



Queensland

Justice and Other Legislation Amendment Bill 2005



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	Legal Aid Queensland Act 1997.	81
	Penalties and Sentences Act 1992.	81
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	Powers of Attorney Act 1998	82
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2005

A Bill

for

**An Act to amend legislation administered by the
Attorney-General, and for other purposes**

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Justice and Other Legislation Amendment Act 2005*. 4
5

Clause 2 Commencement 6

Part 5 and sections 162 and 163 commence on a day to be 7
fixed by proclamation. 8

Part 2 Acts Interpretation Act 1954 9

Clause 3 Act amended in this part 10

This part amends the *Acts Interpretation Act 1954*. 11

Clause 4 Amendment of s 2 (Act applies to all Acts) 12

(1) Section 2(2)— 13

omit. 14

(2) Section 2— 15

insert— 16

Note— 17

For the application of this Act to statutory instruments, see the *Statutory Instruments Act 1992*, part 4, divisions 1 and 2. 18
19

Clause 5 Amendment of s 6 (References to Act) 20

Section 6— 21

	<i>insert—</i>	1
	‘(2) In an Act, a reference to ‘an Act’ includes the Act in which the reference is.’	2 3
Clause 6	Amendment of s 14 (Material that is, and is not, part of an Act)	4 5
	(1) Section 14(4) to (6)—	6
	<i>renumber</i> as section 14(5) to (7).	7
	(2) Section 14—	8
	<i>insert—</i>	9
	‘(4) A note in an Act to the Act or to a provision of the Act, as opposed to a footnote, an editor’s note or an endnote mentioned in subsection (7), is part of the Act.	10 11 12
	<i>Example of a note—</i>	13
	See the note to section 2.	14
	<i>Example of a footnote—</i>	15
	See the footnote to section 36, definition <i>Acting Governor</i> .’	16
	(3) Section 14(7), as renumbered, after ‘footnote’—	17
	<i>insert—</i>	18
	‘or editor’s note’.	19
Clause 7	Amendment of s 14F (References to particular Acts)	20
	Section 14F(1)—	21
	<i>insert—</i>	22
	‘ <i>Examples of citations—</i>	23
	1 <i>Statutory Instruments Act 1992</i>	24
	2 <i>Statutory Instruments Act 1992, No. 22</i>	25
	3 Act No. 22 of 1992	26
	4 1992 Act No. 22’.	27

Clause 8	Amendment of s 22A (Insertion of provisions by amending Act)	1 2
	(1) Section 22A(7)—	3
	<i>renumber</i> as section 22A(8).	4
	(2) Section 22A—	5
	<i>insert</i> —	6
	‘(7) If an Act amends a provision of a law by inserting an example, note or penalty, and does not specify the position in the provision where it is to be inserted, the example, note or penalty is to be inserted at the end of the provision.’	7 8 9 10
Clause 9	Amendment of s 22C (Automatic repeal of amending Act)	11
	(1) Section 22C(4)—	12
	<i>insert</i> —	13
	‘ <i>assent day</i> means the date of assent of—	14
	(a) if the provision provides for the extension of the period before commencement, under section 15DA(2), of an Act—the Act; or	15 16 17
	(b) if the provision provides for the extension of the period before commencement, under section 15DA(2), of a provision of an Act—the Act that enacts the provision.’	18 19 20
	(2) Section 22C(4), definition <i>amending Act</i> , paragraph (f)—	21
	<i>renumber</i> as paragraph (g).	22
	(3) Section 22C(4), definition <i>amending Act</i> —	23
	<i>insert</i> —	24
	‘(f) a provision providing for the extension of the period before commencement, under section 15DA(2), of an Act or a provision of an Act that has not commenced within 1 year of the assent day;’	25 26 27 28
Clause 10	Amendment of s 24B (Acting appointments)	29
	Section 24B(8)(b), after ‘to the appointee’—	30

insert— 1
 ‘, and to other persons in relationship to the appointee.’ 2

Clause 11	Amendment of s 24C (Acting person nominated by Act etc.)	3 4
	Section 24C(2)(b), after ‘to the nominated person’—	5
	<i>insert—</i>	6
	‘, and to other persons in relationship to the nominated person.’	7 8
Clause 12	Amendment of s 27A (Delegation of powers)	9
	(1) Section 27A, heading, ‘powers’—	10
	<i>omit, insert—</i>	11
	‘functions or powers’.	12
	(2) Section 27A(1A)—	13
	<i>relocate and renumber</i> as section 27A(15A).	14
	(3) Section 27A(1) and (4) and (6) to (12), ‘power’—	15
	<i>omit, insert—</i>	16
	‘function or power’.	17
	(4) Section 27A(3C), after ‘to the delegate’—	18
	<i>insert—</i>	19
	‘, and to other persons in relationship to the delegate, in the performance of the delegated function or’.	20 21
	(5) Section 27A—	22
	<i>insert—</i>	23
	‘(3D) Anything done by or in relation to the delegate in relation to the delegation is taken to have been done by or in relation to the delegator.’	24 25 26
	(6) Section 27A(5), from ‘may,’—	27
	<i>omit, insert—</i>	28

‘may, in the performance of a delegated function or in the exercise of a delegated power, do anything that is incidental to the delegated function or power.’.

- (7) Section 27A(6), (7), (8), (9)(b), (10) and (10A), before ‘exercised’—
insert—
 ‘performed or’.

- Clause 13 Amendment of s 35C (Headings part of provision etc.)**
- (1) Section 35C(2), ‘the Act’—
omit, insert—
 ‘an Act’.
- (2) Section 35C(3) to (6)—
renumber as section 35C(4) to (7).
- (2) Section 35C—
insert—
- ‘(3) A note to a provision of an Act at the end of the provision is part of the provision unless the note relates to a different provision.’.

- Clause 14 Insertion of new s 35CA**
- After section 35C—
insert—
- ‘35CA References to items at the end of a provision**
- ‘In an Act, a penalty, example or note (*end item*) is taken to be at the end of a provision even if there is another end item also at the end of the provision.’.

- Clause 15 Amendment of s 36 (Meaning of commonly used words and expressions)**
- Section 36—
insert—

‘Administrative Arrangements means the administrative arrangements made by the Governor in Council by order under the *Constitution of Queensland 2001*, section 44.’.

	Part 3	Amendment of	4
		Anti-Discrimination Act 1991	5
Clause 16	Act amended in this part		6
	This part amends the <i>Anti-Discrimination Act 1991</i> .		7
Clause 17	Amendment of s 15A (Discrimination by principals)		8
	Section 15A(1), after ‘work’—		9
	<i>insert</i> —		10
	‘, or is to do work.’.		11
Clause 18	Amendment of s 113 (Tribunal)		12
	(1) Section 113(3) and (4)—		13
	<i>renumber</i> as section 113(6) and (7).		14
	(2) Section 113(2)—		15
	<i>omit, insert</i> —		16
	‘(2) Before deciding an application, the tribunal must give the commissioner written notice of the application and have regard to any submission made by the commissioner on the application, including a submission on the process for considering the application.		17 18 19 20 21
	‘(3) Matters the commissioner may make a submission on in relation to the process for considering an application include, but are not limited to, the following—		22 23 24
	(a) whether the application should be considered by way of public hearing;		25 26

	(b) identification of persons who may be affected by a decision to grant the application;	1 2
	(c) whether the public should be consulted;	3
	(d) how consultation with identified persons or the public should be conducted.	4 5
	‘(4) The commissioner must give a copy of a written submission the commissioner makes on an application to the applicant.	6 7
	‘(5) The tribunal may request that the commissioner—	8
	(a) inquire into an application; and	9
	(b) report to the tribunal the results of the inquiry and a recommendation about the application.’.	10 11
Clause 19	Amendment of s 143 (Respondent is to be notified of accepted complaint)	12 13
	(1) Section 143(2)(d)(ii) and (e), after ‘complainant’—	14
	<i>insert—</i>	15
	‘and any other respondent’.	16
	(2) Section 143—	17
	<i>insert—</i>	18
	‘(2A) The respondent must advise the commissioner in writing of the respondent’s address for service.	19 20
	‘(2B) If the respondent is giving a written response, the respondent must also—	21 22
	(a) give the written response to the commissioner and give a copy of the written response to the complainant and any other respondent; and	23 24 25
	(b) advise the commissioner whether the written response, or a copy of the written response, has been given to the complainant and any other respondent.’.	26 27 28
Clause 20	Amendment of s 165 (Complaints which are not resolved by conciliation)	29 30
	Section 165—	31

insert—

- ‘(3) If the commissioner gives notice under subsection (1), sections 164A and 167 stop applying in relation to the complaint.’.

Clause 21 Amendment of s 166 (Complainant may obtain referral of unconciliated complaint)

- (1) Section 166(2)(a), after ‘commissioner’—

insert—

‘, in writing,’.

- (2) Section 166—

insert—

- ‘(3) If the complainant asks for the extension, the day the complainant asks for the extension, the day the complainant is given written notice of the commissioner’s decision about the extension and any period between those days, is not included in the period mentioned in subsection (1) within which the complaint may be referred to the tribunal.

- ‘(4) However, if the complainant asks for the extension on the last day of the period mentioned in subsection (1) and the extension is subsequently refused, the complainant may require the commissioner to refer the complaint to the tribunal by making a written request on the day the complainant receives written notice of the refusal or on the next day that is a business day.’.

Clause 22 Amendment of s 176 (Constitution of tribunal)

Section 176, after ‘member’—

insert—

‘of the tribunal’.

