

# Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Bill 2013

Amendments during consideration in detail to be moved by  
The Honourable the Attorney-General and Minister for Justice

## 1 **Clause 2 (Commencement)**

Page 10, lines 8 and 9—

*omit, insert—*

- (1) The following provisions of this Act commence on a day to be fixed by proclamation—
  - (a) parts 2, 2A, 2B, 2F, 2H, 3B and 4;
  - (b) sections 60A and 62(5).
- (2) Parts 2C, 2D, 2G, 2I and 3A commence on 1 July 2013.

## 2 **After clause 3**

Page 10, after line 13—

*insert—*

### **3A Amendment of s 8 (Provisions about appointments and procedures)**

Section 8(a), ‘commissioners’—

*omit, insert—*

industrial commissioners

## 3 **After clause 4**

Page 10, after line 16—

*insert—*

**4A Amendment of s 233 (Enforcing commission's orders)**

Section 233(8), definition *full bench*—

*omit, insert*—

*full bench* means the full bench constituted by 3 or more members, 1 of whom must be the president, vice-president or a deputy president (court).

**4B Amendment of ch 8, pt 1, div 2, hdg (President)**

Chapter 8, part 1, division 2, heading, 'President'—

*omit, insert*—

**Composition of the court**

**4C Insertion of new ss 242C–242G**

Chapter 8, part 1, division 2—

*insert*—

**242C Members of the court**

The members of the court are—

- (a) the president; and
- (b) the vice-president; and
- (c) the deputy presidents (court).

**242D Appointment of members on full-time or part-time basis**

- (1) This section applies to a person appointed to 1 of the following offices (each a *relevant office*)—
  - (a) if the person is a non-judicial appointee—the office of the president;
  - (b) the office of the vice-president;

- (c) the office of a deputy president (court).
- (2) A person appointed to a relevant office is on a full-time basis unless the appointment is stated, in the instrument of appointment, to be on a part-time basis.
- (3) However, a person appointed to a relevant office on a full-time basis may, by written agreement between the Minister and the person, perform the functions of the office to which the person has been appointed on a part-time basis.
- (4) An appointment or agreement for a person to perform the functions of a relevant office on a part-time basis must state the percentage of the office the person is to perform.
- (5) A person appointed on a part-time basis may, by written agreement with the Minister, perform the functions of the office to which the person has been appointed on a full-time basis.
- (6) A person appointed to a relevant office on a part-time basis may hold another office, perform other duties or engage in employment if—
- (a) the Minister is satisfied that holding the other office, performing the other duties or engaging in the employment is compatible with, and is not a conflict of interest issue for, the relevant office; and
- (b) the Minister has given written approval for the person to hold the other office, perform the other duties or engage in the employment.

### **242E Functions of the president**

- (1) The president has the functions conferred on the president under this Act.
- (2) The functions of the president include preparing, and giving the Minister, the annual report under section 252.
- (3) The president has the power to do all things necessary or convenient to be done for the performance of the president's functions.
- (4) The president may delegate a function of the president to the vice-president.

### **242F Functions of the vice-president**

- (1) The vice-president of the court has the functions conferred on the vice-president under this Act or another Act.
- (2) The vice-president is subject to the direction of the president in performing the vice-president's functions, other than the function mentioned in section 242G.
- (3) The vice-president has the power to do all things necessary or convenient to be done for the performance of the vice-president's functions.
- (4) The vice-president may delegate a function of the vice-president to a deputy president (court).

### **242G Administration of the court**

- (1) The vice-president is responsible for managing the administration of the business of—
  - (a) the court; and

- (b) to the extent it operates as the registry for the court—the registry.
- (2) Without limiting subsection (1), the vice-president is responsible for deciding the member who is to constitute the court for a proceeding.

#### **4D Amendment of s 243 (President of the court)**

Section 243, heading—

*omit, insert—*

##### **243 Appointment of president**

#### **4E Amendment of s 246 (Acting president of the court)**

- (1) Section 246, heading, ‘of the court’—

*omit.*

- (2) Section 246(2)(b), after ‘office,’—

*omit, insert—*

a deputy president (court).

#### **4F Insertion of new ss 246A–246E**

Chapter 8, part 1, division 2—

*insert—*

##### **246A Appointment of vice-president**

- (1) The Governor in Council may, by commission, appoint a person as the vice-president of the court.
- (2) The person must—
  - (a) be a lawyer of at least 5 years standing; and
  - (b) have either of the following—

- (i) high level experience in business or industry or in a relevant entity;
  - (ii) suitable experience, qualification and standing in the community to be appointed as the vice-president of the court.
- (3) The person can not be—
  - (a) a member of the Executive Council or Legislative Assembly; or
  - (b) a director of a corporation engaged in a calling; or
  - (c) an auditor of a corporation engaged in a calling or of a business; or
  - (d) a person who participates in any capacity in the management of—
    - (i) a corporation engaged in a calling; or
    - (ii) a business.
- (4) In this section—

***relevant entity*** means any of the following—

  - (a) an organisation or employer association or a State peak council;
  - (b) a department of government;
  - (c) an agency, authority, commission, corporation, instrumentality, office or other entity, established under an Act or under State authorisation for a public or State purpose.

### **246B When vice-president holds office**

- (1) The vice-president of the court holds office until the vice-president—

- (a) turns 70; or
  - (b) resigns by signed notice given to the Governor; or
  - (c) becomes a member of the Executive Council or Legislative Assembly; or
  - (d) does any of the following without the prior written consent of the Minister—
    - (i) acts as a director of a corporation engaged in a calling;
    - (ii) acts as auditor of a corporation engaged in a calling or of a business;
    - (iii) participates in any capacity in the management of a corporation engaged in a calling or of a business; or
  - (e) is removed from office under section 246E.
- (2) If the vice-president stops holding the office because of subsection (1)(a) or (b) while hearing a matter, the Governor in Council may, without reappointing the person as the vice-president of the court, continue the person in the office for the time necessary to enable the hearing of the matter to be completed.
- (3) A person continued in office under subsection (2) may exercise the jurisdiction and powers of the court necessary or convenient for the hearing to be completed.

### **246C Deputy presidents (court)**

- (1) The Governor in Council may, by commission, appoint a person as a deputy president (court) of the court.

- (2) The person must—
- (a) be a lawyer of at least 5 years standing; and
  - (b) have either of the following—
    - (i) high level experience in business or industry or in a relevant entity;
    - (ii) suitable experience, qualification and standing in the community to be appointed as a deputy president (court).
- (3) The person can not be—
- (a) a member of the Executive Council or Legislative Assembly; or
  - (b) a director of a corporation engaged in a calling; or
  - (c) an auditor of a corporation engaged in a calling or of a business; or
  - (d) a person who participates in any capacity in the management of—
    - (i) a corporation engaged in a calling; or
    - (ii) a business.
- (4) In this section—  
*relevant entity* see section 246A(4).

**246D When deputy president (court) holds office**

- (1) A deputy president (court) holds office until the deputy president (court)—
- (a) turns 70; or
  - (b) resigns by signed notice given to the Governor; or

- (c) becomes a member of the Executive Council or Legislative Assembly; or
  - (d) does any of the following without the prior written consent of the Minister—
    - (i) acts as a director of a corporation engaged in a calling;
    - (ii) acts as auditor of a corporation engaged in a calling or of a business;
    - (iii) participates in any capacity in the management of a corporation engaged in a calling or of a business;
  - (e) is removed from office under section 246E.
- (2) If a deputy president (court) stops holding the office because of subsection (1)(a) or (b) while hearing a matter, the Governor in Council may, without reappointing the person as a deputy president (court), continue the person in the office for the time necessary to enable the hearing of the matter to be completed.
- (3) A person continued in office under subsection (2) may exercise the jurisdiction and powers of the court necessary or convenient for the hearing to be completed.

### **246E Removal of vice-president or deputy president (court) from office**

The Governor may remove the vice-president or a deputy president (court) from office, on an address of the Legislative Assembly, for—

- (a) mental or physical incapacity; or
- (b) misbehaviour.

#### **4G Replacement of s 247 (Constitution of court)**

Section 247—

*omit, insert—*

##### **247 Constitution**

The court is constituted by the president, the vice-president or a deputy president (court) sitting alone.

