

Justice and Other Legislation Amendment Bill 2019

Explanatory Notes

Short title

The short title of the Bill is the Justice and Other Legislation Amendment Bill 2019.

Policy objectives and the reasons for them

The principal purposes of the Bill are to amend legislation within the justice portfolio to improve the efficiency and effectiveness of the courts and administrative agencies and clarify, strengthen and update that legislation.

The Bill provides for amendments to:

- streamline processes in relation to:
 - the granting of certificates under section 22(2)(c) of the *Appeal Costs Fund Act 1973* where the presiding judge, magistrate or justice has died; has stopped being a judge, magistrate or justice; or it is not reasonably practicable for them to grant the certificate due to illness;
 - the acceptance of certain out-of-time complaints under the *Anti-Discrimination Act 1991*;
 - the appointment of mediators under the *Retail Shop Leases Act 1994*; and
 - applications for, and the execution of, court appointed wills for people without testamentary capacity under the *Succession Act 1981*;
- ensure the intended application of the *Dangerous Prisoners (Sexual Offenders) Act 2003* to all appropriate classes of prisoner;
- enhance the protections for vulnerable witnesses under the *Evidence Act 1977*;
- streamline and simplify the operation of certain provisions in the Criminal Code and *Penalties and Sentences Act 1992* to enhance the efficiency of criminal proceedings;
- improve the administrative and operational efficiency of the coronial system including in response to:
 - the coronial findings following the inquest into the death of Bryan Hodgkinson to ensure that all inquests (including inquests that are part-heard or inquests to be re-opened) come within the ambit of the *Coroners Act 2003* regardless of when the death, or disappearance or suspected death, occurred; and

- issues identified by the State Coroner and highlighted in the Queensland Auditor-General's Delivering Coronial Services Report 6: 2018-19;
- confirm the protections and immunities applicable to certain types of assessors;
- clarify the effect of interest on monetary limits in the District Court, Magistrates Courts and the Queensland Civil and Administrative Tribunal (QCAT);
- clarify, update and strengthen legislation for the regulation of the legal profession;
- clarify the jurisdiction of the *Magistrates Courts Act 1921* in relation to personal actions for the recovery of chattels;
- support the efficient operation of the Ombudsman's function with respect to human rights complaints by allowing delegation to an appropriately qualified officer;
- ensure the intended operation of the restricted premises scheme under the *Peace and Good Behaviour Act 1982* in response to a Magistrates Court interpretation of the definition of disorderly activity as not including unspecified criminal activity; and
- other justice portfolio statutes to streamline administrative processes, clarify various provisions and make amendments of a technical or drafting nature.

Achievement of policy objectives

The Bill achieves these objectives by amendments which include:

- the *Acts Interpretation Act 1954* to remove an obsolete reference to certified mail and to clarify that, for publication of an approved form on a relevant website, the requirement to state the first publication date is met by stating that date: on the relevant website; or on the website on which the form is published, which is accessible through the relevant website;
- the *Anti-Discrimination Act 1991* to allow the Queensland Human Rights Commission (formerly the Anti-Discrimination Commission Queensland) to defer a decision about the acceptance of out-of-time complaints in some circumstances until after the parties have participated in a conciliation conference;
- the *Appeal Costs Fund Act 1973* to enable another judge, magistrate or justice to grant a certificate under section 22(2)(c) where it is not reasonably practicable for the presiding judge, magistrate or justice to grant the certificate due to illness or the presiding judge, magistrate or justice has stopped being a judge, magistrate or justice or has died;
- the *Civil Proceedings Act 2011* to provide an assessor, appointed under chapter 13, part 7 of the *Uniform Civil Procedure Rules 1999*, with the same protections and immunity as a witness attending before the Supreme Court of Queensland;
- the *Commercial Arbitration Act 2013* to correct a minor technical drafting matter identified in the Supreme Court decision of *Wilmar Sugar P/L v Burdekin District Cane Growers Ltd* [2017] QSC 3;
- the *Coroners Act 2003* to:
 - apply the Act to all future inquests, including where a death or disappearance occurred before the commencement of the Act;

-
- allow certain suitably qualified persons other than coroners (including doctors approved by the State Coroner) to perform certain preliminary examinations in relation to a death upon that death being reported to a coroner;
 - provide a coroner with the discretion to order an autopsy, where necessary for an investigation;
 - allow a coroner to stop investigating a death after an autopsy is completed, if the coroner has determined the death is due to natural causes, the death is not reportable under any other criteria, and an autopsy certificate has been issued;
 - allow for the appointment of more than one registrar;
 - allow the State Coroner to delegate power to a registrar to, in an investigation, require a person to give information, a document, or anything else that is relevant to the investigation, in certain circumstances; and
 - allow a coroner to delegate the power to provide consent to the removal of tissue under the *Transplantation and Anatomy Act 1979*;
 - the Criminal Code to:
 - amend section 359E (Punishment of unlawful stalking) to clarify that the circumstance of aggravation applies to unlawful stalking directed at a ‘law enforcement officer’ when or because the officer is investigating the activities of a criminal organisation, consistent with the aggravating circumstance in section 359 (Threats);
 - clarify the operation of section 463 (Setting fire to crops and growing plants) to ensure the offence applies to the setting fire of naturally growing grass and vegetation;
 - allow an indictable offence that is otherwise required to be dealt with summarily under section 552BA (Charges of indictable offences that must be heard and decided summarily) to be dealt with on indictment when it is charged in the alternative;
 - expand the summary disposition of indictable offences relating to property by increasing the amount under the definition of ‘prescribed value’ in section 552BB (Excluded offences) from \$30,000 to \$80,000;
 - enable an accused person’s lawyer to make a written application under section 652 (Proceedings to transmit charge for summary offence) to transmit charges for summary matters on behalf of the accused;
 - the *Criminal Law (Rehabilitation of Offenders) Act 1986* to remove the requirement for the Minister to authorise the prosecution of offences under that Act;
 - the *Criminal Proceeds Confiscation Act 2002* to clarify that section 237 is only activated where both an interstate restraining order and a pecuniary penalty order have been filed;
 - the *Dangerous Prisoners (Sexual Offenders) Act 2003* to correct an anomaly in its operation with respect to prisoners returned to custody on parole suspensions and to clarify its application to those serving periods of detention while being held in custody in a corrective services facility;
 - the *District Court of Queensland Act 1967* to:
 - amend section 68 to clarify that interest payable on any basis (including statutory, contractual and discretionary interest awarded by a court) should not be considered when determining whether the amount, value or damage
-

- sought to be recovered in an action exceeds the jurisdictional monetary limit for the court; and
 - insert two Criminal Code offences, that is, sections 228A (Involving child in making child exploitation material) and 228B (Making child exploitation material), to the list of exceptions to the general jurisdictional restriction placed on the District Court if the maximum penalty is more than 20 years imprisonment;
- the *Drugs Misuse Act 1986* to define ‘informer’ and correct a drafting anomaly to ensure a person can be prosecuted for an offence of disclosing identifying information about a drug informer;
- the *Evidence Act 1977* to enable the court to exclude the public from a courtroom while a statement under section 93A (Statement made before proceeding by child or person with an impairment of the mind) from an affected child or special witness is being played;
- the *Judges (Pensions and Long Leave) Act 1957* to clarify the operation of the provision concerning a judge’s pension entitlements when retiring early due to ill health, with consequential amendments to the *Corrective Services Act 2006* and *Crime and Corruption Act 2001*;
- the *Land Court Act 2000* to clarify and improve the administration of the Land Court and its procedures and processes, with consequential amendments to the *Mineral Resources Act 1989*;
- the *Legal Profession Act 2007* to:
 - strengthen the provisions relating to suitability and the show cause process for directors of insolvent incorporated legal practices and corporations;
 - clarify that the Queensland Law Society (QLS) has power to charge fees for assessing applications for exemption from, or deferral of, the obligation to undertake the practice management course;
 - clarify that the power for the QLS to conduct a trust account investigation of the affairs of a law practice may be exercised routinely not just in relation to a particular allegation or suspicion; and
 - clarify eligibility for government legal officers, in-house counsel and volunteer lawyers to move admissions to the legal profession that are without conditions;
- the *Magistrates Courts Act 1921* to:
 - clarify that the jurisdiction of the Magistrates Courts includes personal actions for the recovery of chattels; and
 - clarify that interest payable on any basis (including statutory, contractual and discretionary interest awarded by a court) should not be considered when determining whether the amount, value or damage sought to be recovered in an action exceeds the jurisdictional monetary limit for the court;
- the *Ombudsman Act 2001* to allow the Ombudsman to delegate the making of a decision about a human rights complaint under section 66 of the *Human Rights Act 2019* to an appropriately qualified officer;
- the *Peace and Good Behaviour Act 1982* to:

- include criminal activity likely to pose a risk to the safety of a member of the public in the definition of disorderly activity; and
 - allow for appeal of a decision of a magistrate to return a prohibited item;
- the *Penalties and Sentences Act 1992* (PSA) to:
 - enhance judicial discretion and reduce complexity under section 159A (Time held in presentence custody to be deducted); and
 - consolidate the sentencing principle at section 4 of the *Penalties and Sentences Regulation 2015* into section 9 of the PSA in order to improve the accessibility of the criminal law;
- the *Property Law Act 1974* to clarify that a mortgagee may exercise a power of sale following the disclaimer of freehold land by a trustee in bankruptcy or liquidator without the need to apply for court orders under the *Bankruptcy Act 1966* (Cth) or the *Corporations Act 2001* (Cth);
- the *Queensland Civil and Administrative Tribunal Act 2009* to:
 - clarify that interest payable on any basis (including discretionary, statutory or contractual interest) should not be taken into account when determining whether an amount, value or damage or sum claimed, or sought to be recovered, exceeds the monetary limits of the Queensland Civil and Administrative Tribunal's (QCAT) original jurisdiction (including the minor civil disputes jurisdiction);
 - provide flexibility in appointment processes by removing the requirement for the Minister to advertise for applications from appropriately qualified persons to be appointed as senior members and ordinary members; and
 - simplify the process for changing a QCAT member's entitlement to remuneration and allowances (entitlements) by no longer requiring details of the entitlements to be recorded in the member's appointment instrument, and instead providing that the Governor in Council may determine the entitlements for all senior and ordinary members from time to time;
- the *Retail Shop Leases Act 1994* to remove the Minister's power to appoint mediators and generally align the appointment process with that under the *Dispute Resolution Centres Act 1990*;
- the *Succession Act 1981* to remove the requirement: (a) to obtain the court's leave to apply for an order authorising a will to be made, altered or revoked on behalf of a person without testamentary capacity; and (b) that the proposed testator be alive when the registrar signs and stamps with the court's seal a will or other instrument made pursuant to an order of the court; and
- miscellaneous amendments to streamline administrative processes, clarify various provisions and make amendments of a technical or drafting nature.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives other than through legislative amendment.

