

Criminal Law Amendment Bill (No. 2) 2012

Amendments agreed to during Consideration

1 Clause 1 (Short title)

Page 8, lines 4 and 5—

omit, insert—

‘This Act may be cited as the *Criminal Law and Other Legislation Amendment Act 2013*.’.

2 Clause 2 (Commencement)

Page 8, lines 14 to 16—

omit, insert—

‘(2) Sections 38G, 38J to 38L and 38O commence on 1 September 2013.’.

4 Clause 11 (Insertion of new ch 7A, pt 7)

Page 11, lines 11 and 12—

omit, insert—

‘**Criminal Law and Other Legislation Amendment Act 2013**’.

8 After clause 38

Page 22, after line 32—

insert—

**‘Part 6A Amendment of Industrial
Relations Act 1999**

‘38A Act amended

‘This part amends the *Industrial Relations Act 1999*.

‘38B Insertion of new s 246BA

‘After section 246B—

insert—

‘246BA Acting vice-president

- ‘(1) This section applies if the vice-president temporarily can not perform the functions of office.
- ‘(2) The Governor in Council may, by gazette notice, appoint a person to act as the vice-president.
- ‘(3) The person must be a person who is qualified for appointment under section 246A(2).
- ‘(4) The person can not be a person mentioned in section 246A(3).
- ‘(5) A person who has acted as vice-president may attend sittings of the court for the purpose of giving a decision in, or otherwise completing, proceedings that were heard by the person while acting as vice-president.
- ‘(6) The person’s decision in the proceedings is taken to be the decision of the vice-president.’.

‘38C Amendment of s 341 (Appeal from commission, magistrate or registrar)

‘Section 341(1), after ‘determination under’—

insert—

‘section 149’.

‘38D Amendment of s 355 (Power to require documents to be produced)

‘Section 355(1)—

omit, insert—

- ‘(1) An inspector may require a person to make available for inspection by an inspector, or to produce to the inspector for inspection, at a reasonable time and place nominated by the inspector—
- (a) a document issued to the person under this Act; or
 - (b) a document required to be kept by the person under this Act; or
 - (c) a document relating to an employee, including, for example, a time sheet or pay sheet; or
 - (d) a document relating to a matter under chapter 12; or
 - (e) if a document or information required to be kept by the person under this Act or relating to an employee or a matter under chapter 12 is stored or recorded by means of a device—a document that is a clear written reproduction of the stored or recorded document or information.’.

‘38E Amendment of s 372B (Employer’s notice about place to inspect information)

- ‘(1) Section 372B, heading—
omit, insert—

‘372B Employer notice in response to entry notice’.

- ‘(2) Section 372B(2), from ‘inspect’—
omit, insert—
‘exercise the powers under section 373 that are stated in the entry notice.’.
- ‘(3) Section 372B(3)(a), after ‘workplace’—
insert—
‘, or a particular route to be used to access the part.’.
- ‘(4) Section 372B(3)(b), before ‘another’—
insert—

‘if the entry notice states that the officer intends to inspect records—’.

‘38F Amendment of s 373 (Right to inspect and request information—authorised industrial officer)

‘Section 373, heading—

omit, insert—

‘373 Rights of authorised industrial officer after entering place’.

‘38G Amendment of ch 12, hdg (Industrial organisations)

‘Chapter 12, heading, after ‘organisations’—

insert—

‘and associated entities’.

‘38H Amendment of s 530C (Definitions for div 5)

‘Section 530C(1)—

insert—

‘*spouse*, of an officer, does not include a former spouse of the officer.’.

‘38I Insertion of new s 530G

‘Chapter 12, part 9, division 5—

insert—

‘530G Inspection of statement of interests

‘A statement of the particulars of an interest held by the officer or the officer’s spouse and filed by the officer may be inspected by the following—

- (a) the registrar;
- (b) an inspector;

- (c) another person permitted by law to inspect the statement.’.

‘38J Insertion of new s 553DA

‘After section 553D—

insert—

‘553DA When an entity is an *associated entity* of another entity

‘(1) An entity is an *associated entity* of another entity (the *principal*) if—

- (a) the entity is, under the Corporations Act, an associated entity of the principal; or
- (b) the entity receives payment from another entity (the *third party*) for—
- (i) goods or services provided by the principal to the third party; or
- (ii) the third party’s membership of the principal.

‘(2) Also, if—

- (a) an entity (the *first entity*) is an associated entity of another entity (also the *principal*); and
- (b) an entity (the *second entity*) is an associated entity of the first entity;

the second entity is an *associated entity* of the principal.’.

‘38K Amendment of s 553F (Particular spending for political purposes must be authorised by ballot)

‘Section 553F, heading, after ‘purposes’—

insert—

‘by organisation’.

