

Queensland



**JUSTICE AND
ATTORNEY–GENERAL
(MISCELLANEOUS
PROVISIONS) BILL 1995**

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JUSTICE AND ATTORNEY–GENERAL (MISCELLANEOUS PROVISIONS) BILL 1995

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1995

A BILL

FOR

**An Act to amend or repeal Acts administered by the Minister for
Justice and Attorney-General and Minister for the Arts**

*Justice and Attorney-General (Miscellaneous
Provisions) Bill*

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

Clause **1.** This Act may be cited as the *Justice and Attorney-General
(Miscellaneous Provisions) Bill 1995*.

4

5

**PART 2—AMENDMENT OF ACTS
INTERPRETATION ACT 1954**

6

7

Act amended

8

Clause **2.** This part amends the *Acts Interpretation Act 1954*.

9

Replacement of s 29A (Reports to Legislative Assembly)

10

Clause **3.** Section 29A—

11

omit, insert—

12

‘Tabling of reports when Legislative Assembly not sitting

13

‘**29A.(1)** This section applies to a report that, under an Act—

14

(a) is received by a Minister or the Speaker; and

15

(b) is required or permitted to be tabled in the Legislative Assembly.

16

‘**(2)** If the Minister or Speaker wants to table the report when the
Legislative Assembly is not sitting, the Minister or Speaker may give a
copy of it to the Clerk of the Parliament.

17

18

19

‘**(3)** The Clerk may authorise the printing of the report.

20

‘**(4)** If the report is printed under the Clerk’s authority, the Clerk must

21

*Justice and Attorney-General (Miscellaneous
Provisions) Bill*

table the report in the Legislative Assembly on the next sitting day.¹ 1

‘(5) For subsection (1)(b), if a report is required or permitted to be tabled 2
in the Legislative Assembly, a part of the report or a document 3
accompanying the report is also taken to be required or permitted to be 4
tabled in the Legislative Assembly. 5

‘(6) In this section— 6

“report” includes— 7

(a) part of a report; and 8

(b) a document accompanying a report.’. 9

Amendment of s 33A (References to States include Territories) 10

Clause 4. Section 33A(3), before ‘enacted’— 11

insert— 12

‘(other than this Act)’.

 13

**Amendment of s 36 (Meaning of commonly used words and 14
expressions) 15**

Clause 5. Section 36— 16

insert— 17

‘ “Speaker” means the Speaker of the Legislative Assembly.’. 18

Relocation of s 48 (Mode of pleading affirmation instead of oath) 19

Clause 6. Section 48— 20

relocate to Oaths Act 1867, in part 7, as section 42. 21

¹ The report is a parliamentary document under the *Parliamentary Papers Act 1992*, section 6 and the House is taken to have authorised the Clerk to publish the report. A person does not incur civil or criminal liability for publishing a document under the House’s authority (*Parliamentary Papers Act 1992*, section 10(1)).

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Amendment and relocation of s 52(1) and (2) (Form of oath of allegiance)

Clause	7.(1) Section 52(2), heading—	3
	<i>omit.</i>	4
	(2) Section 52(1) and (2), as amended—	5
	<i>relocate to Oaths Act 1867, in part 2, as section 5A(1) and (2).</i>	6

**PART 3—AMENDMENT OF COMMISSIONS OF
INQUIRY ACT 1950**

Act amended

Clause	8. This part amends the <i>Commissions of Inquiry Act 1950</i> .	10
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Omission of s 26 (Regulations)

Clause	9. Section 26—	12
	<i>omit.</i>	13

Replacement of s 32 (Receipt of commission report)

Clause	10. Section 32—	15
	<i>omit, insert—</i>	16

‘Reports may be tabled

	‘32. A report under this Act that is received by a Minister may be tabled in the Legislative Assembly.	18
		19

‘Regulation making power

	‘33.(1) The Governor in Council may make regulations under this Act.	20
		21

*Justice and Attorney-General (Miscellaneous
Provisions) Bill*

‘(2) A regulation may make provision about the conduct of
commissions.’. 1
2

PART 4—AMENDMENT OF ELECTORAL ACT 1992 3

Act amended 4

Clause 11. This part amends the *Electoral Act 1992*. 5

Amendment of s 111 (Electoral visitor voting) 6

Clause 12. Section 111(1), ‘elector visitor’— 7
omit, insert— 8
‘electoral visitor’. 9

