

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, April 2019*



Queensland

**No.
A BILL for**

An Act to amend the Civil Proceedings Act 2011, the Fair Trading Act 1989, the Motor Dealers and Chattel Auctioneers Act 2014, the Queensland Civil and Administrative Tribunal Act 2009, the Residential Tenancies and Rooming Accommodation Act 2008 and the Supreme Court of Queensland Act 1991 for particular purposes



Queensland

Queensland Civil and Administrative Tribunal and Other Legislation Amendment Bill 2019

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2019

A Bill

for

An Act to amend the *Civil Proceedings Act 2011*, the *Fair Trading Act 1989*, the *Motor Dealers and Chattel Auctioneers Act 2014*, the *Queensland Civil and Administrative Tribunal Act 2009*, the *Residential Tenancies and Rooming Accommodation Act 2008* and the *Supreme Court of Queensland Act 1991* for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Queensland Civil and Administrative Tribunal and Other Legislation Amendment Act 2019*.

2 Commencement

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

Part 1A Amendment of Civil Proceedings Act 2011

2A Act amended

This part amends the *Civil Proceedings Act 2011*.

2B Amendment of pt 12, hdg (Assessors)

Part 12, heading, after ‘Assessors’—

insert—

and referees

2C Insertion of new pt 12, div 1, hdg

Before section 76—

insert—

Division 1

Assessors

2D Amendment of s 76 (Definitions for pt 12)

- (1) Section 76, heading, ‘pt 12’—

omit, insert—

division

- (2) Section 76, ‘part’—

omit, insert—

division

2E Insertion of new pt 12, div 2

After section 79—

insert—

Division 2 Referees

79A Protection and immunity

- (1) In performing the functions of referee, a referee has the same protection and immunity as a Supreme Court judge performing a judicial function.
- (2) A party appearing in an inquiry before a referee has the same protection and immunity as the party would have if the inquiry were a proceeding being heard before the Supreme Court.
- (3) A witness attending an inquiry before a referee has the same protection and immunity as a witness attending before the Supreme Court.
- (4) A document produced at, or used for, an inquiry before a referee has the same protection during the inquiry as it would have if produced before the Supreme Court.
- (5) In this section—
inquiry, before a referee, means an inquiry into a

[s 2F]

question in a proceeding that is referred under the rules to the referee.

party includes a party's lawyer or agent.

referee means a referee appointed under the rules.

2F Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definition *assessment*, after 'part 12,'—
insert—
division 1,
- (2) Schedule 1, definition *assessor*, after 'part 12,'—
insert—
division 1,
- (3) Schedule 1, definition *costs assessment*, after 'part 12,'—
insert—
division 1,

Part 2 Amendment of Fair Trading Act 1989

3 Act amended

This part amends the *Fair Trading Act 1989*.

4 Amendment of s 50 (Proceedings referred to court of competent jurisdiction)

- (1) Section 50(1)(a)—
omit, insert—
 - (a) for the tribunal, whether the subject of the proceeding—

- (i) would be a minor civil dispute within the meaning of the QCAT Act; or
- (ii) would be a matter to which section 50A applies; or

5 Insertion of new ss 50A–50D

After section 50—

insert—

50A Tribunal's jurisdiction for particular matters relating to motor vehicles

- (1) A person may apply, as provided under the QCAT Act, to the tribunal for an order mentioned in subsection (2) for an action—
 - (a) under a provision of the Australian Consumer Law (Queensland) listed in the table to this section; and
 - (b) relating to a motor vehicle; and
 - (c) seeking an amount or value of other relief of not more than \$100,000.
- (2) In a proceeding under subsection (1), the tribunal may make only the following orders—
 - (a) an order requiring a party to the proceeding to pay a stated amount to a stated person;
 - (b) an order that a stated amount is not due or owing by the applicant to a stated person, or by any party to the proceeding to the applicant;
 - (c) an order requiring a party to the proceeding, other than the applicant, to perform work to rectify a defect in goods or services to which the claim relates;
 - (d) an order requiring a party to the proceeding to return goods that relate to the claim and

[s 5]

- are in the party's possession or control to a stated person;
- (e) an order combining 2 or more orders mentioned in paragraphs (a), (b), (c) and (d).
- (3) However, the tribunal can not make an order under subsection (2) that—
- (a) purports to require payment of an amount, performance of work or return of goods of a value of more than \$100,000; or
- (b) purports to grant relief of a value of more than \$100,000 from the payment of an amount; or
- (c) combines 2 or more orders mentioned in subsection (2) and purports to award or declare entitlements or benefits (or both) of a total value of more than \$100,000.
- (4) In this section—
- motor vehicle* see the *Motor Dealers and Chattel Auctioneers Act 2014*, section 12.

