

## CLAUSE NOTES

### *State Litigator (Consequential Amendments) Bill 2023*

#### PART 1 – PRELIMINARY

**Clause 1**      **Short title**

Specifies the name of the proposed Act.

**Clause 2**      **Commencement**

Provides for the Act to commence upon Royal Assent.

**Clause 3**      **Repeal of Act**

This is a standard provision for amending legislation, repealing the amending Act one year after all amendments have been incorporated into the principal Acts.

#### PART 2 – ANNULLED CONVICTIONS ACT 2003 AMENDED

**Clause 4**      **Principal Act**

Provides that the Principal Act being amended in Part 2 is the *Annulled Convictions Act 2003*.

**Clause 5**      **Schedule 1 amended (Non-exempt applications)**

Adds the State Litigator to the list of non-exempt applications for the purposes of the Principal Act. Part 1 of Schedule 1 to the Principal Act currently includes judicial and legal officers such as the Solicitor-General.

This means that where a person applies for the position of State Litigator, section 9(4) of the Principal Act would operate to require any annulled conviction to be disclosed and considered as part of the person's criminal record.

Section 11(3)(c) of the Principal Act would also operate, so that it would not be an offence for a Justice Agency to release information about annulled convictions to a person or body seeking that information for the purpose of determining an application for the position of State Litigator.

#### PART 3 – CROWN PROCEEDINGS ACT 1993 AMENDED

**Clause 6**      **Principal Act**

Provides that the Principal Act being amended in Part 3 is the *Crown Proceedings Act 1993*.

**Clause 7**                    **Section 13 amended (Service, &c.)**

Replaces the existing references to the Solicitor-General with references to the State Litigator.

This section currently provides that service on the State Crown of a process or document relating to proceedings is to be served on the Solicitor-General, subject to the terms of the section.

**Clause 8**                    **Section 14 amended (Service of subpoenas, &c., on Ministers)**

Replaces the existing reference to the Solicitor-General with a reference to the State Litigator.

This section currently requires the Solicitor-General to be given reasonable notice in writing, and a reasonable opportunity to be heard, when an application is made to a court, tribunal or other authority to issue a subpoena requiring a Minister to appear and give evidence or produce documents.

**Clause 9**                    **Section 25 inserted**

Inserts new savings and transitional provisions to provide for circumstances where notice is given to the Solicitor-General pursuant to section 14(2) of the Principal Act, prior to the commencement of the amendments, so that the notice is taken to have been given to the State Litigator.

These provisions will enable the State Litigator to assume responsibilities and functions that were formerly attributed to the Solicitor-General under the Principal Act, in cases where a matter had commenced before a court, tribunal or other authority, but had not yet been determined, prior to the amendments in this Act commencing.

## PART 4 – OMBUDSMAN ACT 1978 AMENDED

### Clause 10 Principal Act

Provides that the Principal Act being amended in Part 4 is the *Ombudsman Act 1978*.

### Clause 11 Section 4 amended (Application of Act)

Adds the State Litigator to the list of persons and bodies that are not public authorities for the purposes of the Principal Act. Bodies that are not public authorities are not subject to investigation by the Ombudsman in relation to complaints.

## PART 5 – PERSONAL INFORMATION PROTECTION ACT 2004 AMENDED

### Clause 12 Principal Act

Provides that the Principal Act being amended in Part 5 is the *Personal Information Protection Act 2004*.

### Clause 13 Section 3 amended (Interpretation)

Adds the State Litigator to the definition of *law enforcement agency* in the Principal Act.

Under section 9 of the Principal Act, certain provisions within Schedule 1 do not apply to law enforcement information collected or held by a law enforcement agency if the agency considers that non-compliance is reasonably necessary for the reasons set out in that section, for example, in connection with court or tribunal proceedings.

### Clause 14 Section 7 amended (Courts and tribunals)

Adds the State Litigator, and any person employed in relation to the functions of the State Litigator, to the list of bodies and persons that are exempt from the provisions of the Principal Act.

### Clause 15 Section 12A amended (Disclosure of information to Solicitor-General, &c.)

Adds the State Litigator, and any person employed in relation to the functions or duties of the State Litigator, to the list of bodies and persons to whom a personal information custodian may disclose personal information that is relevant for the purpose of obtaining legal advice.

## PART 6 – RIGHT TO INFORMATION ACT 2009 AMENDED

### Clause 16 Principal Act

Provides that the Principal Act being amended in Part 6 is the *Right to Information Act 2009*.

**Clause 17      Section 6 amended (Exclusions of certain persons or bodies)**

Adds the State Litigator to the list of persons and bodies whose held information is excluded from the application of the Principal Act.

**PART 7 – SUPREME COURT CIVIL PROCEDURE ACT 1932 AMENDED**

**Clause 18      Principal Act**

Provides that the Principal Act being amended in Part 7 is the *Supreme Court Civil Procedure Act 1932*.

**Clause 19      Section 194G amended (Vexatious litigants)**

Adds the State Litigator as a person who may make an application for the Supreme Court to declare a person to be a vexatious litigant.