



Queensland

# **Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Bill 2013**

**Includes amendments agreed during Consideration**





Queensland

# Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Bill 2013

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# 2013

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## A Bill

for

An Act to amend the *Industrial Relations Act 1999*, the *Anti-Discrimination Act 1991*, the *Commissions of Inquiry Act 1950*, the *Corrective Services Act 2006*, the Criminal Code, the *Drug Court Act 2000*, the *Judicial Remuneration Act 2007*, the *Justices Act 1886*, the *Local Government Act 2009*, the *Penalties and Sentences Act 1992*, the *Public Service Act 2008*, the *Residential Tenancies and Rooming Accommodation Act 2008*, the *Trading (Allowable Hours) Act 1990* and the *Workers' Compensation and Rehabilitation Act 2003* for particular purposes

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## The Parliament of Queensland enacts—

# Part 1 Preliminary

## 1 Short title

This Act may be cited as the *Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Act 2013*.

## 2 Commencement

- (1) The following provisions of this Act commence on a day to be fixed by proclamation—
  - (a) parts 2, 2A, 2B, 2F, 2H, 3B and 4;
  - (b) sections 60A and 62(5).
- (2) Parts 2C, 2D, 2G, 2I and 3A commence on 1 July 2013.

# Part 2 Amendment of Industrial Relations Act 1999

## 3 Act amended

This part amends the *Industrial Relations Act 1999*.

## 3A Amendment of s 8 (Provisions about appointments and procedures)

Section 8(a), ‘commissioners’—

*omit, insert—*

industrial commissioners



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**4 Omission of s 110 (Encouragement provisions permitted)**

Section 110—

*omit.*

**4A Amendment of s 233 (Enforcing commission's orders)**

Section 233(8), definition *full bench*—

*omit, insert—*

***full bench*** means the full bench constituted by 3 or more members, 1 of whom must be the president, vice-president or a deputy president (court).

**4B Amendment of ch 8, pt 1, div 2, hdg (President)**

Chapter 8, part 1, division 2, heading, 'President'—

*omit, insert—*

**Composition of the court**

**4C Insertion of new ss 242C–242G**

Chapter 8, part 1, division 2—

*insert—*

**242C Members of the court**

The members of the court are—

- (a) the president; and
- (b) the vice-president; and
- (c) the deputy presidents (court).

**242D Appointment of members on full-time or part-time basis**

- (1) This section applies to a person appointed to 1 of the following offices (each a *relevant office*)—

- (a) if the person is a non-judicial appointee—the office of the president;
  - (b) the office of the vice-president;
  - (c) the office of a deputy president (court).
- (2) A person appointed to a relevant office is on a full-time basis unless the appointment is stated, in the instrument of appointment, to be on a part-time basis.
- (3) However, a person appointed to a relevant office on a full-time basis may, by written agreement between the Minister and the person, perform the functions of the office to which the person has been appointed on a part-time basis.
- (4) An appointment or agreement for a person to perform the functions of a relevant office on a part-time basis must state the percentage of the office the person is to perform.
- (5) A person appointed on a part-time basis may, by written agreement with the Minister, perform the functions of the office to which the person has been appointed on a full-time basis.
- (6) A person appointed to a relevant office on a part-time basis may hold another office, perform other duties or engage in employment if—
  - (a) the Minister is satisfied that holding the other office, performing the other duties or engaging in the employment is compatible with, and is not a conflict of interest issue for, the relevant office; and
  - (b) the Minister has given written approval for the person to hold the other office, perform the other duties or engage in the employment.

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### **242E Functions of the president**

- (1) The president has the functions conferred on the president under this Act.
- (2) The functions of the president include preparing, and giving the Minister, the annual report under section 252.
- (3) The president has the power to do all things necessary or convenient to be done for the performance of the president's functions.
- (4) The president may delegate a function of the president to the vice-president.

### **242F Functions of the vice-president**

- (1) The vice-president of the court has the functions conferred on the vice-president under this Act or another Act.
- (2) The vice-president is subject to the direction of the president in performing the vice-president's functions, other than the function mentioned in section 242G.
- (3) The vice-president has the power to do all things necessary or convenient to be done for the performance of the vice-president's functions.
- (4) The vice-president may delegate a function of the vice-president to a deputy president (court).

### **242G Administration of the court**

- (1) The vice-president is responsible for managing the administration of the business of—
  - (a) the court; and
  - (b) to the extent it operates as the registry for the court—the registry.

- (2) Without limiting subsection (1), the vice-president is responsible for deciding the member who is to constitute the court for a proceeding.

**4D Amendment of s 243 (President of the court)**

Section 243, heading—

*omit, insert—*

**243 Appointment of president**

**4E Amendment of s 246 (Acting president of the court)**

- (1) Section 246, heading, ‘of the court’—

*omit.*

- (2) Section 246(2)(b), after ‘office,’—

*omit, insert—*

a deputy president (court).

**4F Insertion of new ss 246A–246E**

Chapter 8, part 1, division 2—

*insert—*

**246A Appointment of vice-president**

- (1) The Governor in Council may, by commission, appoint a person as the vice-president of the court.
- (2) The person must—
- (a) be a lawyer of at least 5 years standing; and
  - (b) have either of the following—
    - (i) high level experience in business or industry or in a relevant entity;

- (ii) suitable experience, qualification and standing in the community to be appointed as the vice-president of the court.
- (3) The person can not be—
- (a) a member of the Executive Council or Legislative Assembly; or
  - (b) a director of a corporation engaged in a calling; or
  - (c) an auditor of a corporation engaged in a calling or of a business; or
  - (d) a person who participates in any capacity in the management of—
    - (i) a corporation engaged in a calling; or
    - (ii) a business.
- (4) In this section—
- relevant entity*** means any of the following—
- (a) an organisation or employer association or a State peak council;
  - (b) a department of government;
  - (c) an agency, authority, commission, corporation, instrumentality, office or other entity, established under an Act or under State authorisation for a public or State purpose.

### **246B When vice-president holds office**

- (1) The vice-president of the court holds office until the vice-president—
- (a) turns 70; or
  - (b) resigns by signed notice given to the Governor; or

- (c) becomes a member of the Executive Council or Legislative Assembly; or
  - (d) does any of the following without the prior written consent of the Minister—
    - (i) acts as a director of a corporation engaged in a calling;
    - (ii) acts as auditor of a corporation engaged in a calling or of a business;
    - (iii) participates in any capacity in the management of a corporation engaged in a calling or of a business; or
  - (e) is removed from office under section 246E.
- (2) If the vice-president stops holding the office because of subsection (1)(a) or (b) while hearing a matter, the Governor in Council may, without reappointing the person as the vice-president of the court, continue the person in the office for the time necessary to enable the hearing of the matter to be completed.
- (3) A person continued in office under subsection (2) may exercise the jurisdiction and powers of the court necessary or convenient for the hearing to be completed.

### **246C Deputy presidents (court)**

- (1) The Governor in Council may, by commission, appoint a person as a deputy president (court) of the court.
- (2) The person must—
  - (a) be a lawyer of at least 5 years standing; and
  - (b) have either of the following—
    - (i) high level experience in business or industry or in a relevant entity;

- (ii) suitable experience, qualification and standing in the community to be appointed as a deputy president (court).
- (3) The person can not be—
- (a) a member of the Executive Council or Legislative Assembly; or
  - (b) a director of a corporation engaged in a calling; or
  - (c) an auditor of a corporation engaged in a calling or of a business; or
  - (d) a person who participates in any capacity in the management of—
    - (i) a corporation engaged in a calling; or
    - (ii) a business.
- (4) In this section—  
*relevant entity* see section 246A(4).

#### **246D When deputy president (court) holds office**

- (1) A deputy president (court) holds office until the deputy president (court)—
- (a) turns 70; or
  - (b) resigns by signed notice given to the Governor; or
  - (c) becomes a member of the Executive Council or Legislative Assembly; or
  - (d) does any of the following without the prior written consent of the Minister—
    - (i) acts as a director of a corporation engaged in a calling;
    - (ii) acts as auditor of a corporation engaged in a calling or of a business;

- (iii) participates in any capacity in the management of a corporation engaged in a calling or of a business;
  - (e) is removed from office under section 246E.
- (2) If a deputy president (court) stops holding the office because of subsection (1)(a) or (b) while hearing a matter, the Governor in Council may, without reappointing the person as a deputy president (court), continue the person in the office for the time necessary to enable the hearing of the matter to be completed.
- (3) A person continued in office under subsection (2) may exercise the jurisdiction and powers of the court necessary or convenient for the hearing to be completed.

#### **246E Removal of vice-president or deputy president (court) from office**

The Governor may remove the vice-president or a deputy president (court) from office, on an address of the Legislative Assembly, for—

- (a) mental or physical incapacity; or
- (b) misbehaviour.

#### **4G Replacement of s 247 (Constitution of court)**

Section 247—

*omit, insert—*

#### **247 Constitution**

The court is constituted by the president, the vice-president or a deputy president (court) sitting alone.



#### 4H **Amendment of s 248 (Court's jurisdiction)**

Section 248(1)(e), 'exercise the'—

*omit, insert—*

if the court is constituted by the president, exercise the

#### 4I **Amendment of s 256 (Composition)**

Section 256(1) and (2)—

*omit, insert—*

- (1) The commission consists of the following members (each a *commissioner*)—
  - (a) the president;
  - (b) the vice-president;
  - (c) a person holding office as a deputy president;
  - (d) a person holding office as an industrial commissioner.
- (2) The full bench of the commission (the *full bench*) is constituted by—
  - (a) for chapter 12, part 16 or for the hearing of an appeal other than an appeal mentioned in paragraph (b)—3 or more commissioners, 1 of whom must be the president; or
  - (b) for the hearing of an appeal from a decision of the commission constituted by the president sitting alone—3 or more other commissioners, 1 of whom must be the vice-president or a deputy president; or
  - (c) otherwise—3 or more commissioners.

#### 4J **Replacement of ss 257 and 258**

Sections 257 and 258—

*omit, insert—*

#### **457 President of the commission**

- (1) The president of the court is also the president of the commission.
- (2) The president's service as the president of the commission does not entitle the president to any salary or allowance in addition to the salary or allowance received as the holder of the office of the president of the court.

#### **458 Vice-president of the commission**

- (1) The vice-president of the court is also the vice-president of the commission.
- (2) The vice-president's service as the vice-president of the commission does not entitle the vice-president to any salary or allowance in addition to the salary or allowance received as the holder of the office of the vice-president of the court.

#### **258AA Deputy presidents (court) also deputy presidents of the commission**

- (1) A deputy president (court) is also a deputy president of the commission.
- (2) The service of a deputy president (court) as a deputy president of the commission does not entitle the deputy president (court) to any salary or allowance in addition to the salary or allowance received as the holder of the office of a deputy president (court).

#### **4K Amendment of s 258A (Deputy presidents of the commission)**

- (1) Section 258A, heading, 'Deputy'—

*omit, insert—*

**Appointment of other deputy**

- (2) Section 258A(1), ‘a commissioner’—

*omit, insert—*

an industrial commissioner

**4L Amendment of s 259 (Commissioners)**

- (1) Section 259, heading—

*omit, insert—*

**259 Industrial commissioners**

- (2) Section 259, ‘a commissioner’—

*omit, insert—*

an industrial commissioner

- (3) Section 259(5), ‘the commissioner’—

*omit, insert—*

the industrial commissioner

**4M Amendment of s 259A (Commissioner may be appointed ombudsman)**

- (1) Section 259A, heading, ‘Commissioner’—

*omit, insert—*

**Particular commissioners**

- (2) Section 259A(1), after ‘A commissioner’—

*insert—*

, other than the president,

**4N Amendment of s 260 (When commissioner holds office)**

- (1) Section 260, heading, after ‘When’—

*insert—*

**deputy president or industrial**

(2) Section 260(1)—

*omit, insert—*

(1) A deputy president appointed under section 258A or an industrial commissioner (each a ***relevant commissioner***) holds office until—

(a) the relevant commissioner turns 70; or

(b) the relevant commissioner resigns by signed notice given to the Governor; or

(c) the relevant commissioner becomes a member of the Executive Council or the Legislative Assembly; or

(d) the relevant commissioner becomes a person mentioned in section 262(b), other than with the Minister's written approval; or

(e) the relevant commissioner is removed from office under section 263.

(3) Section 260(2), 'commissioner'—

*omit, insert—*

relevant commissioner

(4) Section 260(2), 'subsection (1)(b) or (c)'—

*omit, insert—*

subsection (1)(a) or (b)

**40 Replacement of s 261 (Acting vice-president, deputy president or other commissioner)**

Section 261—

*omit, insert—*

**261 Acting deputy president or industrial commissioner**

- (1) This section applies if a deputy president appointed under section 258A or an industrial commissioner temporarily can not perform the functions of office.
- (2) The Governor in Council may, by gazette notice, appoint a person to act as the deputy president or industrial commissioner.

**4P Amendment of s 262 (Restrictions on appointment)**

Section 262, ‘commissioners’—

*omit, insert—*

a deputy president under section 258A or an industrial commissioner

**4Q Amendment of s 263 (Removal of commissioners from office)**

- (1) Section 263, heading, ‘commissioners’—

*omit, insert—*

**deputy president or industrial commissioner**

- (2) Section 263, ‘a commissioner’—

*omit, insert—*

a deputy president appointed under section 258A or an industrial commissioner

**4R Amendment of s 264 (Administrative responsibilities for the commission and registry)**

- (1) Section 264(4A)(b), ‘commissioners’—

*omit, insert—*

industrial commissioners

(2) Section 264(5), ‘A commissioner’—

*omit, insert—*

An industrial commissioner

**4S Amendment of s 281 (Reference to full bench)**

Section 281(2), after ‘A commissioner’—

*insert—*

, other than the president,

**4T Amendment of s 299 (Functions and powers of registrar)**

Section 299(3)(a) and (b)—

*omit, insert—*

- (a) for the court, other than in relation to a function mentioned in section 242G (*court administration*)—the president; and
- (b) for court administration—the vice-president; and
- (c) for the commission—the vice-president.

**4U Amendment of s 306 (Appointment of Commonwealth official as commissioner)**

(1) Section 306, heading, ‘commissioner’—

*omit, insert—*

**deputy president or industrial commissioner**

(2) Section 306(1), ‘a commissioner (*dual commissioner*)’—

*omit, insert—*

a deputy president or an industrial commissioner (each a *dual commissioner*)

(3) Section 306(2), ‘Section 263’—

*omit, insert—*

Sections 246E and 263

(4) Section 306(4) and (5), ‘a commissioner’—

*omit, insert—*

a deputy president or an industrial commissioner

**4V Amendment of s 307 (Role of dual commissioner)**

Section 307, ‘a commissioner’—

*omit, insert—*

a deputy president or an industrial commissioner

**4W Amendment of s 308 (Reference of matter to a Commonwealth official)**

Section 308(3)(a), ‘a commissioner’—

*omit, insert—*

an industrial commissioner

**4X Amendment of s 309 (Conferences with industrial authorities)**

Section 309—

*insert—*

(3) In this section—

*commissioner* does not include the president.