Table

Provision of Australian Consumer Law (Queensland)	Name of provision	Nature of proceeding
section 236(1)	Actions for damages	Action to recover amount of loss or damage

Provision of Australian Consumer Law (Queensland)	Name of provision	Nature of proceeding
section 259(2), (3) and (4)	Action against suppliers of goods	s 259(2) - Action to recover reasonable costs incurred by consumer s 259(3) - Action to recover compensation for reduction in value of goods s 259(4) - Action to recover damages because of failure to comply with guarantee
section 265(3)	Termination of contracts for the supply of services that are connected with rejected goods	Action to recover refund
section 267(2), (3) and (4)	Action against suppliers of services	s 267(2) - Action to recover reasonable costs incurred by consumer s 267(3) - Action to recover compensation for reduction in value of services s 267(4) - Action to recover damages because of failure to comply with guarantee
section 269(3)	Termination of contracts for the supply of services	Action to recover refund

[s 5]

Provision of Australian Consumer Law (Queensland)	Name of provision	Nature of proceeding
section 271(1), (3) and (5)	Action for damages against manufacturers of goods	Action to recover damages from manufacturer
section 274(3)	Indemnification of suppliers by manufacturers	Action against manufacturer for legal or equitable relief
section 279(1)	Action by consumer to recover amount of loss or damage	Action to recover amount of loss or damage

50B Expedited hearing

An expedited hearing under the QCAT Act, section 94, may be conducted for a proceeding under section 50A if—

- (a) the amount or value of other relief sought in the proceeding is not more than \$25,000; or
- (b) the president of the tribunal considers it appropriate having regard to—
 - (i) the nature and complexity of the proceeding; and
 - (ii) the views of the parties to the proceeding; and
 - (iii) anything else the president considers relevant.

50C Costs

The tribunal may make an order under section 102(1) of the QCAT Act against a party to a proceeding under section 50A—

- (a) only if the party is a respondent against whom the tribunal has made a final decision; and
- (b) only to order the party to pay to the applicant the amount of any prescribed fee paid by the applicant on filing the application for the proceeding.

50D Constitution of tribunal

For section 195(b) of the QCAT Act, an adjudicator may hear and decide a proceeding under section 50A if either or both of the following apply—

- (a) the amount or value of other relief sought in the proceeding is not more than \$25,000;
- (b) an expedited hearing is to be conducted for the proceeding.

Part 3

Amendment of Motor Dealers and Chattel Auctioneers Act 2014

6 Act amended

This part amends the *Motor Dealers and Chattel Auctioneers Act 2014*.

7 Amendment of s 69 (Licensees to notify chief executive of changes in circumstances)

Section 69(1), ‘oral or written’—
omit.

[s 8]

8 Amendment of s 100 (Application of div 6)

Section 100(2)—

insert—

- (d) a sale to a person holding a licence, however described, under a corresponding law that is similar to a motor dealer licence.

9 Amendment of s 116 (Unwarranted vehicles to be identified when offered for sale)

- (1) Section 116, heading, after ‘Unwarranted’—

insert—

and restorable

- (2) Section 116—

insert—

- (1A) A motor dealer may advertise or display for sale a restorable vehicle only if it is advertised or displayed for sale in the way provided under a regulation.

Maximum penalty—100 penalty units.

- (3) Section 116(1A) and (2)—

renumber as section 116(2) and (3).

10 Insertion of new s 116A

After section 116—

insert—

116A Waiver of statutory warranty for restorable vehicles

- (1) A motor dealer must, before a proposed buyer enters into a contract for the purchase of a restorable vehicle, give the buyer a written notice stating that the buyer may waive the statutory

warranty for the vehicle.

- (2) If the proposed buyer agrees to purchase the restorable vehicle, the buyer may waive the statutory warranty for the vehicle by signing the notice before the buyer enters into a contract for the sale of the vehicle.
- (3) The notice must clearly identify the restorable vehicle to which it relates.
- (4) On the signing of the notice, the proposed buyer is taken to waive the statutory warranty for the restorable vehicle when the contract for its purchase is entered into.

11 **Amendment of s 146 (Unwarranted vehicles to be identified when offered for sale)**

- (1) Section 146, heading, after ‘Unwarranted’—

insert—

and restorable

- (2) Section 146—

insert—

- (1A) A chattel auctioneer may advertise or display for sale a restorable vehicle only if it is advertised or displayed for sale in the way provided under a regulation.

Maximum penalty—100 penalty units.

- (3) Section 146(1A) and (2)—

renumber as section 146(2) and (3).

12 **Insertion of new s 146A**

After section 146—

insert—

[s 13]

146A Bidders to register for auction of restorable vehicles

- (1) Before a restorable vehicle is offered for sale, a chattel auctioneer must invite persons intending to bid for the vehicle when it is offered for sale to register as a bidder (a *registered bidder*) for the sale.
- (2) The chattel auctioneer must also inform the persons that by registering as a bidder, the person agrees to purchase the restorable vehicle on the condition that the person is taken to waive the vehicle's statutory warranty when the contract for the vehicle's purchase is entered into.

