



Queensland

# **Corrective Services and Other Legislation Amendment Bill 2008**





Queensland

# Corrective Services and Other Legislation Amendment Bill 2008

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# 2008

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## A Bill

for

***An Act to amend the *Corrective Services Act 2006*, the *Drugs Misuse Act 1986*, the *Health Act 1937*, the *Health (Drugs and Poisons) Regulation 1996* and the *Limitation of Actions Act 1974* for particular purposes***

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Corrective Services and Other  
Legislation Amendment Act 2008*. 4  
5

**Clause 2 Commencement** 6

This Act commences on a day to be fixed by proclamation. 7

**Part 2 Amendment of Corrective  
Services Act 2006** 8  
9

**Clause 3 Act amended in pt 2** 10

This part amends the *Corrective Services Act 2006*. 11

**Clause 4 Insertion of new ch 6, pts 12A and 12B** 12

Chapter 6— 13

*insert—* 14



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<b>‘Part 12A</b>	<b>Discrimination complaints</b>	1
<b>‘Division 1</b>	<b>Preliminary</b>	2
<b>‘319A</b>	<b>Definitions</b>	3
	‘In this part—	4
	<i>protected defendant</i> means—	5
	(a) the State, but only in relation to a matter arising out of the administration of this Act; or	6 7
	(b) an engaged service provider; or	8
	(c) a community service supervisor; or	9
	(d) an entity employed or engaged under this Act whose functions include rehabilitating offenders; or	10 11
	(e) an entity that is joined in a proceeding about a contravention of the Anti-Discrimination Act brought by an offender against an entity mentioned in paragraph (a), (b), (c), (d) or (f); or	12 13 14 15
	(f) an individual employed or engaged by an entity mentioned in paragraph (a), (b), (c), (d) or (e).	16 17
	<i>relevant person</i> means a person mentioned in section 134(1) or (3) of the Anti-Discrimination Act.	18 19
	<i>Editor’s note</i> —	20
	Anti-Discrimination Act, section 134 (Who may complain)	21
	<i>tribunal</i> means the Anti-Discrimination Tribunal.	22
<b>‘319B</b>	<b>Purpose of part and its achievement</b>	23
	‘(1) The purpose of this part is to maintain a balance between—	24
	(a) the financial and other constraints to which protected defendants are subject in their treatment of offenders; and	25 26 27

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(b) the need to continue to respect offenders' dignity.	1
‘(2) The purpose is achieved primarily by—	2
(a) requiring offenders to use internal complaints	3
procedures provided by the department for complaining	4
about an alleged contravention of the	5
Anti-Discrimination Act before complaining under that	6
Act about a contravention; and	7
(b) modifying the Anti-Discrimination Act's application to	8
the treatment of offenders by protected defendants.	9
<b>‘319C Relationship with Anti-Discrimination Act</b>	10
‘This part applies despite the Anti-Discrimination Act.	11
<b>‘Division 2                   Restrictions on complaints</b>	12
<b>‘319D No property or interest in right of complaint</b>	13
‘(1) Nothing in this part prevents a relevant person complaining to	14
the anti-discrimination commissioner under the	15
Anti-Discrimination Act, section 134 about an alleged	16
contravention of that Act committed by a protected defendant	17
against an offender.	18
‘(2) However, the offender has no property or interest in the right	19
of complaint.	20
‘(3) Subsection (1) applies subject to sections 319E and 319F.	21
<b>‘319E Complaint to chief executive required first</b>	22
‘(1) A relevant person can not complain to the anti-discrimination	23
commissioner under the Anti-Discrimination Act, section 134	24
about an alleged contravention of that Act committed by a	25
protected defendant against an offender until—	26
(a) if the offender was detained in a corrective services	27
facility when the alleged contravention happened—at	28

- 
- least 4 months after the offender makes a written  
complaint about the alleged contravention to the chief  
executive at the corrective services facility where the  
offender was detained; or
- (b) if the offender was not detained in a corrective services  
facility when the alleged contravention happened—at  
least 4 months after the offender makes a written  
complaint about the alleged contravention to the chief  
executive at the probation and parole office where the  
offender was required to report to a corrective services  
officer.
- (2) However, subsection (1) does not apply if the offender is  
notified in writing by the chief executive that the chief  
executive has finished dealing with the offender’s complaint.
- (3) Subsection (1)(a) applies subject to section 319F.

**‘319F Complaint to official visitor required first**

- (1) This section applies in relation to an offender mentioned in  
section 319E(1)(a) who is still detained in a corrective  
services facility at the earlier of the following—
- (a) the day the offender is notified in writing by the chief  
executive that the chief executive has finished dealing  
with the offender’s complaint under that section;
- (b) the day that is 4 months after the offender makes a  
written complaint to the chief executive under that  
section.
- (2) A relevant person can not complain to the anti-discrimination  
commissioner under the Anti-Discrimination Act, section 134  
about an alleged contravention of that Act committed by a  
protected defendant against the offender until at least 1 month  
after the offender makes a written complaint under section  
290(1) to an official visitor about the alleged contravention.
- (3) However, subsection (2) does not apply if the offender is  
notified in writing by the official visitor that the official visitor  
has finished dealing with the offender’s complaint.

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<b>‘Division 3</b>	<b>Modifications</b>	1
<b>‘319G</b>	<b>When treatment of offender by protected defendant is not direct discrimination</b>	2 3
‘(1)	This section applies if a protected defendant treats, or proposes to treat, an offender with an attribute less favourably than another offender without the attribute in circumstances that are the same or not materially different.	4 5 6 7
‘(2)	For the Anti-Discrimination Act, section 10 the protected defendant does not directly discriminate against the offender if the treatment, or proposed treatment, is reasonable.	8 9 10
‘(3)	In considering whether the treatment, or proposed treatment, is reasonable, the tribunal must consider any relevant submissions made about any of the following—	11 12 13
(a)	the security and good order of any corrective services facility in which the offender was detained when the protected defendant treated, or proposed to treat, the offender less favourably;	14 15 16 17
(b)	the cost to the protected defendant of providing alternative treatment;	18 19
(c)	the administrative and operational burden that providing alternative treatment might place on the protected defendant;	20 21 22
(d)	the disruption to the protected defendant that providing alternative treatment might cause;	23 24
(e)	the budget constraints of the protected defendant;	25
(f)	the resources constraints of the protected defendant;	26
(g)	whether the treatment, or proposed treatment, adequately meets the needs of the offender, notwithstanding the availability of alternative treatment that more ideally meets the needs of the offender;	27 28 29 30
(h)	the need to respect offenders’ dignity;	31

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(i)	whether the treatment, or proposed treatment, unfairly prejudices other offenders;	1 2
(j)	any other matter the tribunal considers relevant.	3
‘(4)	In a case involving an allegation of direct discrimination by an offender against a protected defendant, the protected defendant must prove, on the balance of probabilities, that the treatment, or proposed treatment, is reasonable.	4 5 6 7
<b>‘319H</b>	<b>When term imposed on offender by protected defendant is not indirect discrimination</b>	8 9
‘(1)	This section applies if a protected defendant imposes, or proposes to impose, a term—	10 11
(a)	with which an offender with an attribute does not or is not able to comply; and	12 13
(b)	with which a higher proportion of offenders without the attribute comply or are able to comply.	14 15
‘(2)	In considering whether for the Anti-Discrimination Act, section 11(1)(c) the term is reasonable, the tribunal must consider any relevant submissions made about any of the following—	16 17 18 19
(a)	the security and good order of any corrective services facility in which the offender was detained when the protected defendant imposed, or proposed to impose, the term;	20 21 22 23
(b)	the cost to the protected defendant of imposing an alternative term;	24 25
(c)	the administrative and operational burden that imposing an alternative term might place on the protected defendant;	26 27 28
(d)	the disruption to the protected defendant that imposing an alternative term might cause;	29 30
(e)	the budget constraints of the protected defendant;	31
(f)	the resources constraints of the protected defendant;	32

