

Directors' Liability Reform Amendment Bill 2012

Explanatory Notes

FOR

Amendments To Be Moved During Consideration In Detail By The Honourable Jarrod Bleijie MP

Title of the Bill

Directors' Liability Reform Amendment Bill 2012

Objectives of the Amendments

In the time that has elapsed since the introduction of the Directors' Liability Reform Amendment Bill 2012 (the Bill), a further whole of government review has been undertaken as to whether further reductions in the number of remaining executive officer liability provisions or the level of that liability are appropriate.

Significantly, as part of that further review, the Government decided that directors' liability provisions should generally not be included in state legislation; any case for an exemption would need to be appropriately justified; and any exception made will not reverse the onus of proof.

In addition, unrelated amendments are being made to the *Crime and Misconduct Act 2001* (CM Act). Existing section 346A of the CM Act, which provides protection to certain confidential Fitzgerald Commission of Inquiry documents (Fitzgerald Inquiry documents) that were, or were potentially, accessed between 1 February 2012 and 5 March 2013 following incorrect classification by the Crime and Misconduct Commission (CMC), will have no protective effect after 8 November 2013.

The Government in its response to recommendations 13 and 14 of the Parliamentary Crime and Misconduct Committee Report No. 90, Inquiry into the Crime and Misconduct Commission's release and destruction of Fitzgerald Commission of Inquiry documents, committed to amend section 346A of the CM Act, subject to advice from the CMC about whether the section's protection needs to apply to all of the documents that were accessed during the relevant period being 1 February 2012 to 5 March 2013.



Following discussions with the CMC, the agreed approach is to amend section 346A of the CM Act so that it only applies while the documents that were accessed or potentially accessed between 1 February 2012 and 5 March 2013 are subject to a restricted access period (RAP) under the *Public Records Act 2002*.

Achievement of the Objectives

The types of executive officer liability (Types 1-3 and deemed liability, mentioned below) are described in detail in the explanatory notes for the Bill.

As a result of the amendments to be moved during consideration in detail of the Bill, executive officers will only be liable for corporate offending if the prosecution proves that the executive officer did not take all reasonable steps to ensure the corporation did not engage in conduct constituting an offence (Type 1 liability); or authorised or permitted the corporation's conduct constituting the offence or was, directly or indirectly, knowingly concerned in the corporation's conduct (deemed executive liability). Further, the amendments will ensure that these liabilities will only apply to stated offences.

The amendments: remove Types 2 and 3 liability which reverse the onus of proof; remove provision for Type 1 and deemed liability for some Acts where on review such liability is not considered to be justified; and provide Type 1 liability and deemed liability for nominated offences in some Acts.

Under the amendments to the CM Act the prohibition in section 346A will only apply while the documents that were accessed or potentially accessed between 1 February 2012 and 5 March 2013 are subject to a RAP. In addition the amendments apply a statutory RAP (which can be varied in the future by the CMC) of 65 years to Fitzgerald Inquiry records held at Queensland State Archives (QSA) and validate past archival action in respect of these records.

Alternative Ways of Achieving Policy Objectives

No.

Estimated Cost for Government Implementation

There may be greater costs for government associated with the higher burden of proof in matters to be prosecuted. Should the reduction in executive officers' liability for particular offences be found to promote increased non-compliance by corporations with their regulatory responsibilities, the situation will be monitored and a suitable response developed.

Any costs arising from implementing the amendments to the CM Act are to be met from within QSA and CMC's existing resources.

Consistency with Fundamental Legislative Principles

Given these amendments will see the removal of existing liabilities contained in the Bill which reverse the onus of proof, there will be no infringement of the fundamental legislative principles set out in the *Legislative Standards Act 1992*.

There is an argument that the amendments to the CM Act which allow the statutory RAP to be varied administratively by the CMC in the future does not have sufficient regard to the institution of Parliament as provided for by the *Legislative Standards Act 1992*. The ability for the CMC to vary the statutory RAP is consistent with the approach under the *Public Records Act 2002* where RAPs are both determined and varied administratively. The retrospective validation of past archival action in respect of the records does not adversely affect rights and liberties or impose obligations retrospectively. The declaration that the offence in section 346A as in force did not, and does not, apply to the copying, use, disclosure or giving access by a person as mentioned in section 346A(3)(d), (e) or (f) as inserted by the amendments does not adversely affect rights and liberties or impose obligations retrospectively.. .

