

Queensland



**JUSTICE LEGISLATION
(MISCELLANEOUS
PROVISIONS) BILL (No. 2)
1999**



**JUSTICE LEGISLATION
(MISCELLANEOUS PROVISIONS) BILL
(No. 2) 1999**

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	8
2	Commencement	8
PART 2—AMENDMENT OF BAIL ACT 1980		
3	Act amended in pt 2	8
4	Amendment of s 17 (Enlargement of undertaking)	8
5	Amendment of s 28A (Warrant for apprehension of defendant by Magistrates Court or Childrens Court)	9
PART 3—AMENDMENT OF CRIMINAL CODE		
6	Code amended in pt 3 and schedule	9
7	Amendment of s 56A (Disturbance in House when Parliament not sitting)	10
8	Amendment of s 56B (Going armed to Parliament House)	10
9	Amendment of s 363A (Abduction of child under 16)	10
10	Amendment of s 364 (Cruelty to children under 16)	10
11	Amendment of s 552B (Charges of indictable offences that may be dealt with summarily)	11
12	Amendment of s 651 (Supreme Court and District Court may decide summary offences)	11
13	Amendment of s 652 (Proceedings to transmit charge for summary offence)	11
14	Insertion of new s 653	12
	653 Remission of proceedings to court exercising summary jurisdiction	12
15	Amendment of s 668D (Right of appeal)	13

Justice Legislation (Miscellaneous Provisions)
(No. 2)

16	Insertion of new ch 73	13
	CHAPTER 73—TRANSITIONAL PROVISION FOR JUSTICE LEGISLATION (MISCELLANEOUS PROVISIONS) ACT (No. 2) 1999	
	710 Transitional provision for Justice Legislation (Miscellaneous Provisions) Act (No. 2) 1999	13
	PART 4—AMENDMENT OF DISTRICT COURT ACT 1967	
17	Act amended in pt 4	14
18	Insertion of new s 28AA	14
	28AA Protection for administrative acts	14
19	Replacement of s 61 (Exception from criminal jurisdiction)	15
	61 Limited criminal jurisdiction if maximum penalty more than 14 years	15
20	Amendment of s 77 (Removal of proceedings from Supreme Court to District Court)	16
21	Amendment of s 78 (Removal of proceedings from a District Court to a Magistrates Court)	16
22	Amendment of s 97 (Court may consider and order reference to ADR process)	16
23	Replacement of s 129 (Contempt of court)	16
	129 Contempt	17
	PART 5—AMENDMENT OF MAGISTRATES COURTS ACT 1921	
24	Act amended in pt 5	18
25	Amendment of s 29 (Court may consider and order reference to ADR process)	18
26	Amendment of s 45A (Limitation on appeal if minor debt claim)	18
27	Amendment of s 50 (Contempt)	18
28	Amendment of s 52 (Publication of particulars of minor debt claims)	19
	PART 6—AMENDMENT OF PENALTIES AND SENTENCES ACT 1992	
29	Act amended in pt 6	20
30	Amendment of s 13A (Cooperation with law enforcement authorities to be taken into account)	20
	PART 7—AMENDMENT OF STIPENDIARY MAGISTRATES ACT 1991	
31	Act amended in pt 7	22

Justice Legislation (Miscellaneous Provisions)
(No. 2)

32	Insertion of new s 21A	22
	21A Protection for administrative acts	22
PART 8—AMENDMENT OF SUPREME COURT OF QUEENSLAND ACT 1991		
33	Act amended in pt 8	22
34	Amendment of title	22
35	Insertion of new s 27A	23
	27A Protection for administrative acts	23
36	Amendment of s 75 (Removal to Magistrates Court)	23
37	Amendment of s 83 (Interpleader orders)	23
38	Replacement of s 84 (Effect of default judgment order)	23
	84 Effect of default judgment	23
39	Amendment of s 86 (Demand for compliance unnecessary)	23
40	Amendment of s 93A (Enforcement warrant)	24
41	Amendment of s 93B (Securities held by enforcement officer)	25
42	Insertion of new pt 7, div 5, sdiv 4	25
	<i>Subdivision 4—Non-attendance</i>	
	93I Attendance of individuals	25
	93J Attendance of corporation	26
	93K Noncompliance is contempt of court	26
	93L Issue of warrant for defendant’s arrest	26
43	Renumbering of ss 93I and 93J	27
44	Insertion of new s 93O	27
	93O Delegation by registrar	27
45	Amendment of s 102 (Court may consider and order reference to ADR process)	28
46	Omission of s 131 (References to judgment)	28
47	Amendment of sch 1 (Subject matter for rules)	28
48	Amendment of sch 2 (Dictionary)	29
	SCHEDULE	30
	MINOR AMENDMENTS OF CRIMINAL CODE	

1999

A BILL

FOR

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

Justice Legislation (Miscellaneous Provisions)
(No. 2)

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 (No. 2) 1999*.

