



Queensland

Justice Legislation Amendment Bill 2008



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2008

A Bill

for

An Act to amend the *Classification of Computer Games and Images Act 1995*, the *Classification of Films Act 1991*, the *Classification of Publications Act 1991*, the *Commercial and Consumer Tribunal Act 2003*, the *Consumer Credit (Queensland) Act 1994* to make changes to the Consumer Credit Code, the *Crime and Misconduct Act 2001* and the *Property Agents and Motor Dealers Act 2000* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Justice Legislation Amendment Act 2008*. 4
5

Clause 2 Commencement 6

The following provisions commence on a day to be fixed by proclamation— 7
8

- part 2, sections 7, 8 and 14(3) and (4) 9
- part 3, sections 19, 21, 23, 24 and 32 (to the extent it inserts new section 72) 10
11
- part 6 12
- schedule. 13

Part 2 Amendment of Classification of Computer Games and Images Act 1995 14
15
16

Clause 3 Act amended in pt 2 17

This part amends the *Classification of Computer Games and Images Act 1995*. 18
19

Clause 4	Replacement of s 8 (Appeal to appeal body against classification of computer game)	1 2
	Section 8—	3
	<i>omit, insert—</i>	4
‘8	Review by CCT of classification decision	5
	‘If the computer games classification officer classifies a computer game under section 5, a person whose interests are adversely affected by the decision may apply, under the CCT Act, to the CCT for a review of the decision.’	6 7 8 9
Clause 5	Amendment of s 8B (Obtaining copies for review)	10
	Section 8B(2), ‘director’—	11
	<i>omit, insert—</i>	12
	‘convenor’.	13
Clause 6	Amendment of s 12 (Advertisement to contain determined markings and consumer advice)	14 15
	Section 12(1)(b)(i), ‘the director decides’—	16
	<i>omit, insert—</i>	17
	‘determined’.	18
Clause 7	Amendment of s 13A (Prohibition against advertising certain computer games)	19 20
	Section 13A(1), from ‘game’—	21
	<i>omit, insert—</i>	22
	‘game, unless the advertisement is allowed under the Commonwealth Act.	23 24
	Maximum penalty—60 penalty units.	25

[s 8]

Note— 1
The Commonwealth Act, section 31 provides for the Commonwealth 2
Minister, by legislative instrument, to determine a scheme for the 3
advertising of unclassified computer games.’. 4

Clause 8	Amendment of s 16 (Classified computer games containing advertisements for other computer games)	5 6
	Section 16(d) and penalty—	7
	<i>omit, insert—</i>	8
	‘(d) if the computer game is classified as an MA 15+ computer game—an objectionable computer game; or	9 10
	(e) an unclassified computer game, unless the advertisement is allowed under the Commonwealth Act.	11 12
	Maximum penalty—10 penalty units.	13
	<i>Note for paragraph (e)—</i>	14
	The Commonwealth Act, section 31 provides for the Commonwealth Minister, by legislative instrument, to determine a scheme for the advertising of unclassified computer games.’.	15 16 17

Clause 9	Replacement of pt 7, div 3	18
	Part 7, division 3—	19
	<i>omit, insert—</i>	20
‘Division 3	Review by CCT of decision about approval of entity and exemption	21 22

‘60	Review by CCT	23
	‘(1) If the computer games classification officer makes a decision—	24 25
	(a) refusing to approve an entity under section 56; or	26
	(b) revoking the approval of an entity under section 56; or	27
	(c) refusing to give an exemption under section 58 or 59;	28

the computer games classification officer must notify the
entity in writing of the decision and the reasons for the
decision.

(2) The entity may apply, under the CCT Act, to the CCT for a
review of the decision.’.

Clause 10 Omission of s 61 (Appeal procedure) 6

Section 61— 7

omit. 8

Clause 11 Amendment of s 67 (Regulations) 9

(1) Section 67, heading, ‘Regulations’— 10

omit, insert— 11

‘**Regulation-making power**’.