Consultation

The Australian Institute of Company Directors was consulted in settling these amendments. General community consultation was not possible due to the timeframes associated with the further whole of government review.

The CMC and the QSA have been consulted on the amendments to the CM Act.

NOTES ON PROVISIONS

Amendment 1 provides that Part 81A (amendment to the CM Act) commences on 9 November 2013. The other amendments commence on 1 November 2013.

Amendment 2 amends clause 4 of the Bill replacing Type 2 liability with Type 1 liability for stated executive liability provisions in section 209 of the *Animal Care and Protection Act 2001*.

Amendment 3 amends clause 4 of the Bill removing certain offences from the list of executive liability provisions in section 209 of the *Animal Care and Protection Act 2001*.

Amendments 4-7 provide for section 209A of the *Animal Care and Protection Act 2001* (as inserted by clause 4 of the Bill) to apply to a stated deemed executive liability provisions rather than any offence under that Act.

Amendment 8 is as a consequence to amendment 2.

Amendment 9 amends clause 7 of the Bill replacing Type 3 liability with Type 1 liability for stated executive liability provisions in section 115 of the *Biodiscovery Act 2004*.

Amendment 10 omits section 116 (as inserted by clause 7 of the Bill) which provides for deemed executive liability for offences under the *Biodiscovery Act 2004*.

Amendment 11 amends clause 9 of the Bill replacing Type 2 liability with Type 1 liability in section 257 of the *Building Act 1975* for stated executive liability provisions.

Amendment 12 omits a deemed executive liability provision proposed to be inserted in the *Building Act 1975* by clause 9.

Amendments 13–17 amend clause 11 of the Bill removing Type 1 liability for section 108 of the *Casino Control Act 1982* and provide for a deemed executive liability provision to apply only to section 108(1) rather than any offence under that Act.

Amendment 18 inserts a definition of *executive officer* for section 123 of the *Casino Control Act 1982*, as amended by amendments 13–17.

Amendments 19–23 amend clause 13 of the Bill removing Type 1 liability for section 20 of the *Charitable and Non-Profit Gaming Act 1999* and provide for a deemed executive liability provision to apply only to section 20 rather than any offence under that Act.

Amendments 24–28 amend clause 15 of the Bill removing Type 1 liability for stated offences under the *Child Employment Act 2006* and provide for a deemed executive liability provision to apply to stated offences rather than any offence under that Act.

Amendments 29–30 omit amendments to the *Clean Energy Act 2008* which has been repealed.

Amendment 31 omits a note in clause 19 of the Bill as a consequence of amendments 32–33.

Amendments 32–33 omit a Type 1 liability and a deemed executive liability provision inserted by clause 20 of the Bill for the *Commission for Children and Young People and Child Guardian Act 2000*.

Amendment 34 inserts new parts 9A, 9B and 9C in the Bill which omit executive officer liability sections from the *Community Services Act 2007*, the *Contract Cleaning Industry (Portable Long Service Leave) Act 2005* and the *Cooperatives Act 1997*.

Amendments 35–39 amend clause 23 of the Bill removing Type 1 liability for stated offences under the *Criminal Law (Sexual Offences) Act 1978* and providing for a deemed executive liability provision to apply to stated offences rather than any offence under that Act.

Amendment 40 is amended as a consequence of amendments 41–42.

Amendments 41–42 amend clause 29 of the Bill removing Type 1 liability for stated offences under the *Disability Services Act 2006*.

Amendments 43-44 omit a deemed executive liability provision proposed to be inserted in the *Domestic Building Contracts Act 2000* by clause 32 of the Bill.

Amendments 45-48 omit a deemed executive liability provision proposed to be inserted in the *Drugs Misuse Act 1986* by clauses 34-35 of the Bill.

Amendment 49 inserts new part 13A in the Bill which amends the *Education and Care Services Act 2013*. It reduces the number of Type 1 offences and provides for a deemed executive liability provision to apply to stated offences rather than any offence under that Act.

Amendments 50-54 amend clause 37 of the Bill removing Type 2 liability for stated offences under the *Education (Queensland College of Teachers) Act 2005* and provide for a deemed executive liability provision to apply to stated offences rather than any offence under that Act.

Amendments 55-60 amend clauses 40 and 41 of the Bill removing Types 1 and 2 liability for stated offences under the *Electricity Act 1994* and providing for a deemed executive liability provision to apply to stated offences rather than any offence under that Act.

