

Guardianship and Administration and Other Legislation Amendment Bill 2012

Explanatory Notes

Objectives of the Bill

The main objective of the Guardianship and Administration and Other Legislation Amendment Bill 2012 (the Bill) is to amend the *Guardianship and Administration Act 2000* to provide additional powers to strengthen the independence of the Public Advocate to assist in the performance of systems advocacy.

The other objectives of the Bill are to amend:

- the *Electoral Act 1992* to remove administrative funding for political parties and independent members;
- the *Electrical Safety Act 2002* to remove the statutory ‘Commissioner for Electrical Safety’ position and replace this with a ‘chairperson’ role, and to remove the standing committee status of the Electrical Safety Education Committee and the Electrical Equipment Committee from being nominated statutory committees, with a consequential amendment to the *Work Health and Safety Act 2011*;
- the *Penalties and Sentences Act 1992* to exclude an offence under section 33 of the *Bail Act 1980* from the imposition of the offender levy;
- the *Queensland Civil and Administrative Tribunal Act 2009* to: remove some restrictions on the exercise of stated tribunal’s powers; and to enable former judges who are senior or ordinary members to sit as judicial members on a broader range of matters, with consequential amendments to the *Legal Profession Act 2007* and the *Motor Accident Insurance Act 1994*, and
- the *Trustee Companies Act 1968* to facilitate: voluntary transfers of trustee company business; and compulsory transfers of trustee company business to the Public Trustee of Queensland (with the consent of the Public Trustee of Queensland).

The Bill also makes minor and technical amendments to legislation within the justice portfolio.

Reasons for the Bill

Guardianship and Administration Act 2000 (Guardianship Act)

The Bill implements the Liberal National Party's pre-election commitment to draft legislative amendments to install the Independent Public Advocate as a statutory authority.

The Office of the Public Advocate is an integral part of Queensland's guardianship system, which protects and promotes the rights of adults who have impaired decision-making capacity. The Public Advocate is established as an independent statutory authority under the Guardianship Act to perform systems advocacy for adults with impaired decision-making capacity.

Systems advocacy involves exploring patterns of problems, gaps and needs in systems (such as legislation, policy or procedures) and suggesting workable solutions to government. This relies on the ability to collect personal and statistical information from a range of sources. Where a person or agency does not provide this information and there is persistent non-cooperation and/or significant concerns about systems issues, the proposed new power to request information allows the Public Advocate to access the information.

The Bill also includes an additional power to allow the Public Advocate to prepare a report to the Minister at any time on a systemic issue and require the Minister to table this report in Parliament. This will allow the Public Advocate to bring to the attention of the government and the public a systemic issue about which it has significant concerns.

The amendments will strengthen the independence of the Public Advocate and improve the ability of the Public Advocate to effectively perform its functions.

Electoral Act 1992

The Bill removes administrative funding for political parties and independent members, as provided for under part 11, division 5 of the *Electoral Act 1992*. This funding was introduced under the *Electoral Reform and Accountability Amendment Act 2011*. For political parties, it is paid twice a year, before 31 January, for the period from 1 January to 30 June; and before 31 July, for the period from 1 July to 31 December.

Independent members are also entitled to administrative funding. The initial administrative funding for a six month period was a maximum of \$20,000 for each elected member (who received at least 4% of the formal first preference votes at the last general election). This amount is increased annually on 1 July for movements in the consumer price index. Independent members are entitled to claim for actual administrative expenditure up to this amount within three months of the end of the relevant period.

The Government announced its intention to remove this funding on 2 August 2012.

Electrical Safety Act 2002 (Electrical Safety Act)

In the decade since the commencement of the Electrical Safety Act, the role and functions of the Electrical Safety Board (the Board) and three named statutory committees has been well integrated. The Commissioner for Electrical Safety (the Commissioner) has overseen any necessary fine tuning of the legislation resulting a diminishing workload for the statutory Commissioner position.

As part of the Government's election commitments during the March 2012 state election, the Government undertook to reduce red-tape and curb public sector spending. In this regard, potential savings have been identified in relation to the Commissioner and two statutory standing committees.

