

Justice and Other Legislation Amendment Bill 2008

Explanatory Notes

Objectives of the Bill

The primary objective of the Bill is to make minor or technical amendments to Acts administered by the Attorney-General and Minister for Justice and Minister Assisting the Premier in Western Queensland. These Acts include:

- *Anti-Discrimination Act 1991*
- *Associations Incorporation Act 1981*
- *Bail Act 1980*
- *Childrens Court Act 1992*
- *Children Services Tribunal Act 2000*
- *Civil Liability Act 2003*
- *Classification of Films Act 1991*
- *Crime and Misconduct Act 2001*
- *Criminal Code*
- *Dispute Resolution Centres Act 1990*
- *District Court of Queensland Act 1967*
- *Evidence Act 1977*
- *Judges (Pensions and Long Leave) Act 1957*
- *Justice and Other Legislation Amendment Act 2007*
- *Justices Act 1886*
- *Justices of the Peace and Commissioners for Declarations Act 1991*
- *Land Court Act 2000*

- *Magistrates Act 1991*
- *Oaths Act 1867*
- *Ombudsman Act 2001*
- *Penalties and Sentences Act 1992*
- *Professional Standards Act 2004*
- *Public Trustee Act 1978*
- *Small Claims Tribunals Act 1973*
- *Solicitor-General Act 1985*
- *Supreme Court Act 1995*

The Bill also:

- makes minor amendments to the *Domestic and Family Violence Protection Act 1989* and the *Juvenile Justice Act 1992* which are administered by the Minister for Communities, Minister for Aboriginal and Torres Strait Islander Partnerships, Minister for Seniors and Youth; and to the *Industrial Relations Act 1999* which is administered by the Minister for Transport, Trade, Employment and Industrial Relations;
- amends the *Financial Transaction Reports Act 1992* to ensure that Queensland's law enforcement agencies, the Queensland Police Service (QPS) and the Crime and Misconduct Commission (CMC), can request further information and documents about financial transactions reported under the Commonwealth's *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*;
- amends the *Professional Standards Act 2004* to allow recognition in Queensland of a scheme approved in another State or Territory to limit the occupational liability of members; and
- amends the *Recording of Evidence Act 1962* to specifically authorise continuous court recording and prohibit access to, and allow the destruction of, records and transcripts while the court is not in-session.

Reasons for the Bill

Minor or technical amendments

The Attorney-General and Minister for Justice and Minister Assisting the Premier in Western Queensland is responsible for the administration of approximately 190 Acts. Periodically, these Acts are examined to identify minor amendments that can be made to ensure that the Acts continue to operate in the manner intended.

Amendments to the *Financial Transaction Reports Act 1992*

Under the *Financial Transaction Reports Act 1988* (Cwth) (the Cwth FTR Act), ‘cash dealers’ are required to report suspicious financial transactions to the Australian Transaction Reports and Analysis Centre (AUSTRAC). A cash dealer includes a financial institution; an insurer or insurance intermediary; a person who carries on a business of issuing, selling or redeeming traveller’s cheques, money orders or similar instruments; and a bullion seller.

From 12 December 2008, ‘cash dealers’ who constitute ‘reporting entities’ will not be reporting under the Cwth FTR Act but instead under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cwth) (the AMLCTF Act). Reporting entities incorporate the financial and gambling sectors, bullion dealers and other professionals or businesses that provide a ‘designated service’; for example transactions relating to finances, bullion and betting.

The *Financial Transaction Reports Act 1992* (Qld) (the Qld FTR Act) was passed as national uniform legislation to take account of the Cwth FTR Act. It ensures that Queensland’s law enforcement agencies, the QPS and the CMC, can request further information and documents about transactions reported under the Cwth FTR Act by cash dealers.

The amendments to the Qld FTR Act contained in this Bill are required to ensure that Queensland’s law enforcement agencies can request further information and documents about transactions reported under the AMLCTF Act by reporting entities.

Amendment relating to professional standards

The *Professional Standards Act 2004* is part of a national scheme that establishes a Professional Standards Council in each State and Territory. The Councils have the task of assessing applications made to them by occupational associations for approval of schemes to limit the occupational liability of members.

There is complementary, but not uniform, professional standards legislation in all States and Territories. The legislation sets out the limitations of liability as well as the general requirements for schemes including: insurance, continuing professional development, risk management strategies and disciplinary regimes.

The amendments to the *Professional Standards Act 2004* contained in this Bill implement a decision of the Standing Committee of Attorneys-General (SCAG) to amend respective professional standards legislation to provide for the mutual recognition of schemes. The purpose of mutual recognition is to reduce the duplication and inefficiency that currently exists where a professional wishes to have capped liability outside their home jurisdiction and to provide a more seamless national system of professional standards legislation.

Amendment relating to recording of evidence

The majority of Queensland Courts utilise a continuous digital recording system to make an audio record of legal proceedings. This system operates 24 hours a day, seven days a week.

Concerns have recently been expressed about the recording of private conversations while court is not in-session via the continuous digital recording system. Concerns have also been expressed that the current legislation does not permit the system or the dissemination of recordings while the court is not in-session.

The Bill addresses these concerns by amending the *Recording of Evidence Act 1962* to specifically authorise continuous court recording and prohibit access to, and allow the destruction of, records and transcripts while the court is not in-session.

Achievement of the Objectives

The Bill achieves the objectives by making the amendments to the legislation as described below.

Estimated Cost for Government Implementation

Implementation of the Bill is not expected to result in any additional costs to Government.

Consistency with Fundamental Legislative Principles

Legislation should not confer immunity from proceeding or prosecution without adequate justification (*Legislative Standards Act 1992*, section 4(3)(h)). The amendments to the *Civil Liability Act 2003* remove civil liability for food donor re-distributors. However, this amendment is not likely to adversely affect individuals given that food re-distributors will have to meet a number of conditions before they are protected. Furthermore, the amendments do not extend to protect the charitable organisation that actually provides the food to needy and disadvantaged people. It remains open for these organisations to be sued as well as their employees given they are appropriately placed to ensure the safety of their clients and/or the public and should be responsible for their actions. In any event, the interests of the wider community and the affordability of public liability insurance outweigh any potential adverse affect on individuals.

