

# Justice (Fair Trading) Legislation Amendment Bill 2008

## Explanatory Notes

### Short Title

The short title of the Bill is the Justice (Fair Trading) Legislation Amendment Bill 2008

### Objective of the Bill

This Bill amends a range of Departmental (Fair Trading) Acts.

#### *CrimTrac*

As a result of a Cabinet Budget Review Committee decision to have a user-pays regime for criminal history reports, amendments are necessary to a range of relevant Departmental Acts to enable the Office of Fair Trading to recover the reasonable costs associated with obtaining criminal history reports. A temporary arrangement has been in place since 1 July 2005 for recovery of these costs, and the fees charged under the proposed amendments will be in the same amount as the costs presently being recovered.

#### *Churches of Christ, Scientist Incorporation Act 1964*

There is only one remaining member of the Second Church of Christ, Scientist, Brisbane, which means that this incorporated body cannot form the quorum necessary to wind it up. Amendments are therefore necessary to the *Churches of Christ, Scientist, Incorporation Act 1964* to enable the winding-up of entities incorporated under the Act.

#### *Partnership Act 1891*

Queensland is part of a national venture capital incentive scheme which encourages international investment into the growing Australian venture capital investment sector by providing tax exemptions and capital gains concessions for eligible participants. In order for Queensland investors to take advantage of the new investment vehicle, the *Partnership Act 1891*

will need to be amended to allow the new investment vehicle to be registered under the Act.

### ***Amendments to other Departmental (Fair Trading) Acts***

Other amendments are necessary to provide clarity, consistency and certainty where this is currently lacking, including amendments to:

- the *Commercial and Consumer Tribunal Act 2003*, to make it clear that the chief executive can register decisions of the Tribunal and can make submissions in relation to the Claim Fund under the *Property Agents and Motor Dealers Act 2000*, and to provide for certainty in relation to the period in which to start an appeal in relation to the Claim Fund under the *Property Agents and Motor Dealers Act 2000*;
- the *Property Agents and Motor Dealers Act 2000*, to repeal a superfluous requirement for an approved financial institution to be prescribed by regulation;
- the *Body Corporate and Community Management Act 1997*, to omit a provision that is inconsistent with the appeal provisions of the Act;
- the *Fair Trading Act 1989*, to make it clear that the register of enforceable undertakings can be published on the Department's website; and
- the *Security Providers Act 1993*, to make it clear that the list of disqualifying offences includes stalking, and to ensure that the Chief Executive can consider interstate offences, which if committed in Queensland would be disqualifying offences under the Act for licensing decisions.

## **Reasons for the Bill**

### **CrimTrac**

Various Departmental Acts permit the Chief Executive or the Commissioner for Fair Trading to obtain a written criminal history report from the Commissioner of Police to assist in determining an applicant's suitability for licensing or registration. These Acts include:

- *Property Agents and Motor Dealers Act 2000*;
- *Residential Services (Accreditation) Act 2002*;
- *Second-hand Dealers and Pawnbrokers Act 2003*;
- *Security Providers Act 1993*;
- *Introduction Agents Act 2001*;
- *Retirement Villages Act 1999*;
- *Tourism Services Act 2003*; and
- *Travel Agents Act 1988*.

These Acts contain either a registration or licensing requirement for persons wishing to carry on relevant businesses or occupations. The Chief Executive and Commissioner for Fair Trading are presently empowered to request a criminal history report from the Commissioner for Police when assessing the suitability of applicants for registration or a licence, including at the time of renewal.

Since 1 July 2004, criminal history reports requested by the Chief Executive and Commissioner for Fair Trading have involved the use of the Commonwealth CrimTrac agency. CrimTrac is an executive agency established under the Commonwealth *Public Service Act 1999*, which provides national police record-checking services to accredited agencies to assist with pre-employment probity assessments. In the 2004-05 financial year, the former Department of Tourism, Fair Trading and Wine Industry Development was provided with non-recurrent funding to meet its costs incurred in obtaining criminal history reports to determine suitability under its licensing or registration legislation.

In December 2004, the Cabinet Budget Review Committee determined that a user-pays regime was to be implemented by affected agencies for employment and licensing purposes by 1 July 2005. To implement this directive on an interim basis, the Office of Fair Trading has utilised section 36(2) of the *Financial Administration and Audit Act 1977* to enable the Chief Executive to recover the reasonable cost of obtaining criminal history reports further to licence or registration processing.

#### Other related miscellaneous amendments to relevant Acts

Due to the need for the Office of Fair Trading to assess applications for licensing and registration applications expeditiously, approvals may be granted to 'low risk' applicants, without a criminal history report having

been received from the Commissioner of Police. For example, internet licensing and registration renewals could be effectively granted immediately after the applicant completes the on-line application process if the Office of Fair Trading was satisfied that the applicant was low risk.

A number of Acts will be amended to ensure that action may be taken where false statements are made on applications for licences (or renewals of licences) in relation to whether the applicant has a relevant criminal history.

#### Amendments to the *Travel Agents Act 1988*

While the *Travel Agents Act 1988* presently empowers the Commissioner for Fair Trading to make inquiries further to applications made for a licence, and to take disciplinary action against licensees, the Queensland Police Service advise that this power should specifically authorise disclosure of an applicant's criminal history. The Commissioner of Police is presently providing criminal history reports to the Office of Fair Trading under a discretionary power provided in section 10.2 of the *Police Service Administration Act 1990*.

The *Travel Agents Act 1988* must be amended to provide clear authority for the Commissioner for Fair Trading to request a criminal history report from the Commissioner of Police in relation to licensees and licence applicants.

#### Amendments to the *Churches of Christ, Scientist Incorporation Act 1964*

The Second Church of Christ, Scientist, Brisbane (Second Church), a body corporate constituted under the *Churches of Christ, Scientist, Incorporation Act 1964*, (CCSI Act) has only one remaining member. The solicitors for the First Church of Christ, Scientist, Brisbane (the First Church) and the Christian Science Trust in Australia have advised the Office of Fair Trading that they wish to secure the winding up of the Second Church and the transfer of its assets to the Christian Science Trust in Australia. The First Church is the Mother Church of the worldwide Christian Science Movement and the principal Church of Christ, Scientist in Brisbane.

The Rules and By-Laws of the Second Church require a certain quorum for the making of decisions about winding up and disposal of property, however no such quorum can be reached given the present membership. The problem could also not be fixed by admitting new members, as similar quorum requirements apply to that process also.