**4Y Amendment of s 310 (Joint sessions with industrial authorities)**

Section 310—

*insert—*

- (3) In this section—  
*commissioner* does not include the president.

**4Z Amendment of s 318 (Service of process)**

- (1) Section 318(1)(a), after ‘the president’—  
*insert*—  
    , the vice-president, a deputy president (court)
- (2) Section 318(2), ‘president’—  
*omit, insert*—  
    court

**5 Amendment of s 319 (Representation of parties)**

- Section 319(2)(b)(i), ‘, other than section 110’—  
*omit.*

**5A Amendment of s 323 (Adjournment by registrar)**

- Section 323, ‘the president or a commissioner’—  
*omit, insert*—

a member of the commission

**5B Amendment of s 326 (Interlocutory proceedings)**

- Section 326, from ‘the president’, first mention, to ‘commission or registrar’, second mention—

*omit, insert*—

the court, commission or registrar may make orders or give directions the court, commission or registrar

**5C Amendment of s 337 (Protections and immunities)**

- Section 337(1) and (2), ‘The president, the commission’—



*omit, insert—*

A member of the court, a member of the commission

## **5D Insertion of new s 337A**

Chapter 8, part 6, division 7—

*insert—*

### **337A Rules committee**

- (1) The president must establish a rules committee consisting of the following members—
  - (a) the president;
  - (b) the vice-president;
  - (c) each deputy president.
- (2) The president is the chairperson of the rules committee.
- (3) The functions of the rules committee include—
  - (a) developing and reviewing the rules under this Act; and
  - (b) approving forms under section 708; and
  - (c) the other functions conferred on the rules committee under this Act.
- (4) The rules committee may conduct its business and proceedings at meetings in the way it decides.
- (5) However—
  - (a) the chairperson has a deliberative vote and, in the event of an equality of votes, a casting vote; and
  - (b) the rules committee must consult with—
    - (i) for a rule relating to the Industrial Magistrates Court—the Chief Magistrate; or

- (ii) for a rule relating to the registry—the registrar.

**5E Amendment of s 338 (Rules)**

- (1) Section 338(2), ‘president’—  
*omit, insert—*  
rules committee
- (2) Section 338(3)—  
*omit.*
- (3) Section 338(4) and (5)—  
*renumber* as section 338(3) and (4).

**5F Amendment of s 339 (Directions about practice)**

- Section 339(1), ‘the president, a commissioner’—  
*omit, insert—*  
a member of the court, a member of the commission

**5G Amendment of s 340 (Appeal from court or full bench)**

- (1) Section 340, heading, ‘or full bench’—  
*omit.*
- (2) Section 340(2), (3) and (3A)—  
*omit.*
- (3) Section 340(4)(d), ‘or full bench’—  
*omit.*

**5H Amendment of s 341 (Appeal from commission, magistrate or registrar)**

- Section 341(1), from ‘section 149’ to ‘president’—

*omit, insert—*

or a decision under section 273A

## **6 Amendment of s 351 (Functions)**

(1) Section 351(1)(c) and (d)—

*renumber* as section 351(1)(d) and (e).

(2) Section 351(1)—

*insert—*

- (c) investigate complaints made under section 636A about organisations or officers of organisations and other matters referred to the inspector under section 636G; and

## **7 Amendment of s 365 (Revocation and suspending industrial officer' authorisation)**

(1) Section 365(1)(b) to (d)—

*renumber* as section 365(1)(c) to (e).

(2) Section 365(1)—

*insert—*

- (b) entered an employer's workplace other than under section 372; or

## **8 Amendment of s 366 (Time and wages record—industrial instrument employees)**

(1) Section 366(1), ' , at a workplace of the employer in Queensland,'—

*omit.*

(2) Section 366(2), 'record clearly states the employer's full name.'—

*omit, insert—*

record—

- (a) clearly states the employer's full name; and
- (b) is kept at, or can be accessed from, a workplace of the employer in Queensland.

**9 Amendment of s 367 (Time and wages record—non-industrial instrument employees)**

- (1) Section 367(1), ‘, at a workplace of the employer in Queensland,’—

*omit.*

- (2) Section 367(2), ‘record clearly states the employer's full name.’—

*omit, insert—*

record—

- (a) clearly states the employer's full name; and
- (b) is kept at, or can be accessed from, a workplace of the employer in Queensland.

**10 Insertion of new s 370A**

Chapter 11, part 1, division 4—

*insert—*

**370A Definitions for div 4**

In this division—

*employer notice* see section 372B(2).

*entry notice* see section 372A(2).

**11 Amendment of s 372 (Right of entry—authorised industrial officer)**

- (1) Section 372(1) and (2)—

*omit, insert—*

- 
- (1) An authorised industrial officer may, to exercise a power under section 373, enter a place if—
- (a) the officer has given the employer or the employer's representative an entry notice under section 372A; and
  - (b) the place is—
    - (i) if subparagraph (ii) does not apply—a workplace, at which the employer carries on a calling of the officer's organisation, stated in the entry notice; or
    - (ii) if the employer or the employer's representative has given the officer an employer notice for the entry under section 372B—a place stated in the employer notice; and
  - (c) the entry is made during the time the place is open for business.
- (2) On entering a place under subsection (1), the officer must—
- (a) first notify each of the following persons of the officer's presence—
    - (i) the employer or the employer's representative;
    - (ii) if the place is not occupied by the employer—the occupier of the place; and
  - (b) produce or display the officer's authorisation, as required by the employer, representative or occupier.
- (2) Section 372(3)—  
*omit, insert—*

- (3) If an authorised industrial officer's entry to a place is authorised under subsection (1) and the officer complies with subsection (2)—
- (a) if the place is occupied by the employer—the employer must not refuse the officer entry to the place; or
  - (b) if the place is not occupied by the employer and the occupier has given the consent mentioned in section 372B(3)(b)—the occupier of the place must not refuse the officer entry to the place.

Maximum penalty—27 penalty units.

- (3) Section 372(5)—

*omit, insert—*

- (5) Subsection (2)(a) does not apply if, on entering the place, the officer discovers that neither the employer nor the employer's representative is present at the place.

## 12 Insertion of new ss 372A and 372B

After section 372—

*insert—*

### **372A Notice of entry**

- (1) This section applies if an authorised industrial officer proposes to enter a workplace at which an employer carries on a calling of the officer's organisation to exercise a power under section 373.
- (2) The officer must give the employer or the employer's representative a written notice (an **entry notice**)—
  - (a) during the employer's business hours; and

- 
- (b) at least 24 hours, but not more than 14 days, before the entry.
- (3) The entry notice must be signed by the officer and state the following—
- (a) the workplace the officer proposes to enter;
  - (b) the day and time of the proposed entry;
  - (c) the officer's name and organisation;
  - (d) the powers the officer proposes to exercise under section 373, including, if the officer intends to inspect records, the records to be inspected;
  - (e) if the records to be inspected include the time and wages records of employees—
    - (i) each employee, or class of employees, whose records are to be inspected; and
    - (ii) that the officer's organisation is entitled to represent the industrial interests of the employee or class; and
    - (iii) the provision of the organisation's rules that entitles the officer's organisation to represent the industrial interests of the employee or class.

### **372B Employer's notice about place to inspect information**

- (1) This section applies if an employer or an employer's representative receives an entry notice from an authorised industrial officer.
- (2) The employer or employer's representative may give the officer a written notice (an *employer notice*) stating the place or places the officer may enter to inspect the records detailed in the entry notice.
- (3) For subsection (2), a place may be—

- (a) a particular part of the workplace stated in the entry notice; or

*Example of parts of a workplace—*

particular floors of a multistorey workplace,  
particular offices or conference rooms of a  
workplace

- (b) another place where the records detailed in the entry notice are kept or may be accessed, if the employer or employer's representative is, or has the consent of, the occupier of that place; or
- (c) a particular route to be used to access another place stated in the notice.
- (4) The employer notice must be given before the day and time of entry stated in the entry notice.
- (5) If an employer notice given to the officer under this section states a place or places where the officer may inspect the records detailed in the entry notice, the employer or the employer's representative must ensure the records can be inspected at, or accessed from, that place.

Maximum penalty for subsection (5)—27 penalty units.

### **13 Amendment of s 373 (Right to inspect and request information—authorised industrial officer)**

- (1) Section 373(1), 'workplace'—

*omit, insert—*

place

- (2) Section 373, after subsection (2)—

*insert—*

- (2AA) However, the officer may inspect the time and wages record of an employee only if—



- 
- (a) the officer's organisation is entitled to represent the industrial interests of the employee; and
- (b) the employee is identified, or is a member of a class of employees identified, in the entry notice given by the officer for the entry.
- (3) Section 373(3)(a) and (b), before 'record', first mention—  
*insert—*  
time and wages
- (4) Section 373(3)(c) and (3A), '(2A)'—  
*omit, insert—*  
(4)
- (5) Section 373(8), '(6) or (7)'—  
*omit, insert—*  
(9) or (10)
- (6) Section 373(9)—  
*omit, insert—*  
(9) The officer—
- (a) must comply with a direction given by the employer or the employer's representative under subsection (13); and
- (b) must not wilfully obstruct the employer, or an employee during the employee's working time; and
- (c) must not contravene a requirement of this section.
- Maximum penalty—27 penalty units.
- (9A) The employer or employer's representative may give the officer a direction to take, or not take, stated action if the employer or employer's representative is satisfied the direction is

reasonably necessary to discharge the employer's duties under the *Work Health and Safety Act 2011*.

- (7) Section 373(2AA) to (11)—  
*renumber* as section 373(3) to (15).

## 14 Insertion of new s 390A

Chapter 11, part 2, division 3—

*insert*—

### 390A Definitions for div 3

In this division—

***continuing health employee*** means a health employee who, immediately after ceasing to be a health employee, begins new employment, or resumes previous employment, as a health employee, on any basis.

***final payment***—

- 1 Generally, a health employee's *final payment* is the total amount owing to the employee by the health employer on the day the employee ceases to be a health employee, including unpaid wages, or any other amount payable in relation to employment, to which the employee is entitled.
- 2 However, the *final payment* for a continuing health employee includes only the component of the total amount mentioned in paragraph 1 that is the amount the employee is entitled to be paid for untaken leave.

***untaken leave*** means leave, including, for example, annual leave or long service leave, that, immediately before a health employee ceases

employment with a health employer, the employee is entitled to and has not taken.

**15 Amendment of s 391 (Wages etc. to be paid without deduction)**

(1) Section 391(1)(c) and (3), ‘written’—

*omit.*

(2) Section 391(4)—

*renumber* as section 391(5).

(3) Section 391—

*insert—*

(4) If an employee’s consent authorising a deduction to be made from wages is not written, before making the deduction, the employer must give the employee written acknowledgement of the consent.

**16 Amendment of s 396A (Recovery of health employment overpayments)**

(1) Section 396A—

*insert—*

(2A) However, a deduction under subsection (2) can not be made from the health employee’s final payment.

*Note—*

See section 396C in relation to deductions of overpayments from a health employee’s final payment.

(2) Section 396A(5)—

*omit, insert—*

(5) A deduction can not be made in an amount that would result in the amount that is paid to a health employee on any single occasion, disregarding

any other deductions for any other purpose, being less than the amount prescribed under a regulation.

*Examples of other deductions—*

an income tax deduction, a superannuation contribution paid by the employee, a deduction made with the consent of the employee

- (3) Section 396A(7), all definitions—

*relocate* to section 390A, as inserted by this Act.

- (4) Section 396A(7), as amended—

*omit.*

**17 Amendment of s 396B (Recovery of health employment transition loans)**

- (1) Section 396B(2), ‘equal’—

*omit, insert—*

up

- (2) Section 396B(5)—

*omit.*

**18 Insertion of new ss 396C and 396D**

After section 396B—

*insert—*

**396C Recovery of health employment overpayments on ceasing employment**

- (1) This section applies if—

- (a) a health employer has paid a health employee an amount in relation to employment, or purportedly in relation to employment, to which the health employee is not entitled (the *overpayment*); and

- 
- (b) when the employee ceases to be a health employee, all or part of the overpayment (the *outstanding overpayment*) has not been recovered by a health employer.
- (2) When the employee ceases to be a health employee, a health employer may deduct from the employee's final payment an amount up to the amount of the outstanding overpayment.
  - (3) A health employer may recover the outstanding overpayment by making a deduction under subsection (2)—
    - (a) even if the overpayment was made by another health employer during the health employee's employment with the other health employer; and
    - (b) regardless of when the overpayment was made.
  - (4) This section—
    - (a) is of general application to health employers and health employees and is not limited by any other provision of this division; and
    - (b) does not affect the operation of section 396.

### **396D When employee ceases to be a health employee**

- (1) For sections 396B and 396C, an employee ceases to be a health employee—
  - (a) if, on ceasing employment with a health employer, the employee is entitled to be paid an amount for untaken leave; and
  - (b) whether or not the employee subsequently begins new employment, or resumes previous employment, as a health employee, including employment on a casual basis.

- (2) This section does not limit the circumstances in which an employee otherwise ceases to be a health employee.

**19 Amendment of ch 12, pt 9, div 3, hdg (Officers' financial management duties)**

Chapter 12, part 9, division 3, heading, 'financial management'—

*omit.*

**20 Amendment of s 526 (Application of div 3)**

Section 526, from 'if an officer'—

*omit, insert—*

to an officer of an organisation in the performance of the officer's functions or the exercise of the officer's powers.

**21 Replacement of s 527 (Duty of honesty)**

Section 527—

*omit, insert—*

**527 Duty of honesty, good faith and proper purpose**

The officer must act—

- (a) honestly; and
- (b) in good faith in the best interests of the organisation; and
- (c) for a proper purpose.

Maximum penalty—3091 penalty units or 5 years imprisonment.

**22 Amendment of s 528 (Duty of reasonable care and diligence)**

Section 528, penalty—

*omit, insert—*

Maximum penalty—3091 penalty units or 5 years imprisonment.

**23 Amendment of s 529 (Officers with material personal interests)**

(1) Section 529(1), after ‘management’—

*insert—*

or procurement activities

(2) Section 529(2), after ‘must’—

*insert—*

by written notice (a *disclosure notice*)

(3) Section 529, penalties, ‘40 penalty units’—

*omit, insert—*

3091 penalty units or 5 years imprisonment

(4) Section 529—

*insert—*

(4) In this section—

*procurement activities* means activities relating to—

(a) the purchase of goods and services; or

(b) the carrying out of work.

*services* includes auditing services and legal services.

**23A Insertion of new ch 12, pt 9, divs 4 and 5**

Chapter 12, part 9—

*insert—*

**Division 4 Register of material personal interest disclosures**

**530A Register of material personal interest disclosures**

- (1) This section applies if a disclosure notice is given to an organisation's management committee by an officer of the organisation under section 529.
- (2) The organisation must keep, for at least 7 years after the date the disclosure notice was given, a written register of the following for the disclosure notice—
  - (a) the name of the officer;
  - (b) the date the disclosure notice was given;
  - (c) a copy of the disclosure notice.Maximum penalty—40 penalty units.
- (3) The register kept under subsection (2) may be inspected by the following persons—
  - (a) the registrar;
  - (b) a member of the organisation's management committee;
  - (c) another person permitted by law to inspect the register.
- (4) A person mentioned in subsection (3) may ask the organisation to make the register available for inspection, free of charge, during the organisation's business hours.