The existing section 39(2) of the *Civil Liability Act 2003* provides that a person does not incur personal civil liability in relation to any act or omission done or made by the person, when donating food in the circumstances mentioned in subsection (3), giving rise to harm resulting from the consumption of the food. The definition of *person* in the *Acts Interpretation Act 1954* is not limited to an individual. However, to remove doubt, an amendment is being made to clarify that the food donor provisions also apply to entities, including corporations. A provision is also included to declare that the existing provisions have protected entities, other than individuals, since commencement. These amendments are consistent with the original intention of the food donor provisions to allow people and organisations who donate food to the homeless and disadvantaged to be protected from civil liability actions.

The amendment to the *Anti-Discrimination Act 1991* also provides protection and immunity for: members of the Anti-Discrimination Tribunal (the Tribunal); the registrar of the Tribunal; parties appearing before the Tribunal; and a person appearing as a witness before the Tribunal, when they are performing their functions or exercising their powers. It is appropriate that a person acting judicially or as part of the judicial process should be free of personal attack on the basis of illegal or negligent action when performing their roles or appearing as a party or witness in a hearing. The immunity will ensure that these persons can act with appropriate confidence in carrying out their roles in the community interest. Such roles would be difficult to carry out if the office holders or others were subject to allegations and litigation taken against them personally for their actions in

office. Given the nature of their roles, their decisions are also normally subject to the supervision of appeal courts, that is, there is usually an immediate mechanism to correct their decisions at some level. Also, liability is generally not shifted to the State in these circumstances. It is noted that the amendment will provide the same level of protection and immunity to the Anti-Discrimination Tribunal that other Tribunals have such as, the Children's Services Tribunal, Guardianship and Administration Tribunal and the Commercial and Consumer Tribunal.

The amendments to the *Financial Transaction Reports Act 1992* may also have insufficient regard to the rights and liberties of individuals. The amendments extend the power of the QPS and CMC to obtain information and documents about financial transactions without judicial warrant. However, these powers mirror the existing scheme, under which Commonwealth and State legislation confers similar powers of investigation to both Commonwealth and State law enforcement agencies.

Additionally, the following safeguards guard against an unwarranted invasion of an individual's privacy:

- the Qld FTR Act, as well as the *Crime and Misconduct Act 2001*, contain specific secrecy provisions;
- under certain Commonwealth provisions, the entity must have a 'reasonable suspicion' before their reporting obligation is triggered;
- the information or documents requested must be information or documents which may be relevant to the investigation, or prosecution of a person for an offence against the law of the State or may be of assistance in the enforcement of Queensland's confiscation legislation; and
- the amendments will insert a specific protection for legal professional privilege.

The amendments to the *Justices of the Peace and Commissioners for Declarations Act 1991* contain a delegation of legislative power, insofar as new subsection 17(5) allows the Minister to exempt an applicant from a disqualification mentioned in new subsection (1)(f) or (2). However, this clause is justified on the basis that it is a continuation of current practice and that it is needed to deal with special circumstances and the broad range of offences which could be captured by the subsections. It is noted that the

clause has a very narrow application, and that the remaining disqualification provisions would continue to apply.

The Bill also includes amendments to the *Magistrates Act 1991* which retrospectively validate directions given to current and past acting magistrates about when they were to carry out the functions and duties of a magistrate as well as payments, remuneration and allowances paid for the periods they have carried out the functions and duties of a magistrate. These amendments are necessary to clarify the operation of provisions relating to acting magistrates to reflect current practice and ensure they support the flexible and responsive engagement of magistrates to suit court needs. The amendments also address the issue of potential liability for remuneration and entitlements for past periods during which acting magistrates were not actually engaged in performing the duties and functions of a magistrate. This amendment does not adversely affect the rights and liberties of any person given they could not have expected to be paid the entitlements and remuneration of an acting magistrate for periods during which they were not performing those duties.

The amendments to the *Ombudsman Act 2001* extend the circumstances in which the Ombudsman may disclose information obtained in a preliminary inquiry or investigation or the performance of another of the Ombudsman's functions. This raises the issue of privacy and confidentiality rights. The amendments are justified in that they are subject to appropriate safeguards and allow disclosure only for specified purposes that are in the public interest. In the first instance, disclosure is permitted only where the information has been de-identified and is provided to assist other agencies with their administrative practices and procedures or for research purposes. In the second instance, disclosure is permitted where the Ombudsman considers that the agency has a proper interest in the information for the performance of its functions and the disclosure is for the purpose of protecting the health, safety or security of a person or property.

The amendment to the *Professional Standards Act 2004* to extend the time for review of the Act from 2 years to 5 years will have a retrospective effect. However, this amendment will not affect any persons other than the State given there is currently insufficient information to commence a review of the legislation.

The amendment to the *Recording of Evidence Act 1962* to prohibit access to out-of-session recordings will also have a retrospective effect. However this amendment will not adversely affect the rights and liberties of individuals on the basis that:

- No access to out-of-session recordings was ever intended under the Act. Out-of-session recordings are only made as part of the continuous recording functionality of the digital recording system. This function is vital for ensuring that temporary audio backup is available in the event of human or system error in relation to in-session court recordings.
- Access to out-of-session recordings is not necessary as direct evidence of what occurs in a courtroom while the court is not in-session can be obtained in other ways, for example through a statement provided by a person present in the courtroom.

Consultation

There has been extensive consultation conducted including with the Judiciary, the Director of Public Prosecutions, the Queensland Ombudsman, the Crime and Misconduct Commission, the Anti-Discrimination Commission Queensland and the Registrar-General of Births, Deaths and Marriages.

Notes on Provisions

Part 1 Preliminary

Clause 1 establishes the short title of the Act as the Justice and Other Legislation Amendment Act 2008.

Clause 2 provides for the commencement of the Act.

Part 2 Amendment of Anti-Discrimination Act 1991

Clause 3 provides that part 2 and the schedule amend the *Anti-Discrimination Act 1991*.

Clause 4 inserts a new section 266A to provide protection and immunity for:

- members of the Anti-Discrimination Tribunal (the Tribunal);
- the registrar of the Tribunal;
- parties appearing before the Tribunal; and
- a person appearing as a witness before the Tribunal.

This protection and immunity is in addition to the protection from civil actions in the exercise of their functions that is provided by section 265 of the *Anti-Discrimination Act 1991*. The immunity that a Supreme Court judge has in performing the judge's functions or exercising the judge's power is found in section 30 of the *Criminal Code* and section 27AA of the *Supreme Court of Queensland Act 1991*. This new section will provide the same protection and immunity that other Tribunals in Queensland have, such as the Children's Services Tribunal, the Guardianship and Administration Tribunal and the Commercial and Consumer Tribunal.