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- (g) whether the imposing of, or proposal to impose, the term adequately meets the needs of the offender, notwithstanding the availability of an alternative term that more ideally meets the needs of the offender; 1  
2  
3  
4
  - (h) the need to respect offenders' dignity; 5
  - (i) whether the imposing of, or proposal to impose, the term unfairly prejudices other offenders; 6  
7
  - (j) any other matter the tribunal considers relevant. 8
- '(3) In this section— 9
- term* includes condition, requirement or practice, whether or not written. 10  
11

**'3191 Restrictions on tribunal compensation orders 12**

- '(1) This section applies if the tribunal decides a protected defendant contravened the Anti-Discrimination Act in relation to an offender. 13  
14  
15
- '(2) The tribunal may make a compensation order only if it— 16
- (a) finds that the contravention happened because of an act or omission done or made in bad faith; and 17  
18
  - (b) considers that no non-compensatory order effectively redresses the offender for the contravention. 19  
20
- '(3) If the tribunal decides to make a compensation order, it must give the protected defendant and the offender written reasons that no non-compensatory order effectively redresses the offender for the contravention. 21  
22  
23  
24
- '(4) Also, if the tribunal decides to make a compensation order— 25
- (a) the tribunal can not require that payment of an amount of compensation, or interest on an amount of compensation, be paid directly to the offender; and 26  
27  
28
  - (b) the order has effect as an award of compensation only for part 12B; and 29  
30
  - (c) the offender has no property or interest in the compensation. 31  
32

- 
- ‘(5) In this section— 1
- compensation order* means an order under the 2  
Anti-Discrimination Act, section 209(1)(b). 3
- non-compensatory order* means an order under the 4  
Anti-Discrimination Act, section 209(1) other than a 5  
compensation order. 6

## ‘Part 12B Victim trust funds 7

### ‘Division 1 Preliminary 8

#### ‘319J Definitions 9

‘In this part— 10

*award of compensation*, in relation to a person, means— 11

- (a) an amount of compensation (including any interest on 12  
the amount), that has been finally decided, in relation to 13  
the person under the Anti-Discrimination Act, section 14  
209(1)(b) or (g) for a contravention of that Act 15  
committed by a protected defendant while the person 16  
was an offender; or 17
- (b) an obligation to pay an amount of compensation in 18  
relation to the person under an agreement between the 19  
person and a protected defendant relating to a complaint 20  
under the Anti-Discrimination Act about an alleged 21  
contravention of that Act committed by the protected 22  
defendant against the person while the person was an 23  
offender. 24

*award of damages*, in relation to a person, means— 25

- (a) an award of damages (including any interest), that has 26  
been finally decided, in relation to the person by a court 27

[s 4]

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- for a civil wrong committed by a protected defendant 1  
against the person while the person was an offender; or 2
- (b) an obligation to pay damages in relation to the person 3  
under an agreement between the person and a protected 4  
defendant relating to a cause of action by the person 5  
against the protected defendant for a civil wrong 6  
committed by the protected defendant against the person 7  
while the person was an offender. 8
- child support registrar*** means the child support registrar 9  
under the *Child Support (Registration and Collection) Act* 10  
*1988* (Cwlth), section 10. 11
- collection entity*** means— 12
- (a) the chief executive of the department in which the 13  
Criminal Offence Victims Act is administered; or 14
- (b) the SPER registrar; or 15
- (c) the child support registrar. 16
- disbursements*** includes outlays. 17
- eligible entity claim*** see section 319ZC(3). 18
- eligible victim claim*** see section 319X(3). 19
- entity claim*** see section 319Z. 20
- finally decided***, for an award of compensation or an award of 21  
damages, means— 22
- (a) that the period for appealing against the award has 23  
ended and no appeal has been made; or 24
- (b) that all appeals against the award have been withdrawn 25  
or finally decided. 26
- legal costs*** means amounts that a person has been or may be 27  
charged by, or is or may become liable to pay to, a law 28  
practice for the provision of legal services including interest 29  
on the amounts, and disbursements and interest on 30  
disbursements. 31
- potential claimant***, for the chief executive, means a person 32  
who, from documents held by the chief executive or made 33



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available to the chief executive under section 319U in relation to offences committed or allegedly committed by the person in relation to whom the relevant award was made, appears to have a victim claim against the person in relation to whom the relevant award was made.

**relevant award**, for a provision about a victim trust fund, means the award of relevant money that forms the fund.

**relevant money**, awarded in relation to a person, means—

- (a) an award of damages in relation to the person against a protected defendant; or
- (b) an award of compensation in relation to the person against a protected defendant.

**SPER** means the registry established under the *State Penalties Enforcement Act 1999*, part 2.

**SPER registrar** means the registrar of SPER under the *State Penalties Enforcement Act 1999*, section 10.

**victim claim** see section 319S(1).

**victim trust fund** means the following—

- (a) a victim trust fund mentioned in section 319N(2);
- (b) in relation to relevant money—the victim trust fund formed by the money.

**‘319K Relationship between divs 2 to 4 and div 5** 22

‘Divisions 2 to 4 are subject to division 5. 23

**‘Division 2 Restrictions on causes of action and agreements** 24  
25

**‘319L No property or interest in causes of action** 26

- ‘(1) This section applies if a protected defendant commits a civil wrong against a person while the person is an offender. 27  
28

[s 4]

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- ‘(2) The person may bring a proceeding in a court in relation to the civil wrong. 1  
2
- ‘(3) However, the person has no property or interest in— 3
- (a) a cause of action for the civil wrong; or 4
- (b) any relevant money awarded in a proceeding mentioned in subsection (2). 5  
6
- ‘(4) If, in the proceeding, the person establishes the liability of the protected defendant for the civil wrong, the court— 7  
8
- (a) may order the protected defendant to pay damages for harm or injury suffered by the person because of the civil wrong; and 9  
10  
11
- (b) must order that the damages be dealt with under this part. 12  
13
- ‘(5) The *Civil Liability Act 2003* and the *Personal Injuries Proceedings Act 2002* apply to the proceeding. 14  
15

**‘319M No property or interest under agreements 16**

- ‘(1) This section applies if a protected defendant enters into an agreement with a person about the liability of the protected defendant to pay an amount of damages or compensation, however described, in relation to a civil wrong committed by the protected defendant against the person while the person was an offender. 17  
18  
19  
20  
21  
22
- ‘(2) The agreement contains the following implied terms— 23
- (a) the damages or compensation that must be paid by the protected defendant must be dealt with under this part; 24  
25
- (b) the person has no property or interest in the damages or compensation. 26  
27
- ‘(3) An agreement between the protected defendant and the person to deal with the amount of damages or compensation other than as provided by this part is void. 28  
29  
30

- 
- ‘(4) In this section— 1  
*damages or compensation* includes any interest payable on 2  
the damages or compensation. 3

**‘Division 3 Establishment of victim trust fund 4**

**‘319N Relevant money held in trust in a victim trust fund 5**

- ‘(1) Relevant money awarded in relation to a person— 6
- (a) is held in trust by the protected defendant liable to pay 7  
the relevant money for the payment of the following— 8
- (i) any awards on eligible victim claims against the 9  
person; 10
- (ii) any amounts of eligible entity claims against the 11  
person; and 12
- (b) may be paid out only as allowed under this part. 13
- ‘(2) Relevant money held by a protected defendant in trust under 14  
this part forms a fund (a *victim trust fund*). 15
- ‘(3) This section is subject to any Act of the State or the 16  
Commonwealth requiring the protected defendant to pay the 17  
relevant money to someone else. 18

*Note—* 19

Section 319ZG also provides an exception to this section for medical 20  
expenses. Section 319ZH provides an exception for legal costs. 21

**‘319O Chief executive to be notified of victim trust fund 22**

- ‘(1) This section applies to the following protected defendants 23  
liable to pay an award of relevant money— 24
- (a) a protected defendant mentioned in section 319A, 25  
definition *protected defendant*, paragraph (a) if the 26  
protected defendant’s liability to pay the award of 27  
relevant money arose because of an act or omission of 28

[s 4]