Clause 23 Amendment of s 213C (Acceptance of offer to settle)

Section 213C(4)(a), after ‘by a member’—

insert— 1
‘of the tribunal’. 2

Clause 24 Amendment of s 214 (Authentication of documents) 3
Section 214, after ‘member’— 4
insert— 5
‘of the tribunal’. 6

Clause 25 Amendment of s 215 (Judicial notice of certain signatures) 7
8
Section 215, after ‘member’— 9
insert— 10
‘of the tribunal’. 11

Clause 26 Insertion of new s 246A 12
Chapter 9, part 2, before section 247— 13
insert— 14
‘246A Definition for pt 2 15
‘In this part— 16
member means a member of the tribunal.’. 17

Clause 27 Amendment of schedule (Dictionary) 18
(1) Schedule, definitions *complainant* and *member*— 19
omit. 20
(2) Schedule— 21
insert— 22
‘*complainant* means— 23
(a) in relation to a representative complaint—a person 24
named in the complaint or otherwise identified in the 25
complaint as a person on whose behalf the complaint is 26
being made; or 27

- (b) in relation to a complaint by a relevant entity under section 134—the relevant entity; or 1
2
- (c) otherwise—the person who is the subject of the alleged contravention of the Act. 3
4
- member*, for chapter 9, part 2, see section 246A.’ 5

Part 4 Appeals Cost Fund Act 1973 6

- Clause 28 Act amended in this part** 7
- This part amends the *Appeals Cost Fund Act 1973*. 8

- Clause 29 Amendment of s 16 (Effect of indemnity certificate under s 15)** 9
10
- Section 16(3)— 11
- omit, insert—* 12
- ‘(3) Despite subsections (1) and (2), the amount payable from the fund to any 1 respondent under any 1 indemnity certificate must not be more than the amount prescribed under a regulation.’ 13
14
15
16

Part 5 Amendment of Bail Act 1980 17

- Clause 30 Act amended in this part** 18
- This part amends the *Bail Act 1980*. 19

- Clause 31 Amendment of s 6 (Definitions)** 20
- Section 6, definition *community justice group*, paragraph (a), ‘*Community Services (Aborigines) Act 1984*,’ and footnote— 21
22
- omit, insert—* 23

‘Aboriginal Communities (Justice and Land Matters) Act 1984.’. 1
2

Clause 32	Amendment of s 11 (Conditions of release on bail)	3
	Section 11—	4
	<i>insert—</i>	5
	‘(4) Without limiting a court’s power to impose a condition on bail under another provision of this section, a Magistrates Court may impose on the bail a condition that the defendant participate in a program prescribed under a regulation, after having regard to—	6 7 8 9 10
	(a) the nature of the offence; and	11
	(b) the circumstances of the defendant, including any benefit the defendant may derive by participating in the program; and	12 13 14
	(c) the public interest.	15
	<i>Note—</i>	16
	A breach of a condition of an undertaking imposed under subsection (4) is not an offence under section 29. Section 30 sets out procedures for varying the defendant’s bail if the condition is broken.’.	17 18 19
Clause 33	Amendment of s 20 (Undertaking as to bail)	20
	(1) Section 20(3)(b)(i), ‘section 11(2) or (3)’ and footnote—	21
	<i>omit, insert—</i>	22
	‘section 11(2), (3) or (4) ¹ ’.	23
	(2) Section 20(3A)(b)(i), ‘section 11(2) or (3)’—	24
	<i>omit, insert—</i>	25
	‘section 11(2), (3) or (4)’.	26

1 Section 11 (Conditions of release on bail)

Clause 34	Amendment of s 28A (Other warrants for apprehension of defendant)	1 2
	Section 28A(3)(c)—	3
	<i>insert—</i>	4
	‘ <i>Note—</i>	5
	A defendant may be granted bail before being brought before the court under paragraph (c) if the defendant shows cause under section 16(3) why the defendant’s detention in custody is not justified.’.	6 7 8 9
Clause 35	Amendment of s 29 (Offence to breach conditions of bail)	10
	Section 29(2)—	11
	<i>insert—</i>	12
	‘(c) a condition that the defendant participate in a program prescribed under a regulation under section 11(4).’.	13 14
Clause 36	Amendment of s 29A (Procedure in respect of defendants apprehended under s 21(7) or the Police Powers and Responsibilities Act 2000)	15 16 17
	Section 29A—	18
	<i>insert—</i>	19
	‘(3) This section does not apply if under subsection (1)(b) the only condition the defendant has broken, or is likely to break, is a condition of the defendant’s undertaking imposed under section 11(4).’.	20 21 22 23
Clause 37	Amendment of s 30 (Apprehension on variation or revocation of bail)	24 25
	Section 30—	26
	<i>insert—</i>	27
	‘(6) If the only ground for making an application under subsection (1) is that the defendant has broken, or is likely to break, a condition of the defendant’s undertaking imposed under	28 29 30

section 11(4), the court may vary the defendant's bail, including by rescinding the condition imposed under section 11(4), but may not revoke the bail.' 1
2
3

Part 6 **Amendment of Births, Deaths and Marriages Registration Act 2003** 4
5
6

Clause 38 Act amended in this part 7

This part amends the *Births, Deaths and Marriages Registration Act 2003*. 8
9

Clause 39 Amendment of s 19 (Registration of change of name) 10

Section 19(3)— 11

omit, insert— 12

'(3) If the registrar registers a change of name of a person whose birth or adoption was registered in Queensland and the changed name is not the same as the person's latest name in the register, the registrar must also— 13
14
15
16

(a) if the person requests the change be noted in the register of births or adopted children register—note the changed name in the register of births or adopted children register; or 17
18
19
20

(b) otherwise—note in the register of births or adopted children register that a change of name has been entered in the change of name register.' 21
22
23

Clause 40 Amendment of s 27 (Deaths that may be registered in Queensland) 24
25

(1) Section 27— 26

insert— 27

	‘(2A) The death of a person may be registered under this Act if a Queensland court or a coroner finds, or has found—	1 2
	(a) that the death happened but is, or was, unable to find where the person died; and	3 4
	(b) the name of the person; and	5
	(c) the date or approximate date of the person’s death.’.	6
	(2) Section 27(6)—	7
	<i>insert—</i>	8
	‘ coroner means a coroner under the <i>Coroners Act 1958</i> or the <i>Coroners Act 2003</i> .’.	9 10
Clause 41	Amendment of s 48A (Registrar to give notice of registration of child death to commissioner)	11 12
	Section 48A(3)(b)—	13
	<i>insert—</i>	14
	‘(v) the cause of death.’.	15
Part 7	Amendment of Civil Liability Act 2003	16 17
Clause 42	Act amended in this part	18
	This part amends the <i>Civil Liability Act 2003</i> .	19
Clause 43	Amendment of ch 5 hdg (Transitional provisions)	20
	Chapter 5, heading, after ‘Transitional’—	21
	<i>insert—</i>	22
	‘ and other ’.	23
Clause 44	Insertion of new ch 5, pt 4	24
	Chapter 5—	25

insert—

		1
‘Part 4	Declaration about commencement of chapter 2, part 2	2
		3
		4
‘82	Commencement of ch 2, pt 2	5
	‘It is declared that chapter 2, part 2 ³ commenced and has effect, and has always had effect, on and from 1 March 2005.’.	6
		7
Part 8	Amendment of Coroners Act 2003	8
		9
Clause 45	Act amended in this part	10
	This part amends the <i>Coroners Act 2003</i> .	11
Clause 46	Amendment of s 11 (Deaths to be investigated)	12
	Section 11(7)—	13
	<i>omit, insert—</i>	14
	‘(7) Despite subsection (2), a death in custody must be investigated by—	15
		16
	(a) the State Coroner; or	17
	(b) the Deputy State Coroner; or	18
	(c) an appointed coroner or local coroner, approved by the Governor in Council to investigate a particular death in custody or any death in custody, on the recommendation of the Chief Magistrate in consultation with the State Coroner.’.	19
		20
		21
		22
		23

Clause 47	Amendment of s 19 (Order for autopsy)	1
	(1) Section 19(2) to (8)—	2
	<i>renumber</i> as section 19(3) to (9).	3
	(2) Section 19(1)—	4
	<i>omit, insert</i> —	5
	‘(1) This section does not apply if a coroner—	6
	(a) has stopped investigating a death under section 12(2)(a),	7
	(b), (d) or (e); ⁴ or	8
	(b) is investigating a suspected death under section 11(6). ⁵	9
	‘(2) As part of the investigation of a death or to find out whether a	10
	body is that of a stillborn child, a coroner—	11
	(a) if burial of the body has not happened—must order a	12
	doctor to perform an autopsy; or	13
	(b) otherwise—may order a doctor to perform an autopsy.’.	14
	(3) Section 19(6), as renumbered, ‘subsection (4)(b)’—	15
	<i>omit, insert</i> —	16
	‘subsection (5)(b)’.	17
	(4) Section 19(9)(c), as renumbered—	18
	<i>omit, insert</i> —	19
	‘(c) the death has previously been investigated under this	20
	Act; or	21
	(d) the death was reported to the coroner on or after 1	22
	December 2003 but before the commencement of the	23
	<i>Justice and Other Legislation Amendment Act 2005</i> ,	24
	section 47.’.	25
Clause 48	Amendment of s 26 (Control of body)	26
	Section 26(1), ‘The coroner starts having control of a’—	27
	<i>omit, insert</i> —	28

4 Section 12 (Deaths not to be investigated or further investigated)

5 Section 11 (Deaths to be investigated)

‘Unless a person’s death is reported to the coroner after burial,
the coroner starts having control of the’. 1
2

Clause 49	Amendment of s 83 (Appointed coroners)	3
	Section 83—	4
	<i>insert</i> —	5
	‘(5) An appointed coroner may be appointed to investigate a particular death or for a particular period, or otherwise.’.	6 7

Part 9	Amendment of Corrective Services Act 2000	8 9
---------------	--	--------

Clause 50	Act amended in this part	10
	This part amends the <i>Corrective Services Act 2000</i> .	11
Clause 51	Amendment of s 95 (Obstructing corrective services officer)	12 13
	(1) Section 95, heading, ‘ Obstructing ’—	14
	<i>omit, insert</i> —	15
	‘ Assaulting or obstructing ’.	16
	(2) Section 95(1), after ‘not’—	17
	<i>insert</i> —	18
	‘assault or’.	19
	(3) Section 95(3)—	20
	<i>insert</i> —	21
	‘ <i>assault</i> has the meaning given by the Criminal Code, section 245.’.	22 23

Part 10	Amendment of Criminal Code	1
Clause 52	Code amended in this part	2
	This part amends the Criminal Code.	3
Clause 53	Amendment of s 1 (Definitions)	4
	Section 1—	5
	<i>insert—</i>	6
	‘ <i>conduct</i> , for chapter 23, see section 230A.	7
	<i>law enforcement agency</i> , for chapter 22, see section 207A.	8
	<i>law enforcement officer</i> , for chapter 22, see section 207A.	9
	<i>observe</i> , for chapter 22, see section 207A.	10
	<i>occupier</i> , for chapter 23, see section 230A.	11
	<i>place</i> , for chapter 23, see section 230A.	12
	<i>private act</i> , for chapter 22, see section 207A.	13
	<i>private place</i> , for chapter 22, see section 207A.	14
	<i>public place</i> , for chapter 23, see section 230A.	15
	<i>state of undress</i> , for chapter 22, see section 207A.	16
	<i>unlawful game</i> , for chapter 23, see section 230A.	17
	<i>visually record</i> , for chapter 22, see section 207A.’.	18
Clause 54	Amendment of s 207A (Definitions for this chapter)	19
	Section 207A—	20
	<i>insert—</i>	21
	‘ <i>law enforcement agency</i> means—	22
	(a) the Queensland Police Service; or	23
	(b) the Office of the Director of Public Prosecutions; or	24
	(c) the Crime and Misconduct Commission; or	25
	(d) any other entity of—	26