New section 266A(1) provides that in performing the functions or exercising the powers of a member of the Tribunal, the member has the same protection and immunity that a Supreme Court judge would have in performing the judge's function or exercising the judge's power.

New section 266A(2) provides that in performing the functions or exercising the powers of the Tribunal under 257A, the registrar has the same protection and immunity that a Supreme Court judge would have in performing the judge's function or exercising the judge's power.

Under new section 266A(3), a party appearing before the Tribunal has the same protection and immunity as a party has in a proceeding in the Supreme Court.

As a result of new section 266A(5), the reference to 'party' in section 266A(3) includes not only a complainant or respondent, but also a complainant's or respondent's lawyer or agent.

New section 266(4) provides that a person appearing as a witness before the Tribunal has the same protection and immunity as a witness has in a proceeding in the Supreme Court.

Part 3 **Amendment of Childrens Court Act 1992**

Clause 5 provides that part 3 and the schedule amend the *Childrens Court Act 1992*.

Clause 6 inserts a new section 14A which provides that a Childrens Court magistrate holds office for the term stated in the person's instrument of appointment. This term must not exceed five years. Under new section 14A(2), the re-appointment of a person previously appointed as a Childrens Court magistrate is limited to one further term. As with the initial term, this further term must not exceed five years. New section 14A(3) confirms that the ending of a person's term as a Childrens Court magistrate does not affect the person's appointment as a magistrate or the person's powers as a magistrate.

Clause 7 inserts a new heading for the transitional provision required as a result of the new section 14A.

Clause 8 inserts the transitional provision. Under the transitional provision, the term of a person already appointed as a Childrens Court magistrate is taken to end five years after the person was first appointed.

Part 4 **Amendment of Children Services Tribunal Act 2000**

Clause 9 provides that part 4 amends the *Children Services Tribunal Act 2000*.

Section 41 of the *Children Services Tribunal Act 2000* lists the circumstances in which the Children Services Tribunal may dismiss an application.

Clause 10 expands the circumstances listed to include where the Tribunal considers that the application is frivolous or vexatious or where no reasonable basis for the application has been disclosed. This may include a situation where the determination of one application for review before the Tribunal results in there no longer being a reasonable basis for an outstanding application before the Tribunal.

Section 141(1)(a) of the *Children Services Tribunal Act 2000* prohibits publication of information given in evidence or otherwise before the Tribunal. Section 141(2) provides that section 141(a) does not apply where the Tribunal or the president consents to the publication of the information.

Clause 11 amends section 141(2) to prescribe the matters the Tribunal must consider in determining whether to give consent to the publication of information given in evidence or otherwise before the Tribunal. Under the proposed new section 141(2), the Tribunal or president must be satisfied that the publication of the information:

- is in the public interest; and
- does not conflict with the best interests of the child.

Part 5 Amendment of Civil Liability Act 2003

Clause 12 provides that part 5 and the schedule amend the *Civil Liability Act 2003*.

Clause 13 replaces the heading of Part 3 Division 2 to refer to food donors as well as volunteers.

Clause 14 relocates the definition of *possession* from section 39(4) to section 38(1) of the Act. Consistent with the original intention of the volunteer provisions, this clause also amends the definition of *volunteer* to clarify that it is limited to an individual (which means a natural person) rather than the broader reference to a person which, pursuant to section 32D of the *Acts Interpretation Act 1954*, includes corporations.

Clause 15 inserts a new subdivision dealing specifically with protections for food donors. The new section 38A(1) provides that an entity, other than a volunteer, does not incur any civil liability in relation to an act or omission done or made when donating or distributing food giving rise to harm resulting from the consumption of the food provided the requirements specified in subsection (2) are met.

The new section 38A will ensure cover entities (including for example an unincorporated body) that donate food directly to community organisations or to other entities that distribute it to community organisations. It will also

as extend the protection available to entities that collect food donated by another entity and distribute to community organisations it in the specified circumstances.

New section 38B states that if a policy of insurance is required to be held by law in relation to the liability of the food donor, the indemnity does not apply. New section 38C provides that, if a policy of compulsory third-party motor vehicle insurance applies to cover the food donor's liability, the indemnity does not apply.

An amendment is also made in clause 15 to create a new subdivision containing all of the provisions relating to volunteers.

Clause 16 deletes section 39(4) given the amendment in clause 14 which relocates the definition of *possession*.

Clause 17 inserts a transitional provision for the amendments to declare that, prior to commencement, section 39(2) never had the effect of limiting protection for food donors to individuals and that the protections were available to all persons, including individuals and corporations.

Part 6 Amendment of Classification of Films Act 1991

Clause 18 provides that part 6 amends the *Classification of Films Act 1991*.

Clause 19 makes a minor consequential amendment required as a result of the amendments to sections 56, 57 and 58 of the Act.

As a general rule, it is an offence under the *Classification of Films Act 1991* to screen an unclassified film in Queensland. The only exception to this occurs if the Queensland Films Classification Officer approves an organisation to be an approved organisation, and the approved organisation is then granted an exemption to screen an unclassified film.

Traditionally, almost all such exemptions are granted in relation to film festivals, involving films which have not been classified by the Commonwealth Classification Board because they are foreign-language films or amateur short films. Many film festivals screen nationally, and the director of the Commonwealth Classification Board presently considers

applications for film festival exemptions in relation to all jurisdictions except Queensland and South Australia.

Clause 20 amends section 56 to allow both the Queensland Films Classification Officer and the director of the Commonwealth Classification Board to approve an organisation to be an approved organisation.

Clause 21 amends section 57 to allow applications from approved organisations to approve the screening of unclassified films in Queensland to be made to both the Queensland Films Classification Officer and the director of the Commonwealth Classification Board.

Clause 22 amends section 58(1) to allow both the Queensland Films Classification Officer and the director of the Commonwealth Classification Board to approve the screening of unclassified films in Queensland. As is the case with the Queensland Films Classification Officer, the director of the Commonwealth Classification Board may attach conditions on its approvals

In addition to amending section 58(1), this also inserts a new subsection (2).

New section 58(2) ensures that Queensland can, if required, offer adequate consumer protection in relation to high-impact unclassified films which have been approved for screening in Queensland by the director of the Commonwealth Classification Board. These amendments allow the Queensland Films Classification Officer to impose conditions or additional conditions on such screenings (which could include age or advertising restrictions or a requirement that the approved organisation provide more detailed consumer information).

Part 7 Amendment of Crime and Misconduct Act 2001

Clause 23 provides that part 7 amends the *Crime and Misconduct Act 2001*.

