



Queensland

# **One Funding System for Better Services Bill 2011**





## Queensland

# One Funding System for Better Services Bill 2011

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# 2011

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## A Bill

for

**An Act to provide for funding by departments to non-government entities and local governments and to repeal the *Community Services Act 2007* and the *Family Services Act 1987* and to make minor and consequential amendments to the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, the *Aboriginal Cultural Heritage Act 2003*, the *Casino Control Act 1982*, the *Corrective Services Act 2006*, the *Disability Services Act 2006*, the *Duties Act 2001*, the *Education (General Provisions) Act 2006*, the *Fisheries Act 1994*, the *Forestry Act 1959*, the *Gaming Machine Act 1991*, the *Housing Act 2003*, the *Liquor Act 1992*, the *Marine Parks Act 2004*, the *Maritime Safety Queensland Act 2002*, the *Police Service Administration Act 1990*, the *Public Service Act 2008*, the *Torres Strait Islander Cultural Heritage Act 2003*, the *Transport Infrastructure Act 1994*, the *Transport Operations (Passenger Transport) Act 1994* and the *Waste Reduction and Recycling Act 2011***

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[s 1]

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|---|----------|
| <b>The Parliament of Queensland enacts—</b>   | 1        |
| <br>  |          |
| <b>Part 1                      Preliminary</b>  | 2        |
| <br>  |          |
| <b>Division 1                Introduction</b>   | 3        |
| <br>  |          |
| <b>1            Short title</b>   | 4        |
| This Act may be cited as the <i>One Funding System for Better Services Act 2011</i> .                           | 5<br>6   |
| <br>  |          |
| <b>2            Commencement</b>  | 7        |
| This Act commences on a day to be fixed by proclamation.  | 8        |
| <br>  |          |
| <b>Division 2                Application, objects and principles</b>  | 9        |
| <br>  |          |
| <b>3            Act binds all persons</b>   | 10       |
| (1)    This Act binds all persons, including the State.   | 11       |
| (2)    Nothing in this Act makes the State liable to be prosecuted for an offence.                              | 12<br>13 |
| <br>  |          |
| <b>4            Application of Act</b>  | 14       |
| This Act applies in relation to all funding provided by a department to an entity.                              | 15<br>16 |
| <i>Note—</i>  | 17       |
| Section 12 provides for when a department provides <i>funding</i> , and <i>entity</i> is defined in schedule 2. | 18<br>19 |

|          |   |                      |
|----------|---|----------------------|
| <b>5</b> | <b>Main object of Act</b>   | 1                    |
|          | The main object of this Act is to provide for the funding of products or services that—   | 2<br>3               |
|          | (a) contribute to Queensland's economic, social and environmental wellbeing; and  | 4<br>5               |
|          | (b) enhance the quality of life of individuals, groups and communities.   | 6<br>7               |
| <b>6</b> | <b>How main object is mainly achieved</b>   | 8                    |
|          | The main object is achieved mainly by—  | 9                    |
|          | (a) departments providing funding to entities to provide products or services; and  | 10<br>11             |
|          | (b) providing clear and consistent powers that safeguard the funding and the delivery of products or services provided with the funding.  | 12<br>13<br>14       |
| <b>7</b> | <b>Guiding principles</b>   | 15                   |
|          | This Act is to be administered in a way that has sufficient regard to the following principles—   | 16<br>17             |
|          | (a) government's processes and practices for providing funding should—  | 18<br>19             |
|          | (i) be transparent, including, for example, being clear and open about the basis and conditions on which funding is provided; and   | 20<br>21<br>22       |
|          | (ii) promote best practice and public confidence in the delivery of products and services; and  | 23<br>24             |
|          | (iii) take account of the diversity of entities providing products or services, including taking account of their purposes, functions, activities, clientele and organisational structures; and | 25<br>26<br>27<br>28 |
|          | (iv) promote cooperative dealings between the government and funded entities; and   | 29<br>30             |

[s 8]

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- (v) where practicable, encourage collaborative and integrated approaches among entities providing products or services; and
- (vi) incorporate clear and timely communication;
- (b) the benefits of products or services are maximised by efficient and effective use of available resources and monitoring and compliance practices;
- (c) monitoring and compliance practices should—
  - (i) promote high standards of product or service delivery; and
  - (ii) minimise administrative and compliance costs; and
  - (iii) where practicable, promote cooperative approaches to dealing with concerns about product or service delivery;
- (d) ensuring quality, safety and accountability in the delivery of funded products or services will—
  - (i) safeguard the interests of users of the products or services, including those users who are at risk or are vulnerable; and
  - (ii) help to meet public expectations about the use of public funds;
- (e) funded entities and the government should work together to meet common aims in a way that recognises and respects each other's autonomy, purpose, functions, contribution and accountabilities;
- (f) the relationship between funded entities and the government should be based on cooperation, collaboration, mutual respect and timely and open communication.

**8 Finite resources available**

In administering this Act, regard must be had to the following—



- 
- |     |   |   |
|-----|---|---|
| (a) | the State has finite resources available to provide as    | 1 |
|     | funding;  | 2 |
| (b) | there is a need to distribute the resources fairly having | 3 |
|     | regard to the State's priorities.                         | 4 |

## **Division 3                      Interpretation** 5

### **9                      Definitions** 6

The dictionary in schedule 2 defines particular words used in  
this Act. 7  
8

### **10                      Application of Acts Interpretation Act 1954, s 33** 9

The *Acts Interpretation Act 1954*, section 33(2), (7) and (11)  
does not apply. 10  
11

*Note—* 12

The *Acts Interpretation Act 1954*, section 33 deals with references to  
Ministers, departments and chief executives. For the purposes of this  
Act, a reference to, for example, the chief executive is not limited to a  
reference to the chief executive of the public sector unit administering  
this Act. 13  
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### **11                      Meaning of *funded entity* and *funded product or service*** 18

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|-----|--|----|
| (1) | A <b><i>funded entity</i></b> is an entity that receives funding to provide a  | 19 |
|     | product or service whether or not the entity has an agreement                  | 20 |
|     | with the department who provided the funding in relation to                    | 21 |
|     | the product or service.  | 22 |
| (2) | A <b><i>funded product or service</i></b> , in relation to a funded entity, is | 23 |
|     | a product or service required to be provided by the funded                     | 24 |
|     | entity with funding received by the funded entity.                             | 25 |
| (3) | For subsections (1) and (2), it is immaterial whether other                    | 26 |
|     | funds or resources are also used by the entity to provide the                  | 27 |
|     | product or service.  | 28 |

[s 12]

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**12      Meaning of *funding***

(1)    A department provides *funding* if the department provides aid or support in the form of money or other assistance to an entity—

(a)    to enable the entity to provide a product or service to the community where the product or service has a social, environmental or economic benefit for Queensland; and

(b)    on conditions that—

(i)    require specified products or services to be provided; and

*Example for subparagraph (i)—*

A provision of a lease that limits the use of property under the lease to a particular purpose would not be a condition requiring a specified product or service to be provided.

(ii)   require the entity to be accountable to the department for providing the products or services and the use of the money or other assistance.

*Examples of assistance that a department may provide—*

- an amount of money
- lease of a building
- transfer of land
- goods or services
- in-kind support

(2)    A department does not provide *funding* if the department does any of the following—

(a)    buys or sells a product or service, including if the department buys or sells the product or service for, or for the benefit of, a third party;

*Example—*

a product or service purchased under a government policy on procurement

(b)    leases the department's property in a commercial arrangement;

- 
- Example—* 1
- a lease entered into between a department and a retail business 2  
under which a commercial rent is payable 3
- (c) grants a licence, permit or other authority regulating an 4  
activity; 5
- (d) provides money or other assistance directly to an 6  
individual— 7
- (i) to enable the individual— 8
- (A) to undertake a fellowship or scholarship; or 9
- (B) to obtain (rather than provide) a product or 10  
service; or 11
- Example for subparagraph (i)(B)—* 12
- the provision of an interest-free loan to an individual to 13  
cover their rental bond in private rental accommodation 14
- (ii) as an award or prize; 15
- (e) provides a licence, lease or other interest in land under a 16  
relevant land Act to an entity; 17
- (f) provides an ex gratia payment or a payment of 18  
compensation, including a payment of compensation 19  
under an Act; 20
- (g) provides a tax concession or offset; 21
- (h) provides an investment or loan of money, other than a 22  
loan of money made to a registered provider under the 23  
*Housing Act 2003*; 24
- (i) provides money or other assistance to an entity as 25  
sponsorship under arrangements made under a 26  
government policy on sponsorship; 27
- (j) provides money or assistance under another Act and the 28  
other Act provides for the granting of funding other than 29  
under this Act; 30

[s 12]

|  |                            |
|--|----------------------------|
| <i>Examples of other Acts that make provision about the granting of funding—</i>   | 1<br>2                     |
| • the <i>Education (Accreditation of Non-State Schools) Act 2001</i>   | 3<br>4                     |
| • the <i>Education (Capital Assistance) Act 1993</i>   | 5                          |
| • the <i>Mater Public Health Services Act 2008</i>   | 6                          |
| • the <i>Nature Conservation Act 1992</i>  | 7                          |
| • the <i>Transport Operations (Passenger Transport Act 1994, chapter 6</i>   | 8<br>9                     |
| (k) receives money or other assistance from the Commonwealth and the department—   | 10<br>11                   |
| (i) has no discretion in the allocation or disbursement of the money or other assistance; and  | 12<br>13                   |
| (ii) is not responsible for regulating or monitoring the money or other assistance;  | 14<br>15                   |
| (l) provides money or other assistance for a product or service that is provided in full before the funding is provided;   | 16<br>17<br>18             |
| <i>Example—</i>  | 19                         |
| a rebate scheme  | 20                         |
| (m) seeks to support the development of an innovative, sustainable and competitive Queensland economy by providing money or other assistance to an entity to increase its profitability, productivity, efficiency or sustainability through— | 21<br>22<br>23<br>24<br>25 |
| (i) the entity's development, or use or continued use, of new, alternative or improved products, processes, technology, business practices, marketing methods or organisational structures; or   | 26<br>27<br>28<br>29       |
| (ii) offsetting technical or commercial risks associated with the entity developing or proving new products, processes, technologies, business practices, marketing methods or organisational structures;                                    | 30<br>31<br>32<br>33<br>34 |

- 
- (n) provides money or other assistance under an investment incentive scheme; 1  
2
- (o) provides money or other assistance to an entity as part of a public–private partnership under arrangements made under a government policy on public–private partnerships; 3  
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- (p) provides money or other assistance to an indigenous local government in place of revenue that would otherwise be raised by the indigenous local government through rates levied on rateable land under the *Local Government Act 2009*; 7  
8  
9  
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- (q) provides money or other assistance to a local government under the *Local Government (Financial Assistance) Act 1995* (Cwlth); 12  
13  
14
- (r) provides, together with one of the following, money or other assistance to an entity and all parties enter into an agreement about the provision of the money or other assistance— 15  
16  
17  
18
- (i) one or more entities; 19
- (ii) one or more entities and one or more government funding entities; 20  
21
- (iii) one or more government funding entities, where at least one of the government funding entities is not a department. 22  
23  
24
- (3) In this section— 25
- government funding entity*** means— 26
- (a) a government entity; or 27
- (b) a statutory body; or 28
- (c) a GOC; or 29
- (d) a subsidiary of a GOC; or 30
- (e) a government entity, statutory body, GOC or subsidiary of a GOC of the Commonwealth or another State; or 31  
32
- (f) an exempt company. 33
-

[s 13]

*indigenous local government* means any of the following local governments—

- (a) an indigenous local government under the *Local Government Act 2009*, schedule 4; and
- (b) the Aurukun Shire Council; and
- (c) the Mornington Shire Council.

*investment incentive scheme* see the *Right to Information Act 2009*, schedule 3, section 11.

- 13 When dealing with land may be funding**
- (1) Despite section 12(2)(e), a Minister for a department proposing to provide a licence, lease or other interest in land under a relevant land Act to an entity (the *funding Minister*) may decide that the licence, lease or other interest in land is a provision of funding to which this Act applies.
  - (2) The funding Minister may only make the decision if the provision of the licence, lease or other interest in land by the department to the entity would, except for section 12(2)(e), be a provision of funding to which this Act applies.
  - (3) In making the decision, the funding Minister must consider the following—
    - (a) the nature of any product or service to be provided by the entity with the land;
    - (b) the objects and principles of this Act.
  - (4) If the funding Minister decides the licence, lease or other interest in land is a provision of funding to which this Act applies, the funding Minister or the chief executive of the department providing the licence, lease or other interest in land must give written notice of the funding Minister's decision to the entity.
  - (5) If a funding Minister is a Minister of the department administering a relevant land Act and a provision of the relevant land Act provides for the chief executive of the department administering the relevant land Act to approve the

- provision of a licence, lease or other interest in land under the relevant land Act to an entity—
- (a) the funding Minister may act under this section despite the provision of the relevant land Act; and
  - (b) the chief executive may only provide the licence, lease or other interest in land under the relevant land Act with the approval of the funding Minister.
- (6) If a funding Minister decides a licence, lease or other interest in land under a relevant Act is a provision of funding to which this Act applies, this Act applies to the provision of the licence, lease or other interest in land.

#### 14 Meaning of *serious concern*

A *serious concern* for funding received by a funded entity exists if any of the following happens or there is a serious risk that any of the following will happen—

- (a) the funding received by the funded entity is improperly used;

*Examples of improper use of funding—*

- funding is used for a dishonest or fraudulent purpose
- funding is used for a purpose other than providing a funded product or service

- (b) the funded entity significantly fails to provide a funded product or service;

*Example of significantly failing to provide a product or service—*

closing an emergency accommodation service provided with funding where the service is required, under the funding agreement, to be continually open

- (c) an act done or omission made by the funded entity in providing a funded product or service results in harm to an individual.

*Example—*

an individual uses a funded service provided by a funded entity and the individual suffers physical, psychological, emotional or

[s 15]

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financial harm as a result of neglect, abuse or exploitation by the  
funded entity

1  
2

## Part 2                      Providing funding

3

### 15        Purpose of pt 2

4

The purpose of this part is to enable funded entities to provide  
products or services in ways that best achieve the objects of  
this Act.

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### 16        Approval for funding

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- (1) A department may only provide funding to an entity if the  
appropriate Minister has approved the funding.

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*Note—*

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See also section 103 which allows the Minister to delegate a function  
under this Act, including a function to approve a request for funding  
under this Act.

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- (2) Subject to section 17, the appropriate Minister may only  
approve the funding if the chief executive of the department  
(the **relevant chief executive**) has received a written request  
from the entity for funding.

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- (3) If the relevant chief executive has received a written request  
for funding from an entity, the appropriate Minister or  
relevant chief executive may, by notice given to the entity, ask  
the entity to give the appropriate Minister or relevant chief  
executive further information or a document that the  
appropriate Minister reasonably requires to decide the request  
within a stated reasonable time.

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- (4) The entity is taken to have withdrawn the request if the entity  
does not give the appropriate Minister or relevant chief  
executive the further information or document within the  
stated time.

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|-----------|--|-----------------------|
| <b>17</b> | <b>Urgent approval for funding</b>   | 1                     |
| (1)       | The appropriate Minister may approve funding for an entity where no written request has been made if the appropriate Minister is satisfied urgent circumstances exist that make it impracticable for the entity to make the written request for funding. | 2<br>3<br>4<br>5<br>6 |
| (2)       | The entity must make a written request to the chief executive of the department providing the funding (also the <i>relevant chief executive</i> ) as soon as practicable.  | 7<br>8<br>9           |
| <br>      |  |                       |
| <b>18</b> | <b>Funding decision</b>  | 10                    |
| (1)       | In deciding whether to approve funding, the appropriate Minister may consider any relevant matter, including, for example—   | 11<br>12<br>13        |
| (a)       | whether the entity—  | 14                    |
| (i)       | has appropriate governance arrangements; or  | 15                    |
| (ii)      | is incorporated; or  | 16                    |
| (iii)     | holds a licence or accreditation relevant to the product or service for which funding is requested; or   | 17<br>18<br>19        |
| (iv)      | has the capacity to effectively provide the product or service for which funding is requested; or  | 20<br>21              |
| (b)       | the entity's record of financial management; or  | 22                    |
| (c)       | the objects of this Act.   | 23                    |
| (2)       | However, in deciding whether to approve the funding the appropriate Minister must consider the following—  | 24<br>25              |
| (a)       | if the funding is provided under another Act and the other Act provides that the funding may be provided for a particular purpose—the purpose for which the funding may be provided under the other Act;   | 26<br>27<br>28<br>29  |
|           | <i>Examples for paragraph (a)—</i>   | 30                    |
|           | • the <i>Aboriginal Cultural Heritage Act 2003</i> , section 37  | 31                    |
|           | • the <i>Casino Control Act 1982</i> , section 52(6)   | 32                    |

[s 18]

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- the *Disability Services Act 2006*, section 51 1
  - the *Education (General Provisions) Act 2006*, section 422(1) 2  
3
  - the *Forestry Act 1959*, section 68 4
  - the *Gaming Machine Act 1991*, section 322(4) and (5) 5
  - the *Housing Act 2003*, section 24 6
  - the *Liquor Act 1992*, section 220 7
  - the *Marine Parks Act 2004*, section 41(1) 8
  - the *Maritime Safety Queensland Act 2002*, section 13(5) 9
  - the *Torres Strait Islander Cultural Heritage Act 2003*, section 37 10  
11
  - the *Transport Infrastructure Act 1994*, section 21 12
  - the *Transport Operations (Passenger Transport) Act 1994*, section 80B(7) 13  
14
- (b) if the funding is provided under another Act—the objectives and any principles of the other Act; 15  
16
- (c) if the funding is provided under another Act and the other Act provides for criteria to be satisfied before the funding may be provided—the criteria under the other Act; 17  
18  
19  
20
- Example for paragraph (c)—* 21
- Under the *Education (General Provisions) Act 2006*, section 368 the Minister of the department administering that Act may pay an allowance under an approved policy. Section 369 of that Act allows the Minister of the department administering that Act to approve a policy about criteria to be satisfied for the payment of the allowance under section 368 of that Act. 22  
23  
24  
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26  
27
- (d) if the funding is provided under another Act and the other Act provides matters the Minister must have regard to in considering whether to approve the funding—the matters under the other Act. 28  
29  
30  
31
- Example for paragraph (d)—* 32
- the *Transport Operations (Passenger Transport) Act 1994*, section 143B(2) 33  
34

- (3) Subject to subsection (4), if the appropriate Minister approves funding for the entity, the appropriate Minister may, as the appropriate Minister considers appropriate, specify the way in which the funding is to be provided.

*Examples of ways the appropriate Minister may consider appropriate for providing funding—*

The appropriate Minister may consider it appropriate to specify the following—

- a time frame for providing the funding
- the type of funding to be provided
- the types of products or services to be provided with the funding
- the location for the delivery of funded products or services.

- (4) If funding is provided under another Act, in approving the funding the appropriate Minister must comply with the other Act or allow the relevant chief executive to provide the funding in a way that complies with the other Act.

*Examples—*

- 1 Under the *Transport Infrastructure Act 1994*, section 21 funding may be granted under a guideline developed for assessing funding applications.
- 2 Under the *Casino Control Act 1982*, section 52 the Minister of the department administering that Act may provide funding under that Act in accordance with a recommendation.
- 3 The *Land Act 1994*, chapter 4, part 3 provides for matters that must be included in a lease.

- (5) The appropriate Minister or the relevant chief executive must give notice of the appropriate Minister's decision to the entity.