Estimated cost for government implementation

The amendment to section 552BB (Excluded offences) to expand summary disposition of indictable offences relating to property will result in the finalisation of more matters in the Magistrates Courts. However, any resultant costs cannot be estimated and will be met from existing agency resources.

There are no other implementation costs for government.

The amendment to section 159A(1) (Time held in presentence custody to be deducted) of the *Penalties and Sentences Act 1992* is expected to increase the efficiency of some proceedings.

Consistency with fundamental legislative principles

Civil Proceedings Act 2011

The amendment to the *Civil Proceedings Act 2011* to provide protection and immunity for assessors raises whether the legislation has sufficient regard to the rights and liberties of individuals and whether there is adequate justification for the immunity conferred (section 4(2)(a) and (3)(h) of the *Legislative Standards Act 1992*).

It is generally accepted that persons acting judicially and as part of the judicial process should be free from personal attack on the basis of illegal or negligent action when performing their roles or appearing as a party or witness in a hearing. The proposed protection and immunity will ensure that assessors can act with appropriate confidence. The role of assessor would be difficult to carry out if the assessor could be the subject of allegations and litigation against them personally in relation to their actions in office.

Given the nature of the role of assessors, their actions and decisions are subject to the supervision of the court. Across the statute book, there are other examples where similar immunity is provided including to adjudicators, mediators and other categories of assessors.

Coroners Act 2003

Application to pre-commencement deaths

Amendments to apply the *Coroners Act 2003* (current Act) to all deaths will allow for new or re-opened inquests for deaths to be held under the current Act for pre-commencement deaths. The amendment constitutes a potential breach of the fundamental legislative principles that legislation provide appropriate protection against self-incrimination and not adversely affect rights retrospectively (section 4(2)(a), (3)(f) and (3)(g) of the *Legislative Standards Act 1992*).

Unlike the *Coroners Act 1958* (repealed Act), the current Act includes a power to compel a witness at an inquest to give self-incriminating evidence. Abrogating the privilege against self-incrimination is necessary to help a coroner find out what actually happened to cause a death which supports the coroner making recommendations or

comments to prevent similar deaths happening in the future. Appropriate safeguards are included. The coroner may not require a person to give evidence that may incriminate them unless satisfied it is in the public interest. Further, evidence given is not admissible against a person in any criminal proceeding, with the exception of perjury. Derivative evidence is also not admissible against the person.

The potential use of the coercive powers in new or re-opened inquests for deaths that occurred prior to the commencement of the current Act is justified to ensure the hard core of remaining cases under the repealed Act that have not received the benefit of the new coronial regime, and in which ordinary police investigative powers have been exhausted, can be dealt with consistent with the objects of the current Act and in line with community expectations.

Preliminary examinations

Amendments to allow certain suitably qualified persons to conduct certain preliminary examinations in relation to a death, upon the death being reported to a coroner, may depart from the principle that legislation should only make rights and liberties dependant on administrative power if the power is sufficiently defined and subject to appropriate review (section 4(2)(a) and 3(a) of the *Legislative Standards Act 1992*). This is because in undertaking these examinations, the rights of family members or other interested persons may be engaged, for example where a person objects to the preliminary examination on the basis of religious beliefs.

The power is appropriately limited and defined in the following ways:

- a person performing an examination must either be a doctor approved by the State Coroner, or a suitably qualified person acting under the supervision of an approved doctor;
- the purpose of any examination undertaken is to assist the coroner in performing his or her functions under the Act in respect of the death; and
- the types of preliminary examinations are specifically defined and exhaustively listed; and the doctor (including the doctor supervising a suitably qualified person) must wherever practicable consider, that in some cases a deceased person's family may be distressed by the examination, and any concerns raised by a family member, or another person with a sufficient interest.

This latter limitation in relation to family members and sufficiently interested persons already exists (in the same terms) for a coroner ordering an internal autopsy of the body under section 19 of the Act. Given the importance of the timeliness of preliminary examinations (for example, certain tests will only be viable if taken within a few days following the person's death), as well as the mirroring of the current provision in the Act in relation to considering family concerns before ordering internal autopsies (which will generally be more invasive than preliminary examinations), it is undesirable and unnecessary for the provision to be subject to a merits-based appeal. The amendment is therefore considered justified.

Delegation of powers to registrar

Amendments proposed to the current Act to allow the State Coroner to delegate to the registrar power to require a person to give information relevant to an investigation of a death and provide consent under the *Transplantation and Anatomy Act 1979* for organ and tissue removal potentially depart from the principle that legislation should only allow the delegation of administrative power in appropriate cases and to appropriate persons (section 4(2)(a) and (3)(c) of the *Legislative Standards Act 1992*).

The registrar is appointed by the Governor in Council and the powers proposed for delegation are clearly defined, limited, and consistent with the role of the registrar. Allowing for the discretion for the State Coroner to delegate certain powers in the circumstances described above is considered justified to allow for the efficient operation of the Coroners Court of Queensland.

Criminal Code*Summary Disposition*

The amendment to the definition of ‘prescribed value’ from \$30,000 to \$80,000 in section 552BB (Excluded offences) of the Criminal Code will provide that a number of indictable offences in the Criminal Code relating to property must be dealt with summarily in a Magistrates Court under section 552BA. The amendment has the potential to affect the rights and liberties of an individual with respect to access to a trial by jury (section 4(2)(a) and (3)(b) of the *Legislative Standards Act 1992*). However, the amendment is intended to promote the more expeditious disposal of charges and consequently provides benefits for the administration of justice.

The Criminal Code also contains provisions which moderate the summary disposition of indictable offences, including, for example, section 552D of the Criminal Code which provides that a magistrate must abstain from dealing with a matter in certain circumstances. Section 552J of the Criminal Code also provides that, if a person is summarily convicted or sentenced under section 552A, 552B or 552BA, the grounds on which the person may appeal include that the Magistrates Court erred by deciding the conviction or sentence summarily. In addition, under section 552H of the Criminal Code, generally magistrates only have jurisdiction to impose a maximum penalty of 3 years imprisonment for indictable offences.

Unlawful stalking of a law enforcement officer investigating a criminal organisation

The proposed amendment to clarify section 359E of the Criminal Code may infringe the fundamental legislative principles to the extent that it is considered to adversely impact on rights and liberties retrospectively (section 4(2)(a) and (3)(g) of the *Legislative Standards Act 1992*). The proposed amendment will correct a drafting error to clarify the intended operation of a circumstance of aggravation to the offence of unlawful stalking. The circumstance of aggravation is narrow in application and applies only to those persons who unlawfully stalk a law enforcement officer when or because they are investigating the activities of a criminal organisation. A transitional provision is included to ensure that the intended scope of the offence applies to acts or omissions that occur before or after commencement of the amendment which arguably has the

potential to impact the applicable penalty for criminal offending retrospectively. While the amendment is considered to merely clarify the existing circumstance of aggravation, any potential infringement of the fundamental legislative principles is justified to ensure the intended operation of the provision, by ensuring law enforcement officers can effectively investigate the activities of criminal organisations safe in the knowledge that a sufficiently deterrent penalty applies to those who would unlawfully stalk them.

Criminal Law (Rehabilitation of Offenders) Act 1986

The Bill amends section 12 of the *Criminal Law (Rehabilitation of Offenders) Act 1986* (CLROA) to remove the requirement for the Minister to authorise the prosecution of offences under that Act. The amendments ensure the commencement of any prosecution by any prosecuting agency or a private citizen is no longer reliant on the authorisation of the Minister.

The CLROA is legislation which protects persons with spent convictions from being identified as convicted persons, thus aiding their rehabilitation and reintegration into society. Currently, the CLROA prohibits the disclosure of a conviction, by any person, to another person where the rehabilitation period for that offence has expired. The amendment will align Queensland with every other Australian jurisdiction with a spent conviction scheme and remove the restriction on what would otherwise be the unfettered right of any person to initiate a prosecution for such an offence.