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- (i) another State; or 1
- (ii) the Commonwealth; 2
- that performs a similar function to an entity in 3
paragraphs (a) to (c). 4
- law enforcement officer*** means— 5
- (a) a member or officer of a law enforcement agency, 6
including a person appearing for the director under the 7
Director of Public Prosecutions Act 1984, section 10(4); 8
or 9
- (b) a person who is authorised, in writing, by the 10
commissioner of the police service, or the chairperson 11
of the Crime and Misconduct Commission, to help a 12
member or officer of a law enforcement agency; or 13
- (c) a person who belongs to a class of persons that is 14
authorised, in writing, by the commissioner of the police 15
service, or the chairperson of the Crime and Misconduct 16
Commission, to help a member or officer of a law 17
enforcement agency. 18
- observe*** means observe by any means. 19
- private act***, for a person, means— 20
- (a) showering or bathing; or 21
- (b) using a toilet; or 22
- (c) another activity when the person is in a state of undress; 23
or 24
- (d) intimate sexual activity that is not ordinarily done in 25
public. 26
- private place*** means a place where a person might reasonably 27
be expected to be engaging in a private act. 28
- state of undress***, for a person, means— 29
- (a) the person is naked or the person's genital or anal region 30
is bare or, if the person is female, the person's breasts 31
are bare; or 32
- (b) the person is wearing only underwear; or 33

- (c) the person is wearing only some outer garments so that some of the person's underwear is not covered by an outer garment.

visually record, a person, means record, or transmit, by any means, moving or still images of the person or part of the person.'

Clause 55 Insertion of new ss 227A–227C

After section 227—

insert—

'227A Observations or recordings in breach of privacy

- (1) A person who observes or visually records another person, in circumstances where a reasonable adult would expect to be afforded privacy—

(a) without the other person's consent; and

(b) when the other person—

(i) is in a private place; or

(ii) is engaging in a private act and the observation or visual recording is made for the purpose of observing or visually recording a private act;

commits a misdemeanour.

Maximum penalty—2 years imprisonment.

Examples of circumstances where a reasonable adult would expect to be afforded privacy—

1 A person changing in a communal change room at a swimming pool may expect to be observed by another person who is also changing in the room but may not expect to be visually recorded.

2 A person who needs help to dress or use a toilet may expect to be observed by the person giving the help but may not expect to be observed by another person.

- (2) A person who observes or visually records another person's genital or anal region, in circumstances where a reasonable adult would expect to be afforded privacy in relation to that region—

(a) without the other person's consent; and

(b) when the observation or visual recording is made for the purpose of observing or visually recording the other person's genital or anal region;	1
commits a misdemeanour.	2
Maximum penalty—2 years imprisonment.	3
<i>Example for subsection (2)—</i>	4
using a mobile phone in a public place to take photos of women's underwear under their skirts without their consent	5
'(3) In subsection (2)—	6
<i>genital or anal region</i> , of a person, means the person's genital or anal region when the region is covered by underwear or bare.	7
	8
	9
	10
	11
	12
'227B Distributing prohibited visual recordings	13
'(1) A person who distributes a prohibited visual recording of another person having reason to believe it to be a prohibited visual recording, without the other person's consent, commits a misdemeanour.	14
Maximum penalty—2 years imprisonment.	15
'(2) In this section—	16
<i>distribute</i> includes—	17
(a) communicate, exhibit, send, supply or transmit to someone, whether to a particular person or not; and	18
(b) make available for access by someone, whether by a particular person or not; and	19
(c) enter into an agreement or arrangement to do something in paragraph (a) or (b); and	20
(d) attempt to distribute.	21
<i>prohibited visual recording</i> , of another person, means—	22
(a) a visual recording of the person in a private place or engaging in a private act made in circumstances where a reasonable adult would expect to be afforded privacy; or	23
(b) a visual recording of the person's genital or anal region, when it is covered by underwear or bare, made in	24
	25
	26
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	33

circumstances where a reasonable adult would expect to be afforded privacy in relation to that region.	1 2
'227C Persons who are not criminally responsible for offences against ss 227A and 227B	3 4
'(1) A person is not criminally responsible for an offence against section 227A(1) or (2) or 227B(1) if—	5 6
(a) the person is, at the time of the offence, a law enforcement officer acting in the course of the person's duties; and	7 8 9
(b) the person's conduct is reasonable in the circumstances for the performance of the duties.	10 11
'(2) A person is not criminally responsible for an offence against section 227A(1) or (2) or 227B(1) in relation to an observation or visual recording of another person who is in lawful custody or subject to a supervision order if—	12 13 14 15
(a) the person is, at the time of the offence, acting in the course of the person's duties in relation to the other person's lawful custody or supervision order; and	16 17 18
(b) the person's conduct is reasonable in the circumstances for the performance of the duties.	19 20
<i>Examples of conduct that may be reasonable for the performance of duties—</i>	21 22
• the observation of a person for the safety of the person or another person	23 24
• the observation of a person providing a urine sample for a drug test	25 26
'(3) In this section—	27
<i>lawful custody</i> includes detention under the <i>Mental Health Act 2000</i> , in an authorised mental health service or a high security unit.	28 29 30
<i>supervision order</i> , for a person, means an order under an Act or a law of the Commonwealth or another State or made by an Australian court that subjects the person to supervision including, for example, the following orders—	31 32 33 34

- | | | |
|-----|--|----------------|
| (a) | a community based order under the <i>Penalties and Sentences Act 1992</i> ; | 1
2 |
| (b) | a community based order or supervised release order under the <i>Juvenile Justice Act 1992</i> ; | 3
4 |
| (c) | a post-prison community based release order or a conditional release order under the <i>Corrective Services Act 2000</i> ; | 5
6
7 |
| (d) | an intensive drug rehabilitation order under the <i>Drug Rehabilitation (Court Diversion) Act 2000</i> ; | 8
9 |
| (e) | a supervision order or an interim supervision order under the <i>Dangerous Prisoners (Sexual Offenders) Act 2003</i> . | 10
11
12 |

Clause 56	Amendment of s 228H (Possession etc. of child exploitation material by law enforcement officer)	13
		14
	Section 228H(3), definitions <i>law enforcement agency</i> and <i>law enforcement officer</i> —	15 16
	<i>omit.</i>	17

Clause 57	Insertion of new s 230A	18
		Chapter 23, before section 230—
	<i>insert</i> —	20
	'230A Definitions for ch 23	21
	'In this chapter—	22
	<i>conduct</i> means conduct, promote, organise, control or operate.	23 24
	<i>occupier</i> , of a place, means any of the following—	25
	(a) the owner, lessee or person apparently in charge of the place;	26 27
	(b) the person who has the care, management or supervision of the place or who is conducting a business at the place.	28 29
	<i>place</i> includes land, premises and a vehicle.	30
	<i>public place</i> means—	31

- (a) a place, or part of a place, that the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or
- (b) a place, or part of a place, the occupier of which allows, whether or not on payment of money, members of the public to enter.
- unlawful game*** means a game of chance, or mixed chance and skill, that—
- (a) is not authorised under an Act; and
- (b) is played by 1 or more persons (***players***) who gamble or bet on an outcome of the game for the purpose of winning money or another consideration; and
- (c) has at least 1 of the following characteristics—
- (i) the game is conducted or played in a public place;
- (ii) the game is played in a place, or part of a place, the occupier of which allows, on payment of money or for other consideration, players to enter and use for playing the game;
- (iii) a percentage of the amount gambled or bet is—
- (A) kept by 1 or more of the players, or another person; and
- (B) not included in the winnings of the players.’.

- Clause 58 Replacement of ss 232–235**
- Sections 232 to 235—
- omit, insert—*
- ‘232 Operating a place for unlawful games**
- ‘(1) A person who operates a place—
- (a) for the purpose of conducting an unlawful game, by the person or another person; or
- (b) for the purpose of playing an unlawful game;
- commits a misdemeanour.

Maximum penalty—600 penalty units or 3 years imprisonment. 1
2

‘(2) In this section— 3

operates includes owns, leases, manages, controls and maintains. 4
5

‘233 Possession of thing used to play an unlawful game 6

‘(1) A person who possesses gaming equipment that has been used, or is intended to be used, for playing an unlawful game commits an offence. 7
8
9

Maximum penalty—200 penalty units. 10

‘(2) In this section— 11

gaming equipment means a machine or other device (whether electronic, electrical or mechanical), computer software, or another thing, used or suitable for use, for playing an unlawful game. 12
13
14
15

*Example of another thing, used or suitable for use, for playing an unlawful game— 16
17*

implements for playing two-up 18

‘234 Conducting or playing unlawful games 19

‘(1) A person who conducts an unlawful game commits an offence. 20
21

Maximum penalty—200 penalty units. 22

‘(2) A person who plays an unlawful game commits an offence. 23

Maximum penalty—40 penalty units.’. 24

Clause 59 Amendment of s 340 (Serious assaults) 25

Section 340— 26

insert— 27

‘(2) A prisoner who assaults a working corrective services officer is guilty of a crime, and is liable to imprisonment for 7 years. 28
29

‘(3) In this section— 30

<i>corrective services facility</i> see the <i>Corrective Services Act 2000</i> , schedule 3.	1 2
<i>corrective services officer</i> see the <i>Corrective Services Act 2000</i> , schedule 3.	3 4
<i>prisoner</i> see the <i>Corrective Services Act 2000</i> , schedule 3.	5
<i>working corrective services officer</i> means a corrective services officer present at a corrective services facility in his or her capacity as a corrective services officer.’.	6 7 8

Clause 60	Omission of s 637 (Evidence of gaming)	9
	Section 637—	10
	<i>omit.</i>	11

Part 11	Amendment of Dangerous Prisoners (Sexual Offenders) Act 2003	12 13 14
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Clause 61	Act amended in this part	15
	This part amends the <i>Dangerous Prisoners (Sexual Offenders) Act 2003</i> .	16 17

Clause 62	Amendment of s 5 (Attorney-General may apply for orders)	18 19
	Section 5(4), ‘14 business days’—	20
	<i>omit, insert—</i>	21
	‘28 business days’.	22

Clause 63	Amendment of s 8 (Preliminary hearing)	23
	Section 8(2) to (4)—	24
	<i>omit, insert—</i>	25

