



Queensland

# **Fiscal Repair Amendment Act 2012**

**Act No. 25 of 2012**





## Queensland

# Fiscal Repair Amendment Act 2012

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## Queensland

### **Fiscal Repair Amendment Act 2012**

### **Act No. 25 of 2012**

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**An Act to amend the Duties Act 2001, the First Home Owner Grant Act 2000, the Gaming Machine Act 1991, the Liquor Act 1992, the Mineral Resources Act 1989, the Petroleum and Gas (Production and Safety) Act 2004, the Queensland Competition Authority Act 1997, the State Penalties Enforcement Act 1999, the Statutory Instruments Act 1992, the Taxation Administration Act 2001 and the Vocational Education, Training and Employment Act 2000 for particular purposes, and to make consequential or minor amendments of other Acts as stated in the schedule**

**[Assented to 21 September 2012]**

## The Parliament of Queensland enacts—

# Part 1 Preliminary

## 1 Short title

This Act may be cited as the *Fiscal Repair Amendment Act 2012*.

## 2 Commencement

- (1) Part 3, division 2 is taken to have commenced on 12 September 2012.
- (2) Part 3, division 3 commences on 11 October 2012.
- (3) Part 4, division 3 and part 5 commence on 1 July 2013.
- (4) Parts 6 and 7 commence on 1 October 2012.
- (5) Part 12 commences on 1 November 2012.
- (6) The following provisions commence on a day to be fixed by proclamation
  - (a) part 10;
  - (b) the schedule, other than to the extent it amends the *Tobacco and Other Smoking Products Act 1998*.

# Part 2 Amendment of Duties Act 2001

## 3 Act amended

This part amends the *Duties Act 2001*.

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**4 Amendment of s 137 (Exemption—mining, petroleum and other particular legislation)**

(1) Section 137(1)(a)—

*omit, insert—*

‘(a) the grant of a resource authority; or’.

(2) Section 137(3)—

*omit.*

(3) Section 137(4) and (5)—

*renumber* as section 137(3) and (4).

**5 Amendment of s 167 (What are an entity’s *land-holdings*)**

Section 167(1)(a), from ‘the entity’s’ to ‘other than’—

*omit, insert—*

‘the entity’s interest in land, and anything fixed to the land that may be separately owned from the land (whether or not the entity has an interest in the thing fixed to the land), other than’.

**6 Insertion of new ch 17, pt 17**

Chapter 17—

*insert—*

**‘Part 17 Transitional and declaratory provisions for Fiscal Repair Amendment Act 2012**

**‘Division 1 Preliminary**

**‘630 Definitions for pt 17**

‘In this part—

[s 6]

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*acquirer*, in relation to a relevant acquisition in a landholder, includes a related person of the acquirer who, under section 175(2), is jointly and severally liable for the payment of landholder duty on the relevant acquisition.

*amending Act* means the *Fiscal Repair Amendment Act 2012*.

*commencement day* means the day this section commences.

*retrospectivity period* means the period beginning at the start time and ending immediately before the commencement day.

*start time* means 10.30a.m. on 13 January 2012.

## **‘Division 2                    Declaratory provision**

### **‘631    Declaratory provision—effect of amending Act on meaning of *land***

‘(1) For deciding whether a resource authority, other than an exploration authority, was land under the pre-amended Act, the amendment of schedule 6 by the amending Act is to be disregarded.

‘(2) In this section—

*pre-amended Act* means this Act as in force before the commencement day.

## **‘Division 3                    Provisions for exploration authorities**

### **‘Subdivision 1            Preliminary**

#### **‘632    Purpose of div 3**

‘The purpose of this division is to provide for the imposition of duty in relation to exploration authorities during the retrospectivity period.

---

## **‘Subdivision 2      Liability for duty**

### **‘633      Meaning of *land* for retrospectivity period**

‘(1) During the retrospectivity period, this Act is taken to have applied as if schedule 6, definition *land* had provided as follows—

*‘land—*

(a) includes—

(i) airspace above land and the coastal waters of the State; and

(ii) an exploration authority; but

(b) does not include an exploration permit under the *Petroleum (Submerged Lands) Act 1982.*’.

‘(2) For subsection (1), schedule 6, definition *exploration authority*, as inserted by section 8 of the amending Act, is taken to have had effect on and from the start time.

### **‘634      Meaning of *statutory licence* for retrospectivity period**

‘During the retrospectivity period, this Act is taken to have applied as if schedule 6, definition *statutory licence* had provided as follows—

*‘statutory licence* means a licence, permit or other authority issued or given under a Queensland or Commonwealth Act, other than the following—

(a) a chattel authority;

(b) an exploration permit under the *Petroleum (Submerged Lands) Act 1982.*’.

### **‘635      Exemption from transfer duty for exploration authority granted during retrospectivity period**

‘Transfer duty is not imposed on a dutiable transaction mentioned in section 9(1)(f) that is the grant of an exploration

[s 6]

---

authority if liability for transfer duty arose during the retrospectivity period.

**‘636 Exemption from transfer duty for transfer of exploration authority under particular agreements**

- ‘(1) This section applies to a dutiable transaction mentioned in section 9(1)(a) that is the transfer, on or after the start time, of an exploration authority if—
- (a) the transfer is made under an agreement for the transfer of the exploration authority, whether conditional or not; and
  - (b) the agreement for the transfer was entered into before the start time.
- ‘(2) Transfer duty is not imposed on the dutiable transaction.

**‘637 Particular exploration land-holdings not to be taken into account for working out landholder duty**

- ‘(1) This section applies if—
- (a) a relevant acquisition in a landholder is made on or after the start time; and
  - (b) there was, before the start time, an agreement to acquire the interest that is the subject of the relevant acquisition, whether the agreement is conditional or not; and
  - (c) the interest is, under section 163(2)(b), acquired after the start time.
- ‘(2) Exploration land-holdings must be excluded from the Queensland land-holdings of the landholder for the purposes of—
- (a) if the landholder is a private landholder—working out the dutiable value of the relevant acquisition under section 179; or

- 
- (b) if the landholder is a public landholder—working out the landholder duty imposed on the relevant acquisition under section 179A.

‘(3) In this section—

*exploration land-holdings*, of a landholder, means land-holdings mentioned in section 167 if the land is an exploration authority.

### ‘Subdivision 3      **Obligations of parties—transfer duty**

#### ‘638      **Transfer duty—transactions previously not dutiable**

- ‘(1) This section applies to a dutiable transaction for which liability for transfer duty arose during the retrospectivity period, if—
  - (a) but for this division, the transaction would not have been a dutiable transaction under chapter 2; and
  - (b) for assessing transfer duty on the dutiable transaction—
    - (i) section 30 does not apply to the transaction; or
    - (ii) if section 30 applies to the transaction—paragraph (a) applies to each of the dutiable transactions that are to be aggregated.
- ‘(2) The period within which the parties liable to pay transfer duty relating to the dutiable transaction must comply with section 19(3) is taken to be 30 days after the commencement day.
- ‘(3) For a standard self assessment of duty on the dutiable transaction—
  - (a) the date liability for duty for the transaction arises is, for section 455A(3), taken to be the commencement day; and
  - (b) the date by which a liable party to the instrument that effects or evidences the transaction must comply with

[s 6]

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section 471E(1) is taken to be 30 days after the commencement day.

**‘639 Transfer duty—dutiable transactions not assessed before commencement day**

- ‘(1) This section applies to a dutiable transaction for which liability for transfer duty arose during the retrospectivity period, if—
- (a) but for this division, the dutiable value of the transaction would have been required to be assessed without having regard to an exploration authority; and
  - (b) because of this division, the dutiable value of the transaction is required to be assessed having regard to dutiable property that is an exploration authority; and
  - (c) before the commencement day, an assessment of a party’s liability for transfer duty on the dutiable transaction has not been made, or taken to have been made, by the commissioner.

*Note—*

A reference in this subsection to a dutiable transaction includes a reference to a dutiable transaction that should have been assessed under section 30 together with 1 or more other dutiable transactions that, but for this division, would not have been dutiable transactions.

- ‘(2) Section 638(2) and (3) applies in relation to the dutiable transaction.
- ‘(3) However, to the extent unpaid primary tax relating to the dutiable transaction is attributable to dutiable property other than an exploration authority, section 638(2) and (3) does not affect—
- (a) the start date for unpaid tax interest on the unpaid primary tax under the Administration Act, section 54; or
  - (b) a party’s liability for penalty tax.



---

**‘640 Transfer duty—dutiable transactions assessed before commencement day**

- ‘(1) This section applies to a dutiable transaction for which liability for transfer duty arose during the retrospectivity period, if—
- (a) but for this division, the dutiable value of the transaction would have been required to be assessed without having regard to an exploration authority; and
  - (b) because of this division, the dutiable value of the transaction is required to be assessed having regard to dutiable property that is an exploration authority; and
  - (c) before the commencement day, an assessment has been made, or taken to have been made, of a party’s liability for transfer duty on the dutiable transaction.

*Note—*

A reference in this subsection to a dutiable transaction includes a reference to a dutiable transaction that should have been assessed under section 30 together with 1 or more other dutiable transactions that, but for this division, would not have been dutiable transactions.

- ‘(2) Transfer duty for the dutiable transaction must be reassessed.
- ‘(3) Within 30 days after the commencement day, a party liable for transfer duty on the dutiable transaction must—
- (a) give notice in the approved form to the commissioner that the reassessment is required; and
  - (b) lodge the instrument that effects or evidences the transaction or the transfer duty statement for the transaction.

*Note—*

Under the Administration Act, failure to give the commissioner notice about a matter under a tax law is an offence under section 120 of that Act. Also, under the Administration Act, the requirement under paragraph (b) is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

- ‘(4) If a party complies with subsection (3) for the dutiable transaction, the party is not liable for penalty tax under the Administration Act, section 58(2)(c) to the extent the

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difference between the transfer duty assessed on the original assessment, and on the reassessment, is attributable to dutiable property that is an exploration authority.

- ‘(5) Subsection (6) applies to unpaid tax interest that is payable on unpaid primary tax for the dutiable transaction, to the extent the tax is attributable to dutiable property that is an exploration authority.
- ‘(6) For the Administration Act, section 54(2) and (2A), the start date is—
  - (a) the due date for the reassessment under this section; or
  - (b) if the party has not complied with subsection (3)—the date that is the same number of days before the due date for the reassessment as the number of days in the periods of noncompliance with the subsection.

## **‘Subdivision 4      Obligations of parties—landholder duty and corporate trustee duty**

### **‘641      Landholder duty and corporate trustee duty—acquisitions not previously dutiable**

- ‘(1) This section applies to a relevant acquisition in a landholder or corporate trustee for which liability for duty arose during the retrospectivity period, if—
  - (a) but for this division, the acquisition would not have been a relevant acquisition in a landholder or corporate trustee under chapter 3; and
  - (b) for assessing landholder duty or corporate trustee duty on the relevant acquisition—
    - (i) section 180 or 223 does not apply to the acquisition; or
    - (ii) if section 180 or 223 applies to the acquisition—paragraph (a) applies to each of the acquisitions that are to be aggregated.

- 
- ‘(2) The period within which the acquirer must comply with section 177 or 217 is taken to be 30 days after the commencement day.

**‘642 Landholder duty and corporate trustee duty—relevant acquisitions not assessed before commencement day**

- ‘(1) This section applies to a relevant acquisition in a landholder or corporate trustee for which liability for duty arose during the retrospectivity period, if—
- (a) but for this division, the following would have been required to be assessed without having regard to an exploration authority—
    - (i) for a relevant acquisition in a public landholder—the amount of duty imposed on the relevant acquisition;
    - (ii) otherwise—the dutiable value of the relevant acquisition; and
  - (b) because of this division, the dutiable value of, or the amount of duty imposed on, the relevant acquisition is required to be assessed having regard to—
    - (i) for landholder duty—land-holdings that are an exploration authority; or
    - (ii) for corporate trustee duty—dutiable property, or an indirect interest in dutiable property, that is an exploration authority; and
  - (c) before the commencement day, an assessment of the acquirer’s liability for landholder duty or corporate trustee duty on the relevant acquisition has not been made by the commissioner.

*Note—*

A reference in this subsection to a relevant acquisition includes a reference to a relevant acquisition that should have been assessed under section 180 or 233 together with 1 or more other relevant acquisitions that, but for this division, would not have been relevant acquisitions.

- ‘(2) Section 641(2) applies in relation to the relevant acquisition.

[s 6]

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- ‘(3) However, to the extent unpaid primary tax relating the relevant acquisition is attributable to land-holdings or dutiable property other than an exploration authority, section 641(2) does not affect—
- (a) the start date for unpaid tax interest on the unpaid primary tax under the Administration Act, section 54; or
  - (b) the acquirer’s liability for penalty tax.

**‘643 Landholder duty and corporate trustee duty—relevant acquisition assessed before commencement day**

- ‘(1) This section applies to a relevant acquisition in a landholder or corporate trustee for which liability for duty arose during the retrospectivity period, if—
- (a) but for this division, the following would have been required to be assessed without having regard to an exploration authority—
    - (i) for a relevant acquisition in a public landholder—the amount of duty imposed on the relevant acquisition;
    - (ii) otherwise—the dutiable value of the relevant acquisition; and
  - (b) because of this division, the dutiable value of, or the amount of duty imposed on, the relevant acquisition is required to be assessed having regard to—
    - (i) for landholder duty—land-holdings that are an exploration authority; or
    - (ii) for corporate trustee duty—dutiable property, or an indirect interest in dutiable property, that is an exploration authority; and
  - (c) before the commencement day, an assessment of the acquirer’s liability for landholder duty or corporate trustee duty on the relevant acquisition has been made by the commissioner.

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*Note—*

A reference in this subsection to a relevant acquisition includes a reference to a relevant acquisition that should have been assessed under section 180 or 233 together with 1 or more other relevant acquisitions that, but for this division, would not have been relevant acquisitions.

- ‘(2) Landholder duty or corporate trustee duty for the relevant acquisition must be reassessed.
- ‘(3) Within 30 days after the commencement day, the acquirer must—
  - (a) give notice in the approved form to the commissioner that the reassessment is required; and
  - (b) lodge the landholder duty statement or corporate trustee duty statement for the relevant acquisition.

*Note—*

Under the Administration Act, failure to give the commissioner notice about a matter under a tax law is an offence under section 120 of that Act. Also, under the Administration Act, the requirement under paragraph (b) is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

- ‘(4) If the acquirer complies with subsection (3), the acquirer is not liable for penalty tax under the Administration Act, section 58(2)(c) to the extent the difference between the duty assessed on the original assessment, and on the reassessment, is attributable to a land-holding or dutiable property that is an exploration authority.
- ‘(5) Subsection (6) applies to unpaid tax interest that is payable on unpaid primary tax for the relevant acquisition, to the extent the tax is attributable to a land-holding or dutiable property that is an exploration authority.
- ‘(6) For the Administration Act, section 54(2) and (2A), the start date is—
  - (a) the due date for the reassessment under this section; or
  - (b) if the acquirer has not complied with subsection (3)—the date that is the same number of days before the due date for the reassessment as the number of days in the periods of noncompliance with the subsection.

[s 6]

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## **‘Subdivision 5      Obligations of other parties**

### **‘644      Obligation for self assessor**

- ‘(1) This section applies to a self assessor registered under chapter 12, part 3 if—
- (a) during the retrospectivity period, the self assessor lodged a transaction statement under section 455 or 455A; and
  - (b) the transaction statement relates to a dutiable transaction or relevant acquisition to which subdivision 3 or 4 applies.
- ‘(2) The self assessor must, within 30 days after the commencement day, give notice to the commissioner that the transaction statement was lodged.

*Note—*

Under the Administration Act, failure to give the commissioner notice about a matter under a tax law is an offence under section 120 of that Act.

- ‘(3) Section 488 applies to a failure by a self assessor to comply with subsection (2).

### **‘645      Obligation for other persons in relation to registration of particular instruments**

- ‘(1) This section applies if, during the retrospectivity period—
- (a) a person—
    - (i) recorded an instrument or transaction in a register of interests in property; and
    - (ii) the instrument, or the instrument that effects or evidences the transaction, relates to a transaction or acquisition to which subdivision 3 or 4 applies; or
  - (b) the trustee or responsible entity of a unit trust—

- 
- (i) recorded in the trust's records an instrument that effects or evidences a trust acquisition or trust surrender of units in a unit trust; and
  - (ii) section 638, 639 or 640 applies to the trust acquisition or trust surrender; or
- (c) a person—
- (i) entered in the records of a corporation or society an instrument that effects or evidences a relevant acquisition; and
  - (ii) section 641, 642 or 643 applies to the relevant acquisition.
- ‘(2) The person, trustee or responsible entity must, within 30 days after the commencement day, give notice to the commissioner that the record or entry was made.

*Note—*

Under the Administration Act, failure to give the commissioner notice about a matter under a tax law is an offence under section 120 of that Act.

## **‘Subdivision 6      Miscellaneous provisions**

### **‘646      Offences during retrospectivity period**

- ‘(1) A person can not be prosecuted under this Act or the Administration Act for an act or omission done or omitted to be done during the retrospectivity period if, when the act or omission occurred, it would not have constituted an offence but for this division.
- ‘(2) Subsection (1) does not limit the Criminal Code, section 11.

### **‘647      Properly stamped instruments not affected**

- ‘(1) This section applies to an instrument that was stamped during the retrospectivity period.

[s 7]

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- ‘(2) If, at the time the instrument was stamped, it was properly stamped under section 491 but for this division, the instrument is taken to have been properly stamped despite this division.

## **‘Division 4                    Transitional provisions for other matters**

### **‘648    Application of s 167**

‘Section 167, as amended by the amending Act, section 5 applies to a relevant acquisition made on or after the commencement day.

### **‘649    Application of amended sch 3**

‘Schedule 3 as in force on the commencement day applies to dutiable transactions and relevant acquisitions if liability for transfer duty, landholder duty or corporate trustee duty arises on or after the commencement day.’.