The amendments potentially engage the fundamental legislative principle in section 4(2)(a) of the *Legislative Standards Act 1992* which requires legislation have sufficient regard to rights and liberties of individuals. This amendment removes the restriction which may be seen as a safeguard on what would otherwise be the unfettered right of any person to institute a prosecution for revealing the spent convictions of an individual. The extent to which the fundamental legislative principle might be infringed is justified on the basis that the amendment will prevent prosecutions for the offence being unnecessarily delayed. The amendments will mean that prosecutions will be able to be initiated by either the Director of Public Prosecutions (DPP), the Queensland Police Service (QPS) or a private individual. Both the DPP and the QPS must make decisions to initiate or continue prosecutions in accordance with the DPP Guidelines which provide a transparent decision making process. Finally, the conduct of private prosecutions are safeguarded by section 10(1)(c)(ii) of the *Director of Public Prosecutions Act 1984 (Qld)* which provides that the DPP can take over any summary prosecution either upon the direction of the Minister or on the Director's own motion.

Dangerous Prisoners (Sexual Offenders) Act 2003

The Bill amends the definition of 'prisoner' in section 5 of the *Dangerous Prisoners (Sexual Offenders) Act 2003* (DPSOA) to correct an anomaly in its operation with respect to prisoners returned to custody due to a suspension of a parole order and clarify its application to those serving periods of detention while being held in custody in a corrective services facility. The amendments ensure that these alternative legal bases for an offender being detained in custody are within the DPSOA's ambit.

The DPSOA is legislation which protects the community by providing a response to an unacceptable risk that a released prisoner may commit a further serious sexual offence.

The amendment recognises that a risk of this nature may be identified in prisoners who are detained in custody irrespective of the legal mechanism which gives rise to that detention. In this context, this amendment to the DPSOA (and the related consequential amendments) ensures that it remains responsive and achieves its object of ensuring the adequate protection of the community.

The amendments engage the fundamental legislative principle in section 4(2)(a) of the *Legislative Standards Act 1992*. This requires legislation to have sufficient regard to rights and liberties of individuals. This amendment potentially increases the number of prisoners who may be susceptible to a Division 3 order under the DPSOA which permits the ongoing supervision or detention of a prisoner beyond their period of imprisonment. The extent to which that fundamental legislative principle might be infringed is justified on the basis that the legislation ensures the protection of Queensland's children and community from sexual offenders who have or may be determined to pose an unacceptable risk of committing a further serious sexual offence.

The retrospective effect of the amendments to the DPSOA ensures its continued application to certain prisoners, in particular, those who have been returned to custody on parole suspensions and those serving periods of detention while being held in custody in a corrective services facility.

Drugs Misuse Act 1986

The Bill amends section 119 and 120 of the *Drugs Misuse Act 1986* to correct an anomaly in its operation with respect to authorising the disclosure of details pertaining to a drug informer in court proceedings solely for the purposes of prosecuting a person who unlawfully disclosed the identifying information about a drug informer. In correcting the anomaly a definition of 'informer' has been included in the definitions in section 4 which is derived from the common law definition.

The amendments potentially engage the fundamental legislative principle in section 4(2)(a) of the *Legislative Standards Act 1992* which requires legislation have sufficient regard to the rights and liberties of individuals by better facilitating the ability to prosecute individuals for unlawfully disclosing information about a drug informer. The extent to which that fundamental legislative principle might be infringed is justified on the basis that the legislation ensures the protection of persons who have provided assistance to police and prosecuting agencies from being identified for their safety and consequently provides benefits for the administration of justice.

Evidence Act 1977

This amendment extends the ability of the court to order the exclusion of the public to the situation where a section 93A statement of an affected child or special witness is being presented. The amendment has the potential to affect the rights and liberties of the individual with respect to the expectation of open justice and the principle that the administration of justice should occur in public (section 4(2)(a) and (3)(b) of the *Legislative Standards Act 1992*).

It is in the interests of justice that children and persons with an impairment of the mind are not discouraged from being witnesses. The amendment is consistent with existing provisions in the *Evidence Act 1977* allowing the courts to be closed in certain

circumstances, including while pre-recorded evidence is being presented. Further, the amendment contains a safeguard by limiting the court's power to exclude the public to non-essential persons. The ability to exclude the public in this circumstance addresses a current anomaly and offers another level of protection to vulnerable witnesses. In doing so, the amendment is consistent with the rationale underpinning the existing exception to the open justice principle and is justified on the same basis.

Land Court Act 2000

The amendment to the *Land Court Act 2000* (LCA) to allow delegation by the registrar of the Land Court of the registrar's functions or powers under the Act raises the fundamental legislative principle that legislation should allow the delegation of administrative power only in appropriate cases and to appropriate persons (section 4(3)(c) of the *Legislative Standards Act 1992*). However, this amendment is appropriate as it requires the delegate to be an appropriately qualified officer of the Land Court.

Legal Profession Act 2007

The amendment to the *Legal Profession Act 2007* in relation to suitability matters for legal practitioners who are directors of insolvent incorporated legal practices and corporations raises an issue regarding potential adverse impact on the rights of individuals, in that, arguably, legal practitioners could be penalised for circumstances outside of their control. However, this potential is ameliorated as the legal practitioner will be afforded a right to be heard, and will have the opportunity to present their case as to why those circumstances should not affect their right to practise.

Ombudsman Act 2001

The amendment to the *Ombudsman Act 2001* to allow delegation by the Ombudsman of a decision about a human rights complaint under section 66 of the *Human Rights Act 2019* raises the fundamental legislative principle that legislation should allow the delegation of administrative power only in appropriate cases and to appropriate persons (section 4(3)(c) of the *Legislative Standards Act 1992*).

However, this amendment is appropriate in the circumstances as it requires the delegate to be appropriately qualified. The amendment is also consistent with the delegation of equivalent decisions by the other relevant referral entities such as the Crime and Corruption Commission and the Health Ombudsman.

Peace and Good Behaviour Act 1982

The amendment to the *Peace and Good Behaviour Act 1982* to extend the definition of 'disorderly conduct' with the effect of increasing the scope of the existing restricted premises scheme (consistent with the intended operation of the provisions) potentially infringes on the fundamental legislative principle that legislation has sufficient regard to the rights and liberties of individuals in that it expands the circumstances in which an order could be made that might restrict a person's freedom of movement and association (section 4(2)(a) of the *Legislative Standards Act 1992*).

This potential breach is justified to ensure the existing scheme can effectively disrupt and deter the activities of criminals to protect the safety, welfare, security and peace and good order of the community. While the amendment expands the circumstances in which an order can be made, the potential breach is safeguarded by a requirement that a restricted premises order can only be made by a magistrate when it is appropriate to do so following consideration of various public safety imperatives.

Consultation

The Chief Justice; the President of the Land Court; the President of the Children's Court; the Chief Judge; the Chief Magistrate; the President of QCAT; and the State Coroner were consulted on amendments contained in the Bill of relevance or interest to them and their comments were taken into account in finalising drafting of the Bill.

The following stakeholders were also consulted on the amendments contained in the Bill expected to be of relevance or interest to them and their comments were taken into account in finalising drafting of the Bill: the QLS, the Bar Association of Queensland; Legal Aid Queensland; the Queensland Human Rights Commission; the Appeal Costs Board; the Public Trustee of Queensland; the Aboriginal and Torres Strait Islander Legal Service; the Queensland Council for Civil Liberties; the DPP; the Crime and Corruption Commission; the Parole Board Queensland; the Commonwealth Director of Public Prosecutions; Women's Legal Service Queensland; Queensland Advocacy Incorporated; Protect All Children Today; Bravehearts; Caxton Legal Centre Inc.; Community Legal Centres Queensland; and Aboriginal and Torres Strait Islander Women's Legal Services NQ Inc.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland, and is not uniform with or complementary to legislation of the Commonwealth or another state, except in relation to the amendments identified below.

Commercial Arbitration Act 2013

The *Commercial Arbitration Act 2013* (CA Act), which governs Queensland's domestic commercial arbitration regime, is based on national model legislation. The confidentiality provisions under the model are based on those in the Commonwealth *International Arbitration Act 1974* (Cth Act). The amendment to section 27H(1)(a) of the CA Act, which corrects a minor technical drafting error identified in *Wilmar Sugar P/L v Burdekin District Cane Growers Ltd* [2017] QSC 3, corresponds with recent amendments to the New South Wales (NSW) and Northern Territory commercial arbitration legislation.

Criminal Code

The amendment to the definition of 'prescribed value' in section 552BB of the Criminal Code increases the monetary limit on finalising property offences in the Magistrates Court where an offender pleads not guilty from \$30,000 to \$80,000. This amount more closely aligns with Victoria (Schedule 2 of the *Criminal Procedure Act 2009*) and NSW

(Schedule 1 of the *Criminal Procedure Act 1986*), where the monetary limits for some offences related to property that may be heard and decided summarily are \$100,000 and \$60,000, respectively.

Notes on provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill will be cited as the *Justice and Other Legislation Amendment Act 2019*.

Clause 2 states those parts of the Bill that commence on a date to be fixed by proclamation.

Part 2 Amendment of Acts Interpretation Act 1954

Clause 3 states that this part amends the *Acts Interpretation Act 1954*.

Clause 4 amends section 39A (Meaning of service by post etc.) to omit section 39A(4) which has become redundant as Australia Post has withdrawn the certified mail service.

Clause 5 amends section 48 (Forms - notification and availability) which provides for the notification and availability of forms and new versions of forms approved by an entity under an Act (approved forms). Section 48 was amended by the *Court and Civil Legislation Amendment Act 2017* to provide for the notification of approved forms on a 'relevant website' (as defined), as an alternative to the Queensland Government Gazette. The requirement for notification on a relevant website may be complied with by either publishing the form, or new version, on a relevant website (section 48(6)(a)(i)) and stating 'on the website' the date on which it is first published (first publication date) (section 48(6)(b)).

