



Queensland

# **Criminal Justice Legislation (Consent Reform and Minor Protection) Amendment Youth Act 2025**

## **Act No. 5 of 2025**

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**A Youth Bill for a Youth Act to amend the Criminal Code to redefine individuals under 18 years as children for the purposes of child sexual offences, to raise the age of sexual consent to 18 years, to establish close-in age defences, to protect children in Queensland from exploitation whilst maintaining their autonomy and welfare, and to amend the Penalties and Sentences Act 1992 for a particular purpose.**

**[Assented to 23 October 2025]**





Queensland

# Criminal Justice Legislation (Consent Reform and Minor Protection) Amendment Youth Act 2025

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## **The Youth Parliament of Queensland enacts—**

## 1 Short title

This Youth Act may be cited as the *Criminal Justice Legislation (Consent Reform and Minor Protection) Amendment Youth Act 2025*.

## Part 2 Amendment of Criminal Code

## 2 Code amended

This part amends the Criminal Code.

### **3 Amendment of s 207A (Definitions for this chapter)**

(1) Section 207A, definitions *child abuse object*, paragraph (a)(i) and (ii) and *child exploitation material*, ‘under 16 years’—  
*omit*.

(2) Section 207A—  
*insert*—  
**consent** has the same meaning as it has in chapter 32.

#### **4 Amendment of s 210 (Indecent treatment of children under 16)**

(1) Section 210, heading—  
*omit, insert—*

## **210 Sexual assault and other indecent treatment of children**

(2) Section 210(1)(a), (b), (c), (d), (e) and (f), ‘under the age of 16 years’—  
*omit.*

(3) Section 210(1), ‘an indictable offence.’—  
*omit, insert*—  
a crime, and is liable to imprisonment for 14 years.

(4) Section 210(2) to (4A)—  
*omit, insert*—

(2) However, if the person is 25 years or older, the person is liable to imprisonment for 16 years.

(3) Further, the person is liable to imprisonment for 20 years if—

(a) the conduct that constitutes the offence occurred without the child’s consent, including because the child is under 15 years or a person with an impairment of the mind; or

(b) the person is the child’s parent, grandparent, sibling, uncle, aunt or guardian; or

(c) the child is under the person’s care, supervision or authority.

(5) Section 210(5) and (5A)—  
*omit, insert*—

(5) In this section, the terms parent, grandparent, sibling, uncle and aunt have the same meaning as they have in section 222.

(6) Section 210(4B) to (6)—  
*renumber as section 210(4) and (7).*

(7) Section 210—

*insert—*

*Note—*

Sections 229C, 229D and 229G prescribe defences for this section.

**5 Amendment of s 213 (Owner etc. permitting abuse of children on premises)**

- (1) Section 213(1), ‘under the age of 16 years’—  
*omit.*
- (2) Section 213(1), ‘an indictable offence.’—  
*omit, insert—*  
a crime, and is liable to the same punishment as if the person had committed the proscribed act.
- (3) Section 213(2), (3) and (4)—  
*omit.*
- (4) Section 213(3A) and (3B)—  
*renumber* as section 213(2) and (3).
- (5) Section 213—  
*insert—*

*Note—*

Section 229C prescribes defences for this section.

**6 Amendment of s 215 (Engaging in penile intercourse with child under 16)**

- (1) Section 215, heading, ‘under 16’—  
*omit.*
- (2) Section 215(1) to (4A)—  
*omit, insert—*
  - (1) A person who engages in unlawful penile intercourse with a child commits a crime, and is

liable to imprisonment for 14 years.

- (2) However, if the person is 25 years or older, the person is liable to imprisonment for 18 years.
- (3) Further, the person is liable to imprisonment for life if—
  - (a) the conduct that constitutes the offence occurred without the child's consent, including because the child is under 15 years or a person with an impairment of the mind; or
  - (b) the person is the child's parent, grandparent, sibling, uncle, aunt or guardian; or
  - (c) the child is under the person's care, supervision or authority.

(3) Section 215(5) and (5A)—

*omit, insert—*

- (6) In this section, the terms parent, grandparent, sibling, uncle and aunt have the meaning as they have in section 222.