Replacement of s 172 (Failure to post etc. documents on behalf of another person) 10 11

Clause 13. Section 172— 12
omit, insert— 13

‘Failure to post or send documents for someone else 14

‘172.(1) A person commits an offence if the person— 15

(a) is given a request under section 110 or 111² to post or send by
facsimile to the Commission or a returning officer; and 16
17

(b) fails to promptly post it or send it by facsimile to the
Commission or returning officer. 18
19

‘(2) A person commits an offence if the person— 20

(a) is given a declaration envelope under section 110(5)(d)(ii) to post 21

² Section 110 deals with declaration voting using posted voting papers.
Section 111 deals with electoral visitor voting.

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Provisions) Bill*

to the Commission or returning officer; and	1
(b) fails to promptly post it to the Commission or returning officer.	2
Maximum penalty—20 penalty units or imprisonment for 6 months.’.	3

PART 5—AMENDMENT OF JUDGES (PENSIONS AND LONG LEAVE) ACT 1957	4 5
--	--------

Act amended	6
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Clause	14. This part amends the <i>Judges (Pensions and Long Leave) Act 1957</i> .	7
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Amendment of s 15 (Leave of absence of Judges)	8
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Clause	15. Section 15(5)—	9
	<i>omit, insert—</i>	10
	‘(5) A Judge who is entitled to not less than 6 months additional leave of absence under subsection (1) may, with the Governor in Council’s approval, take the additional leave in 2 or more separate periods.’.	11 12 13

PART 6—AMENDMENT OF JUSTICES ACT 1886	14
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Act amended	15
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Clause	16. This part amends the <i>Justices Act 1886</i> .	16
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Insertion of new s 268A	17
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Clause	17. After section 268—	18
	<i>insert—</i>	19

*Justice and Attorney-General (Miscellaneous
Provisions) Bill*

‘Approval of forms on 18 June 1993

‘**268A.(1)** To remove any doubt, it is declared that the forms approved for this Act by the chief executive on 18 June 1993 are taken to be, and always to have been, validly approved.

‘**(2)** This section expires on the day it commences.’.

Amendment and omission of s 269 (Declaration about effect of Penalties and Sentences Act 1992)

Clause **18.(1)** Section 269 (as inserted by the *Justice and Attorney-General Legislation (Miscellaneous Provisions) Act 1993*)—

insert—

‘**(2)** This section is a law to which section 20A of the *Acts Interpretation Act 1954* applies.’.

(2) Section 269, as amended—

omit.

Insertion of new s 271

Clause **19.** After section 270—

insert—

‘Continuation of places and districts

‘**271.(1)** In this section—

“**amending Act**” means the *Justice Legislation (Miscellaneous Provisions) Act 1992*.

“**amendment day**” means the day the amendments of the *Decentralisation of Magistrates Courts Act 1965* made by the amending Act commenced.³

‘**(2)** To remove any doubt, it is declared that, despite the enactment of the amending Act—

³ The amendment day was 14 August 1992.

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- (a) the boundaries of each Magistrates Court district or division immediately before the amendment day continued to be the boundaries for the district or division; and
 - (b) a division of the Brisbane district continued to be a district for this Act and any other law conferring jurisdiction on Magistrates Courts; and
 - (c) every place appointed in each division of the Brisbane district continued to be a place appointed under this Act for holding a Magistrates Court.
- ‘(3) This section is a law to which the *Acts Interpretation Act*, section 20A applies.
- ‘(4) This section expires 1 year after the day on which it commences or, if an earlier day is prescribed under a regulation, that day.’.

**PART 7—AMENDMENT OF JUSTICES OF THE
PEACE AND COMMISSIONERS FOR
DECLARATIONS ACT 1991**

Act amended

- Clause 20. This part amends the *Justices of the Peace and Commissioners for Declarations Act 1991*.