Subclauses (1) and (2) amend section 48(6) to clarify the original intent to allow flexibility for the operational implementation of the electronic notification provisions (and to avoid confusion for notifying entities) to provide that, for publication on a relevant website - the requirement to state the first publication date for an approved form is met by stating that date on either the relevant website; or the website on which the form is published (a related website), which is accessible through the relevant website.

Subclause (3) omits section 48(7), which is no longer required following the amendment of section 48(6).

Subclause (4) is consequential to the amendment made in subclause (3).

Part 3 Amendment of the Anti-Discrimination Act 1991

Clause 6 states that this part amends the *Anti-Discrimination Act 1991*.

Clause 7 amends section 4 (Definitions) to replace a reference to ‘the schedule’ with ‘schedule 1’.

Clause 8 inserts a new section 138(2) (Time limit on making complaints) to clarify the decisions that may be made by the Commissioner in relation to a complaint received more than one year after the alleged contravention of the Act. This clause also inserts a new section 138(3) which provides that new section 138(2) applies subject to section 141A.

Clause 9 inserts a new section 141(3) (Time limit on acceptance or rejection of complaints) which is required as a result of new section 141A.

Clause 10 inserts a new section 141A (Deferral of acceptance of complaint for out-of-time contravention) to allow the Commissioner to defer a decision under section 138(2) in relation to a complaint made more than one year after the alleged contravention if the complaint received also includes a within-time contravention accepted under section 141. By allowing the Commissioner to defer a decision in relation to the out-of-time contravention, the entire complaint, including the out-of-time component, can proceed to conciliation ahead of a decision under section 138(2).

Clause 11 makes an amendment to section 142 (Reasons for rejected complaints) to insert two new subsections. Subsection (4) declares that a reference in this section to rejecting a complaint includes a reference to deciding not to accept a complaint under section 137(1) or 138(2)(b). Subsection (5) defines complaint to include a complaint mentioned in section 141A to the extent it relates to an out-of-time contravention.

Clause 12 inserts a new section 158(2) (Conciliation of complaints) to ensure that an out-of-time contravention to which new section 141A applies can proceed to conciliation ahead of a decision under section 138(2).

Clause 13 inserts a new section 164A(4A) (Right of complainant to seek referral to tribunal after conciliation conference) to ensure that the Commissioner is not required to act under subsection (3) until the Commissioner has decided to accept the complaint under new section 138(2).

Clause 14 inserts new definitions required as a result of new section 141A and renumbers the schedule as schedule 1.

Part 4 Amendment of the Appeal Costs Fund Act 1973

Clause 15 states that this part amends the *Appeal Costs Fund Act 1973*.

Clause 16 amends section 22(2)(c) (Abortive proceedings and new trials after proceedings discontinued) to omit the current references to “the presiding judge, magistrate or relevant justice” and instead refer to “the relevant judge, relevant magistrate or relevant justice”, terms defined in new subsection (6).

Part 5 Amendment of Civil Proceedings Act 2011

Clause 17 states that this part amends the *Civil Proceedings Act 2011*.

Clause 18 amends section 59 (Interest after money order) to replace the word ‘assessment’ in subsection (4)(b) with a reference to ‘ascertainment of the costs’.

Clause 19 amends section 76 (Definitions for division) to insert new definitions required as a result of the new protection and immunity for trial assessors.

Clause 20 amends section 77 (Protection and immunity) to ensure that the section does not capture trial assessors.

Clause 21 amends section 78 (Preservation of confidentiality) to ensure that the section does not capture trial assessors.

Clause 22 amends section 79 (Preservation of privilege) to ensure that the section does not capture trial assessors.

Clause 23 inserts a new section 79AA (Protection and immunity for trial assessors) to provide protection and immunity for trial assessors. In performing the functions of a trial assessor, a trial assessor has the same protection and immunity as a witness attending before the Supreme Court.

Clause 24 amends schedule 1 (Dictionary) to insert new definitions required as a result of the new protection and immunity for trial assessors.

Part 6 Amendment of Commercial Arbitration Act 2013

Clause 25 states that this part amends the *Commercial Arbitration Act 2013*.

Clause 26 amends section 27H (The Court may prohibit disclosure of confidential information in certain circumstances) to omit from section 27H(1)(a) the word ‘and’ and insert the word ‘or’ to correct a minor technical drafting matter identified in the Supreme Court decision of *Wilmar Sugar P/L v Burdekin District Cane Growers Ltd* [2017] QSC 3.

Part 7 Amendment of Coroners Act 2003

Clause 27 states that this part amends the *Coroners Act 2003*.

Clause 28 inserts new section 11AA (Preliminary examinations).

Subsection (1) provides that after a police officer reports a person’s death to a coroner under section 7(4) (Duty to report deaths), an examination for the deceased person’s body (a ‘preliminary examination’) may be performed under this section.

Subsection (2) provides that the purpose of a preliminary examination is to assist a coroner in the performance of the coroner’s functions under the Act relating to the person’s death. Deciding whether a death is a reportable death is included as an example of a coroner’s function.

Subsection (3) provides that the preliminary examination may include any of the following listed procedures performed for the deceased person's body, alone or in combination: (a) a visual examination of the body, including a dental examination; (b) the collection and review of relevant information, including personal and health information relating to the deceased person or the death of the person; (c) the taking, including by making an incision in the body, of samples of bodily fluid from the body, including blood, urine, saliva, mucus and vitreous humour samples, and the testing of those samples; (d) the imaging of the body, including the use of computed tomography (CT scan), magnetic resonance imaging (MRI scan), x-ray, ultrasound and photography; (e) the taking of samples from the surface of the body, including swabs from wounds and inner cheek, hair samples and samples from under fingernails and from the skin, and the testing of those samples; and (f) the fingerprinting of the body.

Subsection (4) provides that a doctor who is listed in the guidelines as a doctor approved by the State Coroner to perform preliminary examinations is an examiner. An examiner, or a suitably qualified person under the general supervision of an examiner, may perform the preliminary examination for the person's body. A coronial nurse is included as an example of a suitably qualified person.

Subsection (5) provides that, before the examiner, or a person supervised by the examiner, performs the preliminary examination for the person's body, the examiner must, whenever practicable, consider at least the following: (a) that in some cases the person's family may be distressed by the procedures to be performed in the examination, including, for example, because of cultural traditions or spiritual beliefs; and (b) any concerns raised by a family member, or another person with a sufficient interest, in relation to the procedures to be performed for the examination.

Subsection (6) provides that as soon as practicable after the preliminary examination is completed, the examiner must prepare a preliminary examination report and give the report to a coroner.

Subsection (7) defines 'preliminary examination report' as a written report containing information about a preliminary examination performed for a deceased person, including, for example, information about: (a) the results of any procedures or tests that were performed as part of the preliminary examination; and (b) the cause of the person's death, if known.

Clause 29 amends section 12 (Deaths not to be investigated or further investigated) to remove the heading and insert the new heading 'Not investigating or stopping investigation of particular deaths'.

Subclause (2) amends section 12 to insert new subsection (4) to provide that a coroner may stop investigating a death if: the death was a reportable death only under section 8(2) and (3)(e); and an autopsy has been conducted and an autopsy certificate has been given to the coroner under section 24A(3)(b); and the coroner, having regard to the circumstances of the death and the autopsy certificate, is satisfied the death was a natural death.

Clause 30 amends section 14 (Guidelines and directions for investigations).

Subclause (1) inserts new section 14(3)(ba) to provide that the State Coroner's guidelines must list the doctors who are approved by the State Coroner to perform preliminary examinations either by name or by reference to particular qualifications.

Subclause (3) inserts new section 14(4)(aa) to provide that the State Coroner may issue guidelines applying to all persons who carry out a function under the Act about a preliminary examination for new section 11AA (Preliminary examinations).

Subclauses (2) and (4) renumber section 14 consequential to these amendments.

Clause 31 amends section 19 (Order for autopsy) to replace subsection (2) to provide that a coroner may order a doctor to perform an autopsy if the coroner considers an autopsy is necessary for the investigation of a death or to find out whether a body is that of a stillborn child.

Subclause (2) amends section 19(7) consequential to the amendments to section 14 (Guidelines and directions for investigations).

Clause 32 amends section 26 (Control of body) consequential to the amendment to section 12 (Deaths not to be investigated or further investigated).

Clause 33 amends section 40 (Exhibits) to allow for the appointment of more than one registrar.

Clause 34 amends section 54 (Access to investigation documents for other purposes) to allow for the appointment of more than one registrar and to insert subsection (2)(c) consequential to the amendment to the definition of 'investigation' in schedule 2 Dictionary.

Clause 35 amends section 84 (Registrar) to allow for the appointment of more than one registrar.

Clause 36 amends section 86 (Delegation of duties or powers to registrar or deputy registrar).

Subclause (1) variously amends section 86 to allow for the appointment of more than one registrar.

Subclause (2) amends section 86(8) to remove the definition of 'appropriately qualified' as this term is defined in the *Acts Interpretation Act 1954*.

Subclause (3) amends section 86(8) definition of 'power' to insert, at paragraph (a), the power to consent to the removal of tissue under the *Transplantation and Anatomy Act 1979*, section 24(2) or (3).

Subclause (4) amends section 86(8) definition of 'power' to omit paragraph (b)(ii).

Subclause (5) is consequential to subclause (4).

Clause 37 amends section 94 (Evidentiary aids) to allow for the appointment of more than one registrar.

Clause 38 amends part 6 (Transitional Provisions) division 1 (Transitional provisions for Act as enacted) to insert reference to the amendments in the Bill in the heading.