(4) Section 215(4B) and (4C)—

*renumber as section 215(4) and (5).*

(5) Section 215—

*insert—*

*Note—*

Sections 229C, 229D and 229G prescribe defences for this section.

## 7 **Amendment of s 217A (Obtaining commercial sexual services from person who is not an adult)**

(1) Section 217A(1), penalty—

*omit, insert—*

Maximum penalty—

- (a) if the child is under 15 years or a person with an impairment of the mind—life imprisonment; or
- (b) otherwise—14 years imprisonment.

(2) Section 217A(2), (3) and (6)—  
*omit.*

(3) Section 217A(4) to (5)—  
*renumber* as section 217A(2) to (3).

(4) Section 217A—  
*insert*—

*Note*—

Sections 229C and 229F prescribe defences for this section.

## **8 Amendment of s 217B (Allowing person who is not an adult to take part in commercial sexual services)**

(1) Section 217B, penalty—  
*omit, insert*—  
Maximum penalty—

- (a) if the child is under 15 years or a person with an impairment of the mind—life imprisonment; or
- (b) otherwise—14 years imprisonment.

(2) Section 217B(4)—  
*omit.*

(3) Section 217B—  
*insert*—

*Note*—

Sections 229C and 229F prescribe defences for this section.

**9 Amendment of s 217C (Conduct relating to provision of commercial sexual services by person who is not an adult)**

(1) Section 217C(1), penalty—

*omit, insert—*

Maximum penalty—

(a) if the child is under 15 years or a person with an impairment of the mind—life imprisonment; or

(b) otherwise—14 years imprisonment.

(2) Section 217C(4)—

*omit.*

(3) Section 217C—

*insert—*

*Note—*

Sections 229C and 229F prescribe defences for this section.

**10 Amendment of s 218A (Using internet etc. to procure children under 16)**

(1) Section 218A, heading, ‘under 16’—

*omit.*

(2) Section 218A(1), from ‘procure a person’ to ‘to engage in’—

*omit, insert—*

procure a child, or a person the adult believes is a child, to engage in

(3) Section 218A(1), penalty—

*omit, insert—*

Maximum penalty—

(a) if the adult is 25 years or older—12 years imprisonment; or

(b) otherwise—10 years imprisonment.

(4) Section 218A(2)—  
*omit, insert—*

(2) However, the adult is liable to imprisonment for an additional 4 years if the offence involves the adult—

(a) intentionally meeting the child or person; or

(b) going to a place with the intention of meeting the child or person.

(2AA) Further, the adult is liable to imprisonment for 15 years if—

(a) the child is under 15 years or a person with an impairment of the mind; or

(b) the adult believes the person is a child under 15 years or a child who is a person with an impairment of the mind.

(5) Section 218A(9) and (9A)—

*omit.*

(6) Section 218A(2AA) to (10)—

*renumber as section 218A(3) to (12).*

(7) Section 218A—

*insert—*

*Note—*

Sections 229C, 229D and 229F prescribe defences for this section.

## 11 **Amendment of s 218B (Grooming child under 16 years or parent or carer of child under 16 years)**

(1) Section 218A, heading—  
*omit, insert—*

## **218B Grooming child or parent or carer of child**

(2) Section 218B(1)(a)(i) and (ii)—

*omit, insert*—

(i) a child; or

(ii) a person the adult believes is a child, whether the person is a real person or a fictitious person who is represented to the adult as a real child; and

(3) Section 218B(1)(b)(i) and (ii)—

*omit, insert*—

(i) a child; or

(ii) a person the adult believes is a child; and

(4) Section 218B(2), penalty—

*omit, insert*—

Maximum penalty—

(a) if the adult is 25 years or older—7 years imprisonment; or

(b) otherwise—5 years imprisonment.

(5) Section 218B(3)—

*omit, insert*—

(3) However, the adult is liable to imprisonment for 10 years if the child is—

(a) under 15 years or a person with an impairment of the mind; or

(b) a person, including a fictitious person, the adult believes is a child under 15 years or a child who is a person with an impairment of the mind.