Clause 24 amends subsection 225(a), which prescribes the qualifications for appointment as a part-time commissioner, to substitute the requirement that the person be engaged in actual practice as a lawyer with a requirement that the appointee is an Australian lawyer who has been engaged in legal practice for a period of, or periods totalling, at least five years.

Part 8 Amendment of Criminal Code

Clause 25 provides that part 8 amends the *Criminal Code*.

Clause 28 inserts a new section 593A required as a result of the repeal by the Bill of section 123 of the *Justices Act 1886* (which relates to notices to witnesses). New section 593A empowers the court to issue a warrant for the arrest of a witness if an indictment has been presented against a person before a court. This ensures that witnesses who evade or are likely to evade service of a subpoena to attend court can be compelled by the court to attend.

Clauses 26, 27, 29 make minor consequential amendments required as a result of the abolition of notices to witnesses.

Clause 30 inserts a transitional provision which ensures that an existing notice to a witness continues to have effect until the earlier of the conclusion of the proceeding in relation to the accused person, the court otherwise directs or 3 years, whichever occurs first.

Part 9 Amendment of Dispute Resolution Centres Act 1990

Clause 31 provides that part 9 amends the *Dispute Resolution Centres Act 1990*.

Clause 32 amends the definition of *mediator* in section 2(1). This amendment is required as a result of the amendment to section 19.

Clause 33 amends section 19 to facilitate a change in terminology from ‘accreditation’ to ‘appointment’ of mediators for a dispute resolution centre. The term ‘appointment’ more accurately describes the status of mediators who are employed at a centre.

In addition to changing the terminology, the clause also inserts new subsections (2)-(6). Under new section 19(2), a person will only be eligible for appointment as a mediator if the chief executive considers the person has knowledge, experience or skills relevant to the exercise of a mediator’s functions. Under new section 19(3), in making an appointment of a mediator, the chief executive must take into account the desirability of the

mediators appointed reflecting the social, gender and cultural diversity of the general community.

New section 19(4) allows the chief executive to impose conditions on the appointment of a person as a mediator. Such conditions could include a requirement that the mediator undertake certain professional development activities during the course of their appointment.

New section 19(5), which replaces existing section 20(2), provides that a mediator is to be paid the remuneration and allowances decided by the chief executive.

New section 19(6) confirms that a mediator appointed under the *Dispute Resolution Centres Act 1990* is not employed under the *Public Services Act 2008*. This section reflects existing section 20(1).

Clause 34 makes a minor consequential amendment to section 20 required as a result of the amendments to section 19.

Clause 35 amends section 41 and inserts a transitional provision in relation to the amendments. The amendment to section 41 is to confirm that a regulation made under the Act may prescribe the fees payable by a person other than a member of the public for commercial services provided by a dispute resolution centre. The transitional provision allows a person already ‘appointed’ as a mediator to continue to conduct mediations under the Act for a period of 12 months.

Part 10 Amendment of District Court of Queensland Act 1967

Clause 36 provides that part 10 and the schedule amend the *District Court of Queensland Act 1967*.

Clause 37 amends section 12 to clarify that it does not apply to leave to which the *Judges (Pensions and Long Leave) Act 1967* applies. Section 12 provides that the Governor in Council may grant leave of absence to a judge.

Clause 38 inserts a new section 17(2) which allows a Supreme Court, Federal Court or District Court Judge from another State or Territory to be

appointed as an acting Judge of the District Court of Queensland for a period of up to one year.

Clause 39 makes a minor consequential amendment required as a result of the abolition of notices to witnesses

Clause 40 amends section 36 to streamline court appointments by providing that the only appointments to be made by the Governor in Council for the court are a principal registrar and associates. This amendment is consequential to the amendment in the following clause.

Clause 41 amends the Act to insert a new section 36A which allows the chief executive, rather than the Governor in Council, to appoint other registrars and officers for the court.

Clause 42 makes consequential amendments to section 40 arising from the amendments in clauses 40 and 41.

Clause 43 amends section 41 to allow the chief executive, rather than the Governor in Council, to appoint bailiffs.

Clause 44 makes a minor consequential amendment required as a result of the amendment to the *Justices Act 1886* to abolish notices to witnesses.

Clause 45 inserts a transitional provision which ensures that an existing notice to a witness continues to have effect until the earlier of the conclusion of the proceeding in relation to the accused person, the court otherwise directs or 3 years, whichever occurs first. This clause also inserts a transitional provision to ensure that the principal registrar's appointment continues after commencement of the amendments.

Part 11 Amendment of Domestic and Family Violence Protection Act 1989

Clause 46 provides that part 11 amends the *Domestic and Family Violence Protection Act 1989*.

Section 22 of the *Domestic and Family Violence Protection Act 1989* provides that in making a domestic violence order, the court must impose a condition that the respondent:

- (a) be of good behaviour towards the aggrieved and not commit domestic violence; and
- (b) be of good behaviour towards a named person in the order and not commit an act of associated domestic violence against the person.

Clause 47 amends section 22 to clarify that the requirement in section 22(b) applies only if there is a 'named person' in the order.

Part 12 Amendment of Evidence Act 1977

Clause 48 provides that part 12 amends the *Evidence Act 1977*.

Clause 49 inserts a new definition for **convicted**. The purpose of this definition is to override section 12(3)(a) of the *Penalties and Sentences Act 1992*, thereby ensuring that the reference to convicted in section 79 of the *Evidence Act 1977* means found guilty, or having a plea of guilty accepted by a court, whether or not a conviction is recorded.

Part 13 Amendment of Financial Transaction Reports Act 1992

Clause 50 provides that part 13 amends the *Financial Transaction Reports Act 1992*.

Clause 51 amends the long title to include a reference to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cwth).

Clause 52 amends the interpretation section (section 4). Subclause (1) omits the definition of **Commonwealth Act**. This definition is no longer required given that the Qld FTR Act will be referable to two Commonwealth Acts. Subclause (2) inserts the terms **AMLCTF Act** and **FTR Act** which are the acronyms used for the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cwth) and the *Financial Transaction Reports Act 1988* (Cwth).

Subclause (2) also inserts a definition of *designated authority* into section 4. The term *designated authority*, which is used throughout the following clauses, is defined to mean the commissioner of the police service; the Crime and Misconduct Commission; or an investigation officer. A definition of *investigating officer* is also inserted to mean a police officer or a person who is an authorised commission officer under the *Crime and Misconduct Act 2001* who is carrying out an investigation arising from, or relating to matters referred to in, the information communicated to the AUSTRAC CEO.

