

I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.



Legislative Assembly Chamber,
Brisbane,

M. Ries.
The Clerk of the Parliament.
27 November 2013

In the name and on behalf of the Queen, I assent to this Bill.

Penelope Wensley
Government House,
Brisbane, 27th November, 2013



Queensland

No. 64 of 2013
A BILL for

An Act to amend the Bail Act 1980, the Corrective Services Act 2006, the Crime and Misconduct Act 2001, the Criminal Code, the Criminal Proceeds Confiscation Act 2002, the District Court of Queensland Act 1967, the Electrical Safety Act 2002, the Evidence Act 1977, the Justices Act 1886, the Liquor Act 1992, the Penalties and Sentences Act 1992, the Police Service Administration Act 1990, the Queensland Building Services Authority Act 1991, the Racing Act 2002, the Second-hand Dealers and Pawnbrokers Act 2003, the Security Providers Act 1993, the Supreme Court of Queensland Act 1991, the Tattoo Parlours Act 2013, the Tow Truck Act 1973, the Transport Planning and Coordination Act 1994, the Transport Planning and Coordination Regulation 2005, the Weapons Act 1990 and the Work Health and Safety Act 2011 for particular purposes



Queensland

Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Bill 2013

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2013

A Bill

for

An Act to amend the *Bail Act 1980*, the *Corrective Services Act 2006*, the *Crime and Misconduct Act 2001*, the Criminal Code, the *Criminal Proceeds Confiscation Act 2002*, the *District Court of Queensland Act 1967*, the *Electrical Safety Act 2002*, the *Evidence Act 1977*, the *Justices Act 1886*, the *Liquor Act 1992*, the *Penalties and Sentences Act 1992*, the *Police Service Administration Act 1990*, the *Queensland Building Services Authority Act 1991*, the *Racing Act 2002*, the *Second-hand Dealers and Pawnbrokers Act 2003*, the *Security Providers Act 1993*, the *Supreme Court of Queensland Act 1991*, the *Tattoo Parlours Act 2013*, the *Tow Truck Act 1973*, the *Transport Planning and Coordination Act 1994*, the *Transport Planning and Coordination Regulation 2005*, the *Weapons Act 1990* and the *Work Health and Safety Act 2011* for particular purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.

2 Commencement

- (1) This Act, other than the following provisions, commences on a day to be fixed by proclamation—
 - (a) parts 2 to 7;
 - (b) parts 9 and 10;
 - (c) parts 12 and 13;
 - (d) part 18;
 - (e) parts 21 and 22.
- (2) However, if sections 90(3) and 96 have not commenced when the *Liquor (Red Tape Reduction) and Other Legislation Amendment Act 2013*, section 37 commences, those sections and section 116(2) expire at the same time as the commencement of that provision.

Part 2 Amendment of Bail Act 1980

3 Act amended

This part amends the *Bail Act 1980*.

4 **Amendment of s 6 (Definitions)**

Section 6, definition *court*, paragraph (d), after ‘acting under section 15A’—

insert—

or conducting a bail proceeding by using video link facilities or audio link facilities under the *Justices Act 1886*, part 6A

5 **Amendment of s 8 (Power of court as to bail)**

Section 8(1)—

insert—

Note—

If the court is a Magistrates Court, see also the *Justices Act 1886*, part 6A, for provisions about the use of video link facilities or audio link facilities for proceedings, including bail proceedings.

6 **Replacement of ss 15A and 15B**

Sections 15A and 15B—

omit, insert—

15A Conduct of proceeding by Magistrates Court outside district or division

- (1) This section applies if—
 - (a) a Magistrates Court (the *original court*) has jurisdiction under this Act or another Act to hear a bail proceeding; and
 - (b) a practice direction made by the Chief Magistrate provides for a bail proceeding to be heard by an alternative court under this section.
- (2) The bail proceeding may be heard by the alternative court under an Act mentioned in subsection (1)(a) as if the alternative court—

- (a) had jurisdiction to hear the bail proceeding;
and
- (b) were the original court for the purpose of
that Act.
- (3) In hearing the bail proceeding, the alternative
court may make any order for the disposition of
the charge the court considers necessary.
- (4) In this section—

alternative court means a Magistrates Court for a
district or division outside the district or division
in which the bail proceeding would otherwise be
required to be heard.

7 Amendment of s 16 (Refusal of bail)

- (1) Section 16(3A), ‘If the defendant is a’—

omit, insert—

If the defendant is charged with an offence and it is
alleged the defendant is, or has at any time been, a

- (2) Section 16(3C), from ‘matter’—

omit, insert—

matter—

- (a) whether the offence with which the
defendant is charged is an indictable
offence, a simple offence or a regulatory
offence; or
- (b) whether the defendant is alleged to have
been a participant in a criminal organisation
when the offence was committed; or
- (c) that there is no link between the defendant’s
alleged participation in the criminal
organisation and the offence with which the
defendant is charged.

- (3) Section 16(3D)—

omit, insert—

- (3D) Subsection (3A) does not apply if the defendant proves that, at the time of the defendant's alleged participation in the criminal organisation, the organisation did not have, as 1 of its purposes, the purpose of engaging in, or conspiring to engage in, criminal activity.

8 Amendment of s 27B (Warrant for apprehension of defendant if bail granted under s 15A)

- (1) Section 27B, heading—

omit, insert—

27B Warrant for apprehension of defendant—bail granted using video link facilities or audio link facilities under Justices Act 1886, pt 6A

- (2) Section 27B(1)—

omit, insert—

- (1) This section applies if—
- (a) a magistrate grants bail to a defendant and the proceeding is conducted using video link facilities or audio link facilities under the *Justices Act 1886*, part 6A; and
 - (b) the defendant leaves the precincts of the associated place—
 - (i) if the defendant is required to enter into an undertaking under section 20—without entering into the undertaking; or
 - (ii) if there are conditions of the bail with which the defendant must comply before leaving the precincts of the associated place—without fulfilling the conditions.

- (3) Section 27B(3)(b), '(1)(a) or (b)'—

omit, insert—

(1)(b)(i) or (ii)

(4) Section 27B—

insert—

(4) In this section—

associated place see the *Justices Act 1886*, section 178B.

audio link facilities see the *Justices Act 1886*, section 4.

precincts, of an associated place, means the part of the associated place used for the bail proceeding.

video link facilities see the *Justices Act 1886*, section 4.

9 Insertion of new s 42

Part 5—

insert—

42 Transitional provision for Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

- (1) Sections 6 and 15A as amended or inserted by the amending Act apply to a bail proceeding heard on or after the commencement.
- (2) Section 16(3A) as in force on 17 October 2013 applies and is taken to have always applied to a bail application hearing on or after that date but before the commencement.
- (3) Section 16(3A) as in force on the commencement applies to a bail application hearing on or after the commencement.

12 Amendment of s 13 (Reviewing prisoner's security classification)

Section 13—

insert—

- (1B) Also, the chief executive need not review the security classification of a prisoner subject to a criminal organisation segregation order, regardless of whether—
- (a) the prisoner's security classification is high or maximum; or
 - (b) a court order changes the term of the prisoner's imprisonment.

13 Amendment of s 41 (Who may be required to give test sample)

Section 41(1)—

insert—

- (c) an offender subject to a community based order who is an identified participant in a criminal organisation.

14 Insertion of new ch 2, pt 2, div 6A

Chapter 2, part 2—

insert—

Division 6A Criminal organisation segregation orders

65A Making criminal organisation segregation order

- (1) The chief executive must make an order (a *criminal organisation segregation order* or *COSO*) for a prisoner if the commissioner

advises the chief executive under section 344AA that the prisoner is an identified participant in a criminal organisation.

Note—

See also sections 350A and 350B.

- (2) The COSO remains in effect for the period of the prisoner's imprisonment.
- (3) However, the chief executive must cancel the COSO if the commissioner gives the chief executive information under section 344AA that the prisoner is no longer an identified participant in a criminal organisation.

65B Directions in COSOs

A COSO may include directions about the extent to which—

- (a) the prisoner is to be segregated from other prisoners; and
- (b) the prisoner is to receive privileges; and
- (c) the chief executive may restrict privileges.

65C Medical examination

A doctor must examine a prisoner subject to a COSO—

- (a) as soon as practicable after the COSO takes effect; and
- (b) subsequently, at intervals that are, to the greatest practicable extent, of not more than 28 days; and
- (c) if the COSO is cancelled—as soon as practicable after the COSO ceases to have effect.

65D Record

- (1) The chief executive must record, for each corrective services facility, the details of each prisoner who is or was subject to a COSO.
- (2) The details for a prisoner must include each of the following—
 - (a) the prisoner's name, identification number and age;
 - (b) the date on which the COSO was made;
 - (c) if the COSO was cancelled—the date on which it was cancelled;
 - (d) the dates on which the prisoner was examined under section 65C.
- (3) The chief executive must, for each prisoner who is or was subject to a COSO, also keep a copy of any advice given to the chief executive that the prisoner is, or is not, an identified participant in a criminal organisation.

15 Amendment of s 71 (Reconsidering decision)

- (1) Section 71(5)—
renumber as section 71(6).
- (2) Section 71—
insert—
 - (5) This section does not apply if the prisoner is subject to a criminal organisation segregation order.

16 Insertion of new s 267A

- After section 267—
insert—

267A Directions to identified participant in criminal organisation

- (1) This section applies to an offender who is—
 - (a) an identified participant in a criminal organisation; and
 - (b) subject to a parole order or community based order (the *relevant order*).
- (2) The purpose of this section is to enable—
 - (a) the movements in the community of the offender to be restricted; and
 - (b) the location of the offender in the community to be monitored.
- (3) The chief executive may order a corrective services officer to give any or all of the following directions to the offender—
 - (a) a direction to remain at a stated place for a stated period;
 - (b) a direction to wear a stated device for monitoring the offender's location;
 - (c) a direction to permit the installation of any device or equipment at the place where the offender resides.

Note—

See also sections 350A and 350B.

- (4) A corrective services officer may give ancillary directions to an offender that are reasonable and necessary for the proper administration of a direction given under subsection (3).
- (5) A direction under this section—
 - (a) may be given in writing or orally, and may apply generally or be limited in its application; and

- (b) must not be inconsistent with a requirement of the relevant order.
- (6) Subsection (7) applies if—
 - (a) the chief executive gives a corrective services officer an order under subsection (3); and
 - (b) the commissioner advises the chief executive under section 344AA that the offender is no longer an identified participant in a criminal organisation.
- (7) The chief executive must order a corrective services officer to tell the offender that any direction given to the offender under subsection (3) is no longer in place.

17 Insertion of new s 344AA

Chapter 6, part 13—

insert—

344AA Commissioner may provide information about particular offender's participation in criminal organisation

- (1) The chief executive may ask the commissioner whether an offender is an identified participant in a criminal organisation.
- (2) The commissioner must give the chief executive the requested advice.
- (3) The chief executive may use the requested advice only for managing the offender in a corrective services facility or supervising the offender in the community, including—
 - (a) making a criminal organisation segregation order for the offender; and
 - (b) if the offender is subject to a parole order or community based order—

- (i) deciding whether to order a corrective services officer to give the offender a direction under section 267A; or
 - (ii) requiring the offender to give a test sample under section 41.
- (4) Subsections (5) and (6) apply if the commissioner advises the chief executive that the offender is identified as an identified participant in a criminal organisation.
- (5) The chief executive must ask the commissioner for information about whether the offender is still an identified participant in a criminal organisation—
 - (a) if the chief executive reasonably believes the offender may no longer be a participant in a criminal organisation—as soon as practicable after forming the belief; or
Example of when the chief executive may reasonably believe the offender is no longer a participant in a criminal organisation—
 - the offender gives the chief executive evidence that the offender is not a participant in a criminal organisation
 - (b) in any case—at intervals of not more than 6 months after the commissioner gives the advice under subsection (2).
- (6) The commissioner must give the chief executive the advice requested under subsection (5).

18 Insertion of new ss 350A and 350B

After section 350—

insert—

350A Confidentiality of criminal intelligence in proceedings

- (1) This section applies if—
 - (a) a person seeks a review of a decision of the chief executive to make a COSO or an order under section 267A(3); and
 - (b) the decision was made as a result of advice given by the commissioner that the person is an identified participant in a criminal organisation.
- (2) For a proceeding about the decision in the Supreme Court—
 - (a) the commissioner is a party to the proceedings; and
 - (b) the commissioner must give the Supreme Court a statement of reasons about the identification of the person by the commissioner as an identified participant in a criminal organisation.
- (3) For a proceeding mentioned in subsection (2), the Supreme Court may—
 - (a) review the identification by the commissioner of the person as an identified participant in a criminal organisation; and
 - (b) as it considers appropriate to protect the confidentiality of criminal intelligence—
 - (i) receive evidence and hear argument about the criminal intelligence in the absence of parties to the proceeding and their representatives; and
 - (ii) take evidence consisting of criminal intelligence by way of affidavit of a police officer of at least the rank of superintendent.

- (4) If the Supreme Court considers information has been incorrectly categorised by the commissioner as criminal intelligence, the commissioner may withdraw the information from consideration by the court.
- (5) Information that is withdrawn under subsection (4) by the commissioner must not be—
 - (a) disclosed to any person; or
 - (b) taken into consideration by the Supreme Court.
- (6) In this section—

criminal intelligence means—

 - (a) advice given by the commissioner to the chief executive under section 344AA that a person is a participant in a criminal organisation; and
 - (b) information held by the commissioner that is relevant to whether the person is an identified participant in a criminal organisation.

350B Application of Judicial Review Act 1991

- (1) The *Judicial Review Act 1991*, part 4 does not apply to a decision of the chief executive mentioned in section 350A(1).
- (2) Subject to this division, unless the Supreme Court decides that a decision of the chief executive mentioned in section 350A(1) is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by

- the Supreme Court, another court, a tribunal or another entity); and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (3) The *Judicial Review Act 1991*, part 5 applies to a decision mentioned in subsection (2) to the extent it is affected by jurisdictional error.

19 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

COSO see section 65A.

criminal organisation has the meaning given under the Criminal Code, section 1.

criminal organisation segregation order see section 65A.

identified participant, in a criminal organisation, means a person who is identified by the commissioner as a participant in the criminal organisation.

participant, in a criminal organisation, means a participant in the organisation within the meaning of the Criminal Code, section 60A(3).

Part 4 **Amendment of Crime and Misconduct Act 2001**

20 **Act amended**

This part amends the *Crime and Misconduct Act 2001*.

21 **Replacement of s 8 (Crime Reference Committee)**

Section 8—

omit, insert—

8 Crime Reference Committee

The Crime Reference Committee—

- (a) has responsibility for—
 - (i) referring major crime to the commission for investigation; and
 - (ii) authorising the commission to undertake specific intelligence operations; and
- (b) has a coordinating role for investigations into major crime conducted by the commission in cooperation with any other law enforcement agency.

22 **Amendment of s 53 (Intelligence functions)**

Section 53, after ‘following functions’—

insert—

(its *intelligence functions*)

23 **Amendment of ch 3, pt 1, div 1, sdiv 1, hdg (Crime investigations)**

Chapter 3, part 1, division 1, subdivision 1, heading, after ‘investigations’—

insert—

and specific intelligence operations (crime)

24 Amendment of s 72 (Power to require information or documents)

(1) Section 72(1), (2) and (3)(b)(ii), after ‘investigation’—

insert—

or specific intelligence operation (crime)

(2) Section 72(7)(a) and (b)—

renumber as section 72(7)(b) and (c).

(3) Section 72(7)—

insert—

(a) state whether it relates to a crime investigation or a specific intelligence operation (crime); and

25 Amendment of ch 3, pt 1, div 2, sdiv 1, hdg (Crime investigations and witness protection function)

Chapter 3, part 1, division 2, subdivision 1, heading, after ‘investigations’—

insert—

, specific intelligence operations (crime)

26 Amendment of s 74 (Notice to produce for crime investigation or witness protection function)

(1) Section 74, heading, after ‘investigation’—

insert—

, specific intelligence operation (crime)

(2) Section 74(1)(b)—

renumber as section 74(1)(c).

- (3) Section 74(1)—
insert—
(b) a specific intelligence operation (crime);
- (4) Section 74(2), after ‘investigation’—
insert—
, a specific intelligence operation (crime)
- (5) Section 74(2A)(b)—
renumber as section 74(2A)(c).
- (6) Section 74(2A)—
insert—
(b) a specific intelligence operation (crime); or
- (7) Section 74(3), after ‘crime investigation’—
insert—
or specific intelligence operation (crime)
- (8) Section 74(3), after ‘the investigation’—
insert—
or operation
- (9) Section 74(4)(b)—
renumber as section 74(4)(c).
- (10) Section 74(4)—
insert—
(b) for a notice given in the context of a specific intelligence operation (crime), delay in the production of the document may result in—
(i) its destruction, removal or concealment; or
(ii) serious prejudice to the conduct of the operation; or

[s 27]

(iii) the loss of an opportunity to obtain timely intelligence—

(A) in advance of a significant event;
or

(B) that may help prevent a risk to public safety; or

(11) Section 74—

insert—

(5A) A prescribed person's fear, whether genuinely held or not, of—

(a) personal physical harm or damage to the person's property; or

(b) physical harm to someone else, or damage to the property of someone else, with whom the person has a connection or bond;

is not a reasonable excuse to fail to comply with a notice to produce given for a crime investigation or a specific intelligence operation (crime) that relates to a criminal organisation or a participant in a criminal organisation.