## 19 Funding agreement

- (1) If the appropriate Minister approves funding for the entity under section 18, the relevant chief executive must enter into a written agreement (a *funding agreement*) with the entity for providing the funding.
- (2) The funding agreement—

[s 20]

|           |  |                      |
|-----------|--|----------------------|
| (a)       | may include the terms and conditions the relevant chief executive considers appropriate, having regard to—   | 1<br>2               |
| (i)       | the guiding principles of this Act; and  | 3                    |
| (ii)      | anything the relevant chief executive may have regard to under another Act; and  | 4<br>5               |
|           | <i>Example of terms and conditions the relevant chief executive may have regard to under another Act—</i>  | 6<br>7               |
|           | The <i>Forestry Act 1959</i> , section 39A(2)(c) provides terms and conditions the chief executive may provide for in an agreement for funding.  | 8<br>9<br>10         |
|           | <i>Examples of terms the relevant chief executive may include—</i>   | 11                   |
|           | • monitoring or reporting requirements   | 12                   |
|           | • show cause process   | 13                   |
|           | • review or compliance action  | 14                   |
| (b)       | must include details of the way in which funding is to be provided as specified or allowed by the appropriate Minister under section 18(3) and (4); and  | 15<br>16<br>17       |
| (c)       | must state that the funding provided is funding to which this Act applies.   | 18<br>19             |
| (3)       | Subject to section 20, the relevant chief executive may provide the funding to the entity only if the entity has entered into a funding agreement with the relevant chief executive for the funding. | 20<br>21<br>22<br>23 |
| <b>20</b> | <b>Funding may be provided before funding agreement entered into</b>   | 24<br>25             |
| (1)       | The appropriate Minister may decide that funding approved to be provided to an entity be provided before a funding agreement is entered into.  | 26<br>27<br>28       |
| (2)       | The appropriate Minister may only make the decision if the appropriate Minister is satisfied—  | 29<br>30             |
| (a)       | there is an urgent need for the funding; and   | 31                   |
| (b)       | it is not practicable to enter into an agreement before funding is provided.   | 32<br>33             |

- (3) Before the relevant chief executive provides the funding to the entity, the entity must give notice of their intention to enter into a funding agreement with the relevant chief executive for the funding within a time stated (the *stated time*) by the relevant chief executive. 1  
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- (4) The relevant chief executive may, by notice given to the entity, extend the stated time (the *extended stated time*) if the relevant chief executive believes it is reasonably necessary to extend the time. 6  
7  
8  
9
- (5) The relevant chief executive may only extend the stated time under subsection (4) once. 10  
11
- (6) Funding must stop if the relevant chief executive and the entity have not entered into a funding agreement within the stated time or the extended stated time. 12  
13  
14

## Part 3 Cooperative approach 15

### 21 Cooperative approach for managing funding and the delivery of funded products and services 16 17

- (1) Before a chief executive or an authorised officer exercises a power under this Act in relation to a funded entity, the chief executive or authorised officer must consider whether it would be more appropriate, instead of exercising the power— 18  
19  
20  
21
  - (a) to seek the cooperation of the funded entity; or 22
  - (b) to use a remedy available under the funding agreement with the funded entity. 23  
24

*Examples of cooperation—* 25

- requesting consent to inspect a funded entity's records 26
- jointly developing and monitoring a remedial plan for breaches of the funding agreement 27  
28
- agreeing to reporting or monitoring requirements where there is an identified risk 29  
30

[s 22]

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- (2) Nothing in this Act limits the way in which a chief executive or authorised officer may cooperate with a funded entity in dealing with a matter in relation to which a power under this Act could be exercised. 1  
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4
- (3) The exercise of a power under this Act can not be challenged merely because the chief executive or authorised officer did not comply with subsection (1). 5  
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**Part 4**                      **Managing serious concern**                      8

**Division 1**                      **Preliminary**                      9

**22**              **Application of pt 4**                      10

This part does not limit— 11

- (a) a remedy available to a chief executive under a funding agreement; or 12  
13
- (b) a chief executive’s powers apart from this part; or 14
- (c) the powers that may be exercised in relation to a funded entity under another Act. 15  
16

**23**              **Report by authorised officer**                      17

Before deciding whether to take action under this part in relation to a funded entity, a chief executive may obtain a written report from an authorised officer appointed by the chief executive about whether a serious concern exists for funding received by the funded entity. 18  
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|-------------------|--|----------------|
| <b>Division 2</b> | <b>Compliance notice</b>   | 1              |
| <b>24</b>         | <b>Compliance notice</b>   | 2              |
| (1)               | This section applies if—   | 3              |
| (a)               | a chief executive has entered into a funding agreement with a funded entity; and   | 4<br>5         |
| (b)               | the chief executive reasonably believes—   | 6              |
| (i)               | a serious concern exists for funding received by the funded entity; and  | 7<br>8         |
| (ii)              | the serious concern is reasonably capable of being remedied; and   | 9<br>10        |
| (iii)             | it is appropriate to give the funded entity an opportunity to remedy the serious concern.  | 11<br>12       |
| (2)               | This section applies to a funded entity even if funding provided under a funding agreement has been suspended.                                   | 13<br>14       |
| (3)               | The chief executive may give the funded entity a notice (a <b>compliance notice</b> ) requiring the funded entity to remedy the serious concern. | 15<br>16<br>17 |
| (4)               | The compliance notice must state the following—  | 18             |
| (a)               | that the chief executive reasonably believes a serious concern exists;   | 19<br>20       |
| (b)               | the grounds for the chief executive's belief;  | 21             |
| (c)               | an outline of the facts and circumstances forming the basis for the grounds;   | 22<br>23       |
| (d)               | that the funded entity must remedy the serious concern within a stated reasonable time;  | 24<br>25       |
| (e)               | that it is an offence to fail to comply with the compliance notice unless the funded entity has a reasonable excuse.                             | 26<br>27<br>28 |
| (5)               | The compliance notice may also state—  | 29             |

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|                      |   |                      |
|----------------------|---|----------------------|
| (a)                  | the reasonable steps the chief executive is satisfied are necessary to remedy the serious concern; and  | 1<br>2               |
| (b)                  | that the funded entity must report in writing to the chief executive after taking a step or steps.  | 3<br>4               |
| (6)                  | The funded entity must comply with the compliance notice unless the funded entity has a reasonable excuse.  | 5<br>6               |
|                      | Maximum penalty—100 penalty units.  | 7                    |
| (7)                  | If the chief executive reasonably believes the funded entity has contravened subsection (6), the chief executive may decide—  | 8<br>9<br>10         |
| (a)                  | to suspend or stop the funding despite anything in the funding agreement with the funded entity; or   | 11<br>12             |
| (b)                  | to terminate the funding agreement.   | 13                   |
| (8)                  | The chief executive must, as soon as practicable after making a decision under subsection (7), give the funded entity an information notice about the decision.   | 14<br>15<br>16       |
| <b>Division 3</b>    | <b>Interim manager</b>  | 17                   |
| <b>Subdivision 1</b> | <b>Appointment</b>  | 18                   |
| <b>25</b>            | <b>Appointment</b>  | 19                   |
|                      | A chief executive of a department who has provided funding to a funded entity (the <i>relevant chief executive</i> ) may appoint a person as interim manager for the funding received by a funded entity. | 20<br>21<br>22<br>23 |
| <b>26</b>            | <b>Basis for appointment</b>  | 24                   |
| (1)                  | The relevant chief executive may make the appointment only if the relevant chief executive is satisfied—  | 25<br>26             |



- 
- (a) the appointment is reasonably necessary to remedy a serious concern for funding received by a funded entity; and
- (b) it is essential for a funded product or service of the funded entity to continue to be provided; and
- (c) an administrator, liquidator or receiver has not been appointed for the funded entity.
- (2) In being satisfied under subsection (1), the chief executive—
- (a) must have regard to the likely consequences for persons using the funded product or service if the funded product or service is—
- (i) not provided; or
- (ii) provided when a serious concern exists; and
- (b) may have regard to the following—
- (i) the type of funded product or service;
- (ii) the amount of the funding;
- (iii) whether funding has been suspended or stopped;
- (iv) whether the funded entity is receiving money or other assistance, including funding, from another source;
- (v) the likely consequences of the appointment;
- (vi) whether an administrator, liquidator or receiver is likely to be appointed for the funded entity before the interim manager is appointed;
- (vii) any other relevant matter.
- (3) Before making the appointment, the relevant chief executive must consider whether it would be more appropriate to take steps other than the appointment, or not to take any steps.

[s 27]

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|           |   |                            |
|-----------|---|----------------------------|
| <b>27</b> | <b>Suitability of proposed appointee</b>  | 1                          |
| (1)       | The relevant chief executive may make the appointment only if the relevant chief executive is satisfied the proposed appointee is suitable for the appointment under this section.  | 2<br>3<br>4                |
| (2)       | In deciding whether a person is suitable for the appointment, the relevant chief executive must have regard to the following matters—   | 5<br>6<br>7                |
| (a)       | the type of funded product or service;  | 8                          |
| (b)       | the reason for the appointment;   | 9                          |
| (c)       | the person’s expertise or experience relevant to the appointment;   | 10<br>11                   |
| (d)       | any conflict of interest that may arise in the course of the person acting as interim manager;  | 12<br>13                   |
| (e)       | any other relevant matter of which the relevant chief executive is aware.   | 14<br>15                   |
| (3)       | A person who has agreed to a proposed appointment must advise the relevant chief executive, before the appointment is made, whether the person is aware of a conflict of interest that may arise in the course of the person acting as interim manager. | 16<br>17<br>18<br>19<br>20 |
|           | Maximum penalty—40 penalty units.   | 21                         |
| (4)       | Only an adult may be appointed as interim manager.  | 22                         |
| <b>28</b> | <b>Terms of appointment</b>   | 23                         |
|           | If the relevant chief executive appoints a person as interim manager for the funding received by a funded entity, the appointment must state the following matters—   | 24<br>25<br>26             |
| (a)       | the person’s name;  | 27                         |
| (b)       | details of the funded entity;   | 28                         |
| (c)       | the product or service to be provided;  | 29                         |
| (d)       | the way in which, or the extent to which, the product or service is to be provided;   | 30<br>31                   |

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|-----|---|--------|
| (e) | details of the person's function as interim manager;              | 1      |
| (f) | any limitations on the person's powers as interim manager;        | 2<br>3 |
| (g) | the period of the appointment;                                    | 4      |
| (h) | any conditions of the appointment;                                | 5      |
| (i) | anything else the relevant chief executive considers appropriate. | 6<br>7 |

**29 Information notice about appointment** 8

- |     |   |                |
|-----|---|----------------|
| (1) | Immediately after appointing a person as interim manager for the funding received by a funded entity, the relevant chief executive must give the funded entity— | 9<br>10<br>11  |
| (a) | a copy of the appointment; and  | 12             |
| (b) | an information notice about the decision to appoint the interim manager.  | 13<br>14       |
| (2) | The information notice must state that the funded entity may apply for a stay of the decision if the entity applies for a review of the decision.               | 15<br>16<br>17 |

**30 Informing particular persons about appointment** 18

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|-----|---|----------------------------|
|     | The relevant chief executive may direct the interim manager to inform persons using a funded product or service of the funded entity about the appointment or any variation of the appointment before the interim manager exercises a power under this division, for example, by— | 19<br>20<br>21<br>22<br>23 |
| (a) | giving a notice of the appointment to persons using the funded product or service; or   | 24<br>25                   |
| (b) | posting a notice of the appointment at a place at the premises of the funded entity where it is likely to be seen by persons using the funded product or service; or  | 26<br>27<br>28             |
| (c) | directing the interim manager to inform persons using the funded product or service about the appointment in an appropriate way.  | 29<br>30<br>31             |

[s 31]

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| <b>31</b> | <b>Initial period of appointment</b>  | 1                    |
|           | The interim manager may be appointed for a period of not more than 3 months.  | 2<br>3               |
| <b>32</b> | <b>Variation of appointment</b>   | 4                    |
| (1)       | After the interim manager for the funding received by a funded entity starts to carry out the interim manager's function, the relevant chief executive may, by notice—  | 5<br>6<br>7          |
| (a)       | extend the period of the appointment; or  | 8                    |
| (b)       | vary the appointment in another way.  | 9                    |
| (2)       | However, the relevant chief executive must not vary the appointment to apply to other funding received by the funded entity.  | 10<br>11<br>12       |
| (3)       | The chief executive may extend the period of the appointment if the chief executive is satisfied the extension is reasonably necessary in all the circumstances.  | 13<br>14<br>15       |
| (4)       | The period of the appointment may be extended more than once.   | 16<br>17             |
| (5)       | However—  | 18                   |
| (a)       | the period of an extension must not be more than 3 months; and  | 19<br>20             |
| (b)       | the total period of the initial appointment and any extension or extensions must not be more than 6 months.   | 21<br>22<br>23       |
| (6)       | The relevant chief executive may vary the appointment in a way other than by extending the period of the appointment if the relevant chief executive is satisfied the variation is appropriate, having regard to— | 24<br>25<br>26<br>27 |
| (a)       | the matters stated in section 26; and   | 28                   |
| (b)       | the operation of the funded entity since the appointment started.   | 29<br>30             |

- (7) If the appointment is varied under this section the relevant chief executive must give the funded entity a copy of the variation. 1  
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### **33 Ending of appointment** 4

- (1) The relevant chief executive may, by notice, end the interim manager's appointment at any time before the end of the period of appointment if the relevant chief executive is satisfied the appointment is no longer appropriate, having regard to the matters stated in section 26. 5  
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- (2) The relevant chief executive must, by notice, end the interim manager's appointment if the relevant chief executive becomes aware that the funded entity— 10  
11  
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- (a) is insolvent; or 13
- (b) is being wound up voluntarily. 14
- (3) Immediately after ending an appointment under subsection (1), the relevant chief executive— 15  
16
- (a) must give notice about the ending of the appointment to the funded entity; and 17  
18
- (b) may inform persons using a product or service of the funded entity about the ending of the appointment in the way the relevant chief executive considers appropriate. 19  
20  
21
- (4) In this section— 22
- insolvent*, in relation to a funded entity, means the funded entity is unable to pay all its debts as and when they become due and payable. 23  
24  
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## **Subdivision 2 Functions and powers** 26

### **34 Application of sdiv 2** 27

This subdivision applies to a person appointed as interim manager for the funding received by a funded entity. 28  
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[s 35]

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| <b>35</b> | <b>Functions</b>   | 1                    |
|           | The interim manager's functions are, to the extent stated in the instrument of appointment—  | 2<br>3               |
|           | (a) to remedy a serious concern for the funding received by the funded entity; and   | 4<br>5               |
|           | (b) to ensure a funded product or service of the funded entity continues to be provided by the funded entity.  | 6<br>7               |
| <br>      |  |                      |
| <b>36</b> | <b>Interim manager's powers</b>  | 8                    |
|           | So far as is necessary to carry out his or her functions, the interim manager may—   | 9<br>10              |
|           | (a) enter any part of the funded entity's premises; and  | 11                   |
|           | (b) use the facilities or things in the premises that it appears are intended for use, or are ordinarily used, to provide a funded product or service of the funded entity; and                    | 12<br>13<br>14       |
|           | (c) ask for and accept payments owing to the funded entity; and  | 15<br>16             |
|           | (d) do anything in relation to the funded product or service, on behalf of the funded entity, that the funded entity is permitted or required to do; and   | 17<br>18<br>19       |
|           | (e) exercise a power given to the interim manager under another Act.   | 20<br>21             |
|           | <i>Example for paragraph (e)—</i>  | 22                   |
|           | a power given to the interim manager under the <i>Housing Act 2003</i> , section 37B   | 23<br>24             |
| <br>      |  |                      |
| <b>37</b> | <b>Direction by chief executive</b>  | 25                   |
|           | An interim manager is subject to the direction of the chief executive who appointed the interim manager in performing the interim manager's functions and exercising the interim manager's powers. | 26<br>27<br>28<br>29 |

|           |   |                |
|-----------|---|----------------|
| <b>38</b> | <b>Other powers</b>   | 1              |
|           | The interim manager has the other powers of the funded entity that are necessary or convenient to carry out the interim manager's functions.                                    | 2<br>3<br>4    |
|           | <i>Example—</i>   | 5              |
|           | It may be necessary for the interim manager to carry out repairs to the funded entity's property or direct staff of the funded entity in providing a funded product or service. | 6<br>7<br>8    |
| <b>39</b> | <b>Limitation on powers under instrument of appointment</b>   | 9              |
|           | A power conferred on the interim manager under this subdivision applies subject to any limitation stated in the interim manager's instrument of appointment.                    | 10<br>11<br>12 |
| <b>40</b> | <b>Production of instrument of appointment for inspection</b>   | 13             |
|           | (1) This section applies if—  | 14             |
|           | (a) an interim manager is exercising, or proposes to exercise, a power in relation to a person; and   | 15<br>16       |
|           | (b) the person asks the interim manager to produce the interim manager's instrument of appointment for the person's inspection.   | 17<br>18<br>19 |
|           | (2) The interim manager must comply with the request.   | 20             |
| <b>41</b> | <b>Obstructing interim manager</b>  | 21             |
|           | (1) A person must not obstruct an interim manager exercising a power unless the person has a reasonable excuse.   | 22<br>23       |
|           | Maximum penalty—40 penalty units.   | 24             |
|           | (2) If a person has obstructed an interim manager and the interim manager decides to proceed with the exercise of the power, the interim manager must warn the person that—     | 25<br>26<br>27 |
|           | (a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and   | 28<br>29       |

[s 42]

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- (b) the interim manager considers the person’s conduct an obstruction.

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**Subdivision 3      Other matters**

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**42      Access to information or documents**

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- (1) An interim manager for funding received by a funded entity may ask an executive officer of the funded entity for information or documents that the interim manager reasonably needs to carry out the interim manager’s functions.
- (2) The funded entity may disclose the information or documents despite another provision in this or another Act.
- (3) The chief executive who appointed the interim manager may disclose information to the interim manager, or give the interim manager access to documents, to the extent the chief executive considers appropriate for the purpose of the interim manager’s appointment.
- (4) In this section—  
*executive officer*, of a funded entity, means any person, by whatever name called, who is concerned or takes part in the management of the funded entity.