Finally, this replaces the reference to the ‘Commonwealth Act’ in section 4(2) with the ‘FTR Act or AMLCTF Act’ (see subclause (3)).

Clause 53 omits existing sections 6 and 7 and inserts new sections 6, 6A, 7 and 7A.

In addition to applying to cash dealers who communicate information to the AUSTRAC CEO under section 16(1) of the Qld FTR Act, new section 6 also applies to information communicated under section 16(1A). Section 16(1A) of the Cwth FTR Act requires cash dealers to report transactions to the AUSTRAC CEO that may be relevant to a financing of terrorism offence. A designated authority in Queensland could utilise further information about these transactions in the investigation, or prosecution, of a State offence or alternatively, to enforce the State’s confiscation legislation.

New section 6A mirrors section 6 except it applies to reporting entities who communicate information to the AUSTRAC CEO under sections 41 (Reports of suspect transactions); 43 (Reports of threshold transactions); or 45 (Reports of international funds transfer instruments) of the AMLCTF Act. Also, under new section 6A, a reporting entity may not only be required to provide a designated authority with further information, they may also be required to provide documents which are relevant to the communication under these sections. The provision is drafted to reflect section 49 of the AMLCTF Act.

New section 7 replicates subsections (1) to (4) of the existing section with the following differences – the reporting obligation only applies if the cash dealer is not required to report the transaction under nominated provisions of the Cwth FTR Act or, if the cash dealer is a reporting entity, prescribed provisions of the AMLCTF Act. This ensures that the obligations imposed by the Commonwealth, and the corresponding obligations in the Qld FTR Act, take precedence over this additional reporting obligation.

New section 7A replicates subsections (6) to (8) of section 7 in an amended form. Currently, these subsections concern the provision of further information to the commissioner of the police service or a police officer. However, under this section reference is made to the provision of further information to a ‘designated authority’ which is defined in clause 52.

Clause 54 amends section 8 (Protection of cash dealers etc). Subclause (1) renames the provision. Subclause (2) and (3) omits the references to ‘a cash dealer’ or ‘the cash dealer’ from subsection (1) and inserts references to ‘*an entity*’ or ‘*the entity*’. Subclause (4) makes consequential amendments to section 8(2) to reflect changes to the reporting obligations at both the Commonwealth and State level and inserts a new subsection (3) which includes definitions of ‘*entity*’ and ‘*prescribed provision*’ which are terms used in the amended section.

Clause 55 clarifies that the Act does not affect the law relating to legal professional privilege. This clause is modelled on section 242 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Part 14 Amendment of Industrial Relations Act 1999

Clause 56 provides that part 14 amends the *Industrial Relations Act 1999*.

Clause 57 amends the Act to streamline long leave approvals by providing that, for the purpose of section 15 the *Judges (Pensions and Long Leave) Act 1957*, the prescribed authority is taken to be a reference to:

- (a) the vice president – if the member is a deputy president or commissioner;
- (b) the Minister – if the member is the president or vice president and the period applied for by the member is 1 month or less; and
- (c) the Governor in Council – if the member is the president or vice president and the period applied for by the member is greater than 1 month.

Part 15 **Amendment of Judges (Pensions and Long Leave) Act 1957**

Clause 58 provides that part 15 amends the *Judges (Pensions and Long Leave) Act 1957*.

Clause 59 amends section 15 to streamline long leave approvals by allowing the Minister, rather than the Governor in Council, to approve short-term long leave (i.e. leave of absence of 1 month or less) for the Chief Justice, Chief Judge and Chief Magistrate.

Part 16 **Amendment of Justice and Other Legislation Amendment Act 2007**

Clause 60 provides that part 16 amends the *Justice and Other Legislation Amendment Act 2007*.

Clause 61 omits section 21. This section, which relates to section 20 of the *Births, Deaths and Marriages Registration Act 2003*, has not yet commenced.

Part 17 **Amendment of Justices Act 1886**

Clause 62 provides that part 17 amends the *Justices Act 1886*.

Clause 63 omits the words ‘within the Justice’s jurisdiction’ from section 78(1). The purpose of this amendment is to clarify that a Magistrate may issue a summons under this section for a witness residing interstate.

Clause 64 inserts a new subsection (5A) into section 83A (Direction Hearing). New section 83A(5A) clarifies that a Magistrate can direct prosecution disclosure, in a summary proceeding, under section 83A(5)(a).

This clarification is required because it has been determined that 83A(5)(a), which permits a Magistrate to direct a party to disclose material including ‘a statement, report or other information relevant to the

proceeding’, does not apply to directions for prosecution disclosure. This is because the prosecution disclosure provisions of the *Criminal Code*, which apply to ‘relevant proceedings’, coupled with sections 41 and 83A(5)(aa) of the *Justices Act 1886*, have been interpreted as codifying the principles of prosecution disclosure. As no summary trials have been prescribed as ‘relevant proceedings’ for the purposes of the Code’s disclosure provisions there is no residual power for a magistrate to order disclosure for these matters.

Clause 64 also amends subsection (5)(a) to refer to ‘stated’ information. This will require the Magistrate to state the information to be disclosed and accordingly, oblige the defence to specify at the directions hearing the information they are seeking.

Clause 65 omits section 123 which relates to notices to witnesses. Notices to witnesses, which are sent by the clerk of the court following a committal proceeding, notify a witness that they will be required to appear and give evidence in the defendant’s trial either in the Supreme Court or District Court. However, given that no actual date of trial can be provided in the notices, and that prosecutors rely upon subpoenas or requests to attend the higher court when such dates become known, there is little utility served by the notices apart from having the effect of binding the witnesses over to appear in the higher court.

In accordance with the amendment to the *Criminal Code* to insert new section 593A, where a witness evades service of a subpoena or is likely to do so, the higher court will be enabled to issue an arrest warrant.

Clauses 66, 67, 68, 69 and 70 amend sections 126, 129, 132, 133 and 134 respectively to remove references to notices to witnesses.

Clauses 71 and 72 amend section 142 and 142A respectively to extend the time stated in the sections from 28 days to 2 months.

Clause 73 amends section 150 to require the clerk of the court rather than the justice to make and sign a minute or memorandum of the decision made by the court. The amendment is consistent with section 152A of the *Penalties and Sentences Act 1992* which enables the proper officer of the court to make a record of an order made by the court.