(12) Section 74—

insert—

(9) In this section—

prescribed person means a person who is a participant in a criminal organisation.

27 Amendment of ch 3, pt 1, div 2, sdiv 2, hdg (Misconduct investigations)

Chapter 3, part 1, division 2, subdivision 2, heading, after 'investigations'—

insert—

and specific intelligence operations (misconduct)

28 Amendment of s 75 (Notice to discover information)

(1) Section 75(1)(a), after ‘investigation’—

insert—

or a specific intelligence operation (misconduct)

(2) Section 75(1)(b) and (2), after ‘investigation’—

insert—

or operation

(3) Section 75(7)(a) and (b)—

renumber as section 75(7)(b) and (c).

(4) Section 75(7)—

insert—

(a) state whether it relates to a misconduct investigation or a specific intelligence operation (misconduct); and

29 Amendment of ch 3, pt 1, div 3, sdiv 1, hdg (Crime investigations)

Chapter 3, part 1, division 3, subdivision 1, heading, after ‘investigations’—

insert—

and specific intelligence operations (crime)

30 Amendment of ch 3, pt 1, div 3, sdiv 2, hdg (Misconduct investigations)

Chapter 3, part 1, division 3, subdivision 2, heading, after ‘investigations’—

insert—

and specific intelligence operations (misconduct)

31 Amendment of s 82 (Notice to attend hearing—general)

Section 82(5), penalty—

omit, insert—

Maximum penalty—200 penalty units or 5 years imprisonment.

32 Amendment of s 183 (Refusal to take oath)

Section 183, penalty—

omit, insert—

Maximum penalty—200 penalty units or 5 years imprisonment.

33 Amendment of s 185 (Refusal to produce—claim of reasonable excuse)

(1) Section 185(1) and (6), penalty—

omit, insert—

Maximum penalty—200 penalty units or 5 years imprisonment.

(2) Section 185(1) and (3A), ‘requirement made under section 75B’—

omit, insert—

section 75B requirement

34 Amendment of s 188 (Refusal to produce—claim of reasonable excuse)

(1) Section 188(1)(c), ‘requirement under section 75B’—

omit, insert—

section 75B requirement

(2) Section 188(2), penalty—

omit, insert—

Maximum penalty—200 penalty units or 5 years imprisonment.

35 Amendment of s 190 (Refusal to answer question)

Section 190(1) and (3), penalty—

omit, insert—

Maximum penalty—200 penalty units or 5 years imprisonment.

36 Amendment of s 192 (Refusal to answer question)

(1) Section 192(1), penalty—

omit, insert—

Maximum penalty—200 penalty units or 5 years imprisonment.

(2) Section 192(3), penalty—

omit, insert—

Maximum penalty for subsection (3)—200 penalty units or 5 years imprisonment.

37 Amendment of s 195 (Appeals to Supreme Court)

(1) Section 195(9)—

insert—

Note—

See also section 200A in relation to the confidentiality of proceedings under this section.

(2) Section 195—

insert—

(10) However, the court may permit a person to be present at a hearing for the application for leave to appeal, or appeal, in the interests of justice.

38 Amendment of s 197 (Restriction on use of privileged answers, documents, things or statements disclosed or produced under compulsion)

Section 197(3)(c), after ‘Act’—

insert—

and the answer, document, thing or statement is admissible under section 265 of that Act

39 Amendment of s 198 (Contempt of person conducting commission hearing)

Section 198(4)(b), ‘requirement made under section 75B’—

omit, insert—

section 75B requirement

40 Amendment of s 199 (Punishment of contempt)

(1) Section 199(8A)(a)(ii), ‘requirement made under section 75B’—

omit, insert—

section 75B requirement

(2) Section 199—

insert—

(9A) The court’s hearing under this section is closed to the public.

Note—

See also section 200A in relation to the confidentiality of proceedings under this section.

(9B) However, the court may permit a person to be present at the hearing in the interests of justice.

41 Insertion of new s 200A

Chapter 4, part 4, before section 201—

insert—

200A Confidentiality of particular proceedings

- (1) This section applies to the following (each *the proceeding*)—
 - (a) an application for leave to appeal, or an appeal, under section 195;
 - (b) a proceeding for contempt under section 199;
 - (c) an appeal against a decision in a proceeding mentioned in paragraph (a) or (b).
- (2) The proceeding, or a hearing in the proceeding, must not be mentioned on a published court list.

Example of published court list—

daily law list

- (3) If a party to the proceeding files an application or supporting material for the proceeding, the application or material must be accompanied by a notice to the registrar stating the application or material—
 - (a) is filed for a proceeding mentioned in subsection (1); and
 - (b) is a document to which subsections (4) to (6) apply.
- (4) No record of proceedings is to be available for access by any person, unless the court has, on application by a person, given approval for the access.
- (5) A person is not entitled to search information in the custody of a court in relation to the proceeding, unless the court otherwise orders in the interests of justice.
- (6) Subsections (4) and (5) do not apply in relation to a party to the proceeding or a lawyer representing a party to the proceeding.

- (7) Nothing in this section prevents the publication of reasons for a decision in the proceeding if the publication does not identify—
- (a) a person; or
 - (b) information that may prejudice—
 - (i) an investigation being conducted by the commission; or
 - (ii) a specific intelligence operation being undertaken by the commission; or
 - (iii) the performance of another function of the commission.
- (8) In this section—
- record of proceedings* includes—
- (a) a transcript of the proceeding (whether written or otherwise); and
 - (b) documents in the court file for the proceeding; and
 - (c) an appeal book in relation to the proceeding.

42 Insertion of new s 237A

After section 237—

insert—

237A Acting part-time commissioners

- (1) The Governor in Council may appoint a person qualified for appointment as a part-time commissioner to act as a part-time commissioner—
- (a) during a vacancy in the office of a part-time commissioner; or
 - (b) during any period, or all periods, when a part-time commissioner is absent from duty

or from the State or, for another reason, can not perform the duties of the office.

- (2) Sections 227 and 228 do not apply to the appointment of a person to act as a part-time commissioner.

43 Amendment of s 277 (Reference committee may obtain information from commission)

Section 277(3)(a), ‘under the authorisation; and’—
omit.

44 Amendment of s 331 (Effect of pending proceedings)

- (1) Section 331(2)—

omit, insert—

- (2) If the proceeding is a proceeding for an indictable offence and is conducted by or for the State, the commission must, if failure to do so might prejudice the accused’s right to a fair trial, do 1 or more of the following—

- (a) conduct any hearing relating to an investigation as a closed hearing during the currency of the proceeding;
- (b) give a direction under section 202 to have effect during the currency of the proceeding;
- (c) make an order under section 180(3).

- (2) Section 331(3)—

omit.

- (3) Section 331(4)—

renumber as section 331(3).

- (4) Section 331—

insert—

- (4) To remove any doubt, it is declared that—
- (a) a proceeding for a criminal offence is in or before a court from the moment the charge is laid for the offence; and
 - (b) under subsection (1), the commission may, for the investigation or hearing, require a person or witness to answer a question, or produce a document or thing, that is relevant to a proceeding brought against the person or witness for a criminal offence.

Example for paragraph (b)—

The commission may require a person to attend a commission hearing to answer a question about a matter relating to a criminal offence for which the person has been charged.

45 Insertion of new ch 8, pt 10

Chapter 8—

insert—

Part 10 Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

395 Use of privileged answers, documents, things or statements in proceedings under Confiscation Act

- (1) Section 197(3)(c) as in force on and from 17 October 2013—
 - (a) applies, and is taken to have always applied, only to an answer, document, thing or statement given or produced on or after that day; and

- (b) authorises the use of an answer, document, thing or statement only in a proceeding under the Confiscation Act started on or after that day; and
- (c) applies, and is taken to have always applied, as if the provision as amended by the amending Act, and section 265 of the Confiscation Act as inserted by the amending Act, were in force from the beginning of that day.

Note—

17 October 2013 is the day section 197(3)(c) was inserted into this Act by the *Criminal Law (Criminal Organisations Disruption) Amendment Act 2013*, section 27.

- (2) For subsection (1), section 265 of the Confiscation Act as inserted by the amending Act applies, and is taken to have always applied, in relation to an answer, document, thing or statement mentioned in subsection (1)(a) and a proceeding mentioned in subsection (1)(b).
- (3) In this section—

amending Act means the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.

46 Amendment of sch 2 (Dictionary)

- (1) Schedule 2—

insert—

intelligence functions see section 53.

section 75B requirement means a requirement under section 75B.

specific intelligence operation (crime) means a specific intelligence operation authorised in

relation to a matter mentioned in section 55A(1)(a).

specific intelligence operation (misconduct) means a specific intelligence operation authorised in relation to a matter mentioned in section 55A(1)(b).

- (2) Schedule 2, definition *notice to produce*, paragraph (a), after ‘investigation’—

insert—

, a specific intelligence operation (crime)

- (3) Schedule 2, definition *participant*—

insert—

(f) a person who has been a person mentioned in paragraph (a), (b), (c), (d) or (e) at any time within the preceding 2 years;

Part 5 Amendment of Criminal Code

47 Act amended

This part amends the Criminal Code.

48 Amendment of s 1 (Definitions)

Section 1, definition *criminal organisation*, paragraph (b), after ‘;’—

insert—

or

49 Amendment of s 597C (Accused person to be called on to plead to indictment)

(1) Section 597C(4), from ‘the prosecutor’ to ‘use of the link’—

omit, insert—

the court considers use of the link is in the interests of justice

(2) Section 597C—

insert—

(4A) However, the court may not allow the use of an audiovisual link or audio link under subsection (4) if facilities mentioned in subsection (5A)(a) are not available at the court or the place where the accused person is present.

(4B) For subsection (4), in deciding whether use of an audio link is in the interests of justice, the court must have regard to the desirability of an accused person’s arraignment being done over an audiovisual link, rather than an audio link, if an audiovisual link is available.

(3) Section 597C—

insert—

(5A) If an accused person’s arraignment is done over an audiovisual link or audio link and the person’s representative in the proceeding is at the place where the court is sitting—

(a) the court and the place where the person is present must make facilities available for private communication between the person and the person’s representative; and

(b) a communication between the person and the person’s representative is as confidential and inadmissible in any proceeding as it would be if it took place between the person

and the person's representative while in each other's presence.

(5B) Subsection (5A)(b) does not limit any other protection applying to the communication.

50 Insertion of new ch 92

After chapter 91—

insert—

Chapter 92 Transitional provision for Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

731 Application of amended s 597C

Section 597C as amended by the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013* applies to the arraignment of an accused person in a proceeding for an offence, whether the proceeding was started before, on or after the commencement of this section.

Part 6 **Amendment of Criminal Proceeds Confiscation Act 2002**

51 Act amended

This part amends the *Criminal Proceeds Confiscation Act 2002*.

52 Amendment and renumbering of s 265 (Evidentiary provision)

Section 265, heading—

omit, insert—

266 Other evidentiary matters

53 Insertion of new s 265

Chapter 11, before section 266 as renumbered—

insert—

265 Admissibility of evidence obtained under Crime and Misconduct Act 2001

- (1) An answer, document, thing or statement mentioned in the *Crime and Misconduct Act 2001*, section 197(1) is admissible as evidence in a proceeding, other than a proceeding for the prosecution of an offence, under this Act only with the court's leave.

Note—

See the *Crime and Misconduct Act 2001*, section 395(2) in relation to the answers, documents, things and statements, and proceedings, to which this section applies.

- (2) The court may give the leave unless the court considers the unfairness to the respondent in a criminal proceeding that may be caused by

admitting the evidence outweighs its probative value in the proceeding under this Act.

- (3) In deciding whether admitting the evidence may cause unfairness to the respondent in a criminal proceeding, the court must consider—
- (a) whether the use of the evidence in the proceeding under this Act may prejudice a fair trial of the respondent for an offence for which the respondent has been, or may be, charged; and
- (b) whether there is any action it can take to prevent or limit the unfairness to the respondent.

Examples of action court may take—

- holding the proceeding, or a part of it, in private
 - making an order prohibiting or restricting the publication of all or part of the records of the proceeding, or the whole or part of the judgment in the proceeding
- (4) Subsection (3) does not limit the matters the court may consider in deciding whether admitting the evidence may cause unfairness to the respondent.

Part 7

Amendment of District Court of Queensland Act 1967

54 Act amended

This part amends the *District Court of Queensland Act 1967*.

55 Amendment of s 110C (Use of video link facilities in proceedings)

(1) Section 110C(1)—

insert—

(ba) the proceeding is not a proceeding for the sentencing of the detainee; and

Note—

See the *Penalties and Sentences Act 1992*, section 15A in relation to the use of audiovisual link or audio link facilities for a sentencing proceeding.

(2) Section 110C(1)(ba) and (c)—

renumber as section 110C(1)(c) and (d).

Part 8 Amendment of Electrical Safety Act 2002

56 Act amended

This part amends the *Electrical Safety Act 2002*.

57 Amendment of s 59 (Application for issue of electrical licence)

(1) Section 59(3), ‘The regulator’—

omit, insert—

Subject to subsection (5), the regulator

(2) Section 59—

insert—

(5) Subject to section 63A, the regulator must refuse to issue the electrical licence if the regulator is satisfied the person is a prohibited person.

Note—

See section 65A for when a person is a prohibited person.

58 Amendment of s 60 (Application for renewal of electrical licence)

(1) Section 60(3), ‘The regulator’—

omit, insert—

Subject to subsection (4A), the regulator

(2) Section 60—

insert—

(4A) Subject to section 63A, the regulator must refuse to renew the electrical licence if the regulator is satisfied the holder is a prohibited person.

Note—

See section 65A for when a person is a prohibited person.

59 Amendment of s 61 (Application for reinstatement of electrical licence)

(1) Section 61(3), ‘The regulator’—

omit, insert—

Subject to subsection (4A), the regulator

(2) Section 61—

insert—

(4A) Subject to section 63A, the regulator must refuse to reinstate the electrical licence if the regulator is satisfied the person is a prohibited person.

Note—

See section 65A for when a person is a prohibited person.

60 Insertion of new s 63A

After section 63—

insert—

**63A Procedure for refusing to issue, renew or
reinstate electrical licence of body corporate
or partnership**

- (1) This section applies if—
 - (a) a body corporate or a partnership applies to the regulator for the issue, renewal or reinstatement of an electrical licence; and
 - (b) the regulator is satisfied the applicant is a prohibited person because—
 - (i) if the applicant is a body corporate—an officer of the body corporate is an identified participant in a criminal organisation; or
 - (ii) if the applicant is a partnership—a partner in the partnership is an identified participant in a criminal organisation.
- (2) Before refusing the application under section 59(5), 60(4A) or 61(4A) (the *refusal decision*), the regulator must give the applicant a written notice stating—
 - (a) the regulator is satisfied the applicant is a prohibited person because the officer or partner is an identified participant in a criminal organisation; and
 - (b) the name of the officer or partner; and
 - (c) the regulator must make the refusal decision unless the officer or partner—
 - (i) is removed from all positions of authority in the applicant; and

- (ii) is not in a position to control or influence the applicant's conduct of its business; and
 - (d) the applicant may make, within a stated period of not more than 28 days after the giving of the notice, written representations to the regulator in support of the matters mentioned in paragraph (c)(i) and (ii).
- (3) If no representations are made within the stated period—
 - (a) the application is taken to have been withdrawn; and
 - (b) the regulator must give the applicant a written notice stating that, under this section, the application is taken to have been withdrawn.
- (4) If, after considering all written representations made within the stated period, the regulator is still satisfied the applicant is a prohibited person, the regulator must make the refusal decision.

61 Amendment of s 64 (Regulator to give reasons for refusal of application or for conditions)

Section 64—

insert—

- (3) The *Acts Interpretation Act 1954*, section 27B, does not apply to the information notice mentioned in subsection (1) to the extent to which the decision is the result of advice given by the Commissioner to the regulator under section 65B.

62 Insertion of new pt 4, div 3A

Part 4—

insert—

Division 3A Prohibited persons

65A When person prohibited from holding electrical licence

- (1) A person is prohibited from holding an electrical licence if—
 - (a) for an individual—the person is an identified participant in a criminal organisation; or
 - (b) for a body corporate or a partnership—
 - (i) the body corporate or partnership is a criminal organisation; or
 - (ii) an officer of the body corporate, or a partner in the partnership, is an identified participant in a criminal organisation.
- (2) A person who is prohibited under subsection (1) from holding an electrical licence is called a *prohibited person*.

65B Requesting and using information from Commissioner—identified participants and criminal organisations

- (1) If an application for the issue, renewal or reinstatement of an electrical licence is made, the regulator must ask the Commissioner for information about whether a person is—
 - (a) an identified participant in a criminal organisation; or
 - (b) a criminal organisation.
- (2) Also, for the purposes of administering this Act, the regulator may ask the Commissioner for

information about whether a holder of an electrical licence is—

- (a) an identified participant in a criminal organisation; or
 - (b) a criminal organisation.
- (3) The Commissioner must comply with the regulator's request.
- (4) The regulator may use the advice given by the Commissioner only for deciding whether a person is a prohibited person.