#### **4H Amendment of s 248 (Court's jurisdiction)**

Section 248(1)(e), 'exercise the'—

*omit, insert—*

if the court is constituted by the president, exercise the

#### **4I Amendment of s 256 (Composition)**

Section 256(1) and (2)—

*omit, insert—*

- (1) The commission consists of the following members (each a *commissioner*)—
  - (a) the president;
  - (b) the vice-president;
  - (c) a person holding office as a deputy president;
  - (d) a person holding office as an industrial commissioner.
- (2) The full bench of the commission (the *full bench*) is constituted by—
  - (a) for chapter 12, part 16 or for the hearing of an appeal other than an appeal mentioned in paragraph (b)—3 or more commissioners, 1 of whom must be the president; or

- (b) for the hearing of an appeal from a decision of the commission constituted by the president sitting alone—3 or more other commissioners, 1 of whom must be the vice-president or a deputy president; or
- (c) otherwise—3 or more commissioners.

#### **4J Replacement of ss 257 and 258**

Sections 257 and 258—

*omit, insert—*

##### **257 President of the commission**

- (1) The president of the court is also the president of the commission.
- (2) The president's service as the president of the commission does not entitle the president to any salary or allowance in addition to the salary or allowance received as the holder of the office of the president of the court.

##### **258 Vice-president of the commission**

- (1) The vice-president of the court is also the vice-president of the commission.
- (2) The vice-president's service as the vice-president of the commission does not entitle the vice-president to any salary or allowance in addition to the salary or allowance received as the holder of the office of the vice-president of the court.

**258AA Deputy presidents (court) also deputy presidents of the commission**

- (1) A deputy president (court) is also a deputy president of the commission.
- (2) The service of a deputy president (court) as a deputy president of the commission does not entitle the deputy president (court) to any salary or allowance in addition to the salary or allowance received as the holder of the office of a deputy president (court).

**4K Amendment of s 258A (Deputy presidents of the commission)**

- (1) Section 258A, heading, ‘Deputy’—

*omit, insert—*

**Appointment of other deputy**

- (2) Section 258A(1), ‘a commissioner’—

*omit, insert—*

an industrial commissioner

**4L Amendment of s 259 (Commissioners)**

- (1) Section 259, heading—

*omit, insert—*

**259 Industrial commissioners**

- (2) Section 259, ‘a commissioner’—

*omit, insert—*

an industrial commissioner

- (3) Section 259(5), ‘the commissioner’—

*omit, insert—*

the industrial commissioner

**4M Amendment of s 259A (Commissioner may be appointed ombudsman)**

- (1) Section 259A, heading, ‘Commissioner’—  
*omit, insert—*

**Particular commissioners**

- (2) Section 259A(1), after ‘A commissioner’—  
*insert—*  
    , other than the president,

**4N Amendment of s 260 (When commissioner holds office)**

- (1) Section 260, heading, after ‘When’—  
*insert—*

**deputy president or industrial**

- (2) Section 260(1)—  
*omit, insert—*

- (1) A deputy president appointed under section 258A or an industrial commissioner (each a **relevant commissioner**) holds office until—
- (a) the relevant commissioner turns 70; or
  - (b) the relevant commissioner resigns by signed notice given to the Governor; or
  - (c) the relevant commissioner becomes a member of the Executive Council or the Legislative Assembly; or
  - (d) the relevant commissioner becomes a person mentioned in section 262(b), other than with the Minister’s written approval; or
  - (e) the relevant commissioner is removed from office under section 263.

- (3) Section 260(2), ‘commissioner’—

*omit, insert—*

relevant commissioner

(4) Section 260(2), ‘subsection (1)(b) or (c)’—

*omit, insert—*

subsection (1)(a) or (b)

#### **4O Replacement of s 261 (Acting vice-president, deputy president or other commissioner)**

Section 261—

*omit, insert—*

##### **261 Acting deputy president or industrial commissioner**

- (1) This section applies if a deputy president appointed under section 258A or an industrial commissioner temporarily can not perform the functions of office.
- (2) The Governor in Council may, by gazette notice, appoint a person to act as the deputy president or industrial commissioner.

#### **4P Amendment of s 262 (Restrictions on appointment)**

Section 262, ‘commissioners’—

*omit, insert—*

a deputy president under section 258A or an industrial commissioner

#### **4Q Amendment of s 263 (Removal of commissioners from office)**

(1) Section 263, heading, ‘commissioners’—

*omit, insert—*

**deputy president or industrial commissioner**

(2) Section 263, ‘a commissioner’—

*omit, insert—*

a deputy president appointed under section 258A  
or an industrial commissioner

**4R Amendment of s 264 (Administrative responsibilities for the commission and registry)**

(1) Section 264(4A)(b), ‘commissioners’—

*omit, insert—*

industrial commissioners

(2) Section 264(5), ‘A commissioner’—

*omit, insert—*

An industrial commissioner

**4S Amendment of s 281 (Reference to full bench)**

Section 281(2), after ‘A commissioner’—

*insert—*

, other than the president,

**4T Amendment of s 299 (Functions and powers of registrar)**

Section 299(3)(a) and (b)—

*omit, insert—*

(a) for the court, other than in relation to a function mentioned in section 242G (*court administration*)—the president; and

(b) for court administration—the vice-president; and

- (c) for the commission—the vice-president.

#### **4U Amendment of s 306 (Appointment of Commonwealth official as commissioner)**

- (1) Section 306, heading, ‘commissioner’—

*omit, insert—*

**deputy president or industrial commissioner**

- (2) Section 306(1), ‘a commissioner (*dual commissioner*)’—

*omit, insert—*

a deputy president or an industrial commissioner (each a *dual commissioner*)

- (3) Section 306(2), ‘Section 263’—

*omit, insert—*

Sections 246E and 263

- (4) Section 306(4) and (5), ‘a commissioner’—

*omit, insert—*

a deputy president or an industrial commissioner

#### **4V Amendment of s 307 (Role of dual commissioner)**

Section 307, ‘a commissioner’—

*omit, insert—*

a deputy president or an industrial commissioner

#### **4W Amendment of s 308 (Reference of matter to a Commonwealth official)**

Section 308(3)(a), ‘a commissioner’—

*omit, insert—*

an industrial commissioner

**4X Amendment of s 309 (Conferences with industrial authorities)**

Section 309—

*insert—*

(3) In this section—

*commissioner* does not include the president.

**4Y Amendment of s 310 (Joint sessions with industrial authorities)**

Section 310—

*insert—*

(3) In this section—

*commissioner* does not include the president.

**4Z Amendment of s 318 (Service of process)**

(1) Section 318(1)(a), after ‘the president’—

*insert—*

, the vice-president, a deputy president (court)

(2) Section 318(2), ‘president’—

*omit, insert—*

court

**4 After clause 5**

Page 10, after line 19—

*insert—*

**5A Amendment of s 323 (Adjournment by registrar)**

Section 323, ‘the president or a commissioner’—

*omit, insert—*

a member of the commission

**5B Amendment of s 326 (Interlocutory proceedings)**

Section 326, from ‘the president’, first mention, to ‘commission or registrar’, second mention—

*omit, insert—*

the court, commission or registrar may make orders or give directions the court, commission or registrar

**5C Amendment of s 337 (Protections and immunities)**

Section 337(1) and (2), ‘The president, the commission’—

*omit, insert—*

A member of the court, a member of the commission

**5D Insertion of new s 337A**

Chapter 8, part 6, division 7—

*insert—*

**337A Rules committee**

(1) The president must establish a rules committee consisting of the following members—

(a) the president;

(b) the vice-president;

- (c) each deputy president.
- (2) The president is the chairperson of the rules committee.
- (3) The functions of the rules committee include—
  - (a) developing and reviewing the rules under this Act; and
  - (b) approving forms under section 708; and
  - (c) the other functions conferred on the rules committee under this Act.
- (4) The rules committee may conduct its business and proceedings at meetings in the way it decides.
- (5) However—
  - (a) the chairperson has a deliberative vote and, in the event of an equality of votes, a casting vote; and
  - (b) the rules committee must consult with—
    - (i) for a rule relating to the Industrial Magistrates Court—the Chief Magistrate; or
    - (ii) for a rule relating to the registry—the registrar.

### **5E Amendment of s 338 (Rules)**

- (1) Section 338(2), ‘president’—  
*omit, insert—*  
rules committee
- (2) Section 338(3)—  
*omit.*

- (3) Section 338(4) and (5)—  
*renumber* as section 338(3) and (4).