- ‘(2) If the court is satisfied as required under subsection (1), it may make—
- (a) an order that the prisoner undergo examinations by 2 psychiatrists named by the court who are to prepare 3 independent reports; and 4 5
- (b) if the court is satisfied the application may not be finally 6 decided until after the prisoner’s release day— 7
- (i) an order that the prisoner’s release from custody be 8 supervised; or 9
- (ii) an order that the prisoner be detained in custody 10 for the period stated in the order. 11
- Note—* 12
- If the court makes an order under subsection (2)(b)(i), the order must 13 contain the requirements for the prisoner stated in section 16(1).’ 14

- Clause 64 Insertion of new s 9A** 15
- After section 9— 16
- insert—* 17
- ‘9A Court may adjourn hearing for division 3 order** 18
- ‘(1) The court may, on application or on its own initiative, adjourn 19 the hearing of an application for a division 3 order. 20
- ‘(2) If the court adjourns the hearing of the application and is 21 satisfied the application may not be finally decided until after 22 the prisoner’s release day, the court may make an order— 23
- (a) that the prisoner’s release from custody be supervised; 24 or 25
- (b) that the prisoner be detained in custody for the period 26 stated in the order. 27
- Note—* 28
- If the court makes an order under subsection (2)(a), the order must 29 contain the requirements for the prisoner stated in section 16(1).’ 30

Clause 65	Amendment of s 10 (Discontinuing application for division 3 order)	1 2
	Section 10(3), after ‘interim detention order’—	3
	<i>insert</i> —	4
	‘or has been released from custody under an interim supervision order’.	5 6
Clause 66	Replacement of pt 2, div 3 hdg	7
	Part 2, division 3, heading—	8
	<i>omit, insert</i> —	9
	‘Division 3 Final orders’.	10
Clause 67	Insertion of new pt 2, div 3A hdg	11
	After section 13—	12
	<i>insert</i> —	13
	‘Division 3A Effect of particular orders’.	14
Clause 68	Amendment of s 14 (Effect of continuing detention order)	15
	(1) Section 14, heading, after ‘detention order’—	16
	<i>insert</i> —	17
	‘or interim detention order’.	18
	(2) Section 14(1)(b), ‘by the court’s order’—	19
	<i>omit.</i>	20
	(3) Section 14(2)—	21
	<i>omit, insert</i> —	22
	‘(2) An interim detention order has effect in accordance with its terms—	23 24
	(a) on the order being made or at the end of the prisoner’s period of imprisonment, whichever is the later; and	25 26
	(b) for the period stated in the order, unless earlier rescinded.’.	27 28

Clause 69	Amendment of s 15 (Effect of supervision order)	1
	Section 15, after ‘supervision order’—	2
	<i>insert</i> —	3
	‘or interim supervision order’.	4
Clause 70	Insertion of new pt 2, div 3B hdg	5
	After section 15—	6
	<i>insert</i> —	7
	‘Division 3B Supervised release to be subject to particular requirements’.	8
		9
Clause 71	Amendment of s 16 (Conditions for supervised release)	10
	(1) Section 16(1), from ‘If the court’ to ‘the prisoner—’—	11
	<i>omit, insert</i> —	12
	‘If a judicial authority orders that a prisoner’s release from custody be supervised under a supervision order or interim supervision order, the order must contain requirements that the prisoner—’.	13
		14
		15
		16
	(2) Section 16(1)(b), ‘the court’—	17
	<i>omit, insert</i> —	18
	‘the judicial authority’.	19
	(3) Section 16(2), from ‘supervision order’ to ‘thinks’—	20
	<i>omit, insert</i> —	21
	‘order may contain any other order the judicial authority considers’.	22
		23
Clause 72	Insertion of new pt 2, div 3C hdg	24
	After section 16—	25
	<i>insert</i> —	26
	‘Division 3C Reasons for orders’.	27

Clause 73	Amendment of s 17 (Court to give reasons)	1
	Section 17(1)—	2
	<i>omit, insert—</i>	3
	‘(1) If a judicial authority makes any of the following orders, it must give detailed reasons for making the order—	4
	(a) a continuing detention order;	5
	(b) an interim detention order;	6
	(c) a supervision order;	7
	(d) an interim supervision order.’	8
Clause 74	Amendment of pt 2, div 4 hdg	9
	Part 2, division 4, heading, after ‘orders’—	10
	<i>insert—</i>	11
	‘or interim supervision orders’.	12
Clause 75	Amendment of s 18 (Application for amendment)	13
	Section 18(1)(a), after ‘supervision order’—	14
	<i>insert—</i>	15
	‘or interim supervision order’.	16
Clause 76	Amendment of s 19 (Amendment of conditions of supervision order)	17
	Section 19, after ‘supervision order’—	18
	<i>insert—</i>	19
	‘or interim supervision order’.	20
Clause 77	Amendment of pt 2, div 5 hdg	21
	Part 2, division 5, heading, after ‘supervision order’—	22
	<i>insert—</i>	23
	‘or interim supervision order’.	24
		25
		26

Clause 78	Amendment of s 20 (Summons or warrant for released prisoner suspected of contravening a supervision order)	1 2
	(1) Section 20, heading, after ‘supervision order’—	3
	<i>insert—</i>	4
	‘or interim supervision order’.	5
	(2) Section 20(1), after ‘supervision order’—	6
	<i>insert—</i>	7
	‘or interim supervision order’.	8
Clause 79	Amendment of s 21 (Contravention of supervision order)	9
	Section 21, heading, after ‘supervision order’—	10
	<i>insert—</i>	11
	‘or interim supervision order’.	12
Clause 80	Amendment of s 22 (Court may make further order)	13
	(1) Section 22, from ‘order, the court may—’—	14
	<i>omit, insert—</i>	15
	‘order or interim supervision order, the court may—	16
	(a) amend the conditions of the supervision order or interim supervision order; or	17 18
	(b) if the order is a supervision order and the court is satisfied as required under section 13(1), rescind the order and make a continuing detention order; or	19 20 21
	(c) if the order is an interim supervision order, rescind the order and make an order that the released prisoner be detained in custody for the period stated in the order; or	22 23 24
	(d) make any other order the court considers appropriate—	25
	(i) to achieve compliance with the supervision order or interim supervision order; or	26 27
	(ii) to ensure adequate protection of the community.’.	28
	(2) Section 22—	29
	<i>insert—</i>	30

	‘(2) Subject to subsection (3), for the purpose of subsection (1)(b), section 13 applies as if the application under this section were an application for a division 3 order under that section.	1 2 3
	‘(3) For the purpose of deciding whether to make a continuing detention order under subsection (1)(b), the court may—	4 5
	(a) act on any evidence before it; or	6
	(b) make any order necessary to enable evidence of a kind needed to support an application for a division 3 order to be brought before it, including an order in the nature of a risk assessment order.’.	7 8 9 10
Clause 81	Amendment of s 23 (Application of division)	11
	Section 23, after ‘supervision order’—	12
	<i>insert</i> —	13
	‘or interim supervision order’.	14
Clause 82	Amendment of s 24 (Period in custody not counted)	15
	Section 24(1), after ‘supervision order’—	16
	<i>insert</i> —	17
	‘or interim supervision order’.	18
Clause 83	Amendment of s 41 (Stay of operation of decision)	19
	Section 41(2) and (3)—	20
	<i>omit, insert</i> —	21
	‘(2) However, if the judicial authority hearing an appeal is satisfied the appeal may not be finally decided until after the prisoner’s release day, the judicial authority may make an order—	22 23 24
	(a) that the prisoner’s release from custody be supervised; or	25 26
	(b) that the prisoner be detained in custody for the period stated in the order.	27 28

Note—

If a judicial authority makes an order under subsection (2)(a), the order must contain the requirements for the prisoner stated in section 16(1).'

		1
		2
		3
Clause 84	Amendment of s 42 (Court's power to order re-arrest on appeal by Attorney-General)	4
		5
	Section 42(1), 'section 41(2)'—	6
	<i>omit, insert—</i>	7
	'section 41(2)(b).'	8
Clause 85	Amendment of s 43 (Court of Appeal's powers on appeal)	9
	(1) Section 43(2)—	10
	<i>insert—</i>	11
	'(d) may order that the matter be remitted to the court for rehearing.'	12
		13
	(2) Section 43—	14
	<i>insert—</i>	15
	'(3) Subsection (2)(a) does not limit the powers that the Court of Appeal has in its civil jurisdiction.	16
		17
	'(4) If the Court of Appeal orders that the matter be remitted to the court for rehearing and is satisfied the matter may not be reheard until after the prisoner's release day, the Court of Appeal may make an order—	18
		19
		20
		21
	(a) that the prisoner's release from custody be supervised;	22
	or	23
	(b) that the prisoner be detained in custody for the period stated in the order.	24
		25
	<i>Note—</i>	26
	If the Court of Appeal makes an order under subsection (4)(a), the order must contain the requirements for the prisoner stated in section 16(1).'	27
		28
Clause 86	Insertion of new s 43A	29
	Part 5—	30

insert—

‘43A Persons who remain prisoners for particular purposes

‘(1) This section provides for the application of this Act to a person.

(2) A person who is subject to a continuing detention order or interim detention order remains a prisoner.

‘(3) A person who is subject to an interim supervision order remains a prisoner for the purposes of any relevant application, appeal or rehearing.

‘(4) A person who is released from custody, without an interim supervision order having being made, after the court sets a date for the hearing of an application for a division 3 order relating to the person remains a prisoner for the purposes of the application.

‘(5) A person who is released from custody, without an interim supervision order having being made, after the Court of Appeal makes an order under section 43(2)(d) relating to the person remains a prisoner for the purposes of the rehearing.

‘(6) A person who is released from custody after the hearing of any application under this Act, without an interim supervision order having being made, remains a prisoner for the purposes of any appeal against the decision and for any subsequent appeal.’.

Clause 87 Amendment of s 44 (Hearings on the papers)

Section 44—

insert—

‘(3) Subsection (1) is subject to section 49.’.

Clause 88 Amendment of s 49 (Appearance at hearings)

(1) Section 49, ‘at a hearing under section 13’—

omit, insert—

‘at a preliminary hearing under section 8 or at a hearing under section 13, 18’.