- (5) The organisation must comply with a request made under subsection (4).  
Maximum penalty—40 penalty units.
- (6) In this section—  
*disclosure notice* see section 529(2).

## **Division 5      Statement of interests of officers holding management offices**

### **530B Application of div 5**

This division applies to an officer of an organisation who holds a management office in the organisation.

### **530C Definitions for div 5**

- (1) In this division—  
management office, for an organisation, means an office of the organisation mentioned in section 412(a) or (b).  
*particulars*, of an interest, means the financial and non-financial particulars of the interest prescribed under a regulation.
- (2) A reference in this division to an interest is a reference to the matter within its ordinary meaning under the general law and the definition in the *Acts Interpretation Act 1954*, section 36 does not apply.

### **530D Officer must file statement of interests**

- (1) The officer must, within 1 month after being elected or appointed to the management office in the organisation, file a statement of the

particulars of each interest held by the officer or the officer's spouse.

Maximum penalty—85 penalty units.

- (2) However, the particulars of an interest held by the officer jointly or in common with the officer's spouse need to be included in the statement only once.
- (3) Nothing in subsection (1) requires the statement to include any of the following—
  - (a) the number or monetary value of shares;
  - (b) the monetary value of an asset, investment or other interest;
  - (c) the full street address of land;
  - (d) the account number of, or amount held in, an account held with a financial institution.
- (4) To remove any doubt, it is declared that a person holds an interest if the person holds the interest—
  - (a) alone; or
  - (b) jointly or in common with another person.

### **530E Officer must file updated particulars**

- (1) Subsection (2) applies if the officer becomes aware (including because of a change in the interests of the officer or the officer's spouse) of any of the following matters—
  - (a) that the officer has not filed a statement of the particulars of an interest held by the officer or the officer's spouse;
  - (b) that the particulars of an interest held by the officer or the officer's spouse included in a statement filed by the officer are not, or are no longer, correct.

- (2) The officer must file a statement of the particulars of the interest, or the correct particulars of the interest, within 1 month after the officer becomes aware of the matter.

Maximum penalty—85 penalty units.

### **530F Exemption**

- (1) This section applies if—
- (a) under another Act or law—
- (i) information about the interests held by the officer and the officer’s spouse is required to be recorded in a register or otherwise disclosed by the officer; and
- (ii) the information is published to the public; and
- (b) the officer has filed a written notice stating the matters mentioned in paragraph (a).
- (2) Sections 530D and 530E do not apply to the officer.

## **27 Replacement of ch 12, pt 12, hdg (Accounts and audit)**

Chapter 12, part 12, heading—

*omit, insert—*

### **Part 12 Finances and accountability**

## **28 Amendment of s 551 (Definitions for pt 12)**

Section 551—

*insert—*

*gift* means—

- (a) the transfer of money, other property or other benefit—
  - (i) without consideration; or
  - (ii) for a consideration substantially less than full consideration; or
- (b) a loan of money or other property made on a permanent or indefinite basis, other than an overdraft facility.

***non-cash benefit*** means—

- (a) property or services in any form other than money; but
- (b) does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes.

***remuneration***, of a person, includes—

- (a) superannuation contributions made for the person; and
- (b) an amount payable, or non-cash benefit made available, to the person under the terms and conditions of the person's appointment or employment.

***sponsored hospitality benefit***—

- (a) means a contribution, whether financial or non-financial, for the cost of travel undertaken or accommodation used by a person, whether in the person's official capacity or another capacity; but
- (b) does not include a contribution mentioned in paragraph (a) given to a person by the person's spouse, other family member or friend if there could not be a perception of a conflict of interest, financial or otherwise, relating to the contribution.

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**29 Insertion of new ch 12, pt 12, divs 1A and 1B**

After section 553—

*insert—*

**Division 1A Financial policies and  
training**

**553A Financial policies**

- (1) An organisation must have a policy, complying with the requirements prescribed under a regulation, for each of the following—
  - (a) decision-making about, and reporting of, the organisation's financial matters;
  - (b) authorisations and delegations relating to the organisation's spending;
  - (c) the organisation's credit cards, including—
    - (i) issuing, using and cancelling credit cards; and
    - (ii) accountability for, reporting about, and audit of, the use of credit cards;
  - (d) the organisation's contracting activities, including the following—
    - (i) tender and selection processes;
    - (ii) reviewing significant contracts;
    - (iii) disclosing the identity of, and arrangements with, key service providers;
  - (e) travel and accommodation, including—
    - (i) spending by the organisation; and
    - (ii) receipt of sponsored hospitality benefits by its officers or employees from other entities;

- (f) spending on, and receipt of, entertainment and hospitality;

*Examples of entertainment and hospitality—*

- providing food or beverages to a person visiting the organisation in an official capacity
- providing food or beverages for a conference, course, meeting, seminar, workshop or another forum held by the organisation for its officers, members, employees or other persons
- paying for an officer or employee of the organisation to attend a function as part of the officer's or employee's official duties or obligations

- (g) gifts, including giving, receiving and disposing of gifts;

- (h) how complaints about financial matters are dealt with;

- (i) another matter relating to the financial management or accountability of the organisation prescribed under a regulation.

Maximum penalty—85 penalty units.

- (2) In this section—

***contracting activities*** means activities for the making of a contract for—

- (a) the carrying out of work; or
- (b) the supply of goods or services; or
- (c) the lease of land; or
- (d) the disposal of assets.

### **553B Financial management training**

- (1) This section applies if the registrar approves financial management training for this section.

- (2) The organisation must ensure each of its financial management officers completes the approved financial management training—
- (a) within 3 months after the relevant day; and
  - (b) at least once in each relevant period for the officer starting after the relevant day.

Maximum penalty—40 penalty units.

- (3) The registrar must publish information about financial management training approved for this section on the QIRC website.

- (4) In this section—

*financial management officer*, for an organisation, means an officer who holds an office that includes performing functions or exercising powers relating to the organisation's financial management.

*relevant day* means—

- (a) if the officer is a financial management officer on the day the training is approved—that day; or
- (b) otherwise—the day the officer becomes, or again becomes, a financial management officer.

*relevant period*, for a financial management officer of an organisation, means each period of 2 years the officer is a financial management officer for the organisation, worked out by disregarding any period the officer is not a financial management officer for the organisation.

## **Division 1B      Requirements for spending for political purposes**

### **Subdivision 1   Preliminary**

#### **553BA Division does not apply to organisations with local government members**

This division does not apply to an organisation if each of the members of the organisation is—

- (a) a local government; or
- (b) the mayor or a councillor of a local government.

#### **553C When does an organisation spend money for a *political purpose***

- (1) An organisation spends money for a *political purpose* if it spends money for, or by the way of, any of the following—
  - (a) giving a gift to a political party;
  - (b) giving a gift to, or paying the costs or expenses of, a candidate for election, whether before, during or after the candidate's candidature or election;
  - (c) publication or distribution in any way, including through advertising, of material about a political matter;
  - (d) conducting opinion polling, or otherwise ascertaining opinions, about a political matter;
  - (e) another activity related to a political matter prescribed under a regulation;



- 
- (f) giving an amount to a person on the understanding that the person or someone else will apply, either directly or indirectly, the whole or a part of the amount for an activity mentioned in paragraph (a) to (e).
- (2) However, an organisation does not spend money for a *political purpose* if—
- (a) the organisation spends money for an activity mentioned in subsection (1)(c), (d), (e) or (f); and
- (b) the activity engages or involves only members of the organisation.

*Examples—*

- an organisation distributes brochures containing material about a political matter only to its members
- an organisation conducts opinion polling about a political matter only of its members

- (3) In this section—
- publication*, of material, does not include designing, printing or otherwise preparing the material.

### **553CA Other definitions for div 1B**

In this division—

*candidate for election—*

- (a) means a candidate for election to a legislature or local government; and
- (b) includes a prospective candidate.

*legislature* means—

- (a) the Legislative Assembly; or
- (b) the legislature of the Commonwealth or another State.

***local government*** means a local government or a local government of another State.

***political matter*** means—

- (a) a political party; or
- (b) a candidate for election; or
- (c) a matter that a reasonable person would associate with a political object.

***political object*** means—

- (a) a political party or other political organisation; or
- (b) a political cause or belief.

***political party*** means an entity whose object, or 1 of whose objects, is the promotion of the election to a legislature or local government of a candidate or candidates for election endorsed by it, or by an entity of which it is a part.

## **Subdivision 2 Authorisation for particular spending for political purposes**

### **553D Particular spending for political purposes must be authorised by ballot**

- (1) This section applies if—
  - (a) an organisation intends to spend an amount for a political purpose for a political object in a financial year; and
  - (b) the organisation has spent or, if the amount is spent, the organisation will have spent, in the financial year, more than \$10000 for the same political purpose and the same political object.

- (2) The organisation may spend the amount for the political purpose only if the spending is authorised by a ballot conducted under this division (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 authorised the spending.

### **Subdivision 3 Conduct of expenditure ballot etc.**

#### **553G Compliance with prescribed rules**

- (1) An expenditure ballot must be conducted in accordance with the rules prescribed under a regulation.
- (2) The prescribed rules must provide for the preparation of a roll of voters for an expenditure ballot.

#### **553H Expenditure ballot result report**

- (1) The organisation must, within 14 days after the declaration of the result of an expenditure ballot, file a written result report for the expenditure ballot stating the particulars prescribed under a regulation.
- (2) A contravention of subsection (1) does not invalidate the expenditure ballot.

### **553L Publication of result of expenditure ballot**

(1) An organisation must ensure a notice containing the particulars about an expenditure ballot mentioned in subsection (2)—

(a) is, within 14 days after the declaration of the result of the expenditure ballot, published in the approved way; and

*Note—*

See section 655A for how the notice must be published.

(b) continues to be published for a period of 2 years after the filing of the result report.

Maximum penalty—40 penalty units.

(2) For subsection (1), the particulars about the expenditure ballot are as follows—

(a) the following information about the spending for each political purpose the subject of the ballot—

(i) the nature of the spending;

(ii) the amount of the spending;

(iii) the political object to which the spending relates;

(b) the number of members on the roll of voters for the ballot;

(c) the number of members mentioned in paragraph (b) who voted in the ballot;

(d) the number of members mentioned in paragraph (b) who voted to authorise the spending;

(e) the number of members mentioned in paragraph (b) who voted not to authorise the spending.

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### **553M Expenditure ballot records must be preserved**

An organisation must do everything necessary to ensure all ballot records for an expenditure ballot are kept by it for 1 year after the ballot.

## **Subdivision 4 Offences**

### **553N Obstructing conduct of expenditure ballot**

A person must not obstruct another person conducting an expenditure ballot.

Maximum penalty—80 penalty units.

### **553Q Other offences about expenditure ballot**

A person must not, without lawful authority or excuse, do any of the following for an expenditure ballot—

- (a) obtain or possess a ballot paper if the person does not have the right to obtain or possess it;
- (b) pretend to be and vote as someone else;
- (c) amend, deface, destroy, interfere with, or remove a ballot record;
- (d) vote in the ballot if the person does not have the right to vote;
- (e) vote more than once;
- (f) forge a ballot record;
- (g) utter a ballot record knowing it to be forged;
- (h) give a ballot record to someone else;
- (i) put a ballot record in a ballot box or other container used for the ballot (also a *ballot*

*box*) if the person does not have the right to vote;

- (j) deliver or post a ballot record to another person performing functions for the ballot if the person does not have the right to deliver or post it;
- (k) destroy, interfere with, open, or remove a ballot box.

Maximum penalty—80 penalty units.

### **553R Inducing vote or support etc.**

- (1) A person must not cause, inflict or procure a disadvantage to anyone or anything because of, or to induce—
  - (a) a vote or omission to vote in an expenditure ballot; or
  - (b) support for or opposition to the matter the subject of an expenditure ballot; or
  - (c) a promise of a vote, omission to vote, support or opposition for a matter in an expenditure ballot.

Maximum penalty—80 penalty units.

- (2) In this section—

*cause* a disadvantage includes offering, suggesting and threatening a disadvantage.

*disadvantage* includes damage, detriment, injury, loss, punishment and violence.

### **553S Unauthorised access to ballot paper**

A person must not, without lawful authority or excuse—

- 
- (a) ask, require or induce another person to show to the person, or permit the person to see, a ballot paper for an expenditure ballot so the person can see the vote recorded in the ballot paper—
    - (i) while the paper is being marked; or
    - (ii) after it has been marked; or
  - (b) if the person is performing functions for an expenditure ballot—show to anyone else or permit anyone else access to a ballot paper used in the expenditure ballot, other than to perform the functions.

Maximum penalty—80 penalty units.

### 30 Insertion of new ch 12, pt 12, divs 2A and 2B

After section 557—

*insert—*

#### **Division 2A Financial registers**

##### **557A Register of gifts, hospitality and other benefits given and received must be kept**

- (1) An organisation must, for each financial year, keep a written register stating the particulars mentioned in subsection (2) for each of the following (each a *benefit*)—
  - (a) any of the following given in the year by the organisation to a person other than an officer or employee of the organisation—
    - (i) a gift or gifts, if the gift has a value, or the gifts have a combined value, of more than the value prescribed under a regulation;

- (ii) a contribution, whether financial or non-financial, for the cost of travel undertaken or accommodation used by the person;
- (b) an amount or a non-cash benefit given in the year by the organisation to an officer or employee, other than an amount or benefit given—
  - (i) as remuneration; or
  - (ii) for the costs of travel undertaken or accommodation used by the officer or employee in an official capacity;
- (c) any of the following received in the year by an officer or employee of the organisation from an entity other than the organisation—
  - (i) a gift or gifts, if—
    - (A) the gift has a value, or the gifts have a combined value, of more than the value prescribed under a regulation; and
    - (B) the gift is, or gifts are, received by the officer or employee in an official capacity;
  - (ii) a sponsored hospitality benefit.

Maximum penalty—40 penalty units.

- (2) The register must state the following particulars for each benefit—
  - (a) the name of the recipient of the benefit;
  - (b) the name of the entity who gave the benefit;
  - (c) a description of the benefit;
  - (d) the value of the benefit;
  - (e) the date the benefit was given.



- 
- (3) If an officer or employee of the organisation receives a benefit mentioned in subsection (1)(c), the officer or employee must, within 30 days after the receipt, notify the organisation of the receipt.

Maximum penalty—40 penalty units.

- (4) For subsection (1)(c) a person does not receive a gift in an official capacity if—
- (a) the gift was given to the person by another person who is the first person's spouse, other family member or friend; and
  - (b) there could not be a perception of a conflict of interest, financial or otherwise, relating to the gift.

### **557B Register of political spending**

- (1) An organisation must, for each financial year, keep a written register stating the particulars mentioned in subsection (3) for each occasion it spends more than \$10000 in the year for the same political purpose and the same political object.

Maximum penalty—40 penalty units.

- (2) For subsection (1), an organisation spends more than \$10000 in a financial year for the same political purpose and the same political object if—
- (a) in the year, the organisation spends money for the political purpose on 1 or more occasions for the political object; and
  - (b) all of the spending added together is more than \$10000.