Crown Law advice has confirmed that the CCSI Act therefore requires amendment to provide an alternative way for the Church to wind up its entities and dispose of property.

### Amendments to the *Partnership Act 1891*

The Australian Government venture capital incentive scheme ('the scheme') encourages international investment into the growing Australian venture capital investment sector by providing tax exemptions and capital gains concessions for eligible participants. On 21 June 2007, the *Tax Laws Amendment (2007, Measures No.2) Act 2007 (Cth)* commenced, creating a new investment vehicle called an Early Stage Venture Capital Limited Partnership (ESVCLP) within the scheme.

The scheme operates under State and Territory legislation, including the Queensland *Partnership Act 1891*, which provides for the creation of an incorporated limited partnership for use under the Commonwealth *Venture Capital Act 2002*.

A partnership is a contractual relationship between two or more parties carrying on business in common with a view to a profit. Each partner has the capacity to legally bind each and every other partner. In addition, each and every partner is jointly liable for all debts and obligations of the partnership. Partnerships in Queensland are governed primarily by the *Partnership Act 1891*.

Incorporated limited partnerships are a specific type of partnership formed through the registration process prescribed under the *Partnership Act 1891*. An incorporated limited partnership consists of at least one general partner and at least one limited partner. It has its own legal identity and is a body corporate.

The *Partnership Act 1891* expressly limits the liability of limited partners. A limited partner has no liability for the liabilities of the incorporated limited partnership or a general partner in the incorporated limited partnership. The 'trade off' for this limitation of liability is that limited partners are prohibited by the *Partnership Act 1891* from participating in the management of the business of the partnership outside of the 'safe harbours' prescribed in the Act.

An incorporated limited partnership may only be registered if it is a Venture Capital Limited Partnership (VCLP) or Australian Fund of Funds (AFOF) partnership with the *Commonwealth Venture Capital Act 2002* or is recognised as a Venture Capital Management Partnership under section

94D of the Commonwealth *Income Tax Assessment Act 1936*. These options constitute the Australian Government venture capital incentive scheme, which encourages international investment into the growing Australian venture capital investment sector by providing taxation exemptions and capital gains concessions for eligible participants.

The ESVCLP, also created by the Australian Government, is a new investment scheme within the existing Australian Government venture capital investment scheme. On 21 June 2007, the *Tax Laws Amendment (2007, Measures No.2) Act 2007* commenced, creating this new scheme. In order for Queensland investors to take advantage of the new investment vehicle, the *Partnership Act 1891* will need to be amended to allow partnerships seeking to utilise the new investment vehicle to be registered.

#### Amendments to the *Commercial and Consumer Tribunal Act 2003*

A recent District Court decision highlighted the potential for open-ended appeal periods under the *Commercial and Consumer Tribunal Act 2003* (CCT Act). This would have serious implications in relation to the payment of claims under the Claim Fund (established by the *Property Agents and Motor Dealers Act 2000* (PAMDA), to prescribe a definitive timeframe for commencing appeals from Commercial and Consumer Tribunal decisions) because such payments must not be made until the end of the period allowed for appeal. The CCT Act will be amended to provide a set period within which to commence an appeal.

Likewise, another CCT decision has drawn attention to the fact that the Chief Executive does not presently have standing in relation to hearings concerning the Claim Fund. The PAMDA will be amended to provide the Chief Executive with standing in these matters.

Related to the current lack of standing of the Chief Executive in the CCT is the inability of the Chief Executive under PAMDA to register a decision of the CCT in relation to a Claim Fund matter for enforcement purposes. PAMDA allows the Chief Executive to seek reimbursement of the Claim Fund from a person named in the CCT's order as being liable for the claimant's loss. The CCT Act provides that only parties to a decision may register a decision of the CCT in a court. Making the chief executive a party will make it easier for the Claim Fund to be reimbursed.

#### Amendments to the *Property Agents and Motor Dealers Act 2000*

The *Property Agents and Motor Dealers Act 2000* provides a comprehensive licensing system to set standards for industry practice and

safeguards for consumers, in relation to real estate agents, motor dealers and other salespeople.

Under the Act, a licensee must only open trust accounts with ‘approved financial institutions’ – being those defined as financial institutions which have been prescribed under a regulation and have entered into an agreement with the Chief Executive. These agreements regulate the payment of interest on the whole or part of amounts held in licensees’ trust accounts. Given the requirement for this agreement with the Chief Executive, the requirement for the financial institution to also be prescribed by regulation offers no additional consumer protection, and will be repealed.

#### Amendments to the *Body Corporate and Community Management Act 1997*

The *Body Corporate and Community Management Act 1997* (BCCM Act) provides for the establishment and administration of community titles schemes in Queensland. On 1 July 2007, the *Body Corporate and Community Management and Other Legislation Amendment Act 2007* amended the BCCM Act to enhance dispute resolution processes.

As a result of these recent amendments, the BCCM Act now provides that an appeal on an adjudicator’s order on a question of law (in a dispute which is not a complex dispute) may only be made to the Commercial and Consumer Tribunal rather than the District Court. The BCCM Act needs to be amended to omit section 229(5), which incorrectly refers to the previous right to appeal these adjudicator’s order to the District Court on a question of law.

#### Amendments to the *Fair Trading Act 1989*

The *Fair Trading Act 1989* (FTA) will be amended to permit publication of the register on the Office of Fair Trading website and allow greater public access to the register of enforceable undertakings made under the FTA. Legal advice received by Office of Fair Trading indicates that the FTA does not presently support such publication.

#### Amendments to the *Security Providers Act 1993*

Section 11 of the *Security Providers Act 1993* (SP Act) states that a person is not an appropriate person to hold a licence if the person, within 10 years of applying for a licence, has been convicted of a disqualifying offence. Originally unlawful stalking was a disqualifying offence, listed in the Schedule to the SP Act. On 13 April 1999, the *Criminal Code (Stalking) Amendment Act 1999* removed unlawful stalking from Chapter 33 of the

Criminal Code and placed it in its own new Chapter 33A. However, the Schedule to the SP Act was not amended at the time to reflect this.

The SP Act will be amended to prescribe Chapter 33A of the Criminal Code in the Schedule.

Further, section 27 of the *Security Providers Amendment Act 2007*, passed by the Legislative Assembly on 15 March 2007, contained a drafting omission. While proper effect could be given to the amendment in the reprint, the Office of the Queensland Parliamentary Counsel has advised that a declaratory provision should be inserted into the SP Act to provide certainty.

