

Queensland



**JUSTICE LEGISLATION  
(MISCELLANEOUS  
PROVISIONS) BILL 1998**



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**1998**

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**A BILL**

**FOR**

**An Act to amend Acts administered by the Attorney-General and  
Minister for Justice and Minister for The Arts**

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**The Parliament of Queensland enacts—**

1

## **PART 1—PRELIMINARY**

2

### **Short title**

3

Clause **1.** This Act may be cited as the *Justice Legislation (Miscellaneous Provisions) Act 1998*.

4

5

### **Amended Acts—schedule**

6

Clause **2.** The schedule amend the Acts mentioned in it.

7

## **PART 2—AMENDMENT OF BAIL ACT 1980**

8

### **Act amended in pt 2**

9

Clause **3.** This part amends the *Bail Act 1980*.

10

### **Amendment of s 10 (General powers as to bail)**

11

Clause **4.** Section 10(1), after ‘charge of an offence’—

12

*insert—*

13

‘, or in connection with a criminal proceeding.’

14

### **Insertion of new ss 19B–19E**

15

Clause **5.** Part 2, after section 19A—

16

*insert—*

17

<b>‘Review of certain bail decisions</b>	1
<b>‘19B.(1)</b> This section does not apply to the following decisions about bail—	2 3
(a) a decision by the Supreme Court;	4
(b) a decision under section 10(2); <sup>1</sup>	5
(c) a decision by a magistrate acting as a reviewing court under this section.	6 7
<b>‘(2)</b> If a decision has been made about bail for a defendant, the defendant, complainant or prosecutor or a person appearing on behalf of the Crown may apply to the reviewing court for a review of the decision.	8 9 10
<b>‘(3)</b> The reviewing court is—	11
(a) for a decision by a police officer or justice who is not a magistrate—a Magistrates Court constituted by a magistrate; or	12 13
(b) for any other decision—the Supreme Court constituted by a single judge.	14 15
<b>‘(4)</b> A complainant, prosecutor or a person appearing on behalf of the Crown who makes an application under subsection (2) must take reasonable steps to inform the defendant of the time and place for the hearing of the application.	16 17 18 19
<b>‘(5)</b> The hearing may proceed in the defendant’s absence, if the reviewing court is satisfied the steps were taken.	20 21
<b>‘(6)</b> On the review, additional or substitute evidence or information may be given and the reviewing court may make any order it considers appropriate.	22 23 24
<b>‘(7)</b> However, the orders that may be made under subsection (6) are limited by sections 13, 16 and 17(1A). <sup>2</sup>	25 26
<b>‘(8)</b> The person or court that made the decision under review must give the reviewing court any documents in the person’s or court’s possession that may be relevant to the review.	27 28 29

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<sup>1</sup> Section 10 (General powers as to bail)

<sup>2</sup> Sections 13 (When only the Supreme Court may grant bail), 16 (Refusal of bail) and 17 (Enlargement of undertaking)

‘(9) The reviewing court must decide an application under this section as soon as is reasonably practicable.	1 2
<b>‘Review by Supreme Court of magistrate’s decision on a review</b>	3
‘19C.(1) If a decision is made by a magistrate on a review of a bail decision, the defendant, complainant or prosecutor or a person appearing on behalf of the Crown may apply to the Supreme Court as constituted by a single judge for a review of the magistrate’s decision.	4 5 6 7
‘(2) A complainant, prosecutor or a person appearing on behalf of the Crown who makes an application under subsection (1) must take reasonable steps to inform the defendant of the time and place for the hearing of the application.	8 9 10 11
‘(3) The hearing may proceed in the defendant’s absence, if the reviewing court is satisfied the steps were taken.	12 13
‘(4) The decision may be reviewed only with the court’s leave.	14
‘(5) On the review, additional or substitute evidence or information may be given and the court may make any order it considers appropriate.	15 16
‘(6) However, the orders that may be made under subsection (5) are limited by sections 16 and 17(1A).	17 18
<b>‘Warrants in aid of orders under section 19B or 19C</b>	19
‘19D. A reviewing court that makes an order under section 19B or 19C may issue the following warrants for the purpose of giving effect to the order—	20 21 22
(a) a warrant for the apprehension of the defendant directing that the defendant be brought before a stated court;	23 24
(b) a warrant for the apprehension of the defendant directing that the defendant be committed to prison in accordance with the warrant.	25 26
<b>‘Review provisions do not affect other powers</b>	27
‘19E. Sections 19B to 19D do not affect a power of the Supreme Court	28