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**43      Confidentiality of information or documents of funded entity**

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- (1) This section applies to a person—
  - (a) who is, or has been, appointed as interim manager for funding received by a funded entity; and
  - (b) who, in the course of the appointment or because of an opportunity provided by the appointment, has gained or has access to confidential information about the funded entity.
- (2) The person must not disclose the information to anyone else or give access to the information to anyone else, other than—

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[s 44]

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| (a) | for a purpose of this part; or   | 1      |
| (b) | under section 46; or   | 2      |
| (c) | with the consent of the funded entity to whom the<br>information relates; or | 3<br>4 |
| (d) | in a proceeding before a court or tribunal; or                               | 5      |
| (e) | as authorised or required under an Act; or                                   | 6      |
| (f) | if the person reasonably believes a serious concern<br>exists.               | 7<br>8 |
|     | Maximum penalty—40 penalty units.  | 9      |

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|-----------|--|----------------|
| <b>44</b> | <b>Remuneration</b>  | 10             |
|           | An interim manager is entitled to be paid the reasonable<br>amount of remuneration agreed with the chief executive who<br>appointed the interim manager. | 11<br>12<br>13 |

|           |  |                      |
|-----------|--|----------------------|
| <b>45</b> | <b>Funded entity liable for remuneration and other costs</b>   | 14                   |
| (1)       | If an interim manager is appointed for funding received by a<br>funded entity, the chief executive who appointed the interim<br>manager may give the funded entity a written demand for the<br>amount of an administration cost. | 15<br>16<br>17<br>18 |
| (2)       | The chief executive may recover the amount as a debt owed to<br>the State.   | 19<br>20             |
| (3)       | In this section—   | 21                   |
|           | <i>administration cost</i> means the remuneration paid to an<br>interim manager appointed to a funded entity and any other<br>reasonable cost incurred in carrying out the interim manager's<br>function.                        | 22<br>23<br>24<br>25 |

|           |  |                |
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| <b>46</b> | <b>Accounts and reports</b>  | 26             |
| (1)       | An interim manager for funding received by a funded entity<br>must give to the chief executive who appointed the interim<br>manager— | 27<br>28<br>29 |

[s 47]

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- (a) records of all amounts received or paid in the course of the appointment; and 1  
2
- (b) the other reports that the chief executive requires. 3
- (2) The records and other reports must be given as soon as possible after the end of the appointment or, if required by the chief executive at a time during the appointment, at that time. 4  
5  
6
- (3) The chief executive must give a copy of each record or report to the funded entity. 7  
8

**47 Compensation** 9

- (1) An entity may claim compensation from the State if the entity incurs loss because of the exercise, or purported exercise, of a power by an interim manager. 10  
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- (2) The compensation may be claimed and ordered in a proceeding brought in a court with jurisdiction for the recovery of the amount of compensation claimed. 13  
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15
- (3) A court may order the payment of compensation only if satisfied it is just to make the order in the circumstances of the particular case. 16  
17  
18
- (4) In considering whether it is just to order compensation, the court must have regard to any relevant offence committed by the claimant. 19  
20  
21
- (5) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation. 22  
23  
24
- (6) In this section— 25  
*loss* includes costs and damage. 26

**48 Corporations legislation displacement provision** 27

- This division is declared to be a Corporations legislation displacement provision for the purposes of the Corporations Act, section 5G, in relation to the following— 28  
29  
30
- (a) section 127 of that Act; 31

- 
- (b) the provisions of chapter 2D, part 2D.1, division 1 of that Act; 1  
2
- (c) the provisions of chapter 5 of that Act. 3
- Notes—* 4
- 1 Section 127 of the Corporations Act provides for the execution of documents, including deeds, by the company itself. 5  
6
- 2 Chapter 2D, part 2D.1, division 1 of that Act provides for the general duties of officers and employees of corporations. 7  
8
- 3 Chapter 5 of that Act provides for the external administration of corporations. 9  
10
- 4 Section 5G of that Act provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision, any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not apply to the extent necessary to avoid the inconsistency. 11  
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## **Division 4                      Recovery of funding** 17

### **49              Recovery of funding** 18

- (1) This section applies if— 19
- (a) funds already received by a funded entity have not been spent and— 20  
21
- (i) funding received by the funded entity has been suspended or stopped or has otherwise ceased (the *unspent funds*); or 22  
23  
24
- (ii) the funded entity's funding agreement for the funds has ended (also the *unspent funds*); or 25  
26
- (b) a funded entity has used funds received by the funded entity for a purpose other than the purpose for which the funds were received (the *improperly used funds*). 27  
28  
29
- (2) The unspent funds or improperly used funds are a debt owing by the funded entity to the State. 30  
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[s 50]

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- (3) The chief executive of the department who provided the 1  
unspent funds or improperly used funds may recover the 2  
unspent funds or improperly used funds as a debt. 3

**Part 5 Investigation and enforcement 4**

**Division 1 Preliminary 5**

**50 Purpose of pt 5 6**

The purpose of this part is to provide mechanisms for 7  
monitoring and enforcing compliance with this Act and to 8  
ensure the proper and efficient delivery of funded products 9  
and services. 10

**51 Application of pt 5 11**

This part does not limit— 12

- (a) a remedy available to a chief executive under a funding 13  
agreement; or 14
- (b) a chief executive’s powers apart from this part; or 15
- (c) the powers that may be exercised in relation to a funded 16  
entity under another Act. 17

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|----------------------|---|------------------|
| <b>Division 2</b>    | <b>General matters about authorised officers</b>  | 1<br>2           |
| <b>Subdivision 1</b> | <b>Appointment</b>  | 3                |
| <b>52</b>            | <b>Appointment and qualifications</b>   | 4                |
| (1)                  | A chief executive of a department who has provided funding received by a funded entity (an <i>appointing chief executive</i> ), may, by instrument in writing, appoint any of the following persons as authorised officers— | 5<br>6<br>7<br>8 |
| (a)                  | a public service employee or another employee of the department;  | 9<br>10          |
| (b)                  | for the purpose of investigating a particular matter—another person.  | 11<br>12         |
| (2)                  | However, an appointing chief executive may appoint a person as an authorised officer only if—   | 13<br>14         |
| (a)                  | the appointing chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience; or  | 15<br>16<br>17   |
| (b)                  | the person has the competencies, if any, prescribed under a regulation as relevant to the person's appointment.   | 18<br>19<br>20   |
| (3)                  | A person may be appointed as an authorised officer for this Act and another Act administered by the appointing chief executive's department.  | 21<br>22<br>23   |
| <b>53</b>            | <b>Appointment conditions and limit on powers</b>   | 24               |
| (1)                  | An authorised officer holds office on any conditions stated in—   | 25<br>26         |
| (a)                  | the authorised officer's instrument of appointment; or  | 27               |
| (b)                  | a signed notice given to the authorised officer; or   | 28               |
| (c)                  | a regulation.   | 29               |

[s 54]

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- (2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the authorised officer's powers. 1  
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3
- (3) In this section— 4  
*signed notice* means a notice signed by the appointing chief executive for the authorised officer. 5  
6

**54 Authorised officer subject to direction** 7

In exercising a power given under this Act an authorised officer is subject to the directions of the appointing chief executive for the authorised officer. 8  
9  
10

**55 Limit on exercise of power or performance of function** 11

- (1) An authorised officer may only exercise a power or perform a function in relation to a funded entity if— 12  
13
  - (a) the department administered by the appointing chief executive for the authorised officer has provided funding received by the funded entity; and 14  
15  
16
  - (b) the power is exercised or function is performed by the authorised officer in relation to the funding. 17  
18
- (2) However, if an appointing chief executive is acting on behalf of another chief executive in relation to funding provided by the chief executives and received by a funded entity under section 106, the authorised officer of the appointing chief executive may exercise a power or perform a function in relation to the funding if directed by the appointing chief executive. 19  
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**56 When office ends** 26

- (1) The office of a person as authorised officer ends if any of the following happens— 27  
28
  - (a) the term of office stated in a condition of office ends; 29
  - (b) under another condition of office, the office ends; 30

|           |  |                      |
|-----------|--|----------------------|
|           | (c) the authorised officer's resignation under section 57 takes effect.  | 1<br>2               |
|           | (2) Subsection (1) does not limit the ways the office of a person as an authorised officer ends.   | 3<br>4               |
|           | (3) In this section—<br><i>condition of office</i> means a condition under which the authorised officer holds office.  | 5<br>6<br>7          |
| <b>57</b> | <b>Resignation</b>   | 8                    |
|           | (1) An authorised officer may resign by signed notice given to the appointing chief executive for the authorised officer.  | 9<br>10              |
|           | (2) However, if holding office as an authorised officer is a condition of the authorised officer holding another office, the authorised officer may not resign as an authorised officer without resigning from the other office. | 11<br>12<br>13<br>14 |
|           | <b>Subdivision 2 Identity cards</b>  | 15                   |
| <b>58</b> | <b>Issue of identity card</b>  | 16                   |
|           | (1) An appointing chief executive must issue an identity card to each person the appointing chief executive appoints as an authorised officer.   | 17<br>18<br>19       |
|           | (2) The identity card must—  | 20                   |
|           | (a) contain a recent photo of the authorised officer; and  | 21                   |
|           | (b) contain a copy of the authorised officer's signature; and  | 22                   |
|           | (c) identify the person as an authorised officer under this Act; and   | 23<br>24             |
|           | (d) state an expiry date for the card.   | 25                   |
|           | (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.   | 26<br>27             |

[s 59]

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| <b>59</b>            | <b>Production or display of identity card</b>   | 1                    |
| (1)                  | In exercising a power in relation to a person in the person's presence, an authorised officer must—   | 2<br>3               |
| (a)                  | produce the authorised officer's identity card for the person's inspection before exercising the power; or  | 4<br>5               |
| (b)                  | have the identity card displayed so it is clearly visible to the person when exercising the power.  | 6<br>7               |
| (2)                  | However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.   | 8<br>9<br>10         |
| (3)                  | For subsection (1), an authorised officer does not exercise a power in relation to a person only because the authorised officer has entered a place as mentioned in section 63(1)(b).   | 11<br>12<br>13       |
| <br>                 |   |                      |
| <b>60</b>            | <b>Return of identity card</b>  | 14                   |
|                      | If the office of a person as an authorised officer ends, the person must return the person's identity card to the appointing chief executive for the authorised officer within 21 days after the office ends unless the person has a reasonable excuse. | 15<br>16<br>17<br>18 |
|                      | Maximum penalty—10 penalty units.   | 19                   |
| <br>                 |   |                      |
| <b>Subdivision 3</b> | <b>Miscellaneous provisions</b>   | 20                   |
| <br>                 |   |                      |
| <b>61</b>            | <b>References to exercise of powers</b>   | 21                   |
|                      | If—   | 22                   |
| (a)                  | a provision of this Act refers to the exercise of a power by an authorised officer; and   | 23<br>24             |
| (b)                  | there is no reference to a specific power;  | 25                   |
|                      | the reference is to the exercise of all or any authorised officer's powers under this Act or a warrant, to the extent the powers are relevant.  | 26<br>27<br>28       |



|                      |   |                      |
|----------------------|---|----------------------|
| <b>62</b>            | <b>Reference to document includes reference to reproductions from electronic document</b>   | 1<br>2               |
|                      | A reference in this part to a document includes a reference to an image or writing—   | 3<br>4               |
|                      | (a) produced from an electronic document; or  | 5                    |
|                      | (b) not yet produced, but reasonably capable of being produced, from an electronic document, with or without the aid of another article or device.  | 6<br>7<br>8          |
| <b>Division 3</b>    | <b>Entry of places by authorised officers</b>   | 9<br>10              |
| <b>Subdivision 1</b> | <b>Power to enter</b>   | 11                   |
| <b>63</b>            | <b>General power to enter places</b>  | 12                   |
|                      | (1) An authorised officer may enter a place if—   | 13                   |
|                      | (a) an occupier at the place consents under subdivision 2 to the entry and section 66 has been complied with for the occupier; or   | 14<br>15<br>16       |
|                      | (b) it is a public place and the entry is made when the place is open to the public; or   | 17<br>18             |
|                      | (c) the entry is authorised under a warrant and, if there is an occupier of the place, section 73 has been complied with for the occupier.  | 19<br>20<br>21       |
|                      | (2) If the power to enter arose only because an occupier of the place consented to the entry, the power is subject to any conditions of the consent and ceases if the consent is withdrawn. | 22<br>23<br>24<br>25 |
|                      | (3) If the power to enter is under a warrant, the power is subject to the terms of the warrant.   | 26<br>27             |
|                      | (4) The consent may provide consent for re-entry and is subject to the conditions of consent.   | 28<br>29             |

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|----------------------|---|----------------------|
| (5)                  | If the power to re-enter is under a warrant, the re-entry is subject to the terms of the warrant.   | 1<br>2               |
| (6)                  | In this section—  | 3                    |
|                      | <i>public place</i> means—  | 4                    |
| (a)                  | a place, or part of the place—  | 5                    |
| (i)                  | the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or  | 6<br>7<br>8          |
|                      | <i>Examples of a place that may be a public place under subparagraph (i)—</i>   | 9<br>10              |
|                      | a beach, a park, a road   | 11                   |
| (ii)                 | the occupier of which allows, whether or not on payment of money, members of the public to enter; or  | 12<br>13<br>14       |
|                      | <i>Examples of a place that may be a public place under subparagraph (ii)—</i>  | 15<br>16             |
|                      | a saleyard, a showground  | 17                   |
| (b)                  | a place that is a public place under another Act.   | 18                   |
| <b>Subdivision 2</b> | <b>Entry by consent</b>   | 19                   |
| <b>64</b>            | <b>Application of sdiv 2</b>  | 20                   |
|                      | This subdivision applies if an authorised officer intends to ask an occupier of a place to consent to the authorised officer or another authorised officer entering the place under section 63(1)(a). | 21<br>22<br>23<br>24 |
| <b>65</b>            | <b>Incidental entry to ask for access</b>   | 25                   |
|                      | For the purpose of asking the occupier for the consent, an authorised officer may, without the occupier’s consent or a warrant—   | 26<br>27<br>28       |

- 
- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
  - (b) enter part of the place the authorised officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact an occupier of the place.

**66 Matters authorised officer must tell occupier**

Before asking for the consent, the authorised officer must give a reasonable explanation to the occupier—

- (a) about the purpose of the entry, including—
  - (i) the powers intended to be exercised; and
  - (ii) if the occupier of the place is a funded entity—particulars of any serious concern that the authorised officer reasonably believes exists for funding received by the funded entity; and
- (b) that the occupier is not required to consent; and
- (c) that the consent may be given subject to conditions and may be withdrawn at any time.

**67 Consent acknowledgement**

- (1) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgement of the consent.
- (2) The acknowledgement must state—
  - (a) the purpose of the entry, including the powers to be exercised; and
  - (b) the following has been explained to the occupier—
    - (i) the purpose of the entry, including the powers intended to be exercised;
    - (ii) that the occupier is not required to consent;
    - (iii) that the consent may be given subject to conditions and may be withdrawn at any time; and

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- (c) the occupier gives the authorised officer or another authorised officer consent to enter the place and exercise the powers; and
- (d) the time and day the consent was given; and
- (e) any conditions of the consent.
- (3) If the occupier signs the acknowledgement, the authorised officer must immediately give a copy to the occupier.
- (4) If—
  - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
  - (b) an acknowledgement complying with subsection (2) for the entry is not produced in evidence;
 the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

### **Subdivision 3      Entry under warrant**

#### **68      Application for warrant**

- (1) An authorised officer may apply to a magistrate for a warrant for a place.
  - (2) The authorised officer must prepare a written application that states the grounds on which the warrant is sought.
  - (3) The written application must be sworn.
  - (4) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.
- Example—*
- The magistrate may require additional information supporting the written application to be given by statutory declaration.

|           |  |                      |
|-----------|--|----------------------|
| <b>69</b> | <b>Issue of warrant</b>  | 1                    |
| (1)       | The magistrate may issue the warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting—  | 2<br>3<br>4          |
| (a)       | that there is at the place, or will be at the place within the next 7 days, a particular thing or activity that may provide evidence of an offence against this Act; or          | 5<br>6<br>7          |
| (b)       | that—  | 8                    |
| (i)       | a serious concern mentioned in paragraph (a) of the definition <i>serious concern</i> in section 14 exists for funding received by a funded entity; and                          | 9<br>10<br>11        |
| (ii)      | there is at the place, or will be at the place within the next 7 days, a particular thing or activity that may provide evidence of the matter mentioned in subparagraph (i); or  | 12<br>13<br>14<br>15 |
| (c)       | that—  | 16                   |
| (i)       | a serious concern mentioned in paragraph (c) of the definition <i>serious concern</i> in section 14 exists as a result of abuse, neglect or exploitation by a funded entity; and | 17<br>18<br>19<br>20 |
| (ii)      | there is at the place, or will be at the place within the next 7 days, a particular thing or activity that may provide evidence of the matter mentioned in subparagraph (i); or  | 21<br>22<br>23<br>24 |
| (d)       | that—  | 25                   |
| (i)       | it is necessary to enter the place to check whether a funded entity has taken steps required under a compliance notice; and  | 26<br>27<br>28       |
| (ii)      | failure by the funded entity to take steps under the compliance notice is likely to severely affect the delivery of a funded product or service by the funded entity.            | 29<br>30<br>31<br>32 |

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- (2) Before issuing the warrant the magistrate must be satisfied that entry to the place is reasonably necessary to obtain the evidence. 1  
2  
3
- (3) The warrant must state— 4
  - (a) the place to which the warrant applies; and 5
  - (b) that a stated authorised officer or any authorised officer may with necessary and reasonable help and force— 6  
7
    - (i) enter the place and any other place necessary for entry to the place; and 8  
9
    - (ii) exercise the authorised officer's powers; and 10
  - (c) particulars of the offence or serious concern for which the warrant is issued that the magistrate considers appropriate; and 11  
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  - (d) the name of the entity suspected of having committed the offence or caused the serious concern for which the warrant is issued unless the name is unknown or the magistrate considers it inappropriate to state the name; and 14  
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  - (e) the hours of the day or night when the place may be entered; and 19  
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  - (f) the magistrate's name; and 21
  - (g) the day and time of the warrant's issue; and 22
  - (h) the day, within 7 days after the warrant's issue, the warrant ends. 23  
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## **70 Electronic application** 25

- (1) An application under section 68 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised officer reasonably considers it necessary because of— 26  
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  - (a) urgent circumstances; or 30
  - (b) other special circumstances, including, for example, the authorised officer's remote location. 31  
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- (2) The application— 1
- (a) may not be made before the authorised officer prepares 2  
the written application under section 68(2); but 3
- (b) may be made before the written application is sworn. 4
- 71 Additional procedure if electronic application 5**
- (1) For an application made under section 70, the magistrate may 6  
issue the warrant (the *original warrant*) only if the magistrate 7  
is satisfied— 8
- (a) it was necessary to make the application under section 9  
70; and 10
- (b) the way the application was made under section 70 was 11  
appropriate. 12
- (2) After the magistrate issues the original warrant— 13
- (a) if there is a reasonably practicable way of immediately 14  
giving a copy of the warrant to the authorised officer, 15  
including, for example, by sending a copy by fax or 16  
email—the magistrate must immediately give a copy of 17  
the warrant to the authorised officer; or 18
- (b) otherwise— 19
- (i) the magistrate must tell the authorised officer the 20  
information mentioned in section 69(3); and 21
- (ii) the authorised officer must complete a form of 22  
warrant, including by writing on it the information 23  
mentioned in section 69(3) provided by the 24  
magistrate. 25
- (3) The copy of the warrant mentioned in subsection (2)(a), or the 26  
form of warrant completed under subsection (2)(b) (in either 27  
case the *duplicate warrant*), is a duplicate of, and as effectual 28  
as, the original warrant. 29
- (4) The authorised officer must, at the first reasonable 30  
opportunity, send to the magistrate— 31
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- (a) the written application complying with section 68(2) and (3); and
  - (b) if the authorised officer completed a form of warrant under subsection (2)(b)—the completed form of warrant.
- (5) The magistrate must keep the original warrant and, on receiving the documents under subsection (4)—
  - (a) attach the documents to the original warrant; and
  - (b) give the original warrant and documents to the clerk of the court of the relevant Magistrates Court.
- (6) Despite subsection (3), if—
  - (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and
  - (b) the original warrant is not produced in evidence;the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.
- (7) This section does not limit section 68.
- (8) In this section—  
*relevant Magistrates Court*, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

## **72 Defect in relation to a warrant**

- (1) A warrant is not invalidated by a defect in—
  - (a) the warrant; or
  - (b) compliance with this subdivision;unless the defect affects the substance of the warrant in a material particular.
- (2) In this section—



|                   |  |                      |
|-------------------|--|----------------------|
|                   | <i>warrant</i> includes a duplicate warrant mentioned in section 71(3).  | 1<br>2               |
| <b>73</b>         | <b>Entry procedure</b>   | 3                    |
| (1)               | This section applies if an authorised officer is intending to enter a place under a warrant issued under this subdivision.   | 4<br>5               |
| (2)               | Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—   | 6<br>7               |
| (a)               | identify himself or herself to a person who is an occupier of the place and is present by producing the authorised officer's identity card or another document evidencing the authorised officer's appointment;            | 8<br>9<br>10<br>11   |
| (b)               | give the person a copy of the warrant;   | 12                   |
| (c)               | tell the person the authorised officer is permitted by the warrant to enter the place;   | 13<br>14             |
| (d)               | give the person an opportunity to allow the authorised officer immediate entry to the place without using force.   | 15<br>16             |
| (3)               | However, the authorised officer need not comply with subsection (2) if the authorised officer believes on reasonable grounds that entry to the place is required to ensure the execution of the warrant is not frustrated. | 17<br>18<br>19<br>20 |
| (4)               | In this section—   | 21                   |
|                   | <i>warrant</i> includes a duplicate warrant mentioned in section 71(3).  | 22<br>23             |
| <b>Division 4</b> | <b>General powers of authorised officers after entering places</b>   | 24<br>25             |
| <b>74</b>         | <b>Application of div 4</b>  | 26                   |
| (1)               | The powers under this division may be exercised if an authorised officer enters a place under section 63(1)(a) or (c).   | 27<br>28             |

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| (2) | However, if the authorised officer enters under section        | 1 |
|     | 63(1)(a) or (c), the powers under this division are subject to | 2 |
|     | any conditions of the consent or terms of the warrant.         | 3 |