**5F Amendment of s 339 (Directions about practice)**

Section 339(1), ‘the president, a commissioner’—  
*omit, insert*—

a member of the court, a member of the  
commission

**5G Amendment of s 340 (Appeal from court or full bench)**

- (1) Section 340, heading, ‘or full bench’—  
*omit.*
- (2) Section 340(2), (3) and (3A)—  
*omit.*
- (3) Section 340(4)(d), ‘or full bench’—  
*omit.*

**5H Amendment of s 341 (Appeal from commission, magistrate or registrar)**

Section 341(1), from ‘section 149’ to ‘president’—  
*omit, insert*—

or a decision under section 273A

**5 Clause 11 (Amendment of s 372 (Right of entry—authorised industrial officer))**

Page 13, lines 15 and 16—

*omit, insert*—

- (a) first notify each of the following persons of  
the officer’s presence—

- (i) the employer or the employer's representative;
- (ii) if the place is not occupied by the employer—the occupier of the place; and

**6 Clause 11 (Amendment of s 372 (Right of entry—authorised industrial officer))**

Page 13, line 19, 'or representative'—

*omit, insert—*

, representative or occupier

**7 Clause 11 (Amendment of s 372 (Right of entry—authorised industrial officer))**

Page 13, lines 20 to 23—

*omit, insert—*

(2) Section 372(3)—

*omit, insert—*

- (3) If an authorised industrial officer's entry to a place is authorised under subsection (1) and the officer complies with subsection (2)—
  - (a) if the place is occupied by the employer—the employer must not refuse the officer entry to the place; or
  - (b) if the place is not occupied by the employer and the occupier has given the consent mentioned in section 372B(3)(b)—the occupier of the place must not refuse the officer entry to the place.

Maximum penalty—27 penalty units.

**8 Clause 12 (Insertion of new ss 372A and 372B)**

Page 14, line 18—

*omit, insert—*

- (d) the powers the officer proposes to exercise under section 373, including, if the officer intends to inspect records, the records to be inspected;

**9 Clause 14 (Insertion of new s 390A)**

Page 17, after line 20—

*insert—*

*continuing health employee* means a health employee who, immediately after ceasing to be a health employee, begins new employment, or resumes previous employment, as a health employee, on any basis.

*final payment—*

- 1 Generally, a health employee's *final payment* is the total amount owing to the employee by the health employer on the day the employee ceases to be a health employee, including unpaid wages, or any other amount payable in relation to employment, to which the employee is entitled.
- 2 However, the *final payment* for a continuing health employee includes only the component of the total amount mentioned in paragraph 1 that is the amount the employee is entitled to be paid for untaken leave.

**10 Clause 16 (Amendment of s 396A (Recovery of health employment overpayments))**

Page 18, lines 19 to 32—

*omit, insert—*

(2) Section 396A(5)—

*omit, insert—*

(5) A deduction can not be made in an amount that would result in the amount that is paid to a health employee on any single occasion, disregarding any other deductions for any other purpose, being less than the amount prescribed under a regulation.

*Examples of other deductions—*

an income tax deduction, a superannuation contribution paid by the employee, a deduction made with the consent of the employee

**11 Clause 16 (Amendment of s 396A (Recovery of health employment overpayments))**

Page 19, lines 5 and 6—

*omit.*

**12 Clause 17 (Amendment of s 396B (Recovery of health employment transition loans))**

Page 19, line 9, before ‘Section’—

*insert—*

(1)

**13 Clause 17 (Amendment of s 396B (Recovery of health employment transition loans))**

Page 19, after line 11—

*insert—*

(2) Section 396B(5)—

*omit.*

**14 Clause 18 (Insertion of new ss 396C and 396D)**

Page 20, lines 15 to 34—

*omit.*

**15 Clause 23 (Amendment of s 529 (Officers with material personal interests))**

Page 22, after line 17—

*insert—*

- (1) Section 529(1), after ‘management’—

*insert—*

or procurement activities

- (2) Section 529(2), after ‘must’—

*insert—*

by written notice (a *disclosure notice*)

**16 Clause 23 (Amendment of s 529 (Officers with material personal interests))**

Page 22, line 18, before ‘Section’—

*insert—*

- (3)

**17 Clause 23 (Amendment of s 529 (Officers with material personal interests))**

Page 22, after line 20—

*insert—*

- (4) Section 529—

*insert—*

- (4) In this section—

*procurement activities* means activities relating to—

(a) the purchase of goods and services; or

(b) the carrying out of work.

*services* includes auditing services and legal services.

**18 After clause 23**

Page 22, after line 20—

*insert—*

**23A Insertion of new ch 12, pt 9, divs 4 and 5**

Chapter 12, part 9—

*insert—*

**Division 4 Register of material  
personal interest  
disclosures**

**530A Register of material personal interest  
disclosures**

- (1) This section applies if a disclosure notice is given to an organisation's management committee by an officer of the organisation under section 529.
- (2) The organisation must keep, for at least 7 years after the date the disclosure notice was given, a written register of the following for the disclosure notice—
  - (a) the name of the officer;
  - (b) the date the disclosure notice was given;
  - (c) a copy of the disclosure notice.

Maximum penalty—40 penalty units.

- (3) The register kept under subsection (2) may be inspected by the following persons—

- (a) the registrar;
  - (b) a member of the organisation's management committee;
  - (c) another person permitted by law to inspect the register.
- (4) A person mentioned in subsection (3) may ask the organisation to make the register available for inspection, free of charge, during the organisation's business hours.
- (5) The organisation must comply with a request made under subsection (4).
- Maximum penalty—40 penalty units.
- (6) In this section—  
*disclosure notice* see section 529(2).

## **Division 5            Statement of interests                                  of officers holding                                  management offices**

### **530B Application of div 5**

This division applies to an officer of an organisation who holds a management office in the organisation.

### **530C Definitions for div 5**

- (1) In this division—
- management office*, for an organisation, means an office of the organisation mentioned in section 412(a) or (b).
- particulars*, of an interest, means the financial and non-financial particulars of the interest prescribed under a regulation.

- (2) A reference in this division to an interest is a reference to the matter within its ordinary meaning under the general law and the definition in the *Acts Interpretation Act 1954*, section 36 does not apply.

### **530 Officer must file statement of interests**

- (1) The officer must, within 1 month after being elected or appointed to the management office in the organisation, file a statement of the particulars of each interest held by the officer or the officer's spouse.

Maximum penalty—85 penalty units.

- (2) However, the particulars of an interest held by the officer jointly or in common with the officer's spouse need to be included in the statement only once.
- (3) Nothing in subsection (1) requires the statement to include any of the following—
- (a) the number or monetary value of shares;
  - (b) the monetary value of an asset, investment or other interest;
  - (c) the full street address of land;
  - (d) the account number of, or amount held in, an account held with a financial institution.
- (4) To remove any doubt, it is declared that a person holds an interest if the person holds the interest—
- (a) alone; or
  - (b) jointly or in common with another person.

### **530E Officer must file updated particulars**

- (1) Subsection (2) applies if the officer becomes aware (including because of a change in the interests of the officer or the officer's spouse) of any of the following matters—
  - (a) that the officer has not filed a statement of the particulars of an interest held by the officer or the officer's spouse;
  - (b) that the particulars of an interest held by the officer or the officer's spouse included in a statement filed by the officer are not, or are no longer, correct.
- (2) The officer must file a statement of the particulars of the interest, or the correct particulars of the interest, within 1 month after the officer becomes aware of the matter.

Maximum penalty—85 penalty units.

### **530F Exemption**

- (1) This section applies if—
  - (a) under another Act or law—
    - (i) information about the interests held by the officer and the officer's spouse is required to be recorded in a register or otherwise disclosed by the officer; and
    - (ii) the information is published to the public; and
  - (b) the officer has filed a written notice stating the matters mentioned in paragraph (a).
- (2) Sections 530D and 530E do not apply to the officer.

**19 Clauses 24 to 26**

Page 22, lines 21 to 26, page 23, lines 1 to 24, page 24, lines 1 to 30, page 25, lines 1 to 31, page 26, lines 1 to 28, page 27, lines 1 to 31, page 28, lines 1 to 33, page 29, lines 1 to 31, page 30, lines 1 to 29 and page 31, lines 1 to 30—

*omit.*

**20 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 36, after line 14—

*insert—*

**553BA Division does not apply to organisations with local government members**

This division does not apply to an organisation if each of the members of the organisation is—

- (a) a local government; or
- (b) the mayor or a councillor of a local government.

