



# **Criminal Law Amendment Bill 2016**





## Queensland

# Criminal Law Amendment Bill 2016

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# 2016

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## A Bill

for

**An Act to amend the *Bail Act 1980*, the Criminal Code, the *Criminal Proceeds Confiscation Act 2002*, the *Director of Public Prosecutions Act 1984*, the *Drugs Misuse Act 1986*, the *Evidence Act 1977*, the *Jury Act 1995*, the *Justices Act 1886*, the *Penalties and Sentences Act 1992*, the *Recording of Evidence Act 1962* and the *Telecommunications Interception Act 2009* and the Acts mentioned in schedule 1 for particular purposes**

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Criminal Law Amendment Act 2016*. 4  
5

**Part 2 Amendment of Bail Act 1980** 6

**Clause 2 Act amended** 7

This part amends the *Bail Act 1980*. 8

**Clause 3 Amendment of s 7 (Power of police officer to grant bail)** 9

(1) Section 7(1)(a), after ‘charge of an offence,’— 10

*insert—* 11

or under a warrant issued under the *Penalties and Sentences Act 1992*, section 33AC. 12  
13

(2) Section 7(1)(c)— 14

*omit, insert—* 15

(c) a prescribed police officer is satisfied it is 16  
not practicable to bring the person before a 17  
court promptly. 18

(3) Section 7(2)— 19

*omit, insert—* 20

(2) The prescribed police officer must investigate 21  
whether or not the person may be granted bail 22  
under this Act. 23

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	<i>Notes—</i>	1
	1 See section 13 for when only the Supreme Court or a judge of the Supreme Court may grant a person bail.	2 3 4
	2 See section 16 for when the prescribed police officer must refuse to grant a person bail.	5 6
	(2A) If the prescribed police officer is satisfied the person may be granted bail under this Act, the officer must—	7 8 9
	(a) grant bail to the person and release the person from custody; or	10 11
	(b) issue and serve on the person a notice to appear and release the person from custody.	12 13
	(4) Section 7(5), ‘subsection (4)’—	14
	<i>omit, insert—</i>	15
	subsection (5)	16
	(5) Section 7(2A) to (9)—	17
	<i>renumber</i> as section 7(3) to (10).	18
<b>Clause 4</b>	<b>Amendment of s 14 (Release of persons apprehended on making deposit of money as security for appearance)</b>	19 20
	Section 14(5)—	21
	<i>insert—</i>	22
	<i>Note—</i>	23
	If an order is made under this subsection, an order may also be made under the <i>Justices Act 1886</i> , section 150A to end the complaint in relation to the matter for which the person was granted bail.	24 25 26 27
<b>Clause 5</b>	<b>Amendment of s 28A (Other warrants for apprehension of defendant)</b>	28 29
	(1) Section 28A(1)(c), ‘7(2)(b)’—	30
	<i>omit, insert—</i>	31

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against subsection (1) if, before the person acquires or starts to hold the private interest—	1 2
(a) the person discloses the nature of the interest to the chief executive of the relevant department; and	3 4 5
(b) the chief executive of the relevant department authorises the person, in writing, to acquire or hold the interest.	6 7 8
(1B) In a proceeding against a person for an offence against subsection (1), proof of the matters mentioned in subsection (2) lies on the person.	9 10 11
(1C) The chief executive of a department may delegate the chief executive's function under subsection (2) to an appropriately qualified person.	12 13 14
(3) Section 89— <i>insert</i> —	15 16
(3) In this section— <i>function</i> includes power.	17 18
(4) Section 89(1A) to (3)— <i>renumber</i> as section 89(2) to (6).	19 20

<b>Clause 9</b>	<b>Replacement of s 236 (Misconduct with regard to corpses)</b>	21 22
	Section 236— <i>omit, insert</i> —	23 24
	<b>236 Misconduct with regard to corpses</b>	25
	(1) A person who, without lawful justification or excuse, the proof of which lies on the person, neglects to perform any duty imposed on the person by law, or undertaken by the person, whether for reward or otherwise, touching the burial or other disposition of a human body or human remains is guilty of a misdemeanour.	26 27 28 29 30 31 32

[s 10]

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	Maximum penalty—2 years imprisonment.	1
(2)	A person who, without lawful justification or excuse, the proof of which lies on the person, improperly or indecently interferes with, or offers any indignity to, any dead human body or human remains, whether buried or not, is guilty of a crime.	2 3 4 5 6 7
	Maximum penalty—5 years imprisonment.	8
<b>Clause 10</b>	<b>Amendment of s 304 (Killing on provocation)</b>	9
(1)	Section 304(2), (3) and (6), ‘a most extreme and’— <i>omit, insert—</i>	10 11
	an	12
(2)	Section 304— <i>insert—</i>	13 14
(3A)	Further, subsection (1) does not apply, other than in circumstances of an exceptional character, if the sudden provocation is based on an unwanted sexual advance to the person.	15 16 17 18
(6A)	For proof of circumstances of an exceptional character mentioned in subsection (4), regard may be had to any history of violence, or of sexual conduct, between the person and the person who is unlawfully killed that is relevant in all the circumstances.	19 20 21 22 23 24
(9)	In this section— <b><i>unwanted sexual advance</i></b> , to a person, means a sexual advance that—	25 26 27
(a)	is unwanted by the person; and	28
(b)	if the sexual advance involves touching the person—involves only minor touching.	29 30

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	<i>Examples of what may be minor touching depending on all the relevant circumstances—</i>	1 2
	patting, pinching, grabbing or brushing against the person, even if the touching is an offence against section 352(1)(a) or another provision of this Code or another Act	3 4 5 6
(3)	Section 304(3A) to (9)— <i>renumber</i> as section 304(4) to (11).	7 8
<b>Clause 11</b>	<b>Amendment of s 552I (Procedure under section 552B)</b>	9
(1)	Section 552I, heading, ‘section 552B’— <i>omit, insert—</i> <b>s 552B</b>	10 11 12
(2)	Section 552I(4) to (7)— <i>renumber</i> as section 552I(6) to (9).	13 14
(3)	Section 552I— <i>insert—</i>	15 16
	(4) If the defendant is legally represented and there is more than 1 charge before the Magistrates Court, a plea to any number of the charges may, with the consent of the defendant, be taken at the same time on the basis that the plea to 1 charge will be treated as a plea to any number of the charges if the court is satisfied—	17 18 19 20 21 22 23
	(a) the defendant has obtained legal advice in relation to each of the charges; and	24 25
	(b) the defendant is aware of the substance of each of the charges.	26 27
	(5) If the Magistrates Court takes a plea under subsection (4), the court is not required to state the substance of any charge before the court to the defendant.	28 29 30 31

[s 12]

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<b>Clause 12</b>	<b>Insertion of new pt 9, ch 97</b>	1
	Part 9—	2
	<i>insert</i> —	3
	<b>Chapter 97 Transitional provision for Criminal Law Amendment Act 2016</b>	4 5 6
	<b>739 Application of amendment Act</b>	7
	(1) This Code, as amended by the amendment Act, section 10, applies to a proceeding for an offence only if the offence was committed after the commencement of that section.	8 9 10 11
	(2) In this section—	12
	<i>amendment Act</i> means the <i>Criminal Law Amendment Act 2016</i> .	13 14
<b>Part 4</b>	<b>Amendment of Criminal Proceeds Confiscation Act 2002</b>	15 16 17
<b>Clause 13</b>	<b>Act amended</b>	18
	This part amends the <i>Criminal Proceeds Confiscation Act 2002</i> .	19 20
<b>Clause 14</b>	<b>Replacement of s 52 (Contravention of restraining order)</b>	21
	Section 52—	22
	<i>omit, insert</i> —	23
	<b>52 Contravention of restraining order</b>	24
	(1) A person who does, or attempts to do, an act or	25