(2) Section 67(3)— 13

omit. 14

**Clause 12 Replacement of pt 9, hdg (Transitional provision for
Tourism, Fair Trading and Wine Industry Development
Legislation Amendment Act 2005)** 15
16
17

Part 9, heading— 18

omit, insert— 19

‘Part 9 Transitional provisions 20

**‘Division 1 Tourism, Fair Trading and Wine
Industry Development Legislation
Amendment Act 2005’.** 21
22
23

Clause 13 Insertion of new pt 9, div 2 24

Part 9— 25

[s 13]

<i>insert—</i>	1
‘Division 2	Justice Legislation Amendment Act
	2008
‘71	Definitions for div 2
	‘In this division—
	<i>amending Act</i> means the <i>Justice Legislation Amendment Act 2008</i> , part 2.
	<i>commencement</i> means the commencement of this section.
‘72	Existing appeals
	‘(1) This section applies to an appeal started under previous section 8 or previous section 60(2) but not ended before the commencement of this section.
	‘(2) The appeal may continue and be decided as if the amending Act had not been enacted.
	‘(3) In this section—
	<i>previous</i> , followed by a provision number, means the provision as in force immediately before the commencement.
‘73	Existing entitlements to appeal
	‘(1) This section applies if, immediately before the commencement—
	(a) a person was entitled to appeal against a decision mentioned in section 8 or 60(2) (the <i>relevant provision</i>) and had not started the appeal; and
	(b) the period mentioned in the relevant provision for starting the appeal had not ended.
	‘(2) This Act as amended by the amending Act applies to the appeal.

'74	Existing proceedings for offences relating to advertisements for computer games	1 2
	'(1) This section applies if a proceeding for an offence against a provision of part 4 was started, but had not ended, before the commencement of the amending Act, section 14(3).	3 4 5
	'(2) Despite the Criminal Code, section 11, the proceeding may continue, and the provision may be enforced, as if the amending Act, section 14(3) had not been enacted.'	6 7 8
Clause 14	Amendment of sch 2 (Dictionary)	9
	(1) Schedule 2, definition <i>appeal body</i> — <i>omit.</i>	10 11
	(2) Schedule 2— <i>insert</i> — ' CCT means the Commercial and Consumer Tribunal established under the CCT Act. CCT Act means the <i>Commercial and Consumer Tribunal Act 2003</i> . convenor means the convenor of the review board.'	12 13 14 15 16 17 18
	(3) Schedule 2, definition <i>advertisement</i> , paragraph (c)— <i>omit, insert</i> — '(c) advertising on the internet;'	19 20 21
	(4) Schedule 2, definition <i>advertisement</i> — <i>insert</i> — '(g) advertising by way of a product that— (i) refers to, or is derived from, the computer game; and (ii) is primarily intended to be sold or distributed to the general public or to a section of the general public; and	22 23 24 25 26 27 28 29

[s 15]

- (iii) a reasonable person would not consider to be a primary source of classification information for consumers about the computer game.’. 1
2
3

Part 3 Amendment of Classification of Films Act 1991 4 5

- Clause 15 Act amended in pt 3** 6
This part amends the *Classification of Films Act 1991*. 7

- Clause 16 Amendment of s 3 (Definitions)** 8
- (1) Section 3— 9
insert— 10
‘**convenor** means the convenor of the review board.’. 11
- (2) Section 3, definition *advertisement*, paragraph (c)— 12
omit, insert— 13
‘(c) advertising on the internet;’. 14
- (3) Section 3, definition *advertisement*— 15
insert— 16
‘(g) advertising by way of a product that— 17
- (i) refers to, or is derived from, the film; and 18
- (ii) is primarily intended to be sold or distributed to the general public or to a section of the general public; 19
and 20
21
- (iii) a reasonable person would not consider to be a primary source of classification information for consumers about the film.’. 22
23
24

Clause 17	Insertion of new s 3B	1
	After section 3A—	2
	<i>insert—</i>	3
‘3B	Treatment of single device consisting only of classified films	4
		5
	‘(1) For this Act, a film—	6
	(a) contained on a single device; and	7
	(b) consisting only of 2 or more classified films;	8
	is to be treated as if each of the classified films were on a separate device.	9
		10
	‘(2) Subsection (1) applies despite any other provision of this Act.’.	11
		12
Clause 18	Amendment of s 21 (Prohibition against exhibition of certain films in public places)	13
		14
	(1) Section 21—	15
	<i>insert—</i>	16
	‘(2A) Subsection (2) does not apply to a film contained on a single device consisting only of 2 or more classified films.’.	17
		18
	(2) Section 21—	19
	<i>insert—</i>	20
	‘(4) Subsection (3) does not apply in relation to an alteration or addition that consists of the removal or addition of—	21
		22
	(a) navigation functions; or	23
	<i>Example—</i>	24
	an interactive menu	25
	(b) material that—	26
	(i) provides a description or translation of the audio or visual content of the film; and	27
		28
	(ii) would not be likely to cause the film to be given a higher classification.	29
		30

[s 19]

