

Explanatory Notes

FOR

Amendments to be moved during consideration in detail by the Honourable Yvette D’Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence

Justice and Other Legislation Amendment Bill 2023

Objectives of the Amendments

The objectives of the Justice and Other Legislation Amendment Bill 2023 (Bill) are to clarify, strengthen and update legislation concerning the administration of justice, including legislation relating to the operation of courts and tribunals, the regulation of the legal profession, the conduct of civil proceedings and electoral matters.

The objectives of the amendments during consideration in detail (ACiDs) of the Bill are to amend:

- the commencement of part 9 of the Bill (amendments to the *Criminal Law (Sexual Offences) Act 1978* (CLSO Act)) to:
 - ensure the amendments commence in a timely way on a fixed date; and
 - provide maximum clarity, transparency and notice to relevant stakeholders; and
- the *Legal Profession Act 2007* (LP Act) to:
 - clarify references to client document under proposed new section 713A (Destruction of client documents) of the LP Act to ensure it operates as intended and addresses all circumstances in which the Queensland Law Society (QLS) may hold client documents; and
 - address concerns raised during the parliamentary committee process regarding the ‘disclosure threshold amount’ under section 300 (Definitions for pt 3.4) of the LP Act, as amended by the Bill.

Achievement of the Objectives

The ACiDs will achieve these objectives by amending:

- the commencement of part 9 of the Bill to be 3 October 2023, rather than a day fixed by proclamation;

- the definition of ‘disclosure threshold amount’ in section 300 (Definitions for pt 3.4) of the LP Act to replace the stated amount of \$750 with \$1,500; and
- new section 713A (Destruction of client documents) of the LP Act to clarify that, for the application of the provision, it does not matter whether the person entitled to the client document is or was a client of the law practice holding the document or of another law practice; and apply the section to the QLS where it holds client documents for a reason other than an appointment of a receiver for the law practice.

Alternative Ways of Achieving Policy Objectives

There are no alternative ways of achieving these policy objectives.

Estimated Cost for Government Implementation

There will be no cost for government in implementing the ACiDs.

Consistency with Fundamental Legislative Principles

The Bill has been drafted having regard to the fundamental legislative principles (FLPs) in the *Legislative Standards Act 1992*.

The original explanatory notes for the Bill address the consistency with the FLPs of the amendments to the CLSO Act and the LP Act (relating to the destruction of client documents).

The proposed ACiDs relating to these amendments do not raise additional FLP considerations.

Consultation

The ACiDs to the LP Act are largely the result of consultation on the Bill through the parliamentary committee process and ongoing consultation with the Legal Services Commission and the QLS.

NOTES ON PROVISIONS

Amendment 1 amends clause 2 of the Bill to provide that part 9 commences on 3 October 2023.

Amendment 2 amends clause 2 of the Bill as a consequence of amendment 1.

Amendment 3 amends clause 109 of the Bill by changing the ‘disclosure threshold amount’ provided for under section 300 (Definitions for pt 3.4) of the LP Act from \$750 to \$1,500.

Amendment 4 amends clause 118 of the Bill by inserting new section 713A(1A) which provides that, for the application of new section 713A(1), it does not matter whether the person entitled to the client document is or was a client of the law practice holding the document or of another law practice.

Amendment 5 amends clause 118 of the Bill so that new section 713A of the LP Act applies to the QLS where it holds client documents for a reason other than an appointment of a receiver for the law practice.

Amendment 6 amends clause 118 of the Bill as a consequence of amendment 5.