Amendments 61-62 omit a deemed executive liability provision proposed to be inserted in the *Emblems of Queensland Act 2005* by clause 43 of the Bill.

Amendment 63 amends clause 45 of the Bill replacing Type 3 liability with Type 1 liability for an offence under section 32(1) of the *Explosives Act 1999* and removing a deemed executive liability provision.

Amendment 64 inserts part 17A which omits an executive officer liability provision (section 29) for the *Family Services Act 1987*.

Amendments 65-66 amend clauses 47-48 of the Bill replacing Type 3 liability for stated offences with Type 1 liability for a stated offence under the *Fire and Rescue Service Act 1990* and removing a deemed executive liability provision.

Amendment 67 is amended as a consequence of amendments 68-69.

Amendments 68-69 amend clause 50 removing a Type 1 liability provision and a deemed liability provision for the *Fisheries Act 1994*.

Amendments 70-81 amend clause 52 of the Bill in relation to the *Food Act 2006* omitting Type 3 liability for stated offences, providing for Type 1 liability for additional stated offences and providing for deemed executive liability for other stated offences rather than any offence under that Act.

Amendment 82 inserts part 20A which omits an executive officer liability provision (section 26) for the *Foreign Ownership of Land Register Act 1988*.

Amendments 83-84 amend clause 54 of the Bill to remove a deemed executive liability provision for the *Funeral Benefit Business Act 1982*.

Amendments 85–89 amend clause 56 of the Bill removing Type 1 liability for section 325 of the *Gaming Machine Act 1991* and providing for a deemed executive liability provision to apply only to section 325 rather than any offence under that Act.

Amendments 90-94 amend clause 58 of the Bill replacing Type 3 liability for an offence under section 327 of the *Geothermal Energy Act 2010* with Type 1 liability and providing for a deemed executive liability provision to apply only to stated offences rather than any offence under that Act.

Amendments 95-99 amend clause 60 the Bill replacing Type 3 liability for an offence under section 386(1) of the *Greenhouse Gas Storage Act 2009* with Type 1 liability and providing for a deemed executive liability provision to apply only to stated offences rather than any offence under that Act.

Amendments 100-101 amend clause 62 of the Bill to remove a deemed executive liability provision for the *Guide, Hearing and Assistance Dogs Act 2009*.

Amendments 102-103 amend clause 71 of the Bill to remove a deemed executive liability provision for the *Housing Act 2003*.

Amendment 104 is amended as a consequence of amendments 105-106.

Amendments 105-106 amend clause 73 of the Bill to remove a Type 1 liability provision for stated offences for the *Industrial Relations Act 1999*.

Amendments 107-111 amend clause 75 of the Bill removing Type 1 liability for section 119(1) of the *Interactive Gambling (Player Protection) Act 1998* and providing for a deemed executive liability provision to apply only to section 119(1) rather than any offence under that Act.

Amendments 112 -113 amend clause 77 of the Bill to remove a deemed executive liability provision for the *Introduction Agents Act 2001*.

Amendments 114-118 amend clause 80 of the Bill providing for a deemed executive liability provision to apply only to stated offences under the *Invasion of Privacy Act 1971* rather than any offence under that Act.

Amendments 119-123 amend clause 85 of the Bill removing Type 1 liability for section 116(1) of the *Keno Act 1996* and providing for a deemed executive liability provision to apply only to section 116(1) rather than any offence under that Act.

Amendments 124-132 amend clause 87 of the Bill providing for Type 1 liability to apply only to an offence under section 214D(1) of the *Land Act 1994* and removing a deemed executive liability provision.

Amendments 133-134 amend clause 90 of the Bill to remove a deemed executive liability provision for the *Land Sales Act 1984*.

Amendments 135-140 are amended as a consequence of amendments 141-142.

Amendments 141-142 amend clause 98 of the Bill to remove a deemed executive liability provision for the *Legal Profession Act 2007*.

Amendments 143-144 are amended as a consequence of amendment 145.

Amendment 145 amends clause 102 of the Bill to remove a deemed executive liability provision for the *Liquor Act 1992*.

Amendments 146-150 amend clause 104 of the Bill removing Type 1 liability for section 99(1) of the *Lotteries Act 1997* and providing for a deemed executive liability provision to apply only to section 99(1) rather than any offence under that Act.

Amendments 151-152 amend clause 106 of the Bill to remove a deemed executive liability provision for the *Manufactured Homes (Residential Parks) Act 2003*.