	<i>Example of material for paragraph (b)—</i>	1
	captions for persons with a hearing disability’.	2
Clause 19	Amendment of s 21A (Classified films—exhibiting advertisements for other films)	3 4
	Section 21A(e) and penalty—	5
	<i>omit, insert—</i>	6
	‘(e) if the film is classified as an R 18+ film—a film classified as an X 18+ or RC film or an unclassified film; or	7 8 9
	(f) an unclassified film, unless the advertisement is allowed under the Commonwealth Act.	10 11
	Maximum penalty—10 penalty units.	12
	<i>Note for paragraph (f)—</i>	13
	The Commonwealth Act, section 31 provides for the Commonwealth Minister, by legislative instrument, to determine a scheme for the advertising of unclassified films.’.	14 15 16
Clause 20	Amendment of s 25CC (Obtaining copies for review)	17
	Section 25CC(2), ‘director’—	18
	<i>omit, insert—</i>	19
	‘convenor’.	20
Clause 21	Amendment of s 26 (Prohibition against publishing certain advertisements)	21 22
	(1) Section 26(1), from ‘film’, first mention—	23
	<i>omit, insert—</i>	24
	‘film, unless the advertisement is allowed under the Commonwealth Act.	25 26
	Maximum penalty—	27
	(a) for an objectionable film—60 penalty units; or	28

(b) for another film—10 penalty units. 1

Note— 2

The Commonwealth Act, section 31 provides for the Minister, by legislative instrument, to determine a scheme for the advertising of unclassified films.’ 3
4
5

(2) Section 26(2)— 6

omit. 7

(3) Section 26(3) to (5)— 8

renumber as section 26(2) to (4). 9

Clause 22 Amendment of s 27 (Advertisement to contain determined markings and consumer advice) 10
11

Section 27(1)(b)(i), ‘the director determines’— 12

omit, insert— 13

‘determined’. 14

Clause 23 Amendment of s 28 (False advertising of films prohibited) 15

Section 28(2), from ‘film’, first mention— 16

omit, insert— 17

‘film, unless the advertisement is allowed under the Commonwealth Act. 18
19

Maximum penalty— 20

(a) in the case of an objectionable film—60 penalty units; 21
or 22

(b) in any other case—10 penalty units. 23

Note— 24

The Commonwealth Act, section 31 provides for the Commonwealth Minister, by legislative instrument, to determine a scheme for the advertising of unclassified films.’. 25
26
27

[s 24]

Clause 24	Amendment of s 31 (Classified films containing advertisements for other films)	1 2
(1)	Section 31(a) to (d), ‘or an unclassified film’— <i>omit.</i>	3 4
(2)	Section 31(e) and penalty— <i>omit, insert—</i>	5 6
	‘(e) if a film is classified as an R 18+ film—a film classified as an X 18+ or RC film; or	7 8
	(f) an unclassified film, unless the advertisement is allowed under the Commonwealth Act.	9 10
	Maximum penalty—10 penalty units.	11
	<i>Note for paragraph (f)—</i>	12
	The Commonwealth Act, section 31 provides for the Commonwealth Minister, by legislative instrument, to determine a scheme for the advertising of unclassified films.’.	13 14 15
Clause 25	Insertion of new s 36A	16
	Part 4—	17
	<i>insert—</i>	18
‘36A	Prohibition against sale of certain films	19
‘(1)	A person must not display for sale or sell, or attempt to display for sale or sell, a film unless the film is displayed for sale or sold with the same title as the title under which it is classified.	20 21 22 23
	Maximum penalty—50 penalty units.	24
‘(2)	Subsection (1) does not apply to a film contained on a single device consisting only of 2 or more classified films.	25 26
‘(3)	A person must not display for sale or sell, or attempt to display for sale or sell, an unclassified film other than in the form, without alteration or addition, in which it is classified.	27 28 29
	Maximum penalty—50 penalty units.	30

-
- ‘(4) Subsection (3) does not apply in relation to an alteration or addition that consists of the removal or addition of—
- (a) navigation functions; or
Example—
an interactive menu
 - (b) material that—
 - (i) provides a description or translation of the audio or visual content of the film; and
 - (ii) would not be likely to cause the film to be given a higher classification.
Example of material for paragraph (b)—
captions for persons with a hearing disability’.

- Clause 26 Amendment of s 52 (Additional power of inspector to seize films)**
- Section 52(3), ‘censor’—
omit, insert—
‘films classification officer’.