## **7            Replacement of sch 3 (Rates of duty on dutiable transactions and relevant acquisitions for landholder and corporate trustee duty)**

Schedule 3—

*omit, insert—*



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**‘Schedule 3      Rates of duty on dutiable transactions and relevant acquisitions for landholder and corporate trustee duty**

sections 24(2), 91, 92, 93, 178A and 216

<b>Column 1</b>	<b>Column 2</b>
<b>Dutiable value of dutiable transaction or relevant acquisition</b>	<b>Rate of duty</b>
Not more than \$5000	Nil
More than \$5000 but not more than \$75000	\$1.50 for each \$100, or part of \$100, by which the dutiable value is more than \$5000
More than \$75000 but not more than \$540000	\$1050 plus \$3.50 for each \$100, or part of \$100, by which the dutiable value is more than \$75000
More than \$540000 but not more than \$1m	\$17325 plus \$4.50 for each \$100, or part of \$100, by which the dutiable value is more than \$540000
More than \$1m	\$38025 plus \$5.75 for each \$100, or part of \$100, by which the dutiable value is more than \$1m’.

**8      Amendment of sch 6 (Dictionary)**

- (1) Schedule 6, definitions *acquirer*, *amending Act* and *land*—  
*omit.*

[s 8]

---

(2) Schedule 6—

*insert—*

***‘acquirer—***

(a) for chapter 2, part 8, division 7, means a person who acquires an indirect interest in a land holding trust;

(b) for chapter 17, part 17, see section 630.

***amending Act—***

(a) for chapter 17, part 6, see section 568; or

(b) for chapter 17, part 17, see section 630.

***commencement day—***

(a) for chapter 17, part 2, see section 510; or

(b) for chapter 17, part 17, see section 630.

***exploration authority*** means a following authority—

(a) an authority to prospect under the *Petroleum Act 1923* or *Petroleum and Gas (Production and Safety) Act 2004*;

(b) an exploration permit or prospecting permit under the *Mineral Resources Act 1989*;

(c) a geothermal exploration permit under the *Geothermal Energy Act 2010*;

(d) a GHG exploration permit under the *Greenhouse Gas Storage Act 2009*.

***land—***

(a) includes—

(i) airspace above land and the coastal waters of the State; and

(ii) a resource authority; but

(b) does not include an exploration permit under the *Petroleum (Submerged Lands) Act 1982*.

***resource authority*** means any of the following—

- 
- (a) a geothermal tenure under the *Geothermal Energy Act 2010*;
  - (b) a GHG authority under the *Greenhouse Gas Storage Act 2009*;
  - (c) a mining tenement under the *Mineral Resources Act 1989*;
  - (d) the following petroleum authorities under the *Petroleum and Gas (Production and Safety) Act 2004*—
    - (i) an authority to prospect;
    - (ii) a petroleum lease;
    - (iii) a data acquisition authority;
    - (iv) a water monitoring authority;
    - (v) a pipeline licence;
    - (vi) a petroleum facility licence;
  - (e) an authority to prospect or lease under the *Petroleum Act 1923*;
  - (f) a sublease under the following—
    - (i) a geothermal coordination arrangement under the *Geothermal Energy Act 2010*;
    - (ii) a GHG coordination arrangement under the *Greenhouse Gas Storage Act 2009*;
    - (iii) a coordination arrangement under the *Petroleum and Gas (Production and Safety) Act 2004*.

**retrospectivity period**, for chapter 17, part 17, see section 630.

**start time**, for chapter 17, part 17, see section 630.’.

- (3) Schedule 6, definition *statutory licence*, paragraphs (b) and (c)—  
*omit*.
- (4) Schedule 6, definition *statutory licence*, paragraph (d)—  
*renumber* as paragraph (b).

[s 9]

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## **Part 3                      Amendment of First Home Owner Grant Act 2000**

### **Division 1                Preliminary**

#### **9            Act amended**

This part amends the *First Home Owner Grant Act 2000*.

### **Division 2                Amendments taken to have commenced on 12 September 2012**

#### **10          Amendment of s 6 (Meaning of *home*)**

(1) Section 6, heading, after ‘home’—

*insert—*

**‘and *new home*’.**

(2) Section 6—

*insert—*

‘(2) A ***new home*** is a home that—

- (a) has not been previously occupied or sold as a place of residence; or
- (b) is a substantially renovated home.

‘(3) For subsection (2)(b), a home is a substantially renovated home if—

- (a) the home is the subject of a contract for the purchase of the home; and
- (b) the sale of the home under the contract is, under the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), a taxable supply as a sale of new residential premises as defined under section 40-75(1)(b) of that Act; and

- 
- (c) the home, as renovated, has not been previously occupied or sold as a place of residence.’.

**11 Amendment of s 20 (Amount of grant)**

- (1) Section 20(b)—

*omit, insert—*

‘(b) either—

- (i) for a new home eligible transaction—\$15000; or  
(ii) for another eligible transaction—\$7000.’.

- (2) Section 20—

*insert—*

- ‘(2) In this section—

*new home eligible transaction* means an eligible transaction that is—

- (a) a contract for the purchase of a new home; or  
(b) a comprehensive home building contract to build a new home; or  
(c) the building of a new home by an owner builder.’.

**12 Omission of s 25A (Meaning of *new home* for div 5)**

Section 25A—

*omit.*

**13 Insertion of new pt 11**

After part 10—

*insert—*

## **‘Part 11**                                 **Transitional provisions for Fiscal Repair Amendment Act 2012**

### **‘79**     **Continuing operation of Act for eligible transactions with commencement date before 12 September 2012**

- ‘(1) This section applies in relation to an eligible transaction if the commencement date for the transaction is a date before 12 September 2012.
- ‘(2) This Act continues to apply in relation to the eligible transaction as if this Act had not been amended by the *Fiscal Repair Amendment Act 2012*, part 3, division 2.

### **‘80**     **Application of s 20(1)(b) to particular contracts**

- ‘(1) This section applies to an eligible transaction mentioned in section 5(1)(a) or (b) made on or after 12 September 2012 if the commissioner is satisfied the transaction forms part of a scheme to obtain an increased amount of a first home owner grant under section 20 as amended by the *Fiscal Repair Amendment Act 2012*.
- ‘(2) Unless satisfied to the contrary, the commissioner must presume the existence of a scheme mentioned in subsection (1) if the contract that is the eligible transaction replaces a contract to purchase, or a comprehensive home building contract to build, the same or substantially similar new home that was made before 12 September 2012.
- ‘(3) Despite section 20, the amount of a first home owner grant for the eligible transaction is the lesser of the following—
  - (a) the consideration for the transaction;
  - (b) \$7000.’.

## **14**     **Amendment of schedule (Dictionary)**

Schedule, definition *new home*—

---

*omit, insert—*

*‘new home* see section 6.’.

## **Division 3                      Amendments commencing on 11 October 2012**

### **15      Amendment of s 5 (Meaning of *eligible transaction*)**

(1) Section 5(1) to (3)—

*omit, insert—*

‘(1) An *eligible transaction* is—

- (a) a contract made on or after 1 July 2000 for the purchase of a new home in the State; or
- (b) a comprehensive home building contract made by the owner of land in the State, or a person who will on completion of the contract be the owner of land in the State, to have a new home built on the land, if the contract is made on or after 1 July 2000; or
- (c) the building of a new home in the State by an owner builder if the building work starts on or after 1 July 2000.

‘(2) Also, each of the following is an *eligible transaction*—

- (a) a contract made on or after 1 July 2000 but before 11 October 2012 for the purchase of a home, other than a new home, in the State;
- (b) a comprehensive home building contract made by the owner of land in the State, or a person who will on completion of the contract be the owner of land in the State, to have a home, other than a new home, built on the land, if the contract is made on or after 1 July 2000 but before 11 October 2012;
- (c) the building of a home, other than a new home, in the State by an owner builder if the building work starts on or after 1 July 2000 but before 11 October 2012.

[s 16]

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- ‘(3) For subsections (1)(a) and (2)(a), a contract is a contract for the purchase of a new home or other home if the contract is a contract for the acquisition of a relevant interest in land—
- (a) on which a new home or other home is built; or
  - (b) on which a new home or other home is to be built, before completion of the contract, by or for the vendor and at the expense of the vendor.’.
- (2) Section 5(5)(a), ‘a home’—  
*omit, insert—*  
‘a new home or other home’.
- (3) Section 5(7), after ‘(1)(a)’—  
*insert—*  
‘or (2)(a)’.
- (4) Section 5(8), after ‘(1)(b)’—  
*insert—*  
‘or (2)(b)’.
- (5) Section 5(9), after ‘(1)(c)’—  
*insert—*  
‘or (2)(c)’.
- (6) Section 5(7), (8) and (9), ‘home’—  
*omit, insert—*  
‘new home or other home’.

## 16 Amendment of s 20 (Amount of grant)

Section 20(2), definition *new home eligible transaction*—  
*omit, insert—*

‘***new home eligible transaction*** means an eligible transaction mentioned in section 5(1).’.



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**17 Amendment of s 22A (Repayment of grant after completion of particular transactions)**

(1) Section 22A(1)(b)(i), ‘home’—

*omit, insert—*

‘a new home or other home.’

(2) Section 22A(4)—

*omit, insert—*

‘(4) In this section—

***relevant transaction*** means—

(a) a contract mentioned in section 5(1)(b) or (2)(b) to have a new home or other home built on land; or

(b) a transaction mentioned in section 5(1)(c) or (2)(c); or

(c) a contract mentioned in section 5(3)(b).’

**18 Insertion of new s 81**

Part 11, as inserted by section 13 of this Act—

*insert—*

**‘81 Continuing operation of Act for particular eligible transactions with commencement date earlier than 11 October 2012**

‘(1) This section applies in relation to an eligible transaction if the commencement date for the transaction is on or after 12 September 2012 but before 11 October 2012.

‘(2) This Act as in force on 12 September 2012 continues to apply in relation to the eligible transaction as if this Act had not been amended by the *Fiscal Repair Amendment Act 2012*, part 3, division 3.’

[s 19]

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## **Part 4**                      **Amendment of Gaming Machine Act 1991**

### **Division 1**                **Preliminary**

#### **19**      **Act amended**

This part amends the *Gaming Machine Act 1991*.

### **Division 2**                **Amendments commencing on assent**

#### **20**      **Amendment of pt 5, hdg (Licensing of repairers, service contractors, gaming nominees, gaming employees and key monitoring employees)**

Part 5, heading, ‘, gaming employees’—  
*omit.*

#### **21**      **Replacement of s 189 (Licensing requirements for carrying out gaming duties on licensed premises)**

Section 189—  
*omit, insert—*

#### **‘189**      **Requirements for carrying out gaming duties on licensed premises**

- ‘(1) A person must not carry out gaming duties on licensed premises unless the person is—
- (a) a gaming employee; or
  - (b) an eligible licensee for the premises.

Maximum penalty—200 penalty units.

*Note—*

See also section 189A(1).

- ‘(2) A licensee who is not an eligible licensee must ensure that, when the licensee’s licensed premises are open for the conduct of gaming, at least 1 person employed by the licensee for carrying out gaming duties for the premises who holds a current responsible service of gambling course certificate is present on the premises or is readily available for carrying out the duties for the premises.

Maximum penalty—200 penalty units.

- ‘(3) An eligible licensee must ensure that, when the licensee’s licensed premises are open for the conduct of gaming, the licensee, or at least 1 person employed by the licensee for carrying out gaming duties for the premises who holds a current responsible service of gambling course certificate, is present on the premises or is readily available for carrying out gaming duties for the premises.

Maximum penalty—200 penalty units.

- ‘(4) For subsection (2), a nominee of a licensee in the licensee’s employ is taken to be a person in the licensee’s employ for carrying out gaming duties for the premises for which the person is the licensee’s nominee.

- ‘(5) In this section—

*eligible licensee*, for licensed premises, means the licensee for the premises if the licensee—

- (a) is an individual; and
- (b) is ordinarily present on the premises when the premises are open for the conduct of gaming.’.

**22 Amendment of s 189A (Requirement to hold current responsible service of gambling course certificate)**

- (1) Section 189A(3), ‘Without limiting section 189(2), a’—  
*omit, insert—*

‘A’.

- (2) Section 189A(6), definition *eligible licensee*, ‘189(15)’—

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*omit, insert—*

‘189(5)’.

- (3) Section 189A(6), definition *responsible service of gambling course certificate*—

*omit.*

**23 Amendment of s 191 (Certain persons must apply for gaming employee’s licence)**

- (1) Section 191, heading—

*omit, insert—*

**‘191 Certain persons must complete approved responsible service of gambling course’.**

- (2) Section 191(1)—

*omit, insert—*

- ‘(1) This section applies if the chief executive considers a person connected with, or who is an employee of, a licensee—

(a) has the power to exercise a significant influence over the conduct of gaming by the licensee; or

(b) because of—

(i) the person’s remuneration or policymaking position; or

(ii) any other criteria prescribed under a regulation;

exercises or is able to exercise authority of such a nature or to such an extent in respect of the conduct of gaming by the licensee as to make it desirable in the public interest that that person hold a current responsible service of gambling course certificate.

- ‘(1A) The chief executive must, by written notice, require the person to complete an approved responsible service of gambling course, and obtain a current responsible service of gambling course certificate, within 3 months after the person receives the notice.’.

- 
- (3) Section 191(3) and (4), ‘subsection (1)’, first mention—  
*omit, insert—*  
‘subsection (1A)’.
- (4) Section 191(3) and (4), ‘7 days’—  
*omit, insert—*  
‘3 months’.
- (5) Section 191(5)—  
*omit, insert—*
- ‘(5) Despite any other Act or law or any industrial award or agreement, the licensee must, immediately after a notice under subsection (4) is served, ensure that the person does not continue to be connected or employed as referred to in subsection (1).  
Maximum penalty—200 penalty units.’.
- (6) Section 191(6)—  
*omit.*
- (7) Section 191(7)—  
*renumber* as section 191(6).

## **24 Amendment of s 193 (Meaning of *nominee*)**

- (1) Section 193(2)(a)—  
*omit, insert—*  
‘(a) the person is employed by the licensee and holds a current responsible service of gambling course certificate; and’.
- (2) Section 193(3)(a)—  
*omit, insert—*  
‘(a) is employed by the licensee and holds a current responsible service of gambling course certificate; and’.

[s 25]

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**25 Omission of ss 196 and 197**

Sections 196 and 197—

*omit.*

**26 Amendment of s 198 (Applications for licences under this part)**

(1) Section 198(1), ‘, gaming employees’—

*omit.*

(2) Section 198(2) and (4)(e), ‘, gaming employee’s’—

*omit.*

**27 Amendment of s 201 (Decision on application)**

Section 201(5)—

*omit.*

**28 Amendment of s 202 (Form of licence)**

Section 202(2)(b), ‘, gaming employee’s’—

*omit.*

**29 Amendment of s 207 (Renewal and continuance of licences)**

Section 207(2)(b), ‘, gaming employee’s’—

*omit.*

**30 Amendment of s 209 (Display of certain licences, identity cards and particulars)**

(1) Section 209(3), ‘If a gaming employee’—

*omit, insert—*

‘If a relevant gaming employee’.

- (2) Section 209(6), definition *formal identification card*, first mention—

*omit.*

- (3) Section 209(6)—

*insert—*

*‘formal identification card*, for a relevant gaming employee, means an identity card given to the employee under section 194(1).

*relevant gaming employee* means a gaming employee who is a nominee of a licensee.’.

### **31 Amendment of s 217 (Returns about employees and agreements)**

- (1) Section 217(4)(a) and (b)—

*omit, insert—*

‘(a) the name of each person employed by a licensee to carry out gaming duties for licensed premises of the licensee when the return is given; and’.

- (2) Section 217(4)(c) to (e)—

*renumber* as section 217(4)(b) to (d).

- (3) Section 217(10)—

*omit, insert—*

- ‘(10) A licensee must immediately end the employment of a person employed by the licensee if the person is employed on the basis the person is a licensed gaming nominee and the licensee becomes aware the person is not a licensed gaming nominee.

Maximum penalty—200 penalty units.’.

- (4) Section 217(11)(b) and (c)—

*omit, insert—*

[s 32]

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‘(b) the licensee designated the person as the licensee’s nominee for the premises on the basis the person holds a current responsible service of gambling course certificate and the licensee becomes aware the person does not hold a current responsible service of gambling course certificate.’

**32 Amendment of s 223 (Destruction of fingerprints)**

Section 223(1)(a), ‘, licensed gaming employee’—  
*omit.*

**33 Amendment of s 224 (Provisional licences)**

Section 224(4)(a) and (7), ‘, gaming employee’s licence’—  
*omit.*

**34 Amendment of s 366 (Regulation-making power)**

Section 366(2)(a), ‘, gaming employee’s’—  
*omit.*

**35 Insertion of new pt 12, div 16**

Part 12—  
*insert—*

**‘Division 16 Transitional provisions for Fiscal  
Repair Amendment Act 2012**

**‘460 Definitions for div 16**

‘In this division—  
*commencement* means the commencement of the provision in which the term is used.



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*gaming employee's licence* means a gaming employee's licence under this Act immediately before the commencement.

*licensed gaming employee* means the holder of a gaming employee's licence in force under this Act immediately before the commencement.

**'461 Application for gaming nominee's licence before commencement**

- '(1) This section applies to an application for a gaming nominee's licence made under repealed section 196, and not decided, before the commencement.
- '(2) The application must be decided under this Act as in force immediately before the commencement.

**'462 Continuation of gaming employee's licence expiring before commencement**

- '(1) This section applies to a person who is the holder of a gaming employee's licence that expired—
  - (a) on or after 11 September 2012; and
  - (b) before the commencement.
- '(2) The person is taken to be a licensed gaming employee from the date the licence expired until the commencement.

**'463 Protection from liability**

- '(1) This section applies if—
  - (a) before the commencement—
    - (i) an application for a gaming employee's licence is made under repealed section 197 or section 198; or
    - (ii) an application for renewal of a gaming employee's licence is made under section 207; and

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- (b) the application is not decided by the chief executive before commencement.
- ‘(2) The State, a departmental officer or a commissioner does not incur civil liability for acting or failing to act in relation to the application.
- ‘(3) If a civil proceeding relating to the application was started before the commencement against the State, a departmental officer or a commissioner, the proceeding is stayed and the court dealing with the proceeding must dismiss it.’

### **36 Amendment of sch 1 (Reviewable decisions)**

Schedule 1, part 2, first column, ‘196, 197, 201(1)’—  
*omit, insert—*  
‘201(1)’.