63 Amendment of s 88 (Functions of licensing committee)

(1) Section 88—

insert—

- (2A) Subsection (2)(f) does not apply to a decision of the regulator under section 59(5), 60(4A), 61(4A) or 63A(4) or part 9A.

(2) Section 88(2A) and (3)—

renumber as section 88(3) and (4).

64 Amendment of s 107 (Licensed electrical contractor)

Section 107(1)(n), 'executive'—

omit.

65 Insertion of new s 107A

Part 9, division 1—

insert—

107A Becoming a prohibited person not a ground for disciplinary action

To remove any doubt, it is declared that the holder of an electrical licence becoming a prohibited person is

not a ground for taking disciplinary action against the holder.

Note—

See part 9A for the cancellation, by the regulator, of electrical licences and the external licence recognition provision's application to external licences.

66 Insertion of new pt 9A

After section 121—

insert—

Part 9A Cancellation of electrical licence and external licence recognition provision's application to external licence

121A Cancellation of licence

- (1) Subject to section 121C, the regulator must cancel an electrical licence if the regulator is satisfied the holder of the electrical licence is a prohibited person.
- (2) The regulator must—
 - (a) give the holder written notice of the decision as soon as practicable after cancelling the licence; and
 - (b) include with the written notice an information notice for the decision.
- (3) The *Acts Interpretation Act 1954*, section 27B, does not apply to the information notice.
- (4) The cancellation takes effect on the later of the following—

- (a) the day on which the notice is given to the holder;
 - (b) the day stated in the notice.
- (5) If an electrical licence is cancelled under subsection (1), the holder must return the licence to the regulator within 14 days after the information notice is given to the holder.
- Maximum penalty for subsection (5)—20 penalty units.

121B Cancellation of external licence recognition provision's application to external licence

- (1) Subject to section 121C, the regulator must cancel the external licence recognition provision's application to an external licence if the regulator is satisfied the holder of the external licence is a prohibited person.
- (2) The regulator must—
 - (a) give the holder written notice of the decision as soon as practicable after cancelling the external licence recognition provision's application to the licence; and
 - (b) include with the written notice an information notice for the decision; and
 - (c) publish a notice of the decision, but not the reasons for the decision, in the gazette.
- (3) The *Acts Interpretation Act 1954*, section 27B, does not apply to the information notice.
- (4) The cancellation takes effect on the later of the following—
 - (a) the day on which the notice is given to the holder;
 - (b) the day stated in the notice.

121C Procedure for cancelling electrical licence, or external licence recognition provision's application to external licence, of body corporate or partnership

- (1) This section applies if—
 - (a) a body corporate or a partnership (each the *licence holder*) is—
 - (i) the holder of an electrical licence; or
 - (ii) the holder of an external licence to which the external licence recognition provision applies; and
 - (b) the regulator is satisfied the licence holder is a prohibited person because—
 - (i) if the licence holder is a body corporate—an officer of the body corporate is an identified participant in a criminal organisation; or
 - (ii) if the licence holder is a partnership—a partner in the partnership is an identified participant in a criminal organisation.
- (2) Before making a decision under section 121A or 121B (the *cancellation decision*), the regulator must give the licence holder a written notice stating—
 - (a) the regulator is satisfied the licence holder is a prohibited person because the officer or partner is an identified participant in a criminal organisation; and
 - (b) the name of the officer or partner; and
 - (c) the regulator must make the cancellation decision unless the officer or partner—
 - (i) is removed from all positions of authority in the licence holder; and

[s 67]

- (ii) is not in a position to control or influence the licence holder's conduct of its business; and
 - (d) the licence holder may make, within a stated period of not more than 28 days after the giving of the notice, written representations to the regulator in support of the matters mentioned in paragraph (c)(i) and (ii).
- (3) If, after considering all written representations made within the stated period, the regulator is still satisfied the licence holder is a prohibited person, the regulator must make the cancellation decision.

67 Amendment of s 168 (Application for review)

Section 168—

insert—

- (2) Despite subsection (1), this division does not apply to a decision of the regulator under section 59(5), 60(4A), 61(4A) or 63A(4) or part 9A.

68 Insertion of new ss 173 and 174

After section 172—

insert—

173 Confidentiality of criminal intelligence in proceedings

- (1) This section applies if—
 - (a) a person seeks a review of any of the following decisions made by the regulator—
 - (i) a refusal to issue an electrical licence;
 - (ii) a refusal to renew an electrical licence;
 - (iii) a refusal to reinstate an electrical licence;

- (iv) a cancellation of an electrical licence;
 - (v) a cancellation of the external licence recognition provision's application to an external licence; and
 - (b) the decision was made as a result of advice given by the Commissioner that the person, or another person who can not be a prohibited person if the person is to be the holder of the licence, is an identified participant in a criminal organisation.
- (2) For a proceeding relating to an application for review of the decision in QCAT or a proceeding about the decision in the Supreme Court—
- (a) the Commissioner is a party to the proceedings; and
 - (b) the Commissioner must give QCAT or the Supreme Court a statement of reasons about the identification of the person by the Commissioner as an identified participant in a criminal organisation.
- (3) For a proceeding mentioned in subsection (2), QCAT or the Supreme Court may—
- (a) review the identification by the Commissioner of the person as an identified participant in a criminal organisation; and
 - (b) as it considers appropriate to protect the confidentiality of criminal intelligence—
 - (i) receive evidence and hear argument about the criminal intelligence in the absence of parties to the proceeding and their representatives; and
 - (ii) take evidence consisting of criminal intelligence by way of affidavit of a police officer of at least the rank of superintendent.

- (4) If QCAT or the Supreme Court considers information has been incorrectly categorised by the Commissioner as criminal intelligence, the Commissioner may withdraw the information from consideration by QCAT or the court.
- (5) Information that is withdrawn under subsection (4) by the Commissioner must not be—
 - (a) disclosed to any person; or
 - (b) taken into consideration by QCAT or the Supreme Court.

174 Application of Judicial Review Act 1991

- (1) The *Judicial Review Act 1991*, part 4 does not apply to a decision of the regulator mentioned in section 173(1).
- (2) Subject to this division, unless the Supreme Court decides that a decision of the regulator mentioned in section 173(1) is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (3) The *Judicial Review Act 1991*, part 5 applies to a decision mentioned in subsection (2) to the extent it is affected by jurisdictional error.

69 Amendment of s 184 (Certificate about action on electrical licence)

Section 184, before ‘in relation to the holder’—

insert—

or regulator

70 Insertion of new pt 21

After section 254—

insert—

**Part 21 Transitional provision
for Criminal Law
(Criminal
Organisations
Disruption) and Other
Legislation
Amendment Act 2013**

255 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the regulator had not finally decided an application for the—
 - (a) issue of an electrical licence; or
 - (b) renewal of an electrical licence; or
 - (c) reinstatement of an electrical licence.
- (2) The regulator must decide the application under this Act as amended by the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.
- (3) In this section—

commencement means the commencement of this section.

71 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *executive officer offence provision*—
omit.
- (2) Schedule 2—
insert—

Commissioner means the Commissioner of the Police Service.

criminal intelligence means—

- (a) advice given by the Commissioner to the regulator under section 65B(2) that a person is—
 - (i) an identified participant in a criminal organisation; or
 - (ii) a criminal organisation; and
- (b) information held by the Commissioner that is relevant to whether the person is an identified participant in a criminal organisation or a criminal organisation.

criminal organisation means—

- (a) for the definition *identified participant*—a criminal organisation under the Criminal Code, section 1; or
- (b) otherwise—an organisation identified by the Commissioner as a criminal organisation within the meaning of the Criminal Code, section 1.

identified participant, in a criminal organisation, means a person who is identified by the Commissioner as a participant in the organisation

within the meaning of the Criminal Code, section 60A(3).

prohibited person see section 65A(2).

Part 9 **Amendment of Evidence Act 1977**

72 **Act amended**

This part amends the *Evidence Act 1977*.

73 **Amendment of s 39B (Application of pt 3A)**

Section 39B(4), from ‘authorised by’—

omit, insert—

authorised by any of the following—

- (a) the Criminal Code, section 597C(4);
- (b) the *District Court of Queensland Act 1967*, section 110C;
- (c) the *Justices Act 1886*, section 178C;
- (d) the *Penalties and Sentences Act 1992*, section 15A;
- (e) the *Supreme Court of Queensland Act 1991*, section 80;
- (f) the *Youth Justice Act 1992*, section 53 or 159.

74 **Amendment of s 39C (Definitions for pt 3A)**

Section 39C, definition *external location*, paragraph (b), ‘594’—

omit, insert—

597C

Part 10 Amendment of Justices Act 1886

75 Act amended

This part amends the *Justices Act 1886*.

76 Amendment of s 4 (Definitions)

Section 4—

insert—

audio link facilities means facilities, including telephone, that enable reasonably contemporaneous and continuous audio communication between persons at different places.

correctional institution, for part 6A, see section 178B.

court cell, for part 6A, see section 178B.

video link facilities means facilities, including closed-circuit television, that enable reasonably contemporaneous and continuous audio and visual communication between persons at different places, including, for example, video link facilities.

77 Replacement of s 23EC (Magistrate for other district or division authorised to grant bail may also adjourn a hearing for offence)

Section 23EC—

omit, insert—

23EC Conduct of proceeding by video link facilities or audio link facilities by court outside district or division

- (1) This section applies if—
- (a) a Magistrates Court (the *original court*) has jurisdiction under this Act or another Act to hear a proceeding, including a criminal proceeding; and
 - (b) the original court is authorised under this Act or another Act (an *authorising law*) to conduct the proceeding using video link facilities or audio link facilities; and

Examples of authorising laws—

- part 6A of this Act
 - *Evidence Act 1977*, part 3A
 - *Penalties and Sentences Act 1992*, section 15A
- (c) a practice direction made by the Chief Magistrate provides for the proceeding to be conducted by an alternative court by video link facilities or audio link facilities under this section.
- (2) The alternative court may conduct the proceeding by using video link facilities or audio link facilities under the authorising law as if the alternative court—
- (a) had jurisdiction under the Act mentioned in subsection (1)(a) to hear the proceeding; and
 - (b) were the original court for the purpose of the authorising law.

(3) In this section—

alternative court, in relation to a proceeding, means a Magistrates Court outside the district or division in which the proceeding would otherwise be required to be heard.

78 Amendment of s 139 (Where summary cases to be heard)

Section 139(2F), after ‘by post’—

insert—

or electronically

79 Amendment of pt 6A, hdg (Use of video link facilities)

Part 6A, heading, after ‘facilities’—

insert—

or audio link facilities

80 Amendment of s 178A (Purpose of part)

Section 178A, after ‘facilities’—

insert—

or audio link facilities

81 Amendment of s 178B (Definitions for part)

(1) Section 178B—

insert—

correctional institution includes the following—

- (a) a corrective services facility within the meaning of the *Corrective Services Act 2006*;
- (b) a watch-house;
- (c) a holding cell at a police station;

(d) a court cell.

court cell means a place attached to or near a court that is used for detaining prisoners of the court.

(2) Section 178B, definition *associated place*, after ‘video link facilities’—

insert—

or audio link facilities

82 Amendment of s 178C (Use of video link facilities in proceedings)

(1) Section 178C, heading, after ‘facilities’—

insert—

or audio link facilities

(2) Section 178C(1)(b), after ‘remand’—

insert—

, other than a proceeding for the sentencing of the person

(3) Section 178C(1)(b)—

insert—

Note—

See the *Penalties and Sentences Act 1992*, section 15A in relation to the use of audiovisual link or audio link facilities for a sentencing proceeding.

(4) Section 178C(1)(c), after ‘video link facilities’—

insert—

or audio link facilities

(5) Section 178C(2)—

omit, insert—

(2) If—

[s 83]

- (a) the person is in custody in a correctional institution that is a corrective services facility within the meaning of the *Corrective Services Act 2006*; and
- (b) the proceeding is for the person's bail or remand;

the proceeding must be conducted using the video link facilities, unless the primary court, in the interests of justice, otherwise orders.

(6) Section 178C(3)—

omit, insert—

- (3) In a proceeding other than a proceeding to which subsection (2) applies, the primary court may, in the interests of justice, order the proceeding be conducted using the video link facilities or audio link facilities.
- (3A) However, the primary court may not make an order under subsection (3) if facilities mentioned in section 178F(1) are not available at the primary court or the associated place.

(7) Section 178C(4), after 'video link facilities'—

insert—

or audio link facilities

(8) Section 178C(3A) and (4)—

renumber as section 178C(4) and (5).

83 Amendment of s 178D (Facility user taken to be before the court)

Section 178D(3), after 'video link facilities'—

insert—

or audio link facilities

84 Amendment of s 178E (Way video link facilities must be operated)

(1) Section 178E, heading, after ‘facilities’—

insert—

or audio link facilities

(2) Section 178E—

insert—

(1A) Audio link facilities, when used for a proceeding, must be operated in a way that ensures two-way audio communication between the facility user and the primary court.

(3) Section 178E(2), after ‘video link facilities’—

insert—

or audio link facilities

85 Insertion of new pt 11, div 6

Part 11—

insert—

Division 6 Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

280 Application of provisions about use of video link facilities or audio link facilities

(1) The amended provisions apply to a proceeding for an offence, whether the proceeding started before, on or after the commencement of this section.

(2) In this section—

amended provisions means the following provisions as amended or inserted by the

*Criminal Law (Criminal Organisations
Disruption) and Other Legislation Amendment
Act 2013—*

- (a) sections 4, 23EC and 139;
- (b) part 6A.

Part 11 Amendment of Liquor Act 1992

Division 1 Preliminary

86 Act amended

This part amends the *Liquor Act 1992*.

Division 2 Amendments not affected by Liquor (Red Tape Reduction) and Other Legislation Amendment Act 2013

87 Amendment of s 4 (Definitions)

- (1) Section 4, definition *executive officer*—
omit.
- (2) Section 4—
insert—

criminal organisation means—

- (a) for the definition *identified participant*—a criminal organisation under the Criminal Code, section 1; or
- (b) otherwise—an organisation identified by the police commissioner as a criminal

organisation within the meaning of the Criminal Code, section 1.

executive officer, of a corporation or unincorporated association, means a person who is concerned with, or takes part in, the corporation's or association's management, or who is in a position of authority or influence in relation to the corporation or association, whether or not the person is a director or committee member or the person's position is given the name of executive officer or committee member.

identified participant, in a criminal organisation, means a person who is identified by the police commissioner as a participant in the organisation within the meaning of the Criminal Code, section 60A(3).

relevant agreement, for part 5, division 3A, see section 139A(b).

section 228B decision see section 36(2).

- (3) Section 4, definition *disqualified person*, after '228A'—
insert—
or 228B

88 Insertion of new s 11B

Part 1, division 4, subdivision 1—
insert—

11B Particular entities not exempt

This division does not apply to—

- (a) a disqualified person mentioned in section 228B; or

[s 89]

- (b) a corporation, if an executive officer of the corporation is a disqualified person mentioned in section 228B(1); or
- (c) a person acting on behalf of an unincorporated association, if—
 - (i) an executive officer of the association is a disqualified person mentioned in section 228B(1); or
 - (ii) the unincorporated association is a criminal organisation; or
- (d) a person acting on behalf of a partnership, if a member of the partnership is a disqualified person mentioned in section 228B.

89 Amendment of pt 2, hdg (Jurisdiction of tribunal)

Part 2, heading, after ‘tribunal’—

insert—

and application of Judicial Review Act 1991

90 Amendment of s 21 (Jurisdiction and powers of tribunal)

(1) Section 21(1)(c)—

omit, insert—

- (c) the taking of disciplinary action relating to a licence, the suspension (including urgent suspension) or cancellation of a licence or permit or the imposition or variation of the conditions of a permit; or

(2) Section 21(1)—

insert—

- (ee) a refusal to give an approval mentioned in section 153(1) or (3); or

(ef) a suspension or withdrawal of an approval under section 139B or 139D; or

(3) Section 21(1)—
insert—

(eg) a refusal or withdrawal of an authorisation of a nomination of a person to be a controller under section 109B; or

91 Insertion of new pt 2, div 3

Part 2—
insert—

Division 3 Review of decisions relating to particular disqualified persons

36 Application of div 3

- (1) This division applies to a decision mentioned in section 21 made by the commissioner about a person, if the decision was made because—
- (a) the person is a disqualified person under section 228B; or
 - (b) for a corporation—an executive officer of the corporation is a disqualified person mentioned in section 228B(1); or
 - (c) for an unincorporated association—
 - (i) an executive officer of the association is a disqualified person mentioned in section 228B(1); or
 - (ii) the unincorporated association is a criminal organisation; or
 - (d) for a partnership—the commissioner knows, or suspects on reasonable grounds, that an

executive officer of the association of the partnership is a disqualified person mentioned in section 228B(1).

- (2) A decision to which this division applies is a *section 228B decision*.