4

5

Commencement

6

Clause **2.(1)** Sections 33, 34, 37 to 41 and 46 to 48¹ commence, or are taken to have commenced, on 1 July 1999 immediately after the commencement of the *Civil Justice Reform Act 1998*, section 12.²

7

8

9

(2) The remaining provisions of this Act commence on a day to be fixed by proclamation.

10

11

PART 2—AMENDMENT OF BAIL ACT 1980

12

Act amended in pt 2

13

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

14

Amendment of s 17 (Enlargement of undertaking)

15

Clause **4.** Section 17—
insert—

16

17

¹ Sections 33 (Act amended in pt 8), 34 (Amendment of title), 37 (Amendment of s 83 (Interpleader orders)), 38 (Replacement of s 84), 39 (Amendment of s 86 (Demand for compliance unnecessary)), 40 (Amendment of s 93A (Enforcement warrant)), 41 (Amendment of s 93B (Securities held by enforcement officer)), 46 (Omission of s 131 (References to judgment)), 47 (Amendment of sch 1 (Subject matter for rules)) and 48 (Amendment of sch 2 (Dictionary))

² *Civil Justice Reform Act 1998*, section 12 (Amendment of title)

Justice Legislation (Miscellaneous Provisions)
(No. 2)

‘(7) Also, any record of an order of the court relating to the defendant, whether or not the record is signed, is evidence that the defendant’s bail was enlarged if—

- (a) an indictment relating to the defendant has been presented to the court; and
- (b) the record is to the effect that—
 - (i) the defendant’s undertaking has been enlarged under subsection (2); and
 - (ii) the defendant’s trial has been adjourned to a later sittings of a court to be held at a particular place.’.

Amendment of s 28A (Warrant for apprehension of defendant by Magistrates Court or Childrens Court)

- Clause **5.** Section 28A(1)(a)—
omit, insert—
- ‘(a) released on bail—
 - (i) by the Supreme Court or District Court, on the condition that the defendant will appear before a Magistrates Court; or
 - (ii) by a Magistrates Court or the Childrens Court or by any justice or justices conducting a committal proceeding, on the defendant entering into an undertaking; or
 - (iii) under section 7(1)(b)³; or’.

PART 3—AMENDMENT OF CRIMINAL CODE

Code amended in pt 3 and schedule

- Clause **6.** This part and the schedule amend the Criminal Code.

³ Section 7 (Power of police officer to grant bail)

Justice Legislation (Miscellaneous Provisions)
(No. 2)

	Amendment of s 56A (Disturbance in House when Parliament not sitting)	1 2
Clause	7.(1) Section 56A(2)(b), ‘\$100’—	3
	<i>omit, insert—</i>	4
	‘100 penalty units’.	5
	(2) Section 56A(2)(b), ‘6 calendar months’—	6
	<i>omit, insert—</i>	7
	‘2 years’.	8
	 Amendment of s 56B (Going armed to Parliament House)	 9
Clause	8.(1) Section 56B(1), ‘\$100’—	10
	<i>omit, insert—</i>	11
	‘100 penalty units’.	12
	(2) Section 56B(1), ‘6 calendar months’—	13
	<i>omit, insert—</i>	14
	‘2 years’.	15
	 Amendment of s 363A (Abduction of child under 16)	 16
Clause	9.(1) Section 363A(1), ‘misdemeanour’—	17
	<i>omit, insert—</i>	18
	‘crime’.	19
	(2) Section 363A(1), ‘2 years’—	20
	<i>omit, insert—</i>	21
	‘7 years’.	22
	 Amendment of s 364 (Cruelty to children under 16)	 23
Clause	10. Section 364, penalty, ‘5 years’—	24
	<i>omit, insert—</i>	25
	‘7 years’.	26

Justice Legislation (Miscellaneous Provisions)
(No. 2)

	Amendment of s 552B (Charges of indictable offences that may be dealt with summarily)	1 2
Clause	11.(1) Section 552B(1)—	3
	<i>insert</i> —	4
	‘(ha)an offence against section 339(1); ⁴ ’.	5
	(2) Section 552B(1)(i), after ‘involving an assault’—	6
	<i>insert</i> —	7
	‘, other than an offence against section 339(1)’.	8
	 Amendment of s 651 (Supreme Court and District Court may decide summary offences)	 9 10
Clause	12.(1) Section 651, heading—	11
	<i>omit, insert</i> —	12
	‘Court may decide summary offences if a person is charged on indictment’.	13 14
	(2) Section 651(1), from ‘the Supreme’ to ‘ court ’—	15
	<i>omit, insert</i> —	16
	‘a court’.	17
	Section 651(6)—	18
	<i>omit.</i>	19
	(3) Section 651(7) and (8)—	20
	<i>renumber</i> as section 651(6) and (7).	21
	 Amendment of s 652 (Proceedings to transmit charge for summary offence)	 22 23
Clause	13.(1) Section 652(1), ‘the Supreme Court or District Court’—	24
	<i>omit, insert</i> —	25
	‘a court’.	26