Currently the Chief Executive, or delegate, can consider a suspension or a refusal to renew a licence under section 21(3) of the SP Act if the person required to be an appropriate person for the licence is charged with a disqualifying offence under the Act.

However, at present there is no provision under the Act in which charges for interstate disqualifying offences can be taken into account when considering suspension or refusal to renew a security provider's licence. This means the Chief Executive does not have the ability to consider charges for offences such as assault and theft if the proceedings occur interstate. The SP Act will be amended to allow such offences to be taken into account.

## **Achievement of the Objective**

### Crim Trac

The following Acts will be amended to provide a specific head of power to enable the Chief Executive or the Commissioner for Fair Trading to recover the costs of obtaining criminal history reports:



- *Property Agents and Motor Dealers Act 2000*;
- *Residential Services (Accreditation) Act 2002*;
- *Second-hand Dealers and Pawnbrokers Act 2003*;
- *Security Providers Act 1993*;
- *Introduction Agents Act 2001*;
- *Retirement Villages Act 1999*;
- *Tourism Services Act 2003*; and
- *Travel Agents Act 1988*.

The relevant Acts will also provide that the Chief Executive will set the fee.

#### Other related miscellaneous amendments to relevant Acts

Due to the need for the Office of Fair Trading to assess applications for licensing and registration applications expeditiously, approvals may be granted to 'low risk' applicants, without a criminal history report having been received from the Commissioner of Police. For example, internet licensing and registration renewals could be effectively granted immediately after the applicant completes the on-line application process if the Office of Fair Trading was satisfied that the applicant was low risk.

The following Acts will be amended to ensure that action may be taken where false statements are made on applications for licences (or renewals of licences) in relation to whether the applicant has a relevant criminal history:

- *Property Agents and Motor Dealers Act 2000*;
- *Residential Services (Accreditation) Act 2002*;
- *Second-hand Dealers and Pawnbrokers Act 2003*;
- *Security Providers Act 1993*;
- *Introduction Agents Act 2000*;
- *Retirement Villages Act 1999*;
- *Tourism Services Act 2003*; and
- *Travel Agents Act 1988*.

Amendments to the *Travel Agents Act 1988*

A new provision will be included in the *Travel Agents Act 1988* that provides for the Commissioner of Police to disclose an applicant's criminal history information to the Commissioner for Fair Trading similar to sections 32 (2), (3) and (4) of the *Property Agents and Motor Dealers Act 2000*.

Amendments to the *Churches of Christ, Scientist Incorporation Act 1964*

New provisions will be inserted into the *Churches of Christ, Scientist Incorporation Act 1964* (CCSI Act) to provide a process for winding-up and disposal of all entities incorporated under the CCSI Act. This process will be modelled on the relevant provisions in Part 10 of the *Associations Incorporation Act 1981*, which require an application to the Supreme Court. In addition, there will be specific provisions to effect the immediate winding up of the Second Church and the disposal of its property to the First Church.

Amendments to the *Partnership Act 1891*

An existing registration framework exists in the *Partnership Act 1891* for the registration of a Venture Capital Limited Partnership and Australian Fund of Funds partnership. The *Partnership Act 1891* will be amended to provide for the registration of the Early Stage Venture Capital Limited Partnership in the same manner as currently provided for the other investment vehicles.

Amendments to the *Commercial and Consumer Tribunal Act 2003*

The *Commercial and Consumer Tribunal Act 2003* (CCT Act) will be amended to allow the Chief Executive to register a decision of the CCT in relation to payment from the Claim Fund for the *Property Agents and Motor Dealers Act 2000* (PAMDA) in a court, for the purpose of seeking reimbursement of that payment as a debt owed to the Chief Executive. This amendment will allow the Chief Executive to register a decision of the Tribunal even if the decision has been made prior to the commencement of the amendment.

The CCT Act will also be amended to ensure there is a definitive time for commencing an appeal in relation to decisions of the CCT regarding Claim Fund matters for PAMDA. This will be done by providing that the decision of the CCT in relation to the Claim Fund matter will take effect from the date on which it is published. The originating process for the proceeding will also be required to be personally served on the party, ensuring that the proceedings have been brought to his or her attention.

Amendments to the *Property Agents and Motor Dealers Act 2000*

Section 410 of the *Property Agents and Motor Dealers Act 2000* will be amended to remove the requirement in subsection 2(b) for a financial institution to be prescribed under a regulation as a financial institution to which this section applies.

The definition of an ‘**approved financial institution**’ in the Dictionary will also be amended by removing the limb which provides the financial institution has been prescribed under a regulation as a financial institution to which section 410 applies.

Amendments to the *Body Corporate and Community Management Act 1997*

Section 229(5) of the Act, which incorrectly refers to the previous right to appeal an adjudicator’s order to the District Court on a question of law, will be omitted.

Amendments to the *Fair Trading Act 1989*

As publishing the register on the Office of Fair Trading website is a convenient means of making this important information available to consumers, the Act will be amended to allow this to be done.

Amendments to the *Security Providers Act 1993*

The definition of ‘disqualifying offence’ in the *Security Providers Act 1993* will be amended so that it includes charges for offences in other states and territories, which would also be a disqualifying offence if committed in Queensland. The offence of ‘stalking’ will also be included in the list of disqualifying offences.

## **Estimated Cost for Government Implementation**

Nil.

## **Consistency with Fundamental Legislative Principles**

The proposal to insert a power to cancel a person’s licence or registration if they make a false statement about whether they have a criminal history could be seen to impact upon a person’s rights and liberties. However, the relevant Acts already require that a criminal history report be obtained to determine a person’s suitability for licensing or registration. Furthermore, a false statement by an applicant calls into question their character and

suitability to hold a licence or registration and is a fair basis upon which these may be cancelled.

Further, a decision to cancel a person's licence or registration will be a reviewable decision under each of the relevant Acts. The applicant will receive notice of the decision to cancel their licence or registration, the reason for this decision and notice will be given that the applicant may appeal against the decision to the appropriate appeal body under each Act. As such, the principles of natural justice will not be infringed.

The amendment which provides that the decision of the Commercial and Consumer Tribunal (CCT) in relation to a claim fund matter for PAMDA will take effect upon publication with the intention of providing certainty in relation to the period of time to lodge an appeal, may be seen to affect individual rights. However, the requirement for personal service of the originating process will preserve the rights of parties, ensuring that they are aware of the proceedings from the outset. Further, the time period for an appeal has not changed. A party still has 28 days in which to lodge an appeal. This new provision under the CCT Act is only limited to decisions of the CCT in relation to PAMDA Claim Fund matters.