### **37 Amendment of sch 2 (Dictionary)**

- (1) Schedule 2, definitions *gaming employee, interested person, licensed gaming employee, licensed person—*  
*omit.*
- (2) Schedule 2—  
*insert—*  
**‘gaming employee** means—
  - (a) a person employed by a licensee to carry out gaming duties; or
  - (b) a nominee of a licensee.**interested person**, of a holder of a licence under part 5, means—
  - (a) if the holder is a licensed key monitoring employee or a licensed service contractor—a licensed monitoring operator; or

- (b) if the holder is a licensed repairer—a licensed monitoring operator, a licensed service contractor or another licensed repairer.

*licensed person* means—

- (a) a licensed repairer; or  
(b) a licensed service contractor; or  
(c) a licensed gaming nominee; or  
(d) a licensed key monitoring employee.

*responsible service of gambling course certificate* means a certificate in the approved form—

- (a) given to a person, for satisfactorily completing the approved responsible service of gambling course, by a person who holds an approval under part 10A as a trainer for the course; and  
(b) stating the certificate remains in force for 3 years after it is given to the person.’.

## **Division 3                      Amendments commencing 1 July 2013**

### **38            Replacement of ss 15–28**

Sections 15 to 28—

*omit, insert—*

## **‘Division 1                      Commissioner for Liquor and Gaming**

### **‘15            Establishment of commissioner**

- ‘(1) There is to be a Commissioner for Liquor and Gaming (the *commissioner*).
- ‘(2) The chief executive must appoint a senior executive of the department to be the commissioner.

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- ‘(3) A person may hold appointment as the commissioner and hold an office as a senior executive of the department under the *Public Service Act 2008*.

#### **‘16 Functions of commissioner**

‘The commissioner has the functions given to the commissioner—

- (a) under this or another Act; and
- (b) by the Minister.

#### **‘17 Powers of commissioner**

- ‘(1) The commissioner has the powers given to the commissioner under this or another Act.
- ‘(2) The commissioner may do all things necessary or convenient to be done in performing the commissioner’s functions or exercising the commissioner’s powers.
- ‘(3) The commissioner may on the commissioner’s own initiative, and must if asked by the Minister, provide the Minister with advice on—
- (a) the operation of this Act or any other gaming Act that assigns functions to the commissioner; or
  - (b) issues related to gambling (including the identification of issues requiring further research) under this Act or another Act that assigns functions to the commissioner.

#### **‘18 Commissioner may make guidelines**

- ‘(1) The commissioner may make guidelines.
- ‘(2) Without limiting subsection (1), a guideline may give guidance about—
- (a) the attitude the commissioner is likely to adopt on a particular matter; or
  - (b) how the commissioner administers this Act.

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*Examples for subsection (2)—*

- 1 The commissioner might make a guideline stating how the commissioner decides applications for a decrease under section 86 for category 1 licensed premises.
  - 2 The commissioner might make a guideline about dealing with operating authorities under this Act.
- ‘(3) A guideline may be replaced or varied by a later guideline made under this section.
- ‘(4) The commissioner must keep copies of a guideline made under this section available for inspection by persons and permit a person to obtain a copy of a guideline, or an extract from a guideline, free of charge.
- ‘(5) For subsection (4)—
- (a) copies of the guideline—
    - (i) must be kept at the head office and any regional office of the department; and
    - (ii) may be kept at any other place the commissioner considers appropriate; and
  - (b) the copies kept under paragraph (a) must be available for inspection during office hours on business days for the office or place.

**‘19 Commissioner may make standards**

- ‘(1) The commissioner may make standards about matters of a technical nature that—
- (a) relate to a licensee’s gaming operations; and
  - (b) help the licensee conduct the gaming operations in compliance with this Act.
- ‘(2) A standard is a statutory instrument within the meaning of the *Statutory Instruments Act 1992*.

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## **‘20 Notice and availability of standard**

- ‘(1) The commissioner must, as soon as practicable after making a standard under section 19(1), give each licensee written notice of the making of the standard.
- ‘(2) The notice must include the standard or a brief description of the standard.
- ‘(3) If a standard concerns all licensees or a class of licensees, the notice may be included as a part of another publication of the commissioner given to the licensees or members of the class of licensees.
- ‘(4) The notice may be given in electronic form.
- ‘(5) The commissioner must keep a copy of each standard, as in force from time to time, available for inspection free of charge by members of the public at—
  - (a) the department’s head office; and
  - (b) other places the commissioner considers appropriate.
- ‘(6) Also, the commissioner must publish each standard, as in force from time to time, on the department’s website.

*Editor’s note—*

The department’s website is at <[www.justice.qld.gov.au](http://www.justice.qld.gov.au)>.

## **‘Division 2 Review and appeals’.**

### **39 Replacement of s 29 (Who may apply for a review by tribunal)**

Section 29—

*omit, insert—*

### **‘29 Who may apply for a review by tribunal**

- ‘(1) A person who is or was an applicant for, or a holder of, a licence under this Act and is aggrieved by a decision or determination of the commissioner stated in schedule 1, part 1

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may apply, as provided under the QCAT Act, to the tribunal for a review of the decision or determination.

- ‘(2) A person may apply, as provided under the QCAT Act, to the tribunal for a review of a decision of a licensee stated in schedule 1, part 2.
- ‘(3) A person who may be adversely affected by an approval under section 54(7) and to whom a notice has been given under section 54(8) may apply, as provided under the QCAT Act, to the tribunal for a review of the decision or determination.
- ‘(4) A person who seeks the commissioner’s approval for section 231 or 287 may apply, as provided under the QCAT Act, to the tribunal for a review of a decision of the commissioner refusing to give the approval.
- ‘(5) A person who submits a gaming machine type or game to the commissioner under section 281 for evaluation may apply, as provided under the QCAT Act, to the tribunal for a review of a decision of the commissioner rejecting the gaming machine type or game.
- ‘(6) The owner of an article, record or other thing seized by an inspector may apply, as provided under the QCAT Act, to the tribunal for a review of a decision of an inspector under section 331 resulting in the thing being forfeited.
- ‘(7) Each of the following persons may apply, as provided under the QCAT Act, to the tribunal for a review of the decision stated for the person—
  - (a) a person whose application for an approval under part 10A is not granted under section 337D(1);
  - (b) a person whose application for renewal of an approval under part 10A is not granted under section 337H(1);
  - (c) a person whose approval under part 10A is cancelled under section 337N(3).’.

**40 Amendment of s 30 (Effect of reconsidering a decision after application to QCAT)**

Section 30(1), ‘chief executive, commission’—

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*omit, insert—*  
'commissioner'.

**41 Amendment of s 31 (Tribunal to decide review on evidence before the chief executive or commission)**

Section 31, 'chief executive or commission'—  
*omit, insert—*  
'commissioner'.

**42 Amendment of s 32 (Tribunal may give leave for review to be decided on new evidence in particular circumstances)**

Section 32(1), 'chief executive or commission'—  
*omit, insert—*  
'commissioner'.

**43 Insertion of new pt 2, div 3, hdg**

Part 2, after section 33—  
*insert—*

**'Division 3                    Miscellaneous'.**

**44 Replacement of s 50 (Delegations)**

Section 50—  
*omit, insert—*

**'50 Delegations**

- '(1) The Minister may delegate the Minister's designated powers to—
- (a) the commissioner; or
  - (b) an appropriately qualified inspector or an appropriately qualified public service employee.



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- ‘(2) The Minister may delegate to the commissioner the Minister’s power under section 322(6) to cause amounts to be paid out of the gambling community benefit fund for the benefit of the community.
- ‘(3) The commissioner may delegate the commissioner’s designated powers to—
- (a) an appropriately qualified public service employee; or
  - (b) an appropriately qualified inspector.
- ‘(4) A delegation of a power under subsection (3) may permit the subdelegation of the power to an appropriately qualified public service employee.
- ‘(5) In this section—
- appropriately qualified*** includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

a person’s classification level in the public service

***designated powers—***

- (a) of the Minister, means—
  - (i) the powers of the Minister under sections 135 and 211; or
  - (ii) the power of the Minister to give a direction for section 151(3)(b); and
- (b) of the commissioner, means the powers of the commissioner under this Act, other than sections 97(12) and (13), 98, 147 and 336.’.

#### **45 Amendment of s 53 (Criminal history reports)**

- (1) Section 53(2)—
- omit, insert—*
- ‘(2) If the commissioner asks the police commissioner for a written report on the person’s criminal history, the police commissioner must give the report to the commissioner.’.

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- (2) Section 53(3)(a), before ‘commissioner’s’—  
*insert*—  
‘police’.
- (3) Section 53(3)(b) and (c), before ‘commissioner’—  
*insert*—  
‘police’.

**46 Amendment of s 53A (Commissioner of police service to notify changes in criminal history)**

- (1) Section 53A, heading, ‘Commissioner of police service’—  
*omit, insert*—  
‘**Police commissioner**’.
- (2) Section 53A(1)(a), (2) and (4), ‘commissioner of the police service’—  
*omit, insert*—  
‘police commissioner’.
- (3) Section 53A(1)(b), before ‘commissioner’—  
*insert*—  
‘police’.

**47 Amendment of s 54 (Confidentiality of information)**

- (1) Section 54(1), ‘a commissioner’—  
*omit, insert*—  
‘the commissioner’.
- (2) Section 54(1), ‘or commission’—  
*omit*.

**48 Omission of ss 54A–54C**

Sections 54A to 54C—

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*omit.*

**49 Amendment of s 55 (Gaming lawful and does not constitute nuisance)**

- (1) Section 55(1)(a), from ‘the commission may’ to ‘relevant,’—

*omit, insert—*

‘the commissioner may, having regard to the information or material the commissioner considers relevant.’

- (2) Section 55(2), ‘other information or material the commission’—

*omit, insert—*

‘information or material the commissioner’.

- (3) Section 55(2)(b)—

*omit, insert—*

‘(b) relevant guidelines made by the commissioner under section 18.’.

**50 Amendment of s 55B (Community impact statement and statement of responsible gambling initiatives required for application of significant community impact)**

Section 55B(4), ‘issued by the commission’—

*omit, insert—*

‘made by the commissioner under section 18’.

**51 Amendment of s 55C (Advertisement of application of significant community impact)**

Section 55C(3), ‘and the liquor licensing authority’—

*omit.*

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**52 Amendment of s 55D (Community comments)**

Section 55D(2), ‘the commission’s guidelines’—

*omit, insert—*

‘the commissioner’s guidelines mentioned in section 55B(4)’.

**53 Amendment of s 56 (Application for gaming machine licences)**

Section 56(6), ‘relevant chief executive’—

*omit, insert—*

‘commissioner under the *Liquor Act 1992*’.

**54 Amendment of s 56A (Application for gaming machine licence for replacement category 1 licensed premises)**

Section 56A(3), definition *local community area*, first mention, from ‘issued by’—

*omit, insert—*

‘made by the commissioner under section 18.’.

**55 Amendment of s 56B (Application for gaming machine licence for replacement category 2 licensed premises)**

Section 56B(4), definition *local community area*, from ‘issued by’—

*omit, insert—*

‘made by the commissioner under section 18.’.

**56 Replacement of ss 57–58**

Sections 57 and 58—

*omit, insert—*

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**‘57 Consideration of application for gaming machine licence**

- ‘(1) The commissioner must consider an application for a gaming machine licence received by the commissioner before granting, or refusing to grant, a gaming machine licence.
- ‘(2) In considering the application, the commissioner—
- (a) must conduct investigations the commissioner considers are necessary and reasonable to help the commissioner consider the application; and
  - (b) may, by written notice given to the applicant or an associate of the applicant, require the applicant or associate, within a reasonable time stated in the notice, to give the commissioner further information or a document that is necessary and reasonable to help the commissioner consider the application.
- ‘(3) Also, in considering the application, the commissioner must assess—
- (a) the suitability of the premises to which the application relates (the *subject premises*) for the installation and use of gaming machines, having regard to the size and layout of, and facilities on, the premises; and
  - (b) if the applicant is an individual—the financial stability, general reputation and character of the applicant; and
  - (c) if the applicant is a body corporate—
    - (i) the financial stability and business reputation of the body corporate; and
    - (ii) the general reputation and character of the secretary and each executive officer of the body corporate; and
  - (d) the suitability of the applicant to be a licensee; and
  - (e) if a person is stated in an affidavit under section 92 as being a person who satisfies a description mentioned in section 92(4)(a) or (b)—the suitability of the person to be an associate of the applicant; and

[s 56]

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- (f) if the commissioner considers it appropriate—the suitability of any other associate of the applicant to be an associate of the applicant; and
  - (g) for an application mentioned in section 56A—whether the commissioner is satisfied there are exceptional circumstances for transferring the operating authorities mentioned in section 56A(1)(b)(iii) to the premises to which the application relates; and
  - (h) for an application mentioned in section 56B(1)—whether the commissioner is satisfied there are exceptional circumstances for transferring the entitlements mentioned in section 56B(1)(b)(iii) to the premises to which the application relates; and
  - (i) for an application mentioned in section 56B(2)—whether the commissioner is satisfied there are exceptional circumstances for transferring the entitlements mentioned in section 56B(2)(b)(iv) to the new premises mentioned in that subparagraph.
- ‘(4) For an application by an individual, the commissioner may, with the applicant’s agreement, cause the applicant’s fingerprints to be taken.
- ‘(5) Despite subsection (1), if the applicant is an individual, the commissioner is required to consider the application only if the applicant, if asked, agrees to having the applicant’s fingerprints taken.
- ‘(6) If the commissioner considers a proposed location for the installation of gaming machines (as shown on the plan of the subject premises accompanying the application, or that plan as amended and resubmitted, or as last amended and resubmitted, under this subsection) is unsuitable, the commissioner must—
- (a) by written notice, advise the applicant accordingly; and
  - (b) return the plan to the applicant; and
  - (c) ask the applicant to amend, or further amend, and resubmit the plan within the time stated in the notice.

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**‘58 Decision on application for gaming machine licence**

- ‘(1) The commissioner may decide to grant, or refuse to grant, a gaming machine licence.
- ‘(2) In making the decision, the commissioner must have regard to—
- (a) any supporting material for the application; and
  - (b) any relevant community comments on the application; and
  - (c) any representations made on the application in response to an invitation under section 55F; and
  - (d) the matters the commissioner had regard to in considering the application under section 57.
- ‘(3) For an application mentioned in section 56A, the commissioner must not allow the transfer of a number of operating authorities that is more than the number of gaming machines the commissioner considers appropriate for the premises to which the application relates.
- ‘(4) The commissioner may refuse to grant a gaming machine licence if the applicant, or an associate of the applicant, without a reasonable excuse, fails to comply with a requirement of the commissioner under section 57(2)(b).
- ‘(5) The commissioner must refuse to grant a gaming machine licence if—
- (a) for an application by an individual—
    - (i) the applicant is not 18 years; or
    - (ii) the applicant’s fingerprints have not been taken under section 57(4) because of the applicant’s failure to agree to the action being taken; or
  - (b) for an application by a body corporate—the secretary or an executive officer of the body corporate is not 18 years; or

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- (c) the commissioner considers the installation and use of gaming machines on the subject premises is likely to affect adversely—
    - (i) the nature or character of the premises; or
    - (ii) the general use of the premises or the enjoyment of persons using the premises; or
    - (iii) the public interest; or
  - (d) the applicant fails to comply with a request of the commissioner under section 57(6)(c) without a reasonable excuse.
- ‘(6) For an application by a club, the commissioner must refuse to grant a gaming machine licence if the commissioner considers—
- (a) that the club, including a voluntary association of persons from which it was formed—
    - (i) has not been operating for at least 2 years before the application was made; or
    - (ii) has not, during the entire period, been pursuing its objects or purposes in good faith; or
  - (b) that payments for the rental or lease of the club’s licensed premises are unreasonable; or
  - (c) if a lease, agreement or arrangement made by the club provides that a person or voluntary association of persons is entitled to receive, or may receive, a payment, benefit or advantage during, or at the end of, the lease, agreement or arrangement—that the provision is unreasonable; or
  - (d) if the election of all or any of the members of the club’s management committee or board is or may be decided, or controlled or influenced in a significant way or to a significant degree, by persons who are not voting members of the club or by only some voting members of the club—that this is not in the best interests of the club or its members; or



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- (e) if the voting members of the club, taken as a group, do not, for any reason, have complete and sole control over the election of all members of the club's management committee or board—that this is not in the best interests of the club or its members; or
  - (f) if the voting members of the club do not have an equal right to elect persons, and to nominate or otherwise choose persons for election, to the club's management committee or board—that this is not in the best interests of the club or its members; or
  - (g) if the club does not own its licensed premises and an executive officer or employee of the club is also the club's lessor, or an associate of the club's lessor—that this is not in the best interests of the club or its members; or
  - (h) if an executive officer or employee of the club is a creditor, or an associate of a creditor, of the club—that this is not in the best interests of the club or its members; or
  - (i) if the club's management committee or board does not, for any reason, have complete and sole control over the club's business or operations, or a significant aspect of the club's business or operations—that this is not in the best interests of the club or its members; or
  - (j) that the club is being, or may be, used as a device for individual gain or commercial gain by a person other than the club; or
  - (k) that the grant of the licence would not be in the public interest.
- ‘(7) Despite subsection (6)(a), the commissioner may grant a gaming machine licence to a club if the commissioner considers the grant—
- (a) is reasonable because of the club's contractual commitments made in pursuing its objects or purposes; and

[s 56]

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- (b) is necessary to meet the reasonable gaming requirements of the club's members; and
  - (c) is in the public interest.
- '(8) For subsection (6)(j), a club is not taken to be used as a device for individual or commercial gain merely because it enters into an agreement or arrangement with a person for the supply of goods or services by the person to the club, if the agreement or arrangement—
  - (a) is entered into on reasonable terms; and
  - (b) is in the best interests of the club and its members.
- '(9) If the commissioner grants a gaming machine licence, the gaming machine areas for the premises to which the licence relates are the locations on the premises shown on—
  - (a) the plan of the premises that accompanied the application for the licence; or
  - (b) the plan mentioned in paragraph (a), as amended and resubmitted, or as last amended and resubmitted, under section 57(6).
- '(10) If, for an application by an individual, the commissioner refuses to grant a gaming machine licence, the commissioner must have any fingerprints of the applicant taken for the application destroyed as soon as practicable.
- '(11) If the commissioner grants a gaming machine licence, the commissioner must immediately give written notice of the decision to the applicant.
- '(12) If the commissioner decides to impose, under section 73(1)(b), a condition on the licence, the commissioner must immediately give the applicant an information notice for the decision.
- '(13) If the commissioner refuses to grant a gaming machine licence, the commissioner must immediately give the applicant an information notice for the decision.
- '(14) In this section—

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*election*, of a member of a club's management committee or board, includes a matter relating to the election of a member, including, for example, the nomination of a person for election as a member.'