Clause 39 inserts new sections 99A (Definitions for division) and 99B (Meaning of ‘unfinished repealed Act inquest’).

New section 99A defines ‘former section 100’ as meaning section 100 as in force before the commencement of new section 99A and provides a cross reference to the definition of ‘unfinished repealed Act inquest’ in section 99B.

New section 99B defines ‘unfinished repealed Act inquest’ as an inquest within the meaning of section 5 of the repealed *Coroners Act 1958* that started under the repealed Act or the repealed Act as applied under former section 100 and had not concluded before the commencement of section 99B.

Clause 40 variously amends section 100 (When repealed Act still applies) to omit all references to pre-commencement death and re-head the section ‘Application of repealed Act to pre-commencement fire’.

Clause 41 inserts new sections 100A-100E.

New section 100A (Application of repealed Act to unfinished repealed Act inquest) provides that the repealed *Coroners Act 1958* continues to apply to an unfinished repealed Act inquest unless the inquest is, under new section 100B, stopped and reopened as an inquest under the *Coroners Act 2003*.

New section 100B (Stopping and reopening an unfinished repealed Act inquest) provides in subsection (1) that a coroner who is holding an unfinished repealed Act inquest may, on his or her own initiative stop the inquest without a finding being given under the repealed *Coroners Act 1958* and reopen the inquest as an inquest under the *Coroners Act 2003*.

Section 100B(2) allows the State Coroner, on his or her own initiative, to direct another coroner to stop and reopen an unfinished repealed Act inquest under subsection (1).

New section 100C (Reopening finished repealed Act inquest) provides that existing sections 50 (Re-opening inquests etc. – on application) and 50A (Reopening inquests on coroner’s initiative) apply for reopening a finished repealed Act inquest as if references in those sections include references to a finished repealed Act inquest as defined in subsection (2) below.

Subsection (2) defines ‘finished repealed Act inquest’ as an inquest within the meaning of section 5 (Definitions) of the repealed *Coroners Act 1958* concluded under the repealed Act or the repealed Act as applied under former section 100, defined in new section 99A (Definitions for division).

New section 100D (Effect on rights and privileges) provides that sections 100B and 100C have effect despite any right or privilege acquired by or accrued to a person under the repealed *Coroners Act 1958* and despite section 20 (Saving of operation of repealed Act etc.) of the *Acts Interpretation Act 1954*.

Subsection (2) confirms that the *Coroners Act 2003* applies in relation to a person giving evidence at an inquest reopened under new section 100B (Stopping and reopening an unfinished repealed Act inquest) or sections 50 (Re-opening inquests etc. – on application) or 50A (Reopening inquests on coroner’s initiative) as applied under new section 100C (Reopening finished repealed Act inquest) even if the person has claimed the privilege against self-incrimination or incrimination of the person’s spouse under the repealed *Coroners Act 1958* section 33(2) (Protection of witnesses and counsel) or that section applied under former section 100 defined at new section 99A (Definitions for division).

New section 100E (Application of s24(7) to specimen tissue) clarifies that section 24(7) does not apply, and has never applied in relation to specimen tissue that was turned into specimen tissue before the commencement of section 24 (Removing tissue for autopsy testing) or in reliance on transitional provisions prior to the commencement of section 100E.

Subsections (3) and (4) provide that section 24(7) applies if specimen tissue from a person’s body is still being kept immediately before an inquest into the death of that person is reopened under new section 100B (Stopping and reopening an unfinished repealed Act inquest) or sections 50 (Re-opening inquests etc. – on application) or 50A (Reopening inquests on coroner’s initiative) as applied under new section 100C (Reopening finished repealed Act inquest).

Subsection (5) provides definitions necessary for the section.

Clause 42 amends schedule 2 Dictionary.

Subclause (1) inserts a definition of ‘preliminary examination’ by reference to new section 11AA (Preliminary examinations).

Subclause (2) amends the definition of ‘investigation’ by inserting a preliminary examination at new subparagraph (aa) of the definition.

Subclause (3) renumbers paragraphs (aa) to (b) of the definition of ‘investigation’ consequential to the amendment to that definition.

Part 8 Amendment of Corrective Services Act 2006

Clause 43 states that this part amends the *Corrective Services Act 2006*.

Clause 44 amends a cross-reference in section 234 (Meetings about particular matters relating to parole orders) to the schedule in the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

Clause 45 amends section 240 (Pension if appointment ends because of ill health) to replace the current requirement for a medical practitioner prescribed under section 5(1)(a) of the *Judges (Pensions and Long Leave) Act 1957* to certify to the Minister that the resignation of a former senior board member of the Parole Board Queensland is because of permanent disability or infirmity in order for the former senior board member to be entitled to an annual pension. This is a consequence of amendments made to section 5 of the *Judges (Pensions and Long Leave) Act 1957* in this Bill.

Subclause (1) amends section 240(1)(a) so that section 5 of the *Judges (Pensions and Long Leave) Act 1957* will apply to a former senior board member if the member resigned the office of president or deputy president and two requirements are met: firstly, that a specialist health practitioner certifies to the Minister that the member's resignation is because of permanent disability or infirmity; and secondly, that the Minister is satisfied the member's resignation is because of permanent disability or infirmity.

Subclause (2) inserts a new definition in section 240 for the term 'specialist health practitioner'.

Part 9 Amendment of Crime and Corruption Act 2001

Clause 46 states that this part amends the *Crime and Corruption Act 2001*.

Clause 47 amends section 238E (Pension if appointment ends because of ill health) to replace the current requirement for a medical practitioner prescribed under section 5(1)(a) of the *Judges (Pensions and Long Leave) Act 1957* to certify to the Minister that the resignation of a former chairperson of the Crime and Corruption Commission is because of permanent disability or infirmity in order for the former chairperson to be entitled to an annual pension. This is a consequence of amendments made to section 5 of the *Judges (Pensions and Long Leave) Act 1957* in this Bill.

Subclause (1) amends section 238E(1)(a) so that section 5 of the *Judges (Pensions and Long Leave) Act 1957* will apply to a former chairperson if the former chairperson resigned the office as the chairperson and two requirements are met: firstly, that a specialist health practitioner certifies to the Minister that the former chairperson's resignation is because of permanent disability or infirmity; and secondly, that the Minister is satisfied the former chairperson's resignation is because of permanent disability or infirmity.

Subclause (2) inserts a new definition in section 238E for the term 'specialist health practitioner'.

Part 10 Amendment of Criminal Code

Clause 48 states that this part amends the Criminal Code.

Clause 49 amends section 359E(4) (Punishment of unlawful stalking) to replace the words 'the officer is' with the words 'the stalked person is a law enforcement officer'.

Clause 50 amends section 463 (Setting fire to crops or growing plants), including the provision heading, to expand its application to ‘vegetation’. This will include any heath, gorse, furze, or fern which are prescribed under the existing paragraph (d). The amendment also clarifies that the offence applies to any grass other than grass mentioned in paragraph (b).

Clause 51 amends section 552BB (Excluded offences) to replace the current amount of \$30,000 in the definition of ‘prescribed value’ with the amount of \$80,000 and makes a consequential amendment to the provision heading in the table entry for section 463 as a result of the amendment in clause 50.

Clause 52 inserts a new subsection (1A) in section 552D (When Magistrates Court must abstain from jurisdiction) to allow a charge for an indictable offence that must otherwise be dealt with summarily under section 552BA (Charges of indictable offences that must be heard and decided summarily) to be dealt with on indictment if it proceeds as an alternative charge for another indictable offence.

Clause 53 amends section 651(2)(b) (Court may decide summary offences if a person is charged on indictment) to remove a reference to ‘legal practitioner’ and replace it with a reference to ‘lawyer’ to ensure consistency with other provisions in the Criminal Code. This term is defined in schedule 1 (Meaning of commonly used words and expressions) of the *Acts Interpretation Act 1954*.

Clause 54 amends section 652(2) (Proceedings to transmit charge for summary offence) to replace the reference to ‘he or she’ with a reference to ‘the person’. This clause also amends section 652(3) to remove the requirement that the written statement required to transmit a charge for a summary offence must be signed by the applicant and contain a declaration by that person under the *Oaths Act 1867*.

Clause 55 inserts new Chapter 103 (Transitional provisions for Justice and Other Legislation Amendment Act 2019).

New section 752 (Application of s 359E(4)), provides for the transitional effect of the amendments to section 359E(4) (Punishment of unlawful stalking). It provides that the section as amended applies both prospectively and retrospectively, that is, regardless of whether any of the acts constituting the unlawful stalking occurred prior to commencement.

New section 753 (Application of ch 58A before and after amendment to particular charges) provides a transitional provision relating to the amendments in clauses 51 and 52 to provide that the amendments do not affect proceedings on foot at the time of commencement.

Part 11 Amendment of Criminal Law (Rehabilitation of Offenders Act 1986)

Clause 56 states that this part amends the *Criminal Law (Rehabilitation of Offenders Act 1986*.

Clause 57 amends section 12 (Offence provision) to remove the requirement for the Minister to authorise the prosecution of offences under the Act.

Part 12 Amendment of Criminal Proceeds Confiscation Act 2002

Clause 58 states that this part amends the *Criminal Proceeds Confiscation Act 2002*.

Clause 59 amends section 237 (Charge on property subject to filed interstate restraining order or interstate pecuniary penalty order) to omit ‘or’ and insert ‘and’ after ‘interstate restraining order’. The clause further amends section 237(2) to provide that a charge is created when both orders are filed.