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an individual who is not employed or engaged by the department;	1 2
(b) a prescribed protected defendant.	3
‘(2) The protected defendant must, as soon as reasonably practicable but at least within 7 days after the relevant money is awarded, give the chief executive a written notice stating—	4 5 6
(a) the name of the person in relation to whom the award was made; and	7 8
(b) the date the award was made; and	9
(c) the amount of the award; and	10
(d) the date the victim trust fund was transferred, or is intended to be transferred, to the public trustee.	11 12
Maximum penalty for a prescribed protected defendant—2 penalty units.	13 14
‘(3) In this section—	15
<i>prescribed protected defendant</i> means—	16
(a) a protected defendant mentioned in section 319A, definition <i>protected defendant</i> , paragraph (b) to (e); or	17 18
(b) a protected defendant mentioned in section 319A, definition <i>protected defendant</i> , paragraph (f) who is an individual employed or engaged by a protected defendant mentioned in paragraph (a).	19 20 21 22
<b>‘319P Victim trust fund to be transferred to public trustee</b>	23
‘(1) A protected defendant liable to pay an award of relevant money must transfer the victim trust fund to the public trustee within 1 month after the award is made.	24 25 26
Maximum penalty for a prescribed protected defendant—2 penalty units.	27 28
‘(2) The public trustee must—	29
(a) hold the victim trust fund under this part; and	30

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(b)	pay an amount out of the victim trust fund only as allowed under this part.	1 2
‘(3)	Interest or other money received or realised on the investment of the victim trust fund is payable to and forms part of the victim trust fund.	3 4 5
‘(4)	In this section—	6
	<i>prescribed protected defendant</i> means—	7
(a)	a protected defendant mentioned in section 319A, definition <i>protected defendant</i> , paragraph (b) to (e); or	8 9
(b)	a protected defendant mentioned in section 319A, definition <i>protected defendant</i> , paragraph (f) who is an individual employed or engaged by a protected defendant mentioned in paragraph (a).	10 11 12 13
<b>‘319Q</b>	<b>Discharge of protected defendant</b>	14
‘(1)	The public trustee must give the protected defendant a receipt for a victim trust fund transferred to the public trustee under section 319P.	15 16 17
‘(2)	The receipt is sufficient discharge to the protected defendant as to the victim trust fund and on receiving the receipt, the protected defendant is not liable or accountable for the victim trust fund or liable for the application, distribution or appropriation of the victim trust fund.	18 19 20 21 22
‘(3)	If the protected defendant is not the State, the protected defendant must give a copy of the receipt to the chief executive.	23 24 25
<b>‘319R</b>	<b>Relevant money to form a separate victim trust fund</b>	26
‘(1)	If relevant money is awarded in relation to a person more than once, each award forms a separate victim trust fund.	27 28
‘(2)	This part must be complied with for each of the victim trust funds.	29 30

[s 4]

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*Example—*

If relevant money is awarded in relation to a person on 1 January and 1 October, the relevant money awarded on each occasion forms a separate victim trust fund. The notification requirements under section 319T must be complied with for each of the funds.

	1	
	2	
	3	
	4	
	5	
<b>‘Division 4</b>	<b>Distribution of victim trust fund</b>	6
<b>‘Subdivision 1</b>	<b>Victim claims</b>	7
<b>‘319S</b>	<b>What is a <i>victim claim</i></b>	8
‘(1)	A person has a claim (a <i>victim claim</i> ) against someone else (the <i>relevant person</i> ) if the person has a cause of action against the relevant person for an injury to the person caused by the conduct of the relevant person that, on the balance of probabilities, constitutes an offence.	9 10 11 12 13
‘(2)	Subsection (1) applies—	14
(a)	whether or not the relevant person is prosecuted for, or convicted of, an offence in relation to the conduct; and	15 16
(b)	even if the relevant person is found to have been suffering from unsoundness of mind in relation to the conduct, or unfit for trial, under the <i>Mental Health Act 2000</i> , chapter 7, part 6.	17 18 19 20
‘(3)	In this section—	21
	<i>injury</i> includes fatal injury.	22
	<i>Editor’s note—</i>	23
	See the <i>Succession Act 1981</i> , section 66 (Survival of actions).	24
<b>‘319T</b>	<b>Notice to potential claimants</b>	25
‘(1)	The chief executive must, within 1 month after relevant money is awarded in relation to a person (the <i>relevant person</i> ), give each potential claimant a written notice stating—	26 27 28 29

- 
- (a) the name of the relevant person; and 1
  - (b) that there is a victim trust fund; and 2
  - (c) that the potential claimant may have a victim claim 3  
against the relevant person and that the victim claim 4  
may be payable from the victim trust fund; and 5
  - (d) the period within which the potential claimant must start 6  
a proceeding in a court on a victim claim to have an 7  
eligible victim claim against the relevant person; and 8
  - (e) the other steps the potential claimant must take for the 9  
potential claimant to have an eligible victim claim 10  
against the relevant person. 11
- ‘(2) The chief executive is taken to have complied with subsection 12  
(1) if the chief executive— 13
- (a) gives a written notice to each potential claimant at the 14  
address of the potential claimant last known to the chief 15  
executive; or 16
  - (b) publishes a notice in the gazette containing the 17  
information mentioned in subsection (1). 18

**‘319U Identification of potential claimants 19**

- ‘(1) The chief executive may consult with the following persons 20  
for the purpose of identifying potential claimants for a victim 21  
trust fund— 22
- (a) the commissioner of the police service; 23
  - (b) the director of public prosecutions; 24
  - (c) the chief executive of the department in which the 25  
Criminal Offence Victims Act is administered. 26
- ‘(2) The disclosure of information by the director of public 27  
prosecutions for the purpose mentioned in subsection (1) is a 28  
disclosure under an Act for the *Director of Public* 29  
*Prosecutions Act 1984*, section 24A. 30
- ‘(3) The disclosure of information by the commissioner of the 31  
police service for the purpose mentioned in subsection (1) is 32

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- an authorised or permitted disclosure under an Act for the *Police Service Administration Act 1990*, section 10.1. 1  
2
- ‘(4) The disclosure of information by the chief executive of the 3  
department in which the Criminal Offence Victims Act is 4  
administered for the purpose mentioned in subsection (1) is 5  
authorised despite any other Act or law. 6
- ‘(5) If the chief executive is satisfied there are no potential 7  
claimants for a victim trust fund, the chief executive must, as 8  
soon as reasonably practicable after being so satisfied, give 9  
written notice of that fact to the public trustee. 10
- ‘319V Giving of information to potential claimants 11**
- ‘(1) The chief executive must, in response to a request made by a 12  
potential claimant and as soon as reasonably practicable after 13  
the request is received, give the potential claimant the 14  
information the chief executive is reasonably able to give 15  
about— 16
- (a) the relevant award; and 17
- (b) the amount of the victim trust fund; and 18
- (c) any other victim claims against the person in relation to 19  
whom the relevant money was awarded that may be 20  
payable from the victim trust fund and of which the 21  
chief executive has been given notice under section 22  
319X(5). 23
- ‘(2) The giving of information under subsection (1)— 24
- (a) is allowed despite an agreement to which the protected 25  
defendant liable to pay the relevant award is a party that 26  
would otherwise prohibit or restrict the disclosure of 27  
information about the relevant award; and 28
- (b) is not a contravention of the agreement. 29
- ‘(3) However, the giving of information under subsection (1) must 30  
not include the giving of someone else’s personal information, 31  
unless that person has given written consent to its giving. 32



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- ‘(4) A potential claimant to whom information is given under subsection (1) must not disclose the information to someone else other than—
- (a) for the purpose of obtaining legal advice or representation, or for a proceeding, relating to a victim claim by the potential claimant against the person in relation to whom the relevant money was awarded; or
  - (b) as required by law; or
  - (c) for information that is personal information of someone else—with the consent of that person.
- Maximum penalty—50 penalty units.
- ‘(5) In this section—
- personal information***, of a person, means the person’s name and address, or other information that may identify the person.