37 Confidentiality of criminal intelligence in proceedings

- (1) For a proceeding relating to an application for review of a section 228B decision by the tribunal or a proceeding about a section 228B decision in the Supreme Court—
- (a) the police commissioner is a party to the proceeding; and
 - (b) the police commissioner must give the tribunal or the Supreme Court a statement of reasons about the identification of the person or the person's associate by the police commissioner as—
 - (i) an identified participant in a criminal organisation; or
 - (ii) a criminal organisation.
- (2) For a proceeding mentioned in subsection (1), the tribunal or Supreme Court may—
- (a) review the identification by the police commissioner of the person or the person's associate as—
 - (i) an identified participant in a criminal organisation; or
 - (ii) a criminal organisation; and
 - (b) as it considers appropriate to protect the confidentiality of criminal intelligence—
 - (i) receive evidence and hear arguments about the criminal intelligence in the

absence of parties to the proceeding
and their representatives; and

- (ii) take evidence consisting of criminal intelligence by way of affidavit of a police officer of at least the rank of superintendent.
- (3) If the tribunal or the Supreme Court considers information has been incorrectly categorised by the police commissioner as criminal intelligence, the police commissioner may withdraw the information from consideration by the tribunal or the court.
- (4) Information that is withdrawn under subsection (3) by the police commissioner must not be—
- (a) disclosed to any person; or
 - (b) taken into consideration by the tribunal or Supreme Court.
- (5) In this section—

associate, of a person, means—

- (a) if the person is a corporation—an executive officer of the corporation; or
- (b) if the person is acting on behalf of an unincorporated association—an executive officer of the association; or
- (c) if the person is acting on behalf of a partnership—a member of the partnership.

criminal intelligence means—

- (a) advice given by the police commissioner to the commissioner under section 47B that a person is—
 - (i) an identified participant in a criminal organisation; or
 - (ii) a criminal organisation; and

- (b) information held by the police commissioner that is relevant to whether a person is an identified participant in a criminal organisation or is a criminal organisation.

38 Application of Judicial Review Act 1991

- (1) The *Judicial Review Act 1991*, part 4 does not apply to a section 228B decision.
- (2) Subject to this part, unless the Supreme Court decides that a section 228B decision is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, or another court, a tribunal or another entity); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (3) The *Judicial Review Act 1991*, part 5 applies to the decision to the extent it is affected by jurisdictional error.

92 Insertion of new ss 47B and 47C

Part 3—

insert—

47B Requesting and using information from police commissioner—section 228B decisions

- (1) In making a section 228B decision, the commissioner must ask the police commissioner—
 - (a) whether the person the subject of the decision is—
 - (i) an identified participant in a criminal organisation; or
 - (ii) a criminal organisation; or
 - (b) if the person the subject of the decision is a corporation—whether an executive officer of the corporation is an identified participant; or
 - (c) if the commissioner knows or suspects on reasonable grounds that the person the subject of the decision is acting on behalf of an unincorporated association, whether—
 - (i) an executive officer of the association is an identified participant in a criminal organisation; or
 - (ii) the association is a criminal organisation; or
 - (d) if the commissioner knows or suspects on reasonable grounds that the person the subject of the decision is acting on behalf of a partnership—whether a member of the partnership is an identified participant in a criminal organisation.
- (2) The police commissioner must comply with the commissioner's request.
- (3) The commissioner may use the advice given by the police commissioner only for making the section 228B decision.

47C Application of Acts Interpretation Act 1954 in giving reasons for section 228B decisions

The *Acts Interpretation Act 1954*, section 27B does not apply to a notice given to a person about a section 228B decision, to the extent to which the decision is the result of advice given by the police commissioner to an authorised officer under section 47B.

93 Amendment of pt 5, hdg (Grant, variation and transfer of licences and permits)

Part 5, heading, after ‘permits’—

insert—

and related matters

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

(1) Section 107(2), ‘behalf of a partnership’—

omit, insert—

behalf of an unincorporated association or partnership

(2) Section 107(2)(a)—

omit, insert—

(a) each executive officer of the corporation; or

(3) Section 107(2)(b), ‘who is a’—

omit, insert—

who is an executive officer of the association or a

95 Amendment of s 107E (Suitability of applicant for adult entertainment permit)

(1) Section 107E(1)—

insert—

- (ga) whether the applicant is a disqualified person mentioned in section 228B;
- (gb) if the applicant is a corporation, whether an executive officer of the corporation is a disqualified person mentioned in section 228B(1);
- (gc) if the commissioner knows, or suspects on reasonable grounds, that the permit is held on behalf of an unincorporated association, whether—
 - (i) the association is a criminal organisation; or
 - (ii) an executive officer of the association is a disqualified person mentioned in section 228B(1);
- (gd) if the commissioner knows, or suspects on reasonable grounds, that the permit is held on behalf of a partnership, whether a member of which is a disqualified person mentioned in section 228B(1);

- (2) Section 107E(1)(ga) to (h)—
renumber as section 107E(1)(h) to (l).

96 Amendment of s 109B (Controllers)

- (1) Section 109B(9), from ‘nominated person’—
omit, insert—
nominated person—
 - (a) is not a suitable person to be a controller; or
 - (b) is a disqualified person mentioned in section 228B(1).
- (2) Section 109B—
insert—

- (12) If a controller whose nomination is authorised under this section has become a disqualified person mentioned in section 228B(1), the commissioner must immediately withdraw the authorisation by giving written notice to the licensee or permittee stating the authorisation has been withdrawn under this section.
- (13) The written notice must comply with the tribunal Act, section 157.

97 Amendment of s 129 (Applications to continue trading in certain circumstances)

Section 129(2)—

insert—

- (e) a licensee's licence is suspended under section 137A(1A).

98 Amendment of s 131A (Decision by commissioner on application to continue trading in certain circumstances)

- (1) Section 131A(7), 'liabilities under'—

omit.

- (2) Section 131A—

insert—

- (12) For forming the satisfaction mentioned in subsection (8), the commissioner may have regard to the matters mentioned in section 107 to which the commissioner must have regard in deciding whether an applicant is not a disqualified person and is a fit and proper person to hold a licence.

99 Amendment of s 134 (Cancellation, suspension or variation of permits)

Section 134(3), from ‘satisfied’—

omit, insert—

satisfied—

- (a) the permittee has become a disqualified person; or
- (b) the permit is held by a person on behalf of an unincorporated association that is a criminal organisation.

100 Replacement of s 134A (Ground for taking relevant action relating to adult entertainment permit)

Section 134A—

omit, insert—

134A Ground for taking relevant action relating to particular permits

The commissioner may take a relevant action for a permit on the ground that—

- (a) for an adult entertainment permit—the person who holds the permit is no longer a suitable person to provide adult entertainment; or
- (b) for a permit held by a corporation—an executive officer of the corporation is a disqualified person mentioned in section 228B(1); or
- (c) the commissioner knows, or suspects on reasonable grounds, that the permit is held on behalf of an unincorporated association, an executive officer of which is a disqualified person mentioned in section 228B(1); or

- (d) the commissioner knows, or suspects on reasonable grounds, that the permit is held by a person on behalf of a partnership, a member of which is a disqualified person mentioned in section 228B(1).

101 Amendment of s 134B (Show cause notice)

- (1) Section 134B, from ‘that a person’ to ‘provide adult entertainment’—

omit, insert—

that a ground for taking a relevant action for a permit exists

- (2) Section 134B—

insert—

- (2) If the commissioner considers a ground mentioned in section 134A(b), (c) or (d) exists, the relevant action stated in the notice must include cancellation of the permit.

102 Amendment of s 134C (Decision about relevant action relating to adult entertainment permit)

- (1) Section 134C, ‘adult entertainment’—

omit.

- (2) Section 134C—

insert—

- (1A) However, if the commissioner still considers there is a ground mentioned in section 134A(b), (c) or (d) to take the relevant action, the commissioner must take the relevant action.

- (3) Section 134C(2), ‘licensee’—

omit, insert—

holder of the permit

- (4) Section 134C(3), ‘subsection (2)’—
omit, insert—
subsection (3)
- (5) Section 134C(1A) to (3)—
renumber as section 134C(2) to (4).

103 Insertion of new s 134D

After section 134C—

insert—

134D Urgent suspension

- (1) This section applies if the commissioner believes, on reasonable grounds, that a ground to take relevant action for a permit mentioned in section 134A(b), (c) or (d) exists.
- (2) The commissioner may immediately suspend the permit (an *urgent suspension*) by written notice that must—
 - (a) be given to the permittee; and
 - (b) state the permit is suspended; and
 - (c) comply with the tribunal Act, section 157(2).
- (3) The urgent suspension continues until the first of the following happens—
 - (a) the commissioner revokes it;
 - (b) the commissioner gives the permittee notice of the commissioner’s decision under section 134C;
 - (c) the end of 60 days after the notice under subsection (2) was given to the permittee.

104 Amendment of s 135 (Summary cancellation, suspension or variation)

Section 135(1), after ‘section 134’—

insert—

, 134C or 134D

105 Amendment of s 136 (Grounds for disciplinary action)

(1) Section 136(1)(e), ‘the licensee’—

omit, insert—

the licensee is a disqualified person or

(2) Section 136—

insert—

(2) Without limiting subsection (1)(e), each of the following is a ground for taking disciplinary action relating to a licence—

- (a) for a licence held by a corporation—an executive officer of the corporation is a disqualified person mentioned in section 228B(1); or
- (b) the commissioner knows, or suspects on reasonable grounds, that the licence is held on behalf of an unincorporated association, an executive officer of which is a disqualified person mentioned in section 228B(1); or
- (c) the commissioner knows, or suspects on reasonable grounds, that the licence is held by a person on behalf of a partnership, a member of which is a disqualified person mentioned in section 228B(1).

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

Section 137—

insert—

- (3) Subsection (4) applies if the commissioner considers a ground mentioned in section 136(2) exists.
- (4) The proposed action must include 1 or more of the following—
 - (a) cancellation of the licence;
 - (b) either—
 - (i) if the licensee is a corporation—disqualification of the corporation from holding a licence for the period the executive officer remains a disqualified person; or
 - (ii) if the licensee is a person acting on behalf of an unincorporated association or partnership—disqualification of the person from holding a licence on behalf of the association or partnership for the period the executive officer or member remains a disqualified person;
 - (c) suspension of the corporation's, association's or member's licence from the day the disqualification takes effect, until the day—
 - (i) the licence is transferred to another person; or
 - (ii) another person is authorised by the commissioner to conduct business on the licensed premises under section 131A; or
 - (iii) the licence is cancelled.

107 Amendment of s 137A (Decision about disciplinary action)

Section 137A—

insert—

- (1A) The commissioner must take the proposed action under subsection (1) if the disciplinary action is proposed on a ground mentioned in section 136(2).

108 Amendment of s 137C (Urgent suspension)

(1) Section 137C—

insert—

- (1A) This section also applies if the commissioner believes that a ground mentioned in section 136(2) exists for taking disciplinary action in relation to a licence.

(2) Section 137C(5)(c), ‘subsection (2)’—

omit, insert—

subsection (3)

(3) Section 137C(1A) to (5)—

renumber as section 137C(2) to (6).

109 Insertion of new s 137CA

After section 137C—

insert—

137CA Immediate cancellation of particular licences

- (1) The commissioner must cancel a licensee’s licence immediately if—
- (a) the licensee is a disqualified person mentioned in section 228B; or

- (b) the licence is held by a person on behalf of an unincorporated association that is a criminal organisation.

Note—

Section 134(3) provides for the immediate cancellation of a permit if the permittee becomes a disqualified person.

- (2) The commissioner must give the licensee written notice of the decision to cancel the licence.
- (3) The written notice must comply with the tribunal Act, section 157.
- (4) The cancellation takes effect on the day the written notice is given to the licensee.

110 Insertion of new pt 5, div 3A

Part 5—

insert—

Division 3A Withdrawal of approval of relevant agreements entered into by licensees

139A Application of div 3A

This division applies if—

- (a) an approval is given by the commissioner to a licensee, as mentioned in section 153(1) or (3), to—
- (i) let or sublet all or part of the licensed premises; or
- (ii) enter into a franchise or management agreement for all of the licensed premises; and

- (b) the licensee enters into a lease, sublease or franchise or management agreement (a *relevant agreement*) under the approval.

139B Urgent suspension of approval

- (1) This section applies if—
 - (a) the lessee, sublessee, franchisee or manager under the relevant agreement is—
 - (i) a corporation; or
 - (ii) a person the commissioner knows, or suspects on reasonable grounds, has entered into the relevant agreement on behalf of an unincorporated association; or
 - (iii) a person the commissioner knows, or suspects on reasonable grounds, has entered into the relevant agreement on behalf of a partnership; and
 - (b) an executive officer of the corporation or association, or member of the partnership, is a disqualified person mentioned in section 228B(1).
- (2) The commissioner may, by written notice given to the licensee—
 - (a) immediately suspend the approval for the relevant agreement given under section 153; and
 - (b) direct the licensee to require the lessee, sublessee, franchisee or manager to close the licensed premises or part of the premises to which the relevant agreement relates.
- (3) The written notice must—
 - (a) state the approval is suspended; and

- (b) comply with the tribunal Act, section 157(2); and
 - (c) state the period for which the premises must be closed.
- (4) A copy of the notice must be given to the lessee, sublessee, franchisee or manager under the relevant agreement.
- (5) A suspension under subsection (2)(a) takes effect when the notice is given to the licensee.
- (6) If the commissioner gives a notice to the licensee under subsection (2), the licensee must—
 - (a) immediately require the lessee, sublessee, franchisee or manager to close the licensed premises or part of the premises to which the relevant agreement relates; and
 - (b) notify the commissioner of the closure in the approved form within 7 days after the requirement is made.
- (7) The suspension continues until the first of the following happens—
 - (a) the commissioner revokes it;
 - (b) the commissioner gives the licensee notice of the commissioner's decision under section 139D;
 - (c) the end of 60 days after the notice under subsection (2) was given to the licensee.
- (8) The State does not incur any liability for a suspension under this section.
- (9) The holder of a licence does not incur any liability because the holder complies with a direction under subsection (2)(b).

139C Show cause notice for withdrawal of approval

- (1) This section applies if—
 - (a) section 139B applies in relation to the relevant agreement; and
 - (b) whether or not an immediate suspension of the approval for the agreement has been made under section 139B.
- (2) The commissioner must give the licensee and the lessee, sublessee, franchisee or manager under the relevant agreement a written notice stating—
 - (a) that the commissioner proposes to withdraw the commissioner's approval of the agreement; and
 - (b) the reasons for the proposed withdrawal; and
 - (c) that the licensee, lessee, sublessee, franchisee or manager may make representations within a stated period not less than 14 days after the notice is given to the person, why the approval should not be withdrawn.

139D Decision about withdrawing approval of relevant agreement

- (1) After considering any representations made by the licensee, lessee, sublessee, franchisee or manager, the commissioner—
 - (a) if the commissioner is satisfied of the matter mentioned in section 139B(1)—must withdraw the commissioner's approval; or
 - (b) may take no further action about the show cause notice.
- (2) If the commissioner withdraws the approval under subsection (1)(a), the commissioner must

give the licensee written notice of the withdrawal and direct the licensee to terminate the relevant agreement with the lessee, sublessee, franchisee or manager by stating in the notice—

- (a) the approval has been withdrawn under this section; and
 - (b) that the licensee must terminate the agreement within the time stated in the notice.
- (3) The written notice must comply with the tribunal Act, section 157(2).
 - (4) A copy of the notice must be given to the lessee, sublessee, franchisee or manager under the relevant agreement.
 - (5) The withdrawal under subsection (1)(a) takes effect when the notice is given to the licensee under subsection (2).

139E Immediate withdrawal of approval and direction to terminate relevant agreement

- (1) This section applies if the lessee, sublessee, franchisee or manager under the relevant agreement is—
 - (a) a disqualified person mentioned in section 228B; or
 - (b) a person who entered the relevant agreement on behalf of an unincorporated associated that is a criminal organisation.
- (2) The commissioner must, by written notice given to the licensee—
 - (a) immediately withdraw the approval of the agreement; and

- (b) direct the licensee to terminate the agreement by giving written notice to the licensee stating in the notice—
 - (i) the approval has been withdrawn under this section; and
 - (ii) that the licensee must terminate the agreement within the time stated in the notice.
- (3) The written notice must comply with the tribunal Act, section 157(2).
- (4) A copy of the notice must be given to the lessee, sublessee, franchisee or manager under the relevant agreement.
- (5) The withdrawal under subsection (1)(a) takes effect when the notice is given to the licensee under subsection (1).

139F Requirement to terminate relevant agreement on withdrawal of approval

- (1) If a direction is given to the licensee under section 139D(2) or 139E, the licensee must—
 - (a) terminate the relevant agreement within the time stated in the notice; and
 - (b) notify the commissioner of the termination in the approved form within 7 days after terminating the agreement.
- (2) If the licensee does not terminate the relevant agreement as required under subsection (1), the agreement is terminated by this Act.
- (3) The State does not incur any liability if a relevant agreement is terminated by the licensee under subsection (1) or by this Act.

- (4) The licensee does not incur any liability because the licensee terminates the relevant agreement under this section.