**21 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 36, lines 28 to 30 and page 37, lines 1 to 5—

*omit, insert—*

- (d) conducting opinion polling, or otherwise ascertaining opinions, about a political matter;
- (e) another activity related to a political matter prescribed under a regulation;

**22 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 37, line 6, '(e)'—

*omit, insert—*

- (f)

**23 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 37, line 10, '(d)'—

*omit, insert—*

(e)

**24 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 37, line 11—

*omit, insert—*

(2) However, an organisation does not spend money for a ***political purpose*** if—

(a) the organisation spends money for an activity mentioned in subsection (1)(c), (d), (e) or (f); and

(b) the activity engages or involves only members of the organisation.

*Examples—*

- an organisation distributes brochures containing material about a political matter only to its members
- an organisation conducts opinion polling about a political matter only of its members

(3) In this section—

***publication***, of material, does not include designing, printing or otherwise preparing the material.

**25 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 37, after line 11—

*insert—*

**553CA Other definitions for div 1B**

In this division—

**26 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 38, line 4, after ‘candidates’—

*insert—*

for election

**27 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 38, lines 12 to 27—

*omit, insert—*

- (a) an organisation intends to spend an amount for a political purpose for a political object in a financial year; and
- (b) the organisation has spent or, if the amount is spent, the organisation will have spent, in the financial year, more than \$10000 for the same political purpose and the same political object.

**28 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 38, line 28, ‘(3)’—

*omit, insert—*

(2)

**29 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 39, line 1, ‘(4)’—

*omit, insert—*

(3)

**30 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 39, lines 6 to 9—

*omit, insert—*

- (b) more than 50% of the valid votes cast authorised the spending.

**31 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 39, lines 12 to 29 and page 40, lines 1 to 5—

*omit.*

**32 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 40, lines 6 to 17—

*omit, insert—*

**553G Compliance with prescribed rules**

- (1) An expenditure ballot must be conducted in accordance with the rules prescribed under a regulation.
- (2) The prescribed rules must provide for the preparation of a roll of voters for an expenditure ballot.

**33 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 40, lines 18 to 30 and page 41, lines 1 to 7—

*omit.*

**34 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 41, lines 8 to 14—

*omit, insert—*

**553H Expenditure ballot result report**

- (1) The organisation must, within 14 days after the declaration of the result of an expenditure ballot, file a written result report for the expenditure ballot stating the particulars prescribed under a regulation.

**35 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 41, lines 21 to 29—

*omit, insert—*

- (a) is, within 14 days after the declaration of the result of the expenditure ballot, published in the approved way; and

*Note—*

See section 655A for how the notice must be published.

- (b) continues to be published for a period of 2 years after the filing of the result report.

**36 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 42, lines 13 and 16, ‘approve’—

*omit, insert—*

authorise

**37 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 42, line 20, ‘The electoral commission’—

*omit, insert—*

An organisation

**38 Clause 29 (Insertion of new ch 12, pt 12, divs 1A and 1B)**

Page 43, lines 1 to 13—

*omit.*

**39 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 46, lines 7 and 8—

*omit, insert—*

employee, other than an amount or benefit given—

- (i) as remuneration; or
- (ii) for the costs of travel undertaken or accommodation used by the officer or employee in an official capacity;

**40 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 46, lines 11 and 12, 'in the year'—

*omit.*

**41 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 47, lines 16, 17, 20 and 21, 'political purposes for'—

*omit, insert—*

the same political purpose and

**42 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 47, line 23, 'a'—

*omit, insert—*

the

**43 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 48, after line 2—

*insert—*

**557BA Register of credit card and cab charge  
account spending**

- (1) This section applies only to an employee organisation.
- (2) The organisation must, for each financial year, keep a written register complying with subsection (3) for each of the following—
  - (a) a credit card of the organisation;

- (b) if an officer or employee of the organisation uses the officer's or employee's personal credit card in the year for a transaction (a *relevant transaction*) that is related to the organisation's activities—the personal credit card;
- (c) a cab charge account or cab charge card of the organisation.

Maximum penalty—40 penalty units.

- (3) The register must include the following—
  - (a) for a credit card—
    - (i) the name of the financial institution with which the card is held; and
    - (ii) for a credit card of the organisation—a copy of each statement issued for the card by the financial institution in the year; and
    - (iii) for a personal credit card of an officer or employee of the organisation mentioned in subsection (2)(b)—a copy of each statement issued for the card by the financial institution in the year that contains information about a relevant transaction;
  - (b) for a cab charge account or cab charge card—
    - (i) the name of the taxi service with which the account or card is held; and
    - (ii) a copy of each statement issued for the account or card by the taxi service in the year.
- (4) Nothing in subsection (2) or (3) requires the register, or a copy of a statement included in the register, to include any of the following—

- (a) the number of a credit card, cab charge account or cab charge card;
  - (b) the name or address of a person, other than the organisation—
    - (i) to whom a credit card or cab charge card is issued; or
    - (ii) who is authorised to use a credit card, cab charge account or cab charge card;
  - (c) for a personal credit card—details of a transaction that is not a relevant transaction.
- (5) In this section—

*cab charge account* means a credit facility provided to a person by the operator of a taxi service to which the person may charge the fare for hiring a taxi.

*cab charge card* means a card issued to a person by the operator of a taxi service to be used by the person to charge the fare for hiring a taxi to a cab charge account.

### **557BB Register of credit card and cab charge account spending for 2012-13 financial year**

- (1) This section applies only to an employee organisation.
- (2) Within 1 month after the commencement of this section, the organisation must, for the period 1 July 2012 to 30 June 2013, prepare a written register—
  - (a) for the matters mentioned in section 557BA(2)(a), (b) and (c); and
  - (b) that complies with section 557BA(3).

Maximum penalty—20 penalty units.

**44 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 50, lines 19 to 27 and page 51, lines 1 to 19—

*omit, insert—*

**557I Highest paid officers and board member  
officers of an organisation**

- (1) For this division—
  - (a) if an organisation has less than 10 officers in the initial year or a financial year—all of the officers of the organisation are the highest paid officers of the organisation for the year; and
  - (b) if an organisation has 10 or more officers in the initial year or a financial year—the 10 most highly paid officers of the organisation for the year are the highest paid officers of the organisation for the year; and
  - (c) an officer of an organisation is a board member officer of the organisation if the officer is a member of a board and—
    - (i) the membership is a function of the officer's office with the organisation; or
    - (ii) the organisation nominated the officer to be a member of the board.
- (2) For subsection (1)(b), an officer of an organisation is more highly paid than another officer of the organisation for the initial year or a financial year if the first officer is paid more remuneration for the year than the other officer.

**45 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 51, line 23, before 'Within'—

*insert—*

- (1)

**46 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 51, line 26, ‘sections 557K to 557N’—

*omit, insert—*

subsection (2)

**47 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 51, after line 30—

*insert—*

(2) The initial financial disclosure statement must include the following information for each of the highest paid officers of the organisation for the initial year—

- (a) the remuneration paid to the officer in the year;
- (b) any non-cash benefit, including the value of the benefit, given to the officer by the organisation, other than as remuneration, in the year;
- (c) any amount paid to the officer in the officer’s capacity as a board member officer in the year, other than an amount paid to the officer for the costs of travel or accommodation for the officer to attend a board meeting.

**48 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 52, lines 1 to 34, page 53, lines 1 to 32, page 54, lines 1 to 31 and page 55, lines 1 to 5—

*omit.*

**49 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 55, lines 16 to 18, from ‘period within’ to ‘section 557J’—

*omit, insert—*

initial year

**50 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 56, lines 23 and 24, ‘highly paid officials’—

*omit, insert—*

**highest paid officers**

**51 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 56, lines 26 and 27, ‘highly paid official’—

*omit, insert—*

of the highest paid officers

**52 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 57, lines 1 and 4, ‘official’—

*omit, insert—*

officer

**53 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 57, lines 7 to 9—

*omit, insert—*

- (c) any amount paid to the officer in the officer’s capacity as a board member officer in the year, other than an amount paid to the officer for the costs of travel or accommodation for the officer to attend a board meeting.

**54 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 57, lines 18 to 20, from ‘occasion in’ to ‘political purpose’—

*omit, insert—*

political purpose on which the organisation spent money in the financial year

**55 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 57, line 25, ‘or any part of it’—

*omit, insert—*

(or any part of it)

**56 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 57, after line 27—

*insert—*

**557V Political party affiliation fees**

The financial disclosure statement must include the following particulars for each political party with which the organisation was affiliated in the financial year—

- (a) the name of the political party;
- (b) the amount paid to the political party for the affiliation in the year.