- Clause 27 Replacement of s 59 (Appeal to appeal body)**
- Section 59—
omit, insert—

- ‘59 Review by CCT**
- ‘(1) If the films classification officer makes a decision—
- (a) refusing to approve an organisation under section 56; or
 - (b) revoking the approval of an organisation under section 56; or
 - (c) refusing to give an exemption under section 58;
- the films classification officer must notify the organisation in writing of the decision and the reasons for the decision.

[s 28]

- ‘(2) The organisation may apply, under the CCT Act, to the CCT for a review of the decision. 1
2
- ‘(3) In this section— 3
- CCT* means the Commercial and Consumer Tribunal established under the CCT Act. 4
5
- CCT Act* means the *Commercial and Consumer Tribunal Act 2003*.’ 6
7

- Clause 28 Amendment of s 60 (Evidentiary provisions) 8**
- (1) Section 60(1), ‘director’— 9
- omit, insert— 10*
- ‘relevant entity’. 11
- (2) Section 60— 12
- insert— 13*
- ‘(4) In this section— 14
- relevant entity* means— 15
- (a) for a classification by the board—the director; or 16
- (b) for a classification by the review board—the convenor.’ 17
18

- Clause 29 Amendment of s 65 (Regulations) 19**
- (1) Section 65, heading, ‘Regulations’— 20
- omit, insert— 21*
- ‘**Regulation-making power**’. 22
- (2) Section 65(5)— 23
- omit.* 24

Clause 30	Amendment of pt 9, div 1, hdg (Savings and transitional provisions for Classification of Films Amendment Act 1993 No. 15)	1 2 3
	Part 9, division 1, heading, ‘Savings and transitional provisions for’—	4 5
	<i>omit.</i>	6
Clause 31	Amendment of pt 9, divs 2 and 3, hdgs	7
	Part 9, divisions 2 and 3, headings, ‘Transitional provision for’—	8 9
	<i>omit.</i>	10
Clause 32	Insertion of new pt 9, div 4	11
	Part 9—	12
	<i>insert</i> —	13
	‘Division 4 Justice Legislation Amendment Act 2008	14 15
‘71	Definitions for div 4	16
	‘In this division—	17
	<i>amending Act</i> means the <i>Justice Legislation Amendment Act 2008</i> , part 3.	18 19
	<i>commencement</i> means the commencement of this section.	20
	<i>previous</i> , followed by a provision number, means the provision as in force immediately before the commencement.	21 22
‘72	Existing exemptions for advertisements given under the Commonwealth Act	23 24
	‘(1) This section applies to an advertisement for a film in relation to which a certificate of exemption given under the	25 26

[s 32]

Commonwealth Act as mentioned in previous section 26(2) is in force immediately before the commencement.	1 2
‘(2) On the commencement, the certificate of exemption continues to have effect for this Act.	3 4
‘73 Existing appeals	5
‘(1) This section applies to an appeal started under previous section 59(2) but not ended before the commencement.	6 7
‘(2) The appeal may continue and be decided as if the amending Act had not been enacted.	8 9
‘74 Existing entitlements to appeal	10
‘(1) This section applies if, immediately before the commencement—	11 12
(a) a person was entitled to appeal against a decision mentioned in section 59(1) and had not started the appeal; and	13 14 15
(b) the period mentioned in the section for starting the appeal had not ended.	16 17
‘(2) This Act as amended by the amending Act applies to the appeal.	18 19
‘75 Existing proceedings for offences relating to advertisements for films	20 21
‘(1) This section applies if a proceeding for an offence against a provision of part 4 was started, but had not ended, before the commencement of the amending Act, section 16(2).	22 23 24
‘(2) Despite the Criminal Code, section 11, the proceeding may continue, and the provision may be enforced, as if the amending Act, section 16(2) had not been enacted.’.	25 26 27

Part 4	Amendment of Classification of Publications Act 1991	1 2
Clause 33	Act amended in pt 4	3
	This part amends the <i>Classification of Publications Act 1991</i> .	4
Clause 34	Amendment of s 3 (Definitions)	5
	Section 3—	6
	<i>insert—</i>	7
	‘ <i>advertisement</i> , for a publication, means any form of advertising for the publication and includes—	8 9
	(a) advertising, whether visual or audible, whether in the form of written or spoken words or other sounds and whether in a book, paper, magazine, poster, photograph, sketch, program, film or slide or in any other form; and	10 11 12 13
	(b) advertising on a container or wrapping enclosing the publication; and	14 15
	(c) advertising on the internet;	16
	but does not include—	17
	(d) advertising for an exempt publication; or	18
	(e) advertising, in an imported publication, for a publication that has not been published in Australia; or	19 20
	(f) advertising by way of a product that—	21
	(i) refers to, or is derived from, the publication; and	22
	(ii) is primarily intended to be sold or distributed to the general public or to a section of the general public; and	23 24 25
	(iii) a reasonable person would not consider to be a primary source of classification information for consumers about the publication.	26 27 28