	(2) Section 49—	1
	<i>insert—</i>	2
	‘(2) Subsection (1) does not limit the court’s power under section 44 to deal with an application under section 8 or 18 if the prisoner does not appear at the hearing of the application.’	3 4 5
Clause 89	Amendment of s 51 (Post-prison community based release)	6 7
	Section 51, from ‘order,’ to ‘section 41(2)’—	8
	<i>omit, insert—</i>	9
	‘order or interim detention order’.	10
Clause 90	Insertion of new pt 6	11
	After part 5—	12
	<i>insert—</i>	13
‘Part 6	Transitional provisions for Justice and Other Legislation Amendment Act 2005	14 15 16
‘54	Amendment does not affect existing orders	17
	‘(1) The amendment of this Act by the <i>Justice and Other Legislation Amendment Act 2005</i> , part 11 does not affect any order made under the Act and in force immediately before the commencement.	18 19 20 21
	‘(2) An order mentioned in subsection (1) continues to have effect according to its terms after the commencement.	22 23
	‘(3) In this section—	24
	<i>commencement</i> means the commencement of this section.	25
‘55	Transitional statements for particular provisions	26
	‘(1) A court may make an order under section 8(2)(b)(i) even if the application to which the order relates was made before the	27 28

commencement if the application has not been decided on the commencement. 1
2

‘(2) A court may make an order under section 9A(2) even if the application to which the order relates was made before the commencement if the application has not been decided on the commencement. 3
4
5
6

‘(3) A judicial authority may make an order under section 41(2) even if the appeal to which the order relates was started before the commencement. 7
8
9

‘(4) The Court of Appeal may make an order under section 43(2)(d) or (4) even if the appeal to which the order relates was started before the commencement. 10
11
12

‘(5) Section 44(1) as in force immediately after the commencement applies even if the application to which the decision relates was started before the commencement. 13
14
15

‘(6) In this section— 16
commencement means the commencement of this section. 17

**‘56 Amendments not to affect status of persons who were prisoners for particular purposes 18
19**

‘(1) Without limiting section 43A, if, immediately before the commencement of this section, a person was or remained a prisoner for a purpose under the pre-amended Act, the person is or remains a prisoner for the purpose under the amended Act. 20
21
22
23
24

‘(2) In this section— 25
amended Act means this Act as amended by the *Justice and Other Legislation Amendment Act 2005*, part 11. 26
27

pre-amended Act means this Act as in force immediately before the commencement of this section.’. 28
29

Clause 91 Amendment of schedule (Dictionary) 30

(1) Schedule, definitions *interim detention order* and *risk assessment order*— 31
32
omit. 33

- (2) Schedule— 1
insert— 2
‘interim detention order means an order detaining a person in 3
custody made under section 8(2)(b)(ii), 9A(2)(b), 22(1)(c), 4
41(2)(b) or 43(4)(b). 5
interim supervision order means an order made under section 6
8(2)(b)(i), 9A(2)(a), 41(2)(a) or 43(4)(a). 7
judicial authority means— 8
(a) the court; or 9
(b) if the court’s decision on a matter is appealed—a court 10
with jurisdiction to hear the appeal or any further 11
appeal. 12
release day, in relation to a prisoner, means the day on which 13
the prisoner is due to be unconditionally released from lawful 14
custody under the *Corrective Services Act 2000*. 15
risk assessment order means an order made under section 16
8(2)(a).’ 17
(3) Schedule, definition *prisoner—* 18
insert— 19
‘*Note—* 20
Also see section 43A.’ 21
(4) Schedule, definition *supervised release*, after ‘supervision 22
order’— 23
insert— 24
‘or interim supervision order’ 25

Part 12 **Amendment of Evidence Act** 26
1977 27

- Clause 92** **Act amended in this part** 28
This part amends the *Evidence Act 1977*. 29

Clause 93	Amendment of s 93A (Statement made before proceeding by child or intellectually impaired person)	1 2
	(1) Section 93A(1)(b), ‘the child or intellectually impaired person’—	3 4
	<i>omit, insert</i> —	5
	‘the maker of the statement’.	6
	(2) Section 93A(2)—	7
	<i>omit, insert</i> —	8
	‘(2) If a statement mentioned in subsection (1) (the <i>main statement</i>) is admissible, a related statement is also admissible as evidence if the maker of the related statement is available to give evidence in the proceeding.	9 10 11 12
	‘(2A) A <i>related statement</i> is a statement—	13
	(a) made by someone to the maker of the main statement, in response to which the main statement was made; and	14 15
	(b) contained in the document containing the main statement.	16 17
	‘(2B) Subsection (2) is subject to this part.’.	18
	(3) Section 93A(5), definition <i>child</i> —	19
	<i>omit, insert</i> —	20
	‘ <i>child</i> , in relation to a person who made a statement under subsection (1), means—	21 22
	(a) a person who was under 16 years when the statement was made, whether or not the person is under 16 years at the time of the proceeding; or	23 24 25
	(b) a person who was 16 or 17 years when the statement was made and who, at the time of the proceeding, is a special witness.’.	26 27 28
Clause 94	Amendment of s 134A (Production of documents by agencies in relation to civil proceedings)	29 30
	Section 134A(6), from ‘, section 63’ to ‘authorised’—	31
	<i>omit, insert</i> —	32

‘, section 62A(1)⁶ applies, the document is, for the purposes of section 62B⁷ of that Act, information that is expressly required’.

Clause 95 Insertion of new pt 9, div 4

Part 9—

insert—

**‘Division 4 Justice and Other Legislation
Amendment Act 2005**

**‘144 Statement made before proceeding by child or
intellectually impaired person**

‘(1) To remove any doubt, it is declared that amended section 93A⁸ applies to a proceeding that starts after the commencement of this section, regardless of when the conduct giving rise to the proceeding happened.

‘(2) A statement admitted into evidence in a proceeding before the commencement of this section that would be admissible under the amended section 93A if tendered in a proceeding after the commencement is taken to have always been admissible under section 93A.

‘(3) In this section—

amended section 93A means section 93A as amended by the *Justice and Other Legislation Act 2005*.

proceeding includes a committal, a preliminary hearing, a trial and any rehearing or retrial arising out of, or any appeal from, an earlier proceeding.

‘145 Definition *chief executive (surveys)*

‘It is declared that the amendment of the definition *chief executive (surveys)* by the *Surveyors Act 2003* is, and has

6 *Health Services Act 1991*, section 62A (Confidentiality)

7 *Health Services Act 1991*, section 62B (Disclosure required or permitted by law)

8 Section 93A (Statement made before proceeding by child or intellectually impaired person)

Clause 100	Amendment of s 52A (Who is aggrieved by a decision for s 52)	1 2
	Section 52A(1)(f)—	3
	<i>omit, insert—</i>	4
	‘(f) a processing charge or access charge is payable under a final assessment notice and the applicant considers the charge is wrongly assessed; or	5 6 7
	<i>Note—</i>	8
	For challenges to a processing charge or access charge payable under a preliminary assessment notice, see schedule 4 (Process for assessment of charges), part 2 (Objection process).’	9 10 11
Clause 101	Omission of s 108B (Combining strategic reviews)	12
	Section 108B—	13
	<i>omit.</i>	14
Clause 102	Replacement of pt 7 hdg (Transitional provision for Ombudsman Act 2001)	15 16
	Part 7, heading—	17
	<i>omit, insert—</i>	18
	‘Part 7 Transitional provisions	19
	‘Division 1 Provision for Ombudsman Act 2001’.	20 21
Clause 103	Replacement of pt 8 hdg (Transitional provision for Terrorism (Community Safety) Amendment Act 2004)	22 23
	Part 8, heading—	24
	<i>omit, insert—</i>	25
	‘Division 2 Provision for Terrorism (Community Safety) Amendment Act 2004’.	26 27

Clause 104	Replacement of pt 9 hdg (Transitional provision for Transport Infrastructure Amendment Act 2004)	1 2
	Part 9, heading—	3
	<i>omit, insert—</i>	4
‘Division 3	Provision for Transport Infrastructure Amendment Act 2004’.	5 6 7
Clause 105	Replacement of pt 10, hdg (Transitional provisions for Freedom of Information and Other Legislation Amendment Act 2005)	8 9 10
	Part 10, heading—	11
	<i>omit, insert—</i>	12
‘Division 4	Provisions for Freedom of Information and Other Legislation Amendment Act 2005’.	13 14 15
Clause 106	Amendment of sch 4, s 8 (Concession card given and accepted)	16 17
	Schedule 4, section 8(2), ‘, subject to section 10,’ and footnote—	18 19
	<i>omit.</i>	20
Clause 107	Amendment of sch 4, s 10 (Financial hardship claim if agency is a department)	21 22
	(1) Schedule 4, section 10, heading, ‘if agency is a department’—	23
	<i>omit, insert—</i>	24
	‘by non-profit organisation’.	25
	(2) Schedule 4, section 10(1) and (2)—	26
	<i>omit, insert—</i>	27
	‘(1) This section applies if an agency that is a department is given an objection notice in which the applicant contends charges	28 29

- (2) Section 142A(4), before ‘according to law’— 1
insert— 2
‘or as stated by the complainant’. 3
- (3) Section 142A(4), ‘as aforesaid’— 4
omit, insert— 5
‘or are stated by the complainant’. 6
- (4) Section 142A(4), ‘before it in obedience to the said 7
summons.’— 8
omit, insert— 9
‘at the time and place fixed for the hearing of the complaint.’. 10

**Clause 111 Amendment of s 146A (Proceeding at the hearing on 11
defendant’s confession in absentia) 12**

- (1) Section 146A(1), from ‘if’ to ‘appear’— 13
omit, insert— 14
‘if a defendant, under a summons or a condition of the 15
defendant’s bail or by a notice given to the defendant under 16
the *Bail Act 1980*, is required to appear’. 17
- (2) Section 146A(1)(b)— 18
omit. 19

Clause 112 Replacement of ss 178B–178F 20

Sections 178B to 178F— 21
omit, insert— 22

‘178B Definitions for part 23

‘In this part— 24

associated place, in relation to a person using video link 25
facilities for a proceeding in a Magistrates Court, means— 26

- (a) a correctional institution where the person is in custody; 27
or 28
- (b) another place, appointed for the holding of a Magistrates 29
Court, where the person is present. 30

facility user, in relation to a proceeding, means someone who is a party to the proceeding. 1
2

primary court, in a proceeding, means the Magistrates Court conducting the proceeding. 3
4

proceeding for a provision of this part, other than section 178C(1), means a proceeding to which section 178C(1) applies. 5
6
7