- 
- makes an omission in relation to restrained property in contravention of a restraining order commits a crime. 1  
2  
3
- Maximum penalty— 4
- (a) for a financial institution—2500 penalty units or the value of the restrained property, whichever is the higher amount; or 5  
6  
7
- (b) otherwise— 8
- (i) 1000 penalty units or the value of the restrained property, whichever is the higher amount; or 9  
10  
11
- (ii) 7 years imprisonment. 12
- (2) It is a defence to a charge of an offence against subsection (1) for the person to prove that the person had no notice the property was restrained under a restraining order and no reason to suspect it was. 13  
14  
15  
16  
17
- (3) However, the defence under subsection (2) is not available to the extent the restrained property is— 18  
19
- (a) a motor vehicle, boat or outboard motor the subject of a restraining order registered under the *Personal Property Securities Act 2009* (Cwlth); or 20  
21  
22  
23
- (b) land over which a caveat in relation to the restraining order is registered under the *Land Title Act 1994*. 24  
25  
26
- Note—* 27
- See section 51(5) for the obligation of the registrar of titles to register the caveat. 28  
29
- (4) Subsection (1) does not prevent the prosecution and punishment of a person who does, or attempts to do, an act or makes an omission mentioned in that subsection for contempt of court or another offence under this Act or another Act. 30  
31  
32  
33  
34

[s 15]

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	(5) A dealing with property in contravention of subsection (1) is void unless the dealing was in favour of a person who—	1 2 3
	(a) did not know, and could not reasonably be expected to have known, that the property was restrained under a restraining order; and	4 5 6
	(b) acted in good faith; and	7
	(c) provided sufficient consideration for the dealing.	8 9
	(6) Subsection (5) applies whether or not any person is convicted of an offence in relation to the restraining order.	10 11 12
<b>Clause 15</b>	<b>Replacement of s 60 (Dealing with forfeited property prohibited)</b>	13 14
	Section 60—	15
	<i>omit, insert—</i>	16
	<b>60 Dealing with forfeited property prohibited</b>	17
	(1) A person who does, or attempts to do, an act or makes an omission in relation to property that is the subject of a forfeiture order that directly or indirectly defeats the operation of the order commits a crime.	18 19 20 21 22
	Maximum penalty—	23
	(a) for a financial institution—2500 penalty units or the value of the forfeited property, whichever is the higher amount; or	24 25 26
	(b) otherwise—	27
	(i) 1000 penalty units or the value of the forfeited property, whichever is the higher amount; or	28 29 30
	(ii) 7 years imprisonment.	31
	(2) It is a defence to a charge of an offence against	32

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	subsection (1) for the person to prove that the person had no notice the property was the subject of a forfeiture order and no reason to suspect it was.	1 2 3 4
(3)	However, the defence under subsection (2) is not available to the extent the property is—	5 6
(a)	a motor vehicle, boat or outboard motor the subject of a forfeiture order registered under the <i>Personal Property Securities Act 2009</i> (Cwlth); or	7 8 9 10
(b)	land over which a caveat in relation to the forfeiture order is registered under the <i>Land Title Act 1994</i> .	11 12 13
(4)	Subsection (1) does not prevent the prosecution and punishment of a person who does, or attempts to do, an act or makes an omission mentioned in that subsection for contempt of court or another offence under this Act or another Act.	14 15 16 17 18
(5)	A dealing with property in contravention of subsection (1) is void unless the dealing was in favour of a person who—	19 20 21
(a)	did not know, and could not reasonably be expected to have known, that the property was forfeited under a forfeiture order; and	22 23 24
(b)	acted in good faith; and	25
(c)	provided sufficient consideration for the dealing.	26 27
(6)	Subsection (5) applies whether or not any person is convicted of an offence in relation to the forfeiture order.	28 29 30
<b>Clause 16</b>	<b>Replacement of s 93ZT (Contravention of restraining order)</b>	31 32
	Section 93ZT—	33

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[s 16]

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<i>omit, insert—</i>	1
<b>93ZT Contravention of restraining order</b>	2
(1) A person who does, or attempts to do, an act or makes an omission in relation to restrained property in contravention of a restraining order commits a crime.	3 4 5 6
Maximum penalty—	7
(a) for a financial institution—2500 penalty units or the value of the restrained property, whichever is the higher amount; or	8 9 10
(b) otherwise—	11
(i) 1000 penalty units or the value of the restrained property, whichever is the higher amount; or	12 13 14
(ii) 7 years imprisonment.	15
(2) It is a defence to a charge of an offence against subsection (1) for the person to prove that the person had no notice the property was restrained under a restraining order and no reason to suspect it was.	16 17 18 19 20
(3) However, the defence under subsection (2) is not available to the extent the restrained property is—	21 22
(a) a motor vehicle, boat or outboard motor the subject of a restraining order registered under the <i>Personal Property Securities Act 2009</i> (Cwlth); or	23 24 25 26
(b) land over which a caveat in relation to the restraining order is registered under the <i>Land Title Act 1994</i> .	27 28 29
<i>Note—</i>	30
See section 93ZS(5) for the obligation of the registrar of titles to register the caveat.	31 32
(4) Subsection (1) does not prevent the prosecution and punishment of a person who does, or attempts	33 34

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	to do, an act or makes an omission mentioned in that subsection for contempt of court or another offence under this Act or another Act.	1 2 3
(5)	A dealing with property in contravention of subsection (1) is void unless the dealing was in favour of a person who—	4 5 6
(a)	did not know, and could not reasonably be expected to have known, that the property was restrained under a restraining order; and	7 8 9
(b)	acted in good faith; and	10
(c)	provided sufficient consideration for the dealing.	11 12
(6)	Subsection (5) applies whether or not any person is convicted of an offence in relation to the restraining order.	13 14 15
<b>Clause 17</b>	<b>Amendment of s 93ZZB (Making of serious drug offender confiscation order)</b>	16 17
(1)	Section 93ZZB(3)—	18
	<i>insert—</i>	19
	<i>Example—</i>	20
	Assume a person has been convicted of the qualifying offence of trafficking in dangerous drugs and the Supreme Court has made an unexplained wealth order against the person because the court was satisfied there was a reasonable suspicion, based on the person's conviction, that the person had engaged in at least 1 serious crime related activity. The court may not make a serious drug offender confiscation order against the person based on the same conviction.	21 22 23 24 25 26 27 28 29
(2)	Section 93ZZB—	30
	<i>insert—</i>	31
(3A)	Subsection (3) does not limit the value of the property that may be forfeited to the State under a serious drug offender confiscation order.	32 33 34

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[s 18]

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- (3) Section 93ZZB(6), ‘Subsection (5)’— 1  
*omit, insert*— 2  
Subsection (6) 3  
(4) Section 93ZZB(3A) to (6)— 4  
*renumber* as section 93ZZB(4) to (7). 5

<b>Clause 18</b>	<b>Replacement of s 93ZZH (Dealing with forfeited property prohibited)</b>	6
	Section 93ZZH—	7
	<i>omit, insert</i> —	8
	<b>93ZZH Dealing with property forfeited under serious drug offender confiscation order prohibited</b>	9
	(1) A person who does, or attempts to do, an act or makes an omission in relation to property forfeited under a serious drug offender confiscation order that directly or indirectly defeats the operation of the order commits a crime.	10
	Maximum penalty—	11
	(a) for a financial institution—2500 penalty units or the value of the forfeited property, whichever is the higher amount; or	12
	(b) otherwise—	13
	(i) 1000 penalty units or the value of the forfeited property, whichever is the higher amount; or	14
	(ii) 7 years imprisonment.	15
	(2) It is a defence to a charge of an offence against subsection (1) for the person to prove that the person had no notice the property was forfeited under a serious drug offender confiscation order and no reason to suspect it was.	16
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(3)	However, the defence under subsection (2) is not available to the extent the property is—	1 2
(a)	a motor vehicle, boat or outboard motor the subject of a serious drug offender confiscation order registered under the <i>Personal Property Securities Act 2009</i> (Cwlth); or	3 4 5 6 7
(b)	land over which a caveat in relation to the serious drug offender confiscation order is registered under the <i>Land Title Act 1994</i> .	8 9 10
(4)	Subsection (1) does not prevent the prosecution and punishment of a person who does, or attempts to do, an act or makes an omission mentioned in that subsection for contempt of court or another offence under this Act or another Act.	11 12 13 14 15
(5)	A dealing with property in contravention of subsection (1) is void unless the dealing was in favour of a person who—	16 17 18
(a)	did not know, and could not reasonably be expected to have known, that the property was the subject of a serious drug offender confiscation order; and	19 20 21 22
(b)	acted in good faith; and	23
(c)	provided sufficient consideration for the dealing.	24 25
(6)	Subsection (5) applies whether or not any person is convicted of an offence in relation to the serious drug offender confiscation order.	26 27 28
<b>Clause 19</b>	<b>Replacement of s 143 (Contravention of restraining order)</b>	29 30
	Section 143—	31
	<i>omit, insert—</i>	32