**57 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 57, lines 28 to 30, and page 58, lines 1 to 17—

*omit.*

**58 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 59, line 22, ‘official’—

*omit, insert—*

officer

**59 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 59, line 23, ‘highly paid official’—

*omit, insert—*

highest paid officer

**60 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 59, lines 25, 26 and 30, and page 60, line 5, ‘official’—

*omit, insert—*

officer

**61 Clause 30 (Insertion of new ch 12, pt 12, divs 2A and 2B)**

Page 60, lines 8 to 10—

*omit, insert—*

- (v) any amount paid to the officer in the officer’s capacity as a board member officer in the year, other than an amount paid to the officer for the costs of travel or accommodation for the officer to attend a board meeting.

**62 Clause 33 (Amendment of s 563 (Auditor’s powers))**

Page 63, lines 1 to 7—

*omit, insert—*

*auditor* includes—

- (a) the registrar’s auditor engaged under section 575 to examine the organisation’s accounting records; and
- (b) a complaints auditor engaged under section 636L to examine the organisation’s accounting records.

**63 Clause 36 (Replacement of s 565 (Obligation to present to general or committee meeting))**

Page 64, line 1, after ‘general’—

*insert—*

**or committee**

**64 Clause 36 (Replacement of s 565 (Obligation to present to general or committee meeting))**

Page 64, lines 3 and 4, ‘a financial year to a general meeting’—

*omit, insert—*

each financial year to a general meeting or a meeting of the organisation’s management committee

**65 Clause 40 (Amendment of s 570 (Report and accounts must be filed))**

Page 66, lines 3 to 16—

*omit, insert—*

(2) An organisation must ensure a copy of the audit report and its financial disclosure statement—

(a) is, within the required period, published in the approved way; and

*Note—*

See section 655A for how the copy must be published.

(b) continues to be published for a period of 2 years from the end of the required period.

Maximum penalty—40 penalty units.

**66 Clause 41 (Insertion of new ch 12, pt 12, div 5, sdiv 1)**

Page 66, line 26, ‘(1)’—

*omit.*

**67 Clause 41 (Insertion of new ch 12, pt 12, div 5, sdiv 1)**

Page 67, line 9, after ‘auditor’—

*insert—*

under section 575

**68 Clause 41 (Insertion of new ch 12, pt 12, div 5, sdiv 1)**

Page 67, lines 11 to 14—

*omit.*

**69 Clause 46 (Insertion of new s 574A)**

Page 72, line 6, ‘636C’—

*omit, insert—*

636G(2)(b)

**70 Clause 50 (Insertion of new ch 12, pt 12A)**

Page 73, line 15, ‘(1)’—

*omit.*

**71 Clause 50 (Insertion of new ch 12, pt 12A)**

Page 73, lines 25 and 26—

*omit.*

**72 Clause 50 (Insertion of new ch 12, pt 12A)**

Page 74, lines 17 and 18—

*omit.*

**73 Clause 54 (Replacement of s 592 (Obligation to file copies of reports under other Act or law))**

Page 76, lines 3 to 6—

*omit.*

**74 After clause 56**

Page 88, after line 6—

*insert—*

**56A Amendment of s 679 (Confidential material tendered in evidence)**

Section 679(2), ‘the president, a commissioner’—

*omit, insert—*

a member of the court or the commission

**75 Clause 57 (Amendment of s 691C (Particular provisions are of no effect))**

Page 89, lines 14 and 15, ‘, of a relevant industrial instrument’—

*omit.*

**76 Clause 57 (Amendment of s 691C (Particular provisions are of no effect))**

Page 89, lines 19 and 23, after ‘into the’—

*insert—*

relevant industrial

**77 Clause 57 (Amendment of s 691C (Particular provisions are of no effect))**

Page 90, after line 16—

*insert—*

(4) Section 691C(2), definition *organisational change provision*—

*omit, insert*—

***organisational change provision*** means a provision, other than a TCR provision, that—

(a) requires the employer to do any of the following before, or in relation to, making a decision about, or implementing, proposed organisational change—

(i) notify an entity about the proposed organisational change;

(ii) consult with an entity about the proposed organisational change;

(iii) involve an entity in the decision-making process for the proposed organisational change;  
or

(b) is otherwise about organisational change.

*Examples*—

1 The following provisions, as in force on 1 July 2013, are examples of organisational change provisions—

- clause 7.3 of the State Government Departments Certified Agreement 2009
- clauses 3.2, 4.1 and 4.2 of the Queensland Public Health Sector Certified Agreement (No. 8) 2011 (EB8)
- clause 1.17(vi) and (vii) of the Queensland Public Health Sector Certified Agreement (No. 8) 2011 (EB8).

2 Also, the following provisions, as in force immediately before the date of assent of the *Queensland Rail Transit Authority Act 2013*,

are examples of organisational change provisions—

- clause 22 of the Queensland Rail Customer Service Enterprise Agreement 2011
- clause 41 of the QR Passenger Pty Limited Traincrew Union Collective Workplace Agreement 2009.

## **78 After clause 57**

Page 90, after line 16—

*insert—*

### **57A Amendment of s 708 (Approved forms)**

- (1) Section 708(1), ‘president’—

*omit, insert—*

rules committee

- (2) Section 708(1A)—

*omit, insert—*

- (1A) When acting under subsection (1), the rules committee must consult with—

- (a) for a form relating to the Industrial Magistrates Court—the Chief Magistrate; or
- (b) for a form relating to the registry—the registrar.

- (3) Section 708(1A) and (2)—

*renumber* as section 708(2) and (3).

## **79 Clause 58 (Insertion of new ch 20, pt 16)**

Page 91, lines 7 and 8—

*omit, insert—*

*commencement* means the day on which the provision in which the term is used commences.

**80 Clause 58 (Insertion of new ch 20, pt 16)**

Page 91, after line 14—

*insert—*

**789A Appointment of first vice-president of the court**

- (1) Despite section 246A(1), on the commencement the person holding office as the vice-president of the commission is appointed as the vice-president of the court.
- (2) This Act applies to the appointee as if she had been appointed under section 246A.

**789B Appointment of first deputy presidents of the court**

- (1) Despite section 246C(1), on the commencement each of the persons who is a legally qualified deputy president is appointed as a deputy president (court) of the court.
- (2) This Act applies to the appointees as if they had been appointed under section 246C.
- (3) In this section—

*legally qualified deputy president* means a deputy president of the commission who, immediately before the commencement, is a lawyer of at least 5 years standing.

**789C Industrial commissioners**

A person appointed as a commissioner under the pre-amended Act, section 259 is, on and from the

commencement, taken to have been appointed as an industrial commissioner.

### **789D Proceedings in court started before commencement**

The pre-amended Act applies to a proceeding started in the court under section 317 before the commencement as if this Act had not been amended by the amending Act.

### **789E Existing rules under this Act**

- (1) This section applies to rules made, before the commencement, under previous section 338 with the consent of the president.
- (2) From the commencement, the rules are taken to have been made under new section 338 with the consent of the rules committee.

## **81 Clause 58 (Insertion of new ch 20, pt 16)**

Page 91, after line 30—

*insert—*

### **790A Statement of interests of officer holding management office at commencement**

- (1) This section applies to an officer of an organisation who holds a management office in the organisation at the commencement.
- (2) For section 530C(1), the officer is taken to have been elected or appointed to the management office in the organisation on the commencement.

## **82 Clause 58 (Insertion of new ch 20, pt 16)**

Page 92, line 6, ‘This section’—

*omit, insert—*

Subsection (2)

**83 Clause 58 (Insertion of new ch 20, pt 16)**

Page 92, lines 10 and 11, ‘for the financial year,’—

*omit, insert—*

, other than a register under section 557BB, for the first financial year starting after commencement,

**84 Clause 58 (Insertion of new ch 20, pt 16)**

Page 92, after line 12—

*insert—*

(3) Sections 557D and 557E do not apply to an organisation until 1 month after the commencement.

**85 Clause 58 (Insertion of new ch 20, pt 16)**

Page 93, line 34, after ‘in force’—

*insert—*

or continues to be in force under subsection (2)(b), as if the amending Act had not been enacted

**86 Clause 58 (Insertion of new ch 20, pt 16)**

Page 94, after line 26—

*insert—*

**797A Existing approved forms**

(1) This section applies to forms approved, before the commencement, by the president under previous section 708(1).

- (2) From the commencement, the forms are taken to have been approved by the rules committee under new section 708(1).