‘38L Insertion of new s 553FA

‘Chapter 12, part 12, division 1B, subdivision 2—

insert—

‘553FA Particular spending for political purposes by associated entity of organisation must be authorised by ballot

- ‘(1) This section applies if—
- (a) an associated entity of an organisation intends to spend an amount for a political purpose for a political object in a financial year for the organisation; and
 - (b) the associated entity has spent or, if the amount is spent, the associated entity will have spent, in the financial year, more than \$10000 for the same political purpose and the same political object.
- ‘(2) The associated entity may spend the amount for the political purpose only if the spending is authorised by an expenditure ballot.

Maximum penalty—85 penalty units.

- ‘(3) The spending of an amount for a political purpose is authorised by an expenditure ballot if—
- (a) the spending was the subject of the expenditure ballot; and
 - (b) more than 50% of the valid votes cast by the members of the organisation authorised the spending.
- ‘(4) The organisation must take all reasonable steps to ensure the associated entity conducts an expenditure ballot before spending the amount for the political purpose.

Example of a reasonable step—

giving the associated entity a roll of voters for the expenditure ballot in a way that complies with the rules prescribed under section 553G

Maximum penalty—40 penalty units.

- ‘(5) The associated entity must not use a document or information given to the associated entity under this section for any purpose other than conducting the expenditure ballot.

Maximum penalty—40 penalty units.

- ‘(6) The associated entity must, within 10 days after the declaration of the result of the expenditure ballot, give the

organisation the particulars about the expenditure ballot mentioned in section 553I(2).

Maximum penalty—40 penalty units.

- ‘(7) For an expenditure ballot under this section—
- (a) section 553I applies to the organisation; and
 - (b) subdivision 3, other than section 553I, applies as if a reference in the subdivision to the organisation were a reference to the associated entity.’.

‘38M Amendment of s 570 (Report and statement must be filed and published)

‘Section 570(1)(b), after ‘general meeting’—

insert—

‘or management committee meeting’.

‘38N Amendment of sch 2 (Appointments)

‘Schedule 2, part 1A, section 4C(1), before ‘vice-president’—

insert—

‘president.’.

‘38O Amendment of sch 5 (Dictionary)

‘Schedule 5—

insert—

‘*associated entity*, of an entity, see section 553DA.’.

‘38P Amendment of sch 5 (Dictionary)

‘Schedule 5, definition *spouse*—

omit, insert—

‘*spouse*—

- (a) of an employee, includes a former spouse of the employee; or
- (b) of an officer, for chapter 12, part 9, division 5, see section 530C(1).’.’.

9 Part 7 (Amendment of Justices Act 1886)

Page 23, lines 1 to 14—

omit.

10 Clause 47 (Insertion of new pt 5A)

Page 32, line 4, after ‘chief executive’—

insert—

‘(corrective services)’.

13 After clause 78

Page 47, after line 4—

insert—

**‘Part 12A Amendment of Workers’
 Compensation and
 Rehabilitation Act 2003**

‘78A Act amended

‘This part amends the *Workers’ Compensation and Rehabilitation Act 2003*.

‘78B Amendment of s 71 (Issue or renewal of licence to a single employer)

‘(1) Section 71(2)—

renumber as section 71(4).

‘(2) Section 71—

insert—

‘(2) However, if the Authority is not satisfied of 1 or more matters mentioned in subsection (1)(a) to (g), the Authority may still issue or renew a licence to be a self-insurer to a single employer if the Authority is satisfied that, despite the Authority not being satisfied of the matters—

(a) special circumstances justify the issue or renewal of the licence; and

(b) the employer can appropriately—

(i) perform the functions and exercise the powers of a self-insurer; and

(ii) meet the obligations of a self-insurer.

‘(3) Without limiting subsection (2)(a), special circumstances that may justify the issue or renewal of a licence to be a self-insurer to a single employer who fails to satisfy the Authority only of the matter mentioned in subsection (1)(a) include the following—

(a) the employer—

(i) holds a current licence to be a self-insurer under the laws of 2 or more other jurisdictions; and

(ii) has demonstrated a history of compliance with those laws and the conditions of those licences, and of acting reasonably in the performance of functions and exercise of powers under those laws or licences;

(b) for a renewal of a licence—the employer has demonstrated a history of compliance with this Act and the conditions of the licence, and of acting reasonably in the performance of functions and exercise of powers under this Act or the licence.’.

‘(3) Section 71—

insert—

‘(5) In this section—

jurisdiction means the Commonwealth or a State.’.