[s 19]

---

<b>143 Contravention of restraining order</b>	1
(1) A person who does, or attempts to do, an act or makes an omission in relation to restrained property in contravention of a restraining order commits a crime.	2 3 4 5
Maximum penalty—	6
(a) for a financial institution—2500 penalty units or the value of the restrained property, whichever is the higher amount; or	7 8 9
(b) otherwise—	10
(i) 1000 penalty units or the value of the restrained property, whichever is the higher amount; or	11 12 13
(ii) 7 years imprisonment.	14
(2) It is a defence to a charge of an offence against subsection (1) for the person to prove that the person had no notice the property was restrained under a restraining order and no reason to suspect it was.	15 16 17 18 19
(3) However, the defence under subsection (2) is not available to the extent the restrained property is—	20 21
(a) a motor vehicle, boat or outboard motor the subject of a restraining order registered under the <i>Personal Property Securities Act 2009</i> (Cwlth); or	22 23 24 25
(b) land over which a caveat in relation to the restraining order is registered under the <i>Land Title Act 1994</i> .	26 27 28
<i>Note—</i>	29
See section 142(5) for the obligation of the registrar of titles to register the caveat.	30 31
(4) Subsection (1) does not prevent the prosecution and punishment of a person who does, or attempts to do, an act or makes an omission mentioned in	32 33 34

---

	that subsection for contempt of court or another	1
	offence under this Act or another Act.	2
(5)	A dealing with property in contravention of	3
	subsection (1) is void unless the dealing was in	4
	favour of a person who—	5
(a)	did not know, and could not reasonably be	6
	expected to have known, that the property	7
	was restrained under a restraining order; and	8
(b)	acted in good faith; and	9
(c)	provided sufficient consideration for the	10
	dealing.	11
(6)	Subsection (5) applies whether or not any person	12
	is convicted of an offence in relation to the	13
	restraining order.	14
<b>Clause 20</b>	<b>Replacement of s 171 (Dealing with forfeited property</b>	15
	<b>prohibited)</b>	16
	Section 171—	17
	<i>omit, insert—</i>	18
	<b>171 Dealing with forfeited property prohibited</b>	19
(1)	A person who does, or attempts to do, an act or	20
	makes an omission in relation to property that is	21
	the subject of a forfeiture order that directly or	22
	indirectly defeats the operation of the order	23
	commits a crime.	24
	Maximum penalty—	25
(a)	for a financial institution—2500 penalty	26
	units or the value of the forfeited property,	27
	whichever is the higher amount; or	28
(b)	otherwise—	29
(i)	1000 penalty units or the value of the	30
	forfeited property, whichever is the	31
	higher amount; or	32

[s 20]

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- (ii) 7 years imprisonment. 1
- (2) It is a defence to a charge of an offence against subsection (1) for the person to prove that the person had no notice the property was the subject of a forfeiture order and no reason to suspect it was. 2  
3  
4  
5  
6
- (3) However, the defence under subsection (2) is not available to the extent the property is— 7  
8
- (a) a motor vehicle, boat or outboard motor the subject of a forfeiture order registered under the *Personal Property Securities Act 2009* (Cwlth); or 9  
10  
11  
12
- (b) land over which a caveat in relation to the forfeiture order is registered under the *Land Title Act 1994*. 13  
14  
15
- (4) Subsection (1) does not prevent the prosecution and punishment of a person who does, or attempts to do, an act or makes an omission mentioned in that subsection for contempt of court or another offence under this Act or another Act. 16  
17  
18  
19  
20
- (5) A dealing with property in contravention of subsection (1) is void unless the dealing was in favour of a person who— 21  
22  
23
- (a) did not know, and could not reasonably be expected to have known, that the property was forfeited under a forfeiture order; and 24  
25  
26
- (b) acted in good faith; and 27
- (c) provided sufficient consideration for the dealing. 28  
29
- (6) Subsection (5) applies whether or not any person is convicted of an offence in relation to the forfeiture order. 30  
31  
32

---

<b>Clause 21</b>	<b>Amendment of s 249 (Communication of information by financial institutions to particular officers)</b>	1 2	
	(1) Section 249(1)(a)—	3	
	<i>insert—</i>	4	
	(iii) a matter for which an order may be made under chapter 2A; or	5 6	
	(2) Section 249(3)—	7	
	<i>omit, insert—</i>	8	
	(3) The institution may give the information to a commission officer if the information relates to—	9 10	
	(a) an investigation of a serious crime related activity or another matter for which an order may be made under chapter 2; or	11 12 13	
	(b) a matter for which an order may be made under chapter 2A.	14 15	
<b>Clause 22</b>	<b>Insertion of new ch 12, pt 6</b>	16	
	Chapter 12—	17	
	<i>insert—</i>	18	
	<b>Part 6</b>	<b>Transitional provisions for Criminal Law Amendment Act 2016</b>	19 20 21
	<b>296 Definition for part</b>	22	
	In this part—	23	
	<i>amendment Act</i> means the <i>Criminal Law Amendment Act 2016</i> .	24 25	

[s 22]

---

<b>297 Restraining orders made before commencement</b>	1 2
For sections 52, 93ZT and 143, as inserted by the amendment Act—	3 4
(a) a reference to restrained property is a reference to property restrained under a restraining order, whether before or after the commencement; and	5 6 7 8
(b) a reference to a restraining order is a reference to a restraining order, whether made before or after the commencement.	9 10 11
<b>298 Forfeiture orders made before commencement</b>	12
For sections 60 and 171, as inserted by the amendment Act—	13 14
(a) a reference to forfeited property is a reference to property forfeited, whether before or after the commencement; and	15 16 17
(b) a reference to a forfeiture order is a reference to a forfeiture order, whether made before or after the commencement.	18 19 20
<b>299 Serious drug offender confiscation orders made before commencement</b>	21 22
For section 93ZZH, as inserted by the amendment Act—	23 24
(a) a reference to forfeited property is a reference to property forfeited, whether before or after the commencement; and	25 26 27
(b) a reference to a serious drug offender confiscation order is a reference to a serious drug offender confiscation order, whether made before or after the commencement.	28 29 30 31

---

<b>Clause 23</b>	<b>Amendment of sch 6 (Dictionary)</b>	1
	Schedule 6, definition <i>applicant</i> , paragraph (c), ‘chapter 4’—	2
	<i>omit, insert</i> —	3
	chapter 3	4
<b>Part 5</b>	<b>Amendment of Director of Public Prosecutions Act 1984</b>	5
		6
<b>Clause 24</b>	<b>Act amended</b>	7
	This part amends the <i>Director of Public Prosecutions Act 1984</i> .	8
		9
<b>Clause 25</b>	<b>Insertion of new s 23A</b>	10
	Part 3—	11
	<i>insert</i> —	12
	<b>23A Delegation by director</b>	13
	The director may delegate the director’s functions and powers under this Act or another Act to an appropriately qualified person.	14
		15
		16
<b>Part 6</b>	<b>Amendment of Drugs Misuse Act 1986</b>	17
		18
<b>Clause 26</b>	<b>Act amended</b>	19
	This part amends the <i>Drugs Misuse Act 1986</i> .	20
<b>Clause 27</b>	<b>Amendment of s 128 (Analyst’s certificate)</b>	21
	(1) Section 128(1), ‘made by the analyst’—	22
	<i>omit</i> .	23

[s 28]

---

- (2) Section 128(1)— 1  
*insert—* 2
- (d) the laboratory at which the thing was 3  
analysed or examined; 4
- (e) that the analyst examined the laboratory’s 5  
records about the analysis or examination of 6  
the thing, including the records about any 7  
analysis or examination done by someone 8  
other than the analyst; 9

**Clause 28 Insertion of new pt 7, div 10 10**

Part 7— 11

*insert—* 12

**Division 10 Provision for Criminal 13  
Law Amendment Act 14  
2016 15**

**146 Validation of analysts’ certificates signed 16  
before commencement 17**

- (1) This section applies to a certificate signed by an 18  
analyst under section 128 before the 19  
commencement. 20
- (2) The certificate is taken to be, and to have always 21  
been, as valid and effective as it would have been 22  
if it were signed after the commencement. 23

**Part 7 Amendment of Evidence Act 24  
1977 25**

**Clause 29 Act amended 26**

This part amends the *Evidence Act 1977*. 27

*Note—*

See also the amendments in schedule 1.