### **Whether the Bill is substantially uniform or complementary with legislation of the Commonwealth or another State**

Nil.

### **Consultation**

#### Community

As the amendments are only minor in nature and assist with the interpretation and operation of existing legislation, it is not considered necessary in this instance to consult widely with the community. Instead, targeted consultation with key affected industry stakeholders has been conducted.

Specific consultation has been undertaken with the legal representatives of the Church entities incorporated under the *Churches of Christ, Scientist, Incorporation Act 1964*.

#### Government

The Queensland Police Service have been consulted on the CrimTrac amendments. Members of the Commercial and Consumer Tribunal have

been consulted on the changes to be made to the *Commercial and Consumer Tribunal Act 2003* and the *Property Agents and Motor Dealers Act 2000*. All other government departments have been consulted.

## Notes on Provisions

### Part 1 Preliminary

Clause 1 provides that the short title is the Justice (Fair Trading) Legislation Amendment Bill 2008.

Clause 2 provides that all provisions will commence upon proclamation.

### Part 2 **Amendment of *Body Corporate and Community Management Act 1997***

Clause 3 states that this part and the schedule amend the *Body Corporate and Community Management Act 1997*.

Clause 4 amends section 229 to omit an incorrect reference to the previous right to appeal an adjudicator's order to the District Court on a question of law. Under the Act, orders of an adjudicator in relation to disputes that are not complex disputes can now be appealed on a question of law only to the Commercial and Consumer Tribunal.

Clause 5 corrects a cross-reference in section 266A(3)(e) by inserting 'sections 271 and 273' in place of 'section 274(3)', and also renumbers provisions.

Clause 6 amends section 271 to clarify an adjudicator's power to access body corporate records when investigating an application to resolve a dispute.

Under section 271(5) the body corporate or someone else who has access to the body corporate's records must, if asked by an adjudicator and without payment of a fee, give the adjudicator copies of the records or allow the adjudicator to make the copies. The amendment clarifies that the person must give the adjudicator copies or allow the adjudicator to make copies in accordance with the adjudicator's request.

Clause 7 amends section 289 to clarify a cross-reference.

Clause 8 amends Schedule 6 (Dictionary) to remove an obsolete cross-reference to an expired provision.

### **Part 3                      Amendment of *Churches of Christ, Scientist, Incorporation Act 1964***

Clause 9 states that this part amends the *Churches of Christ, Scientist, Incorporation Act 1964*.

Clause 10 inserts new sections 7A and 7B. These sections provide for the winding up of churches under the Act and the specific winding up of the Second Church of Christ, Scientist, Brisbane.

The new section 7A provides for the specific winding up of the Second Church of Christ, Scientist, Brisbane. From the commencement of these provisions the Second Church will be dissolved and the dissolution will be taken to be a winding-up of an incorporated association under the *Associations Incorporation Act 1981* and sections 90 and 91(2) and (3) of that Act are taken to apply as if the Second Church were wound-up by an Order of the Supreme Court under section 90. Any real and personal property belonging to or held in trust for the Second Church will be vested in the First Church of Christ, Scientist, Brisbane together with all the Second Church's rights and obligations as in force immediately before the commencement of these provisions.

The new section 7B provides for the winding up of other churches and provides that a church is an incorporated association and may be wound up under part 10 of the *Associations Incorporation Act 1981*. Part 10 of the *Associations Incorporation Act 1981* provides for both voluntary winding up and winding up upon application to the Supreme Court.

Previously, there were no provisions providing for any form of winding up of the churches under the Act.

While Part 10 of the *Associations Incorporation Act 1981* provides for a process for the distribution of surplus assets. The new provision, section 7B provides that despite Part 10 of the *Associations Incorporation Act 1981*, a regulation may provide for the vesting of surplus assets of the church.

## **Part 4                      Amendment of *Commercial and Consumer Tribunal Act 2003***

Clause 11 states that the *Commercial and Consumer Tribunal Act 2003* (CCT Act) is amended in part 44 and the schedule.

Clause 12 replaces section 41. The new section 41 provides further direction in relation to service of documents.

It will now also provide that if personal service is required either under the *Commercial and Consumer Tribunal Act 2003* (CCT Act) or any empowering Act, that it may be effected in the same way as an originating process that is required to be served personally under the *Uniform Civil Procedure Rules 1999* may be served.

There is now a requirement for personal service of the originating process for a *Property Agents and Motor Dealers Act 2000* (PAMDA) Claim Fund matter (see clause 63).

Clause 13 inserts a new section 43A. This is a new provision allowing for substituted service.

This new provision provides an option should personal service, or service otherwise required under section 41 or any empowering Act, prove impracticable.

Clause 14 amends section 53 to provide that the chief executive may apply to the Tribunal to be included as a party, in relation to a PAMDA Claim Fund matter.

Clause 15 amends section 92 in relation to when a decision of the Tribunal takes effect. It provides that in relation to PAMDA Claim Fund matters, a decision of the Tribunal takes effect when the decision or order of the Tribunal is published.

This amendment will now provide for a definitive time period in which to commence an appeal for PAMDA Claim Fund matters. If all parties are present, a decision of the Tribunal will still take effect when a decision is given or an order is made. However, if all parties are not present, the decision will take effect when the decision or order is published. A party will have 28 days from the date that the decision or order of the Tribunal is published to file an appeal. Previously the effect of section 92 was that if one of the parties to a proceeding were not present when the decision was made or the order was given, the decision or order could not take effect, and the time in which to lodge an appeal could not commence until that party was served with the decision or order.

The new requirement for personal service (clause 63) means that the party will be made aware of the proceeding from the commencement of proceedings.

Clause 16 amends section 93 to provide that the chief executive may register a decision of the Tribunal in relation to a PAMDA Claim Fund matter for the purposes of enforcement by a court of competent jurisdiction.

It also provides that it will be sufficient to satisfy the affidavit of service requirements that are necessary prior to registering a decision, if the party's affidavit states that service of the decision was effected on the person against whom the decision was given by substituted service in the way stated by the Tribunal in a stated order.

Clause 17 amends section 95. This section enables the Tribunal to reopen an order upon application of an entity in relation to whom an order was made. Consequential to the amendment to section 92 (clause 15), it provides that the application to reopen an order must be made either within 14 days after the order was served on the entity, or within 14 days after the order was published.

Clause 18 amends section 100 to ensure the reference to the chief executive (PAMDA) is consistent throughout the Act.