The statutory Commissioner role was created to manage the transition into the new electrical safety environment created under the Electrical Safety Act and to facilitate the work of the Board and three statutory standing committees, in particular the statutory disciplinary role of the Electrical Licensing Committee (the licensing committee) and the advisory function to the Minister. This associated workload necessitated the engagement of the Commissioner on a full time basis. This workload has reduced over time and the role has been discharged on a three day per week basis since 2007.

The Commissioner's current role includes the chairing of all Board and committee meetings; oversight of the work of the Board and committees; preparation of agendas and review of meeting minutes; stakeholder and Electrical Safety Office (ESO) consultation and preparation of safety advice to Minister.

Under current Electrical Safety Act provisions, the person appointed as Commissioner is entitled to the salary and allowances decided by the

Governor in Council, who may set conditions of employment equivalent to those of a person appointed at a comparable level under the *Public Service Act 2008*. The appointee must enter into a written contract of employment with the Chief Executive. The employment package currently includes a CBD based office and car park and payment of telephone charges.

The term of the Commissioner's appointment is for not longer than five years. The current Commissioner's term will expire on 4 November 2012 and he has indicated he will not be seeking reappointment. It is therefore appropriate to consider alternatives to the statutory Commissioner position and associated standing committee arrangements.

The Electrical Safety Education Committee (the safety education committee) was established to give advice and make recommendations to the Board about the promotion of electrical safety in workplaces and in the broader community. The Electrical Equipment Committee (the equipment committee) was established to give advice and make recommendations to the board about the safety, energy efficiency and performance of electrical equipment.

Under the current Electrical Safety Act, the safety education and equipment committees consist of a chairperson (currently the Commissioner) and at least six others and must meet a minimum of four times annually, though may meet more frequently. There are significant expenses (especially travel) associated with safety education and equipment committee meetings.

Many functions of the safety education and equipment committees have been increasingly addressed as part of the Community Engagement and Equipment Safety functions within the ESO. Additionally, a range of electrical safety matters including safety education and safety of electrical equipment are also addressed as part of the department's representation on the Electrical Regulatory Authorities Council.

Accordingly, it is proposed to amend the Electrical Safety Act to remove the statutory Commissioner position and replace this with a 'Chairperson', based on the model contained in the *Work Health and Safety Act 2011* (WHS Act). Such an approach would remove the current statutory requirement for the appointee to be a qualified and licensed electrical worker, thus broadening the pool of prospective persons available for appointment.

In this model, the statutory function of the Commissioner in respect of licensing committee meetings will also be addressed, as the technical

qualifications of the current Commissioner role as Chair is critical in respect of licensing committee functions. To address this requirement, it is proposed that the person the Minister appoints as Chair of the licensing committee be sourced from appropriately licensed appointed members. This proposal does not preclude the same person being appointed as Chair of both the Board and licensing committee.

In terms of workload in a revised Chairperson role, it is estimated that the functions could be discharged on the basis of 1-2 days per licensing committee and Board meeting with no requirement for dedicated office accommodation.

Additionally, it is proposed to remove the standing committee status of the safety education and the equipment committees under the Electrical Safety Act. Under existing 'advisory committee' provisions, these committees may be subsequently established by the Minister as advisory committees as and when required. Furthermore, under an 'advisory committee' framework, there is greater flexibility regarding committee composition, whereby the skills and experience of members may be more relative to issues required to be addressed by the committee.

Penalties and Sentences Act 1992

Section 179C of the *Penalties and Sentences Act 1992* (as inserted by the *Penalties and Sentences and Other Legislation Amendment Act 2012*) provides for the imposition of the offender levy.

The offender levy is not intended to apply where the only offence committed involves a breach of bail. Section 179C(6) provides that the section does not apply to an offence under the *Bail Act 1980*, section 29. An amendment is needed to also exclude the offence for a breach of bail under section 33 of the *Bail Act 1980* from the offender levy.

