

JUSTICE AND OTHER LEGISLATION AMENDMENT BILL 2003

AMENDMENTS AGREED TO IN COMMITTEE

1 Clause 2

At page 10, after line 12—

insert—

- *Queensland Law Society Act 1952*’.

2 After clause 40—

At page 20, after line 17—

insert—

‘40A Amendment of s 21 (Proactive and reactive duty of doctor to warn of risk)

‘(1) Section 21(1), ‘the information’—

omit, insert—

‘the following information’.

‘(2) Section 21(1)(a) and (b), before ‘that’—

insert—

‘information’.

‘(3) Section 21(1)(a), ‘advice; and’—

omit, insert—

‘advice;’.

3 Clause 41—

At page 21, line 2, after ‘PROCEDURE’—

insert—

‘OR CONTRACEPTIVE PROCEDURE OR ADVICE’.

4 Clause 41—

At page 21, after line 11—

insert—

‘49B Failed contraceptive procedure or contraceptive advice

‘(1) This section applies if, following a contraceptive procedure on an individual or the giving of contraceptive advice to an individual, the individual gives birth to, or fathers, a child because of the breach of duty of a person in advising about, or performing, the procedure or giving the advice.

‘(2) A court can not award damages for economic loss arising out of the costs ordinarily associated with rearing or maintaining a child.’.

5 After clause 43—

At page 21, after line 18—

insert—

‘43A Amendment of sch 1 (Consequential amendments)

‘Schedule 1, amendments of *Police Powers and Responsibilities Act 2000*, item 3, ‘(3)’—

omit, insert—

‘(3A)’.’.

6 After clause 77—

At page 31, after line 13—

insert—

**‘PART 14A—AMENDMENT OF FREEDOM OF
INFORMATION ACT 1992**

‘77A Act amended in this part

‘This part amends the *Freedom of Information Act 1992*.

‘77B Amendment of sch 1 (Secrecy provisions giving exemption)

‘Schedule 1, *Juvenile Justice Act 1992*, section 226’—

omit, insert—

‘*Juvenile Justice Act 1992*, section 288’.’.

7 Clause 79—

At page 32, line 3, after ‘the appeal is decided’—

insert—

‘, discontinued or struck out’.

8 Clause 79—

At page 32, line 9, after ‘*Corrective Services Act 2000*’—

insert—

‘to serve the unexpired portion of the term of imprisonment to which the appellant was sentenced’.

9 After clause 105—

At page 41, after line 7—

insert—

‘105A Amendment of s 37 (Exchange of material for compulsory conference)

‘Section 37(4)(c)(ii), ‘equal to, or’—

omit.’.

10 After clause 109—

At page 42, after line 24—

insert—

**‘PART 22A—AMENDMENT OF QUEENSLAND LAW
SOCIETY ACT 1952**

‘109A Act amended in this part

‘This part amends the *Queensland Law Society Act 1952*.

‘109B Insertion of new pt 4B, div 2A

‘After section 48I—

insert—

‘Division 2A—Speculative personal injury claims

‘48IA Definitions for div 2A

‘In this division—

“speculative personal injury claim” means a claim for, or substantially for, damages for personal injury if the right of a practitioner or firm to charge and recover from a client for work done is made dependent on the client’s success in pursuing the claim.

‘48IB Purpose

‘The purpose of this division is to provide for the maximum payment for a practitioner’s or firm’s conduct of a speculative personal injury claim.

‘48IC Maximum payment for conduct of speculative personal injury claim

‘(1) The maximum amount of fees that a practitioner or firm may charge and recover from a client for work done in relation to a speculative personal injury claim must not be more than the amount worked out using the formula—

$$[E - (R + D)] X 0.5$$

where—

“E” means the amount to which the client is entitled under a judgment or settlement.

“R” means the total amount the client must, under an Act, or a law of the Commonwealth or another jurisdiction, or otherwise, refund on

receipt of the amount to which the client is entitled under the judgment or settlement.

“**D**” means the total amount of disbursements the client must pay, or reimburse, to the practitioner or firm in relation to the speculative personal injury claim.

‘(2) If—

- (a) the amount of fees that a practitioner or firm may charge and recover from a client is more than the amount calculated under subsection (1); and
- (b) the practitioner or firm wishes to charge and recover the amount (the “**greater amount**”) from the client;

the practitioner may apply, in writing, to the council for approval to charge and recover the greater amount.

‘(3) The council may, in writing, approve an amount up to the greater amount.

‘(4) This section applies despite part 4A and section 48I.¹

‘(5) This section applies to any request for payment made on or after the day this section commences, whether or not a client agreement was entered into before that date.’

1 Part 4A (Client agreements) and section 48I (Maximum payment for work)