**57 Amendment of s 60 (Basis on which number of gaming machines to be installed in premises and hours of gaming are to be decided)**

(1) Section 60(1)—

*omit, insert—*

'(1) This section deals with the basis on which the commissioner is to decide the number of gaming machines to be installed in, or the hours of gaming for, premises.

*Note—*

See section 59.'

(2) Section 60(2) and (3), 'chief executive and the commission'—

*omit, insert—*

'commissioner'.

(3) Section 60(2)(d)—

*omit, insert—*

'(d) any representations made on the application in response to an invitation under section 55F; and'.

(4) Section 60(3)(e), 'chief executive or the commission'—

*omit, insert—*

'commissioner'.

(5) Section 60(4) and (5), 'recommended or'—

*omit.*

**58 Replacement of ss 62–63**

Sections 62 and 63—

*omit, insert—*

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**‘62 Consideration of additional premises application**

- ‘(1) The commissioner must consider an additional premises application received by the commissioner before approving, or refusing to approve, the additional premises as premises to which the applicant’s gaming machine licence relates.
- ‘(2) In considering the application, the commissioner—
  - (a) must conduct investigations the commissioner considers are necessary and reasonable to help the commissioner consider the application; and
  - (b) may, by written notice given to the applicant or an associate of the applicant, require the applicant or associate, within a reasonable time stated in the notice, to give the commissioner further information or a document that is necessary and reasonable to help the commissioner consider the application.
- ‘(3) Also, in considering the application, the commissioner must assess—
  - (a) the suitability of the additional premises for the installation and use of gaming machines, having regard to the size and layout of, and facilities on, the premises; and
  - (b) the financial stability and business reputation of the applicant; and
  - (c) the general reputation and character of the secretary and each executive officer of the applicant; and
  - (d) if a person is stated in an affidavit under section 92 as being a person who satisfies a description mentioned in section 92(4)(a) or (b)—the suitability of the person to be an associate of the applicant; and
  - (e) if the commissioner considers it appropriate—the suitability of any other associate of the applicant to be an associate of the applicant.
- ‘(4) If the commissioner considers a proposed location for the installation of gaming machines (as shown on the plan of the additional premises accompanying the application, or that

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plan as amended and resubmitted, or as last amended and resubmitted, under this subsection) is unsuitable, the commissioner must—

- (a) by written notice, advise the applicant accordingly; and
- (b) return the plan to the applicant; and
- (c) ask the applicant to amend, or further amend, and resubmit, the plan within the time stated in the notice.

### **‘63 Decision on additional premises application**

‘(1) The commissioner may, in relation to an additional premises application, approve, or refuse to approve, the additional premises as premises to which the applicant’s gaming machine licence relates.

‘(2) In making the decision, the commissioner—

- (a) must have regard to—
  - (i) any supporting material for the application; and
  - (ii) any relevant community comments on the application; and
  - (iii) the matters the commissioner had regard to in considering the application under section 62; and
- (b) may have regard to—
  - (i) the benefits to be offered to members of the applicant at the additional premises and, in particular, whether the benefits are distinct in nature to the benefits offered to the members at the applicant’s existing licensed premises (the *existing premises*); and
  - (ii) any other matters the commissioner considers relevant.

‘(3) The commissioner may approve the additional premises only if—

- (a) the additional premises are near the existing premises; and

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- (b) the commissioner is satisfied that—
  - (i) it is in the best interests of the applicant’s members that the approval be given; and
  - (ii) the giving of the approval is not contrary to the public interest.
- ‘(4) The commissioner may refuse to approve the additional premises if the applicant, or an associate of the applicant, without a reasonable excuse, fails to comply with a requirement of the commissioner under section 62(2)(b).
- ‘(5) The commissioner must refuse to approve the additional premises if—
  - (a) the commissioner considers the installation and use of gaming machines on the additional premises is likely to affect adversely—
    - (i) the nature or character of the premises; or
    - (ii) the general use of the premises or the enjoyment of persons using the premises; or
    - (iii) the public interest; or
  - (b) the applicant fails to comply with a request of the commissioner under section 62(4)(c) without a reasonable excuse.
- ‘(6) If the commissioner approves the additional premises, the commissioner must immediately give written notice of the decision to the applicant.
- ‘(7) If the commissioner refuses to approve the additional premises, the commissioner must immediately give the applicant an information notice for the decision.’.

**59 Amendment of s 68 (Issue of gaming machine licences generally)**

Section 68(1)—

*omit, insert—*

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‘(1) If the commissioner grants a gaming machine licence, the commissioner must issue the licence.’.

**60 Amendment of s 71A (Replacement of gaming machine licence for particular changes)**

Section 71A(3), ‘85C(5) or (6)’—

*omit, insert—*

‘85C(4) or (5)’.

**61 Amendment of s 78 (Certain applications under Liquor Act 1992 subject to chief executive’s certificate)**

(1) Section 78(1), ‘liquor licensing authority may transfer the licence’—

*omit, insert—*

‘commissioner may transfer the licence under the *Liquor Act 1992*’.

(2) Section 78(3) and (4)—

*omit, insert—*

‘(3) Subsection (4) applies if—

(a) a person—

(i) makes a liquor licence transfer application relating to a community club licence, commercial hotel licence or prescribed liquor licence; and

(ii) applies at the same time for a gaming machine licence for the premises to which the application mentioned in paragraph (a) relates; and

(b) the commissioner is prepared to transfer the liquor licence under the *Liquor Act 1992*; and

(c) the commissioner is prepared to grant the gaming machine licence.

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- ‘(3A) The commissioner must transfer the liquor licence under the *Liquor Act 1992* and issue the gaming machine licence at the same time.
- ‘(4) Subsections (6) and (7) apply if—
- (a) under subsection (4), a gaming machine licence (a *new licence*) is to be issued at the same time as the transfer of a liquor licence; and
  - (b) an associated gaming licence for the liquor licence is cancelled under section 96(1) because of the transfer of the liquor licence.’.

(3) Section 78(6)(a) and (7), ‘subsection (5)’—  
*omit, insert—*  
‘subsection (6)’.

(4) Section 78(3A) to (7)—  
*renumber* as section 78(4) to (8).

**62 Amendment of s 78A (Liquor licence transfer application, and additional premises application, for premises)**

- (1) Section 78A(2), ‘liquor licensing authority may transfer the licence mentioned in subsection (1)’—  
*omit, insert—*  
‘commissioner may transfer the licence under the *Liquor Act 1992*’.
- (2) Section 78A(4)(b)—  
*omit, insert—*  
‘(b) the commissioner is prepared to transfer the liquor licence under the *Liquor Act 1992*; and’.
- (3) Section 78A(5)—  
*omit, insert—*



‘(5) The commissioner must transfer the liquor licence under the *Liquor Act 1992* and approve the premises under section 63 at the same time.’

(4) Section 78A(6)(a)—  
*omit, insert—*

‘(a) under subsection (5), an approval of the premises under section 63 is to be made at the same time as the transfer of a liquor licence; and’.

**63 Amendment of s 79 (Other applications under Liquor Act 1992)**

Section 79(1)(b)—  
*omit, insert—*

‘(b) the commissioner approves the application under the *Liquor Act 1992*; and’.

**64 Replacement of ss 82–84**

Sections 82 to 84—  
*omit, insert—*

**‘82 Consideration of increase application (gaming machines)**

‘(1) The commissioner must consider an increase application (gaming machines) received by the commissioner before approving, or refusing to approve, the application.

‘(2) In considering the increase application, the commissioner may, by written notice given to the applicant, require the applicant, within a reasonable time stated in the notice, to give the commissioner further information or a document that is necessary and reasonable to help the commissioner consider the application.

‘(3) Also, in considering the increase application, the commissioner—

(a) must have regard to—

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- (i) the increased number of gaming machines sought in the application; and
- (ii) any supporting material for the application; and
- (iii) any relevant community comments on the application; and
- (b) may have regard to—
  - (i) the liquor consumption on the premises to which the application relates; and
  - (ii) the monthly taxable metered win of gaming machines currently operated on the premises; and
  - (iii) the hours and days when the premises are open for the sale of liquor; and
  - (iv) the size and layout of, and facilities on, the premises, together with any proposed changes to, or relocation of, the gaming machine areas of the premises; and
  - (v) the nature or character of the premises; and
  - (vi) the general use of the premises or the enjoyment of persons using the premises; and
  - (vii) the public interest; and
  - (viii) any other matters the commissioner considers relevant.

**‘83 Decision on increase application (gaming machines)**

- ‘(1) The commissioner may, in relation to an increase application (gaming machines)—
- (a) approve, by a stated number, an increase in the approved number of gaming machines for the licensed premises of the licensee; or
  - (b) refuse to approve an increase in the approved number.

- 
- ‘(2) In making the decision, the commissioner must have regard to the matters the commissioner had regard to in considering the increase application under section 82.
  - ‘(3) The commissioner must refuse to approve an increase if—
    - (a) the application relates to category 2 licensed premises; and
    - (b) any of the endorsed number of entitlements for the licensed premises are, at the time the application is made, transferred under part 3B, division 3 for use on a temporary basis at other category 2 licensed premises.
  - ‘(4) The commissioner may refuse to approve an increase if the applicant, without a reasonable excuse, fails to comply with a requirement of the commissioner under section 82(2).
  - ‘(5) If the commissioner approves an increase that is equal to the increase sought in the application, the commissioner must immediately give written notice of the decision to the licensee.
  - ‘(6) If the commissioner refuses to approve an increase, or approves an increase that is less than the increase sought in the application, the commissioner must immediately give the licensee an information notice for the decision.
  - ‘(7) If the approved number of gaming machines for licensed premises has been fixed (or increased or decreased) within the last 12 months, the commissioner may only approve an increase in the approved number of gaming machines if there are exceptional reasons for the increase.’.

## **65 Replacement of ss 85B–85D**

Sections 85B to 85D—

*omit, insert—*

### **‘85B Consideration of increase application (hours of gaming)**

- ‘(1) The commissioner must consider an increase application (hours of gaming) received by the commissioner before approving, or refusing to approve, the application.

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- ‘(2) In considering the increase application, the commissioner may, by written notice given to the applicant, require the applicant, within a reasonable time stated in the notice, to give the commissioner further information or a document that is necessary and reasonable to help the commissioner consider the application.
- ‘(3) Also, in considering the increase application, the commissioner—
- (a) must have regard to—
    - (i) the increase in approved hours of gaming sought in the application; and
    - (ii) any supporting material for the application; and
    - (iii) any relevant community comments on the application; and
  - (b) may have regard to—
    - (i) the hours and days when the licensed premises are open for the sale of liquor; and
    - (ii) any other matters the commissioner considers relevant.

### **‘85C Decision on increase application (hours of gaming)**

- ‘(1) The commissioner may, in relation to an increase application (hours of gaming)—
- (a) approve the hours of gaming sought by the applicant; or
  - (b) approve an increase that differs from the increase sought by the applicant; or
  - (c) refuse to approve an increase to the hours of gaming for the licensed premises.
- ‘(2) In making the decision, the commissioner must have regard to the matters the commissioner had regard to in considering the increase application under section 85B.

- 
- ‘(3) The commissioner may refuse to approve an increase if the applicant, without a reasonable excuse, fails to comply with a requirement of the commissioner under section 85B(2).
  - ‘(4) If the commissioner approves an increase as sought by the licensee, the commissioner must immediately give written notice of the decision to the licensee.
  - ‘(5) If the commissioner refuses to approve an increase, or approves an increase that differs from the increase sought in the application, the commissioner must immediately give the licensee an information notice for the decision.’.

## **66 Replacement of ss 90B–90D**

Sections 90B to 90D—

*omit, insert—*

### **‘90B Consideration of decrease proposal (hours of gaming)**

- ‘(1) The commissioner must consider a decrease proposal (hours of gaming) received by the commissioner before approving, or refusing to approve, the proposal.
- ‘(2) If the decrease proposal is a request or a report, the commissioner must, in considering the decrease proposal—
  - (a) by written notice given to the licensee affected by the proposal, advise the licensee of the relevant details of the proposal; and
  - (b) by the notice, invite the licensee to make a written submission about the proposal within a reasonable time stated in the notice; and
  - (c) consider any written submission of the licensee received by the commissioner within the time stated in the notice.
- ‘(3) Also, in considering the decrease proposal, the commissioner—
  - (a) must have regard to the decrease sought or recommended in the proposal; and
  - (b) may have regard to the following matters—

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- (i) the public interest;
- (ii) whether or not there are any other licensed premises in close proximity to the licensed premises to which the decrease proposal relates (the *subject premises*);
- (iii) the interests of persons using the subject premises;
- (iv) if the licensee of the subject premises is a category 2 licensee—
  - (A) the interest of the members of the licensee; and
  - (B) whether or not the members have indicated support for a decrease in the approved hours of gaming for the premises.

#### **‘90C Decision on decrease proposal (hours of gaming)**

- ‘(1) The commissioner may, in relation to a decrease proposal (hours of gaming)—
  - (a) approve the proposal without modification; or
  - (b) modify the proposal and approve the proposal as modified by the commissioner; or
  - (c) refuse to approve the proposal.
- ‘(2) In making the decision, the commissioner must have regard to—
  - (a) any submission received under section 90B(2)(c); and
  - (b) the matters the commissioner had regard to in considering the decrease proposal under section 90B.
- ‘(3) If the decrease proposal is an application, the commissioner—
  - (a) must not refuse to approve a decrease if the refusal is likely to impose an unreasonable financial burden on the licensee; and
  - (b) may not approve a decrease that is greater than the decrease sought in the application.

- 
- ‘(4) If the decrease proposal is a request or report, the commissioner may not approve a decrease if the approval is likely to impose an unreasonable financial burden on the licensee.
- ‘(5) The commissioner must immediately give written notice of a decision of the commissioner under subsection (1) to the licensee if—
- (a) the decision relates to an application and is a decision approving the decrease as sought in the application; or
  - (b) the decision relates to a request or report and is a decision refusing to approve a decrease.
- ‘(6) The commissioner must immediately give the licensee an information notice for a decision of the commissioner under subsection (1) if—
- (a) the decision relates to an application and is a decision—
    - (i) refusing to approve a decrease; or
    - (ii) approving a decrease that differs from the decrease sought in the application; or
  - (b) the decision relates to a request or report and is a decision approving a decrease.’.

**67 Amendment of s 97 (Cancellation or suspension of gaming machine licences and letters of censure)**

- (1) Section 97(1)(b)(v), ‘commissioner or chief executive’—  
*omit, insert—*  
‘commissioner’.
- (2) Section 97(1)(b)(vi), ‘commission, the chief executive’—  
*omit, insert—*  
‘commissioner’.
- (3) Section 97(1)(c), ‘chief executive—’  
*omit, insert—*

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‘commissioner—’.

(4) Section 97(1)(c)(iv)—

*omit, insert—*

‘(iv) becomes aware of any information or matter that, had it been known when the application for the licence was being considered, the commissioner is of the opinion that the licence would have been refused; or’.

(5) Section 97(2) to (4), (6) to (8), (10) to (12), (14), (19), (21) and (24), definition *excluded interested person*, ‘chief executive’—

*omit, insert—*

‘commissioner’.

(6) Section 97(2)—

*insert—*

‘Note—

Under section 98 the commissioner may immediately suspend a licensee’s gaming machine licence.’.

(7) Section 97(12)(c)(ii)—

*omit, insert—*

‘(ii) either—

(A) cancel the gaming machine licence; or

(B) suspend the gaming machine licence for the period the commissioner considers appropriate.’.

(8) Section 97(13)—

*omit, insert—*

‘(13) If a direction given by the commissioner under subsection (12)(c)(i) is not complied with within the time specified in the notice, the commissioner may—

(a) cancel the gaming machine licence; or



- 
- (b) suspend the gaming machine licence for the period the commissioner considers appropriate.’.
- (9) Section 97(15) to (18)—  
*omit.*
- (10) Section 97(19), ‘commission’—  
*omit, insert—*  
‘commissioner’.
- (11) Section 97(20) and (21), ‘subsection (19)’—  
*omit, insert—*  
‘subsection (15)’.
- (12) Section 97(22)—  
*omit, insert—*
- ‘(22) If the commissioner suspends a gaming machine licence under subsection (12)(c)(ii) or (13), the commissioner may—
- (a) cancel the suspension in respect of the unexpired period of suspension; or
- (b) reduce the period of suspension.’.
- (13) Section 97(19) to (24)—  
*renumber* as section 97(15) to (20).

**68 Amendment of s 98 (Immediate suspension of gaming machine licence)**

- (1) Section 98(1), from ‘Where’ to ‘chief executive,’—  
*omit, insert—*  
‘If the commissioner’.
- (2) Section 98(1), ‘commission’—  
*omit, insert—*  
‘commissioner’.
- (3) Section 98(2)—

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*omit, insert—*

‘(2) If the commissioner suspends a gaming machine licence under subsection (1), the commissioner must immediately give the licensee an information notice for the decision to suspend the licence.’.

(4) Section 97(4) and (5)—

*omit, insert—*

‘(4) The suspension of a gaming machine licence under this section continues to have effect until the notice to show cause issued to the licensee under section 97(2) is finally dealt with.’.

## **69 Amendment of s 100 (Effect of suspension of licence)**

(1) Section 100, ‘97(16) or (17)’—

*omit, insert—*

‘97(12) or (13)’.

(2) Section 100(b)—

*omit, insert—*

‘(b) the exercise of the powers or authorities of the commissioner or an inspector.’.

## **70 Amendment of s 101 (Notices to interested persons)**

(1) Section 101(1) and (4), ‘chief executive’—

*omit, insert—*

‘commissioner’.

(2) Section 101(1)(d)—

*renumber* as section 101(1)(f).