[s 35]

CCT means the Commercial and Consumer Tribunal
established under the CCT Act. 1
2

CCT Act means the *Commercial and Consumer Tribunal Act*
2003.'. 3
4

Clause 35	Replacement of s 11 (Appeal against classification by publications classification officer)	5 6
	Section 11—	7
	<i>omit, insert</i> —	8
'11	Review by CCT of classification decision by publications classification officer	9 10
	'If the publications classification officer makes a decision classifying a publication, a person whose interests are adversely affected by the decision may apply, under the CCT Act, to the CCT for a review of the decision.'	11 12 13 14
Clause 36	Amendment of s 11C (Publications for which display order may be made)	15 16
	Section 11C(4)(e), from 'may appeal'—	17
	<i>omit, insert</i> —	18
	'may—	19
	(i) apply, under the CCT Act, to the CCT for a review of the decision to make the order; or	20 21
	(ii) apply, under section 11D, to have the order lifted.'	22
Clause 37	Amendment of s 11D (Lifting of display order, and appeal rights and procedure)	23 24
	(1) Section 11D, heading, 'appeal'—	25
	<i>omit, insert</i> —	26
	'review'.	27
	(2) Section 11D(6), 'appeal'—	28

	<i>omit, insert—</i>	1
	‘review’.	2
Clause 38	Amendment of s 37 (Exemptions)	3
	(1) Section 37(5)(b)—	4
	<i>omit, insert—</i>	5
	‘(b) the person or body may apply, under the CCT Act, to the CCT for a review of the decision.’.	6
		7
	(2) Section 37(6) to (10)—	8
	<i>omit.</i>	9
Clause 39	Amendment of s 38 (Regulations)	10
	(1) Section 38, heading, ‘Regulations’—	11
	<i>omit, insert—</i>	12
	‘ Regulation-making power ’.	13
	(2) Section 38(3)—	14
	<i>omit.</i>	15
Clause 40	Amendment of pt 6 (Savings and transitional)	16
	(1) Part 6, heading—	17
	<i>omit, insert—</i>	18
‘Part 6	Savings and transitional provisions	19
		20
‘Division 1	Act No. 78 of 1991’.	21
	(2) After section 40—	22
	<i>insert—</i>	23

[s 40]

‘Division 2	Consumer Law and Other Justice Legislation (Miscellaneous Provisions) Act 1996’.	1 2 3
(3)	After section 41— <i>insert—</i>	4 5
‘Division 3	Justice Legislation Amendment Act 2008	6 7
‘42	Definitions for div 3	8
	‘In this division—	9
	<i>amending Act</i> means the <i>Justice Legislation Amendment Act 2008</i> , part 4.	10 11
	<i>commencement</i> means the commencement of this section.	12
‘43	Existing appeals	13
(1)	This section applies to an appeal started under previous section 11(1) or previous section 37(5)(b) but not ended before the commencement of this section.	14 15 16
(2)	The appeal may continue and be decided as if the amending Act had not been enacted.	17 18
(3)	In this section—	19
	<i>previous</i> , followed by a provision number, means the provision as in force immediately before the commencement.	20 21
‘44	Existing entitlements to appeal	22
(1)	This section applies if, immediately before the commencement—	23 24
(a)	a person was entitled to appeal against a decision mentioned in section 11(1) or 37(5)(b) (the <i>relevant provision</i>) and had not started the appeal; and	25 26 27

- (b) the period mentioned in the relevant provision for starting the appeal had not ended. 1
2
- ‘(2) This Act as amended by the amending Act applies to the appeal.’. 3
4