Queensland Civil and Administrative Tribunal Act 2009

Restrictions under the *Queensland Civil and Administrative Tribunal Act 2009* on the exercise of certain stated powers of the Queensland Civil and Administrative Tribunal (QCAT) place a considerable workload on QCAT's two judicial members. Opportunities have been identified for widening the pool of tribunal members who are able to make orders of a procedural nature and for the use of former judges as judicial members.

Trustee Companies Act 1968

In 2010, regulation of trustee companies under the *Corporations Act 2001* was referred to the Commonwealth. If a licence of a trustee company is cancelled, the Australian Securities and Investments Commission (ASIC) may issue a certificate for the transfer of the trustee company's business to another trustee company. Section 68C of the *Trustee Companies Act 1968* facilitates the transfer by providing for the receiving company to become the successor in law in relation to estate assets and liabilities of the transferring company.

The *Corporations and Other Legislation Amendment (Trustee Companies and Other Measures) Act 2011* (Cth) includes provision for ASIC to also facilitate the voluntary transfer of trustee company business from one company to another. It also provides for compulsory transfers to be able to be made to a state or territory Public Trustee, even if it is not a licensed trustee company.

Achievement of the Objectives

Guardianship and Administration Act 2000

Amendments to the *Guardianship and Administration Act 2000* give the Public Advocate additional powers to: (1) access information or documents necessary to perform its statutory functions of systems advocacy; and (2) to provide a report at any time to the Attorney-General, as the Minister responsible, on a systemic issue, which must be tabled in Parliament.

The additional powers for the Public Advocate are based on recommendations made by the Queensland Law Reform Commission in its report: *A Review of Queensland's Guardianship Laws*, which was tabled in the Queensland Parliament on 12 November 2010.

Electoral Act 1992

The Bill removes administrative funding for political parties and independent members under the *Electoral Act 1992* as provided for under part 11, division 5 of the *Electoral Act 1992*. The Bill preserves the right of independent members to claim and be paid, after commencement, for administrative expenditure incurred by or on behalf of the member during the period from 1 July to 31 December 2012.

Electrical Safety Act 2002

The Bill amends the *Electrical Safety Act 2002* to replace the statutory ‘Commissioner for Electrical Safety’ position with a ‘Chairperson’ role and also by removing the ‘standing committee’ status of the Electrical Safety Education Committee and the Electrical Equipment Committee. There is a consequential amendment to the *Work Health and Safety Act 2011*.

Penalties and Sentences Act 1992

The Bill amends section 179C(6) of the *Penalties and Sentences Act 1992* to exclude the offence for a breach of bail under section 33 of the *Bail Act 1980* from the offender levy.

Queensland Civil and Administrative Tribunal Act 2009

The Bill provides for powers under sections 52(7) (Transfer to more appropriate forum), 59(4) (Injunctions) and 60(5) (Declarations) of the Act which can currently only be exercised by a judicial member of QCAT to be exercised by legally qualified members of the tribunal.

It also provides that the powers under sections 61, 62 and 63 of the Act to make procedural orders, issue directions and make orders requiring documents to be produced to be exercised by a member of the tribunal in a proceeding in which he or she is not a member of the tribunal, as constituted.

The Bill also widens the definition of ‘judicial member’ to enable former judges who are senior or ordinary members of QCAT to hear and decide matters that can only be determined by judicial members. There are consequential amendments to the *Legal Profession Act 2007* and the *Motor Accident Insurance Act 1994*.

Trustee Companies Act 1968

The Bill amends section 68C to facilitate voluntary transfers of trustee company business and compulsory transfers of trustee company business to the Public Trustee of Queensland (with consent).

Alternative Ways of Achieving Objectives

There are no alternative ways of achieving the policy objectives.

Estimated Cost for Government Implementation

Any costs in relation to the amendments will be met from existing agency resources.

Consistency with Fundamental Legislative Principles

Legislative Standards Act 1992, section 4(3)—**Whether legislation has sufficient regard to the rights and liberties of individuals.**

Guardianship and Administration Act 2000

The Bill potentially affects the rights and liberties of individuals by providing the Public Advocate with power to require access to information, including personal information.