Clause 19 amends section 114 to provide that the chief executive may make submissions in relation to claim fund matters, including submissions about liability for the claimant's financial loss.

PAMDA allows the chief executive to seek reimbursement from the Claim Fund from a person named in the Tribunal's order as being liable for the claimant's loss. This amendment is not intended to enable the chief



executive to make submissions on the claimant's behalf. Rather, as a claim against the PAMDA fund involves public monies, the intention is to give the chief executive a right of appearance and to make submissions on Claim Fund matters about liability.

Clause 20 inserts a transitional provision in relation to registration of Tribunal decisions involving a fund claim. The chief executive may register the decision under section 93 as in force after the commencement of this amendment even though the decision was given before the commencement.

Clause 21 inserts a definition of 'chief executive (PAMDA)' and 'fund claim' into the schedule 2 Dictionary.

## **Part 5**                      **Amendment of *Fair Trading Act 1989***

Clause 22 states that this part amends the *Fair Trading Act 1989*.

Clause 23 amends section 91L to provide that the Commissioner for Fair Trading may publish the information contained in the register of undertakings on the department's website.

## **Part 6**                      **Amendment of *Introduction Agents Act 2001***

Clause 24 states that this part amends the *Introduction Agents Act 2001*.

Clause 25 amends section 19 in relation to licence applications to provide that at the time the application for a licence is made the application must be accompanied not only by the application fee, as prescribed, but by the reasonable, but no more than actual, costs of obtaining a report about the criminal history of the applicant and any associated person of the applicant.

The amendment also provides that either the approved form or a notification on the department's web site is a satisfactory means of

notifying the applicant of the requirements to pay the reasonable cost of obtaining a criminal history report.

Clause 26 amends section 23 in relation to the chief executive's ability to make inquiries about a person's suitability to hold a licence.

There is a new requirement that if the criminal history of the applicant or the named associated person records a conviction against the applicant or the named associated person, the commissioner's report must be in writing.

Clause 27 inserts new sections 23A and 23B.

The new section 23A provides that the chief executive may require an applicant to pay the reasonable, but no more than actual, costs of obtaining a report about the criminal history of the applicant or an associated person of the applicant.

Previously, the chief executive relied on provisions in the *Financial Administration and Audit Act 1977* to enable the chief executive to recover the reasonable cost of obtaining a criminal history report. This new provision creates a specific power within the *Introduction Agents Act 2001* to recover these costs.

There is also a requirement that the chief executive must refund to the applicant the amount paid by the applicant, if the chief executive either refuses the grant of a licence or the applicant withdraws their application, before the chief executive requests the report from the police commissioner.

An applicant is taken to include a proposed applicant.

The new section 23B protects the confidentiality of the information obtained under section 23. The information supplied under this new section may only be used to help the commissioner perform a function under the Act and must not be disclosed for any other purpose except as required or permitted by law. The Commissioner must also destroy the written report after it has been used.

Clause 28 amends section 25 in relation to the renewal of a licence to provide that at the time the application for a renewal is made the application must be accompanied not only by the application fee, as prescribed, but also by the reasonable, but no more than actual, costs notified by the chief executive to the applicant of obtaining a report about the criminal history of the applicant and any associated person.

A requirement to pay costs of a criminal history report under section 23A(1) is sufficiently made if it is made in the approved form or notified on the department's web site.

Clause 29 amends section 26 to include an additional circumstance under which the chief executive may suspend, cancel, refuse to renew or impose conditions on a licence. If a renewal of a licence was obtained by providing materially incorrect or misleading information then this is also a ground for suspending, cancelling, refusing to renew or imposing conditions on a licence.

## **Part 7**                      **Amendment of *Partnership Act 1891***

Clause 30 states that this part amends the *Partnership Act 1891*.

Clause 31 provides for a definition of 'ESVCLP' in Chapter 4 of the *Partnership Act 1891*.

An Early Stage Venture Capital Limited Partnership (ESVCLP) is a new investment vehicle within the Australian Government venture capital incentive scheme.

Clauses 32, 33, 34, 35, 36 and 37 insert ESVCLP into the current framework in the *Partnership Act 1891* that provides for the registration of a Venture Capital Limited Partnership (VCLP) and Australian Fund of Funds (AFOF).

The *Partnership Act 1891* will now allow the new investment vehicle (the ESVCLP) to be registered under the Act.

Clause 38 inserts a definition of 'ESVCLP' into the schedule Dictionary. A reference is made to the definition in section 70, Chapter 4 of the Act that provides that 'ESVCLP' means and ESVCLP within the meaning of the *Venture Capital Act 2002* (Cwlth).

## **Part 8**                      **Amendment of *Property Agents and Motor Dealers Act 2000***

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Clause 39 states that this part amends the *Property Agents and Motor Dealers Act 2000*.

Clause 40 amends section 5(3) to update a drafting reference to the *District Court of Queensland Act 1967*.

Clause 41 amends section 21 to provide that at the time the application for a licence is made the application for a licence must be accompanied by the fee prescribed under a regulation as well as the reasonable costs notified by the chief executive to the applicant of obtaining a report about the criminal history of the applicant.

Clause 42 amends section 22, to provide that the application for a licence must be accompanied not only by an application fee and a licence issue fee, but by the costs of obtaining a criminal history report, if required.

Previously, the chief executive relied on provisions in the *Financial Administration and Audit Act 1977* to enable the chief executive to recover the reasonable cost of obtaining a criminal history report. This new provision creates a specific power within the *Property Agents and Motor Dealers Act 2000* to recover these costs.

Clause 43 amends section 32 in relation to investigations about the suitability of applicants and licensees to hold a licence and includes partnership members if the applicant or licensee is a partnership. There is a requirement that if the criminal history of the person records a conviction against the person for an offence, the commissioner's report must be written. An applicant is taken to include a nominated person mentioned in section 64(3), 65(4) or 66(4).

Clause 44 inserts a new section 32A which provides that the chief executive may require an applicant or licensee to pay the reasonable, but no more than actual, costs of obtaining a criminal history report under section 32 about the applicant or licensee or if the applicant or licensee is a partnership, the partnership's members, or if the applicant or licensee is a corporation the corporation's executive officers, or business associate of the applicant or licensee, or if the licensee has made an application under section 64(3), 65(4) or 66(4) – the person nominated by the licensee under those sections.

Previously, the chief executive relied on provisions in the *Financial Administration and Audit Act 1977* to enable the chief executive to recover the reasonable cost of obtaining a criminal history report. This new

provision creates a specific power within the *Property Agents and Motor Dealers Act 2000* to recover these costs.