Amendments 153-165 amend clause 109 of the Bill in relation to the *Mineral Resources Act 1989* to remove Type 3 liability, provide for Type 1 liability to apply to additional stated offences and provide for a deemed executive liability provision to apply to stated offences under that Act.

Amendments 166-167 amend clause 111 of the Bill to remove a deemed executive liability provision for the *Motor Racing Events Act 1990*.

Amendments 168-169 amend clause 113 of the Bill to remove Type 3 liability, provide for Type 1 liability to apply to stated offences and remove a deemed executive liability provision for the *Nuclear Facilities Prohibition Act 2007*.

Amendments 170-174 amend clause 117 of the Bill in relation to the *Offshore Minerals Act 1998*, to replace Type 3 liability for an offence against section 38 with Type 1 liability and provide for a deemed executive liability provision to apply only to stated offences rather than any offence under that Act.

Amendments 175-184 amend clause 120 in relation to the *Pest Management Act 2001* to replace Type 3 liability for stated offences with Type 1 liability, to remove Type 1 liability for an offence and remove a deemed executive liability provision.

Amendments 185-190 amend clause 122 of the Bill in relation to the *Petroleum and Gas (Production and Safety) Act 2004*, to replace Type 3 liability for stated offences with Type 1 liability for stated offences and provide for a deemed executive liability provision to apply to stated offences under that Act.

Amendments 191-194 amend clause 124 of the Bill in relation to the *Pharmacy Business Ownership Act 2001* to provide for a deemed executive liability provision to apply only to stated offences rather than any offence under that Act.

Amendments 195-196 amend clause 126 of the Bill to remove a deemed executive liability provision for the *Place Names Act 1994*.

Amendments 197-198 amend clause 128 of the Bill to remove a deemed executive liability provision for the *Printing and Newspapers Act 1981*.

Amendments 199-200 amend clause 130 of the Bill to remove a deemed executive liability provision for the *Private Employment Agents Act 2005*.

Amendments 201-205 amend clause 132 of the Bill in relation to the *Private Health Facilities Act 1999* to provide for a deemed executive liability provision to apply only to section 39 of the Act rather than any offence under that Act.

Amendments 206-207 amend clause 168 of the Bill to remove a deemed executive liability provision for the *Prostitution Act 1999*.

Amendments 208-217 amend clause 170 of the Bill in relation to the *Public Health Act 2005* to replace Type 3 liability with Type 1 liability for stated offences and remove Type 1 liability for an offence.

Amendment 218-222 amends clause 172 of the Bill for the *Public Health (Infection Control for Personal Appearance Services) Act 2003* to remove Type 1 liability for one offence and to remove a deemed executive liability provision.

Amendments 223-225 amend clause 175 of the Bill in relation to the *Queensland Building Services Authority Act 1991* to replace Type 2 liability for stated offences with Type 1 liability for stated offences and remove a deemed executive liability provision.

Amendments 226-230 amend clause 177 of the Bill in relation to the *Queensland Heritage Act 1992* to replace Type 3 liability for stated offences with Type 1 liability for an offence against section 155 of the Act and provide for a deemed executive liability provision to apply only to stated offences rather than any offence under that Act.

Amendments 231-232 amend clause 180 of the Bill to remove a deemed executive liability provision for the *Racing Act 2002*.

Amendments 233-237 amend clause 182 of the Bill in relation to the *Radiation Safety Act 1999* to reduce Type 3 liability for stated offences to Type 1 liability for offences relating to a security enhanced source and a deemed executive liability for offences relating to other than a security enhanced source.

Amendments 238-239 amend clause 184 of the Bill in relation to the *Residential Services (Accreditation) Act 2002* to reduce Type 2 liability for stated offences to Type 1 liability and remove a deemed executive liability provision.

Amendment 240 is amended as a consequence of amendments 241-242.

Amendments 241-242 amend clause 186 of the Bill in relation to the *Residential Tenancies and Rooming Accommodation Act 2008* to remove a Type 3 liability and a deemed executive liability provision.

Amendments 243-244 amend clause 188 of the Bill to remove a deemed executive liability provision for the *Retirement Villages Act 1999*.

Amendments 245-246 amend clause 190 of the Bill to remove a deemed executive liability provision for the *Second-hand Dealers and Pawnbrokers Act 2003*.

Amendments 247-251 amend clause 192 of the Bill in relation to the *Strategic Cropping Land Act 2011* to reduce Type 3 liability for stated offences to Type 1

liability and provide for a deemed executive liability provision to apply only to stated offences rather than any offence under that Act.