‘78C Amendment of s 72 (Issue or renewal of licence to a group employer)

- ‘(1) Section 72(2)—
renumber as section 72(4).
- ‘(2) Section 72—
insert—
- ‘(2) However, if the Authority is not satisfied of 1 or more matters mentioned in subsection (1)(a) to (h), the Authority may still issue or renew a licence to be a self-insurer to a group employer if the Authority is satisfied that, despite the Authority not being satisfied of the matters—
- (a) special circumstances justify the issue or renewal of the licence; and
 - (b) the employer can appropriately—
 - (i) perform the functions and exercise the powers of a self-insurer; and
 - (ii) meet the obligations of a self-insurer.
- ‘(3) Without limiting subsection (2)(a), special circumstances that may justify the issue or renewal of a licence to be a self-insurer to a group employer who fails to satisfy the Authority only of the matter mentioned in subsection (1)(b) include the following—
- (a) the employer—
 - (i) holds a current licence to be a self-insurer under the laws of 2 or more other jurisdictions; and
 - (ii) has demonstrated a history of compliance with those laws and the conditions of those licences, and of acting reasonably in the performance of functions and exercise of powers under those laws or licences;
 - (b) for a renewal of a licence—the employer has demonstrated a history of compliance with this Act and the conditions of the licence, and of acting reasonably in

the performance of functions and exercise of powers under this Act or the licence.’

‘(3) Section 72—

insert—

‘(5) In this section—

jurisdiction means the Commonwealth or a State.’

‘78D Amendment of s 570 (Powers of court on appeal)

‘Section 570—

insert—

‘(4) Despite subsections (1) to (3), the court can not decide to issue or renew a licence to be a self-insurer under section 71(2) or 72(2).’

‘78E Insertion of new ch 30

‘After section 674—

insert—

**‘Chapter 30 Transitional provisions for
Criminal Law and Other
Legislation Amendment Act
2013**

‘675 Definition for ch 30

‘In this chapter—

commencement means the commencement of this section.

‘676 Application of s 71 to current applications by single employers

‘(1) Subsection (2) applies to an application for the issue or renewal of a licence to be a self-insurer that—

- (a) was made by a single employer before the commencement; and
 - (b) has not been decided under section 71 at the commencement.
- ‘(2) The Authority must decide the application under section 71 as in force after the commencement.
- ‘(3) Subsection (4) applies to the following—
- (a) a decision of the Authority under section 77 relating to—
 - (i) a submission made by a single employer under section 77 before the commencement for which the Authority has not made a decision under section 77(4) at the commencement; or
 - (ii) a submission made by a single employer under section 77 after the commencement (if the period within which the submission may be made under that section ends after the commencement);
 - (b) a decision of the Authority under section 80 relating to—
 - (i) a submission made by a single employer under section 80 before the commencement for which the Authority has not made a decision under section 80(4) at the commencement; or
 - (ii) a submission made by a single employer under section 80 after the commencement (if the period within which the submission may be made under that section ends after the commencement).
- ‘(4) The Authority must make the decision on the basis of section 71 as in force after the commencement as if that had been the law in force when the matter the subject of the submission was decided.

‘677 Application of s 72 to current applications by group employers

- ‘(1) Subsection (2) applies to an application for the issue or renewal of a licence to be a self-insurer that—
- (a) was made by a group employer before the commencement; and
 - (b) has not been decided under section 72 at the commencement.
- ‘(2) The Authority must decide the application under section 72 as in force after the commencement.
- ‘(3) Subsection (4) applies to the following—
- (a) a decision of the Authority under section 77 relating to—
 - (i) a submission made by a group employer under section 77 before the commencement for which the Authority has not made a decision under section 77(4) at the commencement; or
 - (ii) a submission made by a group employer under section 77 after the commencement (if the period within which the submission may be made under that section ends after the commencement);
 - (b) a decision of the Authority under section 80 relating to—
 - (i) a submission made by a group employer under section 80 before the commencement for which the Authority has not made a decision under section 80(4) at the commencement; or
 - (ii) a submission made by a group employer under section 80 after the commencement (if the period within which the submission may be made under that section ends after the commencement).
- ‘(4) The Authority must make the decision on the basis of section 72 as in force after the commencement as if that had been the law in force when the matter the subject of the submission was decided.’.

14 Long title

Long title, from ‘the *Drug Court Act 2000*’ to ‘the *Victims of Crime Assistance Act 2009*’—

omit, insert—

‘the *Drugs Misuse Act 1986*, the *Industrial Relations Act 1999*, the *Penalties and Sentences Act 1992*, the *Police Powers and Responsibilities Act 2000*, the *Summary Offences Act 2005*, the *Victims of Crime Assistance Act 2009*, the *Workers’ Compensation and Rehabilitation Act 2003*’.

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