‘178C Use of video link facilities in proceedings 8

- ‘(1) This section applies to a proceeding if— 9
- (a) a person is entitled or required to be present before a Magistrates Court for the proceeding; and 10
11
 - (b) the proceeding is about an offence with which the person is charged, including a proceeding for the person’s bail or remand; and 12
13
14
 - (c) the person is— 15
 - (i) in custody at a correctional institution that has video link facilities linking it and the primary court; or 16
17
18
 - (ii) present at another place, appointed for the holding of a Magistrates Court, that has video link facilities linking it and the primary court, and the person is represented by a lawyer. 19
20
21
22
- ‘(2) If the person is in custody in a correctional institution and the proceeding is for the person’s bail or remand, the proceeding must be conducted using the video link facilities, unless the primary court, in the interests of justice, otherwise orders. 23
24
25
26
- ‘(3) In a proceeding, other than a proceeding to which subsection (2) applies, the primary court may order the proceeding be conducted using video link facilities only if all parties consent. 27
28
29
30
- ‘(4) The video link facilities may only be used to link the proceeding before the primary court with the person, or the person and the person’s representative, at the associated place. 31
32
33

‘178D Facility user taken to be before the court

- 1
- ‘(1) A person present at the part of the associated place used for 2
the conduct of a proceeding, when the proceeding is being 3
conducted, is taken to be in the presence of the primary court 4
for all purposes. 5
- ‘(2) The part of the associated place used for the proceeding is 6
taken to be part of the primary court for the conduct of the 7
proceeding. 8
- ‘(3) Any entitlement of, or requirement for, the facility user under 9
a law or court order to be present before the primary court in 10
the proceeding is taken to be satisfied by the facility user’s use 11
of video link facilities for the proceeding. 12

‘178E Way video link facilities must be operated

- 13
- ‘(1) Video link facilities, when used for a proceeding, are to be 14
operated in a way that ensures two-way audio and visual 15
communication between the facility user and the primary 16
court. 17
- ‘(2) If video link facilities fail during a proceeding, the primary 18
court may adjourn the proceeding or make another 19
appropriate order, as if the facility user were still in the 20
presence of the primary court. 21

‘178F Facilities for private communication

- 22
- ‘(1) The primary court and the associated place must make 23
facilities available for private communication between the 24
facility user and the facility user’s representative in a 25
proceeding if the facility user’s representative is at the place 26
where the primary court is sitting. 27
- ‘(2) A communication between the facility user and the facility 28
user’s representative is as confidential and as inadmissible in 29
any proceeding as it would be if it took place between the 30
facility user and the facility user’s representative while in 31
each other’s presence. 32
- ‘(3) Subsection (2) does not limit any other protection applying to 33
the communication.’ 34

Part 15	Amendment of Juvenile Justice Act 1992	1 2
Clause 113	Act amended in this part	3
	This part amends the <i>Juvenile Justice Act 1992</i> .	4
Clause 114	Amendment of s 48 (Decisions about bail and related matters)	5 6
	(1) Section 48(3)—	7
	<i>insert—</i>	8
	‘(da) if the child is an Aboriginal or Torres Strait Islander person—any submissions made by a representative of the community justice group in the child’s community, including, for example, about—	9 10 11 12
	(i) the child’s relationship to the child’s community; or	13 14
	(ii) any cultural considerations; or	15
	(iii) any considerations relating to programs and services established for offenders in which the community justice group participates;’.	16 17 18
	(2) Section 48—	19
	<i>insert—</i>	20
	‘(7A) If required by the court or officer for subsection (3)(da), a representative of the community justice group in the child’s community must advise the court or police officer whether—	21 22 23
	(a) any member of the community justice group that is responsible for the submission is related to the child or the victim; or	24 25 26
	(b) there are any circumstances that give rise to a conflict of interest between any member of the community justice group that is responsible for the submission and the child or victim.’.	27 28 29 30

Clause 115	Amendment of s 150 (Sentencing principles)	1
	Section 150(5)—	2
	<i>omit.</i>	3
 Clause 116	 Amendment of sch 4 (Dictionary)	 4
	Schedule 4—	5
	<i>insert—</i>	6
	‘child’s community means the child’s Aboriginal or Torres Strait Islander community, whether it is—	7
	(a) an urban community; or	9
	(b) a rural community; or	10
	(c) a community on DOGIT land under the <i>Aboriginal Land Act 1991</i> or the <i>Torres Strait Islander Land Act 1991</i> .	11 12 13
	community justice group , for a child, means—	14
	(a) the community justice group established under the <i>Aboriginal Communities (Justice and Land Matters) Act 1984</i> , part 5 or the <i>Community Services (Torres Strait) Act 1984</i> , part 5, for the child’s community; or	15 16 17 18
	(b) a group of persons within the child’s community, other than a department of government, that is involved in the provision of any of the following—	19 20 21
	(i) information to a court about Aboriginal or Torres Strait Islander offenders;	22 23
	(ii) diversionary, interventionist or rehabilitation activities relating to Aboriginal or Torres Strait Islander offenders;	24 25 26
	(iii) other activities relating to local justice issues; or	27
	(c) a group of persons made up of the elders or other respected persons of the child’s community.’.	28 29

Part 16	Amendment of Land Court Act 2000	1
		2
Clause 117	Act amended in this part	3
	This part amends the <i>Land Court Act 2000</i> .	4
Clause 118	Amendment of s 12 (Power to rehear matters)	5
	Section 12(2)—	6
	<i>omit, insert—</i>	7
	‘(2) The application must be made within 42 days after the order containing the decision is made by the court.’	8
		9
Clause 119	Insertion of new pt 2, div 3A	10
	After section 20—	11
	<i>insert—</i>	12
‘Division 3A	Powers and responsibilities of president	13
		14
‘20A	Arrangement of business	15
	‘(1) The president is responsible for the administration of the Land Court and for ensuring the orderly and expeditious exercise of the jurisdiction and powers of the Land Court.	16
		17
		18
	‘(2) The president has power to do things necessary or convenient to be done for the administration of the Land Court and for ensuring the orderly and expeditious exercise of the jurisdiction and powers of the Land Court.’	19
		20
		21
		22
Clause 120	Amendment of s 34 (Costs)	23
	(1) Section 34(5), from ‘, under’ to ‘in the Supreme Court’—	24
	<i>omit.</i>	25
	(2) Section 34(6), ‘(4)’—	26

omit, insert— 1
 ‘(5)’. 2

Clause 121 Amendment of s 35 (Privileges, protection and immunity) 3
 Section 35— 4
insert— 5
 ‘(1A) A judicial registrar, exercising judicial or quasi-judicial power 6
 the judicial registrar may exercise under the Act, has the same 7
 privileges, protection and immunity as the judicial registrar 8
 would have if the judicial registrar were a Supreme Court 9
 Judge presiding over a proceeding in the Supreme Court.’ 10

Clause 122 Replacement of s 57 (Land Appeal Court may remit matter) 11
 Section 57— 12
omit, insert— 13
‘57 Powers of Land Appeal Court 14
 ‘The Land Appeal Court may do 1 or more of the following— 15
 (a) suspend the operation of the decision and remit the 16
 matter, with or without directions, to the court or 17
 tribunal that made the decision to act according to law; 18
 (b) affirm, amend, or revoke and substitute another order or 19
 decision for the order or decision appealed against; 20
 (c) make an order the Land Appeal Court considers 21
 appropriate.’ 22
 23

Clause 123 Amendment of s 65 (Notice of appeal) 24
 Section 65(1), from ‘within’ to ‘the party,’— 25
omit, insert— 26
 ‘within 42 days after the order containing the decision is made 27
 by the court.’ 28

Clause 124	Amendment of s 75 (When leave to appeal must be sought and appeal made)	1 2
	Section 75(1), from ‘within’ to ‘the party,’—	3
	<i>omit, insert—</i>	4
	‘within 42 days after the order containing the decision is made by the Land Appeal Court.’.	5 6
 Part 17		
	Amendment of Magistrates Act 1991	7 8
Clause 125	Act amended in this part	9
	This part amends the <i>Magistrates Act 1991</i> .	10
Clause 126	Amendment of s 23 (Decisions about constituting Magistrates Courts)	11 12
	Section 23(5), from ‘the magistrate has ceased’—	13
	<i>omit, insert—</i>	14
	‘the magistrate —	15
	(a) has ceased to be a magistrate under section 42; ⁹ or	16
	(b) has been the subject of a transfer decision under section 12(2)(a) requiring the magistrate to constitute a Magistrates Court at another place; or	17 18 19
	(c) has been the subject of an agreement under section 5(4);	20
	or	21
	(d) has been the subject of a decision under section 5(5).’.	22

9 Section 42 (Tenure of office)

Part 18	Amendment of Prisoners (Interstate Transfer) Act 1982	1 2
Clause 127	Act amended in this part	3
	This part amends the <i>Prisoners (Interstate Transfer) Act 1982</i> .	4
Clause 128	Replacement of pt 2 hdg (Transfer for prisoner's welfare)	5
	Part 2, heading—	6
	<i>omit, insert—</i>	7
'Part 2	Transfer at request of prisoner'.	8
Clause 129	Amendment of s 6 (Requests for, and orders of, transfer)	9
	Section 6(1)(b), (3)(b) and (5)(b), 'in the interests of the welfare of the prisoner'—	10 11
	<i>omit.</i>	12
Clause 130	Amendment of s 10 (Reports)	13
	Section 10(1), 'may have regard'—	14
	<i>omit, insert—</i>	15
	'by reference'.	16
Clause 131	Insertion of new s 10A	17
	Part 2, after section 10—	18
	<i>insert—</i>	19
'10A	Matters that the Minister may have regard to	20
	'When forming an opinion or exercising a discretion under this part, the Minister may have regard to any one or more of the following—	21 22 23
	(a) the welfare of the prisoner;	24
	(b) the administration of justice in this or any other State;	25

- | | | |
|-----|---|--------|
| (c) | the security and good order of any prison in this or any other State; | 1
2 |
| (d) | the safe custody of the prisoner; | 3 |
| (e) | the protection of the community in this or any other State; | 4
5 |
| (f) | any other matter that the Minister considers relevant.’. | 6 |

- | | | |
|-------------------|---|----------|
| Clause 132 | Amendment of s 22 (Provisions ancillary to ss 19 and 20) | 7 |
| (1) | Section 22(1), ‘it is in the interests of the welfare of the person that’— | 8
9 |
| | <i>omit.</i> | 10 |
| (2) | Section 22— | 11 |
| | <i>insert—</i> | 12 |
| ‘(1A) | When making a decision under subsection (1)(a), the Minister may have regard to any one or more of the following— | 13
14 |
| (a) | the welfare of the prisoner; | 15 |
| (b) | the administration of justice in this or any other State; | 16 |
| (c) | the security and good order of any prison in this or any other State; | 17
18 |
| (d) | the safe custody of the prisoner; | 19 |
| (e) | the protection of the community in this or any other State; | 20
21 |
| (f) | any other matter that the Minister considers relevant.’. | 22 |