These amendments are considered justified as they include appropriate safeguards to protect the person giving the information, as well as the giving of any confidential information. Safeguards include:

- access to information is limited for the purpose of the Public Advocate performing the statutory functions of systems advocacy;
- the *Guardianship and Administration Act 2000* contains existing obligations about the confidentiality of personal information that apply to the Public Advocate;
- the proposed amendments allow a person to refuse to comply with a requirement to provide information if they have a reasonable excuse, for example, on the grounds that complying might tend to incriminate the person or if they claim legal professional privilege;
- making it an offence for the Public Advocate or any member of the Public Advocate’s staff to publish confidential information; and
- protecting the person from liability for providing the information.

These provisions aim to balance providing the Public Advocate with sufficient powers to effectively perform its statutory functions, with maintaining appropriate safeguards to protect confidential or personal information, and to protect the person required to provide that information.

Consultation

Guardianship and Administration Act 2000

Consultation occurred with key justice, disability and advocacy stakeholders, including the Queensland Law Society; Bar Association of Queensland; Legal Aid Queensland; Carers Queensland; Office of the Public Advocate; Public Advocate; Acting Adult Guardian; Adult Guardian; Queensland Advocacy Incorporated; Health Consumers Queensland; Caxton Legal Centre; Queensland Shelter and Endeavour Foundation. Other stakeholders who were contacted did not provide a response.

Electrical Safety Act 2002

No consultation was undertaken with non-government groups as amendments are in line with established key Government policies to reduce red-tape reduction and cutting back on public sector expenditure. Additionally, these amendments are not expected to result in any reduction in electrical safety outcomes.

Queensland Civil and Administrative Tribunal Act 2009

The President of QCAT has been consulted on amendments to the *Queensland Civil and Administrative Tribunal Act 2009*.

Trustee Companies Act 1968

The amendments to the *Trustee Companies Act 1968* have been requested by the Commonwealth Government.

Notes on Provisions

Part 1 Preliminary

Clause 1 establishes the short title of the Bill as the *Guardianship and Administration and Other Legislation Amendment Act 2012*.

Clause 2 provides that Parts 4 and 10, which amend the *Electrical Safety Act 2002* and the *Work Health and Safety Act 2011* respectively, commence on 5 November 2012, if the Act is assented to on or before 4 November 2012, or otherwise on assent. Clause 2 also provides that Part 7, which

amends the *Penalties and Sentences Act 1992*, commenced on 21 August 2012.

Part 2 Amendment of Guardianship and Administration Act 2000

Clause 3 provides that this part amends the *Guardianship and Administration Act 2000*.

Clause 4 inserts a new section 207A to include key definitions of ‘confidential information’ and ‘information’ for the purpose of the new provisions to be included in chapter 9, part 1 (sections 209A, 210A and 210B).

Clause 5 amends section 209 (Functions – systemic advocacy) by inserting a new subsection (2) that confirms it is not the function of the Public Advocate to investigate a complaint or allegation about a particular adult with impaired capacity for a matter.

Clause 6 inserts a new section 209A (Report about systemic matter) which allows the Public Advocate to prepare and provide a report on any systemic issue the Public Advocate is concerned about. The report is provided to the Minister responsible for the *Guardianship and Administration Act 2000*, who currently is the Attorney-General and Minister for Justice. The Minister must table the report in Parliament within five sitting days after receiving the report.

Section 209A also provides that the report is not to include confidential information that is likely to result in the identification of an adult with impaired capacity to a member of the public. Further, where the report includes information adverse to a person, the Public Advocate is required to follow certain steps to ensure the person is provided with an opportunity to make submissions about the adverse information and any submissions made are to be fairly stated in the report.

Clause 7 inserts two new sections – section 210A (Right to information) and section 210B (Offence to publish confidential information).

Section 210A(1) provides the Public Advocate can access information to perform its functions and lists the matters for which the information may be required.

Section 210A(2) allows the Public Advocate to require information or documents that are in a person's custody or control. For example, the Public Advocate can only ask for information (including statistical information) that is kept by the person or agency. The information request must be in writing and the notice must state a reasonable time to be given the information. The provision will also allow the Public Advocate, for the purpose of systems advocacy, to inspect documents and take copies of them.

