiry. To remove any doubt about the application of the section, schedule 9 declares various laws repealed by the Bill to be laws to which the section applies. Schedule 10 has special transitional provisions for certain laws repealed by the Bill.

Because of the large number of minor amendments made by the Bill, notes on individual amendments are contained at the end of the amendments of each Act. Brief explanatory notes are also included for schedules 3 to 9.