**‘319W Starting of victim claims proceedings despite expiry of limitation period**

- ‘(1) If relevant money is awarded in relation to a person (the ***relevant person***), an action on a victim claim against the relevant person may be brought—
- (a) by a proceeding started within 6 months after the relevant money is awarded; and
  - (b) despite the *Limitation of Actions Act 1974*, section 11.
- Note—*
- See section 478E about the application of this part to civil wrongs committed before the commencement of that section.
- ‘(2) However, an award of damages in a proceeding brought under this section—
- (a) has effect only to allow the payment under section 319Y of all or part of those damages out of the victim trust fund; and
  - (b) can not otherwise be enforced against the relevant person or the relevant person’s property.

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**‘319X Notifying victim claims**

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- ‘(1) This section applies if a person has a victim claim against someone else in relation to whom relevant money was awarded (the *relevant person*) and the person either—
- (a) started a proceeding in a court on the claim against the relevant person before the award was made; or
- Example for paragraph (a)—*
- The person started a proceeding in a court on a claim for personal injury against an offender 5 years before the award of offender money in relation to the offender.
- (b) starts a proceeding in a court on the claim against the relevant person within 6 months after the award is made.
- ‘(2) The person may notify the public trustee of the victim claim by giving the public trustee—
- (a) written notice of the proceeding within 6 months after the relevant money is awarded; and
- (b) the further details of the proceeding or any award of damages made in relation to the victim claim, if any, that are reasonably requested by the public trustee to enable the public trustee to perform its functions under this part.
- ‘(3) A victim claim notified to the public trustee as mentioned in subsection (2) is an *eligible victim claim*.
- ‘(4) The public trustee may reject a victim claim if the person fails to comply with a request for further details under subsection (2)(b) without reasonable excuse.
- ‘(5) The public trustee must give a copy of the written notice or the further details received under subsection (2) to the chief executive within 7 days after receiving the notice or the details.
- ‘(6) In this section—
- written notice*, of a proceeding, means—

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- (a) a certified copy of the notice given under the *Personal Injuries Proceedings Act 2002*, section 9 for the proceeding; or
  - (b) other written evidence of the proceeding that satisfies the public trustee that the proceeding has been started.

**‘319Y Payment of eligible victim claims from victim trust fund**

- ‘(1) The public trustee must pay from a victim trust fund any award on an eligible victim claim against the person in relation to whom the relevant award was made (the *relevant person*).
- Note—*  
See also section 319ZK.
- ‘(2) The payment must be made as soon as practicable after all proceedings on eligible victim claims against the relevant person started before the cut-off day have been finally decided.
- ‘(3) For subsection (2), a proceeding on an eligible victim claim against the relevant person is taken to have been finally decided if the public trustee is satisfied that—
  - (a) the period for appealing against a decision awarding damages made by a court in the proceeding has ended and no appeal has been made; or
  - (b) all appeals against a decision awarding damages made by a court in the proceeding have been withdrawn or finally decided; or
  - (c) no step has been taken in the proceeding for 1 year from when the last step was taken in the proceeding; or
  - (d) the proceeding has been discontinued.
- ‘(4) If the amount of the victim trust fund is not enough to pay all of the awards on eligible victim claims against the relevant person, the public trustee must pay each award proportionately.

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- ‘(5) Subject to an Act providing for the holding of moneys on trust for a person under a legal disability, the payments must be made—
- (a) to the person named in the award; and
  - (b) to the extent that the award has not been satisfied by someone else.
- ‘(6) An award on an eligible victim claim against the relevant person, to the extent of any payment of the award under this section—
- (a) is discharged; and
  - (b) can not be enforced against the relevant person or any other person.
- ‘(7) In this section—
- award*, on an eligible victim claim against a relevant person, means—
- (a) an award of damages, that has been finally decided, to a person by a court in a proceeding on the eligible victim claim by the person against the relevant person; or
  - (b) an award of damages to a person under an agreement between the person and the relevant person relating to an eligible victim claim by the person against the relevant person.
- cut-off day*, for starting a proceeding on an eligible victim claim against the relevant person, means the day after the last day on which a proceeding may be started for section 319X(1)(b).

## ‘Subdivision 2      **Entity claims** 27

### ‘319Z **What is an *entity claim*** 28

- ‘(1) The chief executive of the department in which the Criminal Offence Victims Act is administered has, for the State, a claim 30

- 
- (an *entity claim*) against a person in relation to whom relevant money is awarded (the *relevant person*) if—
- (a) the State has paid an amount under—
    - (i) the Criminal Offence Victims Act, section 32, for a compensation order made against the relevant person; or
    - (ii) the Criminal Offence Victims Act, section 33, in relation to an act committed by the relevant person; or
    - (iii) the Criminal Offence Victims Act, section 34, in relation to—
      - (A) an arrest, or attempted arrest, of the relevant person; or
      - (B) a prevention, or attempted prevention, of an offence or suspected offence committed by the relevant person; or
    - (iv) the Criminal Offence Victims Act, section 35, for an offence of murder or manslaughter committed by the relevant person; or
    - (v) the *Criminal Code*, chapter 65A, section 663C, as in force from time to time before its repeal and as applied by the Criminal Offence Victims Act, section 46(2) in relation to an indictable offence committed by the relevant person; or
    - (vi) the *Criminal Code*, chapter 65A, section 663D, as in force from time to time before its repeal and as applied by the Criminal Offence Victims Act, section 46(2) in relation to—
      - (A) an arrest, or attempted arrest, of the relevant person; or
      - (B) a prevention, or attempted prevention, of an offence or suspected offence committed by the relevant person; or
      - (C) an act or omission of the relevant person; or

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- (D) an indictable offence allegedly committed by the relevant person; and
- (b) the State has not recovered the amount in full from any person.
- ‘(2) The SPER registrar has a claim (also an *entity claim*) against a person in relation to whom relevant money is awarded (the *relevant person*) if—
- (a) an amount is payable by the relevant person to SPER under the *State Penalties Enforcement Act 1999* or another Act; and
- (b) SPER has not recovered the amount in full from any person.
- ‘(3) The child support registrar has a claim (also an *entity claim*) against a person in relation to whom relevant money is awarded (the *relevant person*) if—
- (a) the relevant person owes a child support debt to the Commonwealth; and
- (b) the Commonwealth has not recovered the debt in full from any person.
- ‘(4) In this section—
- child support debt* means—
- (a) an amount that is a debt due to the Commonwealth under the *Child Support (Registration and Collection) Act 1988* (Cwlth), section 30; or
- (b) any amount payable as a penalty on an amount mentioned in paragraph (a) under the *Child Support (Registration and Collection) Act 1988* (Cwlth), section 67.
- Note—*
- The chief executive of the department in which the Criminal Offence Victims Act is administered, the SPER registrar and the child support registrar are all collection entities for this part. See section 319J.
- compensation order* see Criminal Offence Victims Act, section 24(3).

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<b>‘319ZA Notice to collection entities of establishment of victim trust fund</b>	1 2
‘The chief executive must, within 1 month after relevant money is awarded in relation to a person (the <i>relevant person</i> ), give each collection entity a written notice stating—	3 4 5
(a) the name of the relevant person; and	6
(b) that there is a victim trust fund; and	7
(c) that the collection entity may have an entity claim against the relevant person and that the claim may be payable from the victim trust fund; and	8 9 10
(d) that the public trustee will notify the collection entity under section 319ZB if there is an amount left in the victim trust fund available for paying eligible entity claims.	11 12 13 14
<b>‘319ZB Notice to collection entities if amount left in victim trust fund</b>	15 16
‘(1) The public trustee must work out the amount, if any, left in a victim trust fund that is available under section 319ZD for paying eligible entity claims at the following time—	17 18 19
(a) generally—within 1 month after paying under section 319Y all awards made on eligible victim claims;	20 21
(b) if the public trustee has received a notice from the chief executive under section 319U(5)—within 1 month after receiving the notice.	22 23 24
‘(2) If there is an amount left in the victim trust fund that is available under section 319ZD for paying eligible entity claims, the public trustee must, within 1 month after working out the amount, give each collection entity a written notice stating—	25 26 27 28 29
(a) the name of the person in relation to whom relevant money was awarded (the <i>relevant person</i> ); and	30 31
(b) the amount left in the victim trust fund; and	32

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- (c) that the collection entity may have an entity claim against the relevant person and that the claim may be payable from the victim trust fund; and
- (d) the period within which the collection entity must notify an amount of an entity claim to the public trustee to have an eligible entity claim against the relevant person; and
- (e) the other steps the collection entity must take for the collection entity to have an eligible entity claim against the relevant person.