Part 5 **Amendment of Commercial and Consumer Tribunal Act 2003** 5
6

Clause 41 **Act amended in pt 5** 7

This part amends the *Commercial and Consumer Tribunal Act 2003*. 8
9

Clause 42 **Amendment of s 100 (Appeals)** 10

Section 100(6)(a) and (b), ‘; or’— 11

omit, insert— 12

‘;’. 13

Clause 43 **Amendment of pt 9, hdg (Transitional provisions)** 14

Part 9, heading— 15

omit, insert— 16

‘Part 9 **Transitional and declaratory provisions** 17
18

‘Division 1 **Transitional provisions for Act No. 30 of 2003’.** 19
20

Clause 44 **Replacement of pt 10 (Repeal)** 21

Part 10— 22

[s 45]

omit, insert—

1

**‘Division 2 Declaratory provision for Justice
 Legislation Amendment Act 2008**

2
3

‘168 Declaration

4

‘To remove any doubt, it is declared that an Act, other than
this Act, that before the commencement of this section,
whether expressly or by implication, authorised any of the
following is, and always was, an empowering Act for this
Act—

5
6
7
8
9

(a) a proceeding to be started in the tribunal;

10

(b) a decision to be reviewed by the tribunal;

11

(c) any other matter or thing to be dealt with by the
tribunal.’.

12
13

Clause 45 Amendment of sch 2 (Dictionary)

14

(1) Schedule 2, definition *empowering Act—*

15

omit, insert—

16

‘**empowering Act** means an Act, other than this Act, that,
whether expressly or by implication, authorises a proceeding
to be started in, or a matter or thing to be dealt with by, the
tribunal.’.

17
18
19
20

(2) Schedule 2, definition *public examination*, ‘4’—

21

omit, insert—

22

‘3’.

23

Part 6	Amendment of Consumer Credit Code	1 2
Clause 46	Code amended in pt 6 and schedule	3
	This part and the schedule amend the Consumer Credit Code set out in the appendix to the <i>Consumer Credit (Queensland) Act 1994</i> .	4 5 6
Clause 47	Insertion of new ss 10A–10C	7
	After section 10—	8
	<i>insert—</i>	9
‘10A	Deciding application of Code to particular contracts for the sale of land by instalments	10 11
	‘(1) This section applies to an executory contract for the sale of land if—	12 13
	(a) under the contract, the purchaser—	14
	(i) is entitled to enter into possession of the land before becoming entitled to receive a conveyance or transfer of the land; and	15 16 17
	(ii) is bound to make a payment or payments (other than a deposit or rent payment) to, or in accordance with the instructions of, the vendor without becoming entitled to receive a conveyance or transfer of the land in exchange for the payment or payments; and	18 19 20 21 22 23
	(b) the amount payable to purchase the land under the contract exceeds the cash price of the land.	24 25
	<i>Note—</i>	26
	Cash price is defined in schedule 1 in terms of goods or services. Services is defined in schedule 1 to include rights in relation to, and interests in, real property.	27 28 29

[s 47]

- ‘(2) For the purpose of deciding whether the contract is a credit contract and, if it is a credit contract, of applying this Code (including part 6) to it—
- (a) a debt is to be regarded as having been incurred, and credit provided, in the circumstances mentioned in subsection (1); and
 - (b) the debtor is the purchaser under the contract; and
 - (c) the credit provider is the vendor under the contract; and
 - (d) the charge for providing the credit is the amount by which the amount payable to purchase the land, together with any other amount payable under the contract other than outgoings for the land, exceeds the cash price of the land.
- ‘(3) This section does not affect the application of this Code to a contract that is, apart from this section, a credit contract.
- ‘(4) In this section—
- deposit**, in relation to a contract, means an amount—
- (a) not exceeding 10% of the amount payable to purchase the land under the contract; and
 - (b) paid or payable in 1 or more amounts; and
 - (c) liable to be forfeited and retained by the vendor in the event of a breach of contract by the purchaser.
- outgoings** includes rates, water charges and house and contents insurance.
- rent payment**, under a contract, means a payment—
- (a) made by the purchaser to the vendor in exchange for possession of the land before becoming entitled to receive a conveyance or transfer of the land; and
 - (b) that is not deductible from the amount payable to purchase the land.

‘10B	Deciding application of Code to particular contracts for the sale of goods by instalments	1 2
‘(1)	This section applies to a contract for the sale of goods if the amount payable to purchase the goods under the contract—	3 4
	(a) is payable by instalments; and	5
	(b) exceeds the cash price of the goods.	6
‘(2)	This section does not apply to a contract for the hire of goods even if the hirer has a right or obligation to purchase the goods.	7 8 9
‘(3)	For the purpose of deciding whether the contract is a credit contract and, if it is a credit contract, of applying this Code (including part 6) to it—	10 11 12
	(a) a debt is to be regarded as having been incurred, and credit provided, in the circumstances mentioned in subsection (1); and	13 14 15
	(b) the debtor is the person who is to make the payments; and	16 17
	(c) the credit provider is the person who is to receive the payments; and	18 19
	(d) the charge for providing the credit is the amount by which the amount payable to purchase the goods, together with any other amount payable under the contract, exceeds the cash price of the goods.	20 21 22 23
‘(4)	This section does not affect the application of this Code to a contract that is, apart from this section, a credit contract.	24 25
‘10C	Deciding application of Code to particular contracts for the sale of goods by instalments under related contracts	26 27 28
‘(1)	For the purpose of this section, a contract is a <i>related contract</i> to a contract for the sale of goods (the <i>goods contract</i>) if—	29 30
	(a) the sale of the goods is financed, wholly or partly, by the provision of credit under the contract; and	31 32