13 Amendment of s 147 (Announcements before auction)

Section 147—

insert—

- (3) Also, a chattel auctioneer must announce, immediately before the auction of any restorable vehicle that—
 - (a) the vehicle is a restorable vehicle because it is more than 20 years old and is for sale for restoration; and
 - (b) it is a condition of the sale of a restorable vehicle that if the vehicle is sold, the registered bidder to whom it is sold is taken to waive the statutory warranty for the vehicle when the contract for its purchase is entered into; and
 - (c) the chattel auctioneer will not accept bids from a person who is not a registered bidder.

Maximum penalty—100 penalty units.

- (4) A chattel auctioneer does not contravene subsection (3) if—

-
- (a) 2 or more restorable vehicles are to be auctioned in consecutive lots; and
 - (b) immediately before the first of the vehicles in the consecutive lots is to be auctioned, the chattel auctioneer—
 - (i) identifies the vehicles; and
 - (ii) for the identified vehicles, announces the matters mentioned in subsection (3)(a), (b) and (c).

14 Insertion of new s 147A

After section 147—

insert—

147A Effect of sale of restorable vehicle to registered bidder

If a restorable vehicle is sold to a registered bidder at auction, the statutory warranty for the vehicle stops having effect when the contract for the vehicle's purchase is entered into and the vehicle is taken to be an unwarranted vehicle.

15 Amendment of s 188 (Motor salespersons to notify chief executive of changes in circumstances)

Section 188(1), 'oral or written'—

omit.

16 Amendment of sch 1, s 1 (Definitions for sch 1)

Schedule 1, section 1—

insert—

built date see section 3C(1).

class A warranted vehicle see section 3A.

[s 17]

class B warranted vehicle see section 3B.

17 Replacement of sch 1, s 3 (Meaning of *warranted vehicle*)

Schedule 1, section 3—

omit, insert—

3 Meaning of *warranted vehicle*

A *warranted vehicle* is a used motor vehicle other than—

- (a) an unregistered motor vehicle that is—
 - (i) incapable of being registered in Queensland because of its design; or
 - (ii) a written-off vehicle; or
- (b) a motor vehicle sold on consignment, unless the owner of the vehicle is a licensee; or
- (c) a commercial vehicle; or
- (d) a caravan; or
- (e) a motorcycle.

3A Meaning of *class A warranted vehicle*

A *class A warranted vehicle* is a warranted vehicle that—

- (a) on the day of its sale, has an odometer reading of less than 160,000km; and
- (b) has a built date of no more than 10 years before the day of its sale.

3B Meaning of *class B warranted vehicle*

A *class B warranted vehicle* is a warranted vehicle that—

-
- (a) on the day of its sale, has an odometer reading of 160,000km or more; or
 - (b) has a built date of more than 10 years before the day of its sale.

3C Meaning of *built date*

- (1) Subject to subsection (2), for sections 3A(b) and 3B(b), the ***built date*** of a warranted vehicle is—
 - (a) if the date the vehicle was manufactured is shown on the vehicle—that date; or
 - (b) if paragraph (a) does not apply—the date stamped or printed on the vehicle’s identification plate.
- (2) For a date under subsection (1)(a) or (b) that refers only to a month in a particular year, the date for the paragraph is taken to be the first day of the next month.
- (3) In this section—

identification plate has the meaning given by the *Motor Vehicle Standards Act 1989* (Cwlth).

shown, on a vehicle, means—

 - (a) stamped on—
 - (i) a metal component of the vehicle; or
 - (ii) a plate, other than an identification plate, affixed to the vehicle; or
 - (b) printed on a label, other than an identification plate, affixed to the vehicle.

18 Amendment of sch 1, s 4 (Meaning of *warranty period*)

- (1) Schedule 1, section 4(1), ‘subsection (2), the ***warranty period*** of a’—

omit, insert—

[s 19]

subsection (3), the *warranty period* of a class A

(2) Schedule 1, section 4—

insert—

(1A) Subject to subsection (3), the *warranty period* of a class B warranted vehicle starts at the time of taking possession and ends when the first of the following happens or is reached—

(a) the vehicle travels 1,000km since the time of taking possession;

(b) 5p.m. on—

(i) the day 1 month after the time of taking possession if—

(A) that day is not a Sunday or public holiday; and

(B) on that day the warrantor's place of business is open for business; or

(ii) the first day, after the day 1 month after the time of taking possession, that—

(A) is not a Sunday or public holiday; and

(B) the warrantor's place of business is open for business.

(3) Schedule 1, section 4(2), after 'warranty period'—

insert—

under subsection (1) or (2)

(4) Schedule 1, section 4(1A) and (2)—

renumber as schedule 1, section 4(2) and (3).

19 Amendment of sch 1, s 5 (Application of sch 1)

Schedule 1, section 5(2)—

omit, insert—

- (2) However, this schedule does not apply to the sale of a motor vehicle by a licensee to—
- (a) another licensee; or
 - (b) a person holding a licence, however described, under a corresponding law that is similar to a licence under this Act.