Part 19	Amendment of Professional Standards Act 2004	23 24
----------------	---	----------

- | | | |
|-------------------|---|----|
| Clause 133 | Act amended in this part | 25 |
| | This part amends the <i>Professional Standards Act 2004</i> . | 26 |

Clause 134	Insertion of new s 21A	1
	After section 21—	2
	<i>insert—</i>	3
‘21A	Extension of liability limitation to other persons to whom scheme applies	4
		5
	‘(1) A limitation applying under this Act to the occupational liability of a person as a member of an occupational association (<i>first scheme member</i>) in relation to a cause of action (<i>principal cause of action</i>) also applies, in relation to the principal cause of action and any related cause of action, to the liability of any other person to whom the scheme concerned applies (<i>second scheme member</i>) as a partner, officer, employee or associate of the first scheme member.	6 7 8 9 10 11 12 13
	‘(2) Subsection (1) applies in relation to the liability of the second scheme member whether or not the second scheme member’s liability is an occupational liability.	14 15 16
	‘(3) A reference in this section to a person who is a partner, officer, employee or associate of the first scheme member is a reference to a person who was a partner, officer, employee or associate of the first scheme member at the time of the event that gave rise to the principal cause of action.	17 18 19 20 21
	‘(4) A reference in this section to a limitation on liability that applies to a person as a member of an occupational association includes a reference to a limitation on liability that would apply to the person if a cause of action relating to the liability were brought against the person.	22 23 24 25 26
	‘(5) In this section—	27
	<i>associate</i> , of the first scheme member, includes a person who carries out work for or with the first scheme member whether the work is carried out voluntarily or for financial reward.	28 29 30
	<i>related cause of action</i> means a cause of action in relation to the civil liability of the second scheme member arising, in tort, contract or otherwise, directly or vicariously from anything done or omitted to be done by the second scheme member that—	31 32 33 34 35
	(a) caused or contributed to the loss or damage with which the principal cause of action is concerned; and	36 37

- (b) resulted from the same or substantially the same event 1
as that from which the principal cause of action arose.’. 2

Clause 135	Amendment of s 71 (Regulation-making power)	3
(1)	Section 71(2)(b)—	4
	<i>omit, insert—</i>	5
	‘(b) prescribe—	6
	(i) fees payable to the council for applications to the council under this Act; and	7 8
	(ii) an annual fee, payable to the council, in relation to a scheme, or for each member of an occupational association a scheme applies to, for each year, or part of a year, the scheme is in force;’.	9 10 11 12
(2)	Section 71—	13
	<i>insert—</i>	14
‘(3)	A regulation may also provide for the payment of interest to the council on a fee not paid within 30 days after the fee becomes payable.’.	15 16 17
Clause 136	Amendment of sch 2 (Dictionary)	18
(1)	Schedule 2—	19
	<i>insert—</i>	20
	‘ <i>fee</i> includes tax.’.	21
(2)	Schedule 2, definition <i>occupational association</i> , paragraph (a), after ‘group’—	22 23
	<i>insert—</i>	24
	‘or related occupational groups’.	25
(3)	Schedule 2, definition <i>occupational association</i> , paragraph (b), after ‘group’—	26 27
	<i>insert—</i>	28
	‘or the related occupational groups’.	29

- (4) Schedule 2, definition *officer*, paragraph (a), ‘section 82A of’— 1
2
omit. 3

Part 20 **Amendment of Recording of Evidence legislation** 4
5

Division 1 **Amendment of Recording of Evidence Act 1962** 6
7

- Clause 137** **Act amended in div 1** 8
This division amends the *Recording of Evidence Act 1962*. 9

- Clause 138** **Amendment of s 4 (Meaning of terms)** 10
- (1) Section 4, definition *judicial person*, ‘Stipendiary’— 11
omit. 12
- (2) Section 4, definition *record under this Act*, after ‘by this Act’— 13
insert— 14
‘, and includes, if the record on a master-tape is a digital 16
recording, a replication of the record onto a separate data 17
storage medium’. 18

- Clause 139** **Amendment of s 11 (Person giving evidence need not sign deposition etc.)** 19
20
- (1) Section 11(2A), (3), (4), (5) and (6)— 21
renumber as section 11(3), (4), (6), (8) and (9). 22
- (2) Section 11— 23
insert— 24

- ‘(5) Despite subsection (4), the record on a master-tape may be destroyed if the record is a digital recording that has been replicated onto a separate data storage medium.’ 1
2
3
- (3) Section 11(6), as renumbered, from ‘(b)’— 4
omit, insert— 5
‘(b) if— 6
(i) a transcription of the record has been made under 7
this Act; and 8
(ii) the transcription has been certified as correct by 9
the responsible shorthand reporter or recorder; 10
then, whether or not an order has been made under 11
paragraph (a), by order authorise the destruction of the 12
record on the master-tape.’. 13
- (4) Section 11— 14
insert— 15
- ‘(7) An order made under subsection (6)(a) in relation to the 16
retention of a record that is a digital recording is taken to be 17
satisfied if the record on the master-tape has been replicated 18
onto a separate data storage medium.’. 19
- (5) Section 11(8), as renumbered, from ‘Subject’ to 20
‘master-tape’— 21
omit, insert— 22
‘Subject to subsection (4) and to an order made under 23
subsection (6), a record on a mastertape, other than a record 24
that may be destroyed under subsection (5),’ 25

Clause 140 Insertion of new s 14 26

After section 13— 27

insert— 28

**‘14 Declaratory provision for Justice and Other 29
Legislation Amendment Act 2005 30**

- ‘(1) Despite section 11(4), the destruction of the record on a 31
master-tape before the commencement of section 11(5) as 32
inserted by the *Justice and Other Legislation Amendment Act* 33

2005, section 139 is authorised if the record was a digital recording that had been replicated onto a separate data storage medium. 1
2
3

‘(2) The amendment of the *Recording of Evidence Regulation 1992* by the *Justice and Other Legislation Amendment Act 2005* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’. 4
5
6
7

Division 2 Amendment of Recording of Evidence Regulation 1992 8 9

Clause 141 Regulation amended in div 2 10
This division amends the *Recording of Evidence Regulation 1992*. 11
12

Clause 142 Amendment of s 5 (Safe custody of tapes and original certified transcriptions) 13
14
(1) Section 5(2)— 15
renumber as section 5(3). 16
(2) Section 5— 17
insert— 18
(2) To remove any doubt, it is declared that a recorder is no longer responsible for the safe custody of a master tape once all of the records on the master tape may be destroyed under the Act.’. 19
20
21
22

Part 21 Amendment of Small Claims Tribunals Act 1973 23 24

Clause 143 Act amended in this part 25
This part amends the *Small Claims Tribunals Act 1973*. 26

Clause 144	Amendment of s 5 (Appointment of referees and referees ex officio)	1 2
	Section 5(1), ‘stipendiary’—	3
	<i>omit.</i>	4
Clause 145	Amendment of s 11 (Constitution of tribunal)	5
	Section 11—	6
	<i>insert—</i>	7
	‘(2) A registrar may conduct an examination under section 23A.	8
	‘(3) For the examination, the registrar constitutes, and may exercise all the jurisdiction and powers of, the tribunal.	9 10
	‘(4) However, a registrar may not exercise any power of the tribunal to punish for contempt.’.	11 12
Clause 146	Amendment of s 23A (Examination of person required by order to pay money)	13 14
	(1) Section 23A(1), ‘before a referee’—	15
	<i>omit.</i>	16
	(2) Section 23A(2), after ‘examination’—	17
	<i>insert—</i>	18
	‘before a referee or registrar’.	19
	(3) Section 23A(3)(c)(ii), from ‘referee’—	20
	<i>omit, insert—</i>	21
	‘referee or registrar;’.	22
	(4) Section 23A(3)(d)—	23
	<i>omit, insert—</i>	24
	‘(d) the registrar must give the applicant a transcript of the evidence taken on the examination;’.	25 26
	(5) Section 23A(3)(g)—	27
	<i>omit.</i>	28
	(6) Section 23A(3)(h), from ‘the person may be’—	29

- omit, insert—* 1
- the person must be dealt with under subsection (3A)(a), if the 2
examination is before a referee, or under subsections (3B)(b) 3
and (3D), if the examination is before a registrar.’ 4
- (7) Section 23A— 5
- insert—* 6
- ‘(3A) For the purposes of an examination of a person before a 7
referee— 8
- (a) sections 33, other than subsection (2)(a), 38 and 39¹⁰ 9
apply in relation to the examination as if the 10
examination were the taking of a proceeding by a small 11
claims tribunal in relation to a claim properly referred to 12
it; and 13
- (b) if subsection (3)(h) applies— 14
- (i) the referee may summarily convict the person of 15
contempt; and 16
- (ii) section 38(2), (3) and (4) apply as if the person had 17
been convicted under section 38(1) and as if the 18
examination were the taking of a proceeding by a 19
small claims tribunal in relation to a claim properly 20
referred to it. 21
- ‘(3B) For the purposes of an examination of a person before a 22
registrar— 23
- (a) sections 33, other than subsection (2)(a), and 39 apply to 24
the examination as if— 25
- (i) the examination were the taking of a proceeding by 26
a small claims tribunal in relation to a claim 27
properly referred to it; and 28
- (ii) a reference in the sections to a referee were a 29
reference to the registrar; and 30
- (b) if subsection (3)(h) applies, the registrar may adjourn 31
the matter and certify the contempt in writing to the 32
small claims tribunal. 33

10 Sections 33 (Taking of evidence before tribunal), 38 (Contempt in face of tribunal) and 39 (Law of perjury to apply)

	<i>omit, insert—</i>	1
	‘A regulation’.	2
Clause 150	Amendment of pt 10, hdg (Transitional and validating provisions)	3 4
	Part 10, heading, ‘and validating’—	5
	<i>omit, insert—</i>	6
	‘, validating and declaratory’.	7
Clause 151	Amendment of pt 10, div 2, hdg (Validating provisions)	8
	Part 10, division 2, heading, after ‘Validating’—	9
	<i>insert—</i>	10
	‘and declaratory’.	11
Clause 152	Insertion of new s 174	12
	After section 173—	13
	<i>insert—</i>	14
‘174	Infringement notice for a corporation	15
	‘To remove any doubt, it is declared that section 165(4), as in force immediately before the commencement of the <i>Justice and Other Legislation Amendment Act 2005</i> , section 149 was not and has never been, a contrary intention for the purposes of the application of the <i>Statutory Instruments Act 1992</i> , sections 24 and 25.’.	16 17 18 19 20 21
Part 23	Amendment of Statutory Instruments Act 1992	22 23
Clause 153	Act amended in this part	24
	This part amends the <i>Statutory Instruments Act 1992</i> .	25