111 Amendment of s 142R (Deciding application)

Section 142R(2), after ‘applicant’—

insert—

is not a disqualified person mentioned in section 228B(1) and

112 Insertion of new s 142ZAA

After section 142ZA—

insert—

142ZAA Immediate cancellation—identified participants

- (1) The commissioner must cancel a person’s approval as an approved manager immediately if the person is a disqualified person mentioned in section 228B(1).
- (2) The commissioner must give the person a written notice of the decision to cancel the approval.
- (3) The written notice must comply with the tribunal Act, section 157.
- (4) The cancellation takes effect on the day the written notice is given to the person.

113 Amendment of s 153 (Letting or subletting of licensed premises)

Section 153—

insert—

- (4) The commissioner must not give an approval mentioned in subsection (1) or (3) unless the

commissioner is satisfied the proposed lessee, sublessee, franchisee or manager is not a disqualified person and is a fit and proper person to lease, sublease or franchise or manage the licensed premises.

- (5) For forming the satisfaction mentioned in subsection (4), the commissioner may have regard to the matters mentioned in section 107 to which the commissioner must have regard in deciding whether an applicant is not a disqualified person and is a fit and proper person to hold a licence.

114 Insertion of new s 228B

After section 228A—

insert—

228B Disqualification from holding licence, permit or approval—identified participants and criminal organisations

- (1) An individual is disqualified from holding a licence, permit or approval under this Act if, and while, the individual is an identified participant in a criminal organisation.
- (2) A corporation is disqualified from holding a licence, permit or approval under this Act if, and while, the corporation is a criminal organisation.

115 Insertion of new pt 12, div 15

Part 12—

insert—

Division 15 **Transitional provisions for
Criminal Law (Criminal
Organisations Disruption)
and Other Legislation
Amendment Act 2013**

318 Existing applications

- (1) This section applies to the following applications made before the commencement of this section if, on the commencement, the application has not been finally decided—
 - (a) an application for a licence or permit under section 105;
 - (b) an application for approval as an approved manager under section 142Q.
- (2) The application must be decided under this Act as amended by the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.

Division 3 **Amendments subject to
commencement of Liquor (Red Tape
Reduction) and Other Legislation
Amendment Act 2013**

116 Amendment of s 21 (Jurisdiction and powers of tribunal)

- (1) Section 21(1)(cb)—

omit, insert—

 - (cb) the suspension, continued suspension or cancellation of an approval for a controller under section 142ZV or 142ZQA; or

(2) Section 21(1)(eg)—
omit.

117 Amendment of s 142ZK (Deciding application)

Section 142ZK(2), after ‘applicant’—

insert—

is not a disqualified person mentioned in section
228B(1) and

118 Insertion of new s 142ZQA

Part 5D, division 5—

insert—

**142ZQA Immediate cancellation of
approval—identified participants**

- (1) The commissioner must cancel a person’s approval as a controller immediately if the person is a disqualified person mentioned in section 228B(1).
- (2) The commissioner must give the person a written notice of the decision to cancel the approval.
- (3) The written notice must comply with the tribunal Act, section 157.
- (4) The cancellation takes effect on the day the written notice is given to the person.

Part 12 **Amendment of Penalties and Sentences Act 1992**

119 **Act amended**

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

120 **Amendment of s 15A (Audiovisual link or audio link may be used to sentence)**

- (1) Section 15A(1), from ‘the prosecutor’ to ‘use of the link’—
omit, insert—
- the court considers use of the link is in the interests of justice
- (2) Section 15A—
insert—
- (1A) However, the court may not make an order under subsection (1) if facilities mentioned in subsection (5)(a) are not available at the court or the place where the offender is present.
- (1B) For subsection (1), in deciding whether use of an audio link is in the interests of justice, the court must have regard to the desirability of sentencing an offender over an audiovisual link, rather than an audio link, if an audiovisual link is available.
- (3) Section 15A—
insert—
- (2A) If an offender is sentenced over an audiovisual link or audio link and the offender’s representative in the proceeding is at the place where the court is sitting—
- (a) the court and the place where the offender is present must make facilities available for private communication between the

offender and the offender's representative;
and

- (b) a communication between the offender and the offender's representative is as confidential and inadmissible in any proceeding as it would be if it took place between the offender and the offender's representative while in each other's presence.

(2B) Subsection (5)(b) does not limit any other protection applying to the communication.

- (4) Section 15A(1A) to (3)—

renumber as section 15A(2) to (7).

121 Insertion of new pt 14, div 8

Part 14—

insert—

Division 8 **Transitional provision for Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013**

233 Application of amended s 15A

Section 15A, as amended by the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*, applies to the sentencing of an offender for an offence whether the proceeding for the offence was started before, on or after the commencement of this section.

Part 13 **Amendment of Police Service Administration Act 1990**

122 **Act amended**

This part amends the *Police Service Administration Act 1990*.

123 **Insertion of new pt 10, div 1, sdiv 1A**

Part 10, division 1—

insert—

Subdivision 1A Disclosure of criminal histories relating to criminal organisations

10.2AAA Definitions for sdiv 1A

In this subdivision—

criminal history see section 10.2G.

criminal organisation see the Criminal Code,
section 1.

current or former participant, in a criminal
organisation, means a person identified by the
commissioner as a person who is, or has at any
time been, a participant in the organisation within
the meaning of the Criminal Code, section
60A(3).

10.2AAB Disclosure of criminal history of current or former participants of criminal organisations

- (1) The commissioner may disclose, to any entity,
the criminal history of a current or former
participant in a criminal organisation if the

commissioner is satisfied the disclosure is in the public interest.

- (2) The commissioner may disclose the criminal history despite another Act that may otherwise prevent or restrict the disclosure.

Examples of other Acts that may otherwise prevent or restrict the disclosure—

- *Criminal Law (Rehabilitation of Offenders) Act 1986*
- *Youth Justice Act 1992*, part 9

10.2AAC Authorisation to publish or further disclose a criminal history

- (1) This section applies if the commissioner discloses a criminal history to an entity (the *first entity*) under section 10.2AAB.
- (2) If the commissioner is satisfied it is in the public interest to do so, the commissioner may also give the first entity a written authorisation to publish the information to the public or otherwise disclose the criminal history to another entity.
- (3) The first entity may publish or disclose the criminal history under the authorisation despite any other law that would otherwise prevent or restrict the publication or disclosure.

10.2AAD Power may not be delegated

Despite section 4.10, the commissioner may not delegate a power of the commissioner under this subdivision.

124 Amendment of pt 10, div 1, sdiv 2, hdg (Criminal history disclosure provisions)

Part 10, division 1, subdivision 2, heading, ‘Criminal’—

omit, insert—

Other criminal

125 Amendment of s 10.2E (Relationship to other laws)

Section 10.2E(2), ‘a relevant agency under 10.2BA’—

omit, insert—

an entity under subdivision 1A or a relevant agency
under section 10.2BA

126 Amendment of s 10.2G (Definitions for div 1A)

Section 10.2G, definition *criminal history*, paragraph (b)(ii)
and (iii)—

omit, insert—

- (ii) cautions administered to the person
under the *Youth Justice Act 1992*, part
2, division 2; and
- (iii) referrals of offences to conferences
under the *Youth Justice Act 1992*.

**Part 14 Amendment of Queensland
Building Services Authority Act
1991**

127 Act amended

This part amends the *Queensland Building Services Authority
Act 1991*.

128 Amendment of s 31 (Entitlement to contractor’s licence)

Section 31—

insert—

- (2A) A person is not a fit and proper person to hold a contractor's licence, or to exercise control or influence over a company that holds a contractor's licence, if the person is an identified participant in a criminal organisation.

129 Amendment of s 31A (No entitlement to contractor's licence if particular partners)

- (1) Section 31A, '(whether an individual or a company)'—
omit.

- (2) Section 31A—

insert—

- (k) an identified participant in a criminal organisation.

130 Amendment of s 32 (Entitlement to a nominee supervisor's licence)

Section 32—

insert—

- (1A) A person is not a fit and proper person to hold a nominee supervisor's licence if the person is an identified participant in a criminal organisation.

131 Amendment of s 32AA (Entitlement to a site supervisor's licence)

Section 32AA—

insert—

- (1A) A person is not a fit and proper person to hold a site supervisor's licence if the person is an identified participant in a criminal organisation.

132 Amendment of s 32AB (Entitlement to a fire protection occupational licence)

Section 32AB—

insert—

- (1A) A person is not a fit and proper person to hold a fire protection occupational licence if the person is an identified participant in a criminal organisation.

133 Insertion of new s 49AA

After section 49—

insert—

49AA Immediate cancellation of licences—identified participant in criminal organisation

- (1) The authority must cancel a licensee's licence if the authority is advised by the police commissioner that any of the following persons is an identified participant in a criminal organisation—
- (a) the licensee;
 - (b) if the licensee is a company—a director, secretary or influential person for the company;
 - (c) a business partner of the licensee.
- (2) Immediately after cancelling the licence, the authority must give the licensee a QCAT information notice for the decision to cancel the licence.
- (3) The *Acts Interpretation Act 1954*, section 27B, does not apply to the QCAT information notice.
- (4) The decision takes effect on the day the QCAT information notice is given to the licensee.

(5) In this section—

QCAT information notice means a notice that complies with the QCAT Act, section 157.

134 Insertion of new s 56AA

Part 3, after section 56A—

insert—

56AA Requesting and using police commissioner's advice—identified participants

- (1) If a person applies for the issue or renewal of a licence, the authority must ask the police commissioner whether any of the following persons is an identified participant in a criminal organisation—
 - (a) the person;
 - (b) if the person is a company—a director, secretary or influential person for the company;
 - (c) a business partner of the person.
- (2) The police commissioner must give the advice to the authority.
- (3) The authority may use the advice only for—
 - (a) making a decision as to whether the person is, or continues to be, a fit and proper person to hold a licence under this Act; or
 - (b) cancelling the licensee's licence under section 49AA.
- (4) This section does not limit section 33(3).

135 Insertion of new pt 7, div 3A

Part 7—

insert—

Division 3A Review of particular decisions

87A Confidentiality of criminal intelligence in proceedings

- (1) This section applies if—
 - (a) a person seeks a review of any of the following decisions made by the authority—
 - (i) a refusal to issue a licence;
 - (ii) a refusal to renew a licence;
 - (iii) a cancellation of a licence; and
 - (b) the decision was made as a result of advice given by the police commissioner that any of the following persons is an identified participant in a criminal organisation—
 - (i) the person;
 - (ii) for a company—a director, secretary or influential person for the company;
 - (iii) a business partner of the person.
- (2) For a proceeding relating to an application for review of the decision by QCAT or a proceeding about the decision in the Supreme Court—
 - (a) the police commissioner is a party to the proceeding; and
 - (b) the police commissioner must give QCAT or the Supreme Court a statement of reasons about—
 - (i) the identification of the person, or a business partner of the person, by the police commissioner as an identified

- participant in a criminal organisation;
or
 - (ii) for a company—the identification of a director, secretary or influential person for the company by the police commissioner as an identified participant in a criminal organisation.
- (3) For a proceeding mentioned in subsection (2), QCAT or the Supreme Court may—
- (a) review the identification by the police commissioner of a person mentioned in subsection (2)(b)(i) or (ii) as an identified participant in a criminal organisation; and
 - (b) as it considers appropriate to protect the confidentiality of criminal intelligence—
 - (i) receive evidence and hear argument about the criminal intelligence in the absence of parties to the proceeding and their representatives; and
 - (ii) take evidence consisting of criminal intelligence by way of affidavit of a police officer of at least the rank of superintendent.
- (4) If QCAT or the Supreme Court considers information has been incorrectly categorised by the police commissioner as criminal intelligence, the police commissioner may withdraw the information from consideration by QCAT or the court.
- (5) Information that is withdrawn by the police commissioner under subsection (4) must not be—
- (a) disclosed to any person; or
 - (b) taken into consideration by QCAT or the Supreme Court.

(6) In this section—

criminal intelligence means—

- (a) advice given by the police commissioner to the authority under section 56AA that a person is an identified participant in a criminal organisation; and
- (b) information held by the police commissioner that is relevant to whether the person is an identified participant in a criminal organisation.

87B Application of Judicial Review Act 1991

- (1) The *Judicial Review Act 1991*, part 4 does not apply to a decision of the authority mentioned in 87A(1).
- (2) Subject to this division, unless the Supreme Court decides a decision of the authority mentioned in 87A(1) is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, or another court, a tribunal or another entity); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (3) The *Judicial Review Act 1991*, part 5 applies to a decision mentioned in subsection (2) to the extent it is affected by jurisdictional error.

136 Insertion of new sch 1, pt 10

Schedule 1—

insert—

**Part 10 Transitional provision
for Criminal Law
(Criminal
Organisations
Disruption) and Other
Legislation
Amendment Act 2013**

52 Existing applications

- (1) This section applies if, immediately before the commencement, the authority had not finally decided an application for the—
 - (a) issue of a licence; or
 - (b) renewal of a licence.
- (2) The authority must decide the application under this Act as amended by the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.
- (3) In this section—

commencement means the commencement of this section.

137 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

business partner, of a person, means another person with whom the person carries on, or

intends to carry on, business as mentioned in section 31A.

criminal organisation has the meaning given under the Criminal Code, section 1.

identified participant, in a criminal organisation, means a person who is identified by the police commissioner as a participant in the organisation within the meaning of the Criminal Code, section 60A(3).

police commissioner means the commissioner of the police service under the *Police Service Administration Act 1990*.

Part 15 Amendment of Racing Act 2002

138 Act amended

This part amends the *Racing Act 2002*.

139 Amendment of s 203 (Suitability of applicants for eligibility certificate)

Section 203(2)—

insert—

Note—

See also section 211(2) which provides that an applicant for an eligibility certificate is not a suitable person to hold an eligibility certificate if the applicant, or a business associate or executive associate of the applicant, is an identified participant in a criminal organisation.

140 Amendment of s 211 (Conditions for granting application for eligibility certificate)

Section 211—

insert—

- (2) An applicant is not a suitable person to hold an eligibility certificate if—
 - (a) the applicant is an identified participant in a criminal organisation; or
 - (b) a business associate or executive associate of the applicant is—
 - (i) if the associate is an individual—an identified participant in a criminal organisation; or
 - (ii) if the associate is a corporation—a criminal organisation; or
 - (c) the applicant is an unsuitable corporation.

141 Insertion of new s 212A

After section 212—

insert—

212A Information about whether persons are identified participants in criminal organisations

- (1) The gaming executive must ask the police commissioner if an applicant or certificate holder—
 - (a) is an identified participant in a criminal organisation; or
 - (b) has a business associate or executive associate who is—
 - (i) if the associate is an individual—an identified participant in a criminal organisation; or

- (ii) if the associate is a corporation—a criminal organisation; or
 - (c) if the certificate holder, business associate or executive associate is a corporation—is an unsuitable corporation.
- (2) The police commissioner must give the gaming executive the information requested under subsection (1).
 - (3) The gaming executive may use the advice given by the police commissioner only for—
 - (a) deciding an application for an eligibility certificate; or
 - (b) deciding whether an eligibility certificate should be cancelled.

142 Amendment of s 217 (Decision on application)

Section 217—

insert—

- (3) The *Acts Interpretation Act 1954*, section 27B, does not apply to the information notice to the extent to which the decision is the result of advice given by the police commissioner to the gaming executive under section 212A.

143 Amendment of s 224 (Investigations into suitability of certificate holder)

- (1) Section 224(2), ‘However’—

omit, insert—

Subject to subsection (3)

- (2) Section 224—

insert—

- (3) The gaming executive may, at any time, ask the police commissioner whether the certificate holder—
 - (a) is an identified participant in a criminal organisation; or
 - (b) has a business associate or executive associate who is—
 - (i) if the associate is an individual—an identified participant in a criminal organisation; or
 - (ii) if the associate is a corporation—a criminal organisation; or
 - (c) if the certificate holder, business associate or executive associate is a corporation—is an unsuitable corporation.
- (4) The police commissioner must give the gaming executive the information requested under subsection (3).
- (5) The gaming executive may use the advice given by the police commissioner only for deciding whether an eligibility certificate should be cancelled.

144 Amendment of s 225 (Investigation into suitability of associate of certificate holder)

- (1) Section 225(2), ‘However’—

omit, insert—

Subject to subsection (3)
- (2) Section 225—

insert—

 - (3) The gaming executive may, at any time, ask the police commissioner whether a business

associate or executive associate of a certificate holder—

- (a) is an identified participant in a criminal organisation; or
 - (b) has a business associate or executive associate who is—
 - (i) if the associate is an individual—an identified participant in a criminal organisation; or
 - (ii) if the associate is a corporation—a criminal organisation; or
 - (c) if the certificate holder, business associate or executive associate is a corporation—is an unsuitable corporation.
- (4) The police commissioner must give the gaming executive the information requested under subsection (3).
- (5) The gaming executive may use the advice given by the police commissioner only for deciding whether an eligibility certificate should be cancelled.

145 Amendment of s 230 (Grounds for cancellation)

Section 230(1)—

insert—

- (f) has a business associate or executive associate who is—
 - (i) if the associate is an individual—an identified participant in a criminal organisation; or
 - (ii) if the associate is a corporation—a criminal organisation.