<b>Clause 30</b>	<b>Amendment of s 21A (Evidence of special witnesses)</b>	3
(1)	Section 21A(2)(e), (5) and (5A), ‘video-taped recording’—	4
	<i>omit, insert—</i>	5
	videorecording	6
(2)	Section 21A(2)(e), ‘video-taped evidence’—	7
	<i>omit, insert—</i>	8
	videorecorded evidence	9
(3)	Section 21A(6), all words before paragraph (a)—	10
	<i>omit, insert—</i>	11
	A videorecording made under this section of	12
	evidence given by a special witness, or a lawfully	13
	edited copy of the videorecording—	14
(4)	Section 21A—	15
	<i>insert—</i>	16
	(6A) A reference in subsection (6) to a videorecording	17
	made under this section includes a reference to a	18
	copy of the videorecording on a separate data	19
	storage medium if—	20
	(a) the videorecording is a digital recording;	21
	and	22
	(b) the copy of the videorecording on the	23
	separate data storage medium has been	24
	made by—	25
	(i) the principal registrar of a court; or	26
	(ii) a person authorised by the principal	27
	registrar of a court to copy the	28
	videorecording onto the separate data	29
	storage medium.	30

[s 31]

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<b>Clause 31</b>	<b>Insertion of new s 21AAA</b>	1
	Part 2, division 4, after section 21A—	2
	<i>insert—</i>	3
	<b>21AAA Exclusion of particular persons while videorecording or usable soundtrack being presented</b>	4 5 6
	(1) This section applies if the evidence of a special witness contained in either of the following is to be presented at a proceeding—	7 8 9
	(a) a videorecording made under section 21A, or a lawfully edited copy of the videorecording;	10 11 12
	(b) the usable soundtrack of a videorecording, or a lawfully edited copy of a videorecording, mentioned in paragraph (a), or a lawfully edited copy of the usable soundtrack.	13 14 15 16 17
	<i>Note—</i>	18
	See part 2, division 4AA in relation to the use of soundtracks from particular recordings.	19 20
	(2) The court may, on its own initiative or on an application made by a party to the proceeding, order that, while the evidence is being presented at the proceeding, all persons other than those specified by the court be excluded from the room in which it is sitting.	21 22 23 24 25 26
	(3) However, if the evidence is to be presented at a criminal proceeding, the court may not, under subsection (2), exclude the person charged.	27 28 29
	<i>Notes—</i>	30
	1 See section 21A(2)(a) and (b), (4) and (5) in relation to the court's power to exclude particular persons while a special witness is giving evidence under that section.	31 32 33 34

---

	2	See the <i>Child Protection Act 1999</i> , section 193 for restrictions on disclosing identifying information about a special witness who is a child.	1 2 3
<b>Clause 32</b>		<b>Amendment of s 21AM (Use of prerecorded evidence)</b>	4
	(1)	Section 21AM(1), from ‘videotaped’ to ‘the recording’—	5
		<i>omit, insert—</i>	6
		videorecording made under this subdivision for a proceeding, or in a lawfully edited copy of the videorecording	7 8 9
	(2)	Section 21AM—	10
		<i>insert—</i>	11
	(3)	A reference in subsection (1) to a videorecording made under this subdivision for a proceeding includes a reference to a copy of the videorecording on a separate data storage medium if—	12 13 14 15 16
		(a) the videorecording is a digital recording; and	17 18
		(b) the copy of the videorecording on the separate data storage medium has been made by—	19 20 21
		(i) the principal registrar of a court; or	22
		(ii) a person authorised by the principal registrar of a court to copy the videorecording onto the separate data storage medium.	23 24 25 26
<b>Clause 33</b>		<b>Amendment of s 21AQ (Audio visual links or screening arrangements must be used)</b>	27 28
	(1)	Section 21AQ(4), from ‘video-taping’—	29
		<i>omit, insert—</i>	30
		videorecording, the child’s evidence must be	31

[s 34]

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	videorecorded.	1
(2)	Section 21AQ(6), from ‘A video-taped’ to ‘the recording’—	2
	<i>omit, insert—</i>	3
	A videorecording of the child’s evidence made	4
	under this section, or a lawfully edited copy of the	5
	videorecording	6
(3)	Section 21AQ—	7
	<i>insert—</i>	8
(7)	A reference in subsection (6) to a videorecording	9
	made under this section includes a reference to a	10
	copy of the videorecording on a separate data	11
	storage medium if—	12
(a)	the videorecording is a digital recording;	13
	and	14
(b)	the copy of the videorecording on the	15
	separate data storage medium has been	16
	made by—	17
(i)	the principal registrar of a court; or	18
(ii)	a person authorised by the principal	19
	registrar of a court to copy the	20
	videorecording onto the separate data	21
	storage medium.	22
<b>Clause 34</b>	<b>Amendment of s 21AU (Exclusion of public)</b>	23
	Section 21AU(1) to (3)—	24
	<i>omit, insert—</i>	25
(1)	This section applies if—	26
(a)	an affected child is to give evidence under	27
	subdivision 3 or 4 in a relevant proceeding;	28
	or	29

- 
- (b) the evidence of an affected child contained in either of the following is to be presented at a relevant proceeding—
- (i) a videorecording made under subdivision 3 or 4, or a lawfully edited copy of the videorecording;
  - (ii) the usable soundtrack of a videorecording, or a lawfully edited copy of a videorecording, mentioned in subparagraph (i), or a lawfully edited copy of the usable soundtrack.
- Note—*
- See part 2, division 4AA in relation to the use of soundtracks from particular recordings.
- (2) The court must make an order excluding from the room in which it is sitting all persons, other than essential persons, while—
- (a) the child is giving the evidence mentioned in subsection (1)(a); or
  - (b) the evidence mentioned in subsection (1)(b) is being presented.
- (3) However, subsection (2) does not apply if—
- (a) the evidence to be given by the child, or presented at the proceeding, is other than in relation to an offence of a sexual nature; and
  - (b) the court is satisfied that the interests of justice require the evidence to be heard in open court.
- Note—*
- See the *Child Protection Act 1999*, section 193 for restrictions on disclosing identifying information about the affected child.