The amendment provides that either the approved form or a notification on the department's website is a satisfactory means of notifying the applicant or licensee of the requirements to pay the reasonable cost of obtaining a criminal history report.

There is also a requirement that the chief executive must refund to the applicant or licensee the amount paid by the applicant, if the chief executive either refuses the grant of a licence without asking for the report or the applicant withdraws their application before the chief executive requests the report from the police commissioner.

An applicant is taken to include a proposed applicant.

Clause 45 amends section 33, to clarify that for confidentiality purposes, it is the written criminal history report obtained by the chief executive that must be destroyed after it has been considered.

Clause 46 amends section 57, to provide that the application for renewal of a licence must be accompanied by the costs of obtaining a criminal history report, if required.

Clause 47 amends section 60, to provide that the application for restoration of a licence must be accompanied by the costs of obtaining a criminal history report, if required.

Clause 48 amends section 64, to provide that the application for appointment of a substitute licensee (principal licensee) must be accompanied, not only by the application fee as prescribed, but by the costs of obtaining a criminal history report, if required.

Clause 49 amends section 65, to provide that the application for appointment of a substitute licensee (employed licensee in charge of a licensee's business at a place) must be accompanied, not only by the application fee as prescribed, but by the costs of obtaining a criminal history report, if required.

Clause 50 amends section 66, to provide that the application for appointment of a substitute licensee (pastoral house manager in charge of a licensee's business at a place) must be accompanied, not only by the application fee as prescribed, but by the costs of obtaining a criminal history report, if required.

Clause 51 amends section 67. This is a consequential amendment, to reflect the new provisions in relation to obtaining criminal history reports.

Clause 52 amends section 74 to provide for an additional ground for the chief executive to suspend a licence. The chief executive may suspend a licence if the licence was obtained, or renewed or restored, because materially incorrect or misleading information was provided.

Clause 53 amends section 84 to provide that an application for registration under this section must be accompanied by the reasonable costs notified by the chief executive to the applicant of obtaining a report about the criminal history of the applicant.

Clause 54 amends section 87 to include a new requirement that if the criminal history of the applicant, obtained in the chief executive's investigations about the suitability of the applicant to be a registered employee, includes a conviction recorded against the applicant for an offence, the commissioner's report must be in writing.

Clause 55 inserts a new section 87A, providing that the chief executive may require an applicant for registration as a registered employee or the renewal or restoration of the registration, to pay the reasonable, but no more than actual, costs of obtaining the report about the criminal history of the applicant.

Previously, the chief executive relied on provisions in the *Financial Administration and Audit Act 1977* to enable the chief executive to recover the reasonable cost of obtaining a criminal history report. This new provision creates a specific power within the *Property Agents and Motor Dealers Act 2000* to recover these costs.

There is also a requirement that the chief executive must refund to the applicant the amount paid by the applicant, if the chief executive either refuses the grant of a licence or the applicant withdraws their application, before the chief executive requests the report from the police commissioner.

The amendment also provides that either the approved form or a notification on the department's website is a satisfactory means of notifying the applicant of the requirements to pay the reasonable cost of obtaining a criminal history report.

An applicant is taken to include a proposed applicant.

Clause 56 amends section 88, to clarify that for confidentiality purposes, it is the written criminal history report obtained by the chief executive that must be destroyed after it has been considered.

Clause 57 amends section 94 to provide that the application for a renewal of an employee registration certificate must be accompanied by the reasonable costs notified by the chief executive to the employee of obtaining a report about the criminal history of the employee.

Clause 58 amends section 97 in relation to applications for restoration of an expired registration certificate. It provides that the application must be accompanied by the reasonable costs notified by the chief executive to the applicant of obtaining a criminal history report.

Clause 59 amends section 104 to insert a new circumstance where the chief executive may immediately suspend a registered employees' registration certificate. The chief executive may suspend the registered employees registration certificate if the employee obtained a registration certificate, or a renewal or restoration of the registration certificate, because materially incorrect or misleading information was provided.

Clause 60 amends section 410 to remove the requirement for the financial institution to be prescribed by regulation to be an approved financial institution for the purposes of a licensee opening a trust account. It is sufficient if the chief executive has entered into an agreement with the financial institution and this agreement has been approved by the Minister.

Clause 61 amends section 469 to provide a separate definition for 'complaint for a marketeer proceeding' (although the definition itself has not been altered).

Clause 62 amends section 477 to clarify that the chief executive may provide related documents to the Tribunal in relation to the investigation of a claim against the Claim Fund established under the *Property Agents and Motor Dealers Act 2000* (PAMDA).

These documents may also be provided to the claimant and the respondent.

Clause 63 amends section 485 to provide that personal service on the respondent must be effected for a notice to commence proceedings for a claim referred to the Tribunal.

This amendment will ensure that the respondent is aware of the proceedings from the outset as the effect of the amendment to the *Commercial and Consumer Tribunal Act 2003* (in clause 15) will be to provide for the ultimate decision of the Tribunal in relation to a PAMDA

claim fund to take effect from the date it is published, if the respondent is not present when the Tribunal's decision is made or order is given.

Clause 64 makes a consequential amendment to section 496 to extend the circumstances in which disciplinary proceedings may be commenced to include where a registration certificate has been improperly obtained.

Clause 65 amends the schedule 2 Dictionary to replace the definition of 'approved financial institution', to insert a definition of 'criminal history costs requirement', and to correct an incorrect reference in the definition of 'former licensee'.

The new definition of financial institution removes the requirement for the financial institution to be prescribed by regulation. It is considered sufficient that the chief executive has entered into an agreement with the financial institution.

## **Part 9**                      **Amendment of *Residential Services (Accreditation) Act 2002***

Clause 66 states that this part amends the *Residential Services (Accreditation) Act 2002*.

Clause 67 amends section 10 to provide that the application for the registration of a residential service must be accompanied by both the fee prescribed under a regulation and the reasonable costs notified by the chief executive to the applicant of obtaining a criminal history report.

The amendment also provides that either the approved form or a notification on the department's website is a satisfactory means of notifying the applicant of the requirements to pay the reasonable cost of obtaining a criminal history report.

Clause 68 amends section 15 to allow the chief executive to cancel the registration of the residential service, or the registration of a person as a service provider for the registered service, if the registration was obtained because materially false or misleading information was provided.

Clause 69 amends section 24 to include an additional requirement when a criminal history report is sought about the applicant, that if the criminal



history of the person includes a conviction for an offence, the commissioner's report must be in writing.