Section 210A(3) states that the written notice must state the purpose for the information request. This will ensure that the person receiving the notice understands why the information is being requested.

Section 210A(4) provides that the person must comply with the notice unless they have a reasonable excuse. A person may be liable for a maximum penalty of 100 penalty units for non-compliance of this section.

Section 210A(5) provides examples of what may amount to a reasonable excuse – including the privilege against self-incrimination and legal professional privilege.

Section 210A(6) makes it clear that the request for information cannot be requested directly from the relevant adult with impaired decision-making capacity or a family member or close friend who is a member of the adult's support network (which is defined in the *Guardianship and Administration Act 2000*).

Section 210B makes it clear that if confidential information is gained through the new right to information provision (section 210A), the Public Advocate (or a member of their staff) cannot, without a reasonable excuse, publish any confidential information likely to identify a person by a member of the public to whom the information relates. A person may be liable for a maximum penalty of 200 penalty units for non-compliance of this section.

Clause 8 inserts a new section 248B (Protection from liability for giving information), which protects a person who is required to give information to the Adult Guardian or Public Advocate in certain circumstances.

Subsection (1) provides that this section applies to the giving of information to the Adult Guardian for the purpose of sections 183 and 184, as well as to the Public Advocate for the purpose of the new section 210A.

Subsection (2) makes it clear that the person may give the information despite any other law that would otherwise prohibit or restrict the giving of the information.

Subsection (3) makes it clear that a person will not be liable (civilly, criminally or under an administrative process) if the person acted honestly in giving the information.

Subsection (4) makes it clear that a person will also not breach any professional code, standards or conduct for giving the information.

Subsection (5) further clarifies subsections (3) and (4) and provides that the person has a defence of absolute privilege for publishing the information and they are not liable for providing any confidential information.

Subsection (6) defines what is meant by the term ‘giving’ the information for the purpose of this section. Giving also includes allowing the documents to be inspected and a copy to be taken of it.

Clause 9 amends section 249 (Protected use of confidential information) to insert a new subsection (4) that provides section 249 applies subject to section 210B.

Clause 10 amends schedule 4 (Dictionary) to include some key definitions for the purpose of the new sections.

Part 3 Amendment of Electoral Act 1992

Clause 11 states that this part amends the *Electoral Act 1992*.

Clause 12 amends section 2 (Definitions) to remove the definition *independent member* that is to be omitted by this Bill.

Clause 13 amends section 17 (Delegation by commission) to remove reference to section 249(1) that is to be omitted by this Bill.

Clause 14 amends section 197 (Definitions) to omit the definition *independent member* that is to be omitted by this Bill.

Clause 15 omits part 11, division 5 (Administrative expenditure funding) which provides for administrative funding for political parties and independent members.

Clause 16 inserts three transitional provisions (new sections 415, 416 and 417) that provide for the final funding period for which a registered political party or independent member is entitled to be paid administrative funding.

Part 4 Amendment of Electrical Safety Act 2002

Clause 17 states that this part amends the *Electrical Safety Act 2002* (Electrical Safety Act).

Clause 18 amends section 5 (How purpose of Act is to be achieved) to remove the current reference to the appointment of a commissioner and references to the functions of the safety education committee and the equipment committee. The advisory function (currently of the commissioner) is maintained as a junction of the Electrical Safety Board and its committees.

Clause 19 removes Part 6 (Commissioner for electrical safety). The statutory ‘Commissioner for Electrical Safety’ position will cease with the commencement of this provision.

Clause 20 amends section 77 (Composition of board) to remove the reference to the ‘commissioner’; provides that the one member of the board is to be appointed as ‘chairperson’ by the Minister; inserts an appointment requirement for the chairperson of the board role (that the person has ‘professional electrical industry experience’); and clarifies that the reference to ‘appointed members’ at subsection (2), renumbered as (3), refers to the ‘other’ six appointed members (other than the chairperson). The appointment requirement for the chairperson role does not limit the eligibility for appointment of a person who is not a current or former electrical licence holder.