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| <b>75</b> | <b>General powers</b> | <b>4</b> |
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| (1) | The authorised officer may do any of the following (each a    | 5  |
|     | <i>general power</i> )—                                       | 6  |
| (a) | search any part of the place;                                 | 7  |
| (b) | inspect, examine or film any part of the place or             | 8  |
|     | anything at the place;  | 9  |
| (c) | place an identifying mark in or on anything at the place;     | 10 |
| (d) | take a thing, or a sample of or from a thing, at the place    | 11 |
|     | for analysis or testing;                                      | 12 |
| (e) | take an extract from, or copy, a document at the place, or    | 13 |
|     | take the document to another place to copy;                   | 14 |
| (f) | produce an image or writing at the place from an              | 15 |
|     | electronic document or, to the extent it is not               | 16 |
|     | practicable, take a thing containing an electronic            | 17 |
|     | document to another place to produce an image or              | 18 |
|     | writing;  | 19 |
| (g) | take to, into or onto the place and use any person,           | 20 |
|     | equipment and materials the authorised officer                | 21 |
|     | reasonably requires for exercising the authorised             | 22 |
|     | officer's powers under this division;                         | 23 |
| (h) | remain at the place for the time necessary to achieve the     | 24 |
|     | purpose of the entry;   | 25 |
| (i) | confer alone with a person at the place who is using a        | 26 |
|     | funded product or service provided at the place.              | 27 |
| (2) | The authorised officer may take a necessary step to allow the | 28 |
|     | exercise of a general power.                                  | 29 |
| (3) | If the authorised officer takes a document from the place to  | 30 |
|     | copy it, the authorised officer must copy and return the      | 31 |
|     | document to the place as soon as practicable.                 | 32 |

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| (4)       | If the authorised officer takes from the place an article or device reasonably capable of producing a document from an electronic document to produce the document, the authorised officer must produce the document and return the article or device to the place as soon as practicable. | 1<br>2<br>3<br>4<br>5      |
| (5)       | In this section—   | 6                          |
|           | <i>examine</i> includes analyse, test, account, measure, weigh, grade, gauge and identify.   | 7<br>8                     |
|           | <i>film</i> includes photograph, videotape and record an image in another way.   | 9<br>10                    |
|           | <i>inspect</i> , a thing, includes open the thing and examine its contents.  | 11<br>12                   |
| <b>76</b> | <b>Power to require reasonable help</b>  | 13                         |
| (1)       | The authorised officer may make a requirement (a <i>help requirement</i> ) of an occupier of the place or a person at the place to give the authorised officer reasonable help to exercise a general power, including, for example, to produce a document or to give information.          | 14<br>15<br>16<br>17<br>18 |
| (2)       | When making the help requirement, the authorised officer must give the person an offence warning for the requirement.  | 19<br>20                   |
| <b>77</b> | <b>Offence to contravene help requirement</b>  | 21                         |
| (1)       | A person of whom a help requirement has been made must comply with the requirement unless the person has a reasonable excuse.  | 22<br>23<br>24             |
|           | Maximum penalty—50 penalty units.  | 25                         |
| (2)       | It is a reasonable excuse for an individual not to comply with a help requirement if complying might tend to incriminate the individual or expose the individual to a penalty.   | 26<br>27<br>28             |

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| <b>Division 5</b> | <b>Other information-obtaining powers of chief executives and authorised officers</b>  | 1<br>2<br>3          |
| <b>78</b>         | <b>Power to require name and address</b>   | 4                    |
| (1)               | This section applies if an authorised officer—   | 5                    |
| (a)               | finds a person—  | 6                    |
| (i)               | committing an offence against this Act; or   | 7                    |
| (ii)              | doing an act or making an omission that causes a serious concern to exist; or  | 8<br>9               |
| (b)               | finds a person in circumstances that lead the authorised officer to reasonably suspect—  | 10<br>11             |
| (i)               | the person has just committed an offence against this Act; or  | 12<br>13             |
| (ii)              | a serious concern exists because of an act done or omission made by the person; or   | 14<br>15             |
| (c)               | has information that leads the authorised officer to reasonably suspect—   | 16<br>17             |
| (i)               | a person has just committed an offence against this Act; or  | 18<br>19             |
| (ii)              | a serious concern exists because of an act done or omission made by the person.  | 20<br>21             |
| (2)               | The authorised officer may require the person to state the person's name and residential address.  | 22<br>23             |
| (3)               | The authorised officer may also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to— | 24<br>25<br>26<br>27 |
| (a)               | be in possession of evidence of the correctness of the stated name or address; or  | 28<br>29             |
| (b)               | otherwise be able to give the evidence.  | 30                   |

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| (4)       | When making a personal details requirement, the authorised officer must give the person an offence warning for the requirement.   | 1<br>2<br>3          |
| (5)       | A requirement under this section is a <i>personal details requirement</i> .   | 4<br>5               |
| <b>79</b> | <b>Offence to contravene personal details requirement</b>   | 6                    |
| (1)       | A person of whom a personal details requirement has been made must comply with the requirement unless the person has a reasonable excuse.   | 7<br>8<br>9          |
|           | Maximum penalty—50 penalty units.   | 10                   |
| (2)       | A person may not be convicted of an offence under subsection (1) unless—  | 11<br>12             |
| (a)       | the person is found guilty of the offence in relation to which the personal details requirement was made; or  | 13<br>14             |
| (b)       | it is proven the serious concern exists, in relation to which the personal details requirement was made, because of an act done or omission made by the person.   | 15<br>16<br>17       |
| <b>80</b> | <b>Power to require information</b>   | 18                   |
| (1)       | This section applies if a chief executive or an authorised officer reasonably believes—   | 19<br>20             |
| (a)       | an offence against this Act has been committed or a serious concern exists; and   | 21<br>22             |
| (b)       | an entity may be able to give information about the offence or serious concern.   | 23<br>24             |
| (2)       | The chief executive or authorised officer may, by notice given to the entity, require the entity to give the chief executive or authorised officer information related to the offence or serious concern at a stated reasonable time and place. | 25<br>26<br>27<br>28 |
| (3)       | A requirement under subsection (2) is an <i>information requirement</i> .   | 29<br>30             |

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[s 81]

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| (4)           | For information that is an electronic document, compliance with the information requirement requires the giving of a clear image or written version of the electronic document.  | 1<br>2<br>3            |
| (5)           | The chief executive or authorised officer may keep information that is a document to copy it.  | 4<br>5                 |
| (6)           | If the chief executive or authorised officer copies the document, or an entry in the document, the chief executive or authorised officer may require the entity who has possession or control of the document to certify the copy as a true copy of the document or entry. | 6<br>7<br>8<br>9<br>10 |
| (7)           | A requirement under subsection (6) is a <b><i>certification requirement</i></b> .  | 11<br>12               |
| (8)           | The chief executive or authorised officer must return the document to the entity as soon as practicable after copying it.  | 13<br>14               |
| (9)           | When making an information requirement or certification requirement, the authorised officer must give the person an offence warning for the requirement.   | 15<br>16<br>17         |
| (10)          | In this section—<br><br><b><i>information</i></b> includes a document.   | 18<br><br>19           |
| <br><b>81</b> | <br><b>Offence to contravene information requirement or certification requirement</b>  | <br>20<br>21           |
| (1)           | A person of whom an information requirement or certification requirement is made must comply with the requirement unless the person has a reasonable excuse.<br><br>Maximum penalty—50 penalty units.  | 22<br>23<br>24<br>25   |
| (2)           | It is a reasonable excuse for an individual not to give the information if giving the information might tend to incriminate the individual or expose the individual to a penalty.  | 26<br>27<br>28<br>29   |
| (3)           | If a court convicts a person of an offence against subsection (1), the court may also order the person to give to a stated chief executive or authorised officer, within a stated time and   | 30<br>31<br>32         |

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[s 84]

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- (4) However, if for any reason it is not practicable to comply with subsection (3), the authorised officer must—
  - (a) leave the notice at the place where the damage happened; and
  - (b) ensure it is left in a conspicuous position and in a reasonably secure way.
- (5) The authorised officer may delay complying with subsection (3) or (4) if the authorised officer reasonably suspects complying with the subsection may frustrate or otherwise hinder an investigation by the authorised officer.
- (6) The delay may be only for so long as the authorised officer continues to have the reasonable suspicion and remains in the vicinity of the place.
- (7) If the authorised officer believes the damage was caused by a latent defect in the thing or other circumstances beyond the control of the authorised officer or the assistant, the authorised officer may state the belief in the notice.
- (8) The notice must state—
  - (a) particulars of the damage; and
  - (b) that the entity who suffered the damage may claim compensation under section 84.

## **Subdivision 2      Compensation**

### **84      Compensation**

- (1) An entity may claim compensation from the State if the entity incurs loss because of the exercise, or purported exercise, of a power by or for an authorised officer.
- (2) The compensation may be claimed and ordered in a proceeding—
  - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or



|                      |  |                            |
|----------------------|--|----------------------------|
|                      | (b) for an alleged offence against this part the investigation of which gave rise to the claim for compensation.   | 1<br>2                     |
|                      | (3) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.  | 3<br>4<br>5                |
|                      | (4) In considering whether it is just to order compensation, the court must have regard to any relevant offence committed by the claimant.   | 6<br>7<br>8                |
|                      | (5) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.  | 9<br>10<br>11              |
|                      | (6) Section 82 does not provide for a statutory right of compensation other than is provided by this section.  | 12<br>13                   |
|                      | (7) In this section—<br><i>loss</i> includes costs and damage.   | 14<br>15                   |
| <b>Subdivision 3</b> | <b>Other offences relating to chief executives and authorised officers</b>   | 16<br>17                   |
| <b>85</b>            | <b>Giving chief executive or authorised officer false or misleading information</b>  | 18<br>19                   |
|                      | (1) A person must not, in relation to the administration of this Act, give a chief executive or an authorised officer information, or a document containing information, that the person knows is false or misleading in a material particular.<br>Maximum penalty—50 penalty units. | 20<br>21<br>22<br>23<br>24 |
|                      | (2) Subsection (1) applies to information or a document given in relation to the administration of this Act whether or not the information or document was given in response to a specific power under this part.  | 25<br>26<br>27<br>28       |
|                      | (3) It is enough for a complaint for an offence against subsection (1) to state the information or a document containing   | 29<br>30                   |

[s 86]

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information made was ‘false or misleading’ to the person’s  
knowledge, without specifying which. 1  
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## **86 Obstructing authorised officer 3**

- (1) A person must not obstruct an authorised officer, or someone  
helping an authorised officer, exercising a power unless the  
person has a reasonable excuse. 4  
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Maximum penalty—50 penalty units. 7

- (2) If a person has obstructed an authorised officer, or someone  
helping an authorised officer, and the authorised officer  
decides to proceed with the exercise of the power, the  
authorised officer must warn the person that— 8  
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10  
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(a) it is an offence to cause an obstruction unless the person  
has a reasonable excuse; and 12  
13

(b) the authorised officer considers the person’s conduct an  
obstruction. 14  
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## **87 Impersonating authorised officer 16**

A person must not impersonate an authorised officer. 17

Maximum penalty—50 penalty units. 18

## **Subdivision 4 Other provisions 19**

## **88 Evidential immunity for individuals complying with particular requirements 20 21**

- (1) Subsection (2) applies if an individual gives or produces  
information or a document to a chief executive or authorised  
officer under section 76 or 80. 22  
23  
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- (2) Evidence of the information or document, and other evidence  
directly or indirectly derived from the information or  
document, is not admissible against the individual in any  
proceeding to the extent it tends to incriminate the individual,  
or expose the individual to a penalty, in the proceeding. 25  
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29

[s 89]

- (3) Subsection (2) does not apply to a proceeding about the false or misleading nature of the information or anything in the document or in which the false or misleading nature of the information or document is relevant evidence.

## Part 6                      Reviews                      5

### Division 1                      Reviewable decisions                      6

#### 89              Reviewable decisions                      7

- (1) A **reviewable decision** is a decision of a chief executive to—
- (a) suspend or stop funding under section 24(7)(a); or
  - (b) terminate a funding agreement under section 24(7)(b); or
  - (c) appoint a person as interim manager under section 25.
- (2) For each decision mentioned in subsection (1), the entity who may seek to have the decision reviewed under this part is the entity (the **interested entity**) to whom the chief executive was required to give an information notice about the decision.

### Division 2                      Review by chief executive                      17

#### 90              Application for review                      18

- (1) This section applies to an interested entity for a reviewable decision.
- (2) Within 28 days after the interested entity is given an information notice by a chief executive (a **reviewing chief executive**) about the reviewable decision, the interested entity may apply to the reviewing chief executive to review the decision.

[s 91]

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- (3) Also, if the interested entity was not given an information notice in relation to the reviewable decision, the interested entity may apply to the chief executive who was required to give the information notice (also a *reviewing chief executive*) to review the decision. 1 2 3 4 5
- (4) An application under subsection (2) or (3) must be in the approved form and supported by enough information to enable the reviewing chief executive to decide the application. 6 7 8
- (5) The reviewing chief executive may extend the time mentioned in subsection (2). 9 10

## **91 Stay of operation of original decision** 11

- (1) An application under section 90 for review of a decision does not stay the decision. 12 13
- (2) However, before the decision takes effect, the reviewing chief executive may give the interested entity a notice staying the operation of the decision for a stated period. 14 15 16
- (3) The stay may be granted on conditions the reviewing chief executive considers appropriate. 17 18
- (4) Also, whether or not the interested entity has asked the reviewing chief executive to stay the operation of the decision, the interested entity may apply to QCAT for a stay of the decision. 19 20 21 22
- (5) QCAT or the reviewing chief executive may stay the decision to secure the effectiveness of the review and any later review by QCAT. 23 24 25
- (6) The stay may be granted on conditions QCAT or the reviewing chief executive considers appropriate and has effect for the period stated by QCAT or the reviewing chief executive. 26 27 28 29
- (7) The period of the stay must not extend past the time when the reviewing chief executive makes the reviewed decision and any later period QCAT or the reviewing chief executive allows to enable the interested entity to apply to QCAT for a review of the reviewed decision. 30 31 32 33 34

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- 92 Reviewed decision** 1
- (1) This section applies to an application under section 90 for 2  
review of a decision (an *original decision*). 3
- (2) Unless the reviewing chief executive made the original 4  
decision personally, the reviewing chief executive must ensure 5  
the application is not dealt with by— 6
- (a) the person who made the original decision; or 7
- (b) a person in a less senior office than the person who 8  
made the original decision. 9
- (3) Within 28 days after receiving the application, the reviewing 10  
chief executive must review the original decision and make a 11  
decision (the *reviewed decision*)— 12
- (a) confirming the original decision; or 13
- (b) amending the original decision; or 14
- (c) substituting another decision for the original decision. 15
- (4) Immediately after deciding the application, the reviewing 16  
chief executive must give the interested entity a QCAT 17  
information notice for the decision. 18
- (5) If the reviewing chief executive does not decide the 19  
application within 28 days after receiving it, the reviewing 20  
chief executive is taken to have made a reviewed decision 21  
confirming the original decision. 22

## **Division 3 Review by QCAT** 23

- 93 Review of reviewed decision** 24
- (1) Subsection (2) applies to an interested entity for a reviewed 25  
decision, whether or not the entity has received a QCAT 26  
information notice for the reviewed decision. 27
- (2) The interested entity for the reviewed decision may apply, as 28  
provided under the QCAT Act, to QCAT for a review of the 29  
reviewed decision. 30

[s 94]

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| <b>Part 7</b> | <b>Legal proceedings</b>   | 1              |
| <b>94</b>     | <b>Evidentiary provisions</b>  | 2              |
| (1)           | This section applies to a proceeding under this Act.   | 3              |
| (2)           | The appointment or power of a chief executive, an authorised officer or an interim manager must be presumed unless a party, by reasonable notice, requires proof of— | 4<br>5<br>6    |
| (a)           | the appointment; or  | 7              |
| (b)           | the power to do anything under this Act.   | 8              |
| (3)           | A signature purporting to be the signature of a chief executive or an authorised officer is evidence of the signature it purports to be.                             | 9<br>10<br>11  |
| (4)           | A certificate purporting to be signed by a person mentioned in subsection (3) and stating any of the following matters is evidence of the matter—                    | 12<br>13<br>14 |
| (a)           | a stated document of any of the following types is a document given, issued, kept or made under this Act—  | 15<br>16       |
| (i)           | an appointment, approval or decision;  | 17             |
| (ii)          | a direction or requirement;  | 18             |
| (iii)         | a notice or other document given under this Act;   | 19             |
| (b)           | a stated document is a copy of, or an extract from or part of, a document mentioned in paragraph (a);  | 20<br>21       |
| (c)           | on a stated day, or during a stated period, an appointment as an authorised officer was, or was not, in force for a stated person;                                   | 22<br>23<br>24 |
| (d)           | on a stated day, or during a stated period, an appointment as an interim manager was, or was not, in force for a stated person;                                      | 25<br>26<br>27 |
| (e)           | on a stated day, a stated person was given a stated notice under this Act;   | 28<br>29       |
| (f)           | on a stated day, a stated requirement was made of a stated person.   | 30<br>31       |

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| <b>95</b> | <b>Offences under Act are summary</b>  | 1              |
| (1)       | An offence against this Act is a summary offence.  | 2              |
| (2)       | A proceeding for an offence against this Act must start within the later of the following periods to end—  | 3<br>4         |
| (a)       | 1 year after the commission of the offence;  | 5              |
| (b)       | 6 months after the offence comes to the complainant's knowledge but within 2 years after the commission of the offence.                                  | 6<br>7<br>8    |
| <b>96</b> | <b>Forfeiture on conviction</b>  | 9              |
| (1)       | On conviction of a person for an offence against this Act, a court may order the forfeiture to the State of—   | 10<br>11       |
| (a)       | anything used to commit the offence; or  | 12             |
| (b)       | anything else the subject of the offence.  | 13             |
| (2)       | The court may make any order to enforce the forfeiture it considers appropriate.   | 14<br>15       |
| (3)       | This section does not limit the court's powers under the <i>Penalties and Sentences Act 1992</i> or another law.   | 16<br>17       |
| <b>97</b> | <b>Dealing with forfeited thing</b>  | 18             |
| (1)       | On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the State as the State considers appropriate. | 19<br>20<br>21 |
| (2)       | Without limiting subsection (1), the State may destroy the thing.  | 22<br>23       |
| <b>98</b> | <b>Responsibility for acts or omissions of representative</b>  | 24             |
| (1)       | This section applies in a proceeding for an offence against this Act.  | 25<br>26       |
| (2)       | If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—  | 27<br>28       |

[s 99]

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- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.
- (4) In this section—
- representative* means—
- (a) for a corporation—an executive officer, employee or agent of the corporation; or
  - (b) for an individual—an employee or agent of the individual.
- state of mind* of a person includes—
- (a) the person's knowledge, intention, opinion, belief or purpose; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.

**99 Statement of complainant's knowledge**

In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.