**‘319ZC Notifying entity claims**

- ‘(1) This section applies if a collection entity has an entity claim against a person in relation to whom relevant money was awarded (the *relevant person*).
- ‘(2) The collection entity may notify the public trustee of the entity claim by giving the public trustee—
  - (a) written notice of the amount of the entity claim within 1 month after the collection entity is notified under section 319ZB(2); and
  - (b) evidence of the entity claim that reasonably satisfies the public trustee that—
    - (i) the relevant person is liable for the entity claim; and
    - (ii) the amount notified is accurate.
- ‘(3) An entity claim notified to the public trustee as mentioned in subsection (2) is an *eligible entity claim*.
- ‘(4) The public trustee may reject an entity claim if the collection entity fails to comply with a request for evidence under subsection (2)(b) without reasonable excuse.
- ‘(5) The public trustee must give a copy of the written notice or the evidence received under subsection (2) to the chief executive within 7 days after receiving the notice or the evidence.



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<b>‘319ZD Payment of eligible entity claims from victim trust fund</b>	1
‘(1) The public trustee must pay from the amount left in a victim trust fund, after paying under section 319Y all awards made on eligible victim claims in relation to the victim trust fund, the amount of any eligible entity claim against the person in relation to whom relevant money was awarded (the <i>relevant person</i> ).	2 3 4 5 6 7
<i>Note—</i>	8
See also section 319ZK.	9
‘(2) The payment must be made within 2 months after giving notice under section 319ZB(2).	10 11
‘(3) The public trustee must pay the amount of any eligible entity claims in the following order to the extent of the amount left in the victim trust fund—	12 13 14
(a) eligible entity claims notified by the chief executive of the department in which the Criminal Offence Victims Act is administered;	15 16 17
(b) eligible entity claims notified by the SPER registrar;	18
(c) eligible entity claims notified by the child support registrar.	19 20
‘(4) An eligible entity claim, to the extent of any payment of an amount of the claim under this section—	21 22
(a) is discharged; and	23
(b) can not be enforced against the relevant person or any other person.	24 25
<b>‘Subdivision 3      Payments to offender</b>	26
<b>‘319ZE Payment to offender of victim trust fund surplus</b>	27
‘(1) The public trustee must, within 1 month after complying with 319ZD in relation to a victim trust fund, work out the amount, if any, left in the victim trust fund.	28 29 30

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‘(2) If there is an amount left in the victim trust fund, the public trustee must, within 1 month after working out the amount—	1 2
(a) if the person in relation to whom the relevant money was awarded is a prisoner—pay the amount to the chief executive for payment into the person’s account in the prisoners trust fund under section 311; or	3 4 5 6
(b) if the person in relation to whom the relevant money was awarded is not a prisoner—pay the amount to or at the direction of the person.	7 8 9
<i>Note—</i>	10
See also section 319ZK.	11
<b>‘319ZF Payment to offender if no victim claims or entity claims against offender</b>	12 13
‘(1) This section applies if the public trustee is not notified under section 319ZC of the amount of any entity claim in relation to a victim trust fund.	14 15 16
‘(2) The public trustee must pay the amount of the victim trust fund to the person in relation to whom the relevant money was awarded within 2 months after giving notice under section 319ZB(2).	17 18 19 20
<i>Note—</i>	21
See also section 319ZK.	22
<b>‘Division 5                      Amounts not included in victim trust fund</b>	23 24
<b>‘319ZG Exception for future medical expenses</b>	25
‘Divisions 2 to 4 do not apply to an amount that is identified in an award of relevant money or an agreement about relevant money as being payable by a protected defendant as damages for future medical expenses.	26 27 28 29

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**‘319ZH Exception for legal costs**

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- ‘(1) Divisions 2 to 4 do not apply to an amount that is payable by a 2  
protected defendant as legal costs— 3
- (a) under an order for costs made by a court or tribunal 4  
against the protected defendant; or 5
- (b) under an agreement about relevant money between the 6  
protected defendant and the person in relation to whom 7  
the relevant money was awarded (the *relevant person*); 8  
or 9
- (c) for an award of relevant money against the protected 10  
defendant that is inclusive of costs, that is reasonably 11  
attributable to the legal costs of the relevant person. 12
- ‘(2) The amount reasonably attributable to the legal costs 13  
mentioned in subsection (1)(c) is the reasonable amount— 14
- (a) decided by the protected defendant on the basis of a bill 15  
for the costs given to the protected defendant by the 16  
legal practitioner concerned; and 17
- (b) notified by the protected defendant to the relevant 18  
person. 19
- ‘(3) If the relevant person, by written notice to the protected 20  
defendant, disputes the protected defendant’s decision, the 21  
protected defendant must apply for the assessment of the costs 22  
under the *Legal Profession Act 2007*. 23
- ‘(4) The assessment must be conducted as if the protected 24  
defendant were liable to pay the costs as a result of an order 25  
for the payment of an unstated amount of costs made by a 26  
court. 27
- ‘(5) The costs of the assessment are payable— 28
- (a) if the amount of costs fixed by the costs assessor is at 29  
least 10% more than the amount decided by the 30  
protected defendant—by the protected defendant; or 31
- (b) otherwise—from the victim trust fund, in priority to all 32  
other payments from the fund. 33

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<b>‘319ZI Orders in relation to relevant money</b>	1
‘(1) This section applies if a court or tribunal makes an award of compensation or an award of damages in relation to a person.	2 3
‘(2) The court or tribunal must make all necessary orders to ensure that an amount mentioned in section 319ZG or 319ZH is not held in a victim trust fund.	4 5 6
<b>‘319ZJ Agreements in relation to relevant money</b>	7
‘(1) This section applies if a protected defendant enters into an agreement about relevant money with the person in relation to whom the relevant money was awarded.	8 9 10
‘(2) The agreement contains an implied term that an amount mentioned in section 319ZG or 319ZH is not held in a victim trust fund.	11 12 13
<b>‘Division 6                      Miscellaneous</b>	14
<b>‘319ZK Amounts payable to public trustee for performance of functions</b>	15 16
‘(1) This section applies to any amounts payable under the <i>Public Trustee Act 1978</i> from a victim trust fund to the public trustee for the performance of its functions under this part.	17 18 19
‘(2) The amounts must be paid to the public trustee from the victim trust fund before paying any of the following amounts under this part—	20 21 22
(a) an award on an eligible victim claim under section 319Y;	23 24
(b) an amount of an eligible entity claim under section 319ZD;	25 26
(c) an amount payable to an offender under section 319ZE or 319ZF.	27 28
<i>Note—</i>	29
See section 319ZH(5)(b).	30

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**‘319ZL Maximum legal costs of victim claims**

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- ‘(1) The maximum amount of legal costs, inclusive of GST, that a legal practitioner may charge and recover from a client for work done relating to a victim claim that may be payable from a victim trust fund is—
- (a) if the amount recovered on the claim is \$100000 or less—20% of the amount recovered or \$10000 whichever is greater; or
- (b) if the amount recovered on the claim is more than \$100000 but not more than \$250000—18% of the amount recovered or \$20000 whichever is greater; or
- (c) if the amount recovered on the claim is more than \$250000 but not more than \$500000—16% of the amount recovered or \$45000 whichever is greater; or
- (d) if the amount recovered on the claim is more than \$500000—15% of the amount recovered or \$80000 whichever is greater.
- ‘(2) This section applies despite any other Act providing for the assessment or payment of legal costs.
- ‘(3) In this section—
- amount recovered*, on a claim, means the full amount of the damages awarded and not just the amount of the award paid from a victim trust fund.’.