Clause 74 amends section 154 to remove the requirement for a person to demonstrate a sufficient interest in a proceeding to obtain a copy of specified court records under the section. This clause also amends section 154 to include provisions, in addition to the existing restrictions in sections

154(2) and (3), to ensure that copies of records are not available to any person under section 154 in the following circumstances:

- Where a court has made an order prohibiting access to, or the disclosure or publication of, the record;
- Records which are exhibits, if:
 - the giving of the record may risk a person's safety; or
 - the record is, or part of the record contains, confidential and/or sensitive information (for example: criminal histories, victim impact statements, medical reports, social security and tax file numbers, financial account numbers, dates of birth, commercially confidential information and information relating to the health and drug use of a patient);
- Disclosure of the record, or information contained in the record, is prohibited under legislation (other than that already listed in section 154); and
- A record where the court is closed pursuant to an order made under other legislation or a provision under other legislation which requires the court to be closed.

An amendment is also made to provide for requests for depositions to be made to the State Reporting Bureau rather than the clerk of the court. Given the State Reporting Bureau provides transcription services for proceedings heard in Magistrates Courts, this amendment will streamline processing of these requests.

Clause 75 inserts a transitional provision to ensure that an existing notice to a witness continues to have effect until the earlier of the conclusion of the proceeding in relation to the accused person, the court otherwise directs or 3 years, whichever occurs first.

Part 18 Amendment of Justices of the Peace and Commissioners for Declarations Act 1991

Clause 76 provides that part 18 amends the *Justices of the Peace and Commissioners for Declarations Act 1991*.

Clause 77 inserts new subsections 16(1)(d) and 16(3).

Under new subsection 16(1)(d), a person must be an Australian citizen in order to qualify to be a justice of the peace or a commissioner for declarations. This requirement is not a new requirement. Previously the requirement was in section 7 of the *Justices of the Peace and Commissioners for Declarations Regulation 2007*.

New subsection 16(3), which reflects existing section 7(2) of the Regulation, is a transitional provision. Under this section, any non-Australian citizen who held office under the *Justices of the Peace Act 1975* continues to hold office under the *Justices of the Peace and Commissioners for Declarations Regulation 2007*.

Clause 78 omits existing section 17 and inserts a new section 17. New section 17 is a combination of the existing section 17 (Disqualification from office) and sections 8 and 9 of the *Justices of the Peace and Commissioners for Declarations Regulation 2007*.

New subsections 17(1) lists the circumstances which disqualify a person from being appointed, or continuing as, a justice of the peace or commissioner for declarations. These circumstances include where the person:

- is an insolvent under administration within the meaning of the Corporations Act, section 9 (for example, a bankrupt);
- is or has been convicted of an indictable offence;
- is or has been convicted of an offence against the *Justices of the Peace and Commissioners for Declarations Act 1991*;
- is or has been convicted of two or more relevant offences (meaning offences other than indictable offences, offences against the *Justices of the Peace and Commissioners for Declarations Act 1991* and offences under the *Transport Operations (Road Use Management) Act 1995*);
- has been convicted of a relevant offence (meaning offences other than indictable offences, offences against the *Justices of the Peace and Commissioners for Declarations Act 1991* and offences under the *Transport Operations (Road Use Management) Act 1995*) within the last five years; and

- has been convicted of an offence under sections 79 or 80 of the *Transport Operations (Road Use Management) Act 1995* within the last five years.

In addition to the circumstances listed above, a person is also disqualified from being appointed, or continuing, as a justice of the peace or commissioner for declarations if they have:

- been convicted of more than two offences under the *Transport Operations (Road Use Management) Act 1995* (other than offences relating to regulated parking under chapter 5, part 6) within the last four years;
- been convicted of more than six offences under the *Transport Operations (Road Use Management) Act 1995* (other than offences relating to regulated parking under chapter 5, part 6) within the last four years (in which the disqualification is for a period of five years from the date of the last conviction).

For the purposes of the above two disqualifying circumstances:

- new section 17(4) provides that a person who pays an amount by way of penalty in compliance with a notice fixed to a vehicle or given to them under the *Transport Operations (Road Use Management) Act 1995*, without court proceedings being involved, is taken to have been convicted under that Act of the offence on the day the amount is paid;
- new section 17(5) allows the Minister to exempt an applicant from a disqualification if the Minister considers that special circumstances exist.

Clause 79 corrects a minor drafting error.

Part 19 Amendment of Land Court Act 2000

Clause 80 provides that part 19 amends the *Land Court Act 2000*.

Clause 81 amends section 39 to allow the Minister, rather than the Governor in Council, to approve short term leave of absence (i.e. leave of 1 month or less) under the *Judges (Pensions and Long Leave) Act 1957*.

Part 20 **Amendment of Magistrates Act 1991**

Clause 82 provides that part 20 amends the *Magistrates Act 1991*.

Clause 83 amends section 3 to insert a number of new definitions for terms used in the amendments in the following clauses.

Clause 84 amends section 6 to provide that a clerk of the court can only be appointed as an acting magistrate if they are qualified to be appointed as a magistrate unless the Minister is satisfied that exceptional circumstances exist.

Consistent with current practice, this clause also amends section 6 to allow an acting magistrate to be engaged on a needs basis within the period of their appointment to carry out the duties of a magistrate when directed, in writing, by the Chief Magistrate. The amendments provide that the Chief Magistrate may direct a person appointed for a specified period as an acting magistrate to carry out the duties of a magistrate on a full-time basis, part-time basis or from time to time.

Further, this clause inserts a new subsection to clarify that for the purposes of the *Judicial Remuneration Act 2007* a person who is appointed as an acting magistrate holds office for those periods for which they are directed to carry out the duties of a magistrate.

Finally, this clause omits section 6(3)(c). This subsection is no longer required given the insertion of new section 47A dealing with the terms and conditions of acting magistrates.

Clause 85 deletes section 7(4) of the Act. This amendment is consequential to the new section 47A dealing with the terms and conditions of acting magistrates.

Clause 86 amends section 12 of the Act to provide that one of the functions of the Chief Magistrate includes issuing directions to acting magistrates about when the person is to carry out the duties of a magistrate during the person's appointment. A new provision is also inserted to allow the Chief Magistrate to delegate this function to the Deputy Chief Magistrate or another magistrate appointed on a full-time basis.

Clause 87 replaces the heading to section 47 to clarify that the section does not apply to acting magistrates and that it only applies to permanently appointed magistrates.

Clause 88 inserts a new section 47A which specifies the terms and conditions of acting magistrates.