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| <b>Part 8</b> | <b>Miscellaneous provisions</b>   | 1                          |
| <b>100</b>    | <b>Consistency of funding agreement with Act</b>  | 2                          |
| (1)           | A funding agreement is not void merely because it does not comply with a requirement under section 19(2)(c).  | 3<br>4                     |
| (2)           | A funded entity can not bring a proceeding in relation to the exercise of a power under part 4 or 5 on the ground that funding received by the funded entity was not funding to which this Act applies.         | 5<br>6<br>7<br>8           |
| <b>101</b>    | <b>Supervision by authorised officer</b>  | 9                          |
|               | If a direction or requirement under this Act allows or requires a person to take action, the direction or requirement may also require the person to take the action under an authorised officer's supervision. | 10<br>11<br>12<br>13       |
| <b>102</b>    | <b>Protection from liability for particular persons</b>   | 14                         |
| (1)           | A designated person does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.   | 15<br>16<br>17             |
| (2)           | If subsection (1) prevents a civil liability attaching to a designated person, the liability attaches instead to the State.   | 18<br>19                   |
| (3)           | In this section—<br><i>civil liability</i> includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.<br><i>designated person</i> means—                   | 20<br>21<br>22<br>23<br>24 |
| (a)           | a chief executive; or   | 25                         |
| (b)           | an authorised officer; or   | 26                         |
| (c)           | a person acting under the authority or direction of an authorised officer; or   | 27<br>28                   |
| (d)           | an interim manager.   | 29                         |

[s 103]

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| <b>103</b> | <b>Delegation by Minister or chief executive</b>  | 1                    |
| (1)        | An appropriate Minister or a chief executive of a department may delegate the appropriate Minister's or chief executive's functions under this Act to an appropriately qualified public service employee or other employee of the department. | 2<br>3<br>4<br>5     |
| (2)        | In this section—  | 6                    |
|            | <i>appropriately qualified</i> includes having the qualifications, experience or standing appropriate for the functions.  | 7<br>8               |
|            | <i>Example of standing—</i>   | 9                    |
|            | a person's classification level in the public service   | 10                   |
|            | <i>function</i> includes a power.   | 11                   |
| <br>       |   |                      |
| <b>104</b> | <b>Confidentiality of information</b>   | 12                   |
| (1)        | This section applies to a person who—   | 13                   |
| (a)        | is, or has been—  | 14                   |
| (i)        | a chief executive of a department providing funding to a funded entity; or  | 15<br>16             |
| (ii)       | an authorised officer; or   | 17                   |
| (iii)      | an interim manager; or  | 18                   |
| (iv)       | a public service employee or a person engaged by a chief executive of a department providing funding to a funded entity, performing functions under or in relation to the administration of this Act; or                                      | 19<br>20<br>21<br>22 |
| (v)        | a person to whom a chief executive or Minister has delegated a function under section 103; and  | 23<br>24             |
| (b)        | as a result of a function exercised under part 4 or 5, whether or not the function was exercised by the person, has gained, gains or has access to confidential information about an individual.  | 25<br>26<br>27<br>28 |
| (2)        | This section also applies to an entity, if the entity receives confidential information about an individual under section 105(1)(b).  | 29<br>30<br>31       |

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- (3) The person or entity must not disclose the confidential information, or give access to the confidential information, to anyone else, other than—
- (a) in the performance of functions under this Act; or
  - (b) with the written consent of the individual to whom the information relates; or
  - (c) to the individual to whom the information relates; or
  - (d) in a form that could not identify any individual; or
  - (e) in a proceeding before a court or tribunal; or
  - (f) as authorised or required under an Act; or
  - (g) if the person or entity reasonably believes a serious concern exists.
- Maximum penalty—40 penalty units.
- (4) In this section—
- confidential information*** includes information about an individual's affairs but does not include—
- (a) information already publicly disclosed unless further disclosure of the information is prohibited by law; or
  - (b) statistical or other information that could not reasonably be expected to result in the identification of the individual to whom the information relates.
- entity*** includes the following—
- (a) a government entity;
  - (b) a statutory body;
  - (c) a GOC;
  - (d) a subsidiary of a GOC;
  - (e) a government entity, statutory body, GOC or subsidiary of a GOC of the Commonwealth or another State.
- function*** includes a power.

[s 105]

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| <b>105</b> | <b>Chief executive may share information about funded entity</b>  | 1<br>2               |
| (1)        | A chief executive may give information about a funded entity to—  | 3<br>4               |
| (a)        | a department if the funded entity receives funding the department has provided; or  | 5<br>6               |
| (b)        | another entity if the chief executive considers the entity has an interest in the proper and efficient delivery of a funded product or service of the funded entity.  | 7<br>8<br>9          |
| (2)        | The chief executive may act under subsection (1) without the consent of the funded entity.  | 10<br>11             |
| (3)        | In this section—<br><i>entity</i> includes the following—   | 12<br>13             |
| (a)        | a government entity;  | 14                   |
| (b)        | a statutory body;   | 15                   |
| (c)        | a GOC;  | 16                   |
| (d)        | a subsidiary of a GOC;  | 17                   |
| (e)        | a government entity, statutory body, GOC or subsidiary of a GOC of the Commonwealth or another State.   | 18<br>19             |
| <b>106</b> | <b>Joint exercise of powers</b>   | 20                   |
| (1)        | This section applies if more than 1 department provides funding received by a funded entity.  | 21<br>22             |
| (2)        | The chief executive of one of the departments (the <i>first chief executive</i> ) may exercise a power on behalf of any or all of the chief executives of the other departments in relation to the funding received by the funded entity. | 23<br>24<br>25<br>26 |
| (3)        | The first chief executive may only act on behalf of a chief executive of another department with the written consent of the other chief executive.  | 27<br>28<br>29       |
| (4)        | The exercise of a power by the first chief executive on behalf of the chief executive of another department may be in   | 30<br>31             |

[s 107]

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|               | relation to all or part of the funding provided by the other<br>chief executive's department.   | 1<br>2               |
| (5)           | Nothing in this section limits the power of a chief executive<br>under this Act.  | 3<br>4               |
| (6)           | In this section—<br><br><i>power</i> does not include the power to enter into a funding<br>agreement under section 19 or provide funding without a<br>funding agreement under section 20. | 5<br><br>6<br>7<br>8 |
| <b>107</b>    | <b>Approved forms</b>   | 9                    |
|               | A chief executive of a department who has provided funding<br>received by a funded entity may approve forms for use under<br>this Act.  | 10<br>11<br>12       |
| <b>108</b>    | <b>Regulation-making power</b>  | 13                   |
| (1)           | The Governor in Council may make regulations under this<br>Act.   | 14<br>15             |
| (2)           | A regulation may impose a penalty of no more than 20 penalty<br>units for a contravention of a regulation.  | 16<br>17             |
| <b>Part 9</b> | <b>Repeals</b>  | 18                   |
| <b>109</b>    | <b>Repeal</b>   | 19                   |
|               | The following Acts are repealed—  | 20                   |
|               | • Family Services Act 1987, No. 32;   | 21                   |
|               | • Community Services Act 2007, No. 38.  | 22                   |

[s 110]

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**Part 10** **Transitional provisions** 1

**Division 1** **Definitions for pt 10** 2

**110** **Definitions** 3

In this part— 4

*approved service provider* see the repealed *Community Services Act 2007*, section 8. 5  
6

*commencement* means the commencement of this part. 7

*funding Act* means— 8

(a) the repealed *Community Services Act 2007*; or 9

(b) the *Corrective Services Act 2006*; or 10

(c) the *Disability Services Act 2006*. 11

*funding agreement Act* means any of the following Acts as in force before the commencement— 12  
13

(a) the *Community Services Act 2007*; 14

(b) the *Corrective Services Act 2006*; 15

(c) the *Disability Services Act 2006*; 16

(d) the *Family Services Act 1987*; 17

(e) the *Housing Act 2003*. 18

*service provider* see the repealed *Community Services Act 2007*, section 7. 19  
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|---------------------|--|----------------------|
| <b>Division 2</b>   | <b>Transitional provisions generally</b>   | 1                    |
| <b>Subdivison 1</b> | <b>Application of Act to particular agreements</b>   | 2<br>3               |
| <b>111</b>          | <b>Act does not apply to continuing agreements</b>   | 4                    |
| (1)                 | This Act does not apply to a continuing agreement.   | 5                    |
| (2)                 | In this section—   | 6                    |
|                     | <i>continuing agreement</i> means a continuing agreement under the <i>Housing Act 2003</i> —   | 7<br>8               |
| (a)                 | that, immediately before the commencement—   | 9                    |
| (i)                 | was current; and   | 10                   |
| (ii)                | was not an assistance agreement within the meaning of the <i>Housing Act 2003</i> as in force before the commencement; and   | 11<br>12<br>13       |
| (b)                 | for which an entity mentioned in section 21 of that Act is a party that is not registered under that Act after the commencement.   | 14<br>15<br>16       |
| <b>112</b>          | <b>Act does not apply to housing agreements</b>  | 17                   |
| (1)                 | This Act does not apply to a housing agreement.  | 18                   |
| (2)                 | In this section—   | 19                   |
|                     | <i>housing agreement</i> means an agreement—   | 20                   |
| (a)                 | entered into, between the Queensland Housing Commission under the repealed <i>State Housing Act 1945</i> and an entity mentioned in section 21 of the <i>Housing Act 2003</i> , before 1 January 1996; and | 21<br>22<br>23<br>24 |
| (b)                 | that was current immediately before the commencement.  | 25<br>26             |

[s 113]

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| <b>Subdivision 2</b> | <b>Provisions for certain written agreements</b>   | 1<br>2           |
| <b>113</b>           | <b>Continuation of agreements to enter into written agreement about funding under a funding Act</b>  | 3<br>4           |
| (1)                  | This section applies if—   | 5                |
| (a)                  | before receiving funding under a funding Act an entity had agreed in writing (a <i>preliminary agreement</i> ) to enter into a written agreement about the funding within a stated time; and | 6<br>7<br>8<br>9 |
| (b)                  | immediately before the commencement—   | 10               |
| (i)                  | the stated time had not ended; and   | 11               |
| (ii)                 | a written agreement about the funding had not been entered into.   | 12<br>13         |
| (2)                  | This section also applies if—  | 14               |
| (a)                  | an entity received funding under a funding Act after making a preliminary agreement; and   | 15<br>16         |
| (b)                  | immediately before the commencement a written agreement about the funding had not been entered into.   | 17<br>18         |
| (3)                  | On and from the commencement—  | 19               |
| (a)                  | the preliminary agreement is taken to be an agreement made under section 20 to enter into a funding agreement about the funding within the stated time; and                                  | 20<br>21<br>22   |
| (b)                  | the funding received after making the preliminary agreement is taken to have been provided under section 20.   | 23<br>24<br>25   |
| <b>114</b>           | <b>Continuation of other agreements to enter into written agreement under a funding Act</b>  | 26<br>27         |
| (1)                  | This section applies to a written agreement to which section 113 does not apply if—  | 28<br>29         |



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- (a) the agreement is made under a preliminary agreement provision; and
- (b) immediately before the commencement, the agreement is in force.
- (2) Despite the repeal of the preliminary agreement provision, on and from the commencement the agreement continues in force but is not otherwise subject to the preliminary agreement provision or the Act containing the preliminary agreement provision.
- (3) However—
- (a) for a written agreement made under repealed section 27(4)(a) of the *Community Services Act 2007*—repealed section 27(5) of that Act continues to apply to the agreement; or
- (b) for a written agreement made under repealed section 252(5)(a) of the *Corrective Services Act 2006*—repealed section 252(6) of that Act continues to apply to the agreement; or
- (c) for a written agreement made under repealed section 56(4)(a) of the *Disability Services Act 2006*—repealed section 56(5) of that Act continues to apply to the agreement.
- (4) In this section—
- preliminary agreement provision*** means—
- (a) repealed section 27(4)(a) of the *Community Services Act 2007*; or
- (b) repealed section 252(5)(a) of the *Corrective Services Act 2006*; or
- (c) repealed section 56(4)(a) of the *Disability Services Act 2006*.
- repealed***, in relation to a provision of an Act, means the provision as it was in force immediately before the commencement.

[s 115]

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| <b>115</b> | <b>Continuation of written agreements made under funding agreement Act as funding agreements</b>   | 1<br>2                     |
| (1)        | This section applies to a written agreement made under a funding agreement Act, if—  | 3<br>4                     |
| (a)        | under the agreement a department provides, or has provided, funding to an entity; and  | 5<br>6                     |
| (b)        | immediately before the commencement the agreement is in force.   | 7<br>8                     |
| (2)        | On and from the commencement—  | 9                          |
| (a)        | the agreement is taken to be a funding agreement under this Act; and   | 10<br>11                   |
| (b)        | the agreement is taken to comply with section 19(2)(b) and (c).  | 12<br>13                   |
| (3)        | However, if the agreement or the funding agreement Act are contravened before the commencement, on and from the commencement—  | 14<br>15<br>16             |
| (a)        | the funding agreement Act continues to apply to the contravention; and   | 17<br>18                   |
| (b)        | an authorised officer appointed under the funding agreement Act or the chief executive of the department administering the funding agreement Act may exercise, or continue to exercise, powers under the funding agreement Act in relation to the contravention. | 19<br>20<br>21<br>22<br>23 |
| (4)        | If, immediately before the commencement, a person was appointed as interim manager under a funding agreement Act in relation to the agreement, on and from the commencement—   | 24<br>25<br>26<br>27       |
| (a)        | the funding agreement Act continues to apply to the appointment of the interim manager; and  | 28<br>29                   |
| (b)        | the interim manager may exercise, or continue to exercise, a power under the funding agreement Act in relation to the agreement.   | 30<br>31<br>32             |

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| <b>116</b>           | <b>Continuation of other written agreements made under funding agreement Act</b>   | 1<br>2               |
| (1)                  | This section applies to a written agreement made under a funding agreement Act to which section 115 does not apply if, immediately before the commencement, the agreement is in force. | 3<br>4<br>5<br>6     |
| (2)                  | On and from the commencement the agreement continues in force and is not otherwise subject to the funding agreement Act or this Act.   | 7<br>8<br>9          |
| <b>Subdivision 3</b> | <b>Provisions for other agreements</b>   | 10                   |
| <b>117</b>           | <b>Continuation of other written agreements as funding agreements</b>  | 11<br>12             |
| (1)                  | This section applies to a written agreement, other than a written agreement made under a funding agreement Act, if   | 13<br>14             |
| (a)                  | under the agreement a department provides, or has provided, funding to an entity; and  | 15<br>16             |
| (b)                  | immediately before the commencement the agreement is in force.   | 17<br>18             |
| (2)                  | On and from the commencement—  | 19                   |
| (a)                  | the agreement is taken to be a funding agreement under this Act; and   | 20<br>21             |
| (b)                  | the agreement is taken to comply with section 19(2)(b) and (c).  | 22<br>23             |
| (3)                  | However, if the agreement is contravened before the commencement, the agreement as in force before the commencement continues to apply to the contravention after the commencement.    | 24<br>25<br>26<br>27 |

[s 118]

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| <b>118</b>           | <b>Continuation of funding provided without written agreement</b>   | 1<br>2               |
| (1)                  | This section applies to an entity that, immediately before the commencement, is providing a product or service with funding provided by a department if there is no written agreement in relation to the funding. | 3<br>4<br>5<br>6     |
| (2)                  | Subject to subsections (3) and (4), the entity may continue to receive the funding despite this Act.  | 7<br>8               |
| (3)                  | Any conditions to which the funding was subject continue to apply to the funding.   | 9<br>10              |
| (4)                  | The funding must stop 1 year after the commencement unless a funding agreement is signed by the entity.   | 11<br>12             |
| (5)                  | No compensation is payable to an entity if funding to the entity is stopped under subsection (4).   | 13<br>14             |
| <br>                 |   |                      |
| <b>Subdivision 4</b> | <b>Provisions relating to particular leases</b>   | 15<br>16             |
| <br>                 |   |                      |
| <b>119</b>           | <b>Provision for particular existing leases</b>   | 17                   |
| (1)                  | This section applies to a continuing lease if, immediately before the commencement, the continuing lease is in force.   | 18<br>19             |
| (2)                  | On and from the commencement—   | 20                   |
| (a)                  | despite section 12, the provision of the continuing lease is taken to be a provision of funding; and  | 21<br>22             |
| (b)                  | the continuing lease is taken to be a funding agreement under this Act; and   | 23<br>24             |
| (c)                  | the continuing lease is taken to comply with section 19(2)(b) and (c).  | 25<br>26             |
| (3)                  | However, if the agreement is contravened before the commencement, the agreement as in force before the commencement continues to apply to the contravention after the commencement.                               | 27<br>28<br>29<br>30 |

- (4) In this section— 1
- continuing lease* means a lease administered by the 2  
department administering this Act and provided on one of the 3  
following conditions— 4
- (a) the condition that during the term of the lease the lessee 5  
does not use the leased premises, or permit or allow the 6  
leased premises to be used, for any purpose other than 7  
the provision of services to clients in accordance with 8  
the principles and requirements of the *Disability* 9  
*Services Act 2006*; 10
- (b) the condition that during the term of the lease the lessee 11  
does not use the leased premises, or permit or allow the 12  
leased premises to be used, for any purpose other than 13  
the provision of community services in accordance with 14  
principles stated in section 5(f) and (g) of the repealed 15  
*Community Services Act 2007*; 16
- (b) the condition that at all times during the term of the 17  
lease the lessee must hold a current licence to provide 18  
care services under the *Child Protection Act 1999*. 19

## 120 Existing dealings with land may be funding 20

- (1) This section applies to a licence, lease or other interest in land 21  
provided by a department under a relevant land Act to an 22  
entity if— 23
- (a) immediately before the commencement the licence, 24  
lease or other interest in land was in force; and 25
- (b) on the commencement, the licence, lease or other 26  
interest in land would, except for section 12(2)(e), be 27  
funding. 28
- (2) At the commencement the Minister for the department 29  
providing the licence, lease or other interest in land under the 30  
relevant land Act to the entity may act under section 13 in 31  
relation to the licence, lease or other interest in land. 32
- (3) Subsection (2) applies until 12 months after the 33  
commencement. 34

[s 121]

|                      |   |                                  |
|----------------------|---|----------------------------------|
| <b>Subdivision 5</b> | <b>Miscellaneous</b>  | 1                                |
| <b>121</b>           | <b>Existing requests for funding</b>  | 2                                |
| (1)                  | This section applies to a request for funding made by an entity to a department or Minister before the commencement if, immediately before the commencement the request had not been finally dealt with.  | 3<br>4<br>5<br>6                 |
| (2)                  | The request is taken to be a request for funding made under section 16 to the chief executive of the department.  | 7<br>8                           |
| (3)                  | If the request for funding was approved before the commencement, the decision on the request is taken to be a funding decision made by the Minister under section 18.   | 9<br>10<br>11                    |
| <b>122</b>           | <b>References to repealed Acts</b>  | 12                               |
| (1)                  | A reference in another Act or document to the <i>Family Services Act 1987</i> or the <i>Community Services Act 2007</i> may, if the context permits, be taken as a reference to this Act.   | 13<br>14<br>15                   |
| (2)                  | A reference in a document to a particular provision of a funding agreement Act that on the commencement is repealed, may, if the context permits, be taken as a reference to any provision of this Act, all or part of which corresponds, or substantially corresponds, to the provision of the funding agreement Act that on the commencement is repealed. | 16<br>17<br>18<br>19<br>20<br>21 |
| <b>Division 3</b>    | <b>Transitional provisions relating to<br/>Community Services Act 2007</b>  | 22<br>23                         |
| <b>123</b>           | <b>Approved service providers</b>   | 24                               |
| (1)                  | This section applies if—  | 25                               |
| (a)                  | a service provider has made an application for approval as an approved service provider under the <i>Community Services Act 2007</i> before the commencement; and   | 26<br>27<br>28                   |

[s 124]

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|                   |   |                      |
|-------------------|---|----------------------|
| (b)               | the application has not been decided or withdrawn at the commencement.  | 1<br>2               |
| (2)               | The application is taken to be withdrawn.   | 3                    |
| (3)               | The chief executive to whom the application was made must give notice of the withdrawal to the service provider.  | 4<br>5               |
| <b>124</b>        | <b>Cancellation of approval as service provider</b>   | 6                    |
| (1)               | This section applies if on the commencement an approval of a service provider as an approved service provider is in force.  | 7<br>8               |
| (2)               | The approval of the service provider as an approved service provider is cancelled.  | 9<br>10              |
| <b>Division 4</b> | <b>Transitional regulation-making power</b>   | 11<br>12             |
| <b>125</b>        | <b>Transitional regulation-making power</b>   | 13                   |
| (1)               | A regulation (a <i>transitional regulation</i> ) may make provision about a matter for which—   | 14<br>15             |
| (a)               | it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of an Act that provides for funding to the operation of this Act; and | 16<br>17<br>18<br>19 |
| (b)               | this Act does not make provision or sufficient provision.   | 20                   |
| (2)               | A transitional regulation must declare it is a transitional regulation.   | 21<br>22             |
| (3)               | This division and any transitional regulation expire 1 year after the commencement.   | 23<br>24             |

[s 126]