[s 35]

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<b>Clause 35</b>	<b>Amendment of s 21AW (Instructions to be given to jury)</b>	1
	Section 21AW(1)(b), after ‘evidence’—	2
	<i>insert—</i>	3
	or a videorecording, or usable soundtrack of a videorecording, containing the evidence of an affected child is presented	4 5 6
<b>Clause 36</b>	<b>Insertion of new pt 2, div 4AA</b>	7
	After section 21AX—	8
	<i>insert—</i>	9
	<b>Division 4AA Use of soundtracks from particular videorecordings</b>	10 11
	<b>21AXA Definition for division</b>	12
	In this division—	13
	<i>relevant witness</i> see section 21AXC(1)(a).	14
	<b>21AXB Meaning of <i>usable soundtrack</i></b>	15
	A videorecording has a <i>usable soundtrack</i> if sound can be produced from the accompanying soundtrack of the videorecording, even if moving images can not be produced from the videorecording.	16 17 18 19 20
	<b>21AXC Court may make order for presentation of usable soundtrack</b>	21 22
	(1) This section applies if—	23
	(a) a videorecording has been made—	24
	(i) under section 21A of the evidence of a special witness (a <i>relevant witness</i> ); or	25 26

- 
- (ii) under division 4A, subdivision 3 or 4 of the evidence of an affected child (also a *relevant witness*); and
- (b) the evidence of the relevant witness contained in the videorecording is admissible in a proceeding as mentioned in section 21A(6), 21AM or 21AQ(6); and
- (c) moving images can not be produced from the videorecording or a lawfully edited copy of the videorecording; and
- (d) the videorecording, or a lawfully edited copy of the videorecording, has a usable soundtrack.
- (2) The court may order that the usable soundtrack of the videorecording of the evidence of the relevant witness, or of the lawfully edited copy of the videorecording, may be presented at the proceeding.
- (3) The court may make an order under subsection (2)—
- (a) on the court’s own initiative or on the application of a party to the proceeding; and
- (b) only if the court is satisfied it would be in the interests of justice to make the order.

### **21AXD Use of usable soundtrack**

- (1) This section applies if the court makes an order under section 21AXC(2) that the usable soundtrack of either of the following may be presented at a proceeding—
- (a) a videorecording of the evidence of a relevant witness made under section 21A or division 4A, subdivision 3 or 4;

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	(b) a lawfully edited copy of a videorecording mentioned in paragraph (a).	1 2
	(2) If the relevant witness is a special witness, section 21A(6) applies as if the reference in the subsection to a videorecording made under that section were a reference to the usable soundtrack of the videorecording or of the lawfully edited copy of the videorecording.	3 4 5 6 7 8
	(3) If the relevant witness is an affected child whose evidence has been taken under division 4A, subdivision 3, section 21AM applies as if the reference in section 21AM(1) to a videorecording made under division 4A, subdivision 3 were a reference to the usable soundtrack of the videorecording or of the lawfully edited copy of the videorecording.	9 10 11 12 13 14 15 16
	(4) If the relevant witness is an affected child whose evidence has been taken under division 4A, subdivision 4, section 21AQ(6) applies as if the reference in the subsection to a videorecording of the child's evidence made under that section were a reference to the usable soundtrack of the videorecording or of the lawfully edited copy of the videorecording.	17 18 19 20 21 22 23 24
<b>Clause 37</b>	<b>Replacement of pt 2, div 4B, hdg (Dealing with a recording)</b>	25 26
	Part 2, division 4B, heading—	27
	<i>omit, insert—</i>	28
	<b>Division 4B Dealings with, and destruction of, recordings</b>	29 30
	<b>Subdivision 1 Preliminary</b>	31

<b>Clause 38</b>	<b>Amendment of s 21AY (Definitions for div 4B)</b>	1
	(1) Section 21AY, definition <i>recording</i> —	2
	<i>omit.</i>	3
	(2) Section 21AY—	4
	<i>insert</i> —	5
	<i>authorised destruction day</i> see section 21AZF(1).	6 7
	<i>minimum retention period</i> see section 21AZE(4)(a).	8 9
	<i>recording</i> means—	10
	(a) a videorecording of a special witness's evidence made under section 21A; or	11 12
	(b) a videorecording of an affected child's evidence made under division 4A, subdivision 3 or 4; or	13 14 15
	(c) a copy of a videorecording mentioned in paragraph (a) or (b); or	16 17
	(d) the usable soundtrack of a videorecording mentioned in paragraph (a), (b) or (c).	18 19
<b>Clause 39</b>	<b>Insertion of new pt 2, div 4B, sdiv 2, hdg</b>	20
	After section 21AY—	21
	<i>insert</i> —	22
	<b>Subdivision 2 Dealings with recordings</b>	23
<b>Clause 40</b>	<b>Amendment of s 21AZB (Unauthorised possession of, or dealing with, recording)</b>	24 25
	(1) Section 21AZB(2)(b)—	26
	<i>renumber</i> as section 21AZB(2)(c).	27
	(2) Section 21AZB(2)—	28

[s 41]

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*insert—*

- (b) in the case of the principal registrar of a court—as authorised under a practice direction made under section 21AZE or section 21AZG; or

(3) Section 21AZB—

*insert—*

- (3) In this section—  
*erase* includes destroy.

**Clause 41 Insertion of new pt 2, div 4B, sdiv 3**

Part 2, division 4B—

*insert—*

**Subdivision 3 Destruction of recordings**

**21AZD Relationship with other Acts**

This subdivision applies despite the provisions of any other Act to the contrary.

**21AZE Making of practice directions authorising destruction**

- (1) The Chief Justice may make a practice direction authorising the principal registrar of the Supreme Court to destroy a recording held by or for the Supreme Court.
- (2) The Chief Judge may make a practice direction authorising the principal registrar of the District Court to destroy a recording held by or for the District Court.
- (3) The Chief Magistrate may make a practice direction authorising the principal registrar of Magistrates Courts to destroy a recording held by

- 
- or for a Magistrates Court. 1
- (4) A practice direction made under subsection (1), 2  
(2) or (3)— 3
- (a) must state the period (the *minimum retention period*) during which a recording 4  
or class of recordings may not be destroyed 5  
under the practice direction; and 6 7
- (b) may authorise the principal registrar of the 8  
court to destroy a recording only after— 9
- (i) the minimum retention period stated 10  
for the recording has ended; and 11
- (ii) if an order under section 21AZF has 12  
been made in relation to the 13  
recording—the authorised destruction 14  
day stated in the order has passed. 15
- 21AZF Court may make order about destruction** 16
- (1) The presiding judicial officer may make an order 17  
that a recording must not be destroyed before a 18  
stated day (the *authorised destruction day*). 19
- (2) The authorised destruction day must be after the 20  
end of the minimum retention period for the 21  
recording. 22
- 21AZG Destruction of particular digital recordings** 23
- (1) The principal registrar of a court may destroy a 24  
recording held by the court if the recording— 25
- (a) is a digital recording; and 26
- (b) has been copied onto a separate data storage 27  
medium. 28
- (2) Subsection (1) applies— 29

[s 42]

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- (a) even if a practice direction made under section 21AZE does not authorise the destruction of the recording; and
- (b) despite any order made under section 21AZF in relation to the recording.

### **21AZH Delegation by principal registrar**

- (1) The principal registrar of a court may delegate to an appropriately qualified public service employee the principal registrar's function under—
  - (a) a practice direction made under section 21AZE; or
  - (b) section 21AZG.
- (2) In this section—  
*function* includes power.

### **Clause 42 Amendment of s 95A (DNA evidentiary certificate)**

- (1) Section 95A—  
*insert*—
  - (1A) However, subsections (4), (5), (8) and (9) do not apply to a criminal proceeding if the proceeding is an examination of witnesses in relation to an indictable offence.
- (2) Section 95A(3)—  
*omit, insert*—
  - (3) If a party (the *relying party*) intends to rely on the certificate, the relying party must, at least 10 business days before the hearing day, give a copy of the certificate to each other party.
  - (3A) If, at least 5 business days before the hearing day, a party other than the relying party gives a written

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	notice to each other party that it requires the DNA analyst to give evidence, the relying party must call the DNA analyst to give evidence at the hearing.	1 2 3 4	
(3)	Section 95A(5), ‘3 business days’— <i>omit, insert—</i> 5 business days	5 6 7	
(4)	Section 95A— <i>insert—</i> (8A) The court may at any time, on application by a party, make an order shortening or extending a period mentioned in this section. (8B) Without limiting subsection (11), the court may waive the requirement for a party other than the relying party to give notice under subsection (5) that it requires the DNA analyst to give evidence. (8C) If the court makes an order under subsection (12), the relying party must call the DNA analyst to give evidence at the hearing.	8 9 10 11 12 13 14 15 16 17 18 19	
(5)	Section 95A(1A) to (9)— <i>renumber</i> as section 95A(2) to (14).	20 21	
<b>Clause 43</b>	<b>Insertion of new pt 9, div 8</b>	22	
	Part 9— <i>insert—</i>	23 24	
	<b>Division 8</b>	<b>Criminal Law Amendment Act 2016</b>	25 26
	<b>149 Definition for division</b>		27
	In this division— <i>amendment Act</i> means the <i>Criminal Law</i>		28 29