⁴ Section 339 (Assaults occasioning bodily harm)

Justice Legislation (Miscellaneous Provisions)
(No. 2)

- (2) Section 652(2), from ‘magistrates court’— 1
omit, insert— 2
‘court of summary jurisdiction to take any necessary steps to transmit the 3
relevant complaint or bench charge sheet to the registrar of the court that is 4
to deal with the charge under section 651 (the “**receiving court**”).’ 5
- (3) Section 652(3)(b)(iii), ‘to the Supreme Court or District Court’— 6
omit. 7
- (4) Section 652(3)(b)(iii), after ‘to the charge’— 8
insert— 9
‘before the receiving court’. 10
- (5) Section 652(4), ‘magistrates court’— 11
omit, insert— 12
‘court of summary jurisdiction’. 13
- (6) Section 652(4), ‘the Supreme Court or District Court’— 14
omit, insert— 15
‘the receiving court’. 16
- (7) Section 652(5), from ‘Supreme Court’ to ‘relevant court’— 17
omit, insert— 18
‘the receiving court, the registrar of the court’. 19
- (8) Section 652(5), ‘magistrates court’— 20
omit, insert— 21
‘court of summary jurisdiction from which the charge was transmitted’. 22

Insertion of new s 653 23

- Clause 14. After section 652— 24
insert— 25

‘Remission of proceedings to court exercising summary jurisdiction 26

- ‘**653.(1)** This section applies if a charge against a person for a summary 27
offence has been transmitted to the registry of a court for the purpose of the 28
charge being dealt with under section 651. 29

Justice Legislation (Miscellaneous Provisions)
(No. 2)

- ‘(2) If— 1
- (a) the person states an intention of entering a plea of not guilty 2
before the court to the charge or enters a plea of not guilty before 3
the court to the charge; or 4
 - (b) any of the conditions mentioned in section 651(2) are not 5
satisfied; or 6
 - (c) the person has been dealt with on the indictment mentioned in 7
section 651(1) before the charge for the summary offence is 8
brought before the court; or 9
 - (d) for any other reason the court decides not to deal with the charge; 10
- the court must direct that the charge must be heard by a court exercising 11
summary jurisdiction and order the court registrar to send the relevant court 12
record to the registrar of the court exercising summary jurisdiction.’. 13

Amendment of s 668D (Right of appeal) 14

- Clause **15.** Section 668D(1), ‘the Supreme Court or District Court’— 15
omit, insert— 16
‘a court’. 17

Insertion of new ch 73 18

- Clause **16.** After section 709— 19
insert— 20

**‘CHAPTER 73—TRANSITIONAL PROVISION FOR 21
JUSTICE LEGISLATION (MISCELLANEOUS 22
PROVISIONS) ACT (No. 2) 1999 23**

**‘Transitional provision for Justice Legislation (Miscellaneous 24
Provisions) Act (No. 2) 1999 25**

- ‘**710.(1)** This section applies if, after the commencement of the *Justice 26
Legislation (Miscellaneous Provisions) Act (No. 2) 1999*, section 115— 27

⁵ *Justice Legislation (Miscellaneous Provisions) Act (No. 2) 1999*, section 11
(Amendment of s 552B (Charges of indictable offences that may be dealt with
summarily))

Justice Legislation (Miscellaneous Provisions)
(No. 2)

- (a) a charge of an offence against section 339(1)⁶ is before the Supreme or District Court; and 1
2
- (b) the person charged with the offence informs the court that he or she does not want to be tried by jury; and 3
4
- (c) the prosecutor agrees to the charge being dealt with summarily. 5
- ‘(2) The court may order that— 6
- (a) the matter be remitted to a court of summary jurisdiction for the charge to be dealt with summarily; and 7
8
- (b) the court registrar send the relevant court record to the registrar of the relevant court of summary jurisdiction. 9
10
- ‘(3) The court may not make an order under subsection (2) if satisfied that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction.’. 11
12
13
14

PART 4—AMENDMENT OF DISTRICT COURT ACT 1967 15
16

Act amended in pt 4 17

Clause **17.** This part amends the *District Court Act 1967*. 18

Insertion of new s 28AA 19

Clause **18.** Part 2, division 2, after section 28— 20
insert— 21

‘Protection for administrative acts 22

‘**28AA.** A judge has, in the performance or exercise of an administrative function or power conferred on the judge under an Act, the same protection and immunity as a judge in a judicial proceeding in the court.’. 23
24
25

⁶ Section 339 (Assaults occasioning bodily harm)

Justice Legislation (Miscellaneous Provisions)
(No. 2)