146 Insertion of new s 230A

After section 230—

insert—

230A Immediate cancellation of eligibility certificate

- (1) The gaming executive must cancel a certificate holder's eligibility certificate if, after the certificate is granted, the gaming executive is advised by the police commissioner that a certificate holder is—
 - (a) an identified participant in a criminal organisation; or
 - (b) an unsuitable corporation.
- (2) Immediately after cancelling the eligibility certificate, the gaming executive must give the certificate holder an information notice for the decision to cancel the certificate.
- (3) The decision takes effect on the day the notice is given to the certificate holder.
- (4) The information notice must include—
 - (a) a direction to the certificate holder to return the eligibility certificate to the gaming executive within 14 days after the cancellation; and
 - (b) a warning to the certificate holder that it is an offence to fail to comply with the direction, unless the certificate holder has a reasonable excuse.
- (5) The *Acts Interpretation Act 1954*, section 27B, does not apply to the information notice.

147 Amendment of s 231 (Show cause notice)

- (1) Section 231(3) and (4)—

renumber as section 231(4) and (5).

(2) Section 231—

insert—

(3) The *Acts Interpretation Act 1954*, section 27B, does not apply to the show cause notice to the extent to which the decision is the result of advice given by the police commissioner to the gaming executive under section 224(4).

148 Amendment of s 235 (Censuring certificate holder)

(1) Section 235(3) and (4)—

renumber as section 235(4) and (5).

(2) Section 235—

insert—

(3) However, this section does not apply if the ground that exists to cancel the certificate is that the certificate holder is no longer a suitable person because the holder has a business associate or executive associate who is—

(a) if the associate is an individual—an identified participant in a criminal organisation; or

(b) if the associate is a corporation—a criminal organisation.

149 Amendment of s 236 (Cancellation of eligibility certificate)

(1) Section 236(3) and (4)—

renumber as section 236(4) and (5).

(2) Section 236—

insert—

- (3) The gaming executive must cancel the eligibility certificate if—
 - (a) the certificate holder is a corporation; and
 - (b) a show cause notice was given to the corporation because an executive associate or a business associate of the corporation is an identified participant in a criminal organisation; and
 - (c) either—
 - (i) there are no accepted representations for the show cause notice; or
 - (ii) an accepted representation was made for the show cause notice, and the gaming executive still considers cancelling the eligibility certificate is necessary.
- (6) The *Acts Interpretation Act 1954*, section 27B, does not apply to the information notice to the extent to which the decision is the result of advice given by the police commissioner to the gaming executive under section 224(4).

150 Amendment of s 237 (Return of cancelled eligibility certificate)

Section 237(1), ‘section 236(4)(b)’—

omit, insert—

section 230A(4)(a) or 236(5)(b)

151 Amendment of s 238 (Automatic cancellation of all licences granted to racing bookmakers)

Section 238(1), ‘section 236’—

omit, insert—

section 230A or 236

152 Amendment of s 239 (Notice to control bodies of decisions)

Section 239(1)(b), after ‘section’—

insert—

230A or

153 Insertion of new ss 242A and 242B

Chapter 6, part 3, division 6—

insert—

242A Confidentiality of criminal intelligence in proceedings

- (1) This section applies if a person seeks a review under this division of a decision—
 - (a) mentioned in section 242(1); and
 - (b) made because the person is not a suitable person because the person—
 - (i) is an identified participant in a criminal organisation; or
 - (ii) has a business associate or executive associate who is—
 - (A) if the associate is an individual—an identified participant in a criminal organisation; or
 - (B) if the associate is a corporation—a criminal organisation; or
 - (iii) is an unsuitable corporation.
- (2) For a proceeding relating to an application for review of the decision by QCAT or a proceeding about the decision in the Supreme Court—
 - (a) the police commissioner is a party to the proceeding; and

- (b) the police commissioner must give QCAT or the Supreme Court a statement of reasons about the identification of the person by the police commissioner as a person mentioned in subsection (1)(b).
- (3) For a proceeding mentioned in subsection (2), QCAT or the Supreme Court may—
 - (a) review the identification by the police commissioner of the person as a person mentioned in subsection (1)(b); and
 - (b) as it considers appropriate to protect the confidentiality of criminal intelligence—
 - (i) receive evidence and hear argument about the criminal intelligence in the absence of parties to the proceeding and their representatives; and
 - (ii) take evidence consisting of criminal intelligence by way of affidavit of a police officer of at least the rank of superintendent.
- (4) If QCAT or the Supreme Court considers information has been incorrectly categorised by the police commissioner as criminal intelligence, the police commissioner may withdraw the information from consideration by QCAT or the court.
- (5) Information that is withdrawn under subsection (4) by the police commissioner must not be—
 - (a) disclosed to any person; or
 - (b) taken into consideration by QCAT or the Supreme Court.
- (6) In this section—
criminal intelligence means—

- (a) advice given by the police commissioner to the gaming executive under section 212A or 225 that a person is—
 - (i) an identified participant in a criminal organisation; or
 - (ii) a criminal organisation; and
- (b) information held by the police commissioner that is relevant to whether the person is a person mentioned in subsection (1)(b).

242B Application of Judicial Review Act 1991

- (1) The *Judicial Review Act 1991*, part 4 does not apply to a decision of the gaming executive mentioned in section 242A(1).
- (2) Subject to this division, unless the Supreme Court decides that the decision is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, or another court, a tribunal or another entity); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (3) The *Judicial Review Act 1991*, part 5 applies to the decision mentioned in subsection (2) to the extent it is affected by jurisdictional error.

154 Amendment of s 310 (Definitions for div 1)

Section 310, definition *confidential information*—

insert—

- (c) whether the person is an identified participant in a criminal organisation or is an unsuitable corporation.

155 Amendment of s 311 (Offence to disclose confidential information or copy background document)

Section 311—

insert—

- (4) Subsection (3)(a) and (d) do not apply if the confidential information relates to whether the person is an identified participant in a criminal organisation or is an unsuitable corporation.

156 Insertion of new ch 10, pt 8

After section 462—

insert—

Part 8 **Transitional provision
for Criminal Law
(Criminal
Organisations
Disruption) and Other
Legislation
Amendment Act 2013**

463 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the gaming executive had not finally decided an application for an eligibility certificate.

- (2) The chief executive must decide the application under this Act as amended by the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.
- (3) In this section—
commencement means the commencement of this section.

157 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

criminal organisation means—

- (a) for definition *identified participant*—a criminal organisation under the Criminal Code, section 1; or
- (b) otherwise—an organisation identified by the police commissioner as a criminal organisation within the meaning of the Criminal Code, section 1.

identified participant, in a criminal organisation, means a person who is identified by the police commissioner as a participant in the organisation within the meaning of the Criminal Code, section 60A(3).

unsuitable corporation means a corporation—

- (a) that is a criminal organisation; or
- (b) in which a substantial holding in the corporation is held by—
- (i) an identified participant in a criminal organisation; or
- (ii) a criminal organisation; or
- (c) that has a holding company that is a criminal organisation.

Part 16 **Amendment of Second-hand Dealers and Pawnbrokers Act 2003**

158 Act amended

This part amends the *Second-hand Dealers and Pawnbrokers Act 2003*.

159 Amendment of s 7 (Suitability of applicants and licensees)

Section 7(1)—

insert—

- (e) is an identified participant in a criminal organisation.

160 Amendment of s 8 (Investigations about suitability of applicants and licensees)

- (1) Section 8(3) to (5)—

renumber as section 8(4) to (6).

- (2) Section 8—

insert—

- (3) Also, the chief executive must ask the commissioner of the police service whether any of the persons is an identified participant in a criminal organisation.

- (3) Section 8(4), as renumbered, after ‘report’—

insert—

under subsection (2) and the advice requested under subsection (3)

- (4) Section 8—

insert—

- (7) The chief executive may use the advice given by the commissioner of the police service under subsection (4) only for deciding whether a person is a suitable person to hold a licence.

161 Replacement of s 9 (Confidentiality of criminal history)

Section 9—

omit, insert—

9 Confidentiality of report or information provided by commissioner of police service

- (1) A public service employee must not, directly or indirectly, disclose to anyone else—
- (a) a report, or information contained in the report, given under section 8; or
 - (b) advice given under section 8 about whether a person is an identified participant in a criminal organisation.

Maximum penalty—100 penalty units.

- (2) However, the person does not contravene subsection (1) if—
- (a) disclosure of the report or information to someone else is authorised by the chief executive to the extent necessary to perform a function under this Act; or
 - (b) the disclosure is otherwise required or permitted by law.
- (3) The chief executive must destroy a written report about a person's criminal history as soon as practicable after considering the applicant's or licensee's suitability to hold a licence.

162 Amendment of s 12 (Decision on application for a licence)

Section 12—

insert—

- (5) The *Acts Interpretation Act 1954*, section 27B, does not apply to the QCAT information notice to the extent to which the decision is the result of advice given by the commissioner of the police service to the chief executive under section 8(4).

163 Amendment of s 15 (Decision on application for renewal or restoration of a licence)

Section 15—

insert—

- (5) The *Acts Interpretation Act 1954*, section 27B, does not apply to the QCAT information notice to the extent to which the decision is the result of advice given by the commissioner of the police service to the chief executive under section 8(4).

164 Amendment of s 19 (Grounds for suspending, cancelling, refusing to renew or restore, or imposing conditions on a licence)

- (1) Section 19(2)—

renumber as section 19(3).

- (2) Section 19—

insert—

- (2) However, for subsection (1)(d) and section 20, it is not a ground for suspending, cancelling, refusing to renew or restore, or imposing a condition on a licence that the licensee is an identified participant in a criminal organisation.

Notes—

- 1 The chief executive must refuse to renew or restore a licence on the ground that the licensee is an identified participant in a criminal organisation under section 15.
- 2 The chief executive must immediately cancel a licence if a licensee is an identified participant in a criminal organisation under section 20A.

165 Insertion of new s 20A

After section 20—

insert—

20A Immediate cancellation and return of licence

- (1) The chief executive must cancel a licensee's licence if, after the licence is granted, the chief executive is advised by the commissioner of the police service that the licensee is an identified participant in a criminal organisation.
- (2) Immediately after cancelling the licence, the chief executive must give the licensee a QCAT information notice for the decision to cancel the licence.
- (3) The *Acts Interpretation Act 1954*, section 27B, does not apply to the QCAT information notice.
- (4) The decision takes effect on the day on which the notice is given to the licensee.
- (5) If a person's licence is cancelled under subsection (1), the person must return the licence to the chief executive within 14 days of the QCAT information notice being given to the licensee.

Maximum penalty for subsection (5)—100 penalty units.

166 Amendment of s 21 (Return of licence)

Section 21(1), after ‘cancel’—

insert—

(other than under section 20A)

167 Insertion of new ss 107A and 107B

After section 107—

insert—

107A Confidentiality of criminal intelligence

- (1) This section applies if—
 - (a) a person seeks a review under this division of one of the following decisions made by the chief executive—
 - (i) a decision to refuse to grant a licence;
 - (ii) a decision to refuse to grant the renewal or restoration of a licence;
 - (iii) a decision to cancel a licence under section 20A; and
 - (b) the decision was made as a result of advice given by the commissioner of the police service that the person is an identified participant in a criminal organisation.
- (2) For an application for review of the decision in QCAT or a proceeding about the decision in the Supreme Court—
 - (a) the commissioner of the police service is a party to the proceeding; and
 - (b) the commissioner of the police service must give QCAT or the Supreme Court a statement of reasons about the identification of the person by the commissioner of the

police service as an identified participant in a criminal organisation.

- (3) For a proceeding mentioned in subsection (2), QCAT or the Supreme Court may—
 - (a) review the identification by the commissioner of the police service of the person as an identified participant in a criminal organisation; and
 - (b) as it considers appropriate to protect the confidentiality of criminal intelligence—
 - (i) receive evidence and hear argument about the criminal intelligence in the absence of parties to the proceeding and their representatives; and
 - (ii) take evidence consisting of criminal intelligence by way of affidavit of a police officer of at least the rank of superintendent.
- (4) If QCAT or the Supreme Court considers information has been incorrectly categorised by the commissioner of the police service as criminal intelligence, the commissioner may withdraw the information from consideration by QCAT or the court.
- (5) Information that is withdrawn under subsection (4) by the commissioner of the police service must not be—
 - (a) disclosed to any person; or
 - (b) taken into consideration by QCAT or the Supreme Court.
- (6) In this section—

criminal intelligence means—

 - (a) advice given by the commissioner of the police service to the chief executive under

section 8 that a person is an identified participant in a criminal organisation; and

- (b) information held by the commissioner of the police service that is relevant to whether the person is an identified participant in a criminal organisation.

107B Application of Judicial Review Act 1991

- (1) The *Judicial Review Act 1991*, part 4 does not apply to a decision mentioned in section 107A(1).
- (2) Subject to this division, unless the Supreme Court decides that a decision of the chief executive mentioned in section 107A(1) is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, or another court, a tribunal or another entity); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (3) The *Judicial Review Act 1991*, part 5 applies to the decision mentioned in subsection (2) to the extent it is affected by jurisdictional error.

168 Insertion of new pt 9, div 4

After section 138—

insert—

Division 4 Transitional provision for Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

139 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the chief executive had not finally decided an application for—
 - (a) a licence; or
 - (b) a renewal of a licence; or
 - (c) a restoration of a licence.
- (2) The chief executive must decide the application under this Act as amended by the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.
- (3) In this section—

commencement means the commencement of this section.

169 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

criminal organisation has the meaning given under the Criminal Code, section 1.

identified participant, in a criminal organisation, means a person who is identified by the commissioner of the police service as a participant in the organisation within the meaning of the Criminal Code, section 60A(3).

Part 17 **Amendment of Security Providers Act 1993**

170 Act amended

This part amends the *Security Providers Act 1993*.

171 Amendment of s 11 (Entitlement to licences—individuals)

(1) Section 11(6)—

renumber as section 11(7).

(2) Section 11(3), ‘(4) and (5)’—

omit, insert—

(4) to (6)

(3) Section 11—

insert—

(6) Also, a person is not an appropriate person to hold a licence if the person is an identified participant in a criminal organisation.

172 Amendment of s 12 (Inquiries about person’s appropriateness to hold licence)

(1) Section 12—

insert—

(1A) Without limiting subsection (1)—

- (a) if the chief executive receives an application for the grant or renewal of a licence—the chief executive must ask the Commissioner whether the applicant is an identified participant in a criminal organisation; and
- (b) otherwise—for the purposes of deciding whether the person continues to be an appropriate person, the chief executive may

ask the Commissioner whether the person is an identified participant in a criminal organisation.

- (2) Section 12(2), after ‘may’—
insert—
also
- (3) Section 12(3), ‘(4)’—
omit, insert—
(5)
- (4) Section 12(3), ‘(2)(a) or (b)’—
omit, insert—
(2) or (3)
- (5) Section 12(1A) to (5)—
renumber as section 12(2) to (6).

173 Amendment of s 12AA (Costs of criminal history report)

Section 12AA(1), ‘section 12’—
omit, insert—
section 12(3)

174 Amendment of s 12C (Use of information obtained under s 12, 12A or 12B)

- (1) Section 12C—
insert—
(3A) Advice that a person is an identified participant in a criminal organisation may be used by the chief executive only for deciding whether the person is, or continues to be, an appropriate person for a licence.
- (2) Section 12C(7), ‘12,’—

omit, insert—

12, other than information about whether the person is an identified participant in a criminal organisation,

- (3) Section 12C(3A) to (7)—

renumber as section 12C(4) to (8).

175 Amendment of s 13 (Entitlement to licences—corporations or firms)

Section 13(5), ‘(5)’—

omit, insert—

(6)

176 Amendment of s 14 (Decision on application)

- (1) Section 14—

insert—

(5A) The *Acts Interpretation Act 1954*, section 27B, does not apply to the QCAT information notice relating to a decision to refuse to grant a licence to the extent to which the decision is the result of advice given by the Commissioner to the chief executive under section 12(2).

- (2) Section 14(3A) to (6)—

renumber as section 14(4) to (8).

177 Amendment of s 21 (Grounds for suspension, cancellation or refusal to renew)

- (1) Section 21—

insert—

(1B) Despite subsection (1)(g), the following are not grounds for cancellation of a licence under section 22—

- (a) the chief executive is advised by the Commissioner that the licensee, or another person required to be an appropriate person in relation to the licence, is an identified participant in a criminal organisation;

Note—

See section 23A for cancellation of a licence in the circumstances mentioned in paragraph (a).

- (b) the licensee, or another person required to be an appropriate person in relation to the licence, is convicted of a disqualifying offence.

Note—

See section 24 for cancellation of a licence in the circumstances mentioned in paragraph (b).

- (2) Section 21(1A) to (4)
renumber as section 21(2) to (6).

178 Amendment of s 22 (Procedure for suspension, cancellation or refusal to renew)

- (1) Section 22—

insert—

- (2A) Subsections (1) and (2) do not apply to a decision to refuse to renew the licence because the chief executive is advised by the Commissioner that the licensee, or another person required to be an appropriate person in relation to the licence, is an identified participant in a criminal organisation.