- (3) The register must state the following for the spending—
- (a) the nature of the spending;

- (b) the amount of the spending;
- (c) the political object to which the spending relates;
- (d) the date of each expenditure ballot that authorised the spending or any part of it.

### **557BA Register of credit card and cab charge account spending**

- (1) This section applies only to an employee organisation.
- (2) The organisation must, for each financial year, keep a written register complying with subsection (3) for each of the following—
  - (a) a credit card of the organisation;
  - (b) if an officer or employee of the organisation uses the officer's or employee's personal credit card in the year for a transaction (a *relevant transaction*) that is related to the organisation's activities—the personal credit card;
  - (c) a cab charge account or cab charge card of the organisation.

Maximum penalty—40 penalty units.

- (3) The register must include the following—
  - (a) for a credit card—
    - (i) the name of the financial institution with which the card is held; and
    - (ii) for a credit card of the organisation—a copy of each statement issued for the card by the financial institution in the year; and
    - (iii) for a personal credit card of an officer or employee of the organisation

- 
- mentioned in subsection (2)(b)—a copy of each statement issued for the card by the financial institution in the year that contains information about a relevant transaction;
- (b) for a cab charge account or cab charge card—
- (i) the name of the taxi service with which the account or card is held; and
- (ii) a copy of each statement issued for the account or card by the taxi service in the year.
- (4) Nothing in subsection (2) or (3) requires the register, or a copy of a statement included in the register, to include any of the following—
- (a) the number of a credit card, cab charge account or cab charge card;
- (b) the name or address of a person, other than the organisation—
- (i) to whom a credit card or cab charge card is issued; or
- (ii) who is authorised to use a credit card, cab charge account or cab charge card;
- (c) for a personal credit card—details of a transaction that is not a relevant transaction.
- (5) In this section—
- cab charge account*** means a credit facility provided to a person by the operator of a taxi service to which the person may charge the fare for hiring a taxi.
- cab charge card*** means a card issued to a person by the operator of a taxi service to be used by the person to charge the fare for hiring a taxi to a cab charge account.

### **557BB Register of credit card and cab charge account spending for 2012-13 financial year**

- (1) This section applies only to an employee organisation.
- (2) Within 1 month after the commencement of this section, the organisation must, for the period 1 July 2012 to 30 June 2013, prepare a written register—
  - (a) for the matters mentioned in section 557BA(2)(a), (b) and (c); and
  - (b) that complies with section 557BA(3).

Maximum penalty—20 penalty units.

### **557C Register of loans, grants and donations**

- (1) An organisation must, for each financial year, keep a written register stating the particulars mentioned in subsection (4) for each occasion it makes a loan, or gives a grant or donation, to an entity, (each a *payment*) of more than \$1000 in the year.

Maximum penalty—40 penalty units.

- (2) For subsection (1), a payment of more than \$1000 is made to an entity in a financial year if—
  - (a) 1 or more payments are made to the entity in a financial year; and
  - (b) all of the payments added together are more than \$1000.
- (3) However, the register need not include any payment that is included in the register kept under section 557B.
- (4) The register must state the following for each payment—

- 
- (a) the amount of the payment and the reason for making it;
  - (b) if it was not a financial hardship payment—
    - (i) the name and address of the entity to whom it was made; and
    - (ii) if it was a loan—the arrangements to repay the loan.

### **557D Publication of financial registers**

An organisation must ensure a copy of each register kept by the organisation under this division for a financial year—

- (a) is published in the approved way; and

*Note—*

See section 655A for how the copy must be published.

- (b) continues to be published for a period of 2 years after the end of the financial year.

Maximum penalty—40 penalty units.

### **557E Updating financial registers**

- (1) This section applies if something, the particulars of which are required to be included in a register kept by an organisation under this division, happens (the *new matter*).
- (2) The organisation must—
  - (a) immediately amend the register to include the particulars of the new matter; and
  - (b) as soon as practicable but no later than 5 business days after the amendment is made, ensure the copy of the register published

under section 557D is replaced with a copy of the register incorporating the change.

Maximum penalty—40 penalty units.

### **557F Financial registers must be kept for 7 years**

An organisation must keep each register kept by the organisation under this division for at least 7 years after the end of the financial year to which the register relates.

Maximum penalty—40 penalty units.

### **557G Inspection of financial registers**

- (1) This section applies to a register during the period the organisation is required to keep the register under section 557F.
- (2) A person may ask the organisation to make the register available for inspection free of charge, during the organisation's business hours.
- (3) An organisation to whom a request is made under subsection (2) must comply with the request.

Maximum penalty for subsection (3)—40 penalty units.

## **Division 2B      Financial disclosure statements**

### **Subdivision 1   Preliminary**

#### **557H Definitions for div 2B**

In this division—

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*initial year* means the period 1 July 2012 to 30 June 2013.

**557I Highest paid officers and board member  
officers of an organisation**

- (1) For this division—
  - (a) if an organisation has less than 10 officers in the initial year or a financial year—all of the officers of the organisation are the highest paid officers of the organisation for the year; and
  - (b) if an organisation has 10 or more officers in the initial year or a financial year—the 10 most highly paid officers of the organisation for the year are the highest paid officers of the organisation for the year; and
  - (c) an officer of an organisation is a board member officer of the organisation if the officer is a member of a board and—
    - (i) the membership is a function of the officer's office with the organisation; or
    - (ii) the organisation nominated the officer to be a member of the board.
- (2) For subsection (1)(b), an officer of an organisation is more highly paid than another officer of the organisation for the initial year or a financial year if the first officer is paid more remuneration for the year than the other officer.

## **Subdivision 2 Initial financial disclosure statement**

### **557J Initial financial disclosure statement**

- (1) Within 1 month after the commencement of this section, an organisation must, for the initial year, prepare an initial financial disclosure statement that complies with subsection (2) to the extent to which the particulars mentioned in the sections are known to, or can be reasonably ascertained by, the organisation.

Maximum penalty—20 penalty units.

- (2) The initial financial disclosure statement must include the following information for each of the highest paid officers of the organisation for the initial year—
  - (a) the remuneration paid to the officer in the year;
  - (b) any non-cash benefit, including the value of the benefit, given to the officer by the organisation, other than as remuneration, in the year;
  - (c) any amount paid to the officer in the officer's capacity as a board member officer in the year, other than an amount paid to the officer for the costs of travel or accommodation for the officer to attend a board meeting.

### **557O Publication of initial financial disclosure statement**

- (1) An organisation must ensure a copy of its initial financial disclosure statement—



- 
- (a) is, within the required period, published in the approved way; and

*Note—*

See section 655A for how the copy must be published.

- (b) continues to be published for a period of 2 years after the end of the initial year.

Maximum penalty—40 penalty units.

- (2) In this section—

*required period* means as soon as practicable but no later than 5 business days after the end of the period within which the initial disclosure statement is required to be prepared under section 557J.

### **Subdivision 3 Annual financial disclosure statement**

#### **557P Financial year for first annual financial disclosure statement**

- (1) This section applies if an organisation's first financial year after the initial year ends starts on a day other than 1 July 2013.
- (2) For this subdivision, the financial year includes the period—
- (a) starting on 1 July 2013; and
- (b) ending on the day before the financial year would otherwise have started.

#### **557Q Annual financial disclosure statement**

An organisation must, for each financial year, prepare a financial disclosure statement

complying with sections 557R to 557X as soon as practicable after the year ends.

Maximum penalty—40 penalty units.

### **557R Accounts**

The financial disclosure statement must include a copy of the organisation's accounts for the financial year.

### **557S Remuneration and benefits for highest paid officers**

The financial disclosure statement must include the following particulars for each of the highest paid officers of the organisation for the financial year—

- (a) the remuneration paid to the officer in the year;
- (b) any non-cash benefit, including the value of the benefit, given to the officer by the organisation, other than as remuneration, in the year;
- (c) any amount paid to the officer in the officer's capacity as a board member officer in the year, other than an amount paid to the officer for the costs of travel or accommodation for the officer to attend a board meeting.

### **557T Financial registers**

The financial disclosure statement must include, for each register the organisation is required to keep under division 2A, the address of the website on which the register is published under section 557D.

### **557U Spending for political purposes**

The financial disclosure statement must include the following particulars for each political purpose on which the organisation spent money in the financial year—

- (a) the nature of the spending;
- (b) the amount of the spending;
- (c) the political object to which the spending relates;
- (d) if the spending (or any part of it) was authorised by an expenditure ballot—the date of the ballot.

### **557V Political party affiliation fees**

The financial disclosure statement must include the following particulars for each political party with which the organisation was affiliated in the financial year—

- (a) the name of the political party;
- (b) the amount paid to the political party for the affiliation in the year.

### **557W Financial policies**

The financial disclosure statement must include the following particulars for each policy the organisation has under section 553A—

- (a) the name of the policy;
- (b) a brief description of the policy;
- (c) the date the policy was adopted by the organisation;
- (d) the date, if any, the policy was last reviewed by the organisation.

### **557X Officers' financial management training**

The financial disclosure statement must include the following particulars for each officer of the organisation to whom section 553B applies—

- (a) the officer's name;
- (b) a description of the officer's role in the organisation;
- (c) the date the officer most recently completed the training required under section 553B(2).

## **Subdivision 4 Mid-year financial disclosure statement**

### **557Y Mid-year financial disclosure statement**

- (1) An organisation must, for each financial year, prepare a mid-year financial disclosure statement complying with subsection (2) within 7 months after the start of the year.

Maximum penalty—40 penalty units.

- (2) The mid-year financial statement must—
  - (a) be prepared for the first 6 months of the financial year; and
  - (b) include the following information for each officer of the organisation expected to be a highest paid officer for the year—
    - (i) the remuneration expected to be paid to the officer in the year;
    - (ii) the remuneration paid to the officer in the first 6 months of the year;
    - (iii) any non-cash benefit, including the value of the benefit, expected to be

- 
- given to the officer by the organisation,  
other than as remuneration, in the year;
  - (iv) any non-cash benefit, including the  
value of the benefit, given to the officer  
by the organisation, other than as  
remuneration, in the first 6 months of  
the year;
  - (v) any amount paid to the officer in the  
officer's capacity as a board member  
officer in the year, other than an  
amount paid to the officer for the costs  
of travel or accommodation for the  
officer to attend a board meeting.
- (3) If an organisation's first financial year after the  
initial year ends starts on a day other than 1 July  
2013, for this section the financial year includes  
the period—
- (a) starting on 1 July 2013; and
  - (b) ending on the day before the financial year  
would otherwise have started.

### **557Z Publication of mid-year financial disclosure statement**

- (1) An organisation must ensure a copy of its  
mid-year financial disclosure statement—
- (a) is, within the required period, published in  
the approved way; and
- Note—*
- See section 655A for how the copy must be  
published.
- (b) continues to be published for a period of 2  
years after the end of the period within  
which the mid-year financial disclosure  
statement is required to be prepared under  
section 557Y(1).

Maximum penalty—40 penalty units.

- (2) In this section—

*required period* means as soon as practicable but no later than 5 business days after the period within which the mid-year financial disclosure statement is required to be prepared under section 557Y(1).

## **Subdivision 5 General**

### **557ZA Financial disclosure statements must be kept for 7 years**

- (1) An organisation must keep each financial disclosure statement prepared by the organisation under this division for at least 7 years after the end of the period to which the statement relates.

Maximum penalty—40 penalty units.

- (2) In this section—

*financial disclosure statement* includes an initial financial disclosure statement and a mid-year financial disclosure statement.

### **557ZB Inspection of financial disclosure statements**

- (1) This section applies to a financial disclosure statement during the period the organisation is required to keep the statement under section 557ZA.
- (2) A person may ask the organisation to make the statement available for inspection free of charge, during the organisation's business hours.
- (3) An organisation to whom a request is made under subsection (2) must comply with the request.

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Maximum penalty for subsection (3)—40 penalty units.

**31 Amendment of s 558 (Obligation to have auditor)**

Section 558(3)—

*insert—*

*accounting records*, of an organisation for a financial year, includes the organisation's financial disclosure statement and mid-year financial disclosure statement for the financial year.

**32 Amendment of s 560 (Requirements for audit report)**

(1) Section 560(d) and (e)—

*renumber* as section 560(g) and (h).

(2) Section 560—

*insert—*

- (d) the financial disclosure statement and mid-year financial disclosure statement for the year were prepared under this Act; and
- (e) the organisation has the policies it is required to have under section 553A(1); and
- (f) the organisation's spending for political purposes, if any, contravened the requirements of section 553D; and

(3) Section 560(g), as renumbered, '(c)'—

*omit, insert—*

(f)

**33 Amendment of s 563 (Auditor's powers)**

Section 563(7)—

*omit, insert—*

(7) In this section—

**auditor** includes—

- (a) the registrar’s auditor engaged under section 575 to examine the organisation’s accounting records; and
- (b) a complaints auditor engaged under section 636L to examine the organisation’s accounting records.

#### **34 Amendment of s 564 (Auditors have qualified privilege)**

Section 564(3)—

*omit, insert—*

(3) In this section—

**auditor** means—

- (a) an organisation’s auditor; or
- (b) the registrar’s auditor; or
- (c) a complaints auditor.

#### **35 Replacement of ch 12, pt 12, div 4, hdg (Presentation and filing of audit reports)**

Chapter 12, part 12, division 4, heading—

*omit, insert—*

**Division 4                      Presentation, filing and  
publication of audit  
reports and financial  
disclosure statements**



**36 Replacement of s 565 (Obligation to present to general or committee meeting)**

Section 565—

*omit, insert—*

**565 Obligation to present to general or committee meeting**

An organisation must present its audit report and financial disclosure statement for each financial year to a general meeting or a meeting of the organisation's management committee (a *presentation meeting*) within—

- (a) 5 months after the end of the financial year;  
or
- (b) if the registrar has extended the time to hold the meeting—the extended time.

Maximum penalty—40 penalty units.

**37 Amendment of s 566 (Obligation to publish audit report and accounts)**

- (1) Section 566, heading, 'accounts'—

*omit, insert—*

**financial disclosure statement**

- (2) Section 566(a), 'relevant accounts'—

*omit, insert—*

financial disclosure statement

- (3) Section 566(b), 'accounts'—

*omit, insert—*

statement

**38 Amendment of s 568 (Auditor may attend meetings)**

Section 568(1)(a), 'accounts'—

*omit, insert—*

financial disclosure statement

**39 Amendment of s 569 (False or misleading statements about reports)**

(1) Section 569, heading, after ‘reports’—

*omit, insert—*

**or statements**

(2) Section 569(1)(a)(i), ‘relevant accounts’—

*omit, insert—*

financial disclosure statement

(3) Section 569(a)(ii), from ‘accounts’ to ‘committee’—

*omit, insert—*

statement to a general

(4) Section 569(b), ‘accounts’—

*omit, insert—*

statement

**40 Amendment of s 570 (Report and accounts must be filed)**

(1) Section 570, heading—

*omit, insert—*

**570 Report and statement must be filed and published**

(2) Section 570(1)(a), ‘relevant accounts’—

*omit, insert—*

financial disclosure statement

(3) Section 570(1)(b), from ‘accounts’ to ‘committee’—

*omit, insert—*

statement have been presented to a general

(4) Section 570(2)—

*renumber* as section 570(3).