20 Insertion of new sch 1, pt 2, div 1 hdg

Schedule 1, before section 6—

insert—

Division 1 General

21 Replacement of sch 1, ss 13 and 14

Schedule 1, sections 13 and 14—

omit, insert—

**Division 2 Warrantor's failure to
repair**

13 Application of division

This division applies if the warrantor has by warranty advice or otherwise—

- (a) refused to accept that the defect is covered by the statutory warranty; or
- (b) accepted that the defect is covered by the statutory warranty but—
 - (i) failed to repair the defect within the repair period; or

[s 21]

- (ii) failed to repair the defect so that the defective part can be reasonably relied on to perform its intended function.

14 Jurisdiction of QCAT

The buyer may apply, as provided under the QCAT Act, to QCAT for an order under section 15 if the amount or value of other relief sought is no more than \$100,000.

15 Orders QCAT may make

- (1) In a proceeding under section 14, QCAT may make only the following orders—
 - (a) an order that the defect is or is not a defect covered by the statutory warranty;
 - (b) an order extending the warranty period for the warranted vehicle to a specified date;
 - (c) an order declaring the warranted vehicle is covered by the statutory warranty until a specified date;
 - (d) an order requiring a party to the proceeding to pay a stated amount to a stated person;
 - (e) an order that a stated amount is not due or owing by the applicant to a stated person, or by any party to the proceeding to the applicant;
 - (f) an order requiring a party to the proceeding, other than the applicant, to perform work to rectify a defect in the warranted vehicle;
 - (g) an order requiring a party to the proceeding to return the warranted vehicle if it is in the party's possession or control to a stated person;

- (h) an order combining 2 or more orders mentioned in paragraphs (a) to (g).
- (2) Without limiting subsection (1)(d), QCAT may make an order that the warrantor pay to the buyer a stated amount QCAT decides is the reasonable cost of having a defect repaired if—
 - (a) the warrantor has, by warranty advice or otherwise, refused to accept that the defect is covered by the statutory warranty; and
 - (b) the buyer has had the defect repaired by another person; and
 - (c) QCAT decides that the defect was one to which the statutory warranty applied.
- (3) However, QCAT can not make an order under subsection (1) that—
 - (a) purports to require payment of an amount, performance of work or return of the warranted vehicle of a value of more than \$100,000; or
 - (b) purports to grant relief of a value of more than \$100,000 from the payment of an amount; or
 - (c) combines 2 or more orders mentioned in subsection (1) and purports to award or declare entitlements or benefits (or both) of a total value of more than \$100,000.
- (4) Also, QCAT may make an order under subsection (1)(b) or (c) only if it is satisfied—
 - (a) the vehicle was not able to be used by the buyer for a period during the warranty period; and
 - (b) the period from which the order is to be effective to the date the warranty period is to end, and the period during which the vehicle

[s 21]

was able to be used by the buyer, taken together, are not more than 3 months.

16 Contravention of QCAT order

- (1) If QCAT makes an order under section 15 in the buyer's favour and the warrantor contravenes the order, the contravention is a ground for starting disciplinary proceedings under section 194.
- (2) Subsection (1) does not limit any right the buyer may have to enforce the order.

17 Expedited hearing

An expedited hearing under the QCAT Act, section 94, may be conducted for a proceeding under section 14 if—

- (a) the amount or value of other relief sought in the proceeding is not more than \$25,000; or
- (b) the president of QCAT considers it appropriate having regard to—
 - (i) the nature and complexity of the proceeding; and
 - (ii) the views of the parties to the proceeding; and
 - (iii) anything else the president considers relevant.

18 Costs

QCAT may make an order under section 102(1) of the QCAT Act against a party to a proceeding under section 14—

- (a) only if the party is a respondent against whom QCAT has made a final decision; and

- (b) only to order the party to pay to the applicant the amount of any prescribed fee paid by the applicant on filing the application for the proceeding.

19 Constitution of QCAT

For section 195(b) of the QCAT Act, an adjudicator may hear and decide a proceeding under section 14 if either or both of the following apply—

- (a) the amount or value of other relief sought in the proceeding is not more than \$25,000;
- (b) an expedited hearing is to be conducted for the proceeding.

20 Applications for more than QCAT's jurisdictional limit

- (1) This section applies if—
 - (a) a provision of this division provides that an application may be made to QCAT about a matter; and
 - (b) a person seeks the payment of an amount or other relief of a value greater than \$100,000 in relation to the matter.
- (2) A provision of this division about the matter applies—
 - (a) as if a reference to QCAT were a reference to the court having jurisdiction for the recovery of a debt equal to the amount or value of relief sought; and
 - (b) with all other necessary changes to give effect to paragraph (a).

[s 22]

22 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

built date, for schedule 1, see schedule 1, section 3C(1).

class A warranted vehicle, for schedule 1, see schedule 1, section 3A.

class B warranted vehicle, for schedule 1, see schedule 1, section 3B.

registered bidder see section 146A(1).

restorable vehicle means a warranted vehicle that is more than 20 years old and is for sale for restoration.

Part 4 Amendment of Queensland Civil and Administrative Tribunal Act 2009

23 Act amended

This part amends the *Queensland Civil and Administrative Tribunal Act 2009*.