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|                   |  |    |
|-------------------|--|----|
| <b>Part 11</b>    | <b>Amendment of Acts</b>                     | 1  |
| <b>Division 1</b> | <b>Amendment of this Act</b>                 | 2  |
| <b>126</b>        | <b>Act amended</b>                           | 3  |
|                   | This division amends this Act.               | 4  |
| <b>127</b>        | <b>Amendment of long title</b>               | 5  |
|                   | Long title, from ‘and to repeal’—            | 6  |
|                   | <i>omit.</i>                                 | 7  |
| <b>128</b>        | <b>Amendment of s 4 (Application of Act)</b> | 8  |
|                   | Section 4, note, ‘schedule 2’—               | 9  |
|                   | <i>omit, insert—</i>                         | 10 |
|                   | ‘the schedule’.                              | 11 |
| <b>129</b>        | <b>Amendment of s 9 (Definitions)</b>        | 12 |
|                   | Section 9, ‘schedule 2’—                     | 13 |
|                   | <i>omit, insert—</i>                         | 14 |
|                   | ‘the schedule’.                              | 15 |
| <b>130</b>        | <b>Renumbering of sch 2 (Dictionary)</b>     | 16 |
|                   | Schedule 2—                                  | 17 |
|                   | <i>renumber</i> as schedule.                 | 18 |



|  |  |                  |
|--|--|------------------|
| <b>Division 2</b>  | <b>Amendment of Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984</b>               | 1<br>2<br>3<br>4 |
| <b>131 Act amended</b>   | This division amends the <i>Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984</i> . | 5<br>6<br>7<br>8 |
| <b>132 Amendment of s 56 (Grant of aid)</b>                    |  | 9                |
| (1) Section 56(2), ‘aid granted’—                              | <i>omit, insert—</i>   | 10<br>11         |
|  | ‘aid, other than aid that is funding, granted’.  | 12               |
| (2) Section 56(2)—   | <i>renumber</i> as section 52(3).  | 13<br>14         |
| (3) Section 56—  | <i>insert—</i>   | 15<br>16         |
| ‘(2) However, if the grant of aid is funding—                  |  | 17               |
| (a) the <i>One Funding System for Better Services Act 2011</i> | applies to the grant of aid; and   | 18<br>19         |
| (b) the chief executive may only grant the aid if the Minister | has approved the grant as required under the <i>One Funding System for Better Services Act 2011</i> .                          | 20<br>21<br>22   |
| ‘(4) In this section—  | <b><i>funding</i></b> see the <i>One Funding System for Better Services Act 2011</i> .’.                                       | 23<br>24<br>25   |

[s 133]

|                   |  |                |
|-------------------|--|----------------|
| <b>Division 3</b> | <b>Amendment of Aboriginal Cultural Heritage Act 2003</b>  | 1<br>2         |
| <b>133</b>        | <b>Act amended</b>   | 3              |
|                   | This division amends the <i>Aboriginal Cultural Heritage Act 2003</i> .  | 4<br>5         |
| <b>134</b>        | <b>Amendment of s 37 (Function of Aboriginal cultural heritage body)</b>   | 6<br>7         |
|                   | Section 37—  | 8              |
|                   | <i>insert—</i>   | 9              |
|                   | ‘(3) The <i>One Funding System for Better Services Act 2011</i> applies to the giving of financial or other help under subsection (2) if the giving of the help is funding as defined under that Act.’ | 10<br>11<br>12 |
| <b>Division 4</b> | <b>Amendment of Casino Control Act 1982</b>  | 13<br>14       |
| <b>135</b>        | <b>Act amended</b>   | 15             |
|                   | This division amends the <i>Casino Control Act 1982</i> .  | 16             |
| <b>136</b>        | <b>Amendment of s 52 (Casino community benefit fund)</b>   | 17             |
|                   | (1) Section 52(8) and (9)—   | 18             |
|                   | <i>renumber</i> as section 52(9) and (10).   | 19             |
|                   | (2) Section 52—  | 20             |
|                   | <i>insert—</i>   | 21             |
|                   | ‘(8) The <i>One Funding System for Better Services Act 2011</i> applies to moneys that may be paid out of the fund if the application of the moneys is funding as defined under that Act.’             | 22<br>23<br>24 |

[s 137]

|   |  |          |
|---|--|----------|
| <b>Division 5</b>   | <b>Amendment of Corrective Services Act 2006</b>                         | 1<br>2   |
| <b>137 Act amended</b>  |  | 3        |
|   | This division amends the <i>Corrective Services Act 2006</i> .           | 4        |
| <b>138 Omission of ch 6, pt 1 (Grant of financial assistance)</b> |  | 5        |
|   | Chapter 6, part 1—   | 6        |
|   | <i>omit.</i>   | 7        |
| <b>139 Amendment of sch 4 (Dictionary)</b>                        |  | 8        |
|   | Schedule 4, definitions <i>financial assistance agreement</i> ,          | 9        |
|   | <i>grantee, prescribed requirement—</i>                                  | 10       |
|   | <i>omit.</i>   | 11       |
| <b>Division 6</b>   | <b>Amendment of Disability Services Act 2006</b>                         | 12<br>13 |
| <b>140 Act amended</b>  |  | 14       |
|   | This division amends the <i>Disability Services Act 2006</i> .           | 15       |
| <b>141 Amendment of s 7 (How objects are mainly achieved)</b>     |  | 16       |
|   | Section 7—   | 17       |
|   | <i>insert—</i>   | 18       |
|   | <i>‘Note—</i>  | 19       |
|   | The <i>One Funding System for Better Services Act 2011</i> applies to    | 20       |
|   | funding, as defined in that Act, provided under this Act. The <i>One</i> | 21       |
|   | <i>Funding System for Better Services Act 2011</i> contains clear and    | 22       |
|   | consistent powers that also safeguard the funding and the delivery of    | 23       |
|   | products or services provided with the funding.’                         | 24       |

[s 142]

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|            |   |          |
|------------|---|----------|
| <b>142</b> | <b>Amendment of s 14 (Meaning of <i>funded service provider</i>)</b>                                      | 1        |
| (1)        | Section 14(1), from ‘provider that’—  | 2        |
|            | <i>omit, insert—</i>  | 3        |
|            | ‘provider that—   | 4        |
| (a)        | is a funded entity; and   | 5        |
| (b)        | receives funds provided by the department to provide disability services.’.                               | 6<br>7   |
| (2)        | Section 14(2), ‘funded service provider’—   | 8        |
|            | <i>omit, insert—</i>  | 9        |
|            | <i>‘funded service provider’.</i>   | 10       |
| <b>143</b> | <b>Omission of s 16 (Meaning of <i>approved non-government service provider</i>)</b>                      | 11<br>12 |
|            | Section 16—   | 13       |
|            | <i>omit.</i>  | 14       |
| <b>144</b> | <b>Amendment of s 17 (Meaning of <i>funded non-government service provider</i>)</b>                       | 15<br>16 |
| (1)        | Section 17(1), from ‘receiving’—  | 17       |
|            | <i>omit, insert—</i>  | 18       |
|            | ‘that is a funded entity that receives funds provided by the department to provide disability services.’. | 19<br>20 |
| (2)        | Section 17(2)—  | 21       |
|            | <i>omit.</i>  | 22       |
| <b>145</b> | <b>Omission of pt 6 (Approved non-government service providers)</b>                                       | 23<br>24 |
|            | Part 6—   | 25       |
|            | <i>omit.</i>  | 26       |

|            |  |    |
|------------|--|----|
| <b>146</b> | <b>Insertion of new s 50</b>   | 1  |
|            | Part 7—  | 2  |
|            | <i>insert</i> —  | 3  |
| <b>‘50</b> | <b>Definition for pt 7</b>   | 4  |
|            | ‘In this part—   | 5  |
|            | <i>funding</i> see the <i>One Funding System for Better Services Act 2011</i> , section 12.’.  | 6  |
|            |  | 7  |
| <b>147</b> | <b>Amendment of s 52 (When funding may be given)</b>   | 8  |
|            | Section 52, after ‘provider’—  | 9  |
|            | <i>insert</i> —  | 10 |
|            | ‘under the <i>One Funding System for Better Services Act 2011</i> ’.   | 11 |
| <b>148</b> | <b>Omission of ss 53–58</b>  | 12 |
|            | Sections 53 to 58—   | 13 |
|            | <i>omit</i> .  | 14 |
| <b>149</b> | <b>Omission of pt 8 (Prescribed requirements for funded non-government service providers)</b>  | 15 |
|            | Part 8—  | 16 |
|            | <i>omit</i> .  | 17 |
|            |  | 18 |
| <b>150</b> | <b>Amendment of s 134 (Power to enter place where funded non-government service provider provides disability services)</b>   | 19 |
|            | Section 134(3)(a)—   | 20 |
|            | <i>omit, insert</i> —  | 21 |
|            | ‘(a) if the authorised officer reasonably suspects there is an immediate risk of harm to a person with a disability at the place because of abuse, neglect or exploitation; or’. | 22 |
|            |  | 23 |
|            |  | 24 |
|            |  | 25 |
|            |  | 26 |

[s 151]

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|             |  |    |
|-------------|--|----|
| <b>151</b>  | <b>Amendment of s 137 (Issue of warrant)</b>                         | 1  |
| (1)         | Section 137(1)(b)(ii)—   | 2  |
|             | <i>omit.</i>   | 3  |
| (2)         | Section 137(1)(b)(iii)—  | 4  |
|             | <i>renumber</i> as section 137(1)(b)(ii).                            | 5  |
| <b>152</b>  | <b>Omission of pt 12 (Appointment of interim manager)</b>            | 6  |
|             | Part 12—   | 7  |
|             | <i>omit.</i>   | 8  |
| <b>153</b>  | <b>Replacement of s 207 (Reviewable decisions)</b>                   | 9  |
|             | Section 207—   | 10 |
|             | <i>omit, insert—</i>   | 11 |
| <b>‘207</b> | <b>Definitions for pt 14</b>   | 12 |
|             | ‘In this part—   | 13 |
|             | <i>interested person</i> , for a reviewable decision, means a funded | 14 |
|             | non-government service provider whose funding is suspended           | 15 |
|             | or cancelled under section 161(8).                                   | 16 |
|             | <i>reviewable decision</i> means a decision of the chief executive   | 17 |
|             | under section 161(8) to suspend or cancel the funding of a           | 18 |
|             | funded non-government service provider for not complying             | 19 |
|             | with a compliance notice.  | 20 |
|             | <i>Note—</i>   | 21 |
|             | Part 10 provides for a person to apply to the tribunal for a part 10 | 22 |
|             | reviewable decision.’.   | 23 |
| <b>154</b>  | <b>Insertion of new pt 15, div 1B</b>                                | 24 |
|             | Part 15, after section 214E—   | 25 |
|             | <i>insert—</i>   | 26 |

|                     |   |                      |
|---------------------|---|----------------------|
| <b>‘Division 1B</b> | <b>Policies</b>   | 1                    |
| <b>‘214F</b>        | <b>Application of div 1B</b>  | 2                    |
|                     | ‘This division applies to a funded non-government service provider (a <i>provider</i> ).  | 3<br>4               |
| <b>‘214G</b>        | <b>Definition for div 1B</b>  | 5                    |
|                     | ‘In this division—  | 6                    |
|                     | <i>keep and implement</i> , for a policy, means—  | 7                    |
|                     | (a) prepare the policy and keep it up to date; and  | 8                    |
|                     | (b) when providing disability services, implement and comply with the procedures and other matters stated in the policy.  | 9<br>10<br>11        |
| <b>‘214H</b>        | <b>Funding agreement</b>  | 12                   |
|                     | ‘(1) Nothing in this division affects the provider’s obligations under a funding agreement entered into by the provider.  | 13<br>14             |
|                     | ‘(2) However, if there is an inconsistency between the funding agreement and this division, this division prevails.   | 15<br>16             |
| <b>‘214I</b>        | <b>Policies to take account of differences, customs and diversity</b>   | 17<br>18             |
|                     | ‘The provider’s policies must state the way the provider will provide its disability services so that appropriate regard is had to local and regional differences, cultural diversity and Aboriginal tradition and Island custom. | 19<br>20<br>21<br>22 |
| <b>‘214J</b>        | <b>Abuse, neglect or exploitation policy</b>  | 23                   |
|                     | ‘(1) The provider must keep and implement an abuse, neglect or exploitation policy consistent with the department’s policy about preventing abuse, neglect or exploitation of people with a disability.                           | 24<br>25<br>26<br>27 |

[s 154]

- 
- ‘(2) The chief executive must keep a copy of the department’s policy available for inspection free of charge by providers at—
    - (a) the department’s head office and regional offices; and
    - (b) other places the chief executive considers appropriate.
  - ‘(3) Also, the chief executive must publish the department’s policy on the department’s website.
  - ‘(4) In this section—
 

***abuse, neglect or exploitation policy*** means a policy outlining the procedures the provider must use to prevent and respond to the abuse, neglect or exploitation of people with a disability.

#### ‘214K Complaints policy

- ‘(1) The provider must keep and implement a complaints policy.
- ‘(2) The policy must—
  - (a) provide information about how a person may make a complaint; and
  - (b) provide for a prompt response to complaints; and
  - (c) ensure that a person who makes a complaint is provided with relevant and timely feedback on the outcome of the complaint; and
  - (d) provide for the person who makes the complaint to be advised that the person may complain to the department or a relevant complaints agency if the person is not satisfied with the outcome of the complaint; and
  - (e) allows grievances about the provider’s disability services to be pursued without the fear of the services being discontinued or recrimination from the provider.
- ‘(3) In this section—
 

***complaints policy*** means a policy outlining the procedures and principles the provider will use to deal with and resolve complaints relating to the provider’s disability services.



|   |          |
|---|----------|
| <b>‘214L Provider must keep register of policies</b>  | 1        |
| ‘(1) The provider must keep a register of the policies to be kept under this division.  | 2<br>3   |
| ‘(2) The register must include the following—   | 4        |
| (a) the name of each policy;  | 5        |
| (b) the date it was made;   | 6        |
| (c) the date it was last reviewed;  | 7        |
| (d) the date it is due to be reviewed;  | 8        |
| (e) the date it was last amended.   | 9        |
| ‘(3) The provider may keep the register in a form the provider considers appropriate, including an electronic form.           | 10<br>11 |
| ‘(4) The register must be readily available to allow inspection by an authorised officer.’.                                   | 12<br>13 |
| <br><b>155 Amendment of s 222 (Confidentiality of other information)</b>  | 14<br>15 |
| (1) Section 222(3)(e), after ‘manager’—   | 16       |
| <i>insert—</i>  | 17       |
| ‘under previous part 12’.   | 18       |
| (2) Section 222—  | 19       |
| <i>insert—</i>  | 20       |
| ‘(6) In this section—   | 21       |
| <i>previous part 12</i> means part 12 of this Act as in force from time to time before the commencement of this definition.’. | 22<br>23 |
| <br><b>156 Amendment of s 229 (Protecting officials from liability)</b>   | 24       |
| (1) Section 229(3), definition <i>official</i> , paragraph (e)—   | 25       |
| <i>omit.</i>  | 26       |

[s 157]

|                    |  |    |
|--------------------|--|----|
| (2)                | Section 229(3), definition <i>official</i> , paragraphs (f) and (g)— | 1  |
|                    | <i>renumber</i> as paragraphs (e) and (f).                           | 2  |
| <b>157</b>         | <b>Insertion of new pt 16, div 6</b>                                 | 3  |
|                    | Part 16—   | 4  |
|                    | <i>insert</i> —  | 5  |
| <b>‘Division 6</b> | <b>Transitional provisions for One</b>                               | 6  |
|                    | <b>Funding System for Better Services</b>                            | 7  |
|                    | <b>Act 2011</b>  | 8  |
| <b>‘291</b>        | <b>Definitions for div 6</b>   | 9  |
|                    | ‘In this division—   | 10 |
|                    | <i>approved non-government service provider</i> see section 16 as    | 11 |
|                    | in force before the commencement.                                    | 12 |
|                    | <i>commencement</i> means the commencement of this division.         | 13 |
| <b>‘292</b>        | <b>Cancellation of approval as approved</b>                          | 14 |
|                    | <b>non-government service provider</b>                               | 15 |
| ‘(1)               | This section applies if, immediately before the                      | 16 |
|                    | commencement a corporation held approval as an approved              | 17 |
|                    | non-government service provider.                                     | 18 |
| ‘(2)               | On the commencement of this section the corporation’s                | 19 |
|                    | approval is cancelled.   | 20 |
| <b>‘293</b>        | <b>Withdrawal of applications relating to approval as</b>            | 21 |
|                    | <b>approved non-government service provider</b>                      | 22 |
| ‘(1)               | This section applies if—   | 23 |
| (a)                | before the commencement a corporation had made an                    | 24 |
|                    | application—   | 25 |
| (i)                | for approval as an approved non-government                           | 26 |
|                    | service provider; or   | 27 |

[s 158]

|            |   |                      |
|------------|---|----------------------|
|            | (ii) for cancellation of its approval as an approved non-government service provider; and   | 1<br>2               |
|            | (b) on the commencement, the application had not been decided.  | 3<br>4               |
|            | ‘(2) The application is taken to be withdrawn.  | 5                    |
|            | ‘(3) The chief executive must give notice of the withdrawal of the application to the corporation.’.  | 6<br>7               |
| <b>158</b> | <b>Omission of sch 2 (Reviewable decisions)</b>   | 8                    |
|            | Schedule 2—   | 9                    |
|            | <i>omit.</i>  | 10                   |
| <b>159</b> | <b>Amendment of sch 7 (Dictionary)</b>  | 11                   |
|            | (1) Schedule 7, definitions <i>approved non-government service provider, funding agreement, interim manager, keep and implement, prescribed requirement</i> and <i>reviewable decision</i> —                                  | 12<br>13<br>14       |
|            | <i>omit.</i>  | 15                   |
|            | (2) Schedule 7—   | 16                   |
|            | <i>insert—</i>  | 17                   |
|            | <b>‘funded entity</b> see the <i>One Funding System for Better Services Act 2011</i> , section 11(1).   | 18<br>19             |
|            | <b>funding</b> , for part 7, see section 50.  | 20                   |
|            | <b>funding agreement</b> , in relation to a funded non-government service provider, means a funding agreement under the <i>One Funding System for Better Services Act 2011</i> for funding for providing disability services. | 21<br>22<br>23<br>24 |
|            | <b>keep and implement</b> —   | 25                   |
|            | (a) for part 10A, see section 123E; or  | 26                   |
|            | (b) for part 15, division 1B, see section 214G.   | 27                   |
|            | <b>provider</b> , for part 15, division 1B, see section 214F.   | 28                   |
|            | <b>reviewable decision</b> , for part 14, see section 207.’.  | 29                   |

[s 160]

|                   |  |    |
|-------------------|--|----|
| <b>Division 7</b> | <b>Amendment of Duties Act 2001</b>  | 1  |
| <b>160</b>        | <b>Act amended</b>   | 2  |
|                   | This division amends the <i>Duties Act 2001</i> .  | 3  |
| <b>161</b>        | <b>Amendment of s 429 (Instruments and transactions under Housing Act 2003)</b>  | 4  |
|                   | Section 429(1), after ‘2003’—  | 6  |
|                   | <i>insert—</i>   | 7  |
|                   | ‘, or the <i>One Funding System for Better Services Act 2011</i> for providing a housing service.’   | 8  |
|                   |  | 9  |
| <b>Division 8</b> | <b>Amendment of Education (General Provisions) Act 2006</b>  | 10 |
|                   |  | 11 |
| <b>162</b>        | <b>Act amended</b>   | 12 |
|                   | This division amends the <i>Education (General Provisions) Act 2006</i> .  | 13 |
|                   |  | 14 |
| <b>163</b>        | <b>Amendment of s 368 (Provision of scholarships and payment of allowances)</b>  | 15 |
|                   | (1) Section 368(3)—  | 16 |
|                   | <i>renumber</i> as section 368(4).   | 17 |
|                   | (2) Section 368—   | 18 |
|                   | <i>insert—</i>   | 19 |
|                   | ‘(3) The <i>One Funding System for Better Services Act 2011</i> applies to the payment of an allowance under subsection (1) if the payment of the allowance is funding as defined under that Act.’ | 20 |
|                   |  | 21 |
|                   |  | 22 |
|                   |  | 23 |
|                   |  | 24 |

|            |  |    |
|------------|--|----|
| <b>164</b> | <b>Amendment of s 369 (Minister's policy)</b>                              | 1  |
| (1)        | Section 369(3), 'subsection (2)'—  | 2  |
|            | <i>omit, insert—</i>   | 3  |
|            | 'subsection (3)'.  | 4  |
| (2)        | Section 369(2) to (5)—   | 5  |
|            | <i>renumber</i> as section 369(3) to (6).                                  | 6  |
| (3)        | Section 369—   | 7  |
|            | <i>insert—</i>   | 8  |
| '(2)       | If the policy relates to providing funding as defined under the            | 9  |
|            | <i>One Funding System for Better Services Act 2011</i> , the policy        | 10 |
|            | must be consistent with that Act.'   | 11 |
| <b>165</b> | <b>Amendment of s 421 (Transportation assistance for certain students)</b> | 12 |
| (1)        | Section 421(3)—  | 13 |
|            | <i>renumber</i> as section 421(4).   | 14 |
| (2)        | Section 421—   | 15 |
|            | <i>insert—</i>   | 16 |
| '(3)       | The <i>One Funding System for Better Services Act 2011</i> applies         | 17 |
|            | to the giving of assistance if the giving of the assistance is             | 18 |
|            | funding as defined under that Act.'  | 19 |
|            |  | 20 |
| <b>166</b> | <b>Amendment of s 422 (Grants to entities)</b>                             | 21 |
|            | Section 422—   | 22 |
|            | <i>insert—</i>   | 23 |
| '(2)       | The <i>One Funding System for Better Services Act 2011</i> applies         | 24 |
|            | to the giving of a grant if the giving of the grant is funding as          | 25 |
|            | defined under that Act.'   | 26 |