(5) Section 570—

*insert*—

(2) An organisation must ensure a copy of the audit report and its financial disclosure statement—

(a) is, within the required period, published in the approved way; and

*Note*—

See section 655A for how the copy must be published.

(b) continues to be published for a period of 2 years from the end of the required period.

Maximum penalty—40 penalty units.

(6) Section 570(3), as renumbered, definition *required period*, 'accounts'—

*omit, insert*—

statement

## 41 Insertion of new ch 12, pt 12, div 5, sdiv 1

Chapter 12, part 12, division 5, before section 571—

*insert*—

### **Subdivision 1 Preliminary**

#### **570A Compliance functions of registrar**

The functions of the registrar include the following—

(a) investigating and monitoring the compliance of organisations with this part;

(b) reporting to the chief executive on all investigations conducted by the registrar;

- (c) referring to the chief executive matters involving suspected unlawful conduct, other than a contravention of this part, of an organisation or an employee or officer of an organisation;
- (d) in particular circumstances, engaging an auditor under section 575 to examine an organisation's accounting records.

**42 Insertion of new ch 12, pt 12, div 5, sdiv 2 hdg**

After section 570A, as inserted by this Act—

*insert—*

**Subdivision 2 Investigations by registrar**

**43 Replacement of s 571 (Registrar's investigations)**

Section 571—

*omit, insert—*

**571 Grounds for registrar's investigation**

- (1) The registrar must investigate whether an organisation has complied with this part if—
  - (a) an audit report for the organisation states—
    - (i) there was an accounting deficiency in the organisation's accounts; or
    - (ii) another matter the registrar considers should be investigated; or
  - (b) the registrar reasonably suspects, on the basis of any information within the registrar's knowledge or possession, that the organisation has contravened this part; or
  - (c) asked to do so by the chief executive; or
  - (d) asked to do so by the required number of members of the organisation.

- (2) The registrar may also investigate whether an organisation has complied with this part in another circumstance prescribed under a regulation.
- (3) However, this section does not apply if the registrar is given a direction not to investigate the matter under section 571B(2).

### **571A Notification of particular matters to chief executive**

- (1) Before the registrar starts an investigation, the registrar must notify the chief executive of the matter that is to be investigated.
- (2) Also, the registrar must notify the chief executive of any other matter the registrar reasonably suspects, on the basis of information within the registrar's knowledge or possession, involves or may involve unlawful conduct, other than a contravention of this part, by—
  - (a) an organisation; or
  - (b) an employee or officer of an organisation.

### **571B Chief executive may discontinue registrar's investigation**

- (1) This section applies if—
  - (a) the registrar gives the chief executive notice of an investigation of a matter under section 571A; and
  - (b) the chief executive is satisfied that the matter is being, has been or will be investigated under part 15A, division 3.
- (2) The chief executive may direct the registrar not to investigate the matter.

- (3) A direction under subsection (2) must be given as soon as practicable after the notice mentioned in subsection (1)(a) is given to the chief executive.
- (4) If a direction under subsection (2) is given—
  - (a) the registrar must—
    - (i) take all reasonable steps to immediately stop the investigation; and
    - (ii) if information or documents have been given to the registrar in compliance with a direction given under section 572 or 572A—give the information or documents to the chief executive; and
  - (b) for a direction that has been given by the registrar under section 572 or 572A in relation to the investigation that has not been complied with—
    - (i) the direction is taken to be of no further effect; and
    - (ii) the registrar must immediately notify the person to whom the direction was given that it is of no further effect.

**44 Replacement of s 572 hdg (Registrar's directions for investigation)**

Section 572, heading—

*omit, insert—*

**572 Registrar's power to obtain information  
from current or former auditor, employee  
or officer of organisation**

**45 Insertion of new s 572A**

After section 572—

*insert—*

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### **572A Registrar's power to obtain information from other persons**

- (1) This section applies to a person (a *third party*) who is not an auditor, employee or officer, or a former auditor, employee or officer, of the organisation if—
  - (a) the registrar has given a direction under section 572 to a person; and
  - (b) after considering any information or documents given in compliance with the direction, the registrar reasonably believes—
    - (i) there is information relevant to the investigation within the third party's knowledge or possession; or
    - (ii) the third party has control or custody of documents relevant to the investigation; and
  - (c) the registrar reasonably believes it is unlikely the information or documents could be obtained by giving a direction under section 572 to a person who is an auditor, employee or officer, or a former auditor, employee or officer, of the organisation.
- (2) The registrar may direct the third party to give the registrar—
  - (a) information relevant to the investigation within the third party's knowledge or possession; or
  - (b) documents relevant to the investigation over which the third party has control or custody.
- (3) If a direction is given to a third party under this section, the third party must comply with the direction, unless the third party has a reasonable excuse for not complying with the direction.

Maximum penalty—40 penalty units.

- (4) It is a reasonable excuse for a third party who is an individual not to comply with the direction if doing so might tend to incriminate the third party.

## 46 Insertion of new s 574A

After section 574—

*insert—*

### **574A Registrar to report to chief executive**

- (1) The registrar must report the results of the investigation to the chief executive.
- (2) The report must—
- (a) contain or be accompanied by—
    - (i) all relevant information or documents obtained by the registrar for the investigation; and
    - (ii) if the registrar has given the organisation a notice under section 573(2)—a copy of the notice; and
  - (b) state the registrar's findings and the reasons for the findings; and
  - (c) if the registrar reasonably suspects the organisation, or an employee or officer of the organisation, has committed an offence against an Act or a law of another State or the Commonwealth, state—
    - (i) details of the suspected offence; and
    - (ii) the registrar's recommendation about whether the chief executive should, under section 636G(2)(b), refer the matter of the suspected offence to the commissioner of the police service or the commissioner of a police force or



service of another State or the  
Commonwealth; and

(iii) the reasons for the registrar's  
recommendation.

**47 Insertion of new ch 12, pt 12, div 5, sdiv 3 hdg**

After section 574A, as inserted by this Act—

*insert—*

**Subdivision 3 Examinations and audits  
by registrar**

**48 Amendment of s 575 (Registrar's examinations and  
audits)**

(1) Section 575(1)(b), 'in its accounts'—

*omit, insert—*

for a matter mentioned in section 560(a) to (f)

(2) Section 575—

*insert—*

(3) In this section—

***accounting records***, of an organisation for a  
financial year, includes the organisation's  
financial disclosure statement and mid-year  
financial disclosure statement for the financial  
year.

**49 Omission of ch 12, pt 12, div 6 (Loans, grants and  
donations)**

Chapter 12, part 12, division 6—

*omit.*

**50 Insertion of new ch 12, pt 12A**

Chapter 12—

*insert—*

**Part 12A Political party affiliation must be stated in political advertising**

**579A When is an organisation *affiliated* with a political party**

An organisation is *affiliated* with a political party if, under the political party's constitution or rules—

- (a) the organisation is recognised as an affiliate or a member of the political party; or
- (b) the organisation is entitled to—
  - (i) appoint delegates to the political party's governing body; or
  - (ii) participate in selecting the political party's candidates for election.

**579B Political party affiliation must be stated in political advertising**

- (1) This section applies to an organisation that is affiliated with a political party.
- (2) The organisation must not publish or distribute in any way, including through advertising, material about a political matter unless the material includes, at its end, a statement that the organisation is affiliated with the political party.  
Maximum penalty—85 penalty units.
- (3) For subsection (2), the organisation publishes or distributes material about a political matter if the organisation—

- (a) publishes or distributes the material; or
- (b) authorises another person to publish or distribute the material.

**51 Omission of ch 12, pt 13, div 1, sdiv 3 (Exemption from accounting or audit provisions)**

Chapter 12, part 13, division 1, subdivision 3—  
*omit.*

**52 Amendment of s 590 (Who may apply)**

Section 590, 'to 4'—  
*omit, insert—*  
and 3

**53 Amendment of s 591 (Grant of exemption)**

- (1) Section 591(2) and (3)—  
*renumber* as section 591(3) and (4).
- (2) Section 591—  
*insert—*
  - (2) However, the registrar may not exempt the organisation from the obligation to appoint a competent person as its auditor to inspect and audit the organisation's financial disclosure statement and mid-year financial disclosure statement for a financial year.
- (3) Section 591—  
*insert—*
  - (5) In this section—  
*competent person* see section 558(3).

**54 Replacement of s 592 (Obligation to file copies of reports under other Act or law)**

Section 592—

*omit, insert—*

**592 References to audit report for pt 12, div 4**

- (1) This section applies if—
  - (a) the registrar has, under section 591, granted an exemption for an organisation from the requirement to appoint an auditor to inspect and audit the organisation's accounting records and make a report under part 12, division 3; and
  - (b) another Act or law requires the organisation or its counterpart federal body to appoint an auditor to inspect and audit the organisation's accounting records and make a report.
- (2) A reference in part 12, division 4 to an organisation's audit report is taken to be a reference to the audit report prepared for the organisation under the other Act or law.

**55 Insertion of new ch 12, pt 15A**

Chapter 12—

*insert—*

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## **Part 15A            Complaints,                          investigations and                          appointment of                          administrator**

### **Division 1            Complaints**

#### **636A Making complaint about organisation or                          officer**

- (1) A person may make a complaint to the chief executive about an organisation if the person believes—
  - (a) the organisation, or a branch of the organisation, has ceased to function effectively; and
  - (b) there are no effective means under the rules of the organisation by which the organisation or branch can function effectively.
- (2) A person may make a complaint to the chief executive about an officer of an organisation if the person believes the officer has engaged in misconduct in relation to the organisation.

#### **636B Form of complaint**

The complaint must—

- (a) be in writing; and
- (b) contain particulars of the allegations on which it is founded; and
- (c) be verified by statutory declaration.

### **636C Dealing with complaints**

- (1) The chief executive must—
  - (a) expeditiously assess the complaint; and
  - (b) deal with the complaint in the way the chief executive considers most appropriate.
- (2) Without limiting subsection (1)(b), the chief executive may take all or any of the following actions—
  - (a) require the complainant to give further particulars of the complaint;
  - (b) refer the complaint to an inspector for investigation under chapter 10, division 2;
  - (c) if the complaint relates to conduct that could, if proved, constitute a contravention of chapter 12, part 12—refer the complaint to the registrar for investigation under chapter 12, part 12, division 5, subdivision 2;
  - (d) if the complaint relates to conduct that could, if proved, constitute an offence against an Act or a law of another State or the Commonwealth—refer the matter of the suspected offence to the commissioner of the police service or the commissioner of a police force or service of another State or the Commonwealth;
  - (e) notify the Minister of the complaint.
- (3) The chief executive may take no action, or decide to take no further action, in relation to the complaint only if—
  - (a) the complaint is not verified by statutory declaration; or
  - (b) further particulars relating to the complaint are not given under subsection (2)(a); or

- (c) the chief executive is satisfied that—
  - (i) the complaint is frivolous or vexatious;  
or
  - (ii) dealing with the complaint would be an unjustifiable use of resources.

### **636D Organisation or officer must be advised of complaint**

- (1) If the chief executive decides to take action under section 636C(2)(b), (c) or (e), the chief executive must, as soon as reasonably practicable after deciding to take the action—
  - (a) give notice to the organisation or officer of the nature of the complaint; and
  - (b) invite the organisation or officer to make, within the time stated in the notice, written representations to the chief executive about the complaint.
- (2) The time stated in the notice must be at least 5 business days after the notice is given.
- (3) The organisation or officer may make written representations to the chief executive within the time stated in the notice.
- (4) The chief executive must consider any representations made by the organisation or officer under subsection (3).
- (5) If the organisation or officer makes representations about a complaint notified to the Minister under section 636C(2)(e), the chief executive must give a copy of the representations to the Minister.

### **636E Ministerial direction**

The Minister may direct the chief executive to refer a complaint to an inspector for investigation under chapter 10, division 2.

## **Division 2            Notices and reports from registrar**

### **636F Application of div 2**

This division applies if the chief executive receives—

- (a) a notice from the registrar under section 571A(2); or
- (b) a report under section 574A of the results of an investigation conducted by the registrar.

### **636G Dealing with notice or report**

- (1) The chief executive must decide whether to take any further action on the matter to which the notice or report relates.
- (2) Without limiting subsection (1), the chief executive may take all or any of the following actions—
  - (a) refer the matter to an inspector for investigation under chapter 10, division 2;
  - (b) if the matter relates to conduct that could, if proved, constitute an offence against an Act or a law of another State or the Commonwealth—refer the matter of the suspected offence to the commissioner of the police service or the commissioner of a police force or service of another State or the Commonwealth;
  - (c) notify the Minister of the matter.



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### **636H Person to whom matter relates must be advised of matter**

- (1) If the chief executive decides to refer the matter to an inspector for investigation, the chief executive must, as soon as reasonably practicable after deciding to take the action—
  - (a) give notice of the nature of the matter to any person to whom the matter relates; and
  - (b) invite the person to make, within the time stated in the notice, written representations to the chief executive about the matter.
- (2) The time stated in the notice must be at least 5 business days after the notice is given.
- (3) The person may make written representations to the chief executive within the time stated in the notice.
- (4) The chief executive must consider any representations made by the person under subsection (3).
- (5) If the person makes representations about a matter notified to the Minister under section 636G(2)(c), the chief executive must give a copy of the representations to the Minister.

## **Division 3      Investigations**

### **636I Definition for div 3**

In this division—

*complaint* includes a matter mentioned in section 636G(1).

### **636J Application of div 3**

This division applies if the chief executive refers a complaint to an inspector for investigation under chapter 10, division 2.

### **636K Investigation report**

After investigating the complaint, the inspector must give the chief executive a written report (the *investigation report*) on the findings of the investigation.

### **636L Audit of organisation's accounting records**

- (1) The investigation report may include a recommendation to the chief executive that an auditor be appointed to examine the organisation's accounting records for a financial year or another period if the inspector considers—
  - (a) the organisation has an accounting deficiency for a matter mentioned in section 560(a) to (f); or
  - (b) the organisation's property has been misappropriated or improperly applied; or
  - (c) the organisation, or an officer of the organisation, has committed an offence about the organisation's property.
- (2) If the chief executive decides to implement the recommendation to engage an auditor (the *complaints auditor*) to examine the organisation's accounting records, the complaints auditor must—
  - (a) examine the records; and
  - (b) give the chief executive a report on the audit (the *audit complaint report*).

- 
- (3) The complaints auditor, or an appropriately qualified person authorised in writing by the complaints auditor, has the powers and privileges of an organisation's auditor.

*Note—*

See sections 563 (Auditor's powers) and 564 (Auditors have qualified privilege).

- (4) If a branch of an organisation keeps accounting records and accounts separate from the organisation's accounts, subsections (1) and (2) apply in relation to the branch as if the references to the organisation were a reference to the branch.

*Note—*

See also section 553 (Part applies to branches with separate financial affairs).

- (5) In this section—  
***accounting records***, of an organisation for a financial year, includes the organisation's financial disclosure statement and mid-year financial disclosure statement for the financial year.