24 Amendment of s 12 (When jurisdiction for minor civil dispute exercised)

- (1) Section 12(4), definition *relevant person*, paragraph (b), ‘to (g)’—

omit, insert—

to (f)

- (2) Section 12(4), definition *relevant person*, paragraph (e)—
omit.

-
- (3) Section 12(4), definition *relevant person*, paragraphs (f) to (h)—
renumber as paragraphs (e) to (g).

25 Amendment of s 13 (Deciding minor civil dispute generally)

- (1) Section 13(2)(a), ‘, (c) or (d)’—
omit, insert—
or (c)
- (2) Section 13(4)—
omit, insert—
- (4) Subsection (3) does not apply to a claim that is the subject of a dispute under the *Building Act 1975*, chapter 8, part 2A.

26 Amendment of s 22 (Effect of review on reviewable decision)

- (1) Section 22(2)—
omit, insert—
- (2) However, subsection (1) does not apply—
- (a) if an enabling Act that is an Act provides otherwise; or
- (b) to the extent the operation of all or part of the reviewable decision is stayed by an order of the tribunal under this section that is still in effect.
- (2) Section 22(3), after ‘the operation of’—
insert—
all or part of
- (3) Section 22(6)(b)—
omit, insert—

[s 27]

- (b) may impose conditions on the order it considers appropriate; or
- (c) may provide for the lifting of the order if stated circumstances occur.

27 Amendment of s 42 (Joining parties)

- (1) Section 42, heading, after ‘Joining’—

insert—

and removing

- (2) Section 42—

insert—

- (1A) The tribunal may order that a party be removed from a proceeding if the tribunal considers that—

- (a) the party’s interests are not, or are no longer, affected by the proceeding; or
- (b) the party is not a proper or necessary party to the proceeding, whether or not the party was one originally.

- (3) Section 42(2), after ‘subsection (1)’—

insert—

or (2)

- (4) Section 42(1A) and (2)—

renumber as section 42(2) and (3).

28 Amendment of s 48 (Dismissing, striking out or deciding if party causing disadvantage)

Section 48(1)(g), after ‘attend’—

insert—

conciliation,

29 Amendment of s 49 (Restriction on new application or referral)

(1) Section 49, heading—

omit, insert—

49 Reinstatement of proceeding and restriction on new application or referral

(2) Section 49—

insert—

(5) If the tribunal considers a proceeding has been dismissed or struck out in error, the tribunal may order that the proceeding be reinstated.

(6) The tribunal may act under subsection (5) on the application of a party to the proceeding or on the tribunal's own initiative.

30 Insertion of new s 51A

After section 51—

insert—

51A Effect of application under s 51 on decision by default

(1) An application under section 51 to set aside or amend a decision by default does not affect the operation of the decision or prevent the taking of action to implement the decision.

(2) However, the tribunal may make an order staying the operation of the decision by default until the application to set aside or amend the decision is finally decided.

(3) The tribunal may act under subsection (2) on the application of a party to the decision by default or on its own initiative.

[s 31]

31 Insertion of new ch 2, pt 6, div 1A

After section 66—

insert—

Division 1A Conciliation

66A Referral by tribunal or principal registrar

- (1) The tribunal or the principal registrar may refer the parties to a proceeding to attend conciliation.
- (2) A referral under subsection (1) may be made with or without the consent of the parties to the proceeding.
- (3) The principal registrar must give each party to the proceeding written notice of the referral for conciliation as stated in the rules.

66B Personal or representative attendance

- (1) The relevant entity may direct a party to a proceeding to attend a conciliation in person or to be represented by a person who has authority to settle the dispute the subject of the proceeding for the party.
- (2) In this section—
relevant entity means—
 - (a) before the conciliation starts—the entity that referred the parties to attend conciliation; or
 - (b) from the start of the conciliation—the conciliator.

66C Purpose

The purpose of conciliation for a proceeding is to promote the settlement of the dispute the subject of the proceeding.

66D Function of conciliator

The function of a conciliator under this division is to promote the settlement of the dispute the subject of the proceeding by—

- (a) identifying and clarifying—
 - (i) the issues in dispute in the proceeding; and
 - (ii) how the law applies to the issues; and
- (b) arranging negotiations between the parties to the proceeding and assisting in the conduct of the negotiations; and
- (c) promoting the open exchange of information between the parties to the proceeding; and
- (d) giving parties to the proceeding information about how this Act, enabling Acts and the rules apply to the proceeding.

66E Procedure

- (1) Conciliation must be held in private unless the conciliator directs otherwise.
- (2) Conciliation may be conducted in the way decided by the conciliator, which must be a way complying with the rules.

66F Who may be a conciliator

- (1) A person may be a conciliator for a proceeding only if the person is—
 - (a) a member; or
 - (b) an adjudicator; or
 - (c) the principal registrar; or

[s 31]

- (d) a person approved by the principal registrar as a conciliator for the tribunal.
- (2) The principal registrar may approve a person as a conciliator for the tribunal only if the principal registrar is satisfied, having regard to the person's qualifications and experience, the person is a suitable person to conduct conciliation.