	Replacement of s 61 (Exception from criminal jurisdiction)	1
Clause	19. Section 61—	2
	<i>omit, insert—</i>	3
	‘Limited criminal jurisdiction if maximum penalty more than 14 years	4
	‘61.(1) The District Court does not generally have jurisdiction to try a	5
	person charged with an indictable offence if the maximum penalty for the	6
	offence is more than 14 years.	7
	‘(2) However, the District Court has jurisdiction to try a person charged	8
	with committing or counselling or procuring the commission of any of the	9
	following offences even if the maximum penalty for the offence is more	10
	than 14 years—	11
	(a) an offence against the <i>Corrective Services Act 1988</i> ,	12
	section 92(3)(b); ⁷	13
	(b) an offence under the Criminal Code, section 64, 65, 208, 213,	14
	215, 216, 219, 222, 229B, 315, 316, 317, 317A, 318, 319, 319A,	15
	337, 347, 398, 409, 411, 412, 415, 419, 421, 461 or 469. ⁸	16
	‘(3) Subsection (2) applies to an offence mentioned in subsection (2)(b)	17
	even if 1 or more circumstances of aggravation under the Criminal Code are	18
	alleged to exist in relation to the offence.’	19

⁷ *Corrective Services Act 1988*, section 92 (Unlawful assembly, riot and mutiny)

⁸ Criminal Code, section 64 (Rioters remaining after proclamation ordering them to disperse), 65 (Rioters demolishing buildings etc.), 208 (Unlawful sodomy), 213 (Owner etc. permitting abuse of children on premises), 215 (Carnal knowledge of girls under 16), 216 (Abuse of intellectually impaired persons), 219 (Taking child for immoral purposes), 222 (Incest), 229B (Maintaining a sexual relationship with a child), 315 (Disabling in order to commit indictable offence), 316 (Stupefying in order to commit indictable offence), 317 (Acts intended to cause grievous bodily harm and other malicious acts), 317A (Carrying or sending dangerous goods in a vehicle), 318 (Obstructing rescue or escape from unsafe premises), 319 (Intentionally endangering safety of persons travelling by railway), 319A (Endangering safety of persons travelling by aircraft), 337 (Sexual assaults), 347 (Rape), 398 (Punishment of stealing), 409 (Definition of “robbery”), 411 (Punishment of robbery), 412 (Attempted robbery), 415 (Demanding property, benefit or performance of services with threats), 419 (Burglary), 421 (Entering or being in premises and committing indictable offences), 461 (Arson) or 469 (Wilful damage)

Justice Legislation (Miscellaneous Provisions)
(No. 2)

Amendment of s 77 (Removal of proceedings from Supreme Court to District Court)		1 2
Clause	20. Section 77(6)(b)(i), from ‘shall’—	3
	<i>omit, insert—</i>	4
	‘, must be assessed on the basis the proceedings had been started in the Supreme Court if the Supreme Court orders, or, in the absence of an order, as if the proceedings had been started in the District Court; and’.	5 6 7 8
 Amendment of s 78 (Removal of proceedings from a District Court to a Magistrates Court)		 9 10
Clause	21. Section 78(6)(b)(i), from ‘shall’—	11
	<i>omit, insert—</i>	12
	‘must be assessed on the basis the proceedings had been started in the District Court if the District Court orders, or, in the absence of an order, as if the proceedings had been started in a Magistrates Court; and’.	13 14 15 16
 Amendment of s 97 (Court may consider and order reference to ADR process)		 17 18
Clause	22.(1) Section 97(2) to (4)—	19
	<i>renumber</i> as section 97(3) to (5).	20
	(2) Section 97—	21
	<i>insert—</i>	22
	‘ (2) This section also applies if—	23
	(a) a party applies to the District Court for an order referring a dispute to an ADR process; or	24 25
	(b) the parties are otherwise before the District Court.’.	26
 Replacement of s 129 (Contempt of court)		 27
Clause	23. Section 129—	28
	<i>omit, insert—</i>	29

Justice Legislation (Miscellaneous Provisions)
(No. 2)

‘Contempt

- 1
- ‘129.(1)** A person is in contempt of the District Court if the person— 2
- (a) without lawful excuse, fails to comply with an order of the court 3
(other than an order mentioned in paragraph (e)), or an 4
undertaking given to the court; or 5
 - (b) wilfully insults a judge or juror, or a registrar, bailiff, or other 6
court officer during the person’s sitting or attendance in court, or 7
in going to or returning from the court; or 8
 - (c) wilfully interrupts the proceedings of the court or otherwise 9
misbehaves himself or herself in court; or 10
 - (d) unlawfully obstructs or assaults someone in attendance in court; 11
or 12
 - (e) without lawful excuse, disobeys a lawful order or direction of the 13
court at the hearing of any proceeding; or 14
 - (f) commits any other contempt of the court. 15
- ‘(2)** A District Court judge has the same power to punish for a contempt 16
mentioned in subsection (1) as a Supreme Court judge would have if the 17
contempt were a contempt of the Supreme Court. 18
- ‘(3)** If the contempt is in the face of the court, a bailiff or other court 19
officer acting under the court’s order may, using necessary and reasonable 20
help and force, take the person committing the contempt into custody and 21
detain the person until the court rises. 22
- ‘(4)** Before the court rises, the court may— 23
- (a) ask the person to explain why the person should not be punished; 24
or 25
 - (b) adjourn the matter to be dealt with on a stated date. 26
- ‘(5)** If the court acts under subsection (4)(a), the court may deal with the 27
person immediately.’. 28