Clause 89 inserts a transitional provision in relation to the amendments. The new sections in this clause validate the directions issued by the Chief Magistrate or another magistrate acting on behalf of the Chief Magistrate to acting magistrates by prior to commencement; and also clarify that an acting magistrate is entitled to remuneration and allowances (including leave entitlements) only for the periods during which they have been directed to carry out the duties of a magistrate.

Part 21 Amendment of Oaths Act 1867

Clause 90 provides that part 21 amends the *Oaths Act 1867*.

Section 41 of the *Oaths Act 1867* lists the persons qualified to take an affidavit without a commission being issued for the purpose.

Clause 91 inserts a new section 41(1)(d) which provides that for affidavits taken outside of Australia, a person authorised to administer an oath under the law of the place in which the affidavit is being sworn may take the affidavit without a commission being issued for the purpose.

Part 22 Amendment of Ombudsman Act 2001

Clause 92 provides that part 22 amends the *Ombudsman Act 2001*.

Clause 93 amends section 92 which restricts the disclosure of information obtained in a preliminary inquiry or an investigation or the performance of another function of the Ombudsman. The amendment will allow the Ombudsman to disclose information of this kind, which has been de-identified, to provide assistance to other agencies for the improvement their administrative practices and procedures, and in undertaking research relevant to the Ombudsman's functions.

Section 92 is also amended to enable the disclosure of information obtained in the performance of any of the functions of the Ombudsman, including by way of a complaint, to an agency if the Ombudsman considers that the agency has a proper interest in the information for the performance of its functions and the disclosure is for the purpose of protecting the health, safety or security of a person or property.

Part 23 Amendment of Penalties and Sentences Act 1992

Clause 94 provides that part 23 amends the *Penalties and Sentences Act 1992*.

Section 12(3) of the *Penalties and Sentences Act 1992* limits where a ‘conviction not recorded’ can be recorded.

Clause 95 inserts a new subsection (3A) into section 12 (Court to consider whether or not to record conviction). Section 12(3)(b) of the Act provides that a ‘conviction without recording the conviction’ must not be entered in any records, subject to certain exceptions. Section (3A) provides that despite section 12(3)(b), the conviction may be entered into a record kept by a Department, prosecuting authority or the offender’s legal representative if recording the conviction is necessary for the legitimate performance of their functions. This would include, for example, a notation on a prosecutor’s file about the outcome of prosecution.

Clauses 96 and 97 amend sections 34 (Court may act under this division whether or not it records a conviction) and 36 (What order must state) of the *Penalties and Sentences Act 1992*.

Under section 36(3), a court must record a conviction when imposing an ‘in default’ imprisonment term for the payment of a restitution or compensation order. In contrast, section 182A provides that the imposition of an ‘in default’ imprisonment term for the payment of a penalty, which is defined as including restitution or compensation, as well as fines and other monetary orders, can occur whether or not a conviction is recorded by the court. The removal of section 36(3) addresses the inconsistency in the requirements of these sections. Section 34 is a consequential amendment.

Part 24 **Amendment of Professional Standards Act 2004**

Clause 98 provides that part 24 amends the *Professional Standards Act 2004*.

Clause 99 inserts a new section 8(4) to provide that a scheme may indicate an intention to operate as a scheme of Queensland only, or as a scheme of both Queensland and another jurisdiction.

Clause 100 amends section 9 to insert a new subsection to require a scheme that is to operate as a scheme of some other jurisdiction to be further publicised in accordance with the requirements of the corresponding law of that other jurisdiction.

Clause 101 amends section 12 to insert a new subsection (1A). This section provides that, in the case of a scheme that is intended to operate as a scheme of another jurisdiction, the Council must also consider the matters that the appropriate Council for the other jurisdiction would have to consider and must consider all matters in the context of each of the jurisdictions concerned.

Clause 102 amends section 13 to insert a new subsection to enable a scheme that indicates an intention to operate as a scheme of another jurisdiction to be submitted by the Council to the Minister administering the corresponding law of the other jurisdiction to allow the scheme to be gazetted in that jurisdiction in accordance with its requirements.

Clause 103 amends section 14 to provide for the gazettal of an interstate scheme in Queensland that has been submitted to the Minister under section 13.

Clause 103 also amends section 14 to rectify an anomaly which requires the Minister to notify the Council's approval in full in the gazette and also, given this notice is subordinate legislation, publish notice in the gazette of the making of the notice. This process is inconsistent with other Queensland legislation.

Clause 104 amends section 15 so as to provide that a scheme's commencement can be postponed not only by the Supreme Court of Queensland but also the Supreme Court of another jurisdiction by an order made under that jurisdiction's corresponding law. This clause also contains an amendment to extend this section to amendments to interstate schemes.

Clause 105 amends section 16 to enable a scheme that operates as a scheme of another jurisdiction to be challenged by persons affected by the scheme as it operates in that jurisdiction. An amendment is also made to insert a new subsection to provide that an interstate scheme may not be declared void under section 16 just because it fails to comply with the requirements of Part 2, Division 2 (Contents of schemes) but may be declared void if it fails to comply with the equivalent provisions of the corresponding law of the jurisdiction in which it was prepared. A further amendment is made to extend section 16 to amendments to interstate schemes.

Clause 106 amends section 17 to enable an interstate scheme to be reviewed for the purpose of determining whether its operation should be terminated in Queensland under the proposed section 18B.

Clause 107 amends section 18(1), (2) and (3) to make a minor drafting change. It also substitutes section 18(4) with new subsections that exclude sections 13(2) and 16 from the list of sections that section 18 extends to the amendment and revocation of schemes and excludes interstate schemes from the application of section 18.

Clause 108 inserts new section 18A. New section 18A requires the Minister to notify his or her interstate counterparts if a scheme is revoked and also to cause a notice to be gazetted of any revocation of an interstate scheme which he or she is given.

Clause 108 also inserts a new section 18B. New section 18B provides for the termination of the operation of interstate schemes in relation to Queensland. Its procedures parallel the procedures established in section 18 for the amendment and revocation of schemes.

Clause 109 amends section 33 which provides for the duration of schemes. The amendments clarify the period for which a scheme prepared in Queensland remains in force and to specify the period for which an interstate scheme remains in force.

Clause 110 amends section 43 to clarify that the Council is to advise the Minister about the publication in the gazette of notice of approval of a scheme or an amendment of a scheme.

Clause 111 amends section 44 to ensure the Council can exercise functions conferred or imposed on it by laws of other jurisdictions.