**87 Clause 58 (Insertion of new ch 20, pt 16)**

Page 95, after line 14—

*insert—*

**799 Amendment to renumber particular provisions**

- (1) On the commencement, the following provisions of this Act are amended by numbering and renumbering them in the same way as a reprint may be numbered and renumbered under the *Reprints Act 1992*, section 43—
- (a) sections 553BA to 553S;
  - (b) sections 557BA to 557ZB;
  - (c) sections 789A to this section.
- (2) Subsection (1) applies to a provision of this Act enacted or otherwise affected (a ***relevant provision***) by a provision of the amending Act enacted but uncommenced when subsection (1) is commenced (the ***uncommenced provision***), with the intent mentioned in subsection (3) for the relevant provision.
- (3) If the number of the relevant provision would have changed under subsection (1) had the uncommenced provision commenced—
- (a) a number is allocated to the relevant provision as if the uncommenced provision had commenced; and
  - (b) when the uncommenced provision commences, the number of the relevant provision is amended by omitting it and inserting the number allocated to it under paragraph (a).

- (4) Each reference in this Act to a provision renumbered under subsection (1) is amended, when the renumbering happens, by omitting the reference to the previous number and inserting the new number.
- (5) This section expires on the day after the commencement of the last numbering or renumbering of a provision done under the section.
- (6) This section does not limit the *Reprints Act 1992*.

**88 After clause 58**

Page 95, after line 14—

*insert—*

**58A Amendment of sch 2 (Appointments)**

- (1) Schedule 2, part 1, heading, after ‘presidents and’—

*insert—*

**industrial**

- (2) Schedule 2, part 1, section 1(3) and (5), ‘a commissioner’—

*omit, insert—*

an industrial commissioner

- (3) Schedule 2, part 1, section 1(7), definition *relevant member*—

*omit, insert—*

*relevant member* means a member of the court or of the commission other than a president who is a Supreme Court judge.

- (4) Schedule 2, part 1, section 2(1), after ‘to a member’—

*insert—*

of the court or commission (each a *member*)

- (5) Schedule 2, part 1, section 2A(6), definition *relevant member*—

*omit, insert*—

***relevant member*** means a member of the court or of the commission other than a president who is a Supreme Court judge.

- (6) Schedule 2, part 1, section 3(1), after ‘on a member’—

*insert*—

of the court or commission

- (7) Schedule 2, part 1, section 4(1), after ‘to a member’—

*insert*—

of the court or commission

- (8) Schedule 2, part 1, section 4A(1), after ‘or a member’—

*insert*—

of the commission

- (9) Schedule 2, part 1, section 4AA(2), definition *relevant member*—

*omit, insert*—

***relevant member*** means a member of the court or the commission other than a president who is a Supreme Court judge.

- (10) Schedule 2, part 1, section 4B, after ‘A member’—

*insert*—

of the court or commission

- (11) Schedule 2, part 1A, section 4C(1), ‘members of the commission’—

*omit, insert—*

vice-president, a deputy president or an industrial commissioner

**89 Clause 59 (Amendment of sch 5 (Dictionary))**

Page 95, after line 17—

*insert—*

(1A) Schedule 5, definitions *commissioners, deputy president, member* and *vice president—*

*omit.*

**90 Clause 59 (Amendment of sch 5 (Dictionary))**

Page 96, lines 1 to 3—

*omit, insert—*

*board member officer* means an officer of an organisation who is a board member officer under section 557I(1)(c).

*candidate for election*, for chapter 12, part 12, division 1B and chapter 12, part 12A, see section 553CA.

**91 Clause 59 (Amendment of sch 5 (Dictionary))**

Page 96, after line 9—

*insert—*

*continuing health employee*, for chapter 11, part 2, division 3, see section 390A.

**92 Clause 59 (Amendment of sch 5 (Dictionary))**

Page 96, line 14, '(3)'—

*omit, insert—*

(2)

**93 Clause 59 (Amendment of sch 5 (Dictionary))**

Page 96, after line 14—

*insert—*

*final payment*, for chapter 11, part 2, division 3, see section 390A.

**94 Clause 59 (Amendment of sch 5 (Dictionary))**

Page 96, lines 24 to 26—

*omit, insert—*

*highest paid officer* means an officer of an organisation who is 1 of the organisation's highest paid officers under section 557I(1)(a) or (b).

**95 Clause 59 (Amendment of sch 5 (Dictionary))**

Page 97, lines 5 to 7—

*omit.*

**96 Clause 59 (Amendment of sch 5 (Dictionary))**

Page 97, after line 10—

*insert—*

*legislature*, for chapter 12, part 12, division 1B, see section 553CA.

*local government*, for chapter 12, part 12, division 1B, see section 553CA.

*management office*, for chapter 12, part 9, division 5, see section 530C(1).

**97 Clause 59 (Amendment of sch 5 (Dictionary))**

Page 97, lines 25 to 27—

*omit, insert—*

*particulars*, for chapter 12, part 9, division 5, see section 530C(1).

*political matter*, for chapter 12, part 12, division 1B and chapter 12, part 12A, see section 553CA.

*political object* see section 553CA.

*political party*, for chapter 12, part 12, division 1B and chapter 12, part 12A, see section 553CA.

*political purpose* see section 553C.

**98 Clause 59 (Amendment of sch 5 (Dictionary))**

Page 97, lines 30 to 32 and page 98, lines 1 and 2—

*omit.*

**99 Clause 59 (Amendment of sch 5 (Dictionary))**

Page 98, after line 6—

*insert—*

*rules committee* means the rules committee established under section 337A.

**100 Clause 59 (Amendment of sch 5 (Dictionary))**

Page 98, after line 12—

*insert—*

(3) Schedule 5—

*insert—*

*commissioner* see section 256(1).

*deputy president* means—

(a) a deputy president (court); or

(b) a person appointed as a deputy president of the commission under section 258A.

*deputy president (court)* means a person appointed as a deputy president (court) of the court under section 246C.

*industrial commissioner* means a person appointed as an industrial commissioner under section 259.

*member*—

- (a) of the court means the president, the vice-president or a deputy president (court); or
- (b) of the commission means a commissioner.

*vice-president* means the person appointed as the vice-president of the court under section 246A.

## 101 After clause 59

Page 98, after line 12—

*insert*—

### **Part 2A                      Amendment of Anti-Discrimination Act 1991**

#### **59A Act amended**

This part amends the *Anti-Discrimination Act 1991*.

#### **59B Amendment of s 106A (Compulsory retirement age under legislation etc.)**

- (1) Section 106A(1)(e), ‘President’—

*omit, insert*—

president, the vice-president or a deputy president (court)

(2) Section 106A(1)(f), before ‘an industrial’—  
*insert—*

a deputy president appointed under the *Industrial Relations Act 1999*, section 258A or

## **Part 2B                    Amendment of    Commissions of    Inquiry Act 1950**

### **59C Act amended**

This part amends the *Commissions of Inquiry Act 1950*.

### **59D Amendment of s 4A (Interaction of commission with courts etc.)**

Section 4A(1)(b), ‘a member of the said’—  
*omit, insert—*

the president of the

## **Part 2C                    Amendment of    Corrective Services Act    2006**

### **59E Act amended**

This part amends the *Corrective Services Act 2006*.

### **59F Amendment of s 209 (Automatic cancellation of order by further imprisonment)**

(1) Section 209(3)(b)(iii)—  
*omit.*

- (2) Section 209(3)(b)(iv)—  
*renumber* as section 209(3)(b)(iii).

## **Part 2D                      Amendment of Criminal Code**

### **59G Code amended**

This part amends the Criminal Code.

### **59H Amendment of s 227C (Persons who are not criminally responsible for offences against ss 227A and 227B)**

- (1) Section 227C(3), definition *supervision order*, paragraph (d)—  
*omit*.
- (2) Section 227C(3), definition *supervision order*, paragraph (e)—  
*renumber* as paragraph (d).

### **59I Amendment of s 552H (Maximum penalty for indictable offences dealt with summarily)**

Section 552H(1)—

*omit, insert—*

- (1) A person is liable on summary conviction under section 552A, 552B or 552BA to a maximum penalty of—
- (a) if the Magistrates Court is constituted by a magistrate—100 penalty units or 3 years imprisonment; or
- (b) if the Magistrates Court is constituted by justices under section

552C(1)(b)—100 penalty units or 6 months imprisonment.

## **Part 2E                      Amendment of Drug Court Act 2000**

### **59J Act amended**

This part amends the *Drug Court Act 2000*.

### **59K Amendment of s 12A (Application of pt 3A)**

Section 12A—

*insert—*

*Note—*

See section 12B(1A) for the ending of referrals for indicative assessment under this part.