Clause 70 inserts a new section 24A, to allow the chief executive to require the applicant or service provider to pay the reasonable, but no more than actual, costs of obtaining a criminal history report about the applicant or the service provider or an associate of the applicant or service provider.

There is also a requirement that the chief executive must refund to the applicant the amount paid by the applicant, if the chief executive either refuses the grant of a licence or the applicant withdraws their application before the chief executive requests the report from the police commissioner.

Previously, the chief executive relied on provisions in the *Financial Administration and Audit Act 1977* to enable the chief executive to recover the reasonable cost of obtaining a criminal history report. This new provision creates a specific power within the *Residential Services (Accreditation) Act 2002* to recover these costs.

Clause 71 amends section 27, to clarify that for confidentiality purposes, it is the written criminal history report obtained by the chief executive that must be destroyed after it has been considered.

Clause 72 amends section 61 to provide that the application by a person to be registered as a service provider for a registered service (becoming a service provider) must be accompanied by the reasonable, but no more than actual, costs notified by the chief executive to the applicant of obtaining a criminal history check for the applicant and any associates of the applicant.

The amendment also provides that either the approved form or a notification on the department's website is a satisfactory means of notifying the applicant of the requirements to pay the reasonable cost of obtaining a criminal history report.

## **Part 10                      Amendment of Retirement Villages Act 1999**

Clause 73 states that this part and the schedule amends the *Retirement Villages Act 1999*.

Clause 74 amends section 27 to provide that the application for registration of a retirement village scheme must be accompanied by the reasonable, but no more than actual, costs notified by the chief executive to the applicant of obtaining a report about the criminal history of the applicant.

The amendment also provides that either the approved form or a notification on the department's website is a satisfactory means of notifying the applicant of the requirements to pay the reasonable cost of obtaining a criminal history report.

Clause 75 amends section 88A to include a new requirement that if the criminal history of the person, obtained in relation to investigations about scheme operators, includes a conviction for an offence, the commissioner's report must be written.

Clause 76 inserts a new section 88AA, relating to the cost of obtaining a criminal history report. It allows the chief executive to require the applicant (for registration of a retirement village scheme) to pay the reasonable, but no more than actual, costs of obtaining a criminal history report about the applicant.

There is also a requirement that the chief executive must refund to the applicant the amount paid by the applicant, if the chief executive either refuses the grant of a licence or the applicant withdraws their application before the chief executive requests the report from the police commissioner.

Previously, the chief executive relied on provisions in the *Financial Administration and Audit Act 1977* to enable the chief executive to recover the reasonable cost of obtaining a criminal history report. This new provision creates a specific power within the *Retirement Villages Act 1999* to recover these costs.

The amendment also provides that either the approved form or a notification on the department's website is a satisfactory means of notifying the applicant of the requirements to pay the reasonable cost of obtaining a criminal history report.

Clause 77 amends section 88B, to clarify that for confidentiality purposes, it is the written criminal history report obtained by the chief executive that must be destroyed after it has been considered.

Clause 78 amends section 90C to correct a cross-reference.

## **Part 11**

# **Amendment of *Second-hand Dealers and Pawnbrokers Act 2003***

Clause 79 states that this part amends the *Second-hand Dealers and Pawnbrokers Act 2003*.

Clause 80 amends section 8 to provide a new requirement that if the criminal history report of a person, obtained in relation to an investigation about suitability of the person to hold a licence, includes a conviction recorded against the person for an offence, the police commissioner's report must be written.

Clause 81 inserts a new section 8A, allowing the chief executive to require an applicant for the grant, renewal or restoration of a licence, to pay the reasonable, but no more than actual, costs of obtaining a criminal history report about the applicant or an associate.

There is also a requirement that the chief executive must refund to the applicant the amount paid by the applicant, if the chief executive either refuses the grant of a licence or the applicant withdraws their application before the chief executive requests the report from the police commissioner.

Previously, the chief executive relied on provisions in the *Financial Administration and Audit Act 1977* to enable the chief executive to recover the reasonable cost of obtaining a criminal history report. This new provision creates a specific power within the *Second-hand Dealers and Pawnbrokers Act 2003* to recover these costs.

Clause 82 amends section 9, to clarify that for confidentiality purposes, it is the written criminal history report obtained by the chief executive that must be destroyed after it has been considered.

Clause 83 amends section 10 to provide that the application for a licence must be accompanied by both the fee prescribed under a regulation and the reasonable, but no more than actual, costs notified by the chief executive to the applicant of obtaining a criminal history check for the applicant and any associates of the applicant.

Clause 84 amends section 13 to provide that the application to renew a licence must be accompanied by both the fee prescribed under a regulation and the reasonable, but no more than actual, costs notified by the chief

executive to the applicant of obtaining a criminal history check for the applicant and any associates of the applicant.

The amendment also provides that either the approved form or a notification on the department's website is a satisfactory means of notifying the applicant of the requirements to pay the reasonable cost of obtaining a criminal history report.

Clause 85 amends section 14 to provide that the application for restoration of a licence (after it has expired) must be accompanied by both the fee prescribed under a regulation and the reasonable, but no more than actual, costs notified by the chief executive to the applicant of obtaining a criminal history check for the applicant and any associates of the applicant.

The amendment also provides that either the approved form or a notification on the department's website is a satisfactory means of notifying the applicant of the requirements to pay the reasonable cost of obtaining a criminal history report.

Clause 86 amends section 19 to insert a new circumstance under which the chief executive may suspend, cancel refuse to renew or restore, or impose conditions on a licence. If the renewal or a restoration of a licence was obtained because of materially incorrect or misleading information, the chief executive may suspend, cancel, refuse to renew or restore a licence, or impose conditions on a licence.

## **Part 12                      Amendment of *Security Providers Act 1993***

Clause 87 states that this part amends the *Security Providers Act 1993*.

Clause 88 amends section 10 to provide that an application for a licence must be accompanied by the reasonable costs of obtaining a criminal history report.

The amendment also provides that either the approved form or a notification on the department's website is a satisfactory means of notifying the applicant of the requirements to pay the reasonable, but no more than actual, cost of obtaining a criminal history report.

Clause 89 amends section 11 in relation to the entitlement of individuals to hold a licence.

Section 11(5) is amended to reflect that the definition of ‘a disqualifying offence’ is now defined in schedule 2 Dictionary to include an offence that would be a disqualifying offence if committed in Queensland.