[s 167]

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|---|---|----|
| <b>Division 9</b>   | <b>Amendment of Fisheries Act 1994</b>                                    | 1  |
| <b>167 Act amended</b>  |   | 2  |
|   | This division amends the <i>Fisheries Act 1994</i> .                      | 3  |
| <b>168 Insertion of new s 12A</b>   |   | 4  |
|   | Part 1, division 4—   | 5  |
|   | <i>insert—</i>  | 6  |
| <b>‘12A Relationship with One Funding System for Better Services Act 2011</b> |   | 7  |
|   |   | 8  |
|   | ‘The <i>One Funding System for Better Services Act 2011</i>               | 9  |
|   | applies to a provision of funding, as defined under that Act,             | 10 |
|   | made under this Act.’.  | 11 |
| <b>169 Amendment of s 20A (Powers)</b>  |   | 12 |
| (1) Section 20A(3)—   |   | 13 |
|   | <i>renumber</i> as section 20A(4).  | 14 |
| (2) Section 20A—  |   | 15 |
|   | <i>insert—</i>  | 16 |
| ‘(3) Subsection (1) does not give the chief executive power to                |   | 17 |
| approve funding as defined under the <i>One Funding System for</i>            |   | 18 |
| <i>Better Services Act 2011</i> .   |   | 19 |
| <i>Note—</i>  |   | 20 |
|   | Under the <i>One Funding System for Better Services Act 2011</i> only the | 21 |
|   | Minister may approve a request for funding as defined under that Act.’.   | 22 |
| <b>Division 10</b>  | <b>Amendment of Forestry Act 1959</b>                                     | 23 |
| <b>170 Act amended</b>  |   | 24 |
|   | This division amends the <i>Forestry Act 1959</i> .                       | 25 |

|            |  |    |
|------------|--|----|
| <b>171</b> | <b>Amendment of s 39A (Forest entitlement areas)</b>               | 1  |
| (1)        | Section 39A(3)—  | 2  |
|            | <i>renumber</i> as section 39A(4).                                 | 3  |
| (2)        | Section 39A—   | 4  |
|            | <i>insert</i> —  | 5  |
| ‘(3)       | If an agreement under subsection (2) involves a provision of       | 6  |
|            | funding as defined under the <i>One Funding System for Better</i>  | 7  |
|            | <i>Services Act 2011</i> —   | 8  |
| (a)        | that Act applies in relation to the agreement; and                 | 9  |
| (b)        | the chief executive may only make the agreement if the             | 10 |
|            | provision of funding under the agreement is approved               | 11 |
|            | by the Minister as required under that Act.’                       | 12 |
| <br>       |  |    |
| <b>172</b> | <b>Amendment of s 52 (Power to subsidise road works)</b>           | 13 |
|            | Section 52—  | 14 |
|            | <i>insert</i> —  | 15 |
| ‘(3)       | However, if a subsidy is funding as defined under the <i>One</i>   | 16 |
|            | <i>Funding System for Better Services Act 2011</i> —               | 17 |
| (a)        | that Act applies to the subsidy; and                               | 18 |
| (b)        | the chief executive may only authorise the subsidisation           | 19 |
|            | if the subsidy is approved by the Minister as required             | 20 |
|            | under that Act.’   | 21 |
| <br>       |  |    |
| <b>173</b> | <b>Amendment of s 68 (Cooperative burnings)</b>                    | 22 |
|            | Section 68—  | 23 |
|            | <i>insert</i> —  | 24 |
| ‘(2)       | However, if the rendering of assistance is funding as defined      | 25 |
|            | under the <i>One Funding System for Better Services Act 2011</i> — | 26 |
| (a)        | that Act applies to the assistance; and                            | 27 |

[s 174]

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|-----|--|-------------|
| (b) | the chief executive may only render the assistance if the assistance is approved by the Minister as required under that Act.’. | 1<br>2<br>3 |
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|                    |   |        |
|--------------------|---|--------|
| <b>Division 11</b> | <b>Amendment of Gaming Machine Act 1991</b> | 4<br>5 |
|--------------------|---|--------|

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|------------|---|---|
| <b>174</b> | <b>Act amended</b>  | 6 |
|            | This division amends the <i>Gaming Machine Act 1991</i> . | 7 |

- |            |   |                            |
|------------|---|----------------------------|
| <b>175</b> | <b>Amendment of s 322 (Disposition of fees etc.)</b>  | 8                          |
|            | Section 322—  | 9                          |
|            | <i>insert—</i>  | 10                         |
|            | ‘(8) The <i>One Funding System for Better Services Act 2011</i> applies to amounts to be paid out of the Sport and Recreation Benefit Fund, community investment fund or gambling community benefit fund if the amount to be paid is funding as defined under that Act.’. | 11<br>12<br>13<br>14<br>15 |

|                    |                                      |    |
|--------------------|--------------------------------------|----|
| <b>Division 12</b> | <b>Amendment of Housing Act 2003</b> | 16 |
|--------------------|--------------------------------------|----|

- |            |  |    |
|------------|--|----|
| <b>176</b> | <b>Act amended</b>                                 | 17 |
|            | This division amends the <i>Housing Act 2003</i> . | 18 |
|            | <i>Note—</i>                                       | 19 |
|            | See also the amendments in schedule 1.             | 20 |

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|------------|--|----|
| <b>177</b> | <b>Amendment of s 10 (Queensland Housing Fund)</b> | 21 |
|            | (1) Section 10(5)(f), from ‘under’—                | 22 |
|            | <i>omit, insert—</i>                               | 23 |
|            | ‘under—  | 24 |



|                     |  |                                  |
|---------------------|--|----------------------------------|
| (i)                 | this Act; or   | 1                                |
| (ii)                | a funding agreement to which the <i>One Funding System for Better Services Act 2011</i> applies for the provision of housing services.’.   | 2<br>3<br>4                      |
| (2)                 | Section 10(6), examples, ‘grants’—<br><i>omit, insert—</i><br>‘funding’.   | 5<br>6<br>7                      |
| (3)                 | Section 10(7) to (9)—<br><i>renumber</i> as section 10(8) to (10).   | 8<br>9                           |
| (4)                 | Section 10—<br><i>insert—</i>  | 10<br>11                         |
| ‘(7)                | The <i>One Funding System for Better Services Act 2011</i> applies to amounts payable out of the fund if the amount is funding as defined under that Act.  | 12<br>13<br>14                   |
|                     | <i>Note—</i><br>See also section 10A.’.  | 15<br>16                         |
| <b>178</b>          | <b>Insertion of new pt 2, div 1A</b>   | 17                               |
|                     | Part 2, before division 1—<br><i>insert—</i>   | 18<br>19                         |
| <b>‘Division 1A</b> | <b>Relationship with One Funding System for Better Services Act 2011</b>   | 20<br>21                         |
| <b>‘10A</b>         | <b>Functions and powers relating to funding</b>  | 22                               |
| ‘(1)                | If the <i>One Funding System for Better Services Act 2011</i> applies to a provision of funding under this Act, the chief executive may only perform a function or exercise a power under this Act in relation to the provision of the funding if the funding has been approved by the Minister as required under the <i>One Funding System for Better Services Act 2011</i> . | 23<br>24<br>25<br>26<br>27<br>28 |
| ‘(2)                | In this section—   | 29                               |

[s 179]

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|             |   |          |
|-------------|---|----------|
|             | <i><b>funding</b></i> see the <i>One Funding System for Better Services Act 2011</i> , section 12.’.                              | 1<br>2   |
| <b>179</b>  | <b>Amendment of s 14 (Waiver of amounts owed)</b>   | 3        |
|             | Section 14(1), examples—  | 4        |
|             | <i>insert</i> —   | 5        |
|             | <ul style="list-style-type: none"> <li>• an amount payable because of a contingent liability under a funding agreement</li> </ul> | 6<br>7   |
|             | <ul style="list-style-type: none"> <li>• surplus amounts under a funding agreement’.</li> </ul>                                   | 8        |
| <b>180</b>  | <b>Insertion of new s 19A</b>   | 9        |
|             | Part 4, division 1—   | 10       |
|             | <i>insert</i> —   | 11       |
| <b>‘19A</b> | <b>Definition for pt 4</b>  | 12       |
|             | ‘In this part—  | 13       |
|             | <i><b>funding</b></i> see the <i>One Funding System for Better Services Act 2011</i> , section 12.’.                              | 14<br>15 |
| <b>181</b>  | <b>Amendment of pt 4, div 2, hdg (Assistance)</b>   | 16       |
|             | Part 4, division 2, heading, ‘Assistance’—  | 17       |
|             | <i>omit, insert</i> —   | 18       |
|             | <b>‘Funding’.</b>   | 19       |
| <b>182</b>  | <b>Replacement of s 23 (Ways of giving assistance)</b>  | 20       |
|             | Section 23—   | 21       |
|             | <i>omit, insert</i> —   | 22       |
| <b>‘23</b>  | <b>Providing funding</b>  | 23       |
|             | ‘(1) The chief executive may provide funding to a registered provider.  | 24<br>25 |

[s 183]

|            |   |                |
|------------|---|----------------|
|            | ‘(2) If the chief executive provides funding to a registered provider the <i>One Funding System for Better Services Act 2011</i> applies to the provision of funding. | 1<br>2<br>3    |
| <b>183</b> | <b>Omission of ss 25–26</b>   | 4              |
|            | Sections 25 and 26—   | 5              |
|            | <i>omit.</i>  | 6              |
| <b>184</b> | <b>Replacement of s 27 (No entitlement to assistance)</b>   | 7              |
|            | Section 27—   | 8              |
|            | <i>omit, insert—</i>  | 9              |
| <b>‘27</b> | <b>No entitlement to funding</b>  | 10             |
|            | ‘The Minister is not required to approve funding for an entity merely because the entity is a registered provider.’.  | 11<br>12       |
| <b>185</b> | <b>Amendment of s 30 (Application for cancellation of registration)</b>   | 13<br>14       |
|            | Section 30(4)(b), ‘this Act’—   | 15             |
|            | <i>omit, insert—</i>  | 16             |
|            | ‘this Act, the <i>One Funding System for Better Services Act 2011</i> or the funding agreement; or  | 17<br>18       |
|            | (c) the chief executive considers granting the application is appropriate having regard to—   | 19<br>20       |
|            | (i) the type of housing services the registered provider is required to deliver under the funding agreement; and  | 21<br>22<br>23 |
|            | (ii) the likelihood of the registered provider requesting further funding for providing a housing service.’.  | 24<br>25       |

[s 186]

|            |  |    |
|------------|--|----|
| <b>186</b> | <b>Amendment of s 31 (Cancellation of registration without application)</b>  | 1  |
|            |  | 2  |
|            | Section 31(1)(b)—  | 3  |
|            | <i>omit, insert—</i>   | 4  |
|            | ‘(b) the chief executive is satisfied it is unlikely that the chief executive will wish to take action to enforce compliance by the provider with this Act, the <i>One Funding System for Better Services Act 2011</i> or the funding agreement in relation to the provision of a housing service; and | 5  |
|            |  | 6  |
|            |  | 7  |
|            |  | 8  |
|            |  | 9  |
|            | (c) the chief executive is satisfied it is unlikely the Minister will wish to approve funding under the <i>One Funding System for Better Services Act 2011</i> for the registered provider to provide or continue providing a housing service.’.   | 10 |
|            |  | 11 |
|            |  | 12 |
|            |  | 13 |
|            |  | 14 |
| <b>187</b> | <b>Amendment of s 34 (Registered provider must comply with prescribed requirements)</b>  | 15 |
|            |  | 16 |
|            | Section 34, notes—   | 17 |
|            | <i>omit, insert—</i>   | 18 |
|            | ‘(2) The registered provider breaches their funding agreement if the registered provider contravenes the prescribed requirement.   | 19 |
|            |  | 20 |
|            |  | 21 |
|            | <i>Notes—</i>  | 22 |
|            | 1 A serious concern under the <i>One Funding System for Better Services Act 2011</i> may exist if a registered provider contravenes a prescribed requirement.  | 23 |
|            |  | 24 |
|            |  | 25 |
|            | 2 The extent of a registered provider’s compliance with, or contravention of, a prescribed requirement is likely to be a relevant matter for—  | 26 |
|            |  | 27 |
|            |  | 28 |
|            | (a) the Minister to consider when deciding whether to approve funding; or  | 29 |
|            |  | 30 |
|            | (b) the chief executive to consider when deciding whether to cancel the provider’s registration under section 30 or 31.  | 31 |
|            |  | 32 |
|            | 3 A funding agreement may include a provision about the consequences of a contravention of a prescribed requirement.’.   | 33 |
|            |  | 34 |

|                    |  |    |
|--------------------|--|----|
| <b>188</b>         | <b>Omission of s 35 (Compliance notice)</b>                          | 1  |
|                    | Section 35—  | 2  |
|                    | <i>omit.</i>   | 3  |
| <b>189</b>         | <b>Insertion of new s 37A and div 6</b>                              | 4  |
|                    | Part 4, division 5—  | 5  |
|                    | <i>insert—</i>   | 6  |
| <b>‘37A</b>        | <b>Notation in the register</b>                                      | 7  |
|                    | ‘If a person is appointed under the <i>One Funding System for</i>    | 8  |
|                    | <i>Better Services Act 2011</i> as interim manager for the funding   | 9  |
|                    | provided to a registered provider to provide housing services,       | 10 |
|                    | the chief executive may include in the register a note about the     | 11 |
|                    | appointment that the chief executive considers appropriate.          | 12 |
| <b>‘Division 6</b> | <b>Power of interim manager</b>                                      | 13 |
| <b>‘37B</b>        | <b>Power to act on registered provider’s behalf in</b>               | 14 |
|                    | <b>relation to a relevant agreement</b>                              | 15 |
|                    | ‘(1) This section applies to a person appointed under the <i>One</i> | 16 |
|                    | <i>Funding System for Better Services Act 2011</i> as interim        | 17 |
|                    | manager for the funding provided to a registered provider to         | 18 |
|                    | provide housing services.  | 19 |
|                    | ‘(2) To carry out the interim manager’s function, the interim        | 20 |
|                    | manager—   | 21 |
|                    | (a) may enter into a residential tenancy agreement under the         | 22 |
|                    | <i>Residential Tenancies and Rooming Accommodation</i>               | 23 |
|                    | <i>Act 2008</i> , on behalf of the registered provider, for          | 24 |
|                    | residential premises that are funded property; and                   | 25 |
|                    | (b) may do anything in relation to a relevant agreement, on          | 26 |
|                    | behalf of the registered provider, that the registered               | 27 |
|                    | provider is permitted or required to do.                             | 28 |

[s 190]

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|   |  |                          |
|---|--|--------------------------|
| <i>Examples for paragraph (b)—</i>  |  | 1                        |
| 1   | The interim manager may exercise a right of entry under the <i>Residential Tenancies and Rooming Accommodation Act 2008</i> , chapter 3, part 3.   | 2<br>3<br>4              |
| 2   | The interim manager may give a notice to the tenant under the <i>Residential Tenancies and Rooming Accommodation Act 2008</i> , chapter 5, part 1, division 2.   | 5<br>6<br>7              |
| ‘(3)  | For the application of the <i>Residential Tenancies and Rooming Accommodation Act 2008</i> , the interim manager is not liable, as an agent of the registered provider, for an act or omission relating to a relevant agreement other than a thing done by the interim manager under subsection (2). | 8<br>9<br>10<br>11<br>12 |
| <i>Note—</i>  |  | 13                       |
| See the <i>Residential Tenancies and Rooming Accommodation Act 2008</i> , section 24 for provision about things required to be done by lessors or their agents.’. |  | 14<br>15<br>16           |
| <b>190</b>  | <b>Omission of pt 5 (Appointment of interim manager)</b>   | 17                       |
|   | Part 5—  | 18                       |
|   | <i>omit.</i>   | 19                       |
| <b>191</b>  | <b>Amendment of s 63 (Reviewable decisions)</b>  | 20                       |
| (1)   | Section 63(e)—   | 21                       |
|   | <i>omit.</i>   | 22                       |
| (2)   | Section 63(f)—   | 23                       |
|   | <i>renumber</i> as section 63(e).  | 24                       |
| <b>192</b>  | <b>Amendment of s 68 (Exercise of powers only for certain matters)</b>   | 25<br>26                 |
| (1)   | Section 68(b)(ii)—   | 27                       |
|   | <i>omit, insert—</i>   | 28                       |
|   | ‘(ii) section 37; or’.   | 29                       |
| (2)   | Section 68(b)(iii), ‘within the meaning given by section 39’—  | 30                       |

|   |                      |
|---|----------------------|
| <i>omit.</i>  | 1                    |
| (3) Section 68(b)(iii), note—   | 2                    |
| <i>omit.</i>  | 3                    |
| <b>193 Insertion of new ss 99A–99B</b>  | 4                    |
| Part 8, division 3—   | 5                    |
| <i>insert—</i>  | 6                    |
| <b>‘99A Delegation by Minister or chief executive</b>   | 7                    |
| ‘(1) The Minister or chief executive may delegate the Minister’s or chief executive’s functions under this Act to an appropriately qualified public service employee or another employee of the department. | 8<br>9<br>10<br>11   |
| ‘(2) In this section—   | 12                   |
| <i>appropriately qualified</i> includes having the qualifications, experience or standing appropriate for the functions.  | 13<br>14             |
| <i>Example of standing—</i>   | 15                   |
| a person’s classification level in the public service   | 16                   |
| <i>function</i> includes a power.’.   | 17                   |
| <b>‘99B Confidentiality</b>   | 18                   |
| ‘(1) This section applies to a person—  | 19                   |
| (a) who is, or has been, appointed as interim manager of a funded service under repealed part 5; and  | 20<br>21             |
| (b) who, in the course of the appointment or because of opportunity provided by the appointment, has gained or has access to confidential information about the registered provider or someone else.        | 22<br>23<br>24<br>25 |
| ‘(2) The person must not make a record of the information, disclose the information to anyone else or give access to the information to anyone else, other than—  | 26<br>27<br>28       |
| (a) for a purpose under repealed part 5; or   | 29                   |

[s 194]

|            |  |             |
|------------|--|-------------|
|            | (b) with the consent of the registered provider or other person to whom the information relates; or                          | 1<br>2      |
|            | (c) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or | 3<br>4<br>5 |
|            | (d) as expressly permitted or required by another Act.   | 6           |
|            | Maximum penalty—20 penalty units.  | 7           |
|            | ‘(3) In this section—  | 8           |
|            | <i>repealed part 5</i> means part 5 of this Act as in force from time to time before the commencement of this section.’.     | 9<br>10     |
| <b>194</b> | <b>Amendment of s 127 (Registration of entity that is a party to a continuing agreement)</b>                                 | 11<br>12    |
|            | (1) Section 127(3)(b), ‘assistance’—   | 13          |
|            | <i>omit, insert—</i>   | 14          |
|            | ‘funding’.   | 15          |
|            | (2) Section 127(7), ‘an assistance agreement’—   | 16          |
|            | <i>omit, insert—</i>   | 17          |
|            | ‘a funding agreement’.   | 18          |
|            | (3) Section 127(7)(b), ‘using assistance’—   | 19          |
|            | <i>omit, insert—</i>   | 20          |
|            | ‘using funding’.   | 21          |
| <b>195</b> | <b>Amendment of sch 3 (Dictionary)</b>   | 22          |
|            | (1) Schedule 3, definitions <i>assistance agreement, compliance notice, funded property</i> and <i>relevant agreement</i> —  | 23<br>24    |
|            | <i>omit.</i>   | 25          |
|            | (2) Schedule 3—  | 26          |
|            | <i>insert—</i>   | 27          |



[s 196]

- ‘funded property***, in relation to a funded service, means  
property—
- (a) transferred or leased by the chief executive to the registered provider for the purpose of providing the service; or
  - (b) bought or leased by the registered provider using funds entirely or partly provided by a grant, loan or other financial assistance from the chief executive for the purpose of providing the service.
- funding***, for part 4, see section 19A.
- funding agreement*** means a funding agreement under the *One Funding System for Better Services Act 2011* for funding for providing housing services.
- relevant agreement***, in relation to a funded service, means a residential tenancy agreement for which—
- (a) the lessor is the registered provider; and
  - (b) the residential premises are funded property.’.