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under section 10,<sup>3</sup> or any other power of a court to grant, enlarge, vary or  
revoke bail under other provisions of this or any other Act.’. 1  
2

## PART 3—AMENDMENT OF CRIMES (CONFISCATION) ACT 1989 3 4

### Act amended in pt 3 5

Clause 6. This part amends the *Crimes (Confiscation) Act 1989*. 6

### Amendment of s 13 (Meaning of “tainted property”) 7

Clause 7.(1) Section 13(1)— 8

*insert—* 9

‘(d) mentioned in section 90(2)(a), if the offence is against  
section 90(1); or 10  
11

(e) mentioned in section 92(1), if the offence is against that  
subsection.’. 12  
13

(2) Section 13— 14

*insert—* 15

‘(1A) Property mentioned in subsection (1)(a) includes property the use  
of which is, or the intended use of which would be, all or part of the serious  
offence. 16  
17  
18

‘(1B) Subsection (1)(d) and (e)— 19

(a) do not limit subsection (1)(a) to (c); and 20

(b) apply even though an act done in relation to the property is all or  
part of the serious offence.’. 21  
22

---

<sup>3</sup> Section 10 (General powers as to bail)

	<b>Amendment of s 40 (Restraining orders)</b>	1
Clause	<b>8.(1)</b> Section 40(19)(b), ‘derived by anyone from the commission of’—	2
	<i>omit, insert—</i>	3
	‘tainted property in relation to’.	4
	<b>(2)</b> Section 40—	5
	<i>insert—</i>	6
	‘ <b>(19A)</b> Despite sections 43 and 45, subsection (18) is the only provision	7
	of this Act under which provision may be made for meeting out of property	8
	that is the subject of a restraining order expenses mentioned in	9
	subsection (18)(b).’.	10
	<b>Amendment of s 43 (Supreme Court may order that property be excluded from restraining order)</b>	11
Clause	<b>9.</b> Section 43(8), ‘For all applications’—	13
	<i>omit, insert—</i>	14
	‘For an application under this section’.	15
	<b>Amendment of s 90 (Money laundering)</b>	16
Clause	<b>10.</b> Section 90(2)(a)(iii), ‘the tainted property’—	17
	<i>omit, insert—</i>	18
	‘tainted property’.	19
	<b>PART 4—AMENDMENT OF FINANCIAL TRANSACTION REPORTS ACT 1992</b>	20
		21
	<b>Act amended in pt 4</b>	22
Clause	<b>11.</b> This part amends the <i>Financial Transaction Reports Act 1992</i> .	23

*Justice Legislation (Miscellaneous Provisions)*

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	<b>Amendment of s 6 (Further reports of suspect transactions)</b>	1
Clause	12. Section 6(1), ‘give the commissioner or police officer’—	2
	<i>omit, insert—</i>	3
	‘(c) the Queensland Crime Commission; or	4
	(d) a person who is an authorised QCC officer under the <i>Crime Commission Act 1997</i> carrying out an investigation arising from,	5
	or relating to the matters referred to in, the information;	6
	give the person who made the request’.	7
		8

<b>PART 5—AMENDMENT OF JUDGES (PENSIONS AND LONG LEAVE) ACT 1957</b>	9 10
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	<b>Act amended in pt 5</b>	11
Clause	13. This part amends the <i>Judges (Pensions and Long Leave) Act 1957</i> .	12

	<b>Amendment of s 2C (Minimum benefit payable)</b>	13
Clause	14.(1) Section 2C(3)—	14
	<i>renumber</i> as section 2C(4).	15
	(2) Section 2C—	16
	<i>insert—</i>	17
	‘(3) To remove doubt, it is declared that this section does not apply to an acting Supreme Court judge or an acting District Court judge.’.	18
		19