Amendments 252-253 amend clause 194 of the Bill to remove a deemed executive liability provision for the *Surveyors Act 2003*.

Amendment 254 amends clause 196 of the Bill in relation to the *Taxation Administration Act 2001* to reduce Type 3 liability for stated offences to Type 1 liability.

Amendments 255-256 amend clause 198 of the Bill to remove a deemed executive liability provision for the *Tobacco and Other Smoking Products Act 1998*.

Amendments 257-258 amend clause 200 of the Bill to remove a deemed executive liability provision for the *Tourism Services Act 2003*.

Amendment 259 is a consequence of amendments 260-261.

Amendments 260-261 amend clause 202 of the Bill to remove a Type 1 and a deemed executive liability provision for the *Tow Truck Act 1973*.

Amendment 262 amends clause 205 of the Bill to remove a deemed executive liability provision for the *Trading (Allowable Hours) Act 1990*.

Amendments 263-267 amend clause 207 of the Bill in relation to the *Transport Operations (Marine Pollution) Act 1995* to remove Type 3 liability for stated offences and provide for a deemed executive liability provision to apply only to stated offences rather than any offence under that Act.

Amendments 268-272 amend clause 209 of the Bill in relation to the *Transport Operations (Road Use Management) Act 1995* to remove Type 3 and Type 1 liability for stated offences and provide for a deemed executive liability provision to apply only to stated offences rather than any offence under that Act.

Amendments 273-274 amend clause 211 of the Bill to remove a deemed executive liability provision for the *Transport (Rail Safety) Act 2010*.

Amendment 275 inserts part 73A which omits an executive officer liability provision (section 55) from the *Transport Security (Counter Terrorism) Act 2008*.

Amendments 276-277 amend clause 214 of the Bill to remove a deemed executive liability provision for the *Travel Agents Act 1988*.

Amendments 278-282 amend clause 218 of the Bill removing Type 1 liability for section 172(1) of the *Wagering Act 1998* and providing for a deemed executive liability provision to apply only to section 172(1) rather than any offence under that Act.

Amendments 283-287 amend clause 220 of the Bill in relation to the *Waste Reduction and Recycling Act 2011* to remove Type 3 and Type 1 liability for stated offences and provide for a deemed executive liability provision to apply only to stated offences rather than any offence under that Act.

Amendments 288-292 amend clause 222 of the Bill in relation to the *Water Act 2000* to remove Type 2 liability for stated offences and provide for a deemed executive liability provision to apply only to stated offences rather than any offence under that Act.

Amendments 293-294 amend clause 224 of the Bill to remove a deemed executive liability provision for the *Water Fluoridation Act 2008*.

Amendments 295-303 amend clause 226 of the Bill in relation to the *Water Supply (Safety and Reliability) Act 2008* to remove Type 1 liability for a certain offence and provide for a deemed executive liability provision to apply only to stated offences rather than any offence under that Act.

Amendments 304-305 amend clause 228 of the Bill to remove a deemed executive liability provision for the *Weapons Act 1990* and section 162 concerning the liability of governing bodies of associations.

Amendment 306 inserts Part 81A – Amendment of Crime and Misconduct Act 2001.

New clause 228A provides that the part amends the CM Act.

New clause 228B (Amendment of section 269 (Delegation- Commission)) amends section 269 of the CM Act to provide that the CMC's powers under new section 346B being inserted by the amendments, and the CMC's powers under the *Public Records Act 2002* can only be delegated to the chairperson or assistant commissioner.

New clause 228C (Amendment of section 346A (Protection of particular documents)) amends section 346A of the CM Act to:

- amend subsection 346A(2) to make the offence permanent;
- amend subsection 346A(3) to insert new paragraphs (d), (e) and (f) so that the offence in subsection 346A(2) also does not apply if the copying, use, disclosure or giving access is-
 - (d) by a person for returning to the CMC or archivist (defined in existing subsection 346A(4) to mean the archivist and the staff of the archives under the *Public Records Act 2002*), or making enquiries of the CMC or archivist about the return of, the document in the person's possession; or
 - (e) by a person for making enquiries of the CMC or the archivist about whether there is a restricted access period for the document; or
 - (f) by a CMC officer or the archivist for providing advice or help to a person referred to in new paragraphs (d) or (e).
- insert a new subsection 346A(3A) to provide that the offence in subsection 346A(2) ceases to apply if the restricted access period for the document ends; and
- insert into subsection 346A(4) a definition for '*restricted access period*'. This means, for a disclosed document (as defined in existing subsection 346A(4)),

the restricted access period worked out under subsection 346B (inserted by these amendments) of the CM Act and the *Public Records Act 2002*.