(3) Section 101(1)—

*insert—*

- 
- ‘(d) cancels or suspends a gaming machine licence under section 97(12)(c) or (13); or
- (e) suspends a gaming machine licence under section 98(1); or’.
- (4) Section 101(2) and (3)—  
*omit.*
- (5) Section 101(4) and (5), ‘, (2) or (3)’—  
*omit.*
- (6) Section 101(6), ‘subsections (4) and (5)’—  
*omit, insert—*  
‘subsections (2) and (3)’.
- (7) Section 101(7), definition *show cause result notice*—  
*omit, insert—*  
‘***show cause result notice*** means—
- (a) a written notice given by the commissioner advising of—
- (i) the arising of a requirement mentioned in subsection (1)(a); or
- (ii) the taking of action mentioned in subsection (1)(d), (e) or (f); or
- (b) a letter of censure mentioned in subsection (1)(b); or
- (c) the notice by which a direction mentioned in subsection (1)(c) is given.’.
- (8) Section 101(4) to (7)—  
*renumber* as section 101(2) to (5).

**71 Amendment of s 106 (Appointment of administrator instead of suspension)**

Section 106, ‘section 97(16) or (17)’—  
*omit, insert—*

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‘section 97(12) or (13)’.

**72 Amendment of s 109F (When operating authorities become operating authorities of the State)**

Section 109F(1)(e), ‘section 97(16)(d) or (17)(a)’—

*omit, insert—*

‘section 97(12)(c)(ii)(A) or (13)(a)’.

**73 Amendment of s 109M (Application for approval)**

(1) Section 109M(4)—

*omit.*

(2) Section 109M(5) to (8)—

*renumber* as section 109M(4) to (7).

**74 Amendment of s 109N (Requirement about consideration for the transfer)**

Section 109N(1), ‘section 109M(5)’—

*omit, insert—*

‘section 109M(4)’.

**75 Amendment of s 109O (Requirements about transferor licensed premises)**

Section 109O(1), ‘section 109M(5)’—

*omit, insert—*

‘section 109M(4)’.

**76 Amendment of s 109P (Requirements about transferee licensed premises)**

Section 109P(1), ‘section 109M(5)’—

*omit, insert—*

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‘section 109M(4)’.

**77 Amendment of s 109Q (Variation of terms of transfer)**

(1) Section 109Q(4)—

*omit.*

(2) Section 109Q(5) to (8)—

*renumber* as section 109Q(4) to (7).

**78 Amendment of s 109T (Application for approval)**

(1) Section 109T(5)—

*omit.*

(2) Section 109T(6) to (9)—

*renumber* as section 109T(5) to (8).

**79 Amendment of s 109U (Requirements about transfer period and consideration for the transfer)**

Section 109U(1), ‘section 109T(6)’—

*omit, insert—*

‘section 109T(5)’.

**80 Amendment of s 109V (Requirements about transferor licensed premises)**

Section 109V(1), ‘section 109T(6)’—

*omit, insert—*

‘section 109T(5)’.

**81 Amendment of s 109W (Requirements about transferee licensed premises)**

Section 109W(1), ‘section 109T(6)’—

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*omit, insert—*  
'section 109T(5)'.

**82 Amendment of s 109X (Variation of terms of transfer)**

(1) Section 109X(4)—

*omit.*

(2) Section 109X(5) to (8)—

*renumber* as section 109X(4) to (7).

**83 Amendment of s 109ZA (When entitlement becomes entitlement of the State)**

Section 109ZA(1)(e), 'section 97(16)(d) or (17)(a)'—

*omit, insert—*

'section 97(12)(c)(ii)(A) or (13)(a)'.

**84 Amendment of s 109ZH (Decrease in, or end of, temporary transfer of entitlements)**

Section 109ZH(3)(e), 'section 97(16)(d) or (17)(a)'—

*omit, insert—*

'section 97(12)(c)(ii)(A) or (13)(a)'.

**85 Amendment of s 116 (Further information to support application)**

Section 116(2), from 'chief executive'—

*omit, insert—*

'commissioner considers reasonable for considering and deciding the application.'

**86 Replacement of ss 121–122**

Sections 121 and 122—

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*omit, insert—*

**‘122 Decision about application**

- ‘(1) The commissioner may grant or refuse to grant an application for a supplier’s licence.
- ‘(2) Before making a decision, the commissioner may, by written notice given to the applicant, or a disclosed associate of the applicant, require the applicant or associate to give the commissioner further information about the application within the reasonable time stated in the notice.
- ‘(3) A notice under subsection (2) must relate to information the commissioner considers reasonable for making a decision about the application.
- ‘(4) In making a decision, the commissioner—
  - (a) must have regard to—
    - (i) the suitability of the applicant to hold a supplier’s licence of the kind applied for; and
    - (ii) for a person who is a disclosed associate of the applicant—the suitability of the person to be associated with the operations of a licensed supplier holding a supplier’s licence of the kind applied for; and
    - (iii) the matters the commissioner had regard to in considering the application under section 120; and
  - (b) may have regard to—
    - (i) the suitability of a general associate of the applicant to be associated with the operations of a licensed supplier holding a supplier’s licence of the kind applied for; and
    - (ii) other matters the commissioner considers relevant.
- ‘(5) The commissioner may grant an application only if the commissioner is satisfied the grant is not contrary to the public interest.
- ‘(6) The commissioner may refuse to grant an application if—

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- (a) the commissioner has given a notice to the applicant, or a disclosed associate of the applicant, requiring the applicant or associate to give further information about the application; and
  - (b) the applicant or associate has failed without reasonable excuse, to give the information to the commissioner within the time stated in the notice.
- ‘(7) If the commissioner decides to grant the application, the commissioner must promptly issue the appropriate supplier’s licence to the applicant on payment of the licence fee prescribed under a regulation.
- ‘(8) If the commissioner decides to refuse to grant the application, the commissioner must promptly give the applicant an information notice about the decision.’.

**87 Amendment of s 139 (Grounds for suspension or cancellation)**

- (1) Section 139(1)(ba), ‘commission or chief executive’—  
*omit, insert—*  
‘commissioner’.
- (2) Section 139(1)(bb), ‘commission, the chief executive’—  
*omit, insert—*  
‘commissioner’.

**88 Amendment of s 145 (Direction to rectify)**

Section 145(3)(b), ‘section 146’—  
*omit, insert—*  
‘section 147’.

**89 Replacement of ss 146–147**

Sections 146 and 147—



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*omit, insert—*

**‘147 Decision to suspend or cancel**

- ‘(1) This section applies if—
- (a) the circumstances mentioned in section 145(1) or (2) exist and the commissioner has not directed the licensed supplier to rectify a matter; or
  - (b) the licensed supplier fails to comply with a direction to rectify a matter within the period stated in the relevant notice.
- ‘(2) The commissioner may—
- (a) decide not to take any action in relation to the licensed supplier or licence; or
  - (b) by written notice given to the licensed supplier, censure the licensed supplier for a matter relevant to the show cause notice; or
  - (c) if the commissioner considers a matter relevant to the show cause notice is reasonably capable of being rectified—by written notice given to the licensed supplier, direct the licensed supplier to rectify the matter within the reasonable period stated in the commissioner’s notice; or
  - (d) suspend the licence for the period the commissioner considers appropriate; or
  - (e) cancel the licence; or
  - (f) if the licensed supplier is a licensed monitoring operator—appoint an administrator to conduct the monitoring operations of the licensed supplier under its monitoring operator’s licence.
- ‘(3) In making a decision under subsection (2), the commissioner—
- (a) must have regard to the accepted representations; and
  - (b) may have regard to any other information or material the commissioner considers relevant.

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- ‘(4) If the commissioner directs the licensed supplier to rectify a matter and the licensed supplier fails to comply with the direction within the period stated in the relevant notice, the commissioner may—
- (a) take the action mentioned in subsection (2)(d) or (e); or
  - (b) if the licensed supplier is a licensed monitoring operator—take the action mentioned in subsection (2)(f).
- ‘(5) If the commissioner decides not to take any action about the licensed supplier or supplier’s licence, the commissioner must immediately give the licensed supplier written notice of the decision.
- ‘(6) Subsections (2)(f) and (4)(b) apply despite the Corporations Act.’.

**90 Amendment of s 148 (Suspension, cancellation and appointment of administrator)**

Section 148(6)—

*omit.*

**91 Amendment of s 149 (Immediate suspension)**

- (1) Section 149(1), from ‘The commission may’ to ‘believes’—

*omit, insert—*

‘The commissioner may immediately suspend a supplier’s licence if the commissioner believes’.

- (2) Section 149(2) and (3)—

*omit, insert—*

- ‘(2) If the commissioner decides to immediately suspend a supplier’s licence, the commissioner—

- (a) must promptly give the licensed supplier an information notice; and
  - (b) must give the licensed supplier a show cause notice, as required under section 140(1), about the act, omission or other thing constituting the ground for suspending the licence.’.
- (3) Section 149(4), ‘chief executive’—  
*omit, insert*—  
‘commissioner’.
- (4) Section 149(4) and (5)—  
*renumber* as section 149(3) and (4).

**92 Amendment of s 150 (Effect of suspension)**

Section 150(b), ‘commission, the chief executive’—  
*omit, insert*—  
‘commissioner’.

**93 Amendment of s 325I (Report about criminal history)**

- (1) Section 325I, ‘commissioner of the police service’—  
*omit, insert*—  
‘police commissioner’.
- (2) Section 325I(3), before ‘commissioner’s’—  
*insert*—  
‘police’.
- (3) Section 325I(3), before ‘commissioner has’—  
*insert*—  
‘police’.

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**94 Amendment of s 327 (Directions)**

Section 327(1) and (2), ‘commission or the chief executive’—  
*omit, insert*—  
‘commissioner’.

**95 Amendment of s 335 (Minister may order inquiry)**

- (1) Section 335(1), ‘commission, a’—  
*omit.*
- (2) Section 335(2), ‘commission,’—  
*omit.*
- (3) Section 335(3), ‘a commissioner’—  
*omit, insert*—  
‘the commissioner’.

**96 Amendment of s 336 (Review and termination of agreements)**

- (1) Section 336(1) to (4) and (7) to (8), ‘chief executive’—  
*omit, insert*—  
‘commissioner’.
- (2) Section 336(9), ‘chief executive’—  
*omit, insert*—  
‘commissioner’.
- (3) Section 336(9)(b)—  
*omit, insert*—  
‘(b) answers given or submissions made in reply to or in respect of the notice are not satisfactory or if no answers are given and no submissions are made—the commissioner may direct the termination of the agreement.’.

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- (4) Section 336(10) and (11)—  
*omit.*
- (5) Section 336(12), from ‘The commission’s’ to ‘subsection (11)(b)’—  
*omit, insert—*  
‘The commissioner’s direction under subsection (9)(b)’.
- (6) Section 336(12) to (15)—  
*renumber* as section 336(10) to (13).

**97 Amendment of s 344 (Approvals and authorities under this Act)**

Section 344(1), ‘, commission or chief executive’—  
*omit, insert—*  
‘or the commissioner’.

**98 Omission of s 345 (Signatories to approvals and written requirements etc. of the commission)**

Section 345—  
*omit.*

**99 Amendment of s 346 (Bribery of gaming officials)**

Section 346(3), definition *gaming official*, paragraph (a)—  
*omit, insert—*  
‘(a) the commissioner; or’.

**100 Amendment of s 354 (Protection of officers etc.)**

- (1) Section 354, ‘commission, a’—  
*omit.*
- (2) Section 354, ‘commissioner of the police service’—

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*omit, insert—*  
'police commissioner'.

**101 Amendment of s 356 (Proceedings for offences)**

Section 356(2)—

*omit, insert—*

- (2) A prosecution for an offence against this Act may be started within the later of the following periods to end—
- (a) within 1 year from the time when the matter of complaint arose;
  - (b) within 6 months after the matter of complaint comes to the knowledge of the commissioner, but within 5 years after the offence is committed.'

**102 Amendment of s 357 (Starting proceedings)**

Section 357, from 'the chief' to 'executive to'—

*omit, insert—*

'the commissioner or another person authorised by the commissioner to'.

**103 Amendment of s 361 (Evidentiary provisions)**

Section 361(a), 'chairperson, a'—

*omit.*

**104 Amendment of s 366 (Regulation-making power)**

- (1) Section 366(2)(r)—

*omit.*

- (2) Section 366(2)(s)—

*renumber* as section 366(2)(r).

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**105 Amendment of s 460 (Definitions for div 16)**

Section 460—

*insert—*

*‘commission* means the Queensland Liquor and Gaming Commission established under the former Act.

*former*, for a provision of this Act, means the provision as in force before the commencement of the section in which the term is used.’.

**106 Insertion of new ss 464–476**

Part 12, division 16—

*insert—*

**‘464 Dissolution of Queensland Liquor and Gaming Commission**

‘(1) On the commencement—

- (a) the Queensland Liquor and Gaming Commission is dissolved; and
- (b) the commissioners of the Queensland Liquor and Gaming Commission go out of office.

‘(2) No compensation is payable to a commissioner because of subsection (1).

**‘465 Guidelines of commission and chief executive continue as guidelines of commissioner**

‘(1) This section applies to the following guidelines—

- (a) guidelines issued by the commission under former section 17 and in force immediately before the commencement;
- (b) guidelines issued by the chief executive under former section 54A and in force immediately before the commencement.

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- '(2) On the commencement, the guidelines are taken to be guidelines made by the commissioner under section 18.

**'466 Standards continue as standards of commissioner**

- '(1) This section applies to standards made by the chief executive under former section 54B and in force immediately before the commencement.
- '(2) On the commencement, the standards are taken to be standards made by the commissioner under section 19.

**'467 Operators audit guidelines continue as guidelines of commissioner**

- '(1) This section applies to operators audit guidelines prepared by the chief executive under former section 176 and in force immediately before the commencement.
- '(2) On the commencement, the guidelines are taken to be operators audit guidelines prepared by the commissioner under section 176.

**'468 Licensees audit guidelines continue as guideline of commissioner**

- '(1) This section applies to licensees audit guidelines prepared by the chief executive under former section 301 and in force immediately before the commencement.
- '(2) On the commencement, the guidelines are taken to be licensees audit guidelines prepared by the commissioner under section 301.

**'469 Applications made to chief executive or commission taken to be made to commissioner**

- '(1) This section applies if, before the commencement, a person made an application under this Act to the chief executive or commission and, immediately before the commencement, the application had not been finally dealt with.



- ‘(2) The application is taken to have been made to the commissioner and the commissioner may deal or continue to deal with the application after the commencement.

**‘470 Orders etc. of chief executive or commission taken to be orders etc. of commissioner**

- ‘(1) This section applies to an order, direction, notice, approval, action, authorisation or decision of the chief executive or commission under this Act that is current immediately before the commencement.
- ‘(2) After the commencement, the order, direction, notice, approval, action, authorisation or decision is taken to be an order, direction, notice, approval, action, authorisation or decision of the commissioner and the commissioner may deal or continue to deal with the matter the subject of the order, direction, notice, approval, action, authorisation or decision.

*Examples—*

- 1 A gaming machine licence current immediately before the commencement is, after the commencement, taken to have been granted by the commissioner and continues to be current.
- 2 A gaming machine licence granted before the commencement that, immediately before the commencement, is suspended is, after the commencement, taken to have been granted, and suspended, by the commissioner.
- 3 The chief executive gave a show cause notice under former section 214B and at the commencement the show cause period had not ended. After the commencement, the commissioner may continue to act in relation to the show cause notice under part 5, division 6.

- ‘(3) In this section—  
*current* includes in force.

**‘471 Appeal to tribunal about decisions of chief executive or commission**

- ‘(1) This section applies if—
- (a) before the commencement, the chief executive or commission had made a decision about a matter for

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which an information notice must be given to a person;  
and

- (b) immediately before the commencement, the person had not appealed the decision.
- ‘(2) The person may appeal the decision to the tribunal after the commencement as if the decision about the matter had been made by the commissioner.
- ‘(3) Nothing in this section affects —
- (a) the requirement that the person start the appeal within 28 days after receiving an information notice for the decision being appealed; or
  - (b) the tribunal’s power to extend the time for starting an appeal.

**‘472 Existing appeals about decisions of chief executive or commission**

- ‘(1) This section applies to an appeal against a decision of the chief executive or commission if, immediately before the commencement, the appeal had not been finally dealt with.
- ‘(2) The appeal is taken to be an appeal against a decision of the commissioner and the court or tribunal may hear or continue to hear and decide the appeal after the commencement as if the decision had been made by the commissioner.

**‘473 Documents held by chief executive or commission become documents of commissioner**

- ‘(1) This section applies to documents held by the chief executive or commission before the commencement that—
  - (a) relate to functions under this Act of the chief executive or commission before the commencement; and
  - (b) on the commencement, relate to similar functions to be performed by the commissioner under this Act.

- ‘(2) On the commencement, the documents become the documents of the commissioner and may be used by the commissioner in performing the commissioner’s functions under this Act.

**‘474 Approved forms continue as approved forms of commissioner**

- ‘(1) This section applies to an approved form in force immediately before the commencement.
- ‘(2) The approved form continues in force after the commencement as if it had been approved by the commissioner until the earlier of the following—
- (a) the commissioner approves a new form for the matter the subject of the form;
  - (b) 12 months after the commencement.

**‘475 References in Acts and documents**

‘A reference in an Act or document to the commission may, if the context permits, be taken to be a reference to the commissioner.’.