Clause 154	Insertion of new ss 14A and 14B	1
	After section 14—	2
	<i>insert—</i>	3
‘14A	Modified application—s 6	4
	‘For the purposes of applying the <i>Acts Interpretation Act 1954</i> , section 6(1), after ‘In an Act’, insert ‘or statutory instrument.’	5 6 7
‘14B	Modified application—s 14	8
	‘For the purposes of applying section 14(7) of the <i>Acts Interpretation Act 1954</i> , add the following example—	9 10
	‘ <i>Example of an endnote to subordinate legislation—</i>	11
	ENDNOTES	12
	1 Made by the Governor in Council on 9 December 2004.	13
	2 Notified in the Gazette on 10 December 2004.	14
	3 Laid before the Legislative Assembly on 22 February 2005	15
	4 The administering agency is the Department of Education and the Arts.’	16 17
Clause 155	Insertion of new s 15A	18
	After section 15—	19
	<i>insert—</i>	20
‘15A	Modified application—section 14F	21
	‘For the purposes of applying section 14F(1) of the <i>Acts Interpretation Act 1954</i> , omit the examples and insert—	22 23
	‘ <i>Examples of citations—</i>	24
	1 Statutory Instruments Regulation 2002	25
	2 Statutory Instruments Regulation 2002, SL No. 218	26
	3 SL No. 218 of 2002	27
	4 2002 SL No. 208’.	28

Clause 156	Amendment of sch 1 (Provisions of Acts Interpretation Act 1954 that apply to statutory instruments)	1 2
	Schedule 1—	3
	<i>insert</i> —	4
	‘section 6’.	5
Clause 157	Amendment of sch 2 (Provisions of Acts Interpretation Act 1954 that do not apply to statutory instruments)	6 7
	Schedule 2—	8
	<i>insert</i> —	9
	‘section 7’.	10
Part 24	Amendment of Supreme Court Library Act 1968	11 12
Clause 158	Act amended in this part	13
	This part amends the <i>Supreme Court Library Act 1968</i> .	14
Clause 159	Amendment of s 4 (Constitution of committee, appointment and term of office of members)	15 16
	(1) Section 4(1)(c), ‘stipendiary’—	17
	<i>omit</i> .	18
	(2) Section 4(4E), ‘stipendiary’—	19
	<i>omit</i> .	20
Clause 160	Insertion of new s 7A	21
	After section 7—	22
	<i>insert</i> —	23

'7A	Historic documents given to committee for preservation	1
		2
'(1)	A lawyer may give an historic document to the committee, without obtaining the consent of an interested person for the historic document, if—	3
		4
		5
	(a) giving the historic document—	6
	(i) is not contrary to an express instruction given to the lawyer by the interested person; and	7
		8
	(ii) is unlikely to adversely affect the interested person; and	9
		10
	(b) it is not reasonably practicable to obtain the consent of the interested person.	11
		12
'(2)	The committee must take reasonable steps to preserve the historic document after receiving it.	13
		14
'(3)	The giving of an historic document to the committee does not affect—	15
		16
	(a) any right a person may have to recover possession of the historic document; or	17
		18
	(b) legal professional privilege attaching to the historic document, or the information contained in the historic document.	19
		20
		21
'(4)	The committee may use or disclose an historic document given to the committee only if—	22
		23
	(a) the use or disclosure is for historical or educational purposes; and	24
		25
	(b) the historic document is at least 100 years old, or if the historic document is a copy of another document, the other document is at least 100 years old.	26
		27
		28
'(5)	In this section—	29
	<i>give</i> includes loan.	30
	<i>historic document</i> means a document that is considered by the committee to have sufficient historical significance to justify its preservation, and includes a copy of the document.	31
		32
		33

interested person, for an historic document, means a person
 having a legal right to object to a lawyer giving the document
 to the committee.’ 1
 2
 3

Part 25 **Amendment of Supreme Court of Queensland Act 1991** 4 5

Clause 161 Act amended in this part 6

This part amends the *Supreme Court of Queensland Act 1991*. 7

Clause 162 Amendment of s 31 (Constitution of court if 1 judge of appeal unable to continue) 8 9

Section 31(1)— 10

omit, insert— 11

‘(1) If— 12

(a) after the Court of Appeal (including the court
 constituted under this section) has started the hearing, or
 further hearing, of a proceeding; and 13
 14
 15

(b) 1 of the judges constituting the court dies, resigns as a
 judge, or is certified as incapable of sitting before the
 proceeding has been determined; 16
 17
 18

the hearing and determination of the proceeding may be
 finished by the remaining judges if at least 2 judges remain. 19
 20

‘(1A) A judge is certified as incapable of sitting if the Chief Justice
 or the President of the Court of Appeal has issued a certificate
 stating that the judge is incapable of sitting.’ 21
 22
 23

Clause 163 Replacement of s 41 (Decision) 24

Section 41— 25

omit, insert— 26

'41	Decision	1
	‘The decision of the Court of Appeal is to be in accordance with—	2 3
	(a) if the judges present at the hearing are equally divided in opinion—the opinion of the judge who, at the start of the hearing, was the most senior judge; or	4 5 6
	(b) otherwise—the opinion of the majority of judges present at the hearing.’.	7 8
Clause 164	Amendment of s 118 (Rule-making power)	9
	Section 118—	10
	<i>insert—</i>	11
	‘(2B) The rules of court may make provision of a saving or transitional nature for which it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the <i>Vexatious Litigants Act 1981</i> to the operation of the <i>Vexatious Proceedings Act 2005</i> .	12 13 14 15 16
	‘(2C) However—	17
	(a) a rule may only be made under subsection (2B) within 2 years after the commencement of that subsection; and	18 19
	(b) a rule made under subsection (2B) expires 2 years after it is made.	20 21
	‘(2D) Subsections (2B), (2C) and this subsection expire 4 years after the commencement of subsection (2B).’.	22 23
Clause 165	Amendment of sch 1 (Subject matter for rules)	24
	Schedule 1—	25
	<i>insert—</i>	26
'16A	Vexatious proceedings	27
	‘Restriction of vexatious proceedings within the meaning of the <i>Vexatious Proceedings Act 2005</i> .’.	28 29

Part 26	Minor amendments and repeal	1
Clause 166	Acts amended in schedule	2
	The schedule amends the Acts mentioned in it.	3
Clause 167	Repeal	4
	The Suppression of Gambling Act 1895 No. 9 is repealed.	5

Schedule	Minor amendments	1
	section 166	2
Criminal Code		3
1	Section 210(1)(a) to (e), after ‘;’— <i>insert—</i> ‘or’.	4 5 6
2	Section 216(3)(a) and (b), after ‘;’— <i>insert—</i> ‘or’.	7 8 9
3	Section 408A(1B)(a), after ‘;’— <i>insert—</i> ‘or’.	10 11 12
4	Section 442A(1), definition <i>trustee</i>, from ‘committee’ to ‘1974’— <i>omit, insert—</i> ‘administrator appointed under the <i>Guardianship and Administration Act 2000</i> ’.	13 14 15 16 17
5	Section 450E(2)(a)(ii), (4)(a)(ii) and (5)(c) and (d), after ‘;’— <i>insert—</i> ‘or’.	18 19 20

Schedule (continued)

6	Section 450F(3), after ‘to’, first mention—	1
	<i>insert—</i>	2
	‘the following’.	3
7	Section 546(b), (c) and (d), after ‘;’—	4
	<i>insert—</i>	5
	‘and’.	6
8	Section 590A(6)(a) and (b), after ‘;’—	7
	<i>insert—</i>	8
	‘and’.	9
9	Section 592(1A)(a), (b) and (c), after ‘;’—	10
	<i>insert—</i>	11
	‘or’.	12
10	Section 636(2)(a), after ‘;’—	13
	<i>insert—</i>	14
	‘and’.	15
11	Section 669A(1)(a), after ‘;’—	16
	<i>insert—</i>	17
	‘or’.	18
12	Section 671K(3)(a), (b) and (c), after ‘;’—	19
	<i>insert—</i>	20
	‘or’.	21

Schedule (continued)

13	Section 672A(a), after ‘;’—	1
	<i>insert—</i>	2
	‘or’.	3
	Criminal Law (Rehabilitation of Offenders) Act 1986	4
1	Section 9A, table, column 2, item 17(2), before ‘offender’—	5
	<i>insert—</i>	6
	‘the’.	7
2	Section 9A, table, column 2, item 18(2), before ‘offender’—	9
	<i>insert—</i>	10
	‘the’.	11
	Criminal Proceeds Confiscation Act 2002	12
1	Section 205(1)(a), ‘and’—	13
	<i>omit.</i>	14
	Electronic Transactions (Queensland) Act 2001	15
1	Section 7A(1), ‘, part 2’—	16
	<i>omit.</i>	17
2	Section 7A(2)—	18
	<i>omit.</i>	19
		20

Schedule (continued)

3	Schedule 1, heading, ‘State laws,’—	1
	<i>omit.</i>	2
4	Schedule 1, part 2, heading—	3
	<i>omit.</i>	4
	Judicial Review Act 1991	5
1	Schedule 1, part 1, item 5A, ‘1991’—	6
	<i>omit, insert—</i>	7
	‘1989’.	8
	Legal Aid Queensland Act 1997	9
1	Schedule, definition <i>Legal Aid lawyer</i>, first mention—	10
	<i>omit.</i>	11
	Penalties and Sentences Act 1992	12
1	Schedule, entry for <i>Drugs Misuse Act 1986</i>, item 2, ‘institutions)’—	13
	<i>omit, insert—</i>	14
	‘institutions))’.	15
		16
2	Schedule, entry for <i>Drugs Misuse Act 1986</i>, item 3, ‘schedule)’—	17
	<i>omit, insert—</i>	18
	‘schedule))’.	19
		20

Schedule (continued)

Prisoners (Interstate Transfer) Act 1982	1
1 Section 9, ‘part 11’—	2
<i>omit, insert—</i>	3
‘part II’.	4
Powers of Attorney Act 1998	5
1 Section 57(3), example, ‘section 68.’ and footnote—	6
<i>omit, insert—</i>	7
‘section 59A. ¹² ’.	8
Queensland Law Society Act 1952	9
1 Section 3, definition <i>approved form</i>—	10
<i>omit.</i>	11

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12 Section 59A (Effect of power ending) allows the remaining joint attorney to exercise a power another joint attorney is unable to exercise.