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[s 44]

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	<i>Amendment Act 2016.</i>	1
	<b>150 Admissibility of particular copies of videorecordings made before commencement</b>	2 3
	Sections 21A, 21AM and 21AQ, as amended by the amendment Act, apply, and are taken always to have applied, to a copy of a videorecording on a separate data storage medium that was made before the commencement.	4 5 6 7 8
	<b>151 Destruction of recordings made before commencement</b>	9 10
	Part 2, division 4B, subdivision 3, as inserted by the amendment Act, applies in relation to a recording whether the recording was made before or after the commencement.	11 12 13 14
	<b>152 Application of DNA evidentiary certificate provision to proceedings started before commencement</b>	15 16 17
	Section 95A, as amended by the amendment Act, applies to a criminal proceeding whether the proceeding was started before or after the commencement.	18 19 20 21
<b>Clause 44</b>	<b>Amendment of sch 3 (Dictionary)</b>	22
	(1) Schedule 3, definitions <i>lawfully edited copy</i> , <i>video-taped</i> and <i>video-taped recording</i> —	23 24
	<i>omit.</i>	25
	(2) Schedule 3—	26
	<i>insert</i> —	27
	<i>authorised destruction day</i> , for part 2, division 4B, see section 21AZF(1).	28 29

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<b><i>lawfully edited copy</i></b> —	1
(a) of a videorecording of evidence given by a special witness or an affected child—means a copy of the videorecording that has been edited or otherwise changed under an approval given under section 21AZ; or	2 3 4 5 6
(b) of a usable soundtrack of a videorecording containing the evidence of a special witness or an affected child—means a copy of the usable soundtrack of the videorecording that has been edited or otherwise changed under an approval given under section 21AZ.	7 8 9 10 11 12
<b><i>minimum retention period</i></b> , for part 2, division 4B, see section 21AZE(4)(a).	13 14
<b><i>principal registrar</i></b> , of a court, means—	15
(a) for a Magistrates Court—the person holding appointment as the principal registrar of Magistrates Courts mentioned in the <i>Magistrates Courts Act 1921</i> , section 3A(2); or	16 17 18 19 20
(b) for the District Court—the person appointed as the principal registrar under the <i>District Court of Queensland Act 1967</i> , section 36(1); or	21 22 23 24
(c) for the Supreme Court—the person appointed as the principal registrar under the <i>Supreme Court of Queensland Act 1991</i> , section 69(1).	25 26 27 28
<b><i>relevant witness</i></b> , for part 2, division 4AA, see section 21AXC(1)(a).	29 30
<b><i>usable soundtrack</i></b> , of a videorecording, see section 21AXB.	31 32
<b><i>videorecorded</i></b> means recorded as a videorecording.	33 34
<b><i>videorecording</i></b> means a recording, including the	35

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- (3) Section 18(6), penalty, ‘subsection (6)’— 1  
*omit, insert*— 2  
subsection (7) 3  
(4) Section 18(1A) to (6)— 4  
*renumber* as section 18(2) to (7). 5

- Clause 47 Amendment of s 27 (Summons for jury service) 6**
- (1) Section 27— 7  
*insert*— 8  
(1A) Without limiting the ways the summons may be 9  
given, the summons may be given by email or 10  
other electronic means. 11  
(2) Section 27(1A) to (5)— 12  
*renumber* as section 27(2) to (6). 13

- Clause 48 Amendment of s 30 (Reproduction of list of persons 14  
summoned for jury service) 15**
- Section 30(2), example, ‘or clerk’— 16  
*omit.* 17

- Clause 49 Amendment of s 37 (Materials to be given by sheriff) 18**
- (1) Section 37(1), ‘or clerk’— 19  
*omit.* 20  
(2) Section 37(1)(b)— 21  
*omit, insert*— 22  
(b) 1 card (a *jury card*) for each member of the 23  
panel that states— 24  
(i) the name of, or a number representing, 25  
the member; and 26

[s 50]

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- (ii) the locality address and occupation of the member. 1  
2
- (3) Section 37— 3
  - insert*— 4
  - (1A) The jury cards for the members of a panel— 5
    - (a) may be given by electronic means; and 6
    - (b) if not given by electronic means—must be of identical size and shape. 7  
8
- (4) Section 37(1A) to (3)— 9
  - renumber* as section 37(2) to (4). 10

**Clause 50      Amendment of s 41 (Procedure for jury selection)      11**

- (1) Section 41(1)(a)— 12
  - omit, insert*— 13
  - (a) a selection must be made, as directed by the judge, from among the members of the jury panel by random selection of jury cards, including, for example, by a computer programmed to make a random selection; and 14  
15  
16  
17  
18  
19
- (2) Section 41(3), ‘or clerk’— 20
  - omit.* 21

**Clause 51      Amendment of sch 3 (Dictionary)      22**

- (1) Schedule 3— 23
  - insert*— 24
  - jury card* see section 37(1)(b). 25
- (2) Schedule 3, definition *prospective juror questionnaire*, ‘18(2)(a)’— 26  
27
  - omit, insert*— 28



[s 55]

---

*insert—*

- (ca) hearing complaints that have been ordered  
to be heard together under section 43A;

**Clause 55 Insertion of new s 88B**

Part 4, division 11—

*insert—*

**88B Continuation of remand on registry committal**

- (1) This section applies if—
- (a) under a registry committal, the clerk of the court at a place orders a defendant to be committed to be tried or sentenced for an indictable offence; and
- (b) immediately before the registry committal, the defendant is subject to an order made under section 84(1) (the *remand order*) providing for the remand of the defendant.
- (2) The remand order is continued, and is taken to have been made by the court (the *receiving court*) to which the defendant is committed for trial or sentence on the terms recorded for the order in the verdict and judgment record as required under the *Criminal Practice Rules 1999*.
- (3) However, the remand order is taken to be varied to require the defendant to be brought before the receiving court as required by the receiving court.
- (4) Also, if the clerk of the court amends the charges under section 115(6), the remand order is taken to be made in relation to the charges on which the defendant is committed for trial or sentence under the registry committal.

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<b>Clause 56</b>	<b>Amendment of s 114 (Registry committal by clerk of court)</b>	1
		2
	Section 114(1)(d)—	3
	<i>omit, insert—</i>	4
	(d) the defendant, if an individual—	5
	(i) is not in custody, and is not in breach of any condition of the undertaking on which the defendant was granted bail;	6
	or	7
	(ii) is remanded in custody for the indictable offence;	8
		9
		10
		11
<b>Clause 57</b>	<b>Amendment of s 115 (Process of clerk of the court for registry committal)</b>	12
		13
	Section 115(10), note—	14
	<i>omit, insert—</i>	15
	<i>Notes for subsection (10)—</i>	16
	1 If, immediately before the registry committal, the defendant is subject to an order made under section 84(1) providing for the remand of the defendant, section 88B provides for the automatic continuation of the order.	17
		18
		19
		20
		21
	2 If, immediately before the registry committal, the defendant is on bail, the <i>Bail Act 1980</i> , section 34BA provides for the automatic continuation of the defendant's bail.	22
		23
		24
		25
<b>Clause 58</b>	<b>Amendment of s 142 (Proceedings in absence of defendant)</b>	26
		27
	Section 142(1)—	28
	<i>insert—</i>	29
	<i>Note—</i>	30
	See section 150A for when the justices may, instead of dealing with the complaint under this division, make an order ending the complaint.	31
		32
		33

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[s 59]