66G Disclosure of interests

- (1) This section applies if a conciliator who is to conduct conciliation has or acquires an interest, financial or otherwise, that may conflict with the proper performance of the conciliator's functions in the conciliation.
- (2) The conciliator must—
 - (a) disclose the nature of the interest to the president; and
 - (b) not take part in the conciliation or exercise powers for it, unless all parties to the proceeding and the president agree otherwise.

66H Member or adjudicator conducting conciliation

- (1) This section applies if the person conducting conciliation for a proceeding is a member or adjudicator.
- (2) The person must not constitute the tribunal for the proceeding unless all the parties to the proceeding agree otherwise.

66I Notification of outcome

- (1) This section applies in relation to conciliation conducted by a conciliator other than the principal

registrar.

- (2) If the parties to a proceeding agree to settle the proceeding or a part of the proceeding at conciliation, the conciliator must notify the principal registrar that the parties have agreed to settle the dispute the subject of the proceeding or part.
- (3) If a conciliator has attempted unsuccessfully to settle a proceeding by conciliation, the conciliator must notify the principal registrar that the conciliation was unsuccessful.

66J Inadmissibility of particular evidence

- (1) Evidence of anything said or done during conciliation for a proceeding is not admissible—
 - (a) at any stage of the proceeding; or
 - (b) in another civil proceeding before a court or another tribunal.
- (2) Subsection (1) does not apply to—
 - (a) evidence that all parties to the proceeding have agreed may be admitted into evidence; or
 - (b) evidence of an order made or direction given at conciliation or the reasons for the order or direction; or
 - (c) evidence of anything said or done that is relevant to a proceeding—
 - (i) for an offence relating to the giving of false or misleading information; or
 - (ii) for contempt.

32 Amendment of s 85 (Settlement at mediation)

- (1) Section 85, before ‘mediation’—

[s 33]

insert—

conciliation or

- (2) Section 85, before ‘mediator’—

insert—

conciliator or

33 Amendment of s 86 (Settlement other than in compulsory conference or at mediation)

Section 86, after ‘or at’—

insert—

conciliation or

34 Amendment of s 97 (Requiring witness to attend or produce document or thing)

- (1) Section 97(1), after ‘The tribunal’—

insert—

or the principal registrar

- (2) Section 97—

insert—

(2A) The principal registrar may give a notice under subsection (1) on the application of a party to a proceeding.

- (3) Section 97(4), ‘subsection (3)’—

omit, insert—

subsection (4)

- (4) Section 97(2A) to (5)—

renumber as section 97(3) to (6).

35 Insertion of new s 138A

After section 138—

insert—

138A Effect of application under s 138 on decision in proceeding

- (1) An application under section 138 to reopen a proceeding does not affect the operation of a decision made by the tribunal in the proceeding or prevent the taking of action to implement the decision.
- (2) However, the tribunal may make an order staying the operation of the decision made by the tribunal in the proceeding until the application to reopen the proceeding is finally decided.
- (3) The tribunal may act under subsection (2) on the application of a party to the decision to reopen the proceeding or on its own initiative.

36 Amendment of s 147 (Deciding appeal on question of fact or mixed law and fact)

Section 147(3)—

insert—

- (c) set aside the decision and return the matter to the tribunal or other entity who made the decision for reconsideration.

37 Replacement of s 191 (Acting senior members and ordinary members)

Section 191—

omit, insert—

191 Acting senior members

- (1) The Minister must establish a pool of persons to act as senior members (the *senior members pool*).

[s 37]

- (2) The Minister may approve a person as a member of the senior members pool only if the person is eligible to be appointed to the office of senior member under section 183(4).
- (3) The Minister may—
 - (a) approve a person as a member of the senior members pool for a specified time; and
 - (b) cancel the approval of a person as a member of the senior members pool at any time.
- (4) The Minister may approve a person as a member of the senior members pool only after consultation with the president.
- (5) If there is a vacancy in the office of a senior member or the member is absent or for any other reason is unable to perform the functions of the office, the president may appoint a person from the senior members pool to act as the senior member for a period of not more than 6 months.
- (6) A person appointed to act as a senior member—
 - (a) has the functions of the member's office; and
 - (b) is taken to be a senior member for all purposes relating to this Act or an enabling Act.
- (7) Without limiting subsection (6), section 187 applies to a person acting as senior member as if the person were a senior member.
- (8) A person appointed to act as a senior member may be appointed by the president to act as a senior member for a further period if—
 - (a) the term of the appointment does not immediately follow the person's previous appointment as acting senior member; or

- (b) the appointment is continuous on 1 or more of the person's previous appointments as acting senior member and the total period of the continuous appointments is not more than 6 months.
- (9) The president may at any time cancel the appointment of a person to act as a senior member.

