



Queensland

Youth Justice and Other Legislation (Inclusion of 17- year-old Persons) Amendment Bill 2016



Queensland

Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Bill 2016

Contents

| | | Page |
|-------------------|---|------|
| Part 1 | Preliminary | |
| 1 | Short title | 4 |
| 2 | Commencement | 4 |
| Part 2 | Amendment of Youth Justice Act 1992 | |
| 3 | Act amended | 4 |
| 4 | Omission of s 6 (Child's age regulation) | 4 |
| 5 | Insertion of new pt 11, div 15 | 4 |
| | Division 15 Transitional provisions for Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Act 2016 | |
| | 387 Offences by 17-year-olds before commencement if offence proceedings not started | 5 |
| | 388 Transitional regulation-making power | 5 |
| | 389 Uncompleted sentences for offences by 17-year-olds | 5 |
| | 390 Current proceedings for offences by 17-year-olds | 8 |
| | 391 Administrative arrangements | 9 |
| 6 | Amendment of sch 4 (Dictionary) | 10 |
| Part 3 | Amendment of other legislation | |
| Division 1 | Amendment of Corrective Services Act 2006 | |
| 7 | Act amended | 10 |
| 8 | Amendment of s 18 (Accommodation) | 10 |
| 9 | Insertion of new ch 7A, pt 10 | 11 |
| | Part 10 Transitional provision for Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Act 2016 | |
| | 490L Continued application of repealed s 18(2) | 11 |

Contents

| | | |
|-------------------|---|----|
| Division 2 | Other amendments | |
| 10 | Acts and Code amended | 12 |
| Schedule 1 | Other amendments | 13 |
| | Bail Act 1980 | 13 |
| | Criminal Code | 13 |
| | Criminal Law Amendment Act 1945 | 13 |
| | Criminal Organisation Act 2009 | 14 |
| | District Court of Queensland Act 1967 | 14 |
| | Drugs Misuse Act 1986 | 14 |
| | Mental Health Act 2000 | 14 |
| | Mental Health Act 2016 | 15 |
| | Penalties and Sentences Act 1992 | 15 |
| | Police Powers and Responsibilities Act 2000 | 15 |
| | South Bank Corporation Act 1989 | 15 |
| | State Penalties Enforcement Act 1999 | 16 |
| | Transport Operations (Passenger Transport) Act 1994 | 16 |

2016

A Bill

for

An Act to amend the *Corrective Services Act 2006*, the *Youth Justice Act 1992*, and the Acts mentioned in schedule 1, for particular purposes

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Youth Justice and Other
Legislation (Inclusion of 17-year-old Persons) Amendment
Act 2016*. 4
5
6

Clause 2 Commencement 7

This Act commences on a day to be fixed by proclamation. 8

**Part 2 Amendment of Youth Justice
Act 1992** 9
10

Clause 3 Act amended 11

This part amends the *Youth Justice Act 1992*. 12

Clause 4 Omission of s 6 (Child's age regulation) 13

Section 6— 14
omit. 15

Clause 5 Insertion of new pt 11, div 15 16

Part 11— 17
insert— 18

**Division 15 Transitional provisions for
Youth Justice and Other** 19
20

| | |
|---|-------------------------|
| Legislation (Inclusion of 17-year-old Persons) Amendment Act 2016 | 1 2 3 |
| 387 Offences by 17-year-olds before commencement if offence proceedings not started | 4 5 6 |
| (1) This section applies to a person who, as a 17-year-old, committed an offence before the commencement if a proceeding against the person for the offence had not been started before the commencement. | 7 8 9 10 11 |
| (2) For this Act or another Act, the person is taken to have committed the offence as a child. | 12 13 |
| 388 Transitional regulation-making power | 14 |
| (1) The Governor in Council may make a regulation (a <i>transitional regulation</i>) under this division. | 15 16 |
| (2) A transitional regulation must declare it is a transitional regulation. | 17 18 |
| (3) This section, sections 389 to 391 and any transitional regulation expire 2 years after the commencement. | 19 20 21 |
| 389 Uncompleted sentences for offences by 17-year-olds | 22 23 |
| (1) This section applies if— | 24 |
| (a) a person, as a 17-year-old, committed an offence before the commencement; and | 25 26 |
| (b) the person is still 17 years old on the commencement; and | 27 28 |
| (c) a sentence for the offence was imposed but not completed before the commencement. | 29 30 |