Clause 112 inserts a new section 44A to ensure that the Council can act in conjunction with its interstate counterparts.

Clause 113 amends section 60 to make a minor drafting change.

Clause 114 amends section 72 to extend the time for review of the Act from 2 years to 5 years.

Clause 115 inserts a new transitional provision which clarifies the expiry date of existing schemes.

Clause 116 amends schedule 2 to define certain words and expressions as a consequence of the proposed amendments in relation to mutual recognition. It also includes a minor drafting amendment to rectify incorrect numbering in the definition of *damages*.

Part 25 Amendment of Public Trustee Act 1978

Clause 117 provides that part 25 amends the *Public Trustee Act 1978*.

Clause 118 amends section 59 to clarify that the court has jurisdiction to sanction the settlement of a claim by a person under a disability on an originating application.

Part 26 Amendment of Recording of Evidence Act 1962

Clause 119 provides that part 26 and the schedule amend the *Recording of Evidence Act 1962*.

Clause 120 amends section 4 to insert a number of new definitions relating to the terms used in the amendments. Consequential amendments are also made to the definition of *record under this Act*.

Clause 121 inserts a new section 4A which describes when a legal proceeding takes place in a courtroom for the purpose of the new definition of *out-of-session recording* and amended definition of *record under this Act*.

This clause also inserts a new section 4B. This new section allows continuous recording under the Act.

Continuous recording is a function of the new digital audio recording system which operates in most Queensland courts. The roll-out of the digital system commenced in 2006. Digital audio recording provides superior quality recordings than the cassette tapes previously used. They also allow easier transcription.

The digital recording system uses a continuous recording loop that operates 24 hours a day, seven days a week (the recording “buffer”). The loop is automatically over-written after a short period. The “court recording” (i.e. while the court is in-session) is extracted from the system before being overridden and is used by the State Reporting Bureau.

The continuous recording function of the digital system enables a temporary audio backup to be made which can be used in the event of a system or human error. This is required on regular occasions for short losses of in-session recordings and has on occasion been required for complete recovery of an entire proceeding because the recording was not correctly started by the operator or the system failed.

Clause 122 amends section 11 to remove subsections relating to the retention and destruction of records and place them in the new section 11A.

Clause 123 inserts a new section 11A which contains provisions in relation to the retention and destruction of records. A new subsection is also added to provide that the requirements in this section do not apply to out-of-session recordings.

This clause also inserts a new section 11B which prohibits access to out-of-session recordings and transcripts of these recordings except by recorders for the purpose of carrying out their functions under the Act. This prohibition applies despite any provision in another Act.

Clause 124 amends section 13(2)(c) to clarify that regulations can be made providing for and regulating and controlling the destruction of any records under the Act other than in relation to out-of-session recordings. An amendment is also made to section 13(2)(e) to provide that regulations may be made providing for and regulating and controlling the making and issuing of transcriptions of any record under this Act (other than out-of-session recordings) and prescribing the persons to whom the same may be issued.

Clause 125 inserts a new section 16. This new section is a transitional provision dealing with undecided applications for access to out-of-session recordings. This section provides that the prohibition on access to

out-of-session recordings in the new section 11B applies to any applications made before commencement if the person has not been provided with the out-of-session recording or a transcription of an out-of-session recording.

Part 27 Amendment of Small Claims Tribunal Act 1973

Clause 126 provides that part 27 amends the *Small Claims Tribunal Act 1973*.

Clause 127 amends sections 23A(3A)(a) and 23A(3B)(a) to clarify that oral and written evidence may be given during an examination by either the referee or registrar of a person who has been required by an order of the Small Claims Tribunal to pay money.

Part 28 Amendment of Solicitor-General Act 1985

Clause 128 provides that part 28 amends the *Solicitor-General Act 1985*.

Clause 129 amends section 12. Section 12(2) of the Act provides that the Solicitor-General shall have the same entitlements to leave on account of long service as a judge of the Supreme Court. Long service leave of absence for a judge of the Supreme Court is governed by the *Judges (Pensions and Long Leave) Act 1957* and that Act provides for approval of leave by the Chief Justice if the judge is a Supreme Court judge.

The amendment clarifies and streamlines approval of long service leave for the Solicitor-General by providing that the Minister may approve leave of absence for periods of 1 month or less. The Governor in Council is to approve leave of absences of more than 1 month

Part 29 **Amendment of Supreme Court Act 1995**

Clause 130 provides that part 29 amends the *Supreme Court Act 1995*.

Clause 131 amends section 210(1) to streamline court appointments by providing that the only appointments to be made by the Governor in Council for the court are a principal registrar and associates. This amendment is consequential to the amendment in clause 132.

Clause 132 inserts a new section 210A which allows the chief executive, rather than the Governor in Council, to appoint registrars (other than the principal registrar), deputy registrars and other officers for the court.

Clause 133 amends section 212 to allow the chief executive, rather than the Governor in Council, to appoint the sheriff.

Clause 134 amends section 213 to provide that the chief executive, rather than the Governor in Council, may appoint deputy sheriffs.

Clause 135 deletes section 214. This section is outdated and obsolete as district sheriffs are no longer appointed.

Clause 136 amends section 232 to allow the chief executive, rather than the Governor on the advice of the Executive Council, to appoint a high bailiff and bailiffs.

Clause 137 amends section 273(1) to allow the chief executive, rather than the Governor in Council, to appoint officers for the purposes of the Central, Northern and Far Northern Courts.

Clause 138 inserts a transitional provision to ensure that the principal registrar's appointment continues after commencement of the amendments.

Part 30 **Other minor amendments**

Clause 139 provides that the schedule amends the Acts it mentions.

The schedules includes minor amendments to:

- the *Anti-Discrimination Act 1991* to clarify that section 265 is subject to new section 266A;

- the *Associations Incorporation Act 1981* to replace an incorrect reference to ‘unincorporated’ with ‘incorporated’;
- section 6 of the *Bail Act 1980* to delete an obsolete reference to ‘under sheriff’;
- update the terminology used in sections 5, 8, 14, 15, 16, 18, 25, 26 and 27 of the *Childrens Court Act 1992* by removing the references to ‘stipendiary’ (the term ‘stipendiary’ is now obsolete following amendments made to the *Magistrates Act 1991* in 2000);
- correct drafting errors in the *Civil Liability Act 2003*; and
- 313 and the definition of ***proper officer*** in schedule 4 of the *Juvenile Justice Act 1992* to delete an obsolete reference to ‘under sheriff’.

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