## **Division 13                      Amendment of Liquor Act 1992**

**196      Act amended**

          This division amends the *Liquor Act 1992*.

**197      Amendment of s 220 (Disbursement of fees etc.)**

- (1) Section 220(5)—  
          *renumber* as section 220(6).
- (2) Section 220—  
          *insert*—
- ‘(5) The *One Funding System for Better Services Act 2011* applies to amounts to be paid out of the community investment fund if the amount to be paid is funding as defined under that Act.’.

[s 198]

|  |   |                      |
|--|---|----------------------|
| <b>Division 14</b>   | <b>Amendment of Marine Parks Act 2004</b>                             | 1<br>2               |
| <b>198 Act amended</b>   |   | 3                    |
|  | This division amends the <i>Marine Parks Act 2004</i> .               | 4                    |
| <b>199 Amendment of s 41 (Chief executive may enter into cooperative arrangement for management plan)</b>  |   | 5<br>6               |
| (1) Section 41, 'The'—   |   | 7                    |
| <i>omit, insert—</i>   |   | 8                    |
| 'Subject to subsection (2), the'.  |   | 9                    |
| (2) Section 41—  |   | 10                   |
| <i>insert—</i>   |   | 11                   |
| '(2) If the agreement or other arrangement involves the provision of funding as defined under the <i>One Funding System for Better Services Act 2011</i> —   |   | 12<br>13<br>14       |
| (a) that Act applies in relation to the agreement or other arrangement; and  |   | 15<br>16             |
| (b) the chief executive may only enter into the agreement or other arrangement if the provision of funding under the agreement or other arrangement is approved by the Minister as required under that Act.' |   | 17<br>18<br>19<br>20 |
| <b>Division 15</b>   | <b>Amendment of Maritime Safety Queensland Act 2002</b>               | 21<br>22             |
| <b>200 Act amended</b>   |   | 23                   |
|  | This division amends the <i>Maritime Safety Queensland Act 2002</i> . | 24<br>25             |

[s 201]

|                    |  |    |
|--------------------|--|----|
| <b>201</b>         | <b>Amendment of s 13 (Fund)</b>                                    | 1  |
| (1)                | Section 13(6) and (7)—   | 2  |
|                    | <i>renumber</i> as section 13(7) and (8).                          | 3  |
| (2)                | Section 13—  | 4  |
|                    | <i>insert</i> —  | 5  |
| ‘(6)               | If an amount payable from the fund is a provision of funding       | 6  |
|                    | as defined under the <i>One Funding System for Better Services</i> | 7  |
|                    | <i>Act 2011</i> —  | 8  |
| (a)                | that Act applies in relation to the amount payable; and            | 9  |
| (b)                | the amount may only be paid if the amount is approved              | 10 |
|                    | by the Minister as required under that Act.’.                      | 11 |
| <b>Division 16</b> | <b>Amendment of Torres Strait Islander</b>                         | 12 |
|                    | <b>Cultural Heritage Act 2003</b>                                  | 13 |
| <b>202</b>         | <b>Act amended</b>   | 14 |
|                    | This division amends the <i>Torres Strait Islander Cultural</i>    | 15 |
|                    | <i>Heritage Act 2003</i> .   | 16 |
| <b>203</b>         | <b>Amendment of s 37 (Function of Torres Strait Islander</b>       | 17 |
|                    | <b>cultural heritage body)</b>                                     | 18 |
|                    | Section 37—  | 19 |
|                    | <i>insert</i> —  | 20 |
| ‘(3)               | The <i>One Funding System for Better Services Act 2011</i> applies | 21 |
|                    | to the giving of financial or other help under subsection (2) if   | 22 |
|                    | the giving of the help is funding as defined under that Act.’.     | 23 |

[s 204]

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|                    |   |                      |
|--------------------|---|----------------------|
| <b>Division 17</b> | <b>Amendment of Transport Infrastructure Act 1994</b>   | 1<br>2               |
| <b>204</b>         | <b>Act amended</b>  | 3                    |
|                    | This division amends the <i>Transport Infrastructure Act 1994</i> .   | 4                    |
| <b>205</b>         | <b>Amendment of s 21 (Air transport infrastructure funding programs)</b>  | 5<br>6               |
| (1)                | Section 21(5), from ‘the objectives’—   | 7                    |
|                    | <i>omit, insert—</i>  | 8                    |
|                    | ‘the following, for assessing funding applications under a program—   | 9<br>10              |
| (a)                | if funding under a program is funding as defined under the <i>One Funding System for Better Services Act 2011</i> —that Act;  | 11<br>12<br>13       |
| (b)                | the objectives of this Act;   | 14                   |
| (c)                | government policy.’.  | 15                   |
| (2)                | Section 21(4) to (6)—   | 16                   |
|                    | <i>renumber</i> as section 21(5) to (7).  | 17                   |
| (3)                | Section 21—   | 18                   |
|                    | <i>insert—</i>  | 19                   |
| ‘(4)               | The <i>One Funding System for Better Services Act 2011</i> applies to an air transport infrastructure funding program if the program involves the provision of funding as defined under that Act.’. | 20<br>21<br>22<br>23 |

|   |   |    |
|---|---|----|
| <b>Division 18</b>  | <b>Amendment of Transport Operations (Passenger Transport) Act 1994</b>   | 1  |
|   |   | 2  |
|   |   | 3  |
| <b>206 Act amended</b>  |   | 4  |
|   | This division amends the <i>Transport Operations (Passenger Transport) Act 1994</i> .   | 5  |
|   |   | 6  |
| <b>207 Amendment of s 80B (Taxi Industry Security Fund)</b>                           |   | 7  |
| (1)   | Section 80B(8) and (9)—   | 8  |
|   | <i>renumber</i> as section 80B(9) and (10).   | 9  |
| (2)   | Section 80B—  | 10 |
|   | <i>insert</i> —   | 11 |
| ‘(8)  | If an amount to be paid out of the fund is a provision of funding as defined under the <i>One Funding System for Better Services Act 2011</i> —   | 12 |
|   |   | 13 |
|   |   | 14 |
| (a)   | that Act applies in relation to the amount to be paid; and  | 15 |
| (b)   | the amount may only be paid if the amount is approved by the Minister as required under that Act.’  | 16 |
|   |   | 17 |
| <b>208 Amendment of s 143B (Approval of basis for funding for transport function)</b> |   | 18 |
|   |   | 19 |
|   | Section 143B(1), from ‘only if’—  | 20 |
|   | <i>omit, insert</i> —   | 21 |
|   | ‘only if—   | 22 |
| (a)   | for providing help that is a provision of funding as defined under the <i>One Funding System for Better Services Act 2011</i> —the help is approved by the Minister and provided as required under that Act; or | 23 |
|   |   | 24 |
|   |   | 25 |
|   |   | 26 |
| (b)   | otherwise—the Minister has approved the basis on which the help is to be provided.’   | 27 |
|   |   | 28 |

[s 209]

|            |  |    |
|------------|--|----|
| <b>209</b> | <b>Amendment of s 144 (Transport arrangements for students)</b>  | 1  |
|            |  | 2  |
| (1)        | Section 144—   | 3  |
|            | <i>insert—</i>   | 4  |
| ‘(1A)      | If an arrangement under subsection (1) is a provision of funding as defined under the <i>One Funding System for Better Services Act 2011</i> — | 5  |
|            |  | 6  |
|            |  | 7  |
| (a)        | that Act applies in relation to the arrangement; and   | 8  |
| (b)        | the chief executive may only make the arrangement if the arrangement has been approved by the Minister as required under that Act.’            | 9  |
|            |  | 10 |
|            |  | 11 |
| (2)        | Section 144(4), ‘subsection (3)’—  | 12 |
|            | <i>omit, insert—</i>   | 13 |
|            | ‘subsection (4)’.  | 14 |
| (3)        | Section 144(5) and (6), ‘Subsection (4)’—  | 15 |
|            | <i>omit, insert—</i>   | 16 |
|            | ‘Subsection (5)’.  | 17 |
| (4)        | Section 144(7), ‘subsection (4)’—  | 18 |
|            | <i>omit, insert—</i>   | 19 |
|            | ‘subsection (5)’.  | 20 |
| (5)        | Section 144(1A) to (8)—  | 21 |
|            | <i>renumber</i> as section 144(2) to (9).  | 22 |

|                    |  |    |
|--------------------|--|----|
| <b>Division 19</b> | <b>Amendment of Waste Reduction and Recycling Act 2011</b> | 23 |
|                    |  | 24 |

|            |  |    |
|------------|--|----|
| <b>210</b> | <b>Act amended</b>   | 25 |
|            | This division amends the <i>Waste Reduction and Recycling Act 2011</i> . | 26 |
|            |  | 27 |

|            |  |                |
|------------|--|----------------|
| <b>211</b> | <b>Amendment of s 70 (Payment of amounts from Waste and Environment Fund)</b>  | 1<br>2         |
| (1)        | Section 70(3), ‘Subsection (4)’—<br><i>omit, insert—</i><br>‘Subsection (5)’.  | 3<br>4<br>5    |
| (2)        | Section 70(3) and (4)—<br><i>renumber</i> as section 70(4) and (5).  | 6<br>7         |
| (3)        | Section 70—<br><i>insert—</i>  | 8<br>9         |
| ‘(3)’      | For subsection (2)(e), the <i>One Funding System for Better Services Act 2011</i> applies to any provision of funding that is funding as defined under that Act.’. | 10<br>11<br>12 |

|                |                                |    |
|----------------|--------------------------------|----|
| <b>Part 12</b> | <b>Amendment of other Acts</b> | 13 |
|----------------|--------------------------------|----|

|            |   |    |
|------------|---|----|
| <b>212</b> | <b>Consequential amendments</b>         | 14 |
|            | Schedule 1 amends the Acts it mentions. | 15 |

|                   |   |                      |
|-------------------|---|----------------------|
| <b>Schedule 1</b> | <b>Consequential amendments of Acts</b>   | 1<br>2               |
|                   | section 212   | 3                    |
|                   | <b>Housing Act 2003</b>   | 4                    |
| <b>1</b>          | <b>Section 20, 22, 30(4)(a) and 31(1), ‘assistance’—</b><br><i>omit, insert—</i><br>‘funding’.  | 5<br>6<br>7          |
| <b>2</b>          | <b>Section 24, ‘giving assistance’—</b><br><i>omit, insert—</i><br>‘providing funding’.   | 8<br>9<br>10         |
| <b>3</b>          | <b>Section 31(1)(b)(ii), ‘give’—</b><br><i>omit, insert—</i><br>‘provide’.  | 11<br>12<br>13       |
|                   | <b>Police Service Administration Act 1990</b>   | 14                   |
| <b>4</b>          | <b>Section 5AA.14(3)(a)(v), examples for subparagraph (v)—</b><br><i>omit, insert—</i><br>‘Example for subparagraph (v)—<br>Public Service Act 2008, section 188B’. | 15<br>16<br>17<br>18 |



**Public Service Act 2008**

1

**5 Section 155A, definition *department of communities*—**

2

*omit, insert—*

3

*‘department of communities* means the department in which  
the *Disability Services Act 2006* or the *One Funding System*  
*for Better Services Act 2011* is administered.’.

4

5

6

|                                    |  |    |
|------------------------------------|--|----|
| <b>Schedule 2</b>                  | <b>Dictionary</b>  | 1  |
|                                    | section 9  | 2  |
| <i>appointing chief executive</i>  | see section 52(1).   | 3  |
| <i>appropriate Minister</i> ,      | for a department providing funding,                                    | 4  |
| means—                             |  | 5  |
| (a)                                | the Minister administering the department; or                          | 6  |
| (b)                                | if more than 1 Minister administers the department—the                 | 7  |
|                                    | Minister administering that part of the department                     | 8  |
|                                    | providing the funding.   | 9  |
| <i>approved form</i> ,             | for a department who has provided funding                              | 10 |
|                                    | received by a funded entity, means a form approved by the              | 11 |
|                                    | chief executive of the department under section 107.                   | 12 |
| <i>authorised officer</i>          | means a person who holds office under part                             | 13 |
|                                    | 5 as an authorised officer.  | 14 |
| <i>certification requirement</i> , | for part 5, division 5, see section                                    | 15 |
|                                    | 80(7).   | 16 |
| <i>compliance notice</i> ,         | for part 4, division 2, see section 24(3).                             | 17 |
| <i>electronic document</i> ,       | for part 5, means a document of a type                                 | 18 |
|                                    | under the <i>Acts Interpretation Act 1954</i> , section 36, definition | 19 |
|                                    | <i>document</i> , paragraph (c).                                       | 20 |
| <i>entity</i>                      | does not include the following—  | 21 |
| (a)                                | a government entity;   | 22 |
| (b)                                | a statutory body;  | 23 |
| (c)                                | a GOC;   | 24 |
| (d)                                | a subsidiary of a GOC;   | 25 |
| (e)                                | a government entity, statutory body, GOC or subsidiary                 | 26 |
|                                    | of a GOC of the Commonwealth or another State;                         | 27 |
| (f)                                | an exempt company.   | 28 |
| <i>exempt company</i>              | means a company for which—   | 29 |

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- |   |                      |
|---|----------------------|
| (a) one or more Ministers or departments—   | 1                    |
| (i) may exercise more than 50% of the votes at a meeting of the company; and  | 2<br>3               |
| (ii) has the power to appoint more than 50% of the company's board of directors; or   | 4<br>5               |
| (b) one or more Ministers or departments of the Commonwealth or a State, acting together or alone—  | 6<br>7               |
| (i) may exercise more than 50% of the votes at a meeting of the company; and  | 8<br>9               |
| (ii) has the power to appoint more than 50% of the company's board of directors.  | 10<br>11             |
| <b><i>funded entity</i></b> see section 11(1).  | 12                   |
| <b><i>funded product or service</i></b> see section 11(2).  | 13                   |
| <b><i>funding</i></b> see section 12.   | 14                   |
| <b><i>funding agreement</i></b> see section 19(1).  | 15                   |
| <b><i>general power</i></b> , for part 5, division 4, see section 75(1).  | 16                   |
| <b><i>government entity</i></b> see the <i>Public Service Act 2008</i> , schedule 4.  | 17<br>18             |
| <b><i>help requirement</i></b> , for part 5, division 4, see section 76(1).   | 19                   |
| <b><i>identity card</i></b> , for a provision about authorised officers, means an identity card issued under section 58(1).   | 20<br>21             |
| <b><i>information notice</i></b> , about a decision, means a notice stating the following—  | 22<br>23             |
| (a) the decision;   | 24                   |
| (b) the reasons for it;   | 25                   |
| (c) that the person to whom the notice is given may apply to the chief executive who gave the notice for a review of the decision within 28 business days after the person receives the notice; | 26<br>27<br>28<br>29 |
| (d) how to apply for a review.  | 30                   |
| <b><i>information requirement</i></b> , for part 5, division 5, see section 80(3).  | 31<br>32             |
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Schedule 2

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|   |                      |
|---|----------------------|
| <b><i>interested entity</i></b> , for part 6, see section 89(2).  | 1                    |
| <b><i>interim manager</i></b> means a person appointed as interim manager under section 25.   | 2<br>3               |
| <b><i>notice</i></b> means a written notice.  | 4                    |
| <b><i>obstruct</i></b> includes assault, hinder, resist, attempt to obstruct and threaten to obstruct.  | 5<br>6               |
| <b><i>occupier</i></b> , of a place, for part 5, includes the following—  | 7                    |
| (a) if there is more than 1 person who apparently occupies the place—any 1 of the persons;  | 8<br>9               |
| (b) any person at the place who is apparently acting with the authority of a person who apparently occupies the place;  | 10<br>11             |
| (c) if no-one apparently occupies the place—any person who is an owner of the place.  | 12<br>13             |
| <b><i>of</i></b> , a place, for part 5, includes at or on the place.  | 14                   |
| <b><i>offence warning</i></b> , for a direction or requirement by an authorised officer, for part 5, means a warning that, without a reasonable excuse, it is an offence for the person to whom the direction or requirement is made not to comply with it. | 15<br>16<br>17<br>18 |
| <b><i>original decision</i></b> for part 6, division 2, see section 92(1).  | 19                   |
| <b><i>personal details requirement</i></b> , for part 5, division 5, see section 78(5).   | 20<br>21             |
| <b><i>person in control</i></b> , of a thing, includes anyone who reasonably appears to be, claims to be, or acts as if he or she is, the person in possession or control of the thing.   | 22<br>23<br>24       |
| <b><i>place</i></b> , for part 5, includes the following—   | 25                   |
| (a) premises;   | 26                   |
| (b) vacant land;  | 27                   |
| (c) a place in Queensland waters;   | 28                   |
| (d) a place held under more than 1 title or by more than 1 owner;   | 29<br>30             |
| (e) the land or water where a building or structure, or a group of buildings or structures, is situated.  | 31<br>32             |

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|   |          |
|---|----------|
| <b><i>premises</i></b> includes—  | 1        |
| (a) a building or other structure; and  | 2        |
| (b) a part of a building or other structure; and  | 3        |
| (c) a caravan or vehicle; and   | 4        |
| (d) a cave or tent; and   | 5        |
| (e) premises held under more than 1 title or by more than 1 owner.                                    | 6<br>7   |
| <b><i>QCAT information notice</i></b> means a notice complying with the QCAT Act, section 157(2).     | 8<br>9   |
| <b><i>reasonably believes</i></b> means believes on grounds that are reasonable in the circumstances. | 10<br>11 |
| <b><i>reasonably suspects</i></b> means suspects on grounds that are reasonable in the circumstances. | 12<br>13 |
| <b><i>relevant chief executive</i></b> —  | 14       |
| (a) for part 2, see sections 16(2) and 17(2); or  | 15       |
| (b) for part 4, division 3, subdivision 1, see section 25.  | 16       |
| <b><i>relevant land Act</i></b> means any of the following—   | 17       |
| (a) the <i>Aboriginal Land Act 1991</i> ;   | 18       |
| (b) the <i>Forestry Act 1959</i> ;  | 19       |
| (c) the <i>Land Act 1994</i> ;  | 20       |
| (d) the <i>Nature Conservation Act 1992</i> ;   | 21       |
| (e) the <i>Recreation Areas Management Act 2006</i> ;   | 22       |
| (f) the <i>Torres Strait Islander Land Act 1991</i> .   | 23       |
| <b><i>reviewable decision</i></b> , for part 6, see section 89(1).                                    | 24       |
| <b><i>reviewed decision</i></b> , for part 6, see section 92(3).                                      | 25       |
| <b><i>reviewing chief executive</i></b> , for part 6, division 2, see section 90.                     | 26<br>27 |
| <b><i>serious concern</i></b> see section 14.   | 28       |
| <b><i>statutory body</i></b> see the <i>Financial Accountability Act 2009</i> , schedule 3.           | 29<br>30 |

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Schedule 2

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*subsidiary*, of a GOC, has the meaning given by the 1  
*Government Owned Corporations Act 1993*. 2

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