**Clause 5 Insertion of new ch 6, pt 13A**

Chapter 6—

*insert*—

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<b>‘Part 13A</b>	<b>Use of dangerous drugs for training</b>	1 2
<b>‘Division 1</b>	<b>Preliminary</b>	3
<b>‘344A Object of pt 13A</b>		4
‘(1)	The object of this part is to ensure training in the department about dangerous drugs is realistic and effective.	5 6
‘(2)	The object is to be achieved by putting in place arrangements—	7 8
(a)	to allow the department to have access to dangerous drugs for training purposes; and	9 10
(b)	to ensure dangerous drugs in the possession of the department for training purposes—	11 12
(i)	are carefully handled to ensure their effectiveness for training purposes is not compromised; and	13 14
(ii)	are subject to strict tracking and accountability requirements.	15 16
<b>‘344B Definitions for pt 13A</b>		17
‘In this part—		18
<i>agency arrangement</i>	means an arrangement, or series of arrangements, between the chief executive and the chief executive officer, by whatever name known, of a department or other agency of the State or the Commonwealth (the <i>other agency</i> ) providing for the following—	19 20 21 22 23
(a)	the transfer of possession of a batch of a dangerous drug from the possession of the other agency into the possession of the department;	24 25 26
(b)	that the batch of the dangerous drug is to be used for training in the department;	27 28

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- (c) the type and extent of the training for which the batch of the dangerous drug is to be used; 1  
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- (d) what is to be done with the batch of the dangerous drug at the end of the training; 3  
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- (e) anything else the parties to the arrangement consider appropriate. 5  
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*Example of an agency arrangement made up of a series of arrangements—* 7  
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A first arrangement between the chief executive and an agency could establish basic principles to govern the supply of dangerous drugs to the chief executive for training purposes. A second arrangement between the chief executive and the agency could establish particular procedures to be followed for transferring particular types of dangerous drugs between the department and the agency subject to the basic principles established in the first arrangement. A third arrangement between the chief executive and the agency could provide for the special circumstances applying to a batch of 1 of the particular types of dangerous drugs mentioned in the second arrangement. For the batch mentioned in the third arrangement, the agency arrangement may be ascertained from a reading of all 3 arrangements. 9  
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***dangerous drug*** see the *Drugs Misuse Act 1986*, section 4. 21

***drug control direction*** means a direction of the chief executive— 22  
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- (a) authorising— 24
- (i) the keeping of a batch of a dangerous drug; and 25
- (ii) the use of the batch in training in the department; 26  
and 27
- (b) stating the conditions under which the keeping and use of the batch of the dangerous drug is authorised. 28  
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***drug control officer*** means a person holding an appointment under division 2 as a drug control officer. 30  
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***drug vault*** means a secure facility suitable for the storage of dangerous drugs in the possession of the department for training purposes under the authority of a drug control direction. 32  
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*register of dangerous drugs for training* means the register of dangerous drugs for training kept under section 344M. 1  
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*secure facility* means a facility that is secure against unauthorised entry. 3  
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## **‘Division 2                    Drug control officers** 5

### **‘344C Appointment and qualifications** 6

‘(1) The chief executive may appoint a corrective services officer as a drug control officer. 7  
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‘(2) However, the chief executive may appoint a corrective services officer as a drug control officer only if— 9  
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(a) the chief executive is satisfied the officer is qualified for appointment because the officer has the necessary expertise or experience; or 11  
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(b) the officer has satisfactorily finished training approved by the chief executive. 14  
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### **‘344D Appointment conditions** 16

‘(1) A drug control officer holds office on any conditions stated in— 17  
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(a) the drug control officer’s instrument of appointment; or 19

(b) a signed notice given to the drug control officer; or 20

(c) a regulation. 21

‘(2) The instrument of appointment, a signed notice given to the drug control officer or a regulation may limit the drug control officer’s powers under this part. 22  
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‘(3) In this section— 25

*signed notice* means a notice signed by the chief executive. 26



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<b>‘344E Issue of identity card</b>	1
‘(1) The chief executive must issue an identity card to each drug control officer.	2 3
‘(2) The identity card must—	4
(a) contain a recent photo of the drug control officer; and	5
(b) contain a copy of the drug control officer’s signature; and	6 7
(c) identify the person as a drug control officer under this part; and	8 9
(d) state an expiry date for the card.	10
‘(3) This section does not prevent the issue of a single identity card to a person for this Act and for other purposes.	11 12
<b>‘344F Resignation</b>	13
‘A drug control officer may resign by signed notice given to the chief executive.	14 15
<b>‘344G Return of identity card</b>	16
‘A person who ceases to be a drug control officer must return the person’s identity card to the chief executive within 21 days after ceasing to be a drug control officer unless the person has a reasonable excuse.	17 18 19 20
Maximum penalty—40 penalty units.	21
<b>‘344H Function and powers of drug control officer</b>	22
‘(1) A drug control officer has the function of administering and controlling, as required under this part and the conditions on which the drug control officer holds office, the following—	23 24 25
(a) the receiving into the possession of the department of batches of dangerous drugs to be used for training purposes (the <i>batches</i> );	26 27 28
(b) the storage of the batches;	29

[s 5]

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(c)	the movement in and out of storage, for the purposes of training, of the batches or parts of the batches;	1 2
(d)	how the batches leave the possession of the department.	3
‘(2)	A drug control officer has power, within the department, to do all things necessary to be done for the performance of the drug control officer’s function.	4 5 6
<b>‘Division 3</b>	<b>Keeping and use of dangerous drugs for training</b>	7 8
<b>‘344I</b>	<b>Keeping dangerous drug for use in department training</b>	9 10
	‘A batch of a dangerous drug may lawfully be kept in the possession of the department and used for training in the department if—	11 12 13
(a)	the keeping of the batch, and its use for training in the department, is authorised under a drug control direction; and	14 15 16
(b)	the batch is kept, and used for training, in accordance with the conditions included in the drug control direction.	17 18 19
<b>‘344J</b>	<b>Making drug control direction</b>	20
‘(1)	The chief executive may make a drug control direction for a batch of a dangerous drug.	21 22
‘(2)	The chief executive may make a drug control direction for a batch of a dangerous drug only if the batch comes into the possession of the department under an agency arrangement.	23 24 25
‘(3)	The conditions included in the drug control direction must include the following conditions—	26 27
(a)	a condition that the batch must be used only for the training purposes stated in the condition;	28 29

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<i>Example of training purposes—</i>	1
training corrective services dogs to detect the presence of dangerous drugs in various situations	2 3
(b) a condition that the training for which the batch is used must be of the type, and of the extent, stated in the condition;	4 5 6
(c) a condition that the whole of the batch must at all times—	7 8
(i) be under the effective control of a drug control officer or 1 or more of the corrective services officers identified in the condition; or	9 10 11
(ii) be kept securely in a way stated in the condition;	12
(d) a condition that, as soon as practicable after the batch is used for training purposes for the last time, the batch must be destroyed or disposed of in the way stated in the condition.	13 14 15 16
‘(4) Subsection (3) does not limit the conditions that may be included in the drug control direction.	17 18
‘(5) The chief executive must ensure that the department complies with the conditions included in the drug control direction.	19 20
<b>‘344K Entering into agency arrangement</b>	21
‘(1) The chief executive may enter into an agency arrangement.	22
‘(2) The chief executive may enter into an agency arrangement only if the department or other agency, whose chief executive officer is the other party to the arrangement, is authorised to possess the batch of the dangerous drug the subject of the arrangement.	23 24 25 26 27
‘(3) The chief executive must ensure the department complies with the agency arrangement.	28 29

[s 5]

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<b>‘344L Requirements for keeping of dangerous drugs for training purposes</b>	1 2
‘(1) The following requirements apply for the department’s possession of dangerous drugs for training purposes—	3 4
(a) each batch of a dangerous drug must be stored in a drug vault;	5 6
(b) when a batch of a dangerous drug is received into a drug vault for storage for the first time, it must be accompanied by a document certifying, in a way approved by the chief executive, the weight and purity of the batch;	7 8 9 10 11
(c) a drug vault must not be used for storing a dangerous drug that is in the possession of the department other than for training purposes;	12 13 14
(d) a drug vault must be designed and constructed for ensuring, to the greatest practicable extent, that each batch of a dangerous drug stored in it keeps its level of effectiveness for training purposes;	15 16 17 18
(e) a drug vault must include enough separate storage to ensure that no batch of a dangerous drug stored in the vault can be contaminated by another batch, or can otherwise be made ineffective or less effective for training purposes;	19 20 21 22 23
(f) the whole of a batch of a dangerous drug must be stored in a drug vault at all times, except to the extent the batch, or a part of the batch, is required to be held somewhere else for training purposes;	24 25 26 27
(g) an audit of each drug vault must be conducted at least once every 3 months by a corrective services officer not otherwise directly associated with the keeping or use of dangerous drugs for training purposes;	28 29 30 31
(h) when a batch of a dangerous drug leaves a drug vault for the last time—	32 33