Clause 21 amends section 85 (Annual Report) to replace the reference to ‘commissioner’ with ‘chairperson of the board’.

Clause 22 amends section 86 (Establishment of board committees) to replace the reference to the establishment of ‘3 named committees’ with a reference to the ‘Electrical Licensing Committee’. The operation of the

other two named committees (safety education and equipment) as statutory named committees will cease with commencement of this Part.

Clause 23 amends section 89 (Composition of licensing committee) to provide that one member of the licensing committee is to be appointed as ‘chairperson’ by the Minister; inserts appointment requirements for the chairperson of the licensing committee role (that the person has ‘an electrical trade or qualification’ and has ‘professional experience in electrical safety’); clarifies that the chairperson of the board may also be appointed as chairperson of the licensing committee provided the person meets the appointment requirements for each role; and clarifies that the reference to ‘appointed members’ at subsection (2), renumbered as (4), refers to the ‘other’ 4 appointed members (other than the chairperson). The appointment requirements for the chairperson of the licensing committee mirror those for the former ‘commissioner’ role, as they are considered appropriate in light of the disciplinary functions performed by the licensing committee.

Clause 24 omits division 3 (Electrical Safety Education Committee) and division 4 (Electrical Equipment Committee) from Part 8 (Board committees). These two statutory named committees will cease with the commencement of this provision.

Clause 25 renumbers Part 8 division 5 (Advisory committees) as division 3.

Clause 26 amends section 98 (Composition of advisory committee) to replace the reference to ‘commissioner’ with references to chairpersons of the board or licensing committee. This will permit the appointment of either chairperson to an advisory committee at the Minister’s discretion.

Clause 27 renumbers Part 8 division 6 (Board committee membership) as division 4.

Clause 28 amends section 99 (Conditions of appointment to board committee) to remove subsection (4) as there is no need to differentiate between the person appointed as chairperson of the licensing committee (a part-time role) and other members of a board committee.

Clause 29 amends section 184 (Certificate about action on electrical licence) to replace the reference to ‘commissioner’ with a reference to ‘chairperson of the licensing committee’.

Clause 30 amends section 205 (Protecting officials from liability) to remove the reference to ‘commissioner’ in the definition of ‘official’ and

renumber subsequent subsections. This will not affect the operation of the section as both ‘chairpersons’ are an appointed member of the board or of a board committee (i.e. the licensing committee).

Clause 31 inserts a new Part 18A (Transitional provisions for the Guardianship and Administration and Other Legislation Amendment Act 2012) containing two new transitional provisions. New section 246A, upon commencement, ends the appointment of members to the Electrical Safety Education Committee and the Electrical Equipment Committee. New section 246B repeals the clause of this Bill that amends section 205 of the Electrical Safety Act, should section 374 of the *Work Health and Safety Act 2011* commence prior to the amendment to section 205 of the Electrical Safety Act contained in the Bill.

Clause 32 amends schedule 2 (Dictionary) to remove the definitions of *equipment committee* and *safety education committee*; amend the definition of *advisory committee* to refer to the renumbered division (3); and amend the definition of *board committee* to remove references to the equipment committee and safety education committee.

Part 5 Amendment of Legal Profession Act 2007

Clause 33 states that this part amends the *Legal Profession Act 2007*.

Clause 34 amends section 598 (Constitution of tribunal) to provide that the President of QCAT may nominate a former Supreme Court judge to constitute the tribunal for a proceeding under the Act. Currently, only a sitting Supreme Court judge may constitute the tribunal for a proceeding under the Act. This amendment is complementary to the amendment in this Bill to the definition of ‘judicial member’ in the *Queensland Civil and Administrative Tribunal Act 2009*.

Part 6 **Amendment of Motor Accident Insurance Act 1994**

Clause 35 states that this part amends the *Motor Accident Insurance Act 1994*.

Clause 36 amends section 68 (Review of commission's decisions by QCAT) to require that the judicial member who must constitute the tribunal for a review under section 68 is to be a Supreme Court judge. This amendment is consequential to the amendment in this Bill to the definition of 'judicial member' in the *Queensland Civil and Administrative Tribunal Act 2009*.