Amendment of s 5 (Membership)

- Clause 21.(1) Section 5, paragraphs (b) to (e)—
omit, insert—
- ‘(b) 1 is to be an officer of the public service in the department in which the *Vocational Education, Training and Employment Act 1991* is administered; and
- ‘(c) 1 is to be an officer of the public service in the department in which the *Community Services (Aborigines) Act 1984* and

*Justice and Attorney-General (Miscellaneous
Provisions) Bill*

Community Services (Torres Strait) Act 1984 are administered;
and

‘(d) 1 is to be a police officer; and’.

(2) Section 5(g), ‘4’—

omit, insert—

‘5’.

(3) Section 5(f) and (g), as amended—

renumber as section 5(e) and (f).

**Replacement of s 12 (Registrar of justices of the peace and
commissioners for declarations)**

Clause 22. Section 12—

omit, insert—

‘Registrar and deputy registrars

‘12.(1) The following officers may be appointed under the *Public Service Management and Employment Act 1988*—

(a) a registrar of justices of the peace and commissioners for
declarations;

(b) deputy registrars of justices of the peace and commissioners for
declarations.

‘(2) A deputy registrar may exercise the powers of the registrar.’.

Amendment of s 16 (Qualifications of office)

Clause 23.(1) Section 16(a), ‘, upon the recommendation of the Minister,’—
omit.

(2) Section 16—

insert—

‘(2) Subsection (1)(c) does not apply to the appointment of a retired
Magistrate as a justice of the peace (magistrates court) if the person applies

*Justice and Attorney-General (Miscellaneous
Provisions) Bill*

for the appointment within 5 years after the person's retirement as a Magistrate.'.

1
2

PART 8—AMENDMENT OF OATHS ACT 1867

3

Act amended

4

Clause 24. This part amends the *Oaths Act 1867*.

5

Replacement of heading before s 1

6

Clause 25. Heading before section 1—
 omit, insert—

7
8

‘PART 1—PRELIMINARY

9

‘Short title

10

 ‘1A. This Act may be cited as the *Oaths Act 1867*.

11

‘Definitions

12

 ‘1B. In this Act—

13

 “**court of justice**” includes a person authorised to administer oaths to witnesses.

14
15

 “**presiding Judge**” includes a person authorised to administer oaths to witnesses.

16
17

 “**State**” includes a Territory.

18

‘PART 2—OATHS OF OFFICE AND ALLEGIANCE’.

19

*Justice and Attorney-General (Miscellaneous
Provisions) Bill*

Replacement of heading before s 6

Clause **26.** Heading before section 6—
 omit, insert—

**‘PART 3—DECLARATIONS SUBSTITUTED FOR
CERTAIN OFFICIAL OATHS’.**

Replacement of heading before s 13

Clause **27.** Heading before section 13—
 omit, insert—

‘PART 4—STATUTORY DECLARATIONS’.

Replacement of s 13 (Persons entitled to take declarations)

Clause **28.** Section 13—
 omit, insert—

‘Who may take declarations

‘13.(1) A person’s declaration may be taken by—

- (a) a justice, commissioner for declarations or notary public under
the law of the State, the Commonwealth or another State; or
- (b) a lawyer; or
- (c) a conveyancer, or another person authorised to administer an
oath, under the law of the State, the Commonwealth or another
State.

‘(2) This section applies to a declaration taken for Queensland law,
whether it is taken inside or outside Queensland (including outside
Australia).

‘(3) In this section—

“taken” includes received.’.

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Provisions) Bill*

Omission of headings

- Clause **29.** Headings before sections 14 and 15—
 omit.

Replacement of heading before s 17

- Clause **30.** Heading before section 17—
 omit, insert—

**‘PART 5—SOLEMN AFFIRMATIONS AND
DECLARATIONS’.**

Omission of headings

- Clause **31.** Headings before sections 18 and 19 and headings to sections 18(2)
and 19(2)—
 omit.

Replacement of heading before s 21

- Clause **32.** Heading before section 21—
 omit, insert—

‘PART 6—OTHER OATHS’.

Omission of headings

- Clause **33.** Headings before sections 23, 24, 26, 28, 29, 31 and 34—
 omit.

Amendment of s 29

- Clause **34.(1)** Section 29, as heading—
 insert—

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‘Interpreter’s oath to interpret between a prisoner, defendant or witness and others’.

(2) Section 29(1), before ‘FOREIGN WITNESS’, heading—
omit.