**107 Replacement of sch 1 (Reviewable decisions)**

Schedule 1—

*omit, insert—*

## **‘Schedule 1      Reviewable decisions**

section 29

### **‘Part 1                      Decisions or determinations of the commissioner affecting applicant for, or holder of, a licence**

<b>Section</b>	<b>Description of decision</b>
55	refusing to grant a gaming machine licence
59(2)	fixing a number of gaming machines for premises that is— (a) for premises mentioned in section 56(2)(c)—less than the number sought in the relevant application for the premises and less than the number approved for the premises at the time the application is made; or (b) for other premises—less than the number sought in the relevant application for the premises
59(2)(a)(ii)	fixing hours of gaming for premises that differ from the hours of gaming sought in the relevant application for the premises
59(2)(a)(iii)	fixing the number of operating authorities to be transferred to premises if that number is less than the number sought in the application relating to the premises
63	refusing to approve additional premises as premises to which a category 2 licensee’s gaming machine licence relates

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<b>Section</b>	<b>Description of decision</b>
64(2)	fixing a number of gaming machines for additional premises that is less than the number sought in the additional premises application
64(2)(b)	fixing hours of gaming for additional premises that differ from the hours of gaming sought in the relevant additional premises application
73(1)(b)	imposing conditions on a gaming machine licence
74(1)	imposing conditions or further conditions, or varying conditions, on a gaming machine licence
76	refusing to renew a gaming machine licence
83(1)(a)	approving an increase in the approved number of gaming machines for a licensee's licensed premises that is less than the increase sought in the relevant application
83(1)(b)	refusing to approve an increase in the approved number of gaming machines for a licensee's licensed premises
85C(1)(b)	approving an increase in the approved hours of gaming for a licensee's licensed premises that differs from an increase sought in the relevant application
85C(1)(c)	refusing to approve an increase in approved hours of gaming for a licensee's licensed premises
87(1)(a)	approving, for a decrease proposal that is an application, a decrease in the approved number of gaming machines for a licensee's licensed premises that is less than the decrease sought in the application

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<b>Section</b>	<b>Description of decision</b>
87(1)(a)	approving, for a decrease proposal that is a request or report, a decrease in the approved number of gaming machines for a licensee's licensed premises
87(1)(b)	refusing, for a decrease proposal that is an application, to approve a decrease in the approved number of gaming machines for a licensee's licensed premises
90C(1)(a)	approving, for a decrease proposal that is a request or a report, a decrease in the approved hours of gaming for a licensee's licensed premises
90C(1)(b)	approving, for a decrease proposal that is an application, a decrease in the approved hours of gaming for a licensee's licensed premises that is a modification of the proposal contained in the relevant application
90C(1)(c)	refusing, for a decrease proposal that is an application, to approve a decrease in the approved hours of gaming for a licensee's licensed premises
97(12)(c)	cancelling or suspending a gaming machine licence
97(13)	cancelling or suspending a gaming machine licence for failing to comply with a direction from the commissioner
98(1)	suspending a gaming machine licence
99	suspending a gaming machine licence
122	refusing to grant application for a supplier's licence
123	imposing a condition on a supplier's licence

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<b>Section</b>	<b>Description of decision</b>
127	changing a condition of a supplier's licence
131	refusing to renew a supplier's licence
132	refusing, on an application made on the ground mentioned in section 132(1)(a), to replace a supplier's licence
147(2)(d)	suspending a supplier's licence
147(2)(e)	cancelling a supplier's licence
149	immediately suspending a supplier's licence
201(1)	refusing to grant an application for a licence under part 5
205	imposing a condition on a licence under part 5
206(1)	changing a condition of a licence under part 5
207	refusing to renew a licence under part 5
214D	immediately suspending a licence under part 5
214E	suspending or cancelling a licence under part 5
214G	censuring the holder of a licence under part 5
214H	directing the holder of a licence under part 5 to rectify a matter





- 
- in response to a notice given under section 57(2)(b) about the application; or
- (c) for an application for a licence under part 5—any information or documents received by the commissioner in response to a notice given under section 200(3)(a) about the application; or
- (d) for an increase application—any information or documents received by the commissioner in response to a notice given under section 82(2) about the application.’.
- (3) Schedule 2, definition *approved authority*, paragraph (a)—  
*omit*.
- (4) Schedule 2, definition *approved authority*, paragraphs (b) and (c)—  
*renumber* as paragraphs (a) and (b).
- (5) Schedule 2, definition *subsidiary operator*, ‘relevant chief executive’—  
*omit, insert*—  
‘commissioner under the *Liquor Act 1992*’.

## **109 Amendment of various sections for reference to chief executive**

- (1) Each of the following provisions is amended by omitting ‘chief executive’ or ‘chief executive’s’ and inserting ‘commissioner’ or ‘commissioner’s’—
- section 4
  - section 32(2) and (3), definition *new evidence*
  - section 49
  - section 53A(1), (2) and (4)
  - section 54(6)(c), (7), (8) and (9)
  - section 55A(1)(d) and (2)

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- section 55C(2), (3) and (4)
- section 55D(1) and (4), definition *member of the public*
- section 55E(1)
- section 55F
- section 55G
- section 56(5)(n), (o) and (p) and (7)(b)
- section 56A(1)(b)(i)
- section 56B(1)(b)(i) and (2)(b)(i)
- section 59(3), (4), (5) and (6)
- section 61(3)(b), (4)(b) and (5)(d) and (g)
- section 64(5) and (6)
- section 65(2) and (3)
- section 66(1) and (2)
- section 67(3) and (6)
- section 69(2) and (8)
- section 70(1)
- section 71(1), (2) and (3)
- section 71A(2), (4) and (5)
- section 74(2), (4) and (5)
- section 75(1), (2) and (4)
- section 76
- section 78
- section 78A(2) and (3)
- section 79(1)(c)
- section 80(1) and (2)
- section 81(2)(b)
- section 85A(3)

- section 86(3),(5) and (6)
- section 87
- section 88(1)
- section 88A
- section 89
- section 90(1), (3) and (5)
- section 90A(4) and (5)
- section 91
- section 91A(2) and (5)
- section 91B
- section 91C
- section 92(1) and (2)
- section 93
- section 94
- section 95
- section 95A(2) and (3)
- section 95B(2)(d)
- section 99
- section 104(3), (5) and (6)
- section 105
- section 109(2), (3) and (5)
- section 109I(2) and (3)
- section 109M
- section 109O(2) and (5)
- section 109Q
- section 109R(2) and (3)
- section 109T

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- section 109X
- section 109Y(2) and (3)
- section 109ZG(2) and (3)
- section 109ZH(2) and (4)
- section 109ZJ
- section 112
- section 113
- section 114
- section 115(2)(a)
- section 116(1)
- section 117
- section 118
- section 119
- section 120
- section 123(2)
- section 126(4)
- section 127(2)
- section 128
- section 129
- section 130(2)
- section 131
- section 132
- section 134
- section 136
- section 137
- section 138(3)
- section 139(2)(e)

- section 140
- section 141
- section 142
- section 143
- section 144
- section 145
- section 148(2) and (4)
- section 152
- section 153(1)
- section 154
- section 155(2)
- section 156(1)
- section 157(2)
- section 158
- section 159(2)
- section 161(2)
- section 162(2)
- section 163(3)
- section 164
- section 165
- section 166
- section 167(1)
- section 168
- section 170(2)
- section 173
- section 174
- section 175

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- section 176
- section 177
- section 179
- section 180
- section 181
- section 182(1)
- section 183
- section 184(1)
- section 185
- section 188(1)
- section 189
- section 191
- section 192
- section 193
- section 198(4) and (6)
- section 199
- section 200
- section 201
- section 202(3)
- section 203
- section 205(1)
- section 206
- section 206A
- section 207
- section 209
- section 210(1) and (2)
- section 212

- section 213
- section 214(3)
- part 5, division 6, heading
- section 214A
- section 214B
- section 214C
- section 214D
- section 214E
- part 5, division 6, subdivision 2, heading
- section 214F
- section 214G
- section 214H
- section 214I
- section 215
- section 217
- section 218
- section 223(2)
- section 224
- section 225
- section 228(3)
- section 230(1)
- section 231
- section 232
- section 234(1)
- section 236
- section 240
- section 242A(1)(a)

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- section 247(4)(c)
- section 248
- section 249(1)
- section 261K
- section 264C
- section 265(2) and (3)
- section 265A(1)(b)
- section 266(1)
- section 267
- section 267A(2)
- section 268(2)
- section 269(e)
- section 270(e)
- section 272
- section 274
- section 275
- section 277
- section 281
- section 282(2)(b)
- section 283(2) and (2B)
- section 284(1)
- section 285
- section 287
- section 288
- section 289
- section 290
- section 291(2)(c)



- section 292(3) and (4)
- section 295(2)
- section 301
- section 302(3)(b)
- section 304
- section 305
- section 306
- section 307
- section 309(2)
- section 310
- section 312(1)
- section 314(2)
- section 316B(1)
- section 316C
- section 317
- section 319
- section 320
- section 321
- section 322(1) and (3)
- section 323
- section 324(1) and (3)
- section 325A
- section 325B(3)
- section 325C(1)
- section 325F
- section 325G
- section 325H

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- section 325I
- section 329(1)(k)
- section 334
- section 337(3)
- section 337B
- section 337C
- section 337D
- section 337E
- section 337F
- section 337G
- section 337H
- section 337I(1)
- section 337J
- section 337K
- section 337L(2) and (4)
- section 337M
- section 337N
- section 339
- section 340
- section 341A
- section 343
- section 347
- section 348
- section 358
- section 361(d)
- section 363
- section 364

- section 365
  - schedule 2, definition *approved accountant*, paragraph (e)
  - schedule 2, definition *approved control system*
  - schedule 2, definition *approved game*
  - schedule 2, definition *approved place*
  - schedule 2, definition *approved responsible service of gambling course*
  - schedule 2, definition *approved training course*
  - schedule 2, definition *approved trust account*
  - schedule 2, definition *authorised gaming machine*
  - schedule 2, definition *excluded interested person*
  - schedule 2, definition *financial year*
  - schedule 2, definition *multiple site jackpot increments*
  - schedule 2, definition *registration number*
  - schedule 2, definition *restricted official*.
- (2) Each of the following provisions is amended by omitting ‘Chief executive’ or ‘Chief executive’s’ and inserting ‘Commissioner’ or ‘Commissioner’s’—
- section 55F, heading
  - section 91B, heading
  - section 200, heading.

## **110 Amendment of various sections for reference to commission**

Each of the following provisions is amended by omitting ‘commission’ or ‘commission’s’ and inserting ‘commissioner’ or ‘commissioner’s’—

- section 55B(2) and (3)
- section 55D(2), examples

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- section 55H(2) and (3)
- section 59(1) and (2)
- section 64(1), (2) and (3)
- section 65(1) and (3)(a)
- section 73(1)
- section 74(1) and (2)
- section 78(2)(b)
- section 78A(3)(b) and (4)(c)
- section 80A
- section 85(1) and (2)
- section 85AA
- section 87(11)
- section 90A(5)
- section 91(3)
- section 91A(5)
- section 95(2F)
- section 95A(1)
- section 95B(1)
- section 106
- section 107(2)
- section 108
- section 109K(2)
- section 109M
- section 109Q
- section 109T
- section 109X
- section 123

- section 126
- section 127
- section 148(1) and (5)
- section 151(1) and (2)
- section 152(2) and (3)
- section 235(1)
- section 342(4) and (5)
- schedule 2, definition *power*.

## Part 5                      Amendment of Liquor Act 1992

### 111    Act amended

This part amends the *Liquor Act 1992*.

### 112    Amendment of s 4 (Definitions)

- (1) Section 4, definitions *approved form*, *assistant commissioner*, *commission*, *commissioner* and *decision of significant community impact*—

*omit*.

- (2) Section 4—

*insert*—

***‘approved form*** means a form approved by the commissioner under section 234A.

***assistant police commissioner***, for a locality, means the assistant commissioner under the *Police Service Administration Act 1990* in charge of the police service for the locality.

[s 113]

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*commissioner* means the Commissioner for Liquor and Gaming under the *Gaming Machine Act 1991*.

*police commissioner* means the commissioner of the police service.’.

**113 Amendment of s 21 (Jurisdiction and powers of tribunal)**

(1) Section 21(2)—

*omit.*

(2) Section 21(3), ‘or the commission’—

*omit.*

(3) Section 21(3)—

*renumber* as section 21(2).

**114 Amendment of s 30 (Who may apply for review of decisions)**

Section 30(1), ‘or the commission’—

*omit.*

**115 Amendment of s 31 (Failure to notify about decision)**

Section 31(2), ‘or the commission’—

*omit.*

**116 Amendment of s 32 (Notification of review to interested persons)**

(1) Section 32(3)(c)—

*omit.*

(2) Section 32(3)(d)—

*renumber* as section 32(3)(c).

- 
- 117 Amendment of s 33 (Tribunal to decide review on evidence before the chief executive or the commission)**  
Section 33, ‘or the commission’—  
*omit.*
- 118 Amendment of s 34 (Tribunal may give leave for review to be decided on new evidence in particular circumstances)**  
Section 34, ‘or the commission’—  
*omit.*
- 119 Amendment of s 42A (Chief executive may issue guidelines)**  
(1) Section 42A, ‘issue’—  
*omit, insert—*  
‘make’.  
(2) Section 42A(2), ‘issued’—  
*omit, insert—*  
‘made’.
- 120 Amendment of s 58A (Licences subject to conditions imposed under regulation)**  
Section 58A(2), ‘or the commission’—  
*omit.*
- 121 Amendment of s 69 (Authority of subsidiary off-premises licence)**  
(1) Section 69(1)(i), ‘chief executive’—  
*omit, insert—*  
‘commissioner’.  
(2) Section 69(1)(i) and (ii)—

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*renumber* as section 69(1)(a) and (b).

**122 Amendment of s 89 (Definitions for div 8)**

(1) Section 89, definition *delegate*—

*omit.*

(2) Section 89—

*insert*—

*'delegate* means—

(a) a person to whom the chief executive delegated the chief executive's powers under former section 42; or

(b) a person to whom the commissioner has delegated the commissioner's powers under section 42.

*former section 42* means section 42 as in force before 1 July 2013.'

**123 Amendment of s 94 (Protection from liability)**

(1) Section 94(1), after 'executive'—

*insert*—

'or the commissioner'.

(2) Section 94(2), after 'executive'—

*insert*—

', the commissioner'.

(3) Section 94(4)—

*omit.*

**124 Replacement of s 99G (Commissioner must provide information)**

Section 99G—

*omit, insert*—



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**‘99G Police commissioner must provide information**

- ‘(1) The commissioner may ask the police commissioner to give the commissioner the information the commissioner requires to decide whether to classify licensed premises as high risk under this division.
- ‘(2) Subject to subsection (3), the police commissioner must provide the information requested.
- ‘(3) The obligation of the police commissioner to comply with the commissioner’s request applies only to information in the possession of the police commissioner or to which the police commissioner has access.’.

**125 Amendment of s 103N (Adult entertainment code)**

Section 103N(4)—

*omit, insert—*

- ‘(4) The commissioner and the police commissioner are to make the code.’.

**126 Amendment of s 107 (Restrictions on grant of licence or permit)**

Section 107(5)(a), ‘from the commissioner’—

*omit, insert—*

‘from the police commissioner’.

**127 Amendment of s 107F (Application to be referred to commissioner)**

- (1) Section 107F, heading, ‘commissioner’—

*omit, insert—*

**‘police commissioner’.**

- (2) Section 107F(1), ‘to the commissioner’—

*omit, insert—*

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- ‘to the police commissioner’.
- (3) Section 107F(2), ‘the commissioner’—  
*omit, insert—*  
‘the police commissioner’.
- (4) Section 107F(3), ‘The commissioner’—  
*omit, insert—*  
‘The police commissioner’.
- (5) Section 107F(4) and (5), ‘The commissioner’s’—  
*omit, insert—*  
‘The police commissioner’s’.

## **128 Amendment of s 109B (Controllers)**

- (1) Section 109B(4), ‘to the commissioner’—  
*omit, insert—*  
‘to the police commissioner’.
- (2) Section 109B(5), ‘the commissioner’—  
*omit, insert—*  
‘the police commissioner’.
- (3) Section 109B(6), ‘The commissioner’—  
*omit, insert—*  
‘The police commissioner’.
- (4) Section 109B(7) and (8), ‘The commissioner’s’—  
*omit, insert—*  
‘The police commissioner’s’.

## **129 Amendment of s 116 (When community impact statement to be given to chief executive)**

- (1) Section 116(7)—

*omit.*

- (2) Section 116(8) and (9)

*renumber* as section 116(7) and (8).

**130 Amendment of s 119A (Objection by Minister to grant of applications having significant community impact)**

Section 119A(1)—

*omit, insert—*

- ‘(1) This section applies if notice of an application for either of the following is advertised under section 118—
- (a) a licence or variation of a licence;
  - (b) an extended trading hours approval or variation of an extended trading hours approval.’.

**131 Amendment of s 137 (Procedure for taking disciplinary action in relation to licence)**

Section 137(1), ‘, or the commission under section 142AO,’—

*omit.*

**132 Amendment of s 137A (Decision about disciplinary action)**

- (1) Section 137A(1), (2) and (4), ‘, or the commission under section 142AO,’—

*omit.*

- (2) Section 137A(1), (2) and (4), ‘or the commission’—

*omit.*

**133 Amendment of s 137B (Notice to be given about decision of chief executive or commission)**

- (1) Section 137B, heading, ‘or commission’—

[s 134]

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*omit.*

(2) Section 137B(1), (2) and (3), ‘or the commission’—

*omit.*

**134 Amendment of s 137D (Amount payable as a debt due to the State)**

Section 137D(1), ‘chief executive or the commission’—

*omit, insert—*

‘commissioner’.

**135 Omission of pt 5, div 7 (Decisions of significant community impact to be made by commission)**

Part 5, division 7—

*omit.*

**136 Amendment of s 142R (Deciding application)**

Section 142R(4), ‘from the commissioner’—

*omit, insert—*

‘from the police commissioner’.

**137 Amendment of s 154A (Relocation of detached bottle shops)**

Section 154A(6)(b), after ‘executive’—

*insert—*

‘or commissioner’.

**138 Amendment of s 173ZQ (Commissioner must provide information relevant to applications)**

(1) Section 173ZQ, heading, ‘Commissioner’—

*omit, insert—*

**‘Police commissioner’.**

- (2) Section 173ZQ(1), ‘ask the commissioner’—  
*omit, insert—*  
‘ask the police commissioner’.
- (3) Section 173ZQ(3), ‘commissioner’—  
*omit, insert—*  
‘police commissioner’.
- (4) Section 173ZQ(4), ‘of the commissioner’—  
*omit, insert—*  
‘of the police commissioner’.
- (5) Section 173ZQ(4), ‘which the commissioner’—  
*omit, insert—*  
‘which the police commissioner’.

**139 Amendment of s 173ZR (Chief executive may give copy of order to commissioner)**

- (1) Section 173ZR, heading, ‘commissioner’—  
*omit, insert—*  
‘**police commissioner**’.
- (2) Section 173ZR(2), ‘to the commissioner’—  
*omit, insert—*  
‘to the police commissioner’.

**140 Amendment of s 219 (Community investment fund)**

Section 219(3), definition *administered receipt*, from  
‘*Financial*’—  
*omit, insert—*  
‘*Financial Accountability Act 2009, section 7.*’.