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- (i) it must be accompanied by a document certifying, in a way approved by the chief executive, the weight and purity of the batch; and
- (ii) a copy of the document mentioned in subparagraph (i) must be kept at the drug vault or at another place the chief executive directs.
- (2) Without limiting the scope of an audit under subsection (1)(g), the audit must include—
- (a) weighing each batch of dangerous drugs in the drug vault to find out whether all quantities of dangerous drugs that should be in the drug vault at the time of the audit are in the vault; and
- (b) finding out whether the drug vault is storing any dangerous drugs, or anything else, that should not be stored in the drug vault; and
- (c) finding out whether, and to what extent, the purity of any batch of a dangerous drug stored at the drug vault has been adversely affected since it was received into the drug vault; and
- (d) a review of the register of dangerous drugs for training.
- (3) Without limiting the requirements for an audit under subsection (1)(g), requirements for the audit include the following—
- (a) the performance of the audit must be supervised by a corrective services officer who is—
- (i) authorised by the chief executive to supervise the performance of the audit; and
- (ii) not otherwise directly associated with the keeping or use of dangerous drugs for training purposes;
- (b) all batches of dangerous drugs stored in the drug vault must be the subject of analysis by an analyst under the *Drugs Misuse Act 1986*;
- (c) the accuracy of the scales used in measuring the weights of batches of dangerous drugs stored in the drug vault

[s 5]

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must be certified in a way approved by the chief executive. 1  
2

**‘Division 4 Register of dangerous drugs for training’ 3  
4**

**‘344M Register of dangerous drugs for training’ 5**

- ‘(1) The chief executive must keep a register of dangerous drugs for training. 6  
7
- ‘(2) The register may form part of another register whether kept under this or another Act. 8  
9
- ‘(3) The chief executive— 10
- (a) subject to subsection (4), may keep the register of dangerous drugs for training in the way the chief executive considers appropriate; and 11  
12  
13  
*Example for paragraph (a)—* 14  
The register may be kept on a computer or partly on a computer and partly in written form. 15  
16
  - (b) must ensure the register is kept in a secure place. 17
- ‘(4) The register of dangerous drugs for training must be kept in a way that, to the greatest practicable extent, enables a drug control officer, or a corrective services officer performing a lawful function associated with the keeping of dangerous drugs in the possession of the department under this Act, whether or not under this part, to comply with this Act’s requirements. 18  
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20  
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- ‘(5) Unless the chief executive otherwise authorises, an entry in the register of dangerous drugs for training may only be made by a drug control officer who is authorised, under the conditions on which the drug control officer holds office, to make the entry. 25  
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- ‘(6) If the chief executive gives a direction under this division restricting access to information included in the register of dangerous drugs for training, a drug control officer authorised 30  
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to record the information in the register must ensure the information is recorded in a way that, to the greatest practicable extent, stops disclosure of the information to a person not authorised to have access to it.

**344N Information to be recorded in the register of dangerous drugs for training**

(1) The following information must be recorded in the register of dangerous drugs for training about each batch of a dangerous drug coming into the possession of the department to be used for training purposes—

- (a) the name of the dangerous drug;
- (b) a description of the batch;
- (c) the weight, in grams, of the batch;
- (d) a description of any container or packaging, and of any other item, used for conveying the batch into the possession of the department;
- (e) the weight, in grams, of any container or packaging, and of any other item, used for conveying the batch into the possession of the department;
- (f) when the batch was received into the possession of the department;
- (g) the purity of the batch, and details of the certification of the purity;
- (h) a description of the circumstances in which the batch came into the possession of the department.

(2) The following information must be recorded in the register of dangerous drugs for training about each batch of a dangerous drug in the possession of the department for training purposes if the batch, or part of the batch, is taken from the drug vault where it is stored because it is to be used for training purposes—

- (a) when the batch or part of the batch leaves the drug vault;

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(b)	the nature of the training for which the batch or part of the batch is to be used;	1 2
(c)	the condition of any container or packaging in which the batch or part of the batch leaves the drug vault;	3 4
(d)	the weight, in grams, of the batch or part of the batch when it leaves the drug vault;	5 6
(e)	the condition of any container or packaging in which the batch or part of the batch is returned to the drug vault;	7 8
(f)	the weight, in grams, of the batch or part of the batch when it is returned to the drug vault.	9 10
‘(3)	The following information must be recorded in the register of dangerous drugs for training when a batch of a dangerous drug leaves a drug vault for the last time to be disposed of or to be returned to an entity under an agency arrangement—	11 12 13 14
(a)	the weight, in grams, of the batch when it leaves the drug vault;	15 16
(b)	the weight, in grams, of any container or packaging in which the batch leaves the drug vault.	17 18
‘(4)	Recording under subsection (1), (2) or (3) must be performed as close as reasonably practicable to the happening of the event to which the recording relates.	19 20 21
<b>‘3440</b>	<b>Restriction on release of information from register of dangerous drugs for training</b>	22 23
‘(1)	The chief executive may give a direction restricting access to information recorded in the register of dangerous drugs for training to persons other than—	24 25 26
(a)	a drug control officer who reasonably needs the information for the performance of the officer’s function under this part; or	27 28 29
(b)	a corrective services officer who reasonably needs the information for conducting or supervising, under this part, an audit of a drug vault; or	30 31 32



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- (c) another corrective services officer, if the corrective services officer is performing a function associated with the keeping of dangerous drugs in the possession of the department under this Act, whether or not under this part, and reasonably needs the information for the performance of the officer's function; or
- (d) a police officer who reasonably needs the information for the performance of the officer's functions under an Act; or
- (e) a person stated in the direction.
- '(2) A direction under subsection (1) may restrict access to all information recorded in the register or only to information of a type stated in the direction.
- '(3) The chief executive must keep a written record of the reasons for giving a direction under subsection (1) in each particular case.
- '(4) The chief executive may give a direction under subsection (1), and keep the direction in place, only if the chief executive considers that a failure to give the direction, or to keep the direction in place, may prejudice—
- (a) the security of a drug vault; or
- (b) the safety of—
- (i) a corrective services officer; or
- (ii) another person associated with keeping dangerous drugs in the possession of the department for training purposes; or
- (iii) a person associated with a person mentioned in subparagraph (i) or (ii).'

- Clause 6 Amendment of s 349 (Protection from liability)**
- Section 349(4), definition *official*, paragraph (a)(iv)—
- omit, insert—*
- '(iv) a volunteer; or

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	(v) a protected defendant mentioned in section 319A, definition <i>protected defendant</i> , paragraph (b) to (e) performing a function under chapter 6, part 12B; or	1 2 3
	(vi) the public trustee performing a function under chapter 6, part 12B; or	4 5
	(vii) an individual employed or engaged by an entity mentioned in subparagraph (v) or (vi) performing a function under chapter 6, part 12B; or	6 7 8
	(viii) a person performing a function under section 319U(1); but’.	9 10
<b>Clause 7</b>	<b>Replacement of ch 7A hdg (Transitional provisions for Criminal Code (Drink Spiking) and Other Acts Amendment Act 2006)</b>	11 12 13
	Chapter 7A, heading—	14
	<i>omit, insert—</i>	15
	<b>‘Chapter 7A Other transitional provisions</b>	16 17
	<b>‘Part 1 Transitional provisions for Criminal Code (Drink Spiking) and Other Acts Amendment Act 2006’.</b>	18 19 20 21
<b>Clause 8</b>	<b>Insertion of new ch 7A, pt 2</b>	22
	Chapter 7A—	23
	<i>insert—</i>	24