### **636M Cooperating with investigation or audit**

- (1) An officer or employee of an organisation who is being investigated by an inspector must assist in and cooperate with the investigation unless the officer or employee has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) If an organisation is being investigated by an inspector or audited by a complaints auditor, the organisation must ensure the officers and employees of the organisation assist in and cooperate with the investigation or audit unless the organisation has a reasonable excuse.

Maximum penalty—40 penalty units.

- (3) For subsection (1), it is a reasonable excuse for an officer or employee not to assist in and cooperate with the investigation if doing so might tend to incriminate the officer or employee.

### **636N Audit costs**

The costs of an audit under this division are payable by the State.

## **Division 4            Appointment of administrator**

### **636O Chief executive may appoint administrator**

- (1) This section applies if the chief executive is reasonably satisfied, on the basis of an investigation report or audit complaint report, that—
  - (a) an organisation, or a branch of an organisation, has ceased to function effectively; and
  - (b) there are no effective means under the rules of the organisation by which the organisation or branch can function effectively.
- (2) Subject to sections 636P and 636Q, the chief executive may, by gazette notice, appoint an appropriately qualified person as administrator of the organisation or branch.
- (3) The notice must include—
  - (a) the date of appointment; and
  - (b) the appointee's name; and

- (c) the appointee's business address.
- (4) The gazette notice is not subordinate legislation.
- (5) However, the *Statutory Instruments Act 1992*, sections 49 to 51 apply to the gazette notice as if it were subordinate legislation.
- (6) The administrator holds office until the administrator's appointment is revoked.
- (7) In this section—  
*appropriately qualified* means having the qualifications, experience or standing appropriate to perform the functions and exercise the powers of an administrator.

### **636P Organisation or branch must be advised of intention to appoint administrator**

- (1) The chief executive must not appoint an administrator for an organisation, or a branch of an organisation, unless the chief executive—
  - (a) gives notice to the organisation or branch about the chief executive's intention to appoint an administrator and the reasons for the intention; and
  - (b) invites the organisation or branch to make, within the time stated in the notice, written representations to the chief executive about the intention; and
  - (c) has regard to any representations made under subsection (3).
- (2) The time stated in the notice under subsection (1)(b) must be at least 5 business days after the notice is given.
- (3) The organisation or branch may make written representations to the chief executive about the

intention to appoint an administrator within the time stated in the notice.

### **636Q Injustice to organisation or branch and interests of members**

The chief executive must not appoint an administrator for an organisation, or a branch of an organisation, unless the chief executive is satisfied that—

- (a) the appointment of an administrator would not do substantial injustice to the organisation or branch; and
- (b) it is in the interests of the members of the organisation or branch that the affairs of the organisation or branch be conducted by an administrator.

### **636R Primary function of administrator**

- (1) An administrator for an organisation or a branch of an organisation has, during the term of office of the administrator and to the exclusion of any other person, the function of the conduct and management of the affairs of the organisation or branch.
- (2) However, the function of the administrator may be limited by the administrator's notice of appointment.

### **636S Additional functions of administrator**

The administrator for an organisation or a branch of an organisation has the following additional functions—

- (a) to give the Minister a report, at intervals stated by the Minister, on the financial position of the organisation or branch, its functions and anything else the Minister

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requires the administrator to include in the report;

- (b) to give the Minister a final report on the administration.

### **636T Powers of administrator**

An administrator for an organisation or a branch of an organisation may do anything necessary or convenient to be done for, or in connection with, the administrator's functions.

### **636U Providing assistance to administrator**

- (1) An administrator for an organisation or a branch of an organisation may, for the purpose of performing the administrator's functions, by written notice to an officer or employee or former officer or employee of the organisation or branch, require the person to do the following—
  - (a) produce to the administrator documents in the person's possession that the administrator reasonably requires to perform those functions;
  - (b) provide the other information or assistance that the administrator reasonably requires for the purposes of the performance of those functions.
- (2) A person of whom the requirement has been made must comply with it unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (3) It is a reasonable excuse for the person not to comply with the requirement if doing so might tend to incriminate the person.

### **636V Protection from liability**

- (1) An administrator for an organisation or a branch of an organisation is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents civil liability attaching to a person, the liability attaches instead to the State.

## **56 Insertion of new s 655A**

After section 655—

*insert—*

### **655A Requirements for publishing particular documents**

- (1) This section applies if, under this chapter, an organisation is required to ensure a document is published in the approved way.
- (2) The document must be published on—
  - (a) the organisation’s website; or
  - (b) if the organisation does not have a website—the QIRC’s website.
- (3) The document must be in a form that is reasonably accessible and transparent.
- (4) If the registrar receives, from an organisation, a document under this chapter together with a request to publish the document on the QIRC website, the registrar must publish the document on the QIRC website as soon as practicable.
- (5) In this section—

***published***, on a website, means made accessible in full to the public on the website.



**56A Amendment of s 679 (Confidential material tendered in evidence)**

Section 679(2), ‘the president, a commissioner’—

*omit, insert—*

a member of the court or the commission

**57 Amendment of s 691C (Particular provisions are of no effect)**

(1) Section 691C(1)—

*insert—*

(d) a policy incorporation provision;

(e) an encouragement provision.

(2) Section 691C(2)—

*insert—*

***encouragement provision*** means a provision that, directly or indirectly—

(a) requires a person to encourage another person to join or maintain membership of an industrial association; or

(b) requires a person to supply the employer’s facilities, resources or premises to an officer, employee or other representative of an industrial association; or

(c) requires an employer to facilitate deductions of industrial association membership subscriptions from an employee’s wages; or

(d) requires a person to give employees information about, or on behalf of, an industrial association; or

(e) allows employees, during the employees’ working time, to attend—

- (i) training, conferences or other activities facilitated by an industrial association; or
- (ii) a meeting of members of, or organised by, an industrial association.

*Examples—*

The following provisions, as in force on 1 March 2013, are examples of encouragement provisions—

- clause 11.3 of the District Health Services Employees' Award - State 2012
- part 11.5 and 11.6 of the Queensland Health Framework Award - State 2012.

***industrial association*** see section 102.

***policy incorporation provision—***

- (a) means a provision that does either or both of the following—
  - (i) applies to, adopts for or incorporates into the relevant industrial instrument another document that is a policy;
  - (ii) provides that another document that is a policy, as it is applied to, adopted for or incorporated into the relevant industrial instrument, can only be amended by agreement between 2 or more of the parties to the instrument; but
- (b) does not include a TCR provision.

*Examples—*

The following provisions, as in force on 1 March 2013, are examples of policy incorporation provisions—

- clause 2.5 and schedule 2 of the Queensland Public Health Sector Certified Agreement (No. 8) 2011 (EB8)
- clause 4.13 and schedule 4 of the Queensland Health Framework Award - State 2012

- clause 11 and schedule 5 of the Health Practitioners' (Queensland Health) Certified Agreement (No. 2) 2011 (HPEB2).

(3) Section 691C(2), definition *contracting provision*, paragraphs (a) and (b)—

*omit, insert—*

- (a) means a provision that—
  - (i) directly or indirectly requires, restricts or prohibits the contracting out, or in, of services; or
  - (ii) is about the terms or conditions on which services may be contracted out or in; or
  - (iii) is otherwise about the contracting out, or in, of services; but
- (b) does not include a TCR provision.

(4) Section 691C(2), definition *organisational change provision*—

*omit, insert—*

***organisational change provision*** means a provision, other than a TCR provision, that—

- (a) requires the employer to do any of the following before, or in relation to, making a decision about, or implementing, proposed organisational change—
  - (i) notify an entity about the proposed organisational change;
  - (ii) consult with an entity about the proposed organisational change;
  - (iii) involve an entity in the decision-making process for the proposed organisational change; or
- (b) is otherwise about organisational change.

*Examples—*

- 1 The following provisions, as in force on 1 July 2013, are examples of organisational change provisions—
  - clause 7.3 of the State Government Departments Certified Agreement 2009
  - clauses 3.2, 4.1 and 4.2 of the Queensland Public Health Sector Certified Agreement (No. 8) 2011 (EB8)
  - clause 1.17(vi) and (vii) of the Queensland Public Health Sector Certified Agreement (No. 8) 2011 (EB8).
- 2 Also, the following provisions, as in force immediately before the date of assent of the *Queensland Rail Transit Authority Act 2013*, are examples of organisational change provisions—
  - clause 22 of the Queensland Rail Customer Service Enterprise Agreement 2011
  - clause 41 of the QR Passenger Pty Limited Traincrew Union Collective Workplace Agreement 2009.

**57A Amendment of s 708 (Approved forms)**

- (1) Section 708(1), ‘president’—

*omit, insert—*

rules committee

- (2) Section 708(1A)—

*omit, insert—*

- (1A) When acting under subsection (1), the rules committee must consult with—

- (a) for a form relating to the Industrial Magistrates Court—the Chief Magistrate; or
- (b) for a form relating to the registry—the registrar.

- (3) Section 708(1A) and (2)—  
*renumber* as section 708(2) and (3).

**58 Insertion of new ch 20, pt 16**

Chapter 20—

*insert*—

**Part 16 Transitional provisions  
for Industrial Relations  
(Transparency and  
Accountability of  
Industrial  
Organisations) and  
Other Acts Amendment  
Act 2013**

**789 Definitions for pt 16**

In this part—

*amended Act* means this Act as amended by the amending Act.

*amending Act* means the *Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Act 2013*.

*commencement* means the day on which the provision in which the term is used commences.

*new*, for a provision of this Act, means the provision as in force after the commencement.

*pre-amended Act* means this Act as in force before the commencement.

*previous*, for a provision of this Act, means the provision as in force before the commencement.

### **789A Appointment of first vice-president of the court**

- (1) Despite section 246A(1), on the commencement the person holding office as the vice-president of the commission is appointed as the vice-president of the court.
- (2) This Act applies to the appointee as if she had been appointed under section 246A.

### **789B Appointment of first deputy presidents of the court**

- (1) Despite section 246C(1), on the commencement each of the persons who is a legally qualified deputy president is appointed as a deputy president (court) of the court.
- (2) This Act applies to the appointees as if they had been appointed under section 246C.
- (3) In this section—  
*legally qualified deputy president* means a deputy president of the commission who, immediately before the commencement, is a lawyer of at least 5 years standing.

### **789C Industrial commissioners**

A person appointed as a commissioner under the pre-amended Act, section 259 is, on and from the commencement, taken to have been appointed as an industrial commissioner.

### **789D Proceedings in court started before commencement**

The pre-amended Act applies to a proceeding started in the court under section 317 before the

commencement as if this Act had not been amended by the amending Act.

### **789E Existing rules under this Act**

- (1) This section applies to rules made, before the commencement, under previous section 338 with the consent of the president.
- (2) From the commencement, the rules are taken to have been made under new section 338 with the consent of the rules committee.

### **790 Existing rules of an organisation**

- (1) This section applies if, because of the amendment of a provision by the amending Act, an organisation's rules—
  - (a) contravene this Act; or
  - (b) prevent members of the organisation from complying with this Act.
- (2) The organisation must take reasonable steps to amend the rules to comply with section 435 within 6 months after the commencement.
- (3) Action cannot be taken by a court under chapter 12, part 5, or by the registrar under chapter 12, part 6, division 1, in relation to the rule's contravention of section 435, because of the amendment, until the period mentioned in subsection (2) has passed.

### **790A Statement of interests of officer holding management office at commencement**

- (1) This section applies to an officer of an organisation who holds a management office in the organisation at the commencement.

- (2) For section 530C(1), the officer is taken to have been elected or appointed to the management office in the organisation on the commencement.

### **791 Financial policies**

New section 553A does not apply to an organisation until 6 months after the commencement.

### **792 Financial registers**

- (1) Subsection (2) applies if commencement is not on a day that is the start of a financial year for an organisation.
- (2) For the purposes of the organisation keeping a register under chapter 12, part 12, division 2A, other than a register under section 557BB, for the first financial year starting after commencement, the financial year is taken to have started on the day of commencement.
- (3) Sections 557D and 557E do not apply to an organisation until 1 month after the commencement.

### **793 Audits for financial years ending before commencement**

Previous chapter 12, part 12, divisions 3 and 4 apply in relation to a financial year that ended before commencement, as if the amending Act had not been enacted.

### **794 Application of amended ch 12, pt 12, div 5 in relation to registrar's investigations**

- (1) Section 571(1)(b), as inserted by the amending Act, and section 571A(2) apply to information



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whether it came into the registrar's knowledge or possession before, on or after the commencement.

- (2) Sections 572A and 574A apply to an investigation started before, on or after the commencement.

### **795 Particular exemption for organisations with counterpart federal bodies is of no effect**

- (1) This section applies if, immediately before the commencement, an exemption under previous section 587 from the whole or part of previous chapter 12, part 12, divisions 2 to 4 was in force for an organisation.
- (2) Subject to subsections (3) and (4), the exemption stops having effect at the commencement.
- (3) If the commencement is not on a day that is the start of a financial year for the organisation, the exemption continues in force until the end of that financial year despite the repeal of section 587 by the amending Act.
- (4) Previous sections 588 and 589 continue to apply to the organisation for a financial year for which the exemption was in force, or continues to be in force under subsection (3), as if the amending Act had not been enacted.

### **796 Particular exemption for employer organisations that are corporations is of no effect**

- (1) This section applies if, before the commencement, an organisation was granted an exemption under previous section 591 from the whole or part of chapter 12, part 12, division 4.

- (2) The exemption stops having effect—
  - (a) at the commencement; or
  - (b) if commencement falls within a financial year for the organisation—at the end of that financial year.
- (3) Previous section 592 and section 593 continue to apply to the organisation for a financial year for which the exemption was in force or continues to be in force under subsection (2)(b), as if the amending Act had not been enacted.

#### **797 Certified agreements containing newly invalid provisions**

- (1) This section applies if—
  - (a) an employer has, before the commencement, taken steps under section 144 (including because of the operation of section 147A(4)) in relation to a certified agreement proposed to be made with an employee organisation or employees; and
  - (b) the agreement includes a newly invalid provision; and
  - (c) the agreement has not been made at the commencement.
- (2) The steps taken by the employer under section 144 before the commencement are not invalidated merely because the steps involve explaining the effect of a newly invalid provision.
- (3) However, this section stops applying in relation to the certified agreement if, under section 151, the steps in section 144(2) or (3) must be taken again because the agreement is amended after the commencement.
- (4) In this section—

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*newly invalid provision* means a provision to which previous section 691C did not apply but new section 691C applies.

### **797A Existing approved forms**

- (1) This section applies to forms approved, before the commencement, by the president under previous section 708(1).
- (2) From the commencement, the forms are taken to have been approved by the rules committee under new section 708(1).

### **798 Transitional regulation-making power**

- (1) A regulation (a *transitional regulation*) may make provision of a saving or transitional nature for which—
  - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the pre-amended Act to the operation of the amended Act; and
  - (b) this Act does not make provision or sufficient provision.
- (2) Without limiting subsection (1), a transitional regulation may continue the operation of a repealed provision.
- (3) A transitional regulation may have retrospective operation to a day that is not earlier than the day of the commencement.
- (4) A transitional regulation must declare it is a transitional regulation.
- (5) This section and any transitional regulation expire 2 years after the day of commencement.