[s 141]

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**141 Amendment of s 232B (Commissioner to give information to chief executive)**

(1) Section 232B, heading, ‘Commissioner’—

*omit, insert—*

**‘Police commissioner’.**

(2) Section 232B(2), ‘The commissioner’—

*omit, insert—*

‘The police commissioner’.

**142 Insertion of new s 234A**

After section 234—

*insert—*

**‘234A Approval of forms**

‘The commissioner may approve forms for use under this Act.’.

**143 Insertion of new pt 12, div 12**

Part 12—

*insert—*

**‘Division 12 Transitional provisions for Fiscal Repair Amendment Act 2012**

**‘308 Definitions for div 12**

‘In this division—

***commencement*** means the commencement of this section.

***commission*** means the Queensland Liquor and Gaming Commission established under the *Gaming Machine Act 1991* as in force before the commencement.

***former***, for a provision of this Act, means the provision as in force before the commencement.

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**‘309 Guidelines of chief executive or commissioner continue as guidelines of commissioner**

- ‘(1) This section applies to the following guidelines—
- (a) guidelines issued by the chief executive under former section 42A and in force immediately before the commencement;
  - (b) guidelines issued by the commission under former section 142AR and in force immediately before the commencement.
- ‘(2) On the commencement, the guidelines are taken to be guidelines made by the commissioner under section 42A.

**‘310 Applications made to chief executive or commission taken to be made to commissioner**

- ‘(1) This section applies if, before the commencement, a person made an application under this Act to the chief executive or commission and, immediately before the commencement, the application had not been finally dealt with.
- ‘(2) The application is taken to have been made to the commissioner and the commissioner may deal or continue to deal with the application after the commencement.

**‘311 Orders etc. of chief executive or commission taken to be orders etc. of commissioner**

- ‘(1) This section applies to an order, application, direction, notice, approval, action, authorisation or decision of the chief executive or commission under this Act that is current immediately before the commencement.
- ‘(2) After the commencement, the order, application, direction, notice, approval, action, authorisation or decision is taken to be an order, application, direction, notice, approval, action, authorisation or decision of the commissioner and the commissioner may deal or continue to deal with the matter the subject of the order, application, direction, notice, approval, action, authorisation or decision.

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*Examples—*

- 1 A licence current immediately before the commencement is taken to have been granted by the commissioner and continues to be current.
- 2 A licence granted before the commencement that, immediately before the commencement, is suspended is taken to have been granted, and suspended, by the commissioner.
- 3 The chief executive gave a licensee notice under former section 98 in relation to premises considered to be high risk and, at the commencement, the 14-day period to make written representations under former section 99 had not ended. After the commencement, the commissioner may continue to act in relation to the notice under part 4, division 9.

‘(3) In this section—  
*current* includes in force.

**‘312 Appeal to tribunal about decisions of chief executive or commission**

- ‘(1) This section applies if—
- (a) before the commencement, the chief executive or commission had made a decision about a matter for which an information notice must be given to a person; and
  - (b) immediately before the commencement, the person had not appealed the decision.
- ‘(2) The person may appeal the decision to the tribunal after the commencement as if the decision about the matter had been made by the commissioner.
- ‘(3) Nothing in this section affects —
- (a) the requirement that the person start the appeal within 28 days after receiving an information notice for the decision being appealed; or
  - (b) the tribunal’s power to extend the time for starting an appeal.



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**‘313 Existing appeals about decisions of chief executive or commission**

- ‘(1) This section applies to an appeal against a decision of the chief executive or commission if, immediately before the commencement, the appeal had not been finally dealt with.
- ‘(2) The appeal is taken to be an appeal against a decision of the commissioner and the court or tribunal may hear or continue to hear and decide the appeal after the commencement as if the decision had been made by the commissioner.

**‘314 Documents held by chief executive or commission become documents of commissioner**

- ‘(1) This section applies to documents held by the chief executive or commission before the commencement that—
  - (a) relate to functions under this Act of the chief executive or commission before the commencement; and
  - (b) on the commencement, relate to similar functions to be performed by the commissioner under this Act.
- ‘(2) On the commencement, the documents become the documents of the commissioner and may be used by the commissioner in performing the commissioner’s functions under this Act.

**‘315 Approved forms continue as approved forms of commissioner**

- ‘(1) This section applies to an approved form in force immediately before the commencement.
- ‘(2) The approved form continues in force after the commencement as if it had been approved by the commissioner until the earlier of the following—
  - (a) the commissioner approves a new form for the matter the subject of the form;
  - (b) 12 months after the commencement.’.

**144 Amendment of various sections for reference to chief executive**

(1) Each of the following provisions is amended by omitting ‘chief executive’ or ‘chief executive’s’ and inserting ‘commissioner’ or ‘commissioner’s’—

- section 4, definition *approved training course*
- section 4, definition *community impact statement*
- section 4, definition *controller*
- section 4, definition *detached bottle shop*
- section 4, definition *disciplinary action*
- section 4, definition *information notice*
- section 4, definition *interested person*
- section 6(1)(a)(iii)
- section 9
- section 21
- section 30
- section 31
- section 32
- section 33
- section 34
- section 35(1)
- section 42(1)
- section 42A
- section 43
- section 44A
- section 45
- section 46(1)
- section 47

- section 47A
- section 51
- section 52
- section 53
- section 58A(2)
- section 60
- section 61
- section 64(2)
- section 65
- section 67C
- section 67D
- section 67E(1)
- section 69A
- section 71C
- section 74
- section 77(2)
- section 78
- section 79(1)
- section 82
- section 83(1)
- section 84, note
- section 85
- section 88
- section 91(2)
- section 97
- section 98
- section 99

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- section 99A
- section 99B
- section 99D
- section 99E
- section 99F
- section 102(2)(b)
- section 103
- section 103D
- section 103E(1)
- section 103H
- section 103I
- section 103J
- section 103K
- section 103L
- section 103M(1)
- section 103N(6)
- section 103P
- section 103Q
- section 103T(1)
- section 103U(2)
- section 103V
- section 105
- section 107
- section 107A
- section 107B
- section 107C(1)
- section 107D

- section 107E(1)
- section 107F(1) and (3)
- section 109B(2) to (4), (6), (9) and (10)
- section 110
- section 111
- section 112
- section 113
- section 113A(2)
- section 115
- section 116
- section 117
- section 117A
- section 118
- section 118A(1)
- section 119
- section 119A(2)
- section 120
- section 121
- section 122(1)
- section 123
- section 123A
- section 123B
- section 123C
- section 124(2)
- section 125
- section 126
- section 127

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- section 129
- section 130
- section 131A
- section 132
- section 133
- section 134
- section 134A
- section 134B
- section 134C
- section 136
- section 137
- section 137A
- section 137B
- section 137C
- section 137E
- section 139
- section 140(1) and (2)
- section 141(1)
- section 141A(2)
- section 142A
- section 142B
- section 142C
- section 142D
- section 142E
- section 142F
- section 142G
- section 142H(1)

- section 142I
- section 142J
- section 142K
- section 142L
- section 142M
- section 142N
- section 142P
- section 142Q
- section 142R
- section 142S(1)
- section 142T(1)
- section 142U
- section 142V
- section 142W
- section 142X(1)
- section 142Y
- section 142Z(2) and (4)
- section 142ZA
- section 142ZB
- section 142ZC
- section 142ZD
- section 142ZE
- section 144
- section 148
- section 149
- section 150
- section 152(1)

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- section 152A
- section 153
- section 153A(2)
- section 154
- section 154A(2) to (5) and (7)
- section 154B
- section 154C(2)
- section 155(4), definition *exempt minor*
- section 155AD
- section 155AF
- section 168
- section 168A(2)
- section 173J(1) and (3)
- section 173N
- section 173Q, definition *authorised person*
- section 173ZQ(1) and (4)
- section 173ZR
- section 173ZS
- section 174
- section 187EB
- section 187EC(4)
- section 187G
- section 201(1)
- section 202(2)
- section 203
- section 209
- section 215



- section 217
  - section 219(1)
  - section 220(1)
  - section 228(2)
  - section 232B
  - section 233
  - section 235(2).
- (2) Each of the following provisions is amended by omitting ‘Chief executive’ or ‘Chief executive’s’ and inserting ‘Commissioner’ or ‘Commissioner’s’—
- section 42A, heading
  - section 99F, heading
  - section 107C, heading
  - section 115, heading
  - section 123, heading
  - section 123A, heading
  - section 173ZR, heading.

**145 Amendment of various sections for reference to commission**

Each of the following provisions is amended by omitting ‘commission’ and inserting ‘commissioner’—

- section 86
- section 87.

**146 Amendment of various sections for reference to assistant commissioner**

Each of the following provisions is amended by omitting ‘assistant commissioner’ and inserting ‘assistant police commissioner’—



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**149 Replacement of ss 332 and 333**

Sections 332 and 333—

*omit, insert—*

**‘332 Unpaid royalty interest**

- ‘(1) A person must pay interest (*unpaid royalty interest*) on the amount of royalty payable by the person to the State and unpaid from time to time (*unpaid royalty*).
- ‘(2) Unpaid royalty interest accrues on unpaid royalty—
  - (a) at the rate prescribed under a regulation; and
  - (b) daily, for the period starting on the day after the amount is required to be paid under this Act (the *start date*) and ending on the day the unpaid royalty is paid in full, both days inclusive.
- ‘(3) A regulation may prescribe how unpaid royalty interest is worked out in particular cases or classes of cases, including, for example, how the interest is worked out if royalty is, under a regulation, payable in instalments.
- ‘(4) If the time for payment of royalty by a person is extended, the extension of time must be disregarded for working out the start date.
- ‘(5) The order of application of a payment under section 332A applies to determine the amount of unpaid royalty on which unpaid royalty interest accrues.
- ‘(6) The Minister may remit the whole or part of unpaid royalty interest payable under this section.

**‘332A Application of payments**

‘A payment made by a person to the State for a liability relating to royalty must be applied in the following order—

- (a) first, an amount payable under this Act in relation to the royalty, other than unpaid royalty interest or royalty;
- (b) second, unpaid royalty interest;

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---

(c) last, royalty.

### **‘333 Recovery of unpaid amounts**

‘(1) This section applies if a person does not pay the whole or part of any of the following payable under this Act—

- (a) royalty;
- (b) unpaid royalty interest;
- (c) a civil penalty.

‘(2) The unpaid amount is a debt payable to the relevant entity and may be recovered by the relevant entity in a court of competent jurisdiction.

‘(3) Subsection (2) applies in relation to a civil penalty despite section 412(3).

‘(4) In this section—

*civil penalty* means a civil penalty provided for under a regulation made under section 321A.

*relevant entity* means—

- (a) for royalty payable to the State, unpaid royalty interest or a civil penalty—the State; or
- (b) for royalty payable to a person—the person to whom royalty is payable.’.

### **150 Insertion of new pt 19, div 18**

Part 19—

*insert—*

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**‘Division 18                      Transitional provision for Fiscal  
Repair Amendment Act 2012**

**‘805      Application of Act to particular unpaid royalty**

- ‘(1) This section applies if, immediately before 1 October 2012, an amount of royalty payable by a person to the State is unpaid (the *unpaid royalty*).
- ‘(2) This Act as in force on 1 October 2012 applies in relation to the unpaid royalty on and from that day.
- (3) For applying section 332 to the unpaid royalty under subsection (2), the start date is taken to be 1 October 2012.’.

**151      Amendment of sch 2 (Dictionary)**

Schedule 2—

*insert—*

*‘unpaid royalty interest* see section 332(1).’.

**Part 7                                      Amendment of Petroleum and  
Gas (Production and Safety)  
Act 2004**

**152      Act amended**

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

**153      Amendment of s 81 (Conditions for renewal application)**

Section 81(1)(d)—

*omit, insert—*

[s 154]

---

‘(d) petroleum royalty for petroleum produced under the authority, any unpaid royalty interest on it, or any civil penalty payable under a regulation made under section 604A;’.

**154 Amendment of s 103 (Applying to divide)**

Section 103(3)—

*omit, insert—*

‘(d) petroleum royalty for petroleum produced under the authority, any unpaid royalty interest on it, or any civil penalty payable under a regulation made under section 604A;’.

**155 Amendment of s 161 (Conditions for renewal application)**

Section 161(1)(d)—

*omit, insert—*

‘(d) petroleum royalty for petroleum produced under the lease, any unpaid royalty interest on it, or any civil penalty payable under a regulation made under section 604A;’.

**156 Amendment of s 171 (Applying to divide)**

Section 171(3)(d)—

*omit, insert—*

‘(d) petroleum royalty for petroleum produced under the original lease, any unpaid royalty interest on it, or any civil penalty payable under a regulation made under section 604A;’.

**157 Amendment of s 595 (Fee for late lodgement of royalty return)**

Section 595(3) and (4)—

*omit, insert—*

- ‘(3) The prescribed fee must accompany a royalty return lodged after the day mentioned in section 594.
- ‘(4) The prescribed fee is payable in addition to any penalty imposed under section 594.
- ‘(5) The Minister may remit the whole or part of the fee mentioned in subsection (3).’.

**158 Amendment of s 597 (Petroleum producer’s obligations if use of estimates approved)**

Section 597(5), note, from ‘602’—

*omit, insert—*

‘602.’.

**159 Amendment of s 600 (Overpayments)**

Section 600(3), from ‘for petroleum’—

*omit, insert—*

‘for petroleum royalty, unpaid royalty interest or a civil penalty payable by the producer under a regulation made under 604A.’.

**160 Replacement of s 602 (Interest on unpaid petroleum royalty or additional petroleum royalty)**

Section 602—

*omit, insert—*

**‘602 Unpaid royalty interest**

- ‘(1) This section applies if an amount (*unpaid petroleum royalty*) is payable by a person and unpaid from time to time for—
  - (a) petroleum royalty that is payable under part 1; or
  - (b) additional petroleum royalty that is payable under section 601.

[s 161]

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- ‘(2) The person must pay interest (*unpaid royalty interest*) on the unpaid petroleum royalty.
- ‘(3) Unpaid royalty interest accrues on unpaid petroleum royalty—
  - (a) at the rate prescribed under a regulation; and
  - (b) daily, for the period starting on the day after the amount is required to be paid under this Act and ending on the day the unpaid petroleum royalty is paid in full, both days inclusive.
- ‘(4) A regulation may prescribe how unpaid royalty interest is worked out in particular cases or classes of cases, including, for example, how the interest is worked out if royalty is, under a regulation, payable in instalments.
- ‘(5) The order of application of a payment under section 602A applies to determine the amount of unpaid petroleum royalty on which unpaid royalty interest accrues.
- ‘(6) The Minister may remit the whole or part of unpaid royalty interest payable under this section.

### ‘602A Application of payments

‘A payment made by a person to the State for a liability relating to petroleum royalty must be applied in the following order—

- (a) first, an amount payable under this Act in relation to the royalty, other than unpaid petroleum royalty interest or petroleum royalty;
- (b) second, unpaid petroleum royalty interest;
- (c) last, petroleum royalty.’.

### 161 Amendment of s 603 (Recovery of unpaid petroleum royalty and interest)

- (1) Section 603, heading, from ‘petroleum’—  
*omit, insert—*



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**‘amounts’.**

- (2) Section 603(c), ‘unpaid petroleum’—

*omit, insert—*

**‘unpaid’.**

- (3) Section 603—

*insert—*

**‘(d) a civil penalty payable by the producer under a regulation made under section 604A;’.**

- (4) Section 603, ‘petroleum royalty or interest’—

*omit, insert—*

**‘petroleum royalty, interest or civil penalty’.**

## **162 Insertion of new s 604A**

Chapter 6, part 3—

*insert—*

### **‘604A Regulation may impose civil penalties**

- ‘(1) This section applies if a regulation provides for a person to make an election about the time and manner, or amount, of payment of petroleum royalty to the State.
- ‘(2) To deter exploitation of the provision, the regulation may impose a civil penalty—
- (a) for contravention of a prescribed requirement; or
  - (b) in other prescribed circumstances.
- ‘(3) The amount of the civil penalty must be a prescribed amount or a prescribed percentage of petroleum royalty payable.’.

## **163 Insertion of new ch 15, pt 14**

Chapter 15—

*insert—*





[s 169]

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**‘234 Disclosure of Cabinet information’.**

(2) Section 234—

*insert—*

‘(3) Subsection (4) applies if, in good faith, a person produces a document, answers a question or gives a statement relating to exempt matter for the purpose of enabling the authority to perform a function mentioned in section 10(e), (1b) or (1c) (a **relevant disclosure**).

‘(4) The relevant disclosure by the person does not, of itself, constitute—

(a) a contravention of the Criminal Code, section 85; or

(b) a disciplinary ground under the *Public Service Act 2008*, section 187(1)(b) or (f); or

(c) official misconduct under the *Crime and Misconduct Act 2001*, section 15(b).’.

**169 Amendment of s 239, hdg (Confidential information)**

Section 239, heading, after ‘information’—

*insert—*

‘—commercial activities’.

**170 Insertion of new s 239A**

After section 239—

*insert—*

**‘239A Confidential information—regulatory proposals, regulatory impact statements and exempt matter**

‘(1) This section applies if information (other than information to which section 187, 207 or 239 applies) is received by the authority in the course of performing its functions under section 10(1b), including, for example, the following information—

- 
- (a) a regulatory proposal of a government agency or regulatory impact statement;
  - (b) information relating to the regulatory proposal or regulatory impact statement submitted, or proposed to be submitted, to Cabinet for its consideration.
- ‘(2) This section also applies if information that is exempt matter (other than information to which section 187, 207 or 239 applies) is received by the authority in the course of performing its functions under section 10(e) or (lc).
- ‘(3) The authority must take all reasonable steps to ensure the information is not disclosed other than—
- (a) to a member; or
  - (b) to an employee, consultant or agent of the authority who receives the information in the course of his or her duties; or
  - (c) under an Act; or
  - (d) with the consent of the government agency that gave the information to the authority; or
  - (e) for information mentioned in subsection (1)—under guidelines about a regulatory impact statement system approved by the Treasurer.’.

**171 Omission of pt 11 (Transitional provisions for Queensland Competition Authority Amendment Act 2008)**

Part 11—

*omit.*

**172 Amendment of sch 2 (Dictionary)**

Schedule 2—

*insert—*

‘***regulatory impact statement*** means a regulatory impact statement prepared for proposed legislation under guidelines

[s 173]

---

about a regulatory impact statement system approved by the Treasurer.’.