- (2) Section 22(3), ‘must inform the licensee of the decision by written notice.’—

omit, insert—

must, by written notice, inform—

- (a) generally—a licensee of a decision to cancel, suspend or refuse to renew the licensee’s licence; or

Note—

See section 23A(2) and (3) for the requirement to provide a QCAT information notice for a decision to cancel a licence in the circumstances mentioned in that section.

- (b) for a licensee mentioned in subsection (1)—the licensee of a decision not to take the action.

- (3) Section 22—

insert—

- (4A) The *Acts Interpretation Act 1954*, section 27B, does not apply to the QCAT information notice relating to a decision to refuse to renew a licence to the extent to which the decision is the result of advice given by the Commissioner to the chief executive under section 12(2).

- (4) Section 22(2A) to (5)—

renumber as section 22(3) to (7).

179 Insertion of new s 23A

After section 23—

insert—

23A Cancellation of licence—identified participant in criminal organisation

- (1) The chief executive must cancel a licensee’s licence if, after the licence is granted, the chief executive is advised by the Commissioner that the licensee is an identified participant in a criminal organisation.
- (2) Immediately after cancelling the licence, the chief executive must give the licensee a QCAT

information notice for the decision to cancel the licence.

- (3) The *Acts Interpretation Act 1954*, section 27B, does not apply to the QCAT information notice.
- (4) The decision takes effect on the day on which the notice is given to the licensee.
- (5) If a person's licence is cancelled under subsection (1), the person must return the licence to the chief executive within 14 days of the QCAT information notice being given to the licensee.

Maximum penalty for subsection (4)—20 penalty units.

180 Insertion of new ss 26A and 26B

Part 2, division 6—

insert—

26A Confidentiality of criminal intelligence in proceedings

- (1) This section applies if—
 - (a) a person seeks a review of any of the following decisions made by the chief executive—
 - (i) a refusal to grant a licence;
 - (ii) a refusal to renew a licence;
 - (iii) a cancellation of a licence; and
 - (b) the decision was made as a result of advice given by the Commissioner that the person, or another person required to be an appropriate person in relation to the licence, is an identified participant in a criminal organisation.

- (2) For a proceeding relating to an application for review of the decision by QCAT or a proceeding about the decision in the Supreme Court—
 - (a) the Commissioner is a party to the proceeding; and
 - (b) the Commissioner must give QCAT or the Supreme Court a statement of reasons about the identification of the person by the Commissioner as an identified participant in a criminal organisation.
- (3) For a proceeding mentioned in subsection (2), QCAT or the Supreme Court may—
 - (a) review the identification by the Commissioner of the person as an identified participant in a criminal organisation; and
 - (b) as it considers appropriate to protect the confidentiality of criminal intelligence—
 - (i) receive evidence and hear argument about the criminal intelligence in the absence of parties to the proceeding and their representatives; and
 - (ii) take evidence consisting of criminal intelligence by way of affidavit of a police officer of at least the rank of superintendent.
- (4) If QCAT or the Supreme Court considers information has been incorrectly categorised by the Commissioner as criminal intelligence, the Commissioner may withdraw the information from consideration by QCAT or the court.
- (5) Information that is withdrawn under subsection (4) by the Commissioner must not be—
 - (a) disclosed to any person; or
 - (b) taken into consideration by QCAT or the Supreme Court.

26B Application of Judicial Review Act 1991

- (1) The *Judicial Review Act 1991*, part 4 does not apply to a decision of the chief executive mentioned in section 26A(1).
- (2) Subject to this division, unless the Supreme Court decides a decision of the chief executive mentioned in section 26A(1) is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (3) The *Judicial Review Act 1991*, part 5 applies to a decision mentioned in subsection (2) to the extent it is affected by jurisdictional error.

181 Insertion of new pt 9

After section 67—

insert—

Part 9

Transitional provision for Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

68 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the chief executive had not finally decided an application for a licence or the renewal of a licence.
- (2) The chief executive must decide the application under this Act as amended by the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.
- (3) In this section—
commencement means the commencement of this section.

182 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

criminal intelligence means—

- (a) advice given by the Commissioner to the chief executive under section 12(2) that a person is an identified participant in a criminal organisation; and
- (b) information held by the Commissioner that is relevant to whether the person is an

identified participant in a criminal organisation.

criminal organisation has the meaning given under the Criminal Code, section 1.

identified participant, in a criminal organisation, means a person who is identified by the Commissioner as a participant in the organisation within the meaning of the Criminal Code, section 60A(3).

Part 18 Amendment of Supreme Court of Queensland Act 1991

183 Act amended

This part amends the *Supreme Court of Queensland Act 1991*.

184 Amendment of s 80 (Use of video link facilities in proceedings)

(1) Section 80(1)—

insert—

(ba) the proceeding is not a proceeding for the sentencing of the detainee; and

Note—

See the *Penalties and Sentences Act 1992*, section 15A in relation to the use of audiovisual link or audio link facilities for a sentencing proceeding.

(2) Section 80(1)(ba) and (c)—

renumber as section 80(1)(c) and (d).

Part 19 **Amendment of Tattoo Parlours Act 2013**

185 Act amended

This part amends the *Tattoo Parlours Act 2013*.

186 Replacement of s 57 (Confidentiality of criminal intelligence)

Section 57—

omit, insert—

57 Confidentiality of criminal intelligence in proceedings

- (1) This section applies if—
 - (a) a person seeks a review of any of the following decisions made by the chief executive—
 - (i) a refusal to grant a licence;
 - (ii) a suspension or cancellation of a licence; and
 - (b) the decision is made on the ground of an adverse security determination made by the commissioner.
- (2) For a proceeding relating to an application for review of the decision by QCAT or a proceeding about the decision in the Supreme Court—
 - (a) the commissioner is a party to the proceeding; and
 - (b) the commissioner must give QCAT or the Supreme Court a copy of the report of the adverse security determination.
- (3) For a proceeding mentioned in subsection (2), QCAT or the Supreme Court may—

- (a) review the making of the adverse security determination by the commissioner; and
 - (b) as it considers appropriate to protect the confidentiality of a criminal intelligence report or other criminal information mentioned in section 20(3)—
 - (i) receive evidence and hear argument about the information in the absence of parties to the proceeding and their representatives; and
 - (ii) take evidence consisting of the information by way of affidavit of a police officer of at least the rank of superintendent.
- (4) If QCAT or the Supreme Court considers information has been incorrectly categorised by the commissioner as a criminal intelligence report or other criminal information mentioned in section 20(3), the commissioner may withdraw the information from consideration by QCAT or the court.
- (5) Information that is withdrawn by the commissioner under subsection (4) must not be—
- (a) disclosed to any person; or
 - (b) taken into consideration by QCAT or the Supreme Court.

187 Amendment of s 58 (Application of Judicial Review Act 1991)

- (1) Section 58(1), ‘section 56(1)’—
omit, insert—
section 57(1)
- (2) Section 58(2), from ‘section 56’ to 56(1)—

omit, insert—

this part, unless the Supreme Court decides a decision of the chief executive mentioned in section 57(1)

(3) Section 58—

insert—

(3) The *Judicial Review Act 1991*, part 5 applies to a decision mentioned in subsection (2) to the extent it is affected by jurisdictional error.

Part 20 **Amendment of Tow Truck Act 1973**

188 Act amended

This part amends the *Tow Truck Act 1973*.

189 Amendment of s 4C (Who is an appropriate person)

Section 4C, before subsection (1)—

insert—

- (1AA) A person is not an appropriate person to hold or continue to hold a licence or certificate under this Act if—
- (a) the person is an identified participant in a criminal organisation; or
 - (b) the person is a criminal organisation; or
 - (c) for a corporation—an executive officer of the corporation is an identified participant in a criminal organisation.

190 Amendment of s 6 (Application for licence)

Section 6(2), ‘commissioner of the police service’—
omit, insert—
police commissioner

191 Amendment of s 9 (Renewal of licence)

Section 9(2), ‘commissioner of the police service’—
omit, insert—
police commissioner

192 Amendment of s 19H (Restricted written release of information)

- (1) Section 19H(1)(b), ‘commissioner of the police service’—
omit, insert—
police commissioner
- (2) Section 19H(1)(b), ‘of the commissioner’—
omit, insert—
of the police commissioner

193 Amendment of pt 4, div 2, hdg (Cancellation and suspension of authorities)

Part 4, division 2, heading, ‘and suspension’—
omit, insert—
, suspension, amendment and surrender

194 Insertion of new pt 4, div 2, sdiv 1 and sdiv 2, hdg

Division 2, before section 21A—
insert—

Subdivision 1 Immediate cancellation

21AA Immediate cancellation—identified participant or criminal organisation

- (1) The chief executive must cancel an authority holder's authority if, after the authority is granted, the chief executive is advised by the police commissioner that the authority holder is—
 - (a) an identified participant in a criminal organisation; or
 - (b) a criminal organisation.
- (2) Immediately after cancelling the authority, the chief executive must give the authority holder a QCAT information notice for the decision to cancel the authority.
- (3) The *Acts Interpretation Act 1954*, section 27B does not apply to the QCAT information notice.
- (4) The cancellation takes effect on the day the QCAT information notice is given to the authority holder.
- (5) Subdivision 2 does not apply to the cancellation of an authority under this section.

Subdivision 2 Other provisions about cancellation, suspension, amendment and surrender

195 Amendment of s 21A (Cancellation or suspension of authorities)

Section 21A—

insert—

- (ca) for an authority holder that is a corporation—the chief executive is advised by the police commissioner that an executive officer of the holder is an identified participant in a criminal organisation;

196 Amendment of s 21B (Immediate suspension of authority)

- (1) Section 21B(1), ‘either’—

omit, insert—

any

- (2) Section 21B(1)—

insert—

- (c) for an authority holder that is a corporation—

- (i) the chief executive is advised by the police commissioner that an executive officer of the authority holder is an identified participant in a criminal organisation; and

- (ii) the chief executive believes on reasonable grounds that—

- (A) public safety has been endangered, or is likely to be endangered, because of the executive officer’s conduct in relation to the authority and the authority should be immediately suspended; or

- (B) it is in the public interest to immediately suspend the authority.

- (3) Section 21B(3)(a), ‘section 21D(5)’—

omit, insert—

section 21D(4)

- (4) Section 21B(4)(c), after ‘decision’—

insert—

, unless the authority holder is a corporation and the decision is made because the chief executive is advised by the police commissioner that an executive officer of the corporation is an identified participant in a criminal organisation

- (5) Section 21B(4)—

insert—

Note—

See also section 27A.

197 Amendment of s 21D (Amending, suspending or cancelling authority)

- (1) Section 21D(7)(b), after ‘decision’—

insert—

, unless the authority holder is a corporation and the decision is made because the chief executive is advised by the police commissioner that an executive officer of the corporation is an identified participant in a criminal organisation

- (2) Section 21D(7)—

insert—

Note—

See also section 27A.

198 Insertion of new pt 4, div 2, sdiv 3, hdg

After section 21F—

insert—

Subdivision 3 Delivery of cancelled or suspended authorities

199 Amendment of s 21G (Delivery of cancelled or suspended authority)

Section 21G, after ‘executive in the’—

insert—

QCAT information notice for the decision to cancel or suspend the authority or the

200 Replacement of pt 6, hdg (Review of decisions)

Part 6, heading—

omit, insert—

Part 6 Review

Division 1 Review of decisions

201 Insertion of new s 27A

Part 6, division 1—

insert—

27A Requirement to give QCAT information notice for particular decisions mentioned in sch 1

- (1) This section applies if a decision mentioned in schedule 1 is made and, in making the decision, the chief executive was advised by the police commissioner that—
 - (a) the person is an identified participant in a criminal organisation; or
 - (b) the person is a criminal organisation; or

- (c) for a corporation—an executive officer of the corporation is an identified participant in a criminal organisation.
- (2) The chief executive must give a person whose interests are affected by the decision a QCAT information notice for the decision.
- (3) The *Acts Interpretation Act 1954*, section 27B does not apply to the QCAT information notice.

202 Amendment of s 28 (Internal review of decisions)

- (1) Section 28(1)—

omit, insert—

- (1) This section applies to a person whose interests are affected by a decision mentioned in schedule 1, except if the chief executive is required under section 27A to give the person a QCAT information notice for the decision.

- (1A) The person may ask the chief executive to review the decision.

- (2) Section 28(2), ‘original’—

omit.

- (3) Section 28(3)(b)—

insert—

- (iii) for the person to be given a QCAT information notice if the decision on the review is not the decision sought by the person.

- (4) Section 28(1A) to (3)—

renumber as section 28(2) to (4).

203 Replacement of s 29 (External review of decisions)

Section 29—

omit, insert—

29 Review of decisions by QCAT

- (1) This section applies to a person who has been given a QCAT information notice for—
 - (a) a decision mentioned in schedule 1; or
 - (b) a decision to immediately cancel an authority under section 21AA; or
 - (c) a decision on a review under section 28 of a decision mentioned in schedule 1.
- (2) The person may apply, as provided under the QCAT Act, to QCAT for a review of the decision.
- (3) Despite the QCAT Act, section 22(3), QCAT may not stay the operation of a decision made as a result of advice given by the police commissioner that—
 - (a) a person is an identified participant in a criminal organisation; or
 - (b) a person is a criminal organisation; or
 - (c) for a corporation—an executive officer of the corporation is an identified participant in a criminal organisation.

Division 2 Confidentiality and application of Judicial Review Act 1991

30 Confidentiality of criminal intelligence in proceedings

- (1) This section applies if—
 - (a) a person seeks review of any of the following decisions made by the chief executive—

- (i) a decision mentioned in schedule 1;
 - (ii) a decision to immediately cancel an authority under section 21AA; and
 - (b) the decision was made as a result of advice given by the police commissioner that—
 - (i) the person is an identified participant in a criminal organisation; or
 - (ii) the person is a criminal organisation; or
 - (iii) for a corporation—an executive officer of the corporation is an identified participant in a criminal organisation.
- (2) For a proceeding relating to an application for review of the decision in QCAT or a proceeding about the decision in the Supreme Court—
- (a) the police commissioner is a party to the proceeding; and
 - (b) the police commissioner must give QCAT or the Supreme Court a statement of reasons about—
 - (i) the identification of the person by the police commissioner as an identified participant in a criminal organisation or as a criminal organisation; or
 - (ii) for a corporation—the identification of an executive officer of the corporation by the police commissioner as an identified participant in a criminal organisation.
- (3) For a proceeding mentioned in subsection (2), QCAT or the Supreme Court may review the identification by the police commissioner of—
- (a) the person as—
 - (i) an identified participant in a criminal organisation; or

- (ii) a criminal organisation; or
 - (b) for a corporation—an executive officer of the corporation as an identified participant in a criminal organisation.
- (4) For a proceeding mentioned in subsection (2), QCAT or the Supreme Court may, as it considers appropriate to protect the confidentiality of criminal intelligence—
 - (a) receive evidence and hear argument about the criminal intelligence in the absence of parties to the proceeding and their representatives; and
 - (b) take evidence consisting of criminal intelligence by way of affidavit of a police officer of at least the rank of superintendent.
- (5) If QCAT or the Supreme Court considers information has been incorrectly categorised by the police commissioner as criminal intelligence, the police commissioner may withdraw the information from consideration by QCAT or the court.
- (6) Information that is withdrawn under subsection (5) by the police commissioner must not be—
 - (a) disclosed by any person; or
 - (b) taken into consideration by QCAT or the Supreme Court.
- (7) In this section—

criminal intelligence means—

 - (a) advice given by the police commissioner to the chief executive under section 36AA that a person is—
 - (i) an identified participant in a criminal organisation; or
 - (ii) a criminal organisation; and

- (b) information held by the police commissioner that is relevant to whether—
 - (i) the person is an identified participant in a criminal organisation; or
 - (ii) the person is a criminal organisation.

31 Application of Judicial Review Act 1991

- (1) The *Judicial Review Act 1991*, part 4 does not apply to a decision of the chief executive mentioned in section 30(1).
- (2) Subject to this part, unless the Supreme Court decides that a decision of the chief executive mentioned in section 30(1) is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, or another court, a tribunal or another entity); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (3) The *Judicial Review Act 1991*, part 5 applies to a decision mentioned in subsection (2) to the extent it is affected by jurisdictional error.

204 Amendment of s 36 (Chief executive may obtain information from the commissioner of the police service)

- (1) Section 36, heading, from ‘the commissioner’—
omit, insert—

police commissioner—criminal history

- (2) Section 36(1), ‘commissioner of the police service’—
omit, insert—
police commissioner
- (3) Section 36(3) and (4), before ‘commissioner’—
insert—
police
- (4) Section 36(4), before ‘commissioner’s’—
insert—
police

205 Amendment of s 36A (Notice of change in police information about a person)

- (1) Section 36A, heading, after ‘person’—
insert—
—criminal history
- (2) Section 36A(1)(a), ‘commissioner of the police service’—
omit, insert—
police commissioner
- (3) Section 36A(2) and (3)(a), before ‘commissioner’—
insert—
police
- (4) Section 36A(3), before ‘commissioner’s’—
insert—
police

206 Insertion of new s 36AA

After section 36A—

insert—

36AA Requesting and using police commissioner's advice—identified participants and criminal organisations

- (1) If a person applies for an authority, or the renewal of an authority, the chief executive must ask the police commissioner whether—
 - (a) the person is—
 - (i) an identified participant in a criminal organisation; or
 - (ii) a criminal organisation; or
 - (b) if the person is a corporation—an executive officer of the person is an identified participant in a criminal organisation.
- (2) Also, the chief executive may ask the police commissioner whether—
 - (a) the holder of an authority is—
 - (i) an identified participant in a criminal organisation; or
 - (ii) a criminal organisation; or
 - (b) if the holder is a corporation—an executive officer of the holder is an identified participant in a criminal organisation.
- (3) The police commissioner must comply with the chief executive's request under subsection (1) or (2).
- (4) The chief executive may use the advice given by the police commissioner only for making a decision—
 - (a) as to whether the person is an appropriate person to hold or continue to hold an authority under this Act; or

(b) to cancel or suspend an authority under part 4, division 2.