### **799 Amendment to renumber particular provisions**

- (1) On the commencement, the following provisions of this Act are amended by numbering and renumbering them in the same way as a reprint may be numbered and renumbered under the *Reprints Act 1992*, section 43—
  - (a) sections 553BA to 553S;
  - (b) sections 557BA to 557ZB;
  - (c) sections 789A to this section.
- (2) Subsection (1) applies to a provision of this Act enacted or otherwise affected (a ***relevant provision***) by a provision of the amending Act enacted but uncommenced when subsection (1) is commenced (the ***uncommenced provision***), with the intent mentioned in subsection (3) for the relevant provision.
- (3) If the number of the relevant provision would have changed under subsection (1) had the uncommenced provision commenced—
  - (a) a number is allocated to the relevant provision as if the uncommenced provision had commenced; and
  - (b) when the uncommenced provision commences, the number of the relevant provision is amended by omitting it and inserting the number allocated to it under paragraph (a).
- (4) Each reference in this Act to a provision renumbered under subsection (1) is amended, when the renumbering happens, by omitting the reference to the previous number and inserting the new number.
- (5) This section expires on the day after the commencement of the last numbering or

renumbering of a provision done under the section.

(6) This section does not limit the *Reprints Act 1992*.

## 58A Amendment of sch 2 (Appointments)

(1) Schedule 2, part 1, heading, after ‘presidents and’—

*insert—*

**industrial**

(2) Schedule 2, part 1, section 1(3) and (5), ‘a commissioner’—

*omit, insert—*

an industrial commissioner

(3) Schedule 2, part 1, section 1(7), definition *relevant member*—

*omit, insert—*

***relevant member*** means a member of the court or of the commission other than a president who is a Supreme Court judge.

(4) Schedule 2, part 1, section 2(1), after ‘to a member’—

*insert—*

of the court or commission (each a ***member***)

(5) Schedule 2, part 1, section 2A(6), definition *relevant member*—

*omit, insert—*

***relevant member*** means a member of the court or of the commission other than a president who is a Supreme Court judge.

(6) Schedule 2, part 1, section 3(1), after ‘on a member’—

*insert—*

of the court or commission

(7) Schedule 2, part 1, section 4(1), after ‘to a member’—

*insert—*

of the court or commission

- (8) Schedule 2, part 1, section 4A(1), after ‘or a member’—

*insert—*

of the commission

- (9) Schedule 2, part 1, section 4AA(2), definition *relevant member*—

*omit, insert—*

***relevant member*** means a member of the court or the commission other than a president who is a Supreme Court judge.

- (10) Schedule 2, part 1, section 4B, after ‘A member’—

*insert—*

of the court or commission

- (11) Schedule 2, part 1A, section 4C(1), ‘members of the commission’—

*omit, insert—*

vice-president, a deputy president or an industrial commissioner

## 59 Amendment of sch 5 (Dictionary)

- (1) Schedule 5, definition *industrial instrument*—

*omit.*

- (1A) Schedule 5, definitions *commissioners, deputy president, member* and *vice president*—

*omit.*

- (2) Schedule 5—

*insert—*

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***administrator***, for an organisation or a branch of an organisation, means an administrator appointed for the organisation or branch under section 636O.

***affiliated***, with a political party, see section 579A.

***amount in relation to employment***, for chapter 11, part 2, division 3, see section 390A.

***approved way***, for publishing a document, means published under section 655A.

***audit complaint report*** see section 636L(2)(b).

***board member officer*** means an officer of an organisation who is a board member officer under section 557I(1)(c).

***candidate for election***, for chapter 12, part 12, division 1B and chapter 12, part 12A, see section 553CA.

***complaint***, for chapter 12, part 15A—

- (a) generally means a complaint made under section 636A; and
- (b) for chapter 12, part 15A, division 3—see also section 636I.

***complaints auditor*** see section 636L(2).

***continuing health employee***, for chapter 11, part 2, division 3, see section 390A.

***employer notice***, for chapter 11, part 1, division 4, see section 372B(2).

***entry notice***, for chapter 11, part 1, division 4, see section 372A(2).

***expenditure ballot*** see section 553D(2).

***final payment***, for chapter 11, part 2, division 3, see section 390A.

***financial disclosure statement***, for an organisation for a financial year, means a financial disclosure statement prepared by the organisation under section 557Q for the year.

***gift***, for chapter 12, part 12, see section 551.

***health employee***, for chapter 11, part 2, division 3, see section 390A.

***health employer***, for chapter 11, part 2, division 3, see section 390A.

***highest paid officer*** means an officer of an organisation who is 1 of the organisation's highest paid officers under section 557I(1)(a) or (b).

***industrial instrument***—

(a) generally, means an award, certified agreement, industrial agreement, EFA, code of practice under section 400I or order under chapter 5, parts 5 and 6; and

(b) for chapter 15, part 2—see section 691A.

***initial financial disclosure statement***, for an organisation, means an initial financial disclosure statement prepared by the organisation under section 557J.

***initial year***, for chapter 12, part 12, division 2B—see section 557H.

***investigation report*** see section 636K.

***legislature***, for chapter 12, part 12, division 1B, see section 553CA.

***local government***, for chapter 12, part 12, division 1B, see section 553CA.

***management office***, for chapter 12, part 9, division 5, see section 530C(1).



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***mid-year financial disclosure statement***, for an organisation for a financial year, means a mid-year financial disclosure statement prepared by the organisation under section 557Y for the year.

***misconduct***, of an officer of an organisation or a branch of an organisation, means—

- (a) conduct that could, if proved, constitute an offence against an Act or a law of another State or the Commonwealth; or
- (b) gross misbehaviour or gross neglect of duty in the office.

***non-cash benefit***, for chapter 12, part 12, see section 551.

***particulars***, for chapter 12, part 9, division 5, see section 530C(1).

***political matter***, for chapter 12, part 12, division 1B and chapter 12, part 12A, see section 553CA.

***political object*** see section 553CA.

***political party***, for chapter 12, part 12, division 1B and chapter 12, part 12A, see section 553CA.

***political purpose*** see section 553C.

***Queensland Health***, for chapter 11, part 2, division 3, see section 390A.

***relevant industrial instrument***, for chapter 15, part 2, see section 691A.

***remuneration***, for chapter 12, part 12, see section 551.

***rules committee*** means the rules committee established under section 337A.

***sponsored hospitality benefit***, for chapter 12, part 12, see section 551.

***TCR provision***, for chapter 15, part 2, see section 691A.

***untaken leave***, for chapter 11, part 2, division 3, see section 390A.

(3) Schedule 5—

*insert—*

***commissioner*** see section 256(1).

***deputy president*** means—

- (a) a deputy president (court); or
- (b) a person appointed as a deputy president of the commission under section 258A.

***deputy president (court)*** means a person appointed as a deputy president (court) of the court under section 246C.

***industrial commissioner*** means a person appointed as an industrial commissioner under section 259.

***member—***

- (a) of the court means the president, the vice-president or a deputy president (court); or
- (b) of the commission means a commissioner.

***vice-president*** means the person appointed as the vice-president of the court under section 246A.

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## **Part 2A**                      **Amendment of Anti-Discrimination Act 1991**

### **59A Act amended**

This part amends the *Anti-Discrimination Act 1991*.

### **59B Amendment of s 106A (Compulsory retirement age under legislation etc.)**

(1) Section 106A(1)(e), ‘President’—

*omit, insert—*

president, the vice-president or a deputy president  
(court)

(2) Section 106A(1)(f), before ‘an industrial’—

*insert—*

a deputy president appointed under the *Industrial Relations Act 1999*, section 258A or

## **Part 2B**                      **Amendment of Commissions of Inquiry Act 1950**

### **59C Act amended**

This part amends the *Commissions of Inquiry Act 1950*.

### **59D Amendment of s 4A (Interaction of commission with courts etc.)**

Section 4A(1)(b), ‘a member of the said’—

*omit, insert—*

the president of the

## **Part 2C                      Amendment of Corrective Services Act 2006**

### **59E    Act amended**

This part amends the *Corrective Services Act 2006*.

### **59F    Amendment of s 209 (Automatic cancellation of order by further imprisonment)**

(1) Section 209(3)(b)(iii)—

*omit.*

(2) Section 209(3)(b)(iv)—

*renumber* as section 209(3)(b)(iii).

## **Part 2D                      Amendment of Criminal Code**

### **59G    Code amended**

This part amends the Criminal Code.

### **59H    Amendment of s 227C (Persons who are not criminally responsible for offences against ss 227A and 227B)**

(1) Section 227C(3), definition *supervision order*, paragraph  
(d)—

*omit.*

- (2) Section 227C(3), definition *supervision order*, paragraph (e)—  
*renumber* as paragraph (d).

**59I Amendment of s 552H (Maximum penalty for indictable offences dealt with summarily)**

Section 552H(1)—

*omit, insert—*

- (1) A person is liable on summary conviction under section 552A, 552B or 552BA to a maximum penalty of—
- (a) if the Magistrates Court is constituted by a magistrate—100 penalty units or 3 years imprisonment; or
  - (b) if the Magistrates Court is constituted by justices under section 552C(1)(b)—100 penalty units or 6 months imprisonment.

**Part 2E Amendment of Drug Court Act 2000**

**59J Act amended**

This part amends the *Drug Court Act 2000*.

**59K Amendment of s 12A (Application of pt 3A)**

Section 12A—

*insert—*

*Note—*

See section 12B(1A) for the ending of referrals for indicative assessment under this part.

## **59L Amendment of s 12B (Referral for indicative assessment)**

(1) Section 12B—

*insert—*

(1A) However, a magistrate must not decide to refer a person for an indicative assessment on or after the relevant day.

(2) Section 12B(4)—

*insert—*

*Note—*

See section 12E for how a drug court magistrate must deal with the proceeding after an indicative assessment report has been submitted.

(3) Section 12B(6)—

*omit.*

## **59M Insertion of new s 12E**

Part 3A—

*insert—*

### **12E Dealing with proceedings after submission of indicative assessment report**

- (1) If an indicative assessment report about a person is given to a drug court magistrate on or after the relevant day, the magistrate must exercise the jurisdiction of a Magistrates Court and deal with the person according to law.
- (2) A drug court magistrate may take account of the indicative assessment report when sentencing the person for the offence.

**59N Amendment of s 13 (Application of pt 4)**

Section 13—

*insert—*

*Note—*

See section 16C for the ending of referrals for assessment under this part.

**59O Amendment of s 15 (Deciding whether to refer for assessment)**

Section 15—

*insert—*

- (3) However, a magistrate must not make a decision about whether the person appears to be an eligible person, or to refer the person for assessment on or after the relevant day.

**59P Amendment of s 16 (Referral for assessment)**

Section 16(5)—

*insert—*

*Note—*

See section 16C for how a drug court magistrate must deal with the proceeding if an assessment report or a pre-sentence report is submitted on or after the relevant day.

**59Q Amendment of s 16A (Assessment report)**

Section 16A(4)—

*insert—*

*Note—*

See section 16C for how a drug court magistrate must deal with the proceeding if an assessment report or a pre-sentence report is submitted on or after the relevant day.

**59R Insertion of new s 16C**

Part 4—

*insert—*

**16C Dealing with proceedings after submission of assessment report and pre-sentence report**

- (1) If an assessment report or a pre-sentence report about a person is given to a drug court magistrate on or after the relevant day, the magistrate must exercise the jurisdiction of a Magistrates Court and deal with the person according to law.
- (2) A drug court magistrate may take account of the assessment report and the pre-sentence report when sentencing the person for the offence.

**59S Amendment of s 17 (Application of pt 5)**

Section 17(2)—

*omit, insert—*

- (2) However, if the person appears before the drug court magistrate on or after the relevant day—
  - (a) division 2, other than section 26(2), does not apply to the person; and
  - (b) the magistrate must exercise the jurisdiction of a Magistrates Court and deal with the person according to law.

**59T Amendment of s 29 (Dealing with offenders if no intensive drug rehabilitation order made)**

Section 29, ‘decides not to’—

*omit, insert—*

does not



**59U Amendment of s 33 (Amending intensive drug rehabilitation orders)**

Section 33—

*insert—*

(1A) Also, if a drug court magistrate must conduct a court review in relation to an offender, the magistrate must amend the requirements of the offender's intensive drug rehabilitation order or rehabilitation program if the magistrate is satisfied on the balance of probabilities the offender can, before 30 June 2013—

- (a) comply with the amended intensive drug rehabilitation order and complete the amended rehabilitation program; and
- (b) be sentenced under section 36.

(1B) However, a drug court magistrate need not amend the requirements of an intensive drug rehabilitation order or rehabilitation program if the magistrate is satisfied on the balance of probabilities the offender can, before 30 June 2013—

- (a) comply with the intensive drug rehabilitation order and complete the rehabilitation program; and
- (b) be sentenced under section 36.

(4) In this section—

*court review* means a review by a drug court requiring the attendance of an offender who is subject to an intensive drug rehabilitation order.

**59V Amendment of s 34 (Terminating rehabilitation programs)**

(1) Section 34(1)—

*insert—*

(f) a warrant is issued for the offender's arrest under section 40(1)(a).

(2) Section 34—

*insert—*

(1A) Also, a drug court magistrate must terminate a rehabilitation program decided for an offender if the magistrate is satisfied on the balance of probabilities there are not reasonable prospects the offender can, before 30 June 2013—

(a) comply with the intensive drug rehabilitation order or complete the rehabilitation program; and

(b) be sentenced under section 36.

(3) Section 34(3)(a)—

*omit, insert—*

(a) order that the record of the conviction for the offence be revoked; and

*Note—*

For the effect of not recording a conviction, see the *Penalties and Sentences Act 1992*, section 12.

(4) Section 34(3)(c), 'Supreme Court'—

*omit, insert—*

District Court

**59W Omission of s 35A (Inclusion of new rehabilitation program)**

Section 35A—

*omit.*

**59X Amendment of s 36 (Final sentence to be decided on completion or termination of rehabilitation program)**

Section 36(1)(b) and (2)—

*omit, insert—*

- (b) if the offence for which the offender's intensive drug rehabilitation order was made was not a prescribed drug offence—for any reason.
- (2) The magistrate must, before 30 June 2013—
  - (a) reconsider the offender's initial sentence; and
  - (b) vacate the intensive drug rehabilitation order; and
  - (c) impose a final sentence.

**59Y Amendment of s 40 (Arrest warrants)**

Section 40(4)—

*omit, insert—*

- (4) If the warrant is issued under subsection (1)(a), the drug court magistrate may remand the offender in custody to appear before a drug court magistrate if the drug court magistrate decides to—
  - (a) reserve making a decision about terminating the offender's rehabilitation program; or
  - (b) terminate the offender's rehabilitation program under section 34.
- (4A) If the warrant is issued under subsection (1)(b) and the offence for which the offender's intensive drug rehabilitation order was made was not a prescribed drug offence, the drug court magistrate may remand the offender in custody to

appear before a drug court magistrate to be sentenced under section 36 before 30 June 2013.

