

Civil Proceedings Bill 2011

Explanatory Notes for amendments to be moved during consideration in detail by the Honourable Paul Lucas MP, Attorney-General, Minister for Local Government and Special Minister of State

Title of the Bill

Civil Proceedings Bill 2011.

Objectives of the Amendments

The objectives of the amendments are to effect changes of a technical drafting nature, to clarify the operation of new provisions and to provide transitional arrangements.

The amendments also provide for retrospective operation of an amendment in the Bill to the *Queensland Civil and Administrative Tribunal Act 2009* which provides that a member of the Queensland Civil and Administrative Tribunal (QCAT) whose term of appointment has expired can continue to sit as a member for the purpose of finalising a proceeding. The amendment is proposed to achieve retrospective operation of the provision from 30 November 2011 when the terms of some current members expire.

Achievement of the Objectives

The objectives are achieved by way of amendment to the Bill.

Alternatives to achieve policy objectives

There is no alternative way to achieve these policy objectives.

Estimated Cost for Government Implementation

Any costs in relation to the amendments will be met from existing agency resources.

Consistency with Fundamental Legislative Principles

The proposed amendment to achieve retrospective operation of clause 237 of the Bill may raise an FLP issue. Clause 237 amends the *Queensland Civil and Administrative Tribunal Act 2009* to provide that a member whose term of appointment has expired can continue to sit as a member for the purpose of finalising a proceeding.

With the terms of appointment of some current QCAT members due to expire on 30 November 2011, an amendment is proposed to give the provision retrospective operation from 30 November 2011. The proposed retrospectivity would be beneficial to persons with matters before retiring members and not finalised at that date.

Consultation

The amendments have not been the subject of consultation.

Notes on Provisions

Amendment of Part 15, heading (Transitional provision for Civil Proceedings Act 2011)

Amendment 1 amends a heading to accommodate for amendment 2.

After clause 108

Amendment 2 inserts new section 108A which provides for a transitional regulation-making power for making provision of a saving or transitional nature to achieve the transition of a provision of a prescribed Act after its repeal or amendment by the proposed *Civil Proceedings Act 2011* (CP Act) for which the proposed CP Act does not make provision or sufficient provision. The new section and transitional regulations made under the section will expire 1 year after the commencement of the section.

Clause 125 (Replacement of ss36 and 36A)

Amendment 3 omits a redundant reference.

Clause 210 (Repeal of Supreme Court Act 1995)

Amendment 4 provides that sections 300 and 303 of the *Supreme Court Act 1995*, which prescribe transitional arrangements, are declared to be laws to

which section 20A of the *Acts Interpretation Act 1954* applies. Section 20A of the *Acts Interpretation Act 1954* states that the declaratory or validating effect of an Act does not end merely because of the repeal of the Act.

After clause 228

Amendment 5 amends section 65 of the *Electoral Act 1992* to accommodate amendment 6.

Clause 229 (Amendment of s106 (Who may vote))

Amendment 6 amends section 106(1)(d)(ii) of the *Electoral Act 1992* to provide that in the prescribed circumstances, a mentioned notice may be given to the Electoral Commission Queensland.

After clause 237

Amendment 7 provides for the amendment of the *Queensland Civil and Administrative Tribunal Act 2009* by clause 237 of the Bill, to allow a QCAT member whose term of appointment has expired to continue to sit as a member for the purpose of finalising a proceeding, to have retrospective effect from 30 November 2011.