Part 7 **Amendment of Penalties and Sentences Act 1992**

Clause 37 states that this part amends the *Penalties and Sentences Act 1992*.

Clause 38 amends section 179C(6) to exclude an offence under section 33 of the *Bail Act 1980* from the offender levy.

Part 8 **Amendment of Queensland Civil and Administrative Tribunal Act 2009**

Clause 39 states that this part amends the *Queensland Civil and Administrative Tribunal Act 2009*.

Clause 40 amends section 52 (Transfer to more appropriate forum) to replace reference to a judicial member with reference to a legally qualified member. This amendment allows non-judicial legal members of QCAT to exercise the power to transfer matters to a more appropriate forum and provides for more efficient use of the tribunal's judicial resources.

Clause 41 amends section 59 (Injunctions) to replace reference to a judicial member with reference to a legally qualified member. This amendment allows non-judicial legal members of the tribunal to grant an injunction.

Clause 42 amends section 60 (Declarations) to replace reference to a judicial member with reference to a legally qualified member. This amendment allows non-judicial legal members of the tribunal to make declarations.

Clause 43 amends section 61 (Relief from procedural requirements) to provide that under subsection (5) the tribunal's power under section 61(1) to extend a time limit fixed for the start of a proceeding; extend or shorten a time limit; or waive compliance with another procedural requirement may be exercised by the tribunal as constituted for the proceeding or a legally qualified member, an adjudicator or the principal registrar.

Clause 44 amends section 62 (Directions) to provide that under subsection (7) the tribunal's power under section 62(1) to give a direction at any time in a proceeding and do whatever is necessary for the speedy and fair conduct of the proceeding may be exercised by the tribunal as constituted for the proceeding or a legally qualified member, an adjudicator or the principal registrar.

Clause 45 amends section 63 (Obtaining a document or thing from third parties) to provide that under subsection (6) the tribunal's power under section 63(1) to make an order requiring a person who is not a party to a proceeding to produce a document or thing to the tribunal or a party to the proceeding may be exercised by the tribunal as constituted for the proceeding or a legally qualified member, an adjudicator or the principal registrar.

Clause 46 amends the definition of 'judicial member' in schedule 3 (Dictionary) to insert a new subsection (c). The expansion of the definition of 'judicial member' by the insertion of subsection (c) will enable a former judge who is a senior or ordinary member of the tribunal to be nominated to hear and decide a matter that can only be determined by a judicial member. Presently, subsection (b) of the definition limits the matters for which a former judge can be nominated to the exercise of a power to make an order or give a direction. The amendment will facilitate more effective use of retired judges' expertise.

Part 9 **Amendment of Trustee Companies Act 1968**

Clause 47 states that this part amends the *Trustee Companies Act 1968*.

Clause 48 amends section 68C (Compulsory transfer determinations) to facilitate the voluntary transfer of trustee company assets and liabilities from one trustee company to another under the new voluntary transfer regime in Part 5D.6 of the *Corporations Act 2001* (Cth) (Corporations Act). The amendments also facilitate the compulsory transfer of trustee company business to the Public Trustee of Queensland by the Australian Securities and Investments Commission (ASIC). In addition, the amendments provide for the registration or recording of the transfer of an asset or liability by the registrar of titles or another authorised person where a certificate of transfer issued by ASIC under section 601WBG of the Corporations Act has come into force.

Part 10 **Amendment of Work Health and Safety Act 2011**

Clause 49 states that this part amends the *Work Health and Safety Act 2011*.

Clause 50 removes section 374 ((Amendment of s 94 (Functions of equipment committee) as this provision seeks to amend a section of the Electrical Safety Act which is being omitted by this Bill.

Part 11 **Minor and consequential amendments**

Clause 51 states that the schedule amends the Acts it mentions.

Schedule **Minor and consequential
amendments**

The amendments in the schedule make minor and technical amendments to: correct and update section references; correct conjunctives; remove spent provisions; update styles; and remove or replace unused terms in various pieces of legislation.

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