### **59L Amendment of s 12B (Referral for indicative assessment)**

(1) Section 12B—

*insert—*

(1A) However, a magistrate must not decide to refer a person for an indicative assessment on or after the relevant day.

(2) Section 12B(4)—

*insert—*

*Note—*

See section 12E for how a drug court magistrate must deal with the proceeding after an indicative assessment report has been submitted.

(3) Section 12B(6)—

*omit.*

### **59M Insertion of new s 12E**

Part 3A—

*insert—*

#### **12E Dealing with proceedings after submission of indicative assessment report**

- (1) If an indicative assessment report about a person is given to a drug court magistrate on or after the relevant day, the magistrate must exercise the jurisdiction of a Magistrates Court and deal with the person according to law.
- (2) A drug court magistrate may take account of the indicative assessment report when sentencing the person for the offence.

### **59N Amendment of s 13 (Application of pt 4)**

Section 13—

*insert—*

*Note—*

See section 16C for the ending of referrals for assessment under this part.

### **59O Amendment of s 15 (Deciding whether to refer for assessment)**

Section 15—

*insert—*

- (3) However, a magistrate must not make a decision about whether the person appears to be an eligible person, or to refer the person for assessment on or after the relevant day.

### **59P Amendment of s 16 (Referral for assessment)**

Section 16(5)—

*insert—*

*Note—*

See section 16C for how a drug court magistrate must deal with the proceeding if an assessment report or a pre-sentence report is submitted on or after the relevant day.

### **59Q Amendment of s 16A (Assessment report)**

Section 16A(4)—

*insert—*

*Note—*

See section 16C for how a drug court magistrate must deal with the proceeding if an assessment report or a pre-sentence report is submitted on or after the relevant day.

### **59R Insertion of new s 16C**

Part 4—

*insert—*

#### **16C Dealing with proceedings after submission of assessment report and pre-sentence report**

- (1) If an assessment report or a pre-sentence report about a person is given to a drug court magistrate on or after the relevant day, the magistrate must exercise the jurisdiction of a Magistrates Court and deal with the person according to law.
- (2) A drug court magistrate may take account of the assessment report and the pre-sentence report when sentencing the person for the offence.

### **59S Amendment of s 17 (Application of pt 5)**

Section 17(2)—

*omit, insert—*

- (2) However, if the person appears before the drug court magistrate on or after the relevant day—
  - (a) division 2, other than section 26(2), does not apply to the person; and
  - (b) the magistrate must exercise the jurisdiction of a Magistrates Court and deal with the person according to law.

### **59T Amendment of s 29 (Dealing with offenders if no intensive drug rehabilitation order made)**

Section 29, ‘decides not to’—

*omit, insert—*

does not

### **59U Amendment of s 33 (Amending intensive drug rehabilitation orders)**

Section 33—

*insert—*

- (1A) Also, if a drug court magistrate must conduct a court review in relation to an offender, the magistrate must amend the requirements of the offender’s intensive drug rehabilitation order or rehabilitation program if the magistrate is satisfied on the balance of probabilities the offender can, before 30 June 2013—
  - (a) comply with the amended intensive drug rehabilitation order and complete the amended rehabilitation program; and

- (b) be sentenced under section 36.
- (1B) However, a drug court magistrate need not amend the requirements of an intensive drug rehabilitation order or rehabilitation program if the magistrate is satisfied on the balance of probabilities the offender can, before 30 June 2013—
  - (a) comply with the intensive drug rehabilitation order and complete the rehabilitation program; and
  - (b) be sentenced under section 36.
- (4) In this section—

*court review* means a review by a drug court requiring the attendance of an offender who is subject to an intensive drug rehabilitation order.

### **59V Amendment of s 34 (Terminating rehabilitation programs)**

- (1) Section 34(1)—

*insert—*

  - (f) a warrant is issued for the offender's arrest under section 40(1)(a).
- (2) Section 34—

*insert—*

  - (1A) Also, a drug court magistrate must terminate a rehabilitation program decided for an offender if the magistrate is satisfied on the balance of probabilities there are not reasonable prospects the offender can, before 30 June 2013—
    - (a) comply with the intensive drug rehabilitation order or complete the rehabilitation program; and

(b) be sentenced under section 36.

(3) Section 34(3)(a)—

*omit, insert—*

(a) order that the record of the conviction for the offence be revoked; and

*Note—*

For the effect of not recording a conviction, see the *Penalties and Sentences Act 1992*, section 12.

(4) Section 34(3)(c), ‘Supreme Court’—

*omit, insert—*

District Court

### **59W Omission of s 35A (Inclusion of new rehabilitation program)**

Section 35A—

*omit.*

### **59X Amendment of s 36 (Final sentence to be decided on completion or termination of rehabilitation program)**

Section 36(1)(b) and (2)—

*omit, insert—*

(b) if the offence for which the offender’s intensive drug rehabilitation order was made was not a prescribed drug offence—for any reason.

(2) The magistrate must, before 30 June 2013—

(a) reconsider the offender’s initial sentence; and

- (b) vacate the intensive drug rehabilitation order; and
- (c) impose a final sentence.

### **59Y Amendment of s 40 (Arrest warrants)**

Section 40(4)—

*omit, insert—*

- (4) If the warrant is issued under subsection (1)(a), the drug court magistrate may remand the offender in custody to appear before a drug court magistrate if the drug court magistrate decides to—
  - (a) reserve making a decision about terminating the offender's rehabilitation program; or
  - (b) terminate the offender's rehabilitation program under section 34.
- (4A) If the warrant is issued under subsection (1)(b) and the offence for which the offender's intensive drug rehabilitation order was made was not a prescribed drug offence, the drug court magistrate may remand the offender in custody to appear before a drug court magistrate to be sentenced under section 36 before 30 June 2013.

### **59Z Insertion of new s 40A**

After section 40—

*insert—*

#### **40A Dealing with offender after arrest but no final sentence decided before 30 June 2013**

(1) This section applies if an offender is arrested on the authority of a warrant issued under section 40 and brought before a drug court magistrate after the relevant day but can not be sentenced under section 36 before 30 June 2013.

(2) The drug court magistrate must—

(a) order that the record of the conviction for the offence be revoked; and

*Note—*

For the effect of not recording a conviction, see the *Penalties and Sentences Act 1992*, section 12.

(b) vacate the offender's intensive drug rehabilitation order; and

(c) deal with the offender according to law.

(3) The magistrate—

(a) may remand the offender in custody to appear before a magistrate; or

(b) may release the offender on bail to appear before a magistrate; or

(c) if either of the following applies must, under the *Justices Act 1886*, section 113, commit the offender to the District Court for sentence—

(i) the offence, in relation to which the intensive drug rehabilitation order for the offender was made, is a prescribed drug offence;

(ii) the magistrate is satisfied, under the Criminal Code, section 552D, the offender, if dealt with under subsection (2)(c), may not be

adequately punished on summary conviction.

*Note—*

For the maximum penalty for indictable offences dealt with summarily, see the Criminal Code, section 552H.

- (4) Subsection (3)(c) applies even though the magistrate has not addressed the defendant as required under the *Justices Act 1886*, section 104(2).
- (5) In sentencing an offender to whom subsection (3)(a) or (b) applies, the magistrate must have regard to the initial sentence contained in the offender's intensive drug rehabilitation order.
- (6) To remove any doubt, it is declared that—
  - (a) the *Bail Act 1980* applies to an offender who is arrested on the authority of a warrant issued under section 40 and to whom subsection (1) applies; and
  - (b) in applying the *Penalties and Sentences Act 1992*, section 159A, to a sentence for a term of imprisonment imposed on an offender under this section, time spent in custody, other than under section 32(1)(f), is taken to be imprisonment already served under the sentence.

## **59ZA Insertion of new s 45**

Part 6—

*insert—*

### **45 Expiry of Act**

This Act expires on 30 June 2013.

### **59ZB Amendment of schedule (Dictionary)**

Schedule—

*insert*—

*relevant day* means the day section 12E commences.

## **Part 2F                   Amendment of Judicial Remuneration Act 2007**

### **59ZC Act amended**

This part amends the *Judicial Remuneration Act 2007*.