Part 13 Amendment of the Dangerous Prisoners (Sexual Offenders) Act 2003

Clause 60 states that this part amends the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

Clause 61 amends section 2 (Definitions) to omit the words ‘the schedule’ and insert the words ‘schedule 1’.

Clause 62 amends section 5 (Attorney-General may apply for orders). Subclause (1) amends section 5(6) (Attorney-General may apply for orders) to omit the definition of ‘prisoner’. Subclause (2) amends section 5(6) to insert new definitions of ‘parole order’, ‘period of imprisonment’, ‘prison’ and ‘prisoner’.

Clause 63 amends section 43AA(3) (Contravention of relevant order) to omit the definition of ‘corrective services facility’.

Clause 64 amends section 51 (Parole) by omitting the current section and inserting a new section 51 (Parole).

Clause 65 inserts a new Part 11 (Transitional and declaratory provisions for Justice and Other Legislation Amendment Act 2019) into the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

Clause 66 amends the schedule (Dictionary). Subclause (1) omits the definition of ‘period of imprisonment’. Subclause (2) inserts the definitions of ‘corrective services facility’ and ‘period of imprisonment’. Subclause (3) numbers schedule as ‘schedule 1’.

Part 14 Amendment of District Court of Queensland Act 1967

Clause 67 states that this part amends the *District Court of Queensland Act 1967*.

Clause 68 amends section 61 (Criminal jurisdiction if maximum penalty more than 20 years) to insert two Criminal Code offences, that is, sections 228A (Involving child in making child exploitation material) and 228B (Making child exploitation material), to

the list of exceptions to the general jurisdictional restriction placed on the District Court if the maximum penalty is more than 20 years imprisonment.

Clause 69 amends section 68 (Civil jurisdiction) to clarify that interest payable on any basis, including discretionary interest awarded by a court, should not be considered when determining whether the amount, value or damage sought to be recovered in an action exceeds the jurisdictional monetary limit for the Court.

Part 15 Amendment of Drugs Misuse Act 1986

Clause 70 states that this part amends the *Drugs Misuse Act 1986*.

Clause 71 amends section 4 (Definitions) to insert a definition of ‘informer’.

Clause 72 amends section 119(2) (Protection of informers) to insert the word ‘unlawfully’ after the word ‘who.’

Clause 73 amends section 120 (Source of information not to be disclosed). Subclause (1) amends section 120(1) to omit from ‘any proceedings’ to ‘otherwise’ and insert ‘a relevant proceeding’. Subclause (2) inserts a definition of ‘relevant proceeding’ for the purpose of section 120.

Part 16 Amendment of Evidence Act 1977

Clause 74 states that this part amends the *Evidence Act 1977*.

Clause 75 amends section 21A(8) (Evidence of special witnesses) to include a reference to section 21AAA(2).

Clause 76 amends section 21AAA(1) to include a reference to a statement that is admissible as evidence in a proceeding under section 93A and makes a consequential amendment to the heading to reflect this change. This clause also inserts a note in section 21AAA(2) to refer to the instructions that must be provided to a jury under section 21A(8) if an order is made under section 21AAA(2) to exclude a person from the room in which it is sitting.

Clause 77 amends section 21AU (Exclusion of public) to expand its application to circumstances where a statement of an affected child under section 93A is to be presented at a relevant proceeding.

Clause 78 amends section 21AW (Instructions to be given to jury) to expand application of the provision to circumstances where a person is excluded under section 21AU while the evidence of an affected child is presented under section 93A.

Clause 79 inserts a new transitional provision. New section 156 provides that the amendments to sections 21AAA and 21AU as amended by the Bill will not affect proceedings on foot at the time of commencement.

Part 17 Amendment of Guardianship and Administration Act 2000

Clause 80 states that this part amends the *Guardianship and Administration Act 2000*.

Clause 81 amends section 5 (Acknowledgements) to renumber certain subsections.

Part 18 Amendment of Introduction of Agents Act 2001

Clause 82 states that this part amends the *Introduction of Agents Act 2001*.

Clause 83 replaces a reference to ‘an externally-administered body corporate’ in section 22(1)(a) (Disqualifying criteria – corporations) with ‘a Chapter 5 body corporate under the Corporations Act’.

Clause 84 inserts a new part 9, division 1 heading ‘Transitional provisions for Act No. 59 of 2001’.

Clause 85 inserts a new part 9, division 2 (Transitional provision for Justice and Other Legislation Amendment Act 2019). New section 103 (Existing applications) contains transitional provisions supporting the terminology change in section 22.

Part 19 Amendment of Judges (Pensions and Long Leave) Act 1957

Clause 86 states that this part amends the *Judges (Pensions and Long Leave) Act 1957*.

Clause 87 amends section 5 (Pension of judge retiring on account of ill health) to replace the current requirement for a medical practitioner prescribed under a regulation to certify to the Minister that a judge’s retirement is because of permanent disability or infirmity in order for the retiring judge to be entitled to a pension.

Subclause (1) replaces section 5(1)(a) and provides that the section providing for an annual pension will apply if a judge retires from office and two requirements are met: firstly, that a specialist health practitioner certifies to the Minister that the judge’s retirement is because of permanent disability or infirmity; and secondly, that the Minister is satisfied the judge’s retirement is because of permanent disability or infirmity.

Subclause (2) inserts a new definition in section 5 for the term ‘specialist health practitioner’.

Part 20 Amendment of Land Court Act 2000

Clause 88 states that this part amends the *Land Court Act 2000*.

Clause 89 omits part 2, division 1A (Cultural heritage division) which provides for the Land Court to be divided into the Cultural Heritage and Indigenous Land Use Agreement Division and the general division and requires the President to nominate in which division each member sits. This reflects the old Land and Resources Tribunal structure, where certain members could only sit on certain matters. These provisions do not reflect the current workload and practice of the Land Court.

Clause 90 amends section 12 (Power to rehear matters) by inserting new subsection (2A) which provides that the Land Court must not grant leave for the matter to be reheard unless satisfied the decision is based wholly or partly on a mistake of fact.

Clause 91 amends section 16 (Appointment of president and other members of Land Court) to require a person appointed as member of the Land Court to be a lawyer of five years standing with extensive stated experience and to remove a redundant reference to the repealed *Land and Resources Tribunal Act 1999*.

Clause 92 replaces section 22 (Directions) to clarify: the powers of the Land Court to make orders and directions about the conduct of a proceeding and the president to make directions of general application about the Land Court's procedures: and that such orders and directions prevail over the rules made under section 21 to the extent of any inconsistency.

Clause 93 omits section 28A(4) as a consequence of the insertion of new section 47 (Preservation of rights).

Clause 94 amends the heading of Part 2, division 6B (Jurisdiction of Land Court in its cultural heritage division) as a consequence of the amendment at clause 89.

Clause 95 amends section 32E as a consequence of the amendment at clause 89.

Clause 96 amends section 32F as a consequence of the amendment at clause 89.

Clause 97 amends section 32G as a consequence of the amendment at clause 89.

Clause 98 amends section 32H as a consequence of the amendment at clause 89.

Clause 99 amends section 39(2), which requires a member's leave of absence to be approved by the Governor in Council or the Minister, to instead provide for the Chief Justice to approve leave of absence to the president and for the president to approve leave of absence to other members.

Clause 100 replaces section 47 (Preservation of rights), and section 28A(4), in relation to the rights of public service officers appointed as judicial registrars and acting judicial registrars, respectively.

Clause 101 amends section 50 (Delegation by registrar) to allow the registrar, with the president's approval, to delegate the registrar's functions or powers under this Act to an appropriately qualified officer of the Land Court.

Clause 102 inserts section 50A to provide for the appointment of members' associates.

Clause 103 replaces the heading of part 2, division 12 to (Provisions about recommendatory provisions).

Clause 104 amends section 52B (Application of Act), which applies stated sections of the Act to the Land Court in the performance of a function conferred on the court under a recommendatory provision, to remove the reference to section 34 (Costs) as a consequence of the insertion of new section 52C.

Clause 105 inserts new section 52C (Costs in relation to performing functions and exercising powers under recommendatory provisions). Generally, each party to the performance of the function must bear the party's own costs in relation to the performance of the function. However, if a party has incurred costs in stated circumstances, the Land Court may make an order for costs as it considers appropriate. In deciding the amount of costs, the Land Court may have regard to the scale of costs applying to another court and any other matter the Land Court considers relevant. An order for costs made by the Land Court under this provision may be enforced in the Supreme Court.

Clause 106 omits subsection (3) of section 77A (Annual Report) which relates to the former Land and Resources Tribunal and is redundant.

Clause 107 inserts new division 6 (Transitional and saving provisions for Justice and Other Legislation Amendment Act 2019) in part 6 (Savings, transitional and validation provisions).

New section 97 provides for the definitions for the division.

New section 98 is a transitional provision for the amendment to section 12. If an application for a rehearing is made but not decided before the commencement, new section 12 applies in relation to the application.

New section 99 is a transitional provision for replacement section 22. It continues directions made before and were in effect immediately before the commencement.

New section 100 is a transitional provision for the amendments to part 2 of the Act if the Land Court has started but not finished performing a function or exercising a power conferred on the court under a recommendatory provision. The former part 2 continues to apply as if the amending Act had not been enacted.

Clause 108 amends schedule 2 (Dictionary) to omit redundant definitions, insert new definitions (of ‘recommendatory provision’ and ‘rules’) and amends existing definitions (‘LRT’ and ‘prescribed proceeding’).

Clause 109 to clause 132 are amendments for restructuring the Act.