[s 48]

- (b) the credit provider under the contract is—
 - (i) the supplier of goods under the goods contract; or
 - (ii) a related body corporate within the meaning of the Corporations Act of the supplier of the goods under the goods contract; and
- (c) the amount payable under the contract is payable by instalments.

‘(2) For the purpose of deciding whether a related contract to a goods contract is a credit contract and, if it is a credit contract, of applying this Code (including part 6) to it, the charge for providing the credit is the amount by which the amount payable to purchase the goods, together with any other amount payable under the related contract, exceeds the cash price of the goods.’

‘(3) This section does not affect the application of this Code to a contract that is, apart from this section, a credit contract.’

Clause 48 Amendment of s 15 (Matters that must be in contract document)

(1) Section 15(B)(c), ‘its price’—
omit, insert—
‘its cash price’.

(2) Section 15(B), after paragraph (c)—
insert—
‘The requirement under paragraph (c) is in addition to, and does not limit, the requirement under paragraph (a) or (b).’.

Clause 49 Insertion of new pt 12, div 3

Part 12—
insert—

‘Division 3	Transitional provision for Justice Legislation Amendment Act 2008	1 2
‘187	Provision of credit for the sale of land or goods by instalments	3 4
	‘(1) This section applies in relation to the provision of credit, before the commencement, for a sale of land or goods by instalments.	5 6 7
	‘(2) The amending Act does not affect the application of this Code in relation to the provision of the credit.	8 9
	‘(3) Without limiting subsection (2), the enactment of the amending Act is not to be construed as limiting the application of this Code, as in force before the commencement, to a sale of land or goods by instalments.	10 11 12 13
	‘(4) This Code, as in force before the commencement, continues to apply, after the commencement, in relation to the provision of credit as if the amending Act had not been enacted.	14 15 16
	‘(5) In this section— <i>amending Act</i> means the <i>Justice Legislation Amendment Act 2008</i> , part 6. <i>commencement</i> means the commencement of this section.’	17 18 19 20
Clause 50	Amendment of sch 1 (Principal definitions)	21
	(1) Schedule 1, clause 1(1), definition <i>cash price</i> — <i>omit.</i>	22 23
	(2) Schedule 1, clause 1(1)— <i>insert—</i>	24 25
	‘ <i>cash price</i> , of goods or services to which a credit contract relates, means—	26 27
	(a) the lowest price that a cash purchaser might reasonably be expected to pay for them from the supplier; or	28 29

[s 51]

- (b) if the goods or services are not available for cash from the supplier or are only available for cash at the same, or a reasonably similar, price to the price that would be payable for them if they were sold with credit provided—the market value of the goods or services.
- lowest price*, in relation to the cash price of goods or services to which a credit contract relates, means the lowest price including any goods and services tax but unaffected by any discount between the credit provider and the supplier.
- market value*, of goods or services to which a credit contract relates, means fair market value including any goods and services tax.’.

Part 7 **Amendment of Crime and Misconduct Act 2001**

- Clause 51** **Act amended in pt 7**
- This part amends the *Crime and Misconduct Act 2001*.
- Clause 52** **Amendment of s 20 (Meaning of *unit of public administration*)**
- Section 20(1)—
- insert*—
- ‘(da) a local government;’.
- Clause 53** **Amendment of ch 8 (Repeals, transitional and savings provisions)**
- (1) Chapter 8, heading, ‘, transitional’—
- omit, insert*—
- ‘**and transitional, declaratory,**’.