### **59ZD Amendment of s 12 (Presidential members of the Industrial Commission)**

- (1) Section 12, heading, ‘of the Industrial Commission’—

*omit, insert*—

**under the Industrial Relations Act 1999**

- (2) Section 12(2), ‘Vice President of the Industrial Commission’—

*omit, insert*—

Vice-President of the Industrial Court

- (3) Section 12(3), ‘Industrial Commission’—

*omit, insert*—

Industrial Court or Commission

### **59ZE Amendment of s 13 (Commissioner other than a presidential member of the Industrial Commission)**

- (1) Section 13, heading—

*omit, insert—*

### **13 Industrial Commissioner**

- (2) Section 13, ‘A commissioner, other than a presidential member of the Industrial Commission,’—

*omit, insert—*

An industrial commissioner

### **59ZF Amendment of s 16 (Jurisprudential allowance)**

Section 16(2)(e), ‘Vice President of the Industrial Commission’—

*omit, insert—*

Vice-President of the Industrial Court

### **59ZG Amendment of s 20 (Education and conference allowance)**

Section 20(2)(a) and (b)—

*omit, insert—*

- (a) a deputy president of the Industrial Court or Commission;
- (b) an industrial commissioner.

### **59ZH Amendment of s 22 (Long leave allowance)**

Section 22(2)(d), ‘of the Industrial Commission’ —

*omit, insert—*

under the *Industrial Relations Act 1999*

### **59ZI Amendment of s 29 (Notice of election)**

Section 29(a)—

*omit, insert—*

- (a) for a presidential member under the *Industrial Relations Act 1999*—the chief executive of the department in which that Act is administered;

### **59ZJ Amendment of sch 2 (Dictionary)**

- (1) Schedule 2, definitions *commissioner*, *deputy president of the Industrial Commission*, *presidential member*, *Vice President of the Industrial Commission*—

*omit.*

- (2) Schedule 2—

*insert—*

***deputy president of the Industrial Court or Commission*** means a deputy president under the *Industrial Relations Act 1999*.

***industrial commissioner*** means an industrial commissioner under the *Industrial Relations Act 1999*.

***Vice-President of the Industrial Court*** means the vice-president under the *Industrial Relations Act 1999*.

- (3) Schedule 2, definition *judicial office*, paragraphs (i) to (k)—

*omit, insert—*

- (i) Vice-President of the Industrial Court;
- (j) deputy president of the Industrial Court or Commission;
- (k) industrial commissioner;

## **Part 2G                      Amendment of Justices Act 1886**

### **59ZK Act amended**

This part amends the *Justices Act 1886*.

### **59ZL Amendment of s 154 (Copies of record)**

Section 154—

*insert*—

(6) In this section—

*exhibit* includes a document that—

- (a) was given to a drug court under the repealed *Drug Court Act 2000*; and
- (b) is about an offender who had appeared before a magistrate who was allocated the functions of a drug court magistrate under section 10 of that Act.

## **Part 2H                      Amendment of Local Government Act 2009**

### **59ZM Act amended**

This part amends the *Local Government Act 2009*.

### **59ZN Amendment of s 185 (Remuneration and appointment conditions of members)**

Section 185(3), ‘commissioner under’—

*omit, insert*—

commissioner, other than the president, under

## **Part 21**                      **Amendment of Penalties and Sentences Act 1992**

### **59ZO Act amended**

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

### **59ZP Insertion of new pt 14, div 6**

Part 14—

*insert—*

### **Division 6**                      **Transitional provisions for expiry of Drug Court Act 2000**

#### **227 Definitions for div 6**

In this division—

*Drug Court Act* means the *Drug Court Act 2000* as in force before its expiry.

*intensive drug rehabilitation order* means an order made under the Drug Court Act, section 19.

#### **228 Application of div 6**

This division applies from 1 July 2013.

#### **229 Continuation of warrants**

- (1) This section applies to a warrant issued under the Drug Court Act, section 40, for an offender before 30 June 2013—
  - (a) but not enforced; or

- (b) enforced but not returned before a drug court magistrate before that day.
- (2) The warrant is taken to be a warrant—
  - (a) issued by a magistrate; and
  - (b) that authorises any police officer to arrest the offender and bring the offender before a magistrate.

### **230 Dealing with offences after enforcement of warrant**

- (1) This section applies if—
  - (a) an offender is arrested on a warrant mentioned in section 229; and
  - (b) the offender is brought before a magistrate.
- (2) The magistrate must—
  - (a) order that the record of the conviction for the offence be revoked; and

*Note—*

For the effect of not recording a conviction, see section 12.

- (b) vacate the offender's intensive drug rehabilitation order; and
- (c) deal with the offender according to law.
- (3) Also, the magistrate must, under the *Justices Act 1886*, section 113, commit the offender to the District Court for sentence if—
  - (a) the offence, in relation to which the intensive drug rehabilitation order for the offender was made, is a prescribed drug offence under the Drug Court Act; or
  - (b) the magistrate is satisfied, under the Criminal Code, section 552D, the

offender, if dealt with under subsection (2)(c), may not be adequately punished on summary conviction.

*Note—*

For the maximum penalty for indictable offences dealt with summarily, see the Criminal Code, section 552H.

- (4) Subsection (3) applies even though the magistrate has not addressed the defendant as required under the *Justices Act 1886*, section 104(2).
- (5) To remove any doubt, it is declared that—
  - (a) the *Bail Act 1980* applies to the offender; and
  - (b) the offender has pleaded guilty to the offence under the Drug Court Act, section 19(c).

### **231 Sentencing an offender after enforcement of warrant**

- (1) This section applies if a magistrate sentences an offender to whom section 230 applies.
- (2) In sentencing the offender, the magistrate must have regard to the initial sentence contained in the offender's intensive drug rehabilitation order.
- (3) To remove any doubt, it is declared that, in applying section 159A to a sentence for a term of imprisonment imposed on an offender under this section, time spent in custody under the Drug Court Act, other than under section 32(1)(f) of that Act, is taken to be imprisonment already served under the sentence.

**102 After clause 60**

Page 98, after line 16—

*insert—*

**60A Amendment of s 13 (Act does not apply to particular offices and employment)**

Section 13(2), ‘industrial commissioner’—

*omit, insert—*

commissioner under the *Industrial Relations Act 1999*

**103 Clause 61 (Amendment of s 88AA (Definition for pt 5))**

Page 98, lines 23 and 24—

*omit, insert—*

*vice-president* means the vice-president under the *Industrial Relations Act 1999*.

**104 Clause 62 (Amendment of s 88A (Appeals officers))**

Page 99, lines 4 and 9, ‘vice president of the IRC’—

*omit, insert—*

vice-president

**105 Clause 62 (Amendment of s 88A (Appeals officers))**

Page 99, line 10, ‘vice president’—

*omit, insert—*

vice-president

**106 Clause 62 (Amendment of s 88A (Appeals officers))**

Page 99, after line 16—

*insert—*

(5) Section 88A(7)(a), as renumbered, ‘section 258’—

*omit, insert—*

section 246A

**107 Clause 63 (Insertion of new s 88B)**

Page 99, line 21—

*omit, insert—*

(1) The vice-president is also the senior

**108 Clause 63 (Insertion of new s 88B)**

Page 99, after line 22—

*insert—*

(2) In section 88A—

- (a) a reference to the functions of office of an appeals officer includes the functions of office of the senior appeals officer; and
- (b) a reference to service as an appeals officer includes service as the senior appeals officer.

**109 Clause 69 (Amendment of sch 4 (Dictionary))**

Page 103, line 5, ‘*vice president*, of the IRC’—

*omit, insert—*

*vice-president*

**110 After clause 69**

Page 103, after line 6—

*insert—*

**Part 3A**                    **Amendment of  
Residential Tenancies  
and Rooming  
Accommodation Act  
2008**

**69A Act amended**

This part amends the *Residential Tenancies and Rooming Accommodation Act 2008*.

**69B Omission of s 42 (Intensive drug rehabilitation order)**

Section 42—

*omit.*

**Part 3B**                    **Amendment of Trading  
(Allowable Hours) Act  
1990**

**69C Act amended**

This part amends the *Trading (Allowable Hours) Act 1990*.

**69D Amendment of s 4 (Meaning of terms)**

Section 4, definition *commissioner*—

*omit, insert—*

*commissioner* means a commissioner, other than the president, under the *Industrial Relations Act 1999*.

**111 Long title**

Long title, ‘*Public Service Act 2008*’—

*omit, insert—*

*Anti-Discrimination Act 1991, the Commissions of Inquiry Act 1950, the Corrective Services Act 2006, the Criminal Code, the Drug Court Act 2000, the Judicial Remuneration Act 2007, the Justices Act 1886, the Local Government Act 2009, the Penalties and Sentences Act 1992, the Public Service Act 2008, the Residential Tenancies and Rooming Accommodation Act 2008, the Trading (Allowable Hours) Act 1990*

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