- (2) A transitional regulation may provide for the application of this Act or another Act to the person as if the sentence or a subsequent order about the sentence were a corresponding child sentence or order. 1
2
3
4
5
- (3) The matters for which the transitional regulation may provide include the following— 6
7
- (a) the continued application of a provision of an Act to the sentence or subsequent order for particular purposes even though another provision of the same Act or another Act applies as if the sentence or subsequent order were a corresponding child sentence or order; 8
9
10
11
12
13
14
- (b) if the sentence includes a term of imprisonment—applying a provision of this Act about supervised release orders to the term of imprisonment as if it were a period of detention; 15
16
17
18
19
- (c) if the person is serving a term of imprisonment in a corrective services facility on the commencement— 20
21
22
- (i) providing for the transfer of the person to a detention centre for detention as if the term of imprisonment were a period of detention; or 23
24
25
26
- (ii) applying a provision of this Act to the person as if the person were serving a period of detention in a detention centre. 27
28
29
30
- (4) A court may, on application by the person or the chief executive or on its own initiative— 31
32
- (a) make an order or give directions it considers necessary to facilitate the application of this Act or another Act to the person under the transitional regulation; or 33
34
35
36

- (b) if the court considers it would be in the interests of justice to do so, having regard to the application of this Act or another Act to the person under the transitional regulation—
- (i) vary the sentence or subsequent order; or
- (ii) discharge the sentence or subsequent order and substitute it with a corresponding child sentence or order.
- (5) An application may not be made under subsection (4)(b) on the ground that the penalty imposed by the person’s sentence would have been lower if the person had been sentenced as a child.
- (6) For this section, a sentence or order under this Act mentioned in column 2 is a ***corresponding child sentence or order*** for the sentence or order mentioned in column 1—

| sentence or order | corresponding sentence or order | child |
|--|--|--------------|
| term of imprisonment | period of detention | |
| community service order under the <i>Penalties and Sentences Act 1992</i> | community service order | |
| fine option order under the <i>Penalties and Sentences Act 1992</i> | community service order | |
| graffiti removal order under the <i>Penalties and Sentences Act 1992</i> | graffiti removal order | |
| intensive correction order under the <i>Penalties and Sentences Act 1992</i> | conditional release order | |

| sentence or order | corresponding sentence or order | child |
|--|--|--------------|
| parole order under the <i>Corrective Services Act 2006</i> | supervised release order | |
| probation order under the <i>Penalties and Sentences Act 1992</i> | probation order | |

**390 Current proceedings for offences by
17-year-olds**

| | |
|---|-------------------------|
| | 1 |
| | 2 |
| (1) This section applies in relation to an offence committed, or alleged to have been committed, by a person when the person was 17 years old if there is a current proceeding for the offence. | 3 4 5 6 |
| (2) A transitional regulation may provide for the person to be treated as a child in relation to the offence and, for that purpose, provide for the application of this Act or another Act to the person. | 7 8 9 10 11 |
| (3) The matters for which the transitional regulation may provide include the following— | 12 13 |
| (a) removing the current proceeding to the Childrens Court for hearing and determining under this Act; | 14 15 16 |
| (b) if the current proceeding is not removed to the Childrens Court for hearing and determining under this Act—applying a provision of this Act to the proceeding; | 17 18 19 20 |
| (c) applying a provision about bail under part 5 to the person; | 21 22 |
| (d) if the person is being held on remand, or otherwise being held in custody, in a corrective services facility on the commencement— | 23 24 25 26 |

-
- (i) providing for the transfer of the person to a detention centre; or
- (ii) applying a provision of this Act to the person as if the person were being held on remand in the chief executive's custody, or otherwise held in custody in a detention centre;
- (e) applying a provision of this Act to any sentencing for the offence.
- (4) A court may, on application by the person, the prosecution or the chief executive or on its own initiative, make an order or give directions it considers necessary to facilitate the application of this Act or another Act to the person under the transitional regulation.
- (5) In this section—
- current proceeding*—
- (a) means a proceeding started but not finally dealt with before the commencement; and
- (b) includes a proceeding in which a person has been convicted, within the meaning of the *Penalties and Sentences Act 1992*, but not sentenced before the commencement.
- 391 Administrative arrangements**
- (1) A transitional regulation may provide for administrative arrangements to facilitate the operation of the regulation.
- (2) The matters for which the transitional regulation may provide include the following—
- (a) the staged transfer to a detention centre of persons to whom the regulation applies who, at the commencement, are being held on remand, serving a term of imprisonment,

| | | |
|-------------------|---|----------------------------------|
| | or otherwise being held in custody, in a corrective services facility; | 1 2 |
| | (b) the chief executive (corrective services) giving to the chief executive information about a person to whom the regulation applies. | 3 4 5 6 |
| | (3) A transitional regulation providing for a matter mentioned in subsection (2)(a) applies to a person despite any provision of this Act providing that the person must be detained in a detention centre. | 7 8 9 10 |
| | (4) A transitional regulation providing for a matter mentioned in subsection (2)(b) applies to information about a person despite any provision of an Act preventing the chief executive (corrective services) giving the information to the chief executive. | 11 12 13 14 15 16 |
| Clause 6 | Amendment of sch 4 (Dictionary) | 17 |
| | Schedule 4, definition <i>adult</i> and definition <i>child</i> , first mention— | 18 19 |
| | <i>omit.</i> | 20 |
| Part 3 | Amendment of other legislation | 21 |
| Division 1 | Amendment of Corrective Services Act 2006 | 22 23 |
| Clause 7 | Act amended | 24 |
| | This division amends the <i>Corrective Services Act 2006</i> . | 25 |
| Clause 8 | Amendment of s 18 (Accommodation) | 26 |
| | Section 18(2)— | 27 |

omit.