-
- (2) Chapter 8, part 2, heading and part 3, heading, ‘Transitional provisions for’— 1
2
omit. 3
- (3) Chapter 8, part 4, heading, ‘Transitional provision for’— 4
omit. 5

Clause 54 **Insertion of new ch 8, pt 5** 6
Chapter 8— 7
insert— 8

‘Part 5 **Justice Legislation Amendment** 9
 Act 2008 10

‘384 **Declaration about local governments and joint local** 11
 governments 12

‘(1) This section applies for the period of the administration of this 13
Act until the commencement of the *Justice Legislation* 14
Amendment Act 2008, section 53. 15

‘(2) To remove any doubt and to remove the necessity for proof of 16
the funding of local governments and joint local governments, 17
it is declared that every local government and joint local 18
government has always been and, despite the *Local* 19
Government Act 1993, sections 34(3) and 49(4), continued to 20
be a unit of public administration for this Act.’. 21

Part 8 **Amendment of Property Agents** 22
 and Motor Dealers Act 2000 23

Clause 55 **Act amended in pt 8** 24
This part amends the *Property Agents and Motor Dealers Act* 25
2000. 26

[s 56]

Clause 56	Amendment of s 408 (Claim fund)	1
	Section 408(3), after ‘fund’, second mention—	2
	<i>insert—</i>	3
	‘, or the remuneration and costs of a receiver or special investigator payable from the fund,’.	4
		5
Clause 57	Amendment of s 409 (How fund may be applied)	6
	(1) Section 409(2)—	7
	<i>renumber</i> as section 409(3).	8
	(2) Section 409—	9
	<i>insert—</i>	10
	‘(2) The fund may also be used to pay the remuneration and costs of either or both of the following—	11
		12
	(a) a receiver appointed under section 417;	13
	(b) a special investigator appointed under section 440.	14
	<i>Note—</i>	15
	The remuneration and costs of a receiver are recoverable under section 434. The remuneration and costs of a special investigator are recoverable under section 445. Amounts recovered under these sections by the chief executive are paid to the fund under section 494.’.	16
		17
		18
		19
Clause 58	Amendment of s 433 (Money not dealt with by receiver)	20
	(1) Section 433(3)(c)—	21
	<i>renumber</i> as section 433(3)(e).	22
	(2) Section 433(3)—	23
	<i>insert—</i>	24
	‘(c) to pay the remuneration and costs of a receiver appointed under section 417;	25
		26
	(d) to pay the remuneration and costs of a special investigator appointed under section 440;’.	27
		28

Clause 59	Amendment of s 434 (Recovery of remuneration and costs)	1
	Section 434(1), after ‘amount paid to the receiver’—	2
	<i>insert—</i>	3
	‘, including an amount paid from the fund,’.	4
Clause 60	Amendment of s 445 (Recovery of remuneration, costs or liabilities)	5
	(1) Section 445, heading—	6
	<i>omit, insert—</i>	7
	‘445 Recovery of remuneration and costs’.	8
	(2) Section 445(1), after ‘amount paid to the special investigator’—	9
	<i>insert—</i>	10
	‘, including an amount paid from the fund,’.	11
		12
		13
		14

Schedule	Minor amendments of Consumer Credit Code	1 2
	section 46	3
1	Section 7(9), ‘Corporations Law’— <i>omit, insert—</i> ‘Corporations Act’.	4 5 6
2	Section 30(1), ‘Corporations Law’— <i>omit, insert—</i> ‘Corporations Act’.	7 8 9
3	Section 102(3), from ‘provider (within’ to ‘that Law)’— <i>omit, insert—</i> ‘provider (within the meaning of the Corporations Act), if the credit provider or subsidiary takes deposits or is a corporation that is a borrower (within the meaning of that Act)’.	10 11 12 13 14
4	Schedule 1, clause 1(1)— <i>insert—</i> ‘ <i>Corporations Act</i> means the <i>Corporations Act 2001</i> (Cwlth).’.	15 16 17 18
5	Schedule 1, clause 1(1), definition <i>insolvent</i>, paragraph (a), ‘Corporations Law’— <i>omit, insert—</i> ‘Corporations Act’.	19 20 21 22

6	Schedule 1, clause 1(1), definition <i>insolvent</i>, paragraph (b)—	1
		2
	<i>omit, insert—</i>	3
	‘(b) in the case of a corporation—a corporation that is an externally-administered body corporate within the meaning of the Corporations Act.’.	4
		5
		6
7	Schedule 1, clause 1(1), definition <i>retained credit fees and charges</i>, paragraph (a), ‘Corporations Law’—	7
		8
	<i>omit, insert—</i>	9
	‘Corporations Act’.	10
8	Schedule 1, clause 1(2)(a), ‘Corporations Law’—	11
		12
	<i>omit, insert—</i>	12
	‘Corporations Act’.	13