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<b>‘Part 2</b>	<b>Transitional provisions for Corrective Services and Other Legislation Amendment Act 2008</b>	1 2 3 4
<b>‘478C</b>	<b>Definitions for pt 2</b>	5
	‘In this part—	6
	<i>commencement</i> means the commencement of this section.	7
	<i>relevant person</i> see section 319A.	8
<b>‘478D</b>	<b>Discrimination complaints not decided before commencement</b>	9 10
	‘(1) This section applies to a complaint by a relevant person to the anti-discrimination commissioner under the Anti-Discrimination Act, section 134 about an alleged contravention of that Act committed by a protected defendant against an offender that was made but not decided before the commencement.	11 12 13 14 15 16
	‘(2) Chapter 6, part 12A, other than sections 319D and 319I(1), (4) and (5), does not apply to the complaint.	17 18
<b>‘478E</b>	<b>Relevant money awarded after commencement</b>	19
	‘(1) This section applies to relevant money awarded in relation to a person after the commencement.	20 21
	‘(2) Chapter 6, part 12B applies to the relevant money even if—	22
	(a) the award of damages forming the relevant money was for a civil wrong committed by a protected defendant against the person before the commencement; or	23 24 25
	(b) the award of compensation forming the relevant money was for a contravention of the Anti-Discrimination Act committed by a protected defendant against the person before the commencement.	26 27 28 29

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<b>'478F Legal costs of victim claims brought before commencement</b>	1 2
'Section 319ZL only applies to the legal costs of a victim claim started after the commencement.'	3 4
<b>Clause 9 Amendment of sch 4 (Dictionary)</b>	5
Schedule 4—	6
<i>insert—</i>	7
' <i>agency arrangement</i> , for chapter 6, part 13A, see section 344B.	8 9
' <i>Anti-Discrimination Act</i> means the <i>Anti-Discrimination Act 1991</i> .	10 11
' <i>award of compensation</i> , for chapter 6, part 12B, see section 319J.	12 13
' <i>award of damages</i> , for chapter 6, part 12B, see section 319J.	14
' <i>child support registrar</i> , for chapter 6, part 12B, see section 319J.	15 16
' <i>collection entity</i> , for chapter 6, part 12B, see section 319J.	17
' <i>Criminal Offence Victims Act</i> means the <i>Criminal Offence Victims Act 1995</i> .	18 19
' <i>dangerous drug</i> , for chapter 6, part 13A, see section 344B.	20
' <i>disbursements</i> for chapter 6, part 12B, see section 319J.	21
' <i>drug control direction</i> , for chapter 6, part 13A, see section 344B.	22 23
' <i>drug control officer</i> , for chapter 6, part 13A, see section 344B.	24 25
' <i>drug vault</i> , for chapter 6, part 13A, see section 344B.	26
' <i>eligible entity claim</i> , for chapter 6, part 12B, see section 319ZC(3).	27 28
' <i>eligible victim claim</i> , for chapter 6, part 12B, see section 319X(3).	29 30

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<i>entity claim</i> , for chapter 6, part 12B, see section 319Z.	1
<i>finally decided</i> , for chapter 6, part 12B, see section 319J.	2
<i>legal costs</i> , for chapter 6, part 12B, see section 319J.	3
<i>potential claimant</i> , for chapter 6, part 12B, see section 319J.	4
<i>protected defendant</i> see section 319A.	5
<i>public trustee</i> see the <i>Public Trustee Act 1978</i> , section 6.	6
<i>register of dangerous drugs for training</i> , for chapter 6, part 13A, see section 344B.	7 8
<i>relevant award</i> , for chapter 6, part 12B, see section 319J.	9
<i>relevant money</i> , for chapter 6, part 12B, see section 319J.	10
<i>relevant person</i> , for chapter 6, part 12A, see section 319A.	11
<i>secure facility</i> , for chapter 6, part 13A, see section 344B.	12
<i>SPER</i> , for chapter 6, part 12B, see section 319J.	13
<i>SPER registrar</i> , for chapter 6, part 12B, see section 319J.	14
<i>tribunal</i> , for chapter 6, part 12A, see section 319A.	15
<i>victim claim</i> , for chapter 6, part 12B, see section 319S(1).	16
<i>victim trust fund</i> , for chapter 6, part 12B, see section 319J.?	17

<b>Part 3</b>	<b>Amendment of Drugs Misuse Act 1986</b>	18 19
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<b>Clause 10</b>	<b>Act amended in pt 3</b>	20
	This part amends the <i>Drugs Misuse Act 1986</i> .	21

<b>Clause 11</b>	<b>Amendment of s 125 (Prescribed persons permitted to receive and dispose of dangerous drugs)</b>	22 23
	Section 125—	24

[s 12]

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*insert—*

‘(4) It is lawful for a person who, as a drug control officer within the meaning of the *Police Powers and Responsibilities Act 2000*, section 726, is performing the functions of a drug control officer in the police service, to possess a dangerous drug while actually performing the functions.’

‘(5) It is lawful for a person who, as a drug control officer within the meaning of the *Corrective Services Act 2006*, section 344B, is performing the functions of a drug control officer in the department in which the *Corrective Services Act 2006* is administered, to possess a dangerous drug while actually performing the functions.’

## **Part 4                                      Amendment of Health Act 1937**

### **Clause 12                      Act amended in pt 4**

This part amends the *Health Act 1937*.

### **Clause 13                      Replacement of pt 8 hdg (Transitional provisions for Health Legislation Amendment Act 2001)**

Part 8, heading—

*omit, insert—*

## **‘Part 8                                      Transitional provisions**

### **‘Division 1                                      Transitional provisions for Health Legislation Amendment Act 2001’.**

### **Clause 14                      Insertion of new pt 8, div 2**

Part 8—

*insert—*

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<b>‘Division 2</b>	<b>Transitional provision for Corrective Services and Other Legislation Amendment Act 2008</b>	1 2 3
<b>‘186</b>	<b>Amendment of regulation by Corrective Services and Other Legislation Amendment Act 2008 does not affect powers of Governor in Council</b>	4 5 6
	‘The amendment of the <i>Health (Drugs and Poisons) Regulation 1996</i> by the <i>Corrective Services and Other Legislation Amendment Act 2008</i> does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.	7 8 9 10 11
<b>Part 5</b>	<b>Amendment of Health (Drugs and Poisons) Regulation 1996</b>	12 13
<b>Clause 15</b>	<b>Regulation amended in pt 5</b>	14
	This part amends the <i>Health (Drugs and Poisons) Regulation 1996</i> .	15 16
<b>Clause 16</b>	<b>Amendment of s 271 (Prohibition on dispensing etc. regulated poisons)</b>	17 18
	Section 271—	19
	<i>insert—</i>	20
	‘(5) Subsection (1) does not apply to—	21
	(a) a drug control officer within the meaning of the <i>Police Powers and Responsibilities Act 2000</i> , section 726 who obtains or possesses a regulated poison to perform the functions of a drug control officer in the police service, while the officer is actually performing the functions; or	22 23 24 25 26

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- (b) a drug control officer within the meaning of the *Corrective Services Act 2006*, section 344B who obtains or possesses a regulated poison to perform the functions of a drug control officer in the department in which the *Corrective Services Act 2006* is administered, while the officer is actually performing the functions.’.

**Part 6** **Amendment of Limitation of Actions Act 1974**

- Clause 17** **Act amended in pt 6**  
This part amends the *Limitation of Actions Act 1974*.
- Clause 18** **Amendment of s 5 (Interpretation)**  
Section 5(2), from ‘or a convict’ to ‘imprisonment’—  
*omit*.
- Clause 19** **Insertion of new pt 7**  
After part 6—  
*insert*—



<b>‘Part 7</b>	<b>Transitional provision</b>	1
<b>‘46</b>	<b>Transitional provision for Corrective Services and Other Legislation Amendment Act 2008</b>	2 3
	‘The <i>Corrective Services and Other Legislation Amendment Act 2008</i> , section 18 only applies in relation to a cause of action arising after the commencement of this section.’	4 5 6

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