

FACT SHEET

Justice and Related Legislation (Further Miscellaneous Amendments) Bill 2012

This Bill makes the following minor amendments:

- (a) Amends the *Acts Interpretation Act 1931* to provide that where in any Act it is provided that the Governor may approve, determine or otherwise fix the remuneration, expenses or other emoluments payable to the holder of some office, such power, in respect of any alteration to the remuneration or emoluments fixed by the instruments of appointment may be exercised as well by any Minister of the Crown or other person authorised in writing by the Governor.
- (b) Amends the *Bail Act 1994* to clarify that the Act applies to bail granted by any Court pending the hearing of an appeal and make two amendments to remove anomalies in the Act; and
- (c) Amends the *Building Act 2000* and the *Building and Construction Industry Security of Payment Act 2009* to correct some minor drafting errors arising from recent amendments.
- (d) Amends section 50A of the *Community Protection (Offender Reporting) Act 2005* to give the prosecution a right to appeal against a decision of the court not to make an order that a person comply with reporting requirements.
- (e) Amends the *Crime (Confiscation of Profits) Act 1993* to:
 - (i) provide that where a pecuniary penalty order was made prior to 1 June 2011 (the commencement date of the *Monetary Penalties Enforcement Amendment Act 2011* which included a pecuniary penalty order in the definition of fine for the purpose of that Act), and has not been paid within 60 days of the commencement of this amending legislation the order will be taken to

be a fine within the *Monetary Penalties Enforcement Act 2005*; and

- (ii) to replace the reference to the *Criminal Injuries Compensation Act 1976* in section 79(7) with a reference to the *Victims of Crime Assistance Act 1976*.
- (f) Amends the *Energy Ombudsman Act* to remove the definition of “Director of Gas”, amend the definition of “Regulator” to mean the Regulator within the meaning of the *Economic Regulator Act 2009*, and remove references throughout the Act to the Director of Gas, if necessary replacing them with a reference to the Regulator.
- (g) Amends the *Legal Profession Act 2007* to allow a complainant to have a decision of the Board to dismiss a complaint under sections 451 or 454(1) reviewed.
- (h) Amends section 5 of the *Listening Devices Act 1991* to provide that the restrictions on recording without consent do not apply to an interview conducted by a person appointed by or under an Australian law whose functions include the prevention or investigation of offences. The Bill also makes a consequential amendment to the *Environmental Management and Pollution Control Act 1994*.
- (i) Amends section 100(7) of the *Local Government (Highways) Act 1982* to correct a cross-reference to another Act.
- (j) Amends the *Monetary Penalties Enforcement Act 2005* (MPEA) to:
 - (i) provide that compensation orders issued by the Supreme Court are enforceable under MPEA, and to make a consequential amendment to section 69 of the *Sentencing Act 1997*;
 - (ii) repeal section 36 so that a breach of a Monetary Penalties Community Service Order (MPCSO) is not

referred to a court but is dealt with by the Director, Monetary Penalties Enforcement Service revoking the MPCSO and using other enforcement options to recover the debt; and

- (iii) clarify section 73 so as to ensure that a conveyance identified as belonging to an enforcement debtor can be seized from any place where the conveyance is situated, including a public place.

(k) Amends the *Motor Vehicle Traders Act 2011* to replace references to a “justice of the peace” with “magistrate” in section 50 and references to the “Commissioner” with “Director” in section 53.

(l) Amends sections 42 and 43 of the *Occupational Licensing Act 2005* to allow a contractor’s licence to be granted for a period not exceeding three years.

(m) Amends the *Resource Management and Planning Appeal Tribunal Act 1993* to ensure that:

- The Board of the Environment Protection Authority (EPA) is a party to an appeal in relation to a condition, restriction or direction of the Board pursuant to sections 24 and 25 of the *Environmental Management and Pollution Control Act 1994*; and
- The Appeal Tribunal may make an order for costs of an appeal lodged with the Tribunal notwithstanding that the Tribunal may have determined that it does not have jurisdiction to hear and determine the appeal.

(n) Amends sections 27, 36, 42 and 54A of the *Sentencing Act* so that a justice may issue a warrant to arrest an offender if reasonable efforts have been made to serve an application under the relevant section, but service has not been possible because the offender’s whereabouts is unknown.

(o) Omits subsection 25(6) *Australian Consumer Law (Tasmania) Act 2010*; subsection 79(6) of the *Dangerous Goods (Road and Rail Transport) Act 2010*; subsection 172A(5) of the *Gaming Control Act 1993*; subsection 17(11) of the *Litter Act 2007*; subsection 55A(5) of the *Health Services Establishment Act 2006* and subsection 133(7) of the *Rail Safety Act 2009*.

(p) Amends the *Baptist Union Incorporation Act 1902*; *Security and Investigations Agents Act 2002*; *Prepaid Funerals Act 2004*; *Conveyancing Act 2004* and the *Property Agents and Land Transactions Act 2005* to change references to the “National Institute of Accountants” to the “Institute of Public Accountants” to reflect the recent change of name of the body.