(5) In this section—

authority means—

- (a) an assistant's certificate; or
- (b) a driver's certificate; or
- (c) a licence.

207 Amendment of s 36B (Chief executive may enter into arrangement about giving and receiving information with commissioner of the police service)

(1) Section 36B, heading, 'commissioner of the police service'—
omit, insert—

police commissioner

(2) Section 36B(1), 'commissioner of the police service'—
omit, insert—

police commissioner

(3) Section 36B(1), 'or the commissioner'—
omit, insert—

or the police commissioner

(4) Section 36B(2), before 'commissioner'—
insert—

police

(5) Section 36B—
insert—

(5) In this section—

information includes advice given by the police commissioner under section 36AA.

208 Insertion of new pt 8, div 1, hdg

Part 8, before section 44—

insert—

**Division 1 Transitional provision for
1973 No. 39**

209 Insertion of new pt 8, div 2

After section 44—

insert—

**Division 2 Transitional provision for
Criminal Law (Criminal
Organisations Disruption)
and Other Legislation
Amendment Act 2013**

45 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the chief executive had not finally decided an application for the grant or renewal of an authority.
- (2) The chief executive must decide the application under this Act as amended by the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.
- (3) In this section—
authority means—
 - (a) an assistant's certificate; or
 - (b) a driver's certificate; or
 - (c) a licence.

commencement means the commencement of this section.

210 Amendment of sch 1, hdg (Reviewable decisions)

Schedule 1, heading, ‘section 28’—

omit, insert—

sections 27A, 28, 29 and 30

211 Amendment of sch 2 (Dictionary)

(1) Schedule 2—

insert—

criminal organisation means—

- (a) for the definition *identified participant*—a criminal organisation under the Criminal Code, section 1; or
- (b) otherwise—an organisation identified by the police commissioner as a criminal organisation within the meaning of the Criminal Code, section 1.

identified participant, in a criminal organisation, means a person who is identified by the police commissioner as a participant in the organisation within the meaning of the Criminal Code, section 60A(3).

police commissioner means the commissioner of the police service.

QCAT information notice means a notice complying with the QCAT Act, section 157(2).

(2) Schedule 2, definition *approved form*, ‘see’—

omit, insert—

means a form approved under

Part 21 **Amendment of Transport Planning and Coordination Act 1994**

212 **Act amended**

This part amends the *Transport Planning and Coordination Act 1994*.

213 **Amendment of s 3 (Definitions)**

Section 3—

insert—

approved agency means an entity that is—

- (a) established under a law of the Commonwealth or a State; and
- (b) prescribed under a regulation as an approved agency for this paragraph.

law enforcement purpose, in relation to the use of information by a member of an approved agency, means a purpose—

- (a) for which the agency is authorised to use the information under a law of the Commonwealth or a State; or
- (b) consistent with the agency's functions under a law of the Commonwealth or a State.

member, of an approved agency, includes a person employed or engaged by the agency.

MoU means an agreement between the chief executive and the chief executive officer of an approved agency that generally describes the basis on which the chief executive will give information to the chief executive officer of the approved agency.

transport information database means a register or record kept or obtained under a transport Act.

use, in relation to information, includes the following—

- (a) disclose;
- (b) give;
- (c) give access to;
- (d) make available;
- (e) publish;
- (f) record.

214 Insertion of new ss 36I to 36M

Part 6—

insert—

36I Giving information to approved agencies to enable use of information for particular purposes

- (1) The chief executive may, in accordance with an MoU, give the chief executive officer of an approved agency all or any information in a transport information database to enable the approved agency to use the information for a law enforcement purpose.
- (2) Without limiting subsection (1), the chief executive may give the information to the chief executive officer of the approved agency by allowing an authorised member of the approved agency to have direct access to the transport information database.
- (3) The chief executive may give the information to the chief executive officer of an approved agency under subsection (1) on the conditions the chief executive considers appropriate.

- (4) This section applies despite any other Act.
- (5) In this section—
authorised member, of an approved agency, means a member, or a member of a class of members, of the approved agency authorised in writing by the chief executive to have direct access to a transport information database.

36J Use of information permitted despite other provisions

- (1) This section applies if information is given, under section 36I, by the chief executive to the chief executive officer of an approved agency.
- (2) Despite any other Act, the approved agency may use the information for a law enforcement purpose.

36K Misuse of particular information given

- (1) This section applies to a member of an approved agency who has information because it has been given, under section 36I, by the chief executive to the chief executive officer of the agency.
- (2) The member must not use the information—
 - (a) for a purpose other than a law enforcement purpose; or
 - (b) in contravention of—
 - (i) a condition, if any, imposed by the commissioner under section 36I(3); or
 - (ii) the terms of the MoU about the information.

Maximum penalty for subsection (2)—100 penalty units.

36L Extra-territorial application of offence provision

A person commits an offence against section 36K(2) if—

- (a) the person is a member of an approved agency who, outside the State, uses information given, under section 36I, by the chief executive to the chief executive officer of the agency; and
- (b) the use of the information would constitute an offence against section 36K(2) if it were used by the person within the State.

36M Protection from liability

- (1) This section applies if a person, acting honestly and without negligence, gives information under section 36I.
- (2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.
- (3) If subsection (2) prevents a civil liability attaching to a person, the liability attaches instead to the State.
- (4) Also, merely because the person gives the information, the person can not be held to have—
 - (a) breached any code of professional etiquette or ethics; or
 - (b) departed from accepted standards of professional conduct.
- (5) Without limiting subsections (2) and (4)—
 - (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and

- (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—
 - (i) does not contravene the Act, oath or rule of law or practice by giving the information; and
 - (ii) is not liable to disciplinary action for giving the information.

Part 22

Amendment of Transport Planning and Coordination Regulation 2005

215 Regulation amended

This part amends the *Transport Planning and Coordination Regulation 2005*.

216 Insertion of new pt 5

After section 9—

insert—

Part 5

Prescribed approved agencies

10 Approved agency—Act, s 3

- (1) For the Act, section 3, definition *approved agency*, paragraph (b), ASIO is an approved agency.
- (2) In this section—

ASIO means the Australian Security Intelligence Organisation established under the *Australian Security Intelligence Organisation Act 1979* (Cwlth).

Part 23 Amendment of Weapons Act 1990

217 Act amended

This part amends the *Weapons Act 1990*.

218 Amendment of s 10 (Limitations on issue of licence)

- (1) Section 10(3), ‘unincorporated—’—
omit, insert—
unincorporated, only if—
- (2) Section 10(3)(a), ‘, only if it is endorsed with’—
omit.
- (3) Section 10(3)(a)(i), ‘the name’—
omit, insert—
it is endorsed with the name
- (4) Section 10(3)(a)(ii), ‘the names’—
omit, insert—
it is endorsed with the names
- (5) Section 10(3)(a)(ii), ‘club; or’—
omit, insert—
club; and
- (6) Section 10(3)(a)—

insert—

- (iii) the body is not a criminal organisation; and
- (iv) each executive officer or other influential person for the body is not an identified participant in a criminal organisation; or

(7) Section 10(3)(b)—

insert—

- (iii) the body is not a criminal organisation; and
- (iv) each executive officer or other influential person for the body is not an identified participant in a criminal organisation.

219 Amendment of s 10B (Fit and proper person—licensees)

Section 10B—

insert—

- (2A) Also, for the issue, renewal or revocation of a licence, a person is not a fit and proper person to hold a licence if the person is an identified participant in a criminal organisation.

220 Amendment of s 10C (Fit and proper person—licensed dealer’s associate)

Section 10C—

insert—

- (2A) Also, a person is not a fit and proper person to be an associate of a licensed dealer if the person is an identified participant in a criminal organisation.

221 Amendment of s 14 (Inquiries into application)

(1) Section 14—

insert—

- (1A) Without limiting subsection (1), before deciding the application, an authorised officer must ask the commissioner whether—
- (a) for an individual—the applicant or an associate of the applicant is an identified participant in a criminal organisation; or
 - (b) if the applicant is a body—
 - (i) the body is a criminal organisation; or
 - (ii) an executive officer or other influential person for the body is an identified participant in a criminal organisation.

- (2) Section 14—

insert—

- (3A) If the authorised officer makes a request under subsection (1A), the commissioner must comply with the request.

- (3) Section 14(9), ‘section may’—

omit, insert—

section, other than advice given by the commissioner to the authorised officer under subsection (3A), may

- (4) Section 14—

insert—

- (9A) The authorised officer may use advice given by the commissioner under subsection (3A) only for deciding the application.

222 Amendment of s 18 (Renewal of licences)

- (1) Section 18—

insert—

- (4A) Before deciding the application, the authorised officer must ask the commissioner whether—
 - (a) for an individual—the applicant or an associate of the applicant is an identified participant in a criminal organisation; or
 - (b) if the applicant is a body—
 - (i) the body is a criminal organisation; or
 - (ii) an executive officer or other influential person for the body is an identified participant in a criminal organisation.
- (4B) If the authorised officer makes a request under subsection (4A), the commissioner must comply with the request.
- (4C) The authorised officer may use advice given by the commissioner under subsection (4B) only for deciding the application.

223 Amendment of s 19 (Notice of rejection of application to issue or renew licence)

Section 19(2), ‘available,’—

omit, insert—

available (other than advice given by the commissioner to the authorised officer under section 14(3A) or 18(4B)),

224 Amendment of s 30 (Suspension or revocation notice)

(1) Section 30(1A), ‘available,’—

omit, insert—

available (other than advice given by the commissioner to an authorised officer under section 18(4B) or subsection (1C)),

(2) Section 30—

insert—

- (1B) For the purposes of deciding whether to revoke a licence, the authorised officer must ask the commissioner whether—
- (a) a licensee is—
 - (i) an identified participant in a criminal organisation; or
 - (ii) a criminal organisation; or
 - (b) an associate of the licensee is an identified participant in a criminal organisation; or
 - (c) an executive officer or other influential person for the licensee is an identified participant in a criminal organisation.
- (1C) If the authorised officer makes a request under subsection (1B), the commissioner must comply with the request.
- (1D) The authorised officer may use advice given by the commissioner under subsection (1C) only for deciding whether to revoke the licensee's licence.

225 Amendment of s 142 (Right to apply for review of decisions)

Section 142(1), after paragraph (a)—

insert—

- (aa) a decision refusing to renew a licence under this Act;

226 Amendment of s 142AA (Notices must be QCAT information notices)

Section 142AA—

insert—

- (3) The *Acts Interpretation Act 1954*, section 27B, does not apply to the QCAT information notice to the extent to which the decision is the result of advice given by the commissioner to an authorised officer under section 14(3A), 18(4B) or 30(1C).

227 Insertion of new ss 143 and 144

After section 142A—

insert—

143 Additional confidentiality requirements for particular criminal intelligence in proceedings

- (1) This section applies if—
- (a) a person seeks a review of any of the following decisions made by an authorised officer—
 - (i) a refusal to issue a licence;
 - (ii) a refusal to renew a licence;
 - (iii) a revocation of a licence; and
 - (b) in making the decision the authorised officer was advised by the commissioner —
 - (i) for an individual—the person or an associate of the person is an identified participant in a criminal organisation; or
 - (ii) for a body—
 - (A) the body is a criminal organisation; or
 - (B) an executive officer or other influential person for the body is an identified participant in a criminal organisation.

- (2) For a proceeding relating to an application for review of the decision by QCAT or a proceeding about the decision in the Supreme Court—
 - (a) the commissioner is a party to the proceeding; and
 - (b) the commissioner must give QCAT or the Supreme Court a statement of reasons about the identification by the commissioner of—
 - (i) for an individual—the person or an associate of the person as an identified participant in a criminal organisation; or
 - (ii) for a body—
 - (A) the body as a criminal organisation; or
 - (B) an executive officer or other influential person for the body as an identified participant in a criminal organisation.
- (3) For a proceeding mentioned in subsection (2), QCAT or the Supreme Court may—
 - (a) review the identification by the commissioner of—
 - (i) for an individual—the person or an associate of the person as an identified participant in a criminal organisation; or
 - (ii) for a body—
 - (A) the body as a criminal organisation; or
 - (B) an executive officer or other influential person for the body as an identified participant in a criminal organisation; and

- (b) as it considers appropriate to protect the confidentiality of criminal intelligence—
 - (i) receive evidence and hear argument about the criminal intelligence in the absence of parties to the proceeding and their representatives; and
 - (ii) take evidence consisting of criminal intelligence by way of affidavit of a police officer of at least the rank of superintendent.
- (4) If QCAT or the Supreme Court considers information has been incorrectly categorised by the commissioner as criminal intelligence, the commissioner may withdraw the information from consideration by QCAT or the court.
- (5) Information that is withdrawn by the commissioner under subsection (4) must not be—
 - (a) disclosed to any person; or
 - (b) taken into consideration by QCAT or the Supreme Court.
- (6) In this section—

criminal intelligence means—

 - (a) advice given by the commissioner to the authorised officer under section 14(3A), 18(4B) or 30(1C) that a person is—
 - (i) an identified participant in a criminal organisation; or
 - (ii) a criminal organisation; and
 - (b) information held by the commissioner that is relevant to whether the person is—
 - (i) an identified participant in a criminal organisation; or

- (ii) a criminal organisation.

144 Application of Judicial Review Act 1991

- (1) The *Judicial Review Act 1991*, part 4 does not apply to a decision of an authorised officer mentioned in section 143(1).
- (2) Subject to section 143, unless the Supreme Court decides that a decision of the authorised officer mentioned in 143(1) is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) cannot be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, or another court, a tribunal or another entity); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (3) The *Judicial Review Act 1991*, part 5 applies to a decision mentioned in subsection (2) to the extent it is affected by jurisdictional error.

228 Amendment of s 145 (Applicant may carry on business pending review)

Section 145—

insert—

- (2) However, subsection (1) does not apply if the decision to refuse to renew, or to revoke, the licence was made because the commissioner advised an authorised officer, under section 14(3A), 18(4B) or 30(1C), that any of the

following persons is an identified participant in a criminal organisation or is a criminal organisation—

- (a) the licensee;
- (b) an associate of the licensee;
- (c) an executive officer or other influential person for the licensee.

229 Insertion of new pt 8, div 5

Part 8—

insert—

Division 5 Transitional provision for Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

191 Existing applications

- (1) This section applies if, immediately before the commencement, an authorised officer had not finally decided an application for the—
 - (a) issue of a licence; or
 - (b) renewal of a licence.
- (2) The authorised officer must decide the application under this Act as amended by the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.
- (3) In this section—
commencement means the commencement of this section.

230 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *criminal intelligence*, ‘activity.’—
omit, insert—

activity, other than advice given by the commissioner to an authorised officer under section 14(3A), 18(4B) or 30(1C) that a person is—

- (a) an identified participant in a criminal organisation; or
- (b) a criminal organisation.

- (2) Schedule 2—
insert—

criminal organisation means—

- (a) for the definition *identified participant*—a criminal organisation under the Criminal Code, section 1; or
- (b) otherwise—an organisation identified by the commissioner as a criminal organisation within the meaning of the Criminal Code, section 1.

identified participant, in a criminal organisation, means a person who is identified by the commissioner as a participant in the organisation within the meaning of the Criminal Code, section 60A(3).

Part 24 Amendment of Work Health and Safety Act 2011

231 Act amended

This part amends the *Work Health and Safety Act 2011*.

232 Amendment of s 271 (Confidentiality of information)

- (1) Section 271(3), after ‘or a document’—

insert—

, other than criminal intelligence, or a document that includes criminal intelligence

- (2) Section 271—

insert—

- (4A) A regulation may provide for the circumstances in which criminal intelligence may be used or disclosed or access may be given to a document containing criminal intelligence.

- (4B) In this section—

criminal intelligence means information prescribed under a regulation as criminal intelligence.

233 Amendment of sch 3 (Regulation-making powers)

- (1) Schedule 3, section 7(1)(a), from ‘authorisations, including’—

omit, insert—

authorisations, including—

- (i) the minimum age to be eligible for an authorisation; and
- (ii) the circumstances in which persons are not eligible for authorisations, for example, because of character or reputation; and
- (iii) matters relating to conducting investigations and otherwise obtaining information about persons for the purposes of subparagraph (ii); and

- (2) Schedule 3, section 14—

insert—

- (d) providing for restrictions or limitations on the review of particular decisions; and
- (e) prescribing procedures of a court, the commission or QCAT for review of the decisions under a regulation.

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