Justice Legislation (Miscellaneous Provisions)
(No. 2)

**PART 5—AMENDMENT OF MAGISTRATES
COURTS ACT 1921**

	1
	2
Act amended in pt 5	3
Clause 24. This part amends the <i>Magistrates Courts Act 1921</i> .	4
Amendment of s 29 (Court may consider and order reference to ADR process)	5
	6
Clause 25.(1) Section 29(2) to (4)—	7
<i>renumber</i> as section 29(3) to (5).	8
(2) Section 29—	9
<i>insert</i> —	10
‘(2) This section also applies if—	11
(a) a party applies to a Magistrates Court for an order referring a dispute to an ADR process; or	12
	13
(b) the parties are otherwise before a Magistrates Court.’.	14
Amendment of s 45A (Limitation on appeal if minor debt claim)	15
Clause 26. Section 45A(1) and (2), ‘order made’—	16
<i>omit</i> .	17
Amendment of s 50 (Contempt)	18
Clause 27.(1) Section 50(1)(a) to (d)—	19
<i>renumber</i> as section 50(1)(b) to (e).	20
(2) Section 50(1)—	21
<i>insert</i> —	22
‘(a) without lawful excuse, fails to comply with an order of the court, other than an order mentioned in paragraph (e), or an undertaking given to the court; or’.	23
	24
	25

Justice Legislation (Miscellaneous Provisions)
(No. 2)

(3) Section 50(1)—	1
<i>insert—</i>	2
‘(f) commits any other contempt of the court.’	3
(4) Section 50(1), penalty—	4
<i>omit.</i>	5
(5) Section 50(3) to (5)—	6
<i>renumber</i> as section 50(5) to (7)	7
(6) Section 50(7), as renumbered, ‘(4)(a)’—	8
<i>omit, insert—</i>	9
‘(6)(a)’.	10
(7) Section 50(2)—	11
<i>omit, insert—</i>	12
‘(2) A contempt under subsection (1) must be dealt with in the way prescribed under the Uniform Civil Procedure Rules.	13 14
‘(3) However—	15
(a) a contempt mentioned in subsection (1)(a) may be punished by a maximum penalty of 200 penalty units or 3 years imprisonment;	16 17
and	18
(b) a contempt mentioned in subsection (1)(b) to (f) may be punished by a maximum penalty of 84 penalty units or 1 year’s imprisonment.	19 20 21
‘(4) Without limiting the court’s power to punish for contempt, the court may order a person committing a contempt to be excluded from the room or other place in which the court is sitting.’	22 23 24

Amendment of s 52 (Publication of particulars of minor debt claims) 25

Clause	28. Section 52(1)(d), ‘order’—	26
	<i>omit.</i>	27

PART 6—AMENDMENT OF PENALTIES AND SENTENCES ACT 1992

	1
	2
Act amended in pt 6	3
Clause 29. This part amends the <i>Penalties and Sentences Act 1992</i> .	4
Amendment of s 13A (Cooperation with law enforcement authorities to be taken into account)	5
	6
Clause 30. Section 13A(2) and (3)—	7
<i>omit, insert—</i>	8
‘(2) Before the sentencing proceeding starts, a party to the proceeding—	9
(a) must advise the relevant officer—	10
(i) that the offender has undertaken to cooperate with law enforcement agencies; and	11
(ii) that written or oral submissions or evidence will be made or brought before the court relevant on that account to the reduction of sentence; and	12
(b) may give to the relevant officer copies of any proposed written submissions mentioned in paragraph (a)(ii).	13
	14
	15
(b) may give to the relevant officer copies of any proposed written submissions mentioned in paragraph (a)(ii).	16
	17
‘(3) After the offender is invited to address the court—	18
(a) the offender’s written undertaking to cooperate with law enforcement agencies must be handed up to the court; and	19
	20
(b) any party may hand up to the court written submissions relevant to the reduction of sentence.	21
	22
‘(4) The undertaking must be in an unsealed envelope addressed to the sentencing judge or magistrate.	23
	24
‘(5) If oral submissions are to be made to, or evidence is to be brought before, the court relevant to the reduction of sentence, the court must be closed for that purpose.	25
	26
	27
‘(6) The penalty imposed on the offender must be stated in open court.	28
‘(7) After the imposition of the penalty, the sentencing judge or magistrate must—	29
	30
(a) close the court; and	31

Justice Legislation (Miscellaneous Provisions)
(No. 2)