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<b>Clause 59</b>	<b>Amendment of s 144 (Both parties appearing)</b>	1
	Section 144—	2
	<i>insert—</i>	3
	<i>Note—</i>	4
	See section 150A for when the justices may, instead of dealing with the complaint under this division, make an order ending the complaint.	5 6 7
<b>Clause 60</b>	<b>Amendment of s 145 (Defendant to be asked to plead)</b>	8
	(1) Section 145(2)—	9
	<i>renumber</i> as section 145(4).	10
	(2) Section 145—	11
	<i>insert—</i>	12
	(2) If the defendant is legally represented and there is more than 1 complaint before the Magistrates Court, a plea to any number of the complaints may, with the consent of the defendant, be taken at the same time on the basis that the plea to 1 complaint will be treated as a plea to any number of the complaints if the court is satisfied—	13 14 15 16 17 18 19
	(a) the defendant has obtained legal advice in relation to each of the complaints; and	20 21
	(b) the defendant is aware of the substance of each of the complaints.	22 23
	(3) If the Magistrates Court takes a plea under subsection (2), the court is not required to state the substance of any complaint before the court to the defendant.	24 25 26 27
<b>Clause 61</b>	<b>Insertion of new s 148A</b>	28
	Part 6, division 3—	29
	<i>insert—</i>	30

---

<b>148A Admissions of fact</b>	1
(1) This section applies in relation to a complaint of—	2 3
(a) a simple offence, other than a simple offence that is an indictable offence punishable on summary conviction; or	4 5 6
<i>Note—</i>	7
See the Criminal Code, section 644 in relation to the admission of a fact on the hearing of a complaint that relates to an indictable offence being heard and decided summarily.	8 9 10 11
(b) a breach of duty.	12
(2) On the hearing of the complaint—	13
(a) the defendant may, personally or by the defendant’s lawyer, admit any fact alleged against the defendant; and	14 15 16
(b) the complainant may, personally or by the complainant’s lawyer, admit any fact relevant to the hearing, but only if the defendant consents to the making of the admission.	17 18 19 20 21
(3) An admission of a fact made under subsection (2) is sufficient proof of the fact without other evidence.	22 23 24

<b>Clause 62</b>	<b>Insertion of new pt 6, div 4A</b>	25	
	Part 6—	26	
	<i>insert—</i>	27	
	<b>Division 4A</b>	<b>Ending of complaint if</b>	28
		<b>police cash bail granted</b>	29

<b>150A Justices may order that complaint is ended</b>	30
(1) This section applies if—	31

[s 63]

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	(a) a defendant has been granted bail under the <i>Bail Act 1980</i> , section 14 in relation to the matter of a complaint; and	1 2 3
	(b) any of the following applies—	4
	(i) the defendant fails to appear before the justices in accordance with the bail and the justices, under the <i>Bail Act 1980</i> , section 14(5), order the forfeiture of the deposit of money made by the defendant in connection with the bail;	5 6 7 8 9 10
	(ii) the defendant does not appear before the justices in accordance with the bail, but the defendant’s lawyer applies to the justices for an adjournment of the hearing of the complaint;	11 12 13 14 15
	(iii) the defendant appears before the justices in accordance with the bail.	16 17
	(2) The justices may, instead of dealing with the complaint under division 2 or 3, order that the complaint is ended.	18 19 20
	(3) On making an order under subsection (2)—	21
	(a) the complaint ends; and	22
	(b) the justices must take no further action in relation to the complaint.	23 24
	(4) To remove any doubt, it is declared that subsection (3) does not affect the making of an order under the <i>Bail Act 1980</i> , section 14(6).	25 26 27
<b>Clause 63</b>	<b>Insertion of new pt 11, div 8</b>	28
	Part 11—	29
	<i>insert</i> —	30
	<b>Division 8</b>	<b>Criminal Law Amendment</b>
		<b>Act 2016</b>
		31 32

---

**282 Orders for particular complaints made before commencement to be heard together** 1  
2

Section 43A, as inserted by the *Criminal Law Amendment Act 2016*, applies to a complaint of a simple offence or breach of duty, whether the complaint was made before or after the commencement. 3  
4  
5  
6  
7

**283 Admissions of fact in hearings of complaints made before commencement** 8  
9

Section 148A, as inserted by the *Criminal Law Amendment Act 2016*, applies to the hearing of a complaint mentioned in that section, whether the complaint was made before or after the commencement. 10  
11  
12  
13  
14

**Part 10 Amendment of Penalties and Sentences Act 1992** 15  
16

**Clause 64 Act amended** 17

This part amends the *Penalties and Sentences Act 1992*. 18

*Note—* 19

See also the amendments in schedule 1. 20

**Clause 65 Amendment of s 4 (Definitions)** 21

Section 4, definition *original order—* 22

*omit, insert—* 23

*original order—* 24

(a) for part 3, division 3AA—see section 33AA(a); or 25  
26

(b) for part 4, division 2—see section 52. 27

[s 66]

---

<b>Clause 66</b>	<b>Insertion of new pt 3, div 3AA</b>	1
	Part 3, after division 3—	2
	<i>insert—</i>	3
	<b>Division 3AA Offenders failing to enter into recognisances before leaving court</b>	4 5 6
	<b>33AA Application of division</b>	7
	This division applies if—	8
	(a) a court makes an order under section 19(1)(b), 24(1)(b), 30(1)(a), 31 or 32(1) that an offender be released if the offender enters into a recognisance (the <i>original order</i> ); and	9 10 11 12
	(b) the offender leaves the precincts of the court without entering into the recognisance.	13 14
	<b>33AB Proper officer of court may give offender notice</b>	15 16
	(1) The proper officer of the court may give the offender a written notice that—	17 18
	(a) requires the offender, by a stated date, to attend the registry of the court at a stated place to enter into the recognisance; and	19 20 21
	(b) informs the offender that, if the offender fails to comply with the requirement, a warrant may be issued to arrest the offender and bring the offender before the court to be dealt with according to law.	22 23 24 25 26
	(2) The notice must be given to the offender—	27
	(a) personally; or	28
	(b) by post to the address of the offender last known to the proper officer of the court; or	29 30

- 
- (c) electronically, including, for example, by email. 1  
2

**33AC Court may issue warrant** 3

- (1) This section applies if the court is satisfied— 4
- (a) the offender has been given a notice under section 33AB ; and 5  
6
- (b) the offender has failed to comply with the notice. 7  
8
- (2) The court may issue a warrant directed to all police officers to arrest the offender and bring the offender before the court, or a court of like jurisdiction, to be dealt with according to law. 9  
10  
11  
12

**33AD Orders for offender appearing before court** 13

- (1) This section applies if the offender is arrested under a warrant issued under section 33AC and either of the following applies— 14  
15  
16
- (a) the offender is brought before a court under the warrant or a warrant issued under another Act; 17  
18  
19
- (b) the offender is granted bail under the *Bail Act 1980*, section 7 and appears before a court in accordance with the bail. 20  
21  
22
- (2) The court may— 23
- (a) confirm the original order; or 24
- (b) revoke the original order and sentence the offender for the offence with which the offender was originally charged. 25  
26  
27
- (3) If the court revokes the original order under subsection (2)(b) and a conviction has not previously been recorded for the offence mentioned in that subsection, the court may also 28  
29  
30  
31

[s 66]

---

record a conviction for the offence. 1

**33AE Orders for particular offender failing to appear before court** 2  
3

- (1) This section applies if— 4
- (a) the original order is made on the hearing of a complaint of a simple offence under the *Justices Act 1886*; and 5  
6  
7
  - (b) the offender— 8
    - (i) is arrested under a warrant issued under section 33AC; and 9  
10
    - (ii) is granted bail under the *Bail Act 1980*, section 7; and 11  
12
    - (iii) fails to appear before a court in accordance with the bail. 13  
14
- (2) The court may, in the absence of the offender, revoke the original order and sentence the offender for the offence with which the offender was originally charged. 15  
16  
17  
18
- (3) If the court revokes the original order under subsection (2) and a conviction has not previously been recorded for the offence mentioned in that subsection, the court may also record a conviction for the offence. 19  
20  
21  
22  
23
- (4) In sentencing the offender under subsection (2), the court may not— 24  
25
- (a) impose a term of imprisonment on the offender; or 26  
27
  - (b) order that any licence, registration, certificate, permit or other authority held by the offender under any Act be cancelled or suspended; or 28  
29  
30  
31
  - (c) order that the offender be disqualified from holding or obtaining any licence, 32  
33