## **59Z Insertion of new s 40A**

After section 40—

*insert—*

### **40A Dealing with offender after arrest but no final sentence decided before 30 June 2013**

- (1) This section applies if an offender is arrested on the authority of a warrant issued under section 40 and brought before a drug court magistrate after the relevant day but can not be sentenced under section 36 before 30 June 2013.
- (2) The drug court magistrate must—
  - (a) order that the record of the conviction for the offence be revoked; and

*Note—*

For the effect of not recording a conviction, see the *Penalties and Sentences Act 1992*, section 12.

- (b) vacate the offender's intensive drug rehabilitation order; and
  - (c) deal with the offender according to law.
- (3) The magistrate—
  - (a) may remand the offender in custody to appear before a magistrate; or
  - (b) may release the offender on bail to appear before a magistrate; or
  - (c) if either of the following applies must, under the *Justices Act 1886*, section 113, commit the offender to the District Court for sentence—

- (i) the offence, in relation to which the intensive drug rehabilitation order for the offender was made, is a prescribed drug offence;
- (ii) the magistrate is satisfied, under the Criminal Code, section 552D, the offender, if dealt with under subsection (2)(c), may not be adequately punished on summary conviction.

*Note—*

For the maximum penalty for indictable offences dealt with summarily, see the Criminal Code, section 552H.

- (4) Subsection (3)(c) applies even though the magistrate has not addressed the defendant as required under the *Justices Act 1886*, section 104(2).
- (5) In sentencing an offender to whom subsection (3)(a) or (b) applies, the magistrate must have regard to the initial sentence contained in the offender's intensive drug rehabilitation order.
- (6) To remove any doubt, it is declared that—
  - (a) the *Bail Act 1980* applies to an offender who is arrested on the authority of a warrant issued under section 40 and to whom subsection (1) applies; and
  - (b) in applying the *Penalties and Sentences Act 1992*, section 159A, to a sentence for a term of imprisonment imposed on an offender under this section, time spent in custody, other than under section 32(1)(f), is taken to be imprisonment already served under the sentence.

**59ZA Insertion of new s 45**

Part 6—

*insert—*

**45 Expiry of Act**

This Act expires on 30 June 2013.

**59ZB Amendment of schedule (Dictionary)**

Schedule—

*insert—*

*relevant day* means the day section 12E commences.

**Part 2F Amendment of Judicial Remuneration Act 2007**

**59ZC Act amended**

This part amends the *Judicial Remuneration Act 2007*.

**59ZD Amendment of s 12 (Presidential members of the Industrial Commission)**

(1) Section 12, heading, ‘of the Industrial Commission’—

*omit, insert—*

**under the Industrial Relations Act 1999**

(2) Section 12(2), ‘Vice President of the Industrial Commission’—

*omit, insert—*

Vice-President of the Industrial Court

- (3) Section 12(3), ‘Industrial Commission’—  
*omit, insert—*  
Industrial Court or Commission

**59ZE Amendment of s 13 (Commissioner other than a presidential member of the Industrial Commission)**

- (1) Section 13, heading—  
*omit, insert—*  
**13 Industrial Commissioner**
- (2) Section 13, ‘A commissioner, other than a presidential member of the Industrial Commission,’—  
*omit, insert—*  
An industrial commissioner

**59ZF Amendment of s 16 (Jurisprudential allowance)**

- Section 16(2)(e), ‘Vice President of the Industrial Commission’—  
*omit, insert—*  
Vice-President of the Industrial Court

**59ZG Amendment of s 20 (Education and conference allowance)**

- Section 20(2)(a) and (b)—  
*omit, insert—*
- (a) a deputy president of the Industrial Court or Commission;
- (b) an industrial commissioner.

**59ZH Amendment of s 22 (Long leave allowance)**

- Section 22(2)(d), ‘of the Industrial Commission’ —

*omit, insert—*

under the *Industrial Relations Act 1999*

### **59ZI Amendment of s 29 (Notice of election)**

Section 29(a)—

*omit, insert—*

- (a) for a presidential member under the *Industrial Relations Act 1999*—the chief executive of the department in which that Act is administered;

### **59ZJ Amendment of sch 2 (Dictionary)**

- (1) Schedule 2, definitions *commissioner, deputy president of the Industrial Commission, presidential member, Vice President of the Industrial Commission*—

*omit.*

- (2) Schedule 2—

*insert—*

***deputy president of the Industrial Court or Commission*** means a deputy president under the *Industrial Relations Act 1999*.

***industrial commissioner*** means an industrial commissioner under the *Industrial Relations Act 1999*.

***Vice-President of the Industrial Court*** means the vice-president under the *Industrial Relations Act 1999*.

- (3) Schedule 2, definition *judicial office*, paragraphs (i) to (k)—

*omit, insert—*

- (i) Vice-President of the Industrial Court;



- (j) deputy president of the Industrial Court or Commission;
- (k) industrial commissioner;

## Part 2G                      Amendment of Justices Act 1886

### 59ZK Act amended

This part amends the *Justices Act 1886*.

### 59ZL Amendment of s 154 (Copies of record)

Section 154—

*insert—*

- (6) In this section—
  - exhibit* includes a document that—
    - (a) was given to a drug court under the repealed *Drug Court Act 2000*; and
    - (b) is about an offender who had appeared before a magistrate who was allocated the functions of a drug court magistrate under section 10 of that Act.

## **Part 2H**                      **Amendment of Local Government Act 2009**

### **59ZM Act amended**

This part amends the *Local Government Act 2009*.

### **59ZN Amendment of s 185 (Remuneration and appointment conditions of members)**

Section 185(3), ‘commissioner under’—

*omit, insert—*

commissioner, other than the president, under

## **Part 2I**                      **Amendment of Penalties and Sentences Act 1992**

### **59ZO Act amended**

This part amends the *Penalties and Sentences Act 1992*.

### **59ZP Insertion of new pt 14, div 6**

Part 14—

*insert—*

### **Division 6**                      **Transitional provisions for expiry of Drug Court Act 2000**

#### **227 Definitions for div 6**

In this division—

*Drug Court Act* means the *Drug Court Act 2000* as in force before its expiry.

*intensive drug rehabilitation order* means an order made under the Drug Court Act, section 19.

## **228 Application of div 6**

This division applies from 1 July 2013.

## **229 Continuation of warrants**

- (1) This section applies to a warrant issued under the Drug Court Act, section 40, for an offender before 30 June 2013—
  - (a) but not enforced; or
  - (b) enforced but not returned before a drug court magistrate before that day.
- (2) The warrant is taken to be a warrant—
  - (a) issued by a magistrate; and
  - (b) that authorises any police officer to arrest the offender and bring the offender before a magistrate.

## **230 Dealing with offences after enforcement of warrant**

- (1) This section applies if—
  - (a) an offender is arrested on a warrant mentioned in section 229; and
  - (b) the offender is brought before a magistrate.
- (2) The magistrate must—
  - (a) order that the record of the conviction for the offence be revoked; and

Part 2I Amendment of Penalties and Sentences Act 1992

[s 59ZP]

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*Note—*

For the effect of not recording a conviction, see section 12.

- (b) vacate the offender's intensive drug rehabilitation order; and
  - (c) deal with the offender according to law.
- (3) Also, the magistrate must, under the *Justices Act 1886*, section 113, commit the offender to the District Court for sentence if—
- (a) the offence, in relation to which the intensive drug rehabilitation order for the offender was made, is a prescribed drug offence under the Drug Court Act; or
  - (b) the magistrate is satisfied, under the Criminal Code, section 552D, the offender, if dealt with under subsection (2)(c), may not be adequately punished on summary conviction.

*Note—*

For the maximum penalty for indictable offences dealt with summarily, see the Criminal Code, section 552H.

- (4) Subsection (3) applies even though the magistrate has not addressed the defendant as required under the *Justices Act 1886*, section 104(2).
- (5) To remove any doubt, it is declared that—
  - (a) the *Bail Act 1980* applies to the offender; and
  - (b) the offender has pleaded guilty to the offence under the Drug Court Act, section 19(c).

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### **231 Sentencing an offender after enforcement of warrant**

- (1) This section applies if a magistrate sentences an offender to whom section 230 applies.
- (2) In sentencing the offender, the magistrate must have regard to the initial sentence contained in the offender's intensive drug rehabilitation order.
- (3) To remove any doubt, it is declared that, in applying section 159A to a sentence for a term of imprisonment imposed on an offender under this section, time spent in custody under the Drug Court Act, other than under section 32(1)(f) of that Act, is taken to be imprisonment already served under the sentence.

## **Part 3                      Amendment of Public Service Act 2008**

### **60      Act amended**

This part amends the *Public Service Act 2008*.

### **60A    Amendment of s 13 (Act does not apply to particular offices and employment)**

Section 13(2), 'industrial commissioner'—

*omit, insert—*

commissioner under the *Industrial Relations Act 1999*

### **61      Amendment of s 88AA (Definition for pt 5)**

(1) Section 88AA, heading, 'Definition'—

*omit, insert—*

### Definitions

- (2) Section 88AA—

*insert—*

*vice-president* means the vice-president under the *Industrial Relations Act 1999*.

### 62 Amendment of s 88A (Appeals officers)

- (1) Section 88A(1), ‘1 or more’—

*omit, insert—*

the vice-president and 1 or more other

- (2) Section 88A(4) to (6)—

*renumber* as section 88A(5) to (7).

- (3) Section 88A—

*insert—*

- (4) If the person is the vice-president and stops holding office as the vice-president, the person continues to hold office as an appeals officer unless the person also stops holding office as a member of the IRC.

- (4) Section 88A(7), as renumbered, ‘(5)’—

*omit, insert—*

(6)

- (5) Section 88A(7)(a), as renumbered, ‘section 258’—

*omit, insert—*

section 246A

### 63 Insertion of new s 88B

After section 88A—

*insert—*

---

### **88B Senior appeals officer**

- (1) The vice-president is also the senior appeals officer.
- (2) In section 88A—
  - (a) a reference to the functions of office of an appeals officer includes the functions of office of the senior appeals officer; and
  - (b) a reference to service as an appeals officer includes service as the senior appeals officer.

### **64 Amendment of s 88C (Appeals officer's function)**

- (1) Section 88C, heading, 'function'—  
*omit, insert—*  
**functions**
- (2) Section 88C(2)—  
*renumber* as section 88C(4).
- (3) Section 88C—  
*insert—*
  - (2) The senior appeals officer's functions are also to make decisions and directions about practice under sections 203A and 203B.
  - (3) The senior appeals officer may delegate his or her functions under subsection (2) to another appeals officer.
- (4) Section 88C(4), as renumbered, '(5)'—  
*omit, insert—*
  - (6)
- (5) Section 88C(4), as renumbered, 'function mentioned in subsection (1)'—

*omit, insert—*

functions under this section

**65 Amendment of s 203 (Appeals officer may decide procedures)**

Section 203(2), from ‘comply with’—

*omit, insert—*

comply with—

- (a) this part; and
- (b) any relevant procedural rules prescribed under a regulation; and
- (c) a decision of the senior appeals officer made for the appeal under section 203A; and
- (d) any practice directions made under section 203B.

**66 Insertion of new ss 203A and 203B**

After section 203—

*insert—*

**203A Senior appeals officer may decide procedures**

- (1) The senior appeals officer may decide the procedures to be followed in a particular appeal.
- (2) The senior appeals officer may make a decision under subsection (1) on the officer’s own initiative or on the application of a party to the appeal.
- (3) However, a decision of the senior appeals officer under subsection (1) must be consistent with this part or any relevant procedural rules prescribed under a regulation.



### **203B Practice directions**

- (1) The senior appeals officer may make practice directions about the practices and procedures to be followed in appeals.
- (2) A practice direction must not be inconsistent with this part or any relevant procedural rules prescribed under a regulation.
- (3) To remove any doubt, it is declared that a practice direction is not subordinate legislation.

#### **67 Amendment of s 214A (Protection of appeals officials from liability)**

Section 214A(3), note, '(6)'—

*omit, insert—*

(7)

#### **68 Insertion of new ch 9, pt 10**

Chapter 9—

*insert—*

## **Part 10**

# **Transitional provision for Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Act 2013**

### **285 Practice directions etc. for appeals started before commencement**

- (1) This section applies to an appeal started under chapter 7, part 1 that, at the commencement, has not been decided or withdrawn.
- (2) The senior appeals officer may decide, under section 203A, the procedures to be followed in the appeal.
- (3) A practice direction made under section 203B applies to the appeal.
- (4) In this section—

*amending Act* means the *Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Act 2013*.

*commencement* means the commencement of this section.

### **69 Amendment of sch 4 (Dictionary)**

Schedule 4—

*insert—*

*senior appeals officer* see section 88B.

*vice president*, for chapter 3, part 5, see section 88AA.

## **Part 3A                      Amendment of Residential Tenancies and Rooming Accommodation Act 2008**

### **69A    Act amended**

This part amends the *Residential Tenancies and Rooming Accommodation Act 2008*.

### **69B    Omission of s 42 (Intensive drug rehabilitation order)**

Section 42—  
*omit.*

## **Part 3B                      Amendment of Trading (Allowable Hours) Act 1990**

### **69C    Act amended**

This part amends the *Trading (Allowable Hours) Act 1990*.

### **69D    Amendment of s 4 (Meaning of terms)**

Section 4, definition *commissioner*—  
*omit, insert—*

*commissioner* means a commissioner, other than the president, under the *Industrial Relations Act 1999*.

## Part 4                      Amendment of Workers' Compensation and Rehabilitation Act 2003

### 70      Act amended

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

### 71      Amendment of s 11 (Who is a worker)

Section 11(1)—

*omit, insert—*

- (1) A *worker* is a person who—
  - (a) works under a contract; and
  - (b) in relation to the work, is an employee for the purpose of assessment for PAYG withholding under the *Taxation Administration Act 1953* (Cwlth), schedule 1, part 2-5.

### 72      Amendment of s 30 (Who is an employer)

Section 30(1)—

*omit, insert—*

- (1) An *employer* is a person who engages a worker to perform work.

**73 Amendment of s 66 (Employer's liability for excess period)**

Section 66(4)(b), 'the contract of service'—

*omit, insert—*

a contract

**74 Amendment of s 585 (Entitlements to compensation under contract of employment prohibited and void)**

Section 585(3), definition *contract of employment*, 'of service'—

*omit, insert—*

with a worker

**75 Insertion of new ch 29**

After section 673—

*insert—*

## **Chapter 29 Transitional provision for Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Act 2013**

### **674 Provision about workers and employers**

(1) Sections 11 and 30, and schedule 2, as in force immediately before 1 July 2013, continue to apply to an injury sustained by a worker after 17 November 2004 but before 1 July 2013 as if the amending Act had not been enacted.

(2) In this section—

*amending Act* means the *Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Act 2013*.

### **76 Amendment of sch 2 (Who is a worker in particular circumstances)**

(1) Schedule 2, part 1, items 1 and 2—

*omit.*

(2) Schedule 2, part 1, items 3 to 8—

*renumber* as schedule 2, part 1, items 1 to 6.

(3) Schedule 2, part 2—

*insert—*

- 6 A person is not a worker if—
- (a) the person works for another person under a contract; and
  - (b) a personal services business determination is in effect for the person performing the work under the *Income Tax Assessment Act 1997* (Cwlth), section 87-60.

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