- (b) state in closed court— 1
- (i) that the sentence is being reduced under this section; and 2
- (ii) the sentence it would otherwise have imposed; and 3
- (c) cause the following to be sealed and placed on the court file with 4
an order that it may be opened only by an order of the court, 5
including on an application to reopen the sentencing proceedings 6
under section 188(2)⁹— 7
- (i) the written undertaking; 8
- (ii) a record of evidence or submissions made relevant to the 9
reduction of sentence and the sentencing remarks made 10
under paragraph (b). 11
- ‘(8) The sentencing judge or magistrate may make an order prohibiting 12
publication of all or part of the proceeding or the name and address of any 13
witness on his or her own initiative or on application. 14
- ‘(9) In deciding whether to make an order under subsection (8), the judge 15
or magistrate may have regard to— 16
- (a) the safety of any person; and 17
- (b) the extent to which the detection of offences of a similar nature 18
may be affected; and 19
- (c) the need to guarantee the confidentiality of information given by 20
an informer. 21
- ‘(10) A person who contravenes an order made under subsection (8) 22
commits an offence. 23
- Maximum penalty— 24
- (a) for an order made by a judge—5 years imprisonment; 25
- (b) for an order made by a magistrate—3 years imprisonment. 26
- ‘(11) In this section— 27
- “relevant officer” means— 28
- (a) for a proceeding before the Supreme or District Court—the 29
sentencing judge’s associate; or 30

⁹ Section 188 (Court may reopen sentencing proceedings)

Justice Legislation (Miscellaneous Provisions)
(No. 2)

- (b) for a proceeding before a Magistrates Court—the relevant clerk of the court.’. 1
2

**PART 7—AMENDMENT OF STIPENDIARY
MAGISTRATES ACT 1991** 3
4

Act amended in pt 7 5

- Clause **31.** This part amends the *Stipendiary Magistrates Act 1991*. 6

Insertion of new s 21A 7

- Clause **32.** After section 21— 8
insert— 9

‘Protection for administrative acts 10

- ‘21A.** A magistrate has, in the performance or exercise of an administrative function or power conferred on the magistrate under an Act, the same protection and immunity as a magistrate has in a judicial proceeding in a Magistrates Court.’. 11
12
13
14

**PART 8—AMENDMENT OF SUPREME COURT OF
QUEENSLAND ACT 1991** 15
16

Act amended in pt 8 17

- Clause **33.** This part amends the *Supreme Court of Queensland Act 1991*. 18

Amendment of title 19

- Clause **34.** Title, ‘**money orders**’— 20
omit, insert— 21
‘**orders**’. 22

Justice Legislation (Miscellaneous Provisions)
(No. 2)

	Insertion of new s 27A	1
Clause	35. Part 2, division 3, after section 27—	2
	<i>insert—</i>	3
	‘Protection for administrative acts	4
	‘ 27A. A judge has, in the performance or exercise of an administrative	5
	function or power conferred on the judge under an Act, the same protection	6
	and immunity as a judge has in a judicial proceeding in the court.’.	7
	Amendment of s 75 (Removal to Magistrates Court)	8
Clause	36. Section 75(2)—	9
	<i>omit, insert—</i>	10
	‘(2) If a proceeding is transferred to a Magistrates Court, that court may	11
	hear and decide the matter as if the proceeding had been started in a	12
	Magistrates Court.’.	13
	Amendment of s 83 (Interpleader orders)	14
Clause	37. Section 83(1)(f), ‘a judgment’—	15
	<i>omit, insert—</i>	16
	‘an’.	17
	Replacement of s 84 (Effect of default judgment order)	18
Clause	38. Section 84—	19
	<i>omit, insert—</i>	20
	‘Effect of default judgment	21
	‘ 84. A default judgment given by a registrar has the same effect as if it	22
	were a judgment given by the court.’.	23
	Amendment of s 86 (Demand for compliance unnecessary)	24
Clause	39.(1) Section 86(2), ‘an enforcement debtor’—	25
	<i>omit, insert—</i>	26
	‘a person’.	27

Justice Legislation (Miscellaneous Provisions)
(No. 2)

	(2) Section 86(2), ‘the enforcement debtor’—	1
	<i>omit, insert</i> —	2
	‘the person’.	3
	Amendment of s 93A (Enforcement warrant)	4
Clause	40.(1) Section 93A(1)—	5
	<i>omit, insert</i> —	6
	‘ 93A.(1) To enforce an order (the “ original order ”) (but not an order for the payment of money into court), a person entitled to enforce the original order may obtain an enforcement warrant from the court.’.	7
		8
		9
	(2) Section 93A(2), ‘a money order’—	10
	<i>omit, insert</i>	11
	‘the original order’.	12
	(3) Section 93A(2)(a) and (d), ‘the money’—	13
	<i>omit, insert</i> —	14
	‘a money’.	15
	(4) Section 93A(2)(a), ‘property exempted under the <i>Uniform Civil Procedure Rules</i> ’—	16
		17
	<i>omit, insert</i> —	18
	‘exempt property’.	19
	(5) Section 93A(2)—	20
	<i>insert</i> —	21
	‘(e) an enforcement officer to enter and deliver possession of land; or	22
	(f) an enforcement officer to seize and deliver specified goods; or	23
	(g) an enforcement officer to seize and detain property.’.	24
	(6) Section 93A(3) and (4)—	25
	<i>renumber</i> as section 93A(4) and (5).	26
	(7) Section 93A—	27
	<i>insert</i> —	28

Justice Legislation (Miscellaneous Provisions)
(No. 2)

‘(3) An enforcement warrant may contain more than 1 order directed to enforcing the original order and may be issued to enforce an original order that is a money order and a non-money order.’.