191A Acting ordinary members

- (1) If there is a vacancy in the office of an ordinary member or the member is absent or for any other reason is unable to perform the functions of the office, the Minister may appoint a person to act as the member for a period of not more than 6 months.
- (2) The Minister may appoint only a person who is eligible to be appointed to the office under section 183(5).
- (3) The Minister may appoint a person to act as an ordinary member only after consultation with the president.
- (4) A person appointed to act as an ordinary member—
 - (a) has the functions of the member's office; and
 - (b) is taken to be an ordinary member for all purposes relating to this Act or an enabling Act.
- (5) Without limiting subsection (4), section 187 applies to a person acting as ordinary member as if the person were an ordinary member.
- (6) A person appointed to act as an ordinary member may be appointed by the Minister to act as an ordinary member for a further period if—

[s 38]

- (a) the term of the appointment does not immediately follow the person's previous appointment as acting ordinary member; or
 - (b) the appointment is continuous on 1 or more of the person's previous appointments as acting ordinary member and the total period of the continuous appointments is not more than 6 months.
- (7) The Minister may at any time cancel the appointment of a person to act as an ordinary member.

38 Amendment of s 206C (Definitions for pt 4B)

- (1) Section 206C, definition *excluded minor civil dispute*, paragraph (d)—
omit.
- (2) Section 206C, definition *excluded minor civil dispute*, paragraphs (e) to (g)—
renumber as paragraphs (d) to (f).

39 Amendment of s 216 (False or misleading information)

Section 216(4), definition *official*, paragraph (b), before 'mediator'—

insert—

conciliator or

40 Amendment of s 218 (Contempt of tribunal)

- (1) Section 218(1)(b) and (d), 'mediation or conciliation'—
omit, insert—

conciliation or mediation

- (2) Section 218(1)(c), after 'by the tribunal'—

insert—

or the principal registrar

41 Amendment of s 237 (Immunity of participants etc.)

(1) Section 237(3), from ‘A mediator’ to ‘or conciliator,’—

omit, insert—

A conciliator or mediator has, in the performance of the conciliator’s or mediator’s functions as a conciliator or mediator,

(2) Section 237(11), definition *conciliator*—

omit.

42 Renumbering of ch 10, div 2 (Transitional provision for Civil Proceedings Act 2011)

Chapter 10, division 2—

renumber as chapter 10, part 1.

43 Insertion of new ch 10, pt 2

Chapter 10—

insert—

Part 2

**Transitional provisions
for Queensland Civil
and Administrative
Tribunal and Other
Legislation
Amendment Act 2019**

285 Definitions for part

In this part—

[s 43]

motor vehicle see the *Motor Dealers and Chattel Auctioneers Act 2014*, section 12.

motor vehicle matter means—

- (a) an action under a provision mentioned in the *Fair Trading Act 1989*, section 50 relating to a motor vehicle; or
- (b) a claim for repair of a defect in a motor vehicle under the *Motor Dealers and Chattel Auctioneers Act 2014*, schedule 1, section 13 or 14.

relevant Act means—

- (a) for an action under a provision mentioned in the *Fair Trading Act 1989*, section 50—the *Fair Trading Act 1989*; or
- (b) for a claim for repair of a defect in a motor vehicle under the *Motor Dealers and Chattel Auctioneers Act 2014*, schedule 1, section 13 or 14—the *Motor Dealers and Chattel Auctioneers Act 2014*.

286 Existing motor vehicle matters before the tribunal

- (1) This section applies in relation to—
 - (a) a motor vehicle matter that, on the commencement, is the subject of a proceeding before the tribunal exercising its original jurisdiction; or
 - (b) a motor vehicle matter that is the subject of a decision of the tribunal exercising its original jurisdiction made before the commencement, if, on the commencement—
 - (i) an appeal against the decision has started before a relevant appeal entity but has not been finally dealt with; or

-
- (ii) the period within which an appeal against the decision may be started before a relevant appeal entity has not passed.
- (2) This Act and the relevant Act, as unamended, continue to apply in relation to the matter as if the *Queensland Civil and Administrative Tribunal and Other Legislation Amendment Act 2019* had not been enacted.
- (3) Without limiting subsection (2), the tribunal and the relevant appeal entity—
- (a) must deal with the matter under this Act as unamended; and
- (b) have, and only have, functions under this Act or the relevant Act, as unamended, in relation to the matter.
- (4) In this section—

relevant appeal entity means the appeal tribunal or the Court of Appeal.

unamended, in relation to this Act or a relevant Act, means as in force before the commencement.

287 Existing motor vehicle matters if proceeding not started

- (1) This section applies if—
- (a) immediately before the commencement, a person could have started a proceeding before the tribunal exercising its original jurisdiction for a motor vehicle matter within a particular period (the *prescribed period*); and
- (b) on the commencement, the person has not started a proceeding before the tribunal for the matter.