---

registration, certificate, permit or other 1  
authority under any Act. 2

**33AF Evidentiary provision 3**

- (1) For section 33AC(1)(a), a document purporting to 4  
be a copy of a notice given to the offender under 5  
section 33AB and endorsed with a certificate 6  
purporting to be signed by a relevant officer 7  
stating the matters mentioned in subsection (2) is 8  
evidence— 9
- (a) that the notice was given to the offender as 10  
stated in the certificate; and 11
- (b) if the notice was given to the offender in the 12  
way mentioned in section 33AB(2)(b)—that 13  
the address appearing on the notice is the 14  
address of the offender last known to the 15  
proper officer of the court. 16
- (2) The matters are— 17
- (a) the document is a copy of a notice given to 18  
the offender under section 33AB; and 19
- (b) the notice was given to the offender in a 20  
stated way mentioned in section 33AB(2); 21  
and 22
- (c) if the notice was given to the offender in a 23  
way mentioned in section 33AB(2)(a) or 24  
(c)—the date the notice was given to the 25  
offender; and 26
- (d) if the notice was given to the offender in the 27  
way mentioned in section 33AB(2)(b)— 28
- (i) the document was posted to the address 29  
appearing on the notice, which was the 30  
address of the offender last known to 31  
the proper officer of the court; and 32

[s 67]

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	(ii) in the ordinary course of post, the notice would be delivered on the date stated in the endorsement.	1 2 3
	(3) For section 33AC(1)(b), a certificate purporting to be signed by the proper officer of the court stating that the offender has not complied with a notice given to the offender under section 33AB is evidence the offender has not complied with the notice.	4 5 6 7 8 9
	(4) In this section— <i>relevant officer</i> , in relation to a notice given to an offender under section 33AB, means—	10 11 12
	(a) if the notice was given to the offender in the way mentioned in section 33AB(2)(a)—the person who served the notice personally on the offender; or	13 14 15 16
	(b) otherwise—the proper officer of the court.	17
<b>Clause 67</b>	<b>Amendment of s 43N (Commissioner may give copy of banning order to particular persons)</b>	18 19
	(1) Section 43N, heading, after ‘Commissioner’— <i>insert—</i> <b>of police service</b>	20 21 22
	(2) Section 43N(1), after ‘The commissioner’— <i>insert—</i> of the police service	23 24 25
<b>Clause 68</b>	<b>Amendment of s 159A (Time held in presentence custody to be deducted)</b>	26 27
	Section 159A(10), definition <i>presentence custody certificate</i> , ‘or an authorised corrective services officer’— <i>omit, insert—</i>	28 29 30

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	, an authorised corrective services officer or the commissioner of the police service	1 2
<b>Clause 69</b>	<b>Insertion of new pt 14, div 17</b>	3
	Part 14—	4
	<i>insert—</i>	5
	<b>Division 17 Transitional provision for Criminal Law Amendment Act 2016</b>	6 7 8
	<b>252 Warrant for arrest of offender failing to enter into recognisance under order made before commencement</b>	9 10 11
	Part 3, division 3AA applies in relation to an original order whether the order was made before or after the commencement.	12 13 14
<b>Clause 70</b>	<b>Amendment of sch 1 (Serious violent offences)</b>	15
	Schedule 1, entry for the Criminal Code—	16
	<i>insert—</i>	17
	14B section 236(2) (Misconduct with regard to corpses)	18 19
<b>Part 11</b>	<b>Amendment of Recording of Evidence Act 1962</b>	20 21
<b>Clause 71</b>	<b>Act amended</b>	22
	This part amends the <i>Recording of Evidence Act 1962</i> .	23

[s 72]

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<b>Clause 72</b>	<b>Amendment of s 11A (Retention and destruction of records)</b>	1 2
	(1) Section 11A(6)(a), after ‘made;’—	3
	<i>insert—</i>	4
	or	5
	(2) Section 11A(6)(b)(ii)—	6
	<i>omit, insert—</i>	7
	(ii) the record is of a legal proceeding in a Magistrates Court and the record may be disposed of under an authority given by the archivist under the <i>Public Records Act 2002</i> , section 26.	8 9 10 11 12
	(3) Section 11A(8)—	13
	<i>insert—</i>	14
	<i>archivist</i> means the State Archivist established under the <i>Public Records Act 2002</i> , section 21(1).	15 16
<b>Part 12</b>	<b>Amendment of Telecommunications Interception Act 2009</b>	17 18 19
<b>Clause 73</b>	<b>Act amended</b>	20
	This part amends the <i>Telecommunications Interception Act 2009</i> .	21 22
<b>Clause 74</b>	<b>Amendment of s 14 (Eligible authority to keep documents connected with issue of warrants)</b>	23 24
	(1) Section 14—	25
	<i>insert—</i>	26
	(ga) each appointment of an officer of the eligible authority to be an authorising officer	27 28

[s 75]

- 
- made under section 66(4) of the  
Commonwealth Act; 1  
2
- (2) Section 14(h), after ‘chief officer’— 3  
*insert—* 4  
    , or an authorising officer of the eligible authority, 5  
    given 6
- (3) Section 14(ga) and (h)— 7  
*renumber* as section 14(h) and (i). 8

## **Part 13                      Amendment of other Acts** 9

<b>Clause 75</b>	<b>Acts amended</b>	10
	Schedule 1 amends the Acts it mentions.	11

<b>Schedule 1</b>	<b>Acts amended</b>	1
	section 75	2
<b>Evidence Act 1977</b>		3
<b>1</b>	<b>Section 21AG(8)(b), ‘video-taping’—</b>	4
	<i>omit, insert—</i>	5
	videorecording	6
<b>2</b>	<b>Section 21AK, heading, ‘Video-taping’—</b>	7
	<i>omit, insert—</i>	8
	<b>Videorecording</b>	9
<b>3</b>	<b>Section 21AK(1) and (5)(a), ‘video-taped’—</b>	10
	<i>omit, insert—</i>	11
	videorecorded	12
<b>4</b>	<b>Section 21AK(1)—</b>	13
	<i>insert—</i>	14
	<i>Note—</i>	15
	See section 21AO for when a court may order that an	16
	affected child’s evidence not be taken and videorecorded	17
	under this subdivision.	18
<b>5</b>	<b>Section 21AK(2) and (7), ‘video-taped recording’—</b>	19
	<i>omit, insert—</i>	20
	videorecording	21

<b>6</b>	<b>Section 21AK(5) and (9), definition <i>appropriately equipped place</i>, paragraph (a), ‘video-tape’—</b>	1
	<i>omit, insert—</i>	2
	videorecord	3
		4
<b>7</b>	<b>Section 21AK(6), (8), example and (9), definition <i>appropriately equipped place</i>, ‘video-taping’—</b>	5
	<i>omit, insert—</i>	6
	videorecording	7
		8
<b>8</b>	<b>Section 21AL(1) and (5), ‘video-taping’—</b>	9
	<i>omit, insert—</i>	10
	videorecording	11
<b>9</b>	<b>Section 21AO(2), ‘video-taped’—</b>	12
	<i>omit, insert—</i>	13
	videorecorded	14
<b>10</b>	<b>Section 21AO(3), example, ‘video-tape’—</b>	15
	<i>omit, insert—</i>	16
	videorecord	17
<b>11</b>	<b>Section 21AS(3), ‘video-taped’—</b>	18
	<i>omit, insert—</i>	19
	videorecorded	20

**Penalties and Sentences Act 1992** 1

**1 Part 14, division 13, second occurring—** 2  
*renumber* as part 14, division 15. 3

**2 Section 240, second occurring—** 4  
*renumber* as section 242. 5

**Youth Justice Act 1992** 6

**1 Section 84(2), ‘145(2)’—** 7  
*omit, insert—* 8  
145(4) 9

**2 Part 11, division 13, first occurring—** 10  
*renumber* as part 11, division 12A. 11

**3 Section 369, first occurring—** 12  
*renumber* as section 368A. 13

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