Amendment of s 93B (Securities held by enforcement officer)

Clause **41.(1)** Section 93B(2) and (3)—

renumber as section 93B(3) and (4).

(2) Section 93B(1)—

omit, insert—

‘**93B.(1)** This section applies if an enforcement officer seizes cheques, bills of exchange, promissory notes, specialties or other securities for money (the “**seized documents**”) under an enforcement warrant to enforce a money order.

‘(2) The enforcement officer holds the seized documents as security for the amount to be recovered under the enforcement warrant for the benefit of the enforcement creditor.’.

Insertion of new pt 7, div 5, sdiv 4

Clause **42.** After section 93H—

insert—

‘Subdivision 4—Non-attendance

‘Attendance of individuals

‘**93L.(1)** This section applies if an individual fails to comply with a subpoena or order requiring attendance to give evidence or produce a document or thing before the court or before an officer, examiner, referee or other person having authority to take evidence.

‘(2) The court may make an order for the issue of a warrant for—

(a) the arrest of the individual; and

(b) the production of the individual as required by the subpoena or order for the purpose of the proceeding; and

(c) the detention in custody of the individual until released by the court.

Justice Legislation (Miscellaneous Provisions)
(No. 2)

‘(3) The court may order an individual who did not attend as required by the subpoena or order to pay the costs and expenses resulting because the individual did not comply with the subpoena or order. 1
2
3

‘Attendance of corporation 4

‘93J.(1) This section applies if a corporation fails to comply with a subpoena or order requiring attendance to give evidence or produce a document or thing before the court or before an officer, examiner, referee or other person having authority to take evidence. 5
6
7
8

‘(2) The court may make an order for the issue of a warrant for— 9

(a) the arrest of a named officer of the corporation; and 10

(b) the production of the officer as required by the subpoena or order for the purpose of the proceeding; and 11
12

(c) the detention in custody of the officer until released by the court. 13

‘(3) The court may order a corporation that did not attend as required by the subpoena or order to pay the costs and expenses resulting because the corporation did not comply with the subpoena or order. 14
15
16

‘Noncompliance is contempt of court 17

‘93K.(1) Failure to comply with a subpoena without lawful excuse is contempt of court and the person who failed to comply may be dealt with for contempt of court. 18
19
20

‘(2) Nothing in section 93I or 93J affects the court’s power to punish for contempt. 21
22

‘Issue of warrant for defendant’s arrest 23

‘93L.(1) Jurisdiction under this section may be exercised only by the Supreme Court. 24
25

‘(2) If the court is satisfied that— 26

(a) a defendant to a claim has absconded or is about to abscond; and 27

(b) the absence of the defendant would materially prejudice the plaintiff in prosecuting the proceeding or enforcing any judgment that may be given. 28
29
30

Justice Legislation (Miscellaneous Provisions)
(No. 2)

- ‘(3) The court may issue a warrant in the approved form for the arrest of a defendant. 1
2
- ‘(4) The court may issue the warrant at any time, for example, before the defendant has been served with a claim or before judgment. 3
4
- ‘(5) The warrant must state— 5
- (a) the name of the defendant; and 6
 - (b) the date, within 2 months after the warrant’s issue, the warrant ends. 7
8
- ‘(6) The court may fix an amount as security to be stated in the warrant. 9
- ‘(7) On payment of the security, the defendant is entitled not to be arrested or, if arrested, to be released. 10
11
- ‘(8) In fixing the amount, the court may have regard to any matter it considers relevant, including the following matters— 12
13
- (a) the amount (if any) of the plaintiff’s claim; 14
 - (b) the costs of issuing the warrant; 15
 - (c) an estimate of the costs of executing the warrant.’. 16

Renumbering of ss 93I and 93J 17

- Clause 43. Sections 93I and 93J, as inserted by Act No. 20 of 1998— 18
renumber as sections 93M and 93N. 19

Insertion of new s 93O 20

- Clause 44. Part 7, division 6— 21
insert— 22

‘Delegation by registrar 23

‘93O.(1) A registrar of the court may delegate the registrar’s powers to an appropriately qualified person who is a public service employee in a registry of the court. 24
25
26

‘(2) In this section— 27

“appropriately qualified”, for a person to whom a power may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power. 28
29
30