Clause 133 is a transitional provision for former section 33 (renumbered as section 12A). A proceeding started under former section 33 before the commencement can continue to be heard and decided under new section 12A and a declaration under former section 33 in effect immediately before the commencement is taken to be a declaration made under section 12A.

Part 21 Amendment of the Legal Profession Act 2007

Clause 134 states that this part amends the *Legal Profession Act 2007*.

Clause 135 amends section 9 (Suitability matters). In line with amendments made at the Commonwealth level to the Corporations Act, the reference to ‘an externally-administered body corporate under the Corporations Act’ is replaced with ‘a Chapter 5 body corporate’. In addition to updating the terminology used in section 9(1)(c), the clause also inserts new suitability matter where a person is or has been a director of a corporation while the corporation is or was a Chapter 5 body corporate.

Clause 136 inserts a new section 24A (Moving applications for admission) to clarify eligibility of government legal officers, in-house counsel and volunteer lawyers to move admissions to the legal profession that are without conditions.

Clause 137 amends section 46(2) (Suitability to hold local practising certificate) to add new matters in relation to a person who is or was a legal practitioner director of an incorporated legal practice or a director of a corporation while the practice or corporation is or was insolvent.

Clause 138 amends section 135 (External administration proceedings under Corporations) in line with the amendments made at the Commonwealth level to the Corporations Act.

Clause 139 amends section 231 (Rules other than legal profession rules) to clarify that the QLS has power to charge fees for assessing applications for exemption from or deferral of the obligation to undertake the practice management course.

Subclause (1) amends section 231(1) to insert a reference to subsection (3) consequential to the amendments made by subclauses (3) and (6).

Subclause (2) amends section 231(2)(d) to make clear that the power of the QLS to exempt a person from the obligation to undertake the practice management course includes power to defer the obligation for a particular period.

Subclause (3) inserts a new subsection (2A) to provide that the power in subsection (2)(j) to make rules setting fees includes power to make rules setting fees for assessing

an application for an exemption mentioned in subsection (2)(d), (g) or (h). It is made clear that the subsection does not limit subsection (2)(j).

Subclauses (4) and (5) make consequential changes to sections 231(3) and 231(5).

Subclause (6) renumbers section 231(2A) to (8) consequential to the amendment made in subclause (3).

Clause 140 amends section 233 (Relationship of administration rules to this Act and regulation) to include a reference to section 231(3) consequential to the amendment of section 231.

Clause 141 amends section 263 (Investigations) to clarify that the power for the QLS to conduct a trust account investigation of the affairs of a law practice may be exercised routinely not just in relation to a particular allegation or suspicion. The amendment makes no substantive policy change but will put beyond doubt the power of the QLS to undertake routine trust account investigations.

Clause 142 amends section 707 (Protection from liability) by omitting the reference to section 618 which has been repealed.

Clause 143 contains the transitional provisions necessary to support the changes to the Act in relation to section 9 (Suitability matters) and 46 (Suitability to hold local practising certificate).

Clause 144 amends schedule 2 (Dictionary) to provide a new definition for ‘chapter 5 body corporate’. It also amends the definitions of ‘administration rules’, ‘indemnity rules’ and ‘show cause event’ and omits the definition of ‘levy’. The amendment to the definition of ‘show cause event’ is in line with the amendments to section 9.

Part 22 Amendment of the Legal Profession Regulation 2017

Clause 145 states that this part amends the *Legal Profession Regulation 2017*.

Clause 146 amends section 7 (Prescribed legal practice – Act, s 24). The amendments are consequential to new section 24A of the *Legal Profession Act 2007*.

Part 23 Amendment of Magistrates Courts Act 1921

Clause 147 states that this part amends the *Magistrates Courts Act 1921*.

Clause 148 amends paragraph (a) of section 4 (Jurisdiction of the Magistrates Courts) to omit reference to “amount claimed” and instead insert reference to “amount, value or damage sought to be recovered” so as to clarify that the jurisdiction of the Magistrates Courts includes personal actions for the recovery of chattels.

Clause 149 inserts a new section 4AAA (Calculating whether amount, value, damage or sum is more than prescribed limit) to clarify that interest payable on any basis, including discretionary interest awarded by a court, should not be considered when

determining whether the amount, value or damage sought to be recovered in an action exceeds the jurisdictional monetary limit for the Court.

Clause 150 makes a consequential amendment to section 45 (Appeal) to reflect the proposed amendments to the terminology in section 4(a).

Part 24 Amendment of Mineral Resources Act 1989

Clause 151 provides that this part amends the *Mineral Resources Act 1989*.

Clause 152 amends section 78 (Land Court's determination on hearing) to remove subsections (4) and (5) regarding the award of costs as a consequence of the insertion of new section 52C of the *Land Court Act 2000*.

Clause 153 amends section 268 (Hearing of application for grant of mining lease) to remove subsections (8) and (9) regarding the award of costs as a consequence of the insertion of new section 52C of the *Land Court Act 2000*.

Clause 154 inserts new part 18 (Transitional provision for Justice and Other legislation Amendment Act 2019) in chapter 15 providing for former sections 78 and 268 to continue to apply in relation to applications made but not decided before the commencement.

Part 25 Amendment to the Ombudsman Act 2001

Clause 155 states that this part amends the *Ombudsman Act 2001*.

Clause 156 amends section 86 (Delegation) to delegate a decision under section 66 of the *Human Rights Act 2019* to an appropriately qualified officer of the Ombudsman.

Part 26 Amendment of Peace and Good Behaviour Act 1982

Clause 157 states that this part amends the *Peace and Good Behaviour Act 1982*.

Clause 158 amends section 33 (Definitions for part).

Subclause (1) inserts a new definition for 'criminal activity'.

Subclauses (2) and (3) amend and renumber the definition of 'disorderly activity' to insert new paragraph (b) that provides that disorderly activity includes criminal activity at the premises that is likely to pose a risk to the safety of a member of the public.

Clause 159 amends section 88 (Who may appeal) to provide at paragraph (e) that a decision to make or refuse to make an order under section 51 (Court may order return of prohibited item) for the return of a prohibited item may be appealed.

Clause 160 inserts new part 8 (Transitional provisions for *Justice and Other Legislation Amendment Act 2019*).

New section 101 (Existing applications for restricted premises orders) provides that new paragraph (b) of the definition of ‘disorderly activity’ in section 33 (Definitions for part) does not apply in relation to the making of a restricted premises order or the imposition of conditions on a restricted premises order where the application for the order was made but the court had not made the restricted premises order before the commencement of new section 101.

New section 102 (Application of s 54 in relation to particular disorderly activities) provides that if a restricted premises order was in effect before the commencement, or is made for premises for an application to which new section 101 applies, the owner or occupier does not commit an offence under section 54 (Offence by owner or occupier of restricted premises) in relation to disorderly activity mentioned in new paragraph (b) of the definition of ‘disorderly activity’ in section 33 while the restricted premises order is in effect.

New section 103 (Appeals may not be made against particular decisions made before commencement) provides that section 88(e) does not apply in relation to a decision to make an order under section 51 (Court may order return of prohibited item) for the return of a prohibited item before the commencement of the section.

Clause 161 amends schedule 1 (Dictionary) to include a cross reference to the new definition of ‘criminal activity’ in section 33.

Part 27 Amendment of Penalties and Sentences Act 1992

Clause 162 states that this part amends the *Penalties and Sentences Act 1992*.

Clause 163 amends section 9 (Sentencing guidelines) to relocate the sentencing principle at section 4 (Principle prescribed – Act, s9(2)(p)) of the *Penalties and Sentences Regulation 2015*.

Clause 164 amends section 159A(1) (Time held in presentence custody to be deducted) to remove the reference to ‘and for no other reason’. This amendment will provide a sentencing court with increased flexibility in relation to the consideration of pre-sentence custody.

Clause 165 inserts a new section 258 (Application of ss 9 and 159A to sentencing offenders after commencement) to include a transitional provision for the application of sections 9 and 159A as amended by the Bill. That is, sections 9 and 159A will apply at the sentencing of an offender after commencement whether the offence or conviction occurred before or after commencement.

Part 28 Amendment of Penalties and Sentences Regulation 2015

Clause 166 states that this part amends the *Penalties and Sentences Regulation 2015*.

Clause 167 amends section 4 (Principle prescribed – Act, s 9(2)(p)) to omit the sentencing principle which has been relocated to section 9 (Sentencing guidelines) of the *Penalties and Sentences Act 1992*.

Part 29 Amendment of Personal Injuries Proceedings Act 2002

Clause 168 states that this part amends the *Personal Injuries Proceedings Act 2002*.

Clause 169 omits the reference in section 8 (Definitions) to ‘schedule’ and replaces it with reference to ‘schedule 1’.

Clause 170 amends section 22 (Duty of claimant to provide documents and information to respondent) to update the definition of ‘health care provider’ to reflect the National Health Practitioner Regulation National Law. This clause also relocates certain definitions from the dictionary to section 22.

Clause 171 makes a minor consequential amendment to the dictionary.

Part 30 Amendment of Personal Injuries Proceedings Regulation 2002

Clause 172 states that this part amends the *Personal Injuries Proceedings Regulation 2002*.

Clause 173 makes a minor consequential amendment required as a result of new schedule 1.

Clause 174 makes a minor drafting amendment to section 12 (Prescribed limits for particular definitions – Act, schedule).

Clause 175 inserts a new schedule 1 (Dictionary) to insert definitions for ‘health care claim’ and ‘health care provider’.

Part 31 Amendment of Property Law Act 1974

Clause 176 states that this part amends the *Property Law Act 1974*.