## **Part 9**                                      **Amendment of State Penalties Enforcement Act 1999**

### **173 Act amended**

This part amends the *State Penalties Enforcement Act 1999*.

### **174 Replacement of s 152 (Information from entities other than police service)**

Section 152—

*omit, insert—*

#### **‘152 Information from persons other than police service**

- ‘(1) The registrar may, by written notice given to a person, require the person to—
- (a) give to the registrar, either orally or in writing, information in the person’s knowledge about a stated matter within a stated reasonable time and in a stated reasonable way; or
  - (b) give to the registrar a document about a stated matter in the person’s possession or control within a stated reasonable time and in a stated reasonable way.
- ‘(2) The power conferred under subsection (1) must only be exercised for the administration or enforcement of this Act.
- ‘(3) A person must not fail, without reasonable excuse, to comply with a requirement made under subsection (1) within the time, and in the way, stated in the notice.

Maximum penalty—100 penalty units.

- 
- ‘(4) If the person reasonably suspects giving the registrar information or a document is likely to endanger the safety of a person, it is a reasonable excuse for the person not to give the registrar that information or document.
  - ‘(5) This section does not apply to the Queensland Police Service.

### **‘152A Attendance by persons other than police service**

- ‘(1) The registrar may, by written notice given to a person, require the person to attend before the registrar to do either or both of the following—
  - (a) give the registrar, either orally or in writing, information in the person’s knowledge about a stated matter;
  - (b) give the registrar a document about a stated matter in the person’s possession or control.
- ‘(2) The notice must state a reasonable time and place for the person’s attendance.
- ‘(3) The registrar may require—
  - (a) information to be given on oath; or
  - (b) information or a document given to be verified by statutory declaration.
- ‘(4) The powers conferred under subsections (1) and (3) must only be exercised for the administration or enforcement of this Act.
- ‘(5) When making a requirement under this section, the registrar must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.
- ‘(6) The person must not fail, without reasonable excuse, to—
  - (a) attend as required by the notice; or
  - (b) give information the person is required to give by the registrar in the way required; or
  - (c) give a document the person is required to give by the notice; or
  - (d) comply with a requirement under subsection (3).

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Maximum penalty—100 penalty units.

- ‘(7) If the person reasonably suspects giving the registrar information or a document is likely to endanger the safety of a person, it is a reasonable excuse for the person not to give the registrar that information or document.
- ‘(8) A person, other than an enforcement debtor or the enforcement debtor’s representative, who is required under a notice under this section to attend a place is entitled to be paid the expenses prescribed under a regulation.
- ‘(9) For subsection (3)(a), the registrar may administer an oath.
- ‘(10) This section does not apply to the Queensland Police Service.

#### **‘152B Power to record giving of information**

- ‘(1) This section applies if a person is giving information to the registrar under a requirement under section 152A.
- ‘(2) With the person’s knowledge, a recording may be made, in the way the registrar considers appropriate, of questions asked by the registrar and information given by the person.
- ‘(3) If asked to do so by the person, the registrar must give the person a copy of the recording.

#### **‘152C Registrar may require translation or conversion of document or information**

- ‘(1) This section applies if—
  - (a) a person gives information or a document to the registrar; and
  - (b) the registrar reasonably believes the information or document is relevant to the administration or enforcement of this Act.
- ‘(2) The registrar may, by written notice given to the person, require the person to translate or convert into a written document in the English language and Australian currency the information or document mentioned in subsection (1).



- 
- ‘(3) The notice must state the reasonable time for compliance with the requirement.
  - ‘(4) The person must not fail, without reasonable excuse, to comply with the requirement.  
Maximum penalty—100 penalty units.
  - ‘(5) If the person does not comply with the requirement, the registrar may have the document or information translated or converted.
  - ‘(6) The costs and expenses incurred under subsection (5) are a debt payable to the State by the person and may be recovered by the registrar by action in a court of competent jurisdiction.

**‘152D Self-incrimination not a reasonable excuse for failure to comply with requirement under s 152 or 152A**

- ‘(1) This section applies if, under section 152 or 152A, a person is required by written notice given to the person to give information or a document to the registrar.
- ‘(2) It is not a reasonable excuse for the person to fail to comply with the requirement because complying with the requirement might tend to incriminate the person.
- ‘(3) However, evidence of, or evidence directly or indirectly derived from, information or a document given in compliance with the requirement by the person that might tend to incriminate the person is not admissible in evidence against the person in a criminal proceeding, other than a proceeding in which the falsity or misleading nature of the information or document is relevant.

**‘152E False or misleading documents**

- ‘(1) A person must not give the registrar a document containing information that the person knows, or should reasonably know, is false or misleading in a material particular.  
Maximum penalty—100 penalty units.

[s 174]

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- ‘(2) Subsection (1) does not apply to a person who, when giving the document—
- (a) tells the registrar of the extent to which the document is false or misleading; and
  - (b) to the extent the person has, or can reasonably get, the correct information—gives the correct information to the registrar.

**‘152F False or misleading information**

‘A person must not state anything to the registrar that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

**‘152G Disclosure of confidential information—information acquired by official in official’s capacity**

- ‘(1) An official must not disclose confidential information acquired by the official in the official’s capacity to anyone else other than—
- (a) for information mentioned in section 151—under that section; or
  - (b) for other information—under this section or section 152H.

Maximum penalty—100 penalty units.

- ‘(2) The registrar may disclose personal confidential information—
- (a) to the person to whom the information relates or, if either of the following applies, to someone else—
    - (i) with the consent, express or implied, of the person to whom the information relates;
    - (ii) the registrar reasonably believes is acting for the person to whom the information relates; or

- 
- (b) if the disclosure is expressly permitted or required under another Act; or
  - (c) in connection with the administration or enforcement of this Act or a revenue law; or
  - (d) in relation to a legal proceeding under this Act; or
  - (e) to the Minister, or an officer of the department, for—
    - (i) developing or monitoring policies for, or the operation of, this Act; or
    - (ii) administering the *Financial Accountability Act 2009*, section 21.
- ‘(3) Also, if the registrar becomes aware, from information obtained or held by the registrar in the course of administering this Act, of a particular offence or suspected offence (whether against this Act or another law), the registrar may disclose confidential information about the offence or suspected offence to a member of the Queensland Police Service or the Australian Federal Police for an investigation or proceeding (including for starting an investigation or proceeding).
- ‘(4) Also, the registrar may disclose confidential information other than personal confidential information to any person, or for any purpose, the registrar is satisfied is appropriate in the circumstances.
- ‘(5) This section does not create a right in any person to be given confidential information.
- ‘(6) In this section—
- confidential information** means information, including a document, that is disclosed to, obtained by, or otherwise held by, an official under or in relation to this Act.
- official** means a person who is, or has been, engaged in administering or enforcing this Act.
- personal confidential information**, for a person, means confidential information that—
- (a) identifies, or is likely to identify, the person; or

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(b) discloses matters about the person's affairs.

*revenue law* means—

- (a) a law of the Commonwealth or a State about the assessment, imposition or collection of a tax, fee, duty, royalty or other impost; or
- (b) another law administered by the Commissioner of State Revenue appointed under the *Taxation Administration Act 2001*.

*Note—*

See the *Taxation Administration Act 2001*, sections 7 and 8 for the appointment and functions of the Commissioner of State Revenue.

## **‘152H Other obligations about disclosure of confidential information**

‘(1) Subsection (2) applies if—

- (a) a person—
  - (i) knowingly acquires confidential information without lawful authority; or
  - (ii) receives confidential information that the person knows, or ought reasonably to know, is confidential information; and
- (b) the person is not an official who acquires the information in the official's capacity.

*Example for subsection (1)(a)(i)—*

A person employed by a cleaning contractor engaged by the State to clean reads a document in the registrar's office containing confidential information.

*Example for subsection (1)(a)(ii)—*

A person, other than the addressee of an email, receives the email that states the information in it is confidential and is intended for the addressee's purposes only.

‘(2) The person must not disclose the information to anyone else unless the disclosure is permitted—

- 
- (a) for information mentioned in section 151—under that section; or
  - (b) for other information—under this section.

Maximum penalty—100 penalty units.

- ‘(3) If, under section 152G, the registrar discloses confidential information to a person, the person may disclose the information—
  - (a) to the extent necessary to enable the person to exercise a power or perform a function conferred on the person under a law for the administration or enforcement of the law; or
  - (b) for the purpose for which it was disclosed under the section; or
  - (c) to anyone else for any purpose if the information relates to the person.
- ‘(4) In this section—
  - confidential information* see section 152G(6).
  - official* see section 152G(6).

### ‘152I Refusal to disclose particular information

- ‘(1) A person engaged in the administration or enforcement of this Act can not be compelled to disclose to a court or QCAT in a proceeding, or to a party to the proceeding—
  - (a) confidential information; or
  - (b) whether or not the person has received particular confidential information; or
  - (c) the identity of the source of particular confidential information.
- ‘(2) Subsection (1) does not apply to a proceeding for the administration or enforcement of this Act.’

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## **Part 10**                      **Amendment of Statutory Instruments Act 1992**

### **175 Act amended**

This part amends the *Statutory Instruments Act 1992*.

### **176 Amendment of s 4 (Displacement of Act by contrary intention)**

Section 4, '(other than part 5)'—  
*omit.*

### **177 Omission of pt 5 (Guidelines for regulatory impact statements)**

Part 5—  
*omit.*

## **Part 11**                      **Amendment of Taxation Administration Act 2001**

### **178 Act amended**

This part amends the *Taxation Administration Act 2001*.

### **179 Amendment of s 111 (Disclosure of confidential information)**

- (1) Section 111(2)(d)—  
*omit, insert—*  
'(d) to a person for the administration or enforcement of—

- 
- (i) a recognised law or another law about taxation revenue; or
- (ii) a royalty law; or’.
- (2) Section 111(2)—  
*insert—*
- ‘(h) to the registrar of the State Penalties Enforcement Registry, appointed under the *State Penalties Enforcement Act 1999*, for the administration or enforcement of that Act.’.
- (3) Section 111—  
*insert—*
- ‘(7) In this section—  
*royalty law* means an Act administered by the Minister providing for payment of a royalty.’.

## Part 12                      Amendment of Vocational Education, Training and Employment Act 2000

### 180      Act amended

This part amends the *Vocational Education, Training and Employment Act 2000*.

### 181      Amendment of ch 5, hdg (Ombudsman and Skills Queensland)

Chapter 5, heading, ‘Ombudsman and’—  
*omit.*

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**182 Omission of ch 5, pt 1 (Training ombudsman)**

Chapter 5, part 1—

*omit.*

**183 Replacement of ch 5, pt 3, hdg (Training and Employment Recognition Council)**

Chapter 5, part 3, heading—

*omit, insert—*

**‘Part 3 Particular functions of Skills Queensland’.**

**184 Amendment of s 183B (Decision about employment exemption)**

Section 183B(4)(d)—

*omit, insert—*

‘(d) that the young person or parent of the young person may apply, as provided under the QCAT Act, to QCAT for a review of the decision;’.

**185 Amendment of s 183C (Amending or cancelling employment exemption)**

Section 183C(5)(d)—

*omit, insert—*

‘(d) that the young person or parent of the young person may apply, as provided under the QCAT Act, to QCAT for a review of the decision;’.

**186 Amendment of s 224 (Review by QCAT)**

Section 224(2)—

*omit, insert—*



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‘(2) The application must be made as provided under the QCAT Act.’.

**187 Amendment of s 277 (False or misleading statements to official)**

- (1) Section 277(2), definition *official*, paragraph (b)—  
*omit.*
- (2) Section 277(2), definition *official*, paragraphs (c) and (d)—  
*renumber* as paragraphs (b) and (c).

**188 Amendment of s 284 (Other disclosure of interests)**

Section 284(2)—

*omit, insert—*

- ‘(2) The person must disclose the interest to—
- (a) if the person is the chief executive officer—the chairperson of Skills Queensland; or
- (b) otherwise—the chief executive.
- Maximum penalty—50 penalty units.’.

**189 Amendment of s 286 (Protection of confidentiality)**

Section 286(3)(c), ‘or the ombudsman’—

*omit.*

**190 Amendment of s 289 (Evidentiary provisions)**

- (1) Section 289(2)(a)(i)—  
*omit.*
- (2) Section 289(2)(a)(iii) and (iv)—  
*renumber* as section 289(2)(a)(i) and (ii).

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- (3) Section 289(3), ‘the ombudsman,’—  
*omit.*

**191 Amendment of s 290 (Protection from liability)**

- (1) Section 290(3), definition *indemnified person*, paragraph (b)—  
*omit.*
- (2) Section 290(3), definition *indemnified person*, paragraphs (d) to (i)—  
*renumber* as paragraphs (b) to (g).

**192 Insertion of new ch 10, pt 8**

Chapter 10—  
*insert—*

**‘Part 8 Transitional provisions for Fiscal Repair Amendment Act 2012**

**‘407 Definitions for pt 8**

‘In this part—

*commencement* means the time this part commences.

*former ombudsman* means the person holding appointment as the training ombudsman under repealed section 133 immediately before the commencement.

**‘408 End of appointment**

- ‘(1) On the commencement, the former ombudsman goes out of office.
- ‘(2) No compensation is payable to the former ombudsman because of subsection (1).

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**‘409 Documents and records**

‘On the commencement, documents and records of the former ombudsman become documents and records of the department.

**‘410 Transitional regulation-making power**

- ‘(1) A transitional regulation may provide for anything—
- (a) necessary to provide for, allow or facilitate a matter relating to the omission of provisions of this Act about the training ombudsman; and
  - (b) for which this Act does not provide or sufficiently provide.
- ‘(2) The matters for which a transitional regulation may provide include—
- (a) an entity that may or must deal with an outstanding matter; and
  - (b) how an outstanding matter may or must be dealt with; and
  - (c) the giving of a notice to a person to whom an outstanding matter relates; and
  - (d) the review of a decision by an entity that deals with an outstanding matter.
- ‘(3) A transitional regulation may have retrospective operation to a day that is not earlier than the day on which this section commences.
- ‘(4) A transitional regulation must declare it is a transitional regulation.
- ‘(5) This section and any transitional regulation expire 1 year after the day on which this section commences.
- ‘(6) In this section—  
*outstanding matter* means—

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- (a) a complaint, application or other matter received by the former ombudsman that, on the commencement, had not been finally dealt with; or
- (b) a review started by the former ombudsman but not completed before the commencement.’.

### **193 Amendment of sch 3 (Dictionary)**

- (1) Schedule 3, definitions *adverse decision about an employment exemption, ombudsman* and *referrable matter*—  
*omit.*
- (2) Schedule 2, definition *information notice*, ‘the ombudsman,’—  
*omit.*

## **Part 13 Repeals and amendment of other Acts**

### **Division 1 Repeals**

#### **194 Repeal of Acts**

The following Acts are repealed—

- Brisbane Markets Act 2002, No. 16
- Family Security Friendly Society (Distribution of Moneys) Act 1991, No. 89.

## **Division 2                      Amendment of other Acts**

### **195      Minor and consequential amendments**

The schedule amends the Acts mentioned in it.

## **Schedule                      Acts amended**

section 195

### **Child Care Act 2002**

- 1            Part 10, division 4—**  
*omit.*

### **Coastal Protection and Management Act 1995**

- 1            Section 54(4)—**  
*omit.*

### **Corporations (Ancillary Provisions) Act 2001**

- 1            Section 23(3)—**  
*omit.*

### **Disaster Management Act 2003**

- 1            Section 67(5)—**  
*omit.*

- 2 Section 72(5)—**  
*omit.*

## **Evidence Act 1977**

- 1 Section 47(2)—**  
*insert—*

*‘regulatory impact statement* means a regulatory impact statement prepared under—

- (a) the *Statutory Instruments Act 1992*, part 5 as in force from time to time before its repeal by the *Fiscal Repair Amendment Act 2012*; or
- (b) guidelines, for a regulatory impact statement system, approved by the Treasurer.’.

## **Legislative Standards Act 1992**

- 1 Section 2, definition *significant subordinate legislation*, ‘the *Statutory Instruments Act 1992*’—**

*omit, insert—*

‘guidelines, for a regulatory impact statement system, approved by the Treasurer’.

## Marine Parks Act 2004

- 1 Section 16(2), ‘the information that would, but for section 19(5), be required under the Statutory Instruments Act 1992, section 44 for a regulatory impact statement’—**

*omit, insert—*

‘the RIS information’.

- 2 Section 16(8)—**

*insert—*

‘*RIS information* means the information required to be included in a regulatory impact statement under the *Statutory Instruments Act 1992*, section 44 as in force immediately before its repeal by the *Fiscal Repair Amendment Act 2012*.’.

- 3 Section 19(5)—**

*omit.*

## Motor Racing Events Act 1990

- 1 Section 50—**

*omit.*

## Parliament of Queensland Act 2001

- 1 Section 93(2)(b), ‘parts 5’—**

*omit, insert—*

‘parts 6’.



**2 Section 93(2)—***insert—*

- ‘(c) for subordinate legislation—the guidelines, for a regulatory impact statement system, approved by the Treasurer.

*Editor’s note—*

The guidelines may be accessed on the website of Queensland Treasury and Trade at <[www.treasury.qld.gov.au](http://www.treasury.qld.gov.au)>.’.

**Public Health Act 2005****1 Section 323(6)—***omit.***Public Safety Preservation Act 1986****1 Section 14(6)—***omit.***Supreme Court of Queensland Act 1991****1 Section 88, heading, ‘RIS requirements and’—***omit.***2 Section 88(1), ‘parts 5 and 7 do’—***omit, insert—*

‘part 7 does’.

## **Tobacco and Other Smoking Products Act 1998**

- 1 Section 14, definition *gaming machine area*, ‘schedule’—**  
*omit, insert—*  
‘schedule 2’.
  
- 2 Schedule, definition *gaming machine*, ‘schedule’—**  
*omit, insert—*  
‘schedule 2’.

## **Transport Operations (Marine Safety) Act 1994**

- 1 Section 45(3)—**  
*omit.*

## **Transport Operations (Passenger Transport) Act 1994**

- 1 Section 92(3)—**  
*omit.*

## **Water Act 2000**

- 1 Chapter 2, part 3, division 2, subdivision 6—**  
*omit.*
  
- 2 Section 71—**  
*omit.*

## **Wet Tropics World Heritage Protection and Management Act 1993**

- 1 Section 41(5)—**  
*omit.*

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