In Section 11(6), the definition of relevant offence is amended to reflect that the definition of ‘a disqualifying offence’ is now defined in the schedule 2 Dictionary to include an offence that would be a disqualifying offence if committed in Queensland.

Section 11(6) is also amended to relocate the definitions of ‘relevant offence’ and ‘unrecorded finding of guilt’ to schedule 2 Dictionary.

Clause 90 inserts a new section 12AA, allowing the chief executive to require an applicant for the grant or renewal of a licence to pay the reasonable, but no more than actual, costs of obtaining a criminal history report about the applicant or an associate.

Previously, the chief executive relied on provisions in the *Financial Administration and Audit Act 1977* to enable the chief executive to recover the reasonable cost of obtaining a criminal history report. This new provision creates a specific power within the *Security Providers Act 1993* to recover these costs.

There is also a requirement that the chief executive must refund to the applicant the amount paid by the applicant, if the chief executive either refuses the grant of a licence or the applicant withdraws their application before the chief executive requests the report from the police commissioner.

Clause 91 amends section 20, allowing the chief executive to require an applicant for renewal of a licence, to pay the reasonable, but no more than actual, costs of obtaining a criminal history report.

The amendment also provides that either the approved form or a notification on the department’s website is a satisfactory means of notifying the applicant of the requirements to pay the reasonable cost of obtaining a criminal history report.

Clause 92 amends section 21 to insert a new circumstance under which the chief executive can suspend, cancel, or refuse to renew a licence. If the renewal of a licence was obtained because of materially incorrect or misleading information, the chief executive may suspend, cancel or refuse to renew a licence.

Clause 93 inserts declaratory provisions to make it clear that section 27 of the *Security Providers Amendment Act 2007* omitted section 29 as in force immediately before the commencement, inserted new section 29 as set out in section 27 of the *Security Providers Amendment Act 2007*.

Clause 94 amends the schedule 1 list of Disqualifying Offence provisions under the Criminal Code, to include the offence of ‘unlawful stalking’.

Clause 95 amends the schedule 2 Dictionary definition of ‘disqualifying offence’.

A schedule 2 Dictionary will be inserted when the remaining provisions of the *Security Providers Amendment Act 2007* commence.

The definition is amended to make it clear that it includes charges for offences in other states and territories, which would also be a disqualifying offence if committed in Queensland.

## **Part 13                      Amendment of *Tourism Services Act 2003***

Clause 96 states that this part amends the *Tourism Services Act 2003*.

Clause 97 removes an unnecessary reference to notes in the text of the Act forming part of the Act.

Clause 98 amends section 15 about the applicant’s suitability to hold registration. It provides that if the criminal history report, obtained when inquiring about the applicant’s suitability to hold registration, includes a conviction recorded against the applicant or the associated person for an offence, the commissioner’s report must be in writing.

Clause 99 inserts a new section 15A, allowing the chief executive to require the applicant for registration to pay the reasonable, but no more than actual, costs of obtaining a criminal history report about the applicant or an associated person of the applicant.

There is also a requirement that the chief executive must refund to the applicant the amount paid by the applicant, if the chief executive either refuses the grant of a licence or the applicant withdraws their application before the chief executive requests the report from the police commissioner.

Previously, the chief executive relied on provisions in the *Financial Administration and Audit Act 1977* to enable the chief executive to recover the reasonable cost of obtaining a criminal history report. This new provision creates a specific power within the *Tourism Services Act 2003* to recover these costs.

Clause 100 amends section 20 to provide that the application for registration must be accompanied by the reasonable, but no more than actual, costs of obtaining a criminal history report under section 15A.

The amendment also provides that either the approved form or a notification on the department's website is a satisfactory means of notifying the applicant of the requirements to pay the reasonable cost of obtaining a criminal history report.

Clause 101 amends section 22 to provide that the application for a renewal of a registration must be accompanied by the reasonable, but no more than actual, costs of obtaining a criminal history report under section 15A.

The amendment also provides that either the approved form or a notification on the department's website is a satisfactory means of notifying the applicant of the requirements to pay the reasonable cost of obtaining a criminal history report.

Clause 102 amends section 82 to extend the grounds for commencing disciplinary proceedings against a registrant to include providing a materially false or misleading representation or declaration when applying for renewal of a registration.

## **Part 14                      Amendment of *Travel Agents Act 1988***

Clause 103 states that this part and the schedule amend the *Travel Agents Act 1988*.

Clause 104 inserts new definitions for 'criminal history' and 'officer' into section 6.

Clause 105 amends section 14 to provide that an application for a licence must be accompanied by the reasonable, but no more than actual, costs of obtaining a criminal history report under section 15B.

The amendment also provides that either the approved form or a notification on the department's website is a satisfactory means of notifying the applicant of the requirements to pay the reasonable cost of obtaining a criminal history report.

Clause 106 inserts new sections 15A, 15B and 15C.

New section 15A allows the chief executive to make investigations about whether a person is a fit and proper person for the grant of an application for registration, or renewal of registration or continues to be a fit and proper person.

This new section provides a specific head of power for the commissioner to ask the commissioner of the police service for a report about the criminal history of the person.

There is a further requirement that if the criminal history of the person includes a conviction recorded against the person for an offence, the commissioner's report must be written.

The new section 15B allows the chief executive to require the applicant for a licence to pay the reasonable, but no more than actual, costs of obtaining a criminal history report.

There is also a requirement that the chief executive must refund to the applicant the amount paid by the applicant, if the chief executive either refuses the grant of a licence or the applicant withdraws their application before the chief executive requests the report from the police commissioner.

Previously, the chief executive relied on provisions in the *Financial Administration and Audit Act 1977* to enable the chief executive to recover the reasonable cost of obtaining a criminal history report. This new provision creates a specific power within the *Travel Agents Act 1988* to recover these costs.

The new section 15C protects the confidentiality of the information obtained under section 15A. The information supplied under this new section may only be used to help the commissioner perform a function under the Act and must not be disclosed for any other purpose except as required or permitted by law. The Commissioner must also destroy the written report after it has been used.



## **Part 15**                      **Other minor amendments**

Clause 107 makes minor amendments to the *Body Corporate and Community Management Act 1997*; the *Building Units and Group Titles Act 1980*, the *Commercial and Consumer Tribunal Act 2003*, the *Liens on Crops of Sugar Cane Act 1931*, the *Residential Services (Accreditation) Act 2002*, the *Retail Shop Leases Act 1994*, the *Retirement Villages Act 1999* and the *Travel Agents Act 1988*.

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