Clause 177 inserts a new section 84A (Exercise of power of sale in relation to disclaimed properties) to clarify that a mortgagee may exercise a power of sale following the disclaimer of freehold land by a trustee in bankruptcy or liquidator without the need to apply for court orders under the *Bankruptcy Act 1966* (Cth) or the *Corporations Act 2001* (Cth).

Clause 178 amends existing section 85 (Duty of mortgagee or receiver as to sale price) to ensure that the section applies in relation to a power of sale exercised under new section 84A.

Clause 179 amends section 88 (Application of proceeds of sale) to provide that if money arises from the sale of mortgaged property that has been disclaimed, the residue must be paid into court.

Clause 180 inserts new sections 359 (Application of s 84A) and 360 (Application of proceeds of sales that happened before commencement) of the *Property Law Act 1974* as a transitional provision so that new section 84A applies to freehold property

mortgaged before or after the commencement but only if the disclaimer was made or took effect after the commencement.

Part 32 Amendment of Property Law Regulation 2013

Clause 181 states that this part amends the *Property Law Regulation 2013*.

Clause 182 amends existing section 3 (Prescribed mortgages – Act, s 85) to clarify that, where the power of sale is being exercised under section 84A of the *Property Law Act 1974*, the residence does not stop being the mortgagor's home only because the mortgagor stopped using the residence as the mortgagor's home: when the residential land was disclaimed under the *Bankruptcy Act 1966* (Cth) or the *Corporations Act 2001* (Cth); or within 6 months before the disclaimer took effect.

Part 33 Amendment of Queensland Civil and Administrative Tribunal Act 2009

Clause 183 states that this part amends the *Queensland Civil and Administrative Tribunal Act 2009*.

Clause 184 inserts new section 11A (Calculating whether amount, value, damage or sum is more than particular monetary limits).

Subsection (1) provides that in determining whether the tribunal has original jurisdiction for a matter, interest payable on any basis must not be considered in calculating whether an amount, value, damage or sum claimed, or sought to be recovered, in the matter is more than the monetary limit for the matter.

Subsection (2) clarifies that section 11A does not apply in relation to a matter the tribunal may decide under an enabling Act in the first instance if the enabling Act provides that interest payable on any basis must or may be considered in making the calculation mentioned in subsection (1).

Subsection (3) provides that 'monetary limit' means: (a) for a minor civil dispute—the prescribed amount; or (b) for a matter the tribunal may decide under an enabling Act other than a minor civil dispute—an amount that, under the enabling Act, the amount, value, damage or sum claimed, or sought to be recovered, in the matter must not exceed.

Clause 185 amends section 13 (Deciding minor civil dispute generally) by inserting new subsection (5). New subsection (5) clarifies that for subsection (3), interest payable on any basis must not be considered in calculating whether an amount or value is more than the prescribed amount.

Clause 186 amends section 183 (Appointment of senior members and ordinary members).

Subsection (1) omits section 183(3) to remove the requirement for the Minister to advertise for applications from appropriately qualified persons to be appointed as senior members or ordinary members.

Subsection (2) amends section 183(8) as a consequence of the omission of section 183(3).

Subsection (3) renumbers section 183(4) to (9) as a consequence of the omission of section 183(3).

Clause 187 amends section 186 (Conditions of appointment) by omitting the requirement for the remuneration and allowances of a senior or ordinary member decided by the Governor in Council to be stated in the member's instrument of appointment.

Clause 188 amends section 191 (Acting senior members). The reference to 'section 183(4)' in section 191(2) is replaced with 'section 183(3)' as a consequence of renumbered section 183.

Clause 189 amends section 191A (Acting ordinary members). The reference to section 'section 183(5)' in section 191A(2) is replaced with 'section 183(4)' as a consequence of renumbered section 183.

Clause 190 amends schedule 3 (Dictionary), definition 'minor civil dispute', paragraph 1(a) as a consequence of new section 11A.

Part 34 Amendment of Retail Shop Leases Act 1994

Clause 191 states that this part amends the *Retail Shop Leases Act 1994* (RSLA).

Clause 192 replaces section 95 (Mediators) to provide that the chief executive rather than the Minister will appoint mediators for the RSLA.

Subsection (1) enables the chief executive to appoint an appropriately qualified person as a mediator for the term decided by the chief executive. Subsection (2) states that a mediator is to be paid the remuneration and allowances decided by the chief executive. Subsection (3) states that a mediator holds office on the terms and conditions, not provided for by this Act, decided by the chief executive. Subsection (4) states that a mediator is appointed under this Act and not the *Public Service Act 2008*.

Clause 193 omits section 98 (Duration of appointment) and inserts new section 98 (Resignation). New section 98 states that a mediator may resign by signed notice given to the chief executive.

Clause 194 omits section 99 (Conditions of appointment) as a consequence of the removal of the Minister's power to appoint mediators under previous section 95.

Clause 195 amends section 100 (Removal from office) by replacing the reference to 'Minister' with 'chief executive' as a consequence of new section 95.

Clause 196 inserts a transitional division (Transitional Provision for *Justice and Other Legislation Amendment Act 2019*) for mediators who currently hold appointments under the RSLA.

New section 155(1) states that this section applies to a person who, immediately before the commencement of these amendments to the RSLA, held an appointment as a mediator under former section 95.

Subsection (2) states that the person's appointment continues in force under new section 95 from the commencement—(a) according to its terms and conditions; and (b) for the remaining term of the appointment under former section 95.

Subsection (3) defines 'former section 95' as section 95 as in force from time to time before the commencement. Subsection (3) also defines 'new section 95' as section 95 as in force from the commencement.

Part 35 Amendment of Second-Hand Dealers and Pawnbrokers Act 2003

Clause 197 states that this part amends the *Second-Hand Dealers and Pawnbrokers Act 2003*.

Clause 198 replaces a reference to 'an externally-administered body corporate' in section 7(1)(d) (Suitability of applicants and licensees) with 'a Chapter 5 body corporate under the Corporations Act'.

Clause 199 omits part 9, division 1 (Interpretation) which is no longer required.

Clause 200 inserts a new part 9, division 6 heading 'Transitional provision for Justice and Other Legislation Amendment Act 2019'. This clause also inserts new section 142 (Existing applications) containing transitional provisions supporting the terminology change in section 7(1)(d).

Part 36 Amendment of the Succession Act 1981

Clause 201 states that this part amends the *Succession Act 1981*.

Clause 202 makes amendments to section 21 (Court may authorise a will to be made, altered or revoked for a person without testamentary capacity) to reflect that the requirement to obtain leave to make an application for a court ordered will for a person without testamentary capacity is being omitted. The clause incorporates into the substantive proceeding under section 21 some of the matters the court must be satisfied of before giving leave to make the application, currently contained in section 24 (Matters court must be satisfied of before giving leave). This clause also amends subsection (5) to reflect this streamlined process.

Clause 203 omits section 22 (Leave to apply for s 21 order) to remove the requirement for a person to make a leave application before applying for a court appointed will under section 21.

Clause 204 makes consequential amendment to section 23 (Information required by the court in support of the application for leave), reflecting that material the applicant is

currently required to provide to the court during the hearing of an application for leave under section 22 is instead provided as part of the application proper under section 21.

Clause 205 omits section 24 (Matters court must be satisfied of before giving leave). Some of the relevant matters the court must be satisfied of under this section have been incorporated into section 21 as amended.

Clause 206 makes consequential amendments to section 25 (Hearing an application for leave or for an order) to remove references to applications for leave under section 22.

Clause 207 amends section 26 (Execution of will or other instrument made under order) to remove the requirement that the proposed testator be alive when the registrar executes the will or other instrument made pursuant to an order of the court under section 21. The clause also requires that the will or other instrument made under a section 21 order is signed by the registrar, and stamped with the court's seal, within 14 days of the order being made or another period stated by the court.

Clause 208 amends section 28 (Relationship with Guardianship and Administration Act 2000 and Powers of Attorney Act 1998) to omit reference to an application for leave under section 22 of the Act as a consequence to the streamlined process.

Clause 209 contains the transitional provisions applicable to these amendments to preserve the operation of the current Act: for applications made before commencement but not decided; for leave to make an application granted before commencement; and as to whether a will is properly executed under section 26.

Part 37 Amendment of the Surrogacy Act 2010

Clause 210 states that this part amends the *Surrogacy Act 2010*.

Clause 211 amends section 60 (Court fees and other matters) to refer to a regulation made under section 92(2)(a) or (b) of the *Supreme Court of Queensland Act 1991*.

Part 38 Amendment of the Tourism Services Act 2003

Clause 212 states that this part amends the *Tourism Services Act 2003*.

Clause 213 replaces a reference to 'an externally-administered body corporate' in section 14 (When applicant is not a suitable person) with 'a Chapter 5 body corporate under the Corporations Act'.

Clause 214 makes a minor consequential amendment to the heading for part 14.

Clause 215 inserts a new part 14, division 1 heading 'Transitional provision for Act No. 61 of 2003'.

Clause 216 replaces the part 15 heading with a new part 14, division 2 heading 'Transitional provision for Fair Trading (Australian Consumer Law) Amendment Act 2010'.

Clause 217 inserts a new part 14, division 3 heading ‘Transitional provisions for the *Justice and Other Legislation Amendment Act 2019*’. This clause also inserts new section 103 (Existing applications) containing transitional provisions supporting the terminology change in section 14.

Part 39 – Consequential amendments

Clause 218 provides that Schedule 1 amends the subordinate legislation it mentions.

Schedule 1

Schedule 1 makes consequential amendments to the *Criminal Practice Rules 1999* and the *Labour Hire Licensing Regulation 2018*.