Replacement of heading before s 32

Clause 35. Heading before section 32—
omit, insert—

‘PART 7—MISCELLANEOUS’.

Replacement of s 35 (Commencement of Act—Short title) and heading before s 35

Clause 36. Section 35 and heading before the section—
omit, insert—

‘References to Oaths Act Amendment Acts

‘43. In an Act or document, a reference to any of the following Acts is taken to be a reference to this Act, and a reference to a provision of any of the following Acts that was relocated to this Act is taken to be a reference to the corresponding provision of this Act—

- *Oaths Act Amendment Act 1876*
- *Oaths Act Amendment Act 1884*
- *Oaths Act Amendment Act 1981.’.*

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Provisions) Bill*

**PART 9—AMENDMENT OF OATHS ACT
AMENDMENT ACT 1876**

Act amended

Clause 37. This part amends the *Oaths Act Amendment Act 1876*.

Relocation of ss 3 and 4

Clause 38. Sections 3 and 4—
relocate to *Oaths Act 1867*, in part 7, as sections 35 and 36.

**PART 10—AMENDMENT OF OATHS ACT
AMENDMENT ACT 1884**

Act amended

Clause 39. This part amends the *Oaths Act Amendment Act 1884*.

Amendment of s 3 (Interpreters)

Clause 40. Section 3, ‘2’—
omit, insert—
‘37’.

Relocation of ss 2 and 3

Clause 41. Sections 2 and 3 (as amended)—
relocate to *Oaths Act 1867*, in part 11, as sections 37 and 38.

*Justice and Attorney-General (Miscellaneous
Provisions) Bill*

PART 11—AMENDMENT OF OATHS ACT AMENDMENT ACT 1891

	1
	2
Act amended	3
Clause 42. This part amends the <i>Oaths Act Amendment Act 1891</i> .	4
Amendment of s 2 (Interpreter)	5
Clause 43. Section 2, ‘1’—	6
<i>omit, insert—</i>	7
‘39’.	8
Replacement of s 3 (Justices and other persons may take affidavits)	9
Clause 44. Section 3—	10
<i>omit, insert—</i>	11
‘Who may take affidavits	12
‘3.(1) A person’s affidavit may be taken by any of the following persons	13
without a commission being issued for the purpose—	14
(a) a justice, commissioner for declarations or notary public under	15
the law of the State, the Commonwealth or another State;	16
(b) a lawyer;	17
(c) a conveyancer, or another person authorised to administer an	18
oath, under the law of the State, the Commonwealth or another	19
State.	20
‘(2) This section applies to an affidavit taken for Queensland law,	21
whether it is taken inside or outside Queensland (including outside	22
Australia).	23
‘(3) In this section—	24
“taken” includes received and sworn.’.	25

*Justice and Attorney-General (Miscellaneous
Provisions) Bill*

Relocation of ss 1–3

Clause	45. Sections 1 to 3—	2
	<i>relocate to Oaths Act 1867, in part 7, as sections 39, 40 and 41.</i>	3

Relocation of schedule

Clause	46. Schedule—	5
	<i>relocate to Oaths Act 1867.</i>	6

**PART 12—AMENDMENT OF SUPREME COURT OF
QUEENSLAND ACT 1991**

Act amended

Clause	47. This part amends the <i>Supreme Court of Queensland Act 1991</i> .	10
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Amendment of sch 2 (Consequential and other amendments)

Clause	48.(1) Schedule 2, amendment of <i>Supreme Court Act 1921</i> , section 7—	12
	<i>omit, insert—</i>	13
	‘Section 7, sentence starting ‘As and when directed’—	14
	<i>omit.’.</i>	15
	(2) This section is taken to have commenced on the commencement of the <i>Supreme Court of Queensland Act 1991</i> .	16
		17

Justice and Attorney-General (Miscellaneous Provisions) Bill

PART 13—REPEALS

1

Repeals

2

Clause **49.** The following Acts (as amended by this Act) are repealed—

3

- Oaths Act Amendment Act 1876 40 Vic No. 10
- Oaths Act Amendment Act 1884 48 Vic No. 19
- Oaths Act Amendment Act 1891 55 Vic No. 14.

4

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