Justice Legislation (Miscellaneous Provisions)
(No. 2)

	<i>Example of ‘standing’—</i>	1
	A person’s classification level in the public service.’.	2
	Amendment of s 102 (Court may consider and order reference to ADR process)	3 4
Clause	45.(1) Section 102(2) to (4)— <i>renumber</i> as section 102(3) to (5).	5 6
	(2) Section 102— <i>insert—</i>	7 8
	‘ (2) This section also applies if—	9
	(a) a party applies to the Supreme Court for an order referring a dispute to an ADR process; or	10 11
	(b) the parties are otherwise before the Supreme Court.’.	12
	Omission of s 131 (References to judgment)	13
Clause	46. Section 131— <i>omit.</i>	14 15
	Amendment of sch 1 (Subject matter for rules)	16
Clause	47.(1) Schedule 1, section 20, ‘money orders’— <i>omit, insert—</i>	17 18
	‘orders’.	19
	(2) Schedule 1, section 20(b)— <i>omit, insert—</i>	20 21
	‘(b) enforcement warrants, including—	22
	(i) enforcement warrants for entry on to and delivery of possession of land; or	23 24
	(ii) enforcement warrants for seizure and sale of property; or	25
	(iii) enforcement warrants for seizure and delivery of specified goods; or	26 27

Justice Legislation (Miscellaneous Provisions)
(No. 2)

- | | |
|---|---|
| (iv) enforcement warrants for seizure and detention of property; | 1 |
| or | 2 |
| (v) enforcement warrants for redirection of debts or earnings; or | 3 |
| (vi) enforcement warrants for payment of the money order debt | 4 |
| by instalments; or | 5 |
| (vii) for the Supreme Court—enforcement warrants for charging | 6 |
| orders and stop orders;’. | 7 |

Amendment of sch 2 (Dictionary) 8

- | | | |
|--------|--|--|
| Clause | <p>48.(1) Schedule 2, definition “money order”—</p> <p style="padding-left: 20px;"><i>omit.</i></p> <p>(2) Schedule 2—</p> <p style="padding-left: 20px;"><i>insert—</i></p> <p>‘ “exempt property” means property that is not divisible among the creditors of a bankrupt under the relevant bankruptcy law as in force from time to time.</p> <p>“money order” means an order of the court, or part of an order of the court, for the payment of an amount, including an amount for damages, whether or not the amount is or includes an amount for interest or costs.</p> <p>“non-money order” means an order of the court, or part of an order of the court, for a form of relief other than the payment of an amount.’.</p> <p>(3) Schedule 2, definition “enforcement warrant”, ‘a money’—</p> <p style="padding-left: 20px;"><i>omit, insert—</i></p> <p style="padding-left: 20px;">‘an’.</p> <p>(4) Schedule 2, definition “registrar”, paragraph (a)(ii), ‘; and’—</p> <p style="padding-left: 20px;"><i>omit, insert—</i></p> <p style="padding-left: 40px;">‘; or</p> <p style="padding-left: 40px;">(iii) for a Magistrates Court—a deputy registrar of a Magistrates Court; and’.</p> | <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> |
|--------|--|--|

SCHEDULE	1
MINOR AMENDMENTS OF CRIMINAL CODE	2
section 6	3
1. Section 59(1), after ‘asks’—	4
<i>insert—</i>	5
‘for’.	6
2. Section 87(1)(a), after ‘asks’—	7
<i>insert—</i>	8
‘for’.	9
3. Section 103(b) and (c), after ‘asks’—	10
<i>insert—</i>	11
‘for’.	12
4. Section 118(a), after ‘asks’—	13
<i>insert—</i>	14
‘for’.	15
5. Section 120(1)(a), after ‘asks’—	16
<i>insert—</i>	17
‘for’.	18
6. Section 121(1)(a), after ‘asks’—	19
<i>insert—</i>	20
‘for’.	21

SCHEDULE (continued)

7. Section 127(1)(c), after ‘asks’—	1
<i>insert—</i>	2
‘for’.	3
8. Section 133(1), after ‘asks’—	4
<i>insert—</i>	5
‘for’.	6
9. Section 433(2), ‘who has’—	7
<i>insert—</i>	8
‘who, having’.	9
10. Chapter 72, heading and part 1, heading, as inserted by the Criminal Code (Stalking) Amendment Act 1999, section 4—	10
<i>omit.</i>	11
	12
11. Chapter 72, part 2, heading, as inserted by the Criminal Code (Stalking) Amendment Act 1999, section 5—	13
<i>omit, insert—</i>	14
	15
‘PART 9—TRANSITIONAL PROVISIONS	16
‘CHAPTER 72—TRANSITIONAL PROVISION FOR	17
ACT NO. 18 OF 1999’.	18
12. Section 709, heading—	19
<i>omit, insert—</i>	20
‘Transitional provision for Act No. 18 of 1999’.	21
	22