**PART 6—AMENDMENT OF JUSTICES ACT 1886**

		1
	<b>Act amended in pt 6</b>	2
Clause	<b>15.</b> This part amends the <i>Justices Act 1886</i> .	3
	<b>Amendment of s 39 (Power of court to order delivery of certain property)</b>	4
		5
Clause	<b>16.(1)</b> Section 39(1)(a), ‘police—’—	6
	<i>omit, insert—</i>	7
	‘police or a public officer—’.	8
	<b>(2)</b> Section 39(1), after ‘police officer’—	9
	<i>insert—</i>	10
	‘, a public officer’.	11
	<b>Insertion of new pt 6, div 10</b>	12
Clause	<b>17.</b> Part 6—	13
	<i>insert—</i>	14
	<b><i>‘Division 10—Charge for issuing certain warrants</i></b>	15
	<b>‘Warrant may include charge for its issue</b>	16
	<b>‘178AA.(1)</b> The amount recoverable under a warrant of execution issued	17
	under this or another Act for the nonpayment of a penalty is increased by	18
	the amount of a charge that may be prescribed under a regulation for issuing	19
	the warrant.	20
	<b>‘(2)</b> If a warrant under this or another Act authorises a person’s	21
	imprisonment for the nonpayment of a penalty, the amount of the penalty	22
	recoverable under the warrant is increased by the amount of a charge that	23
	may be prescribed under a regulation for issuing the warrant.	24
	<b>‘(3)</b> The amount of a charge under subsection (2) is to be disregarded in	25

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working out a term of imprisonment under the *Penalties and Sentences Act 1992*, section 185.<sup>4</sup>.

1  
2

## **PART 7—AMENDMENT OF PROPERTY LAW ACT 1974**

3  
4

### **Act amended in pt 7**

5

Clause **18.** This part amends the *Property Law Act 1974*.

6

### **Amendment of s 61 (Conditions of sale of land)**

7

Clause **19.** Section 61(2)(a), ‘cheque drawn by any bank’—

8

*omit, insert—*

9

‘a financial institution cheque drawn on itself or a bank’.

10

11

---

<sup>4</sup> *Penalties and Sentences Act 1992*, section 185 (Scale of imprisonment for nonpayment of penalty)

<b>SCHEDULE</b>	1
<b>MINOR AMENDMENTS</b>	2
section 2	3
<b>CRIMINAL CODE</b>	4
<b>1. Section 651—</b>	5
<i>insert—</i>	6
‘(8) In this section—	7
“summary offence” means—	8
(a) a simple or regulatory offence; or	9
(b) an offence for which—	10
(i) proceedings for a charge of the offence may be taken	11
summarily under the <i>Drugs Misuse Act 1986</i> ; and	12
(ii) the prosecution has made an election under section 45 <sup>5</sup> of	13
that Act.’.	14
<b>2. Section 652, heading, ‘summary charge’—</b>	15
<i>omit, insert—</i>	16
‘charge for summary offence’.	17

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<sup>5</sup> *Drugs Misuse Act 1986*, section 45 (Proceedings for offences)

## SCHEDULE (continued)

**CRIMINAL INVESTIGATION  
(EXTRA-TERRITORIAL OFFENCES) ACT 1985**

- 1. Section 2, definition “appropriate authority”, paragraph (d)(ii)—** 3  
*omit, insert—* 4  
     ‘(ii) the commissioner of the police service;’ 5

**EVIDENCE ACT 1977**

- 1. Section 107, heading, ‘Minister may approve’—** 7  
*omit, insert—* 8  
     ‘Use of’. 9

**JUSTICE AND OTHER LEGISLATION  
(MISCELLANEOUS PROVISIONS) ACT (NO. 2) 1997**

- 1. Section 60, ‘147(1)’—** 12  
*omit, insert—* 13  
     ‘147A(1)’. 14

- 2. Section 61—** 15  
*omit.* 16

## SCHEDULE (continued)

<b>LEGAL AID QUEENSLAND ACT 1997</b>	1
<b>1. Section 42(1)(a), ‘with perpetual succession’—</b>	2
<i>omit.</i>	3
<b>2. Section 42(1)(b), ‘common’—</b>	4
<i>omit.</i>	5
<b>3. Section 42(3)—</b>	6
<i>insert—</i>	7
‘(c) an exempt public authority under the Corporations Law.’.	8
<b>4. Section 42—</b>	9
<i>insert—</i>	10
‘(5) Subsection (3)(c) is taken to have commenced on 1 July 1997.	11
‘(6) Subsection (5) and this subsection expire on the day after they commence.’.	12
	13
<b>5. Section 78, ‘73(2)’—</b>	14
<i>omit, insert—</i>	15
‘73(b)’.	16
<b>MISCELLANEOUS ACTS (NON-BANK FINANCIAL INSTITUTIONS) AMENDMENT ACT 1997</b>	17
	18
<b>1. Section 24—</b>	19
<i>omit.</i>	20



SCHEDULE (continued)

**STIPENDIARY MAGISTRATES ACT 1991**

**1. Section 18(3), ‘by’—**

*omit, insert—*

‘as’.

1

2

3

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