New clause 228D (Insertion of new s346B) inserts a new section 346B (Declarations etc relating to inquiry public records) whose main purposes are –

- to make declarations about the lawfulness and validity of actions taken before 9 November 2013 under, or purportedly under, the CM Act and the *Public Records Act 2002* in relation to Fitzgerald Inquiry public records and the application of restricted access periods to those records (including changes to the periods);
- to apply a new restricted access period to all Fitzgerald Inquiry public records given to the archives before 9 November 2013; and
- to provide that changes to be made under the new section 346B to the restricted access period for a Fitzgerald Inquiry public record given to the archives before 9 November 2013 does not limit the application of the *Public Records Act 2002*.

New subsection 346B(2) declares that a Fitzgerald Inquiry public record given to the archives before 9 November 2013 by the CMC or purportedly by the CMC was and continues to be a public record lawfully given to the archives despite anything to the contrary in the CM Act, for example sections 62 of the CM Act (Restriction on access) and section 375 (Data and records of commission of inquiry). The new subsection also declares that a Fitzgerald Inquiry public record so given was and continues to be validly given by the commission as the responsible public authority for that public record under the *Public Records Act 2002*.

New subsection 346B(3) declares that a restricted access for a Fitzgerald Inquiry public record that applied or purportedly applied under the *Public Records Act 2002* because of CMC actions was validly applied under the *Public Records Act 2002* as a restricted access period for the record.

New subsection 346B(4), despite subsection 346B(3), sets , by the subsection, a new restricted access period for Fitzgerald Inquiry public records of 65 years after the day of the last action on the record.

New subsection 346B(5) makes it clear that the CMC can by written notice to the archivist change the restricted access period for a Fitzgerald Inquiry public record as applied under subsection 346B(4) or as changed by a notice previously given under new subsection 346B(5).

New subsection 346B(6) provides that for part 2, division 3 of the *Public Records Act 2002* the restricted access period for a Fitzgerald Inquiry public record as applied under subsection 346B(4) is the restricted access period under *Public Records Act 2002* for the record. New subsection 346B(6) also provides that a notice under new subsection 346B(5) for a Fitzgerald Inquiry public record is taken to be a restricted access period notice given under section 19 of the *Public Records Act 2002* (Reviewing and changing responsible authority's notice about access).

New subsection 346B(7) provides that except as otherwise provided, new section 346B does not limit the application of the *Public Records Act 2002* in relation to a Fitzgerald Inquiry public record, or for the restricted access period for such a record; including for example the application of any provision in part 2, division 3 of the *Public Records Act 2002*. The note to the subsection provides that nothing in section 346B prevents a notice being given under section 19 of the *Public Records Act 2002* (which is in part 2, division 3 of that Act). The restricted access period set under subsection 346B(4) can therefore be changed under subsection 346B(5) or section 19 of the *Public Records Act 2002*.

New subsection 346B(8) provides that section 346B applies despite anything to the contrary in the *Public Records Act 2002* or anything done or purportedly done under the CM Act or *Public Records Act 2002* in relation to a Fitzgerald Inquiry public record.

New subsection 346B(9) sets out the definitions for new section 346B.

New clause 228E inserts a new Part 9 (Directors Liability Reform Amendment Act 2013) into Chapter 8 (Repeals and transitional, declaratory, and savings provisions) of the CM Act.

New section 393 declares that the offence in subsection 346A(2) as in force before the commencement of the section did not, and does not, apply to the copying, use, disclosure or giving access by a person as mentioned in subsection 346A(3)(d), (e) or (f) as inserted by these amendments.

New section 394 declares that section 375 of the CM Act (Data and records of commission of inquiry) did not and does not limit the operation of, or anything done under, the *Public Records Act 2002* in relation to Fitzgerald Inquiry public records. For new subsection 394(1), section 375 of the CM Act is subject to an authorisation mentioned in section 62(1) of the CM Act (Restriction on access) relating to Fitzgerald Inquiry public records.

Amendments 307-362 make consequential amendments to Schedule 1 (Minor and consequential amendments) as a consequence of other amendments during consideration in detail of the Bill.

Amendment 363 amends the long title of the Bill.

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