[s 43]

- (2) A proceeding for the matter may be started under this Act, as amended—
 - (a) within the prescribed period; and
 - (b) in the way the proceeding could be started if the matter had arisen after the commencement.
- (3) If a proceeding for the matter is started under this Act—
 - (a) this Act and the relevant Act, as amended, apply in relation to the matter; and
 - (b) the tribunal must deal with the matter under this Act, as amended, and has, and only has, functions under this Act or the relevant Act, as amended, in relation to the matter.
- (4) This section applies despite the *Acts Interpretation Act 1954*, section 20.
- (5) In this section—

amended, in relation to this Act or a relevant Act, means as in force on the commencement.

288 Additional jurisdiction for existing motor vehicle matters if proceeding not started

- (1) This section applies to a motor vehicle matter arising before the commencement if—
 - (a) the tribunal did not have jurisdiction to hear and decide the matter immediately before the commencement; and
 - (b) the tribunal would have jurisdiction to hear and decide the matter if the matter had arisen after the commencement; and
 - (c) immediately before the commencement, a person could have started a proceeding before a court for the matter within a

particular period (the *prescribed period*);
and

- (d) on the commencement, the person has not started the proceeding.
- (2) The tribunal has jurisdiction to deal with the matter under this Act.
- (3) A proceeding for the matter may be started under this Act—
 - (a) within the prescribed period; and
 - (b) in the way the proceeding could be started if the matter had arisen after the commencement.
- (4) If a proceeding for the matter is started under this Act, the tribunal must deal with the matter under this Act and has, and only has, functions under this Act or the relevant Act in relation to the matter.
- (5) This section applies despite the *Acts Interpretation Act 1954*, section 20.

289 Transfer of particular tenancy matters

- (1) This section applies in relation to a relevant tenancy matter the subject of a proceeding before the tribunal exercising its original jurisdiction if, on the commencement, the tribunal has not made its final decision in the proceeding.
- (2) The relevant tenancy matter is transferred to the relevant court.
- (3) The proceeding for the matter is taken to have been started before the court when it was started before the tribunal.
- (4) The tribunal may make the orders or give the directions it considers appropriate to facilitate the transfer, including an order that a party is taken to

[s 44]

have complied with the requirements under an Act or other law for starting a proceeding before the court.

(5) An order under subsection (4) has effect despite any other Act or law.

(6) In this section—

relevant court means the court having the lowest monetary limit to its jurisdiction that is not less than the amount or other relief sought.

relevant tenancy matter means a tenancy matter for which a person seeks the payment of an amount or other relief of a value greater than the prescribed amount.

44 Amendment of sch 3 (Dictionary)

(1) Schedule 3—

insert—

conciliator means a person who conducts conciliation under this Act.

(2) Schedule 3, definition *constitute*—

omit, insert—

constitute, the tribunal—

(a) in relation to a member—means to constitute the tribunal whether by sitting alone or with other members; or

(b) in relation to an adjudicator—means to constitute the tribunal by sitting alone.

(3) Schedule 3, definition *minor civil dispute*, item 1, paragraph (d)—

omit.

(4) Schedule 3, definition *minor civil dispute*, item 1, paragraph (g), note, ‘paragraph (g)’—

omit, insert—

paragraph (f)

- (5) Schedule 3, definition *minor civil dispute*, item 1, paragraphs (e) to (g)—

renumber as item 1, paragraphs (d) to (f).

- (6) Schedule 3, definition *minor civil dispute—*

insert—

3 A claim mentioned in paragraph 1(b) does not include a claim in a proceeding to which the *Fair Trading Act 1989*, section 50A applies.

- (7) Schedule 3, definition *non-publication order*, paragraph (b)—

omit, insert—

(b) a confidentiality order under the repealed *Adoption of Children Act 1964*, section 36M(1); or

(ba) a confidentiality order under the *Adoption Act 2009*, section 307N(1); or

- (8) Schedule 3, definition *non-publication order*, paragraphs (ba) to (e)—

renumber as paragraphs (c) to (f).

- (9) Schedule 3, definition *official—*

insert—

(ba) a conciliator; or

- (10) Schedule 3, definition *official*, paragraphs (ba) to (g)—

renumber as paragraphs (c) to (h).

[s 45]

Part 5 **Amendment of Residential Tenancies and Rooming Accommodation Act 2008**

45 **Act amended**

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

46 **Replacement of s 516 (Applications for more than prescribed amount)**

Section 516—

omit, insert—

516 Applications for more than prescribed amount

- (1) This section applies if—
 - (a) a provision of this Act provides that an application may be made to a tribunal about a matter; and
 - (b) a person seeks the payment of an amount or other relief of a value greater than the prescribed amount under the QCAT Act in relation to the matter.
- (2) A provision of this Act about the matter applies—
 - (a) as if a reference to a tribunal were a reference to a court with jurisdiction for the amount or value of relief sought; and
 - (b) with all other necessary changes to give effect to paragraph (a).

Part 6 **Amendment of Supreme Court of Queensland Act 1991**

47 Act amended

This part amends the *Supreme Court of Queensland Act 1991*.

48 Amendment of sch 1 (Subject matter for rules)

Schedule 1, section 14(f), ‘special’—
omit.

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