1

Clause 9 **Insertion of new ch 7A, pt 10**

2

Chapter 7A—

3

insert—

4

Part 10 **Transitional provision
for Youth Justice and
Other Legislation
(Inclusion of
17-year-old Persons)
Amendment Act 2016**

5

6

7

8

9

10

490L Continued application of repealed s 18(2)

11

(1) Repealed section 18(2) continues to apply to a
person under 18 years who—

12

13

(a) is a prisoner in a corrective services facility
on the commencement; or

14

15

(b) becomes a prisoner in a corrective services
facility after the commencement in relation
to a proceeding for an offence—

16

17

18

(i) decided before the commencement; or

19

(ii) started, but not finally dealt with,
before the commencement.

20

21

(2) In this section—

22

repealed section 18(2) means section 18(2) as in
force immediately before the commencement.

23

24

Division 2 **Other amendments** 1

Clause 10 **Acts and Code amended** 2

 Schedule 1 amends the Acts and Code it mentions. 3

| | | |
|--|--|----|
| Schedule 1 | Other amendments | 1 |
| | section 10 | 2 |
| Bail Act 1980 | | 3 |
| 1 | Section 6, definition <i>child</i>— | 4 |
| | <i>omit.</i> | 5 |
| Criminal Code | | 6 |
| 1 | Section 119B(2), definition <i>community justice group</i>, paragraph (b), ‘under the <i>Youth Justice Act 1992</i>’— | 7 |
| | <i>omit.</i> | 8 |
| | | 9 |
| Criminal Law Amendment Act 1945 | | 10 |
| 1 | Section 17(3), ‘17 years’— | 11 |
| | <i>omit, insert—</i> | 12 |
| | 18 years | 13 |

| | |
|--|----|
| Criminal Organisation Act 2009 | 1 |
| 1 Section 122(6), from ‘as defined’ to ‘that Act’— | 2 |
| <i>omit, insert—</i> | 3 |
| , the commissioner may not disclose confidential | 4 |
| information as defined under the <i>Youth Justice</i> | 5 |
| <i>Act 1992</i> , section 284 | 6 |
| 2 Schedule 2, definition <i>child</i>— | 7 |
| <i>omit.</i> | 8 |
| | |
| District Court of Queensland Act 1967 | 9 |
| | |
| 1 Section 61A(4)— | 10 |
| <i>omit.</i> | 11 |
| | |
| Drugs Misuse Act 1986 | 12 |
| | |
| 1 Section 30(1), definition <i>court</i>, paragraph (c)(ii), from | 13 |
| ‘within’ to ‘1992’— | 14 |
| <i>omit.</i> | 15 |
| | |
| Mental Health Act 2000 | 16 |
| | |
| 1 Schedule, definition <i>child</i>— | 17 |
| <i>omit.</i> | 18 |

| | |
|--|--------|
| Mental Health Act 2016 | 1 |
| 1 Sections 83(6)(c), 113(1)(f), 545(3)(c), 617(3)(c) and 619(2)(c), from ‘child’ to ‘1992’— | 2 3 |
| <i>omit, insert—</i> | 4 |
| minor | 5 |
| | |
| Penalties and Sentences Act 1992 | 6 |
| | |
| 1 Section 6(a), from ‘within’ to ‘1992’— | 7 |
| <i>omit.</i> | 8 |
| | |
| Police Powers and Responsibilities Act 2000 | 9 |
| | |
| 1 Schedule 6, definitions <i>adult</i> and <i>child</i>— | 10 |
| <i>omit.</i> | 11 |
| | |
| South Bank Corporation Act 1989 | 12 |
| | |
| 1 Section 3, definition <i>child</i>— | 13 |
| <i>omit.</i> | 14 |

| | | |
|---|---|----|
| | State Penalties Enforcement Act 1999 | 1 |
| 1 | Section 5, from ‘within’ to ‘1992’— | 2 |
| | <i>omit.</i> | 3 |
| | Transport Operations (Passenger Transport) Act 1994 | 4 |
| 1 | Section 129W, ‘juvenile’— | 5 |
| | <i>omit, insert—</i> | 6 |
| | youth | 7 |
| 2 | Sections 129W, 129ZA(1)(b) and 129ZB(1)(a), ‘Juvenile’— | 8 |
| | <i>omit, insert—</i> | 9 |
| | <i>Youth</i> | 10 |
| 3 | Schedule 3, definitions <i>category A driver disqualifying offence</i> and <i>category B driver disqualifying offence</i>, ‘17 years’— | 11 |
| | <i>omit, insert—</i> | 12 |
| | 18 years | 13 |
| | | 14 |
| | | 15 |