(6) Section 218B(9), ‘under 16 years, or under 12 years’—

*omit, insert*—

a child, or under 15 years

- (7) Section 218B(10) and (11)—  
*omit.*
- (8) Section 218B(12)—  
*renumber* as section 218B(10).
- (9) Section 218B—  
*insert*—

*Note*—

Sections 229C, 229D and 229F prescribe defences for this section.

## **12 Amendment of s 219 (Taking child for immoral purposes)**

- (1) Section 219(1), ‘who is under the age of 16 and’—  
*omit.*
- (2) Section 219(1), ‘a crime.’—  
*omit, insert*—  
a crime, and is liable to the same punishment as if the person had committed the proscribed act.
- (3) Section 219(2), (3) and (4)—  
*omit.*
- (4) Section 219(3A) and (3B)—  
*renumber* as section 219(2) and (3).
- (5) Section 219—  
*insert*—

*Note*—

Section 229C prescribes defences for this section.

## **13 Amendment of s 223 (Distributing intimate images)**

Section 223(2), ‘under the age of 16 years’—

*omit.*

**14 Amendment of s 228 (Obscene publications and exhibitions)**

- (1) Section 228(2)(a) and (3)(a), ‘under the age of 16 years’—  
*omit.*
- (2) Section 228(2)(b) and (3)(b), ‘under the age of 12 years’—  
*omit, insert—*  
under 15 years

**14A Insertion of new ss 228KA–228KC**

After section 228K—

*insert—*

**228KA Making tool which produces child exploitation material or child abuse object**

- (1) A person who makes a tool with the intention that the tool will be used by the person or another person to produce child exploitation material or a child abuse object commits a crime.  
Maximum penalty—
  - (a) if the offender uses a hidden network or an anonymising service in committing the offence or makes the tool for a commercial purpose—15 years imprisonment; or
  - (b) otherwise—10 years imprisonment.
- (2) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the

consent of a Crown Law Officer.

(4) In this section—

***make*** includes to create and develop, including, for example, by training an artificial intelligence software program.

***tool*** includes a software program and a website.

### **228KB Obtaining or distributing data to make a tool which produces child exploitation material or child abuse object**

(1) A person who asks obtains or distributes information, material or data with intent to use or enable another person to use the information, material or data to make a tool that will be used by the person or another person to produce child exploitation material or a child abuse object commits a crime.

Maximum penalty—

(a) if the offender uses a hidden network or an anonymising service in committing the offence or makes the tool for a commercial purpose—15 years imprisonment; or

(b) otherwise—10 years imprisonment.

(2) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.

(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

(4) In this section—

***make*** includes to create and develop, including, for example, by training an artificial intelligence

software program.

*obtain* includes to ask for, receive, collect or otherwise obtain.

*tool* includes a software program and a website.

### **228KC Defence for ss 228KA and 228KB**

- (1) It is a defence for a person charged with an offence against section 228KA or 228KB to prove that—
  - (a) the person engaged in the conduct that is alleged to constitute the offence for a genuine artistic, educational, legal, medical, scientific or public benefit purpose; and
  - (b) the person's conduct was, in the circumstances, reasonable for that purpose.
- (2) Whether conduct was engaged in for a purpose mentioned in subsection (1)(a) is a question of fact.

### **15 Amendment of s 229A (Threats to distribute intimate image or prohibited visual recording)**

Section 229A(4), ‘under the age of 16 years’—

*omit.*

### **16 Amendment of s 229B (Repeated sexual conduct with a child)**

- (1) Section 229B(1), ‘under the age of 16 years’—

*omit.*

- (2) Section 229B(5)—

*omit.*

- (3) Section 229B—

*insert—*

*Note—*

Sections 229C and 229D prescribe defences for this section.

## 17 Insertion of new s 229BA

After section 229B—

*insert—*

### **229BA Maintaining an intimate relationship with a child**

- (1) A person who maintains an intimate relationship with a child is guilty of a crime.

Maximum penalty—

- (a) if the person is 25 years or older—12 years imprisonment; or
- (b) otherwise—8 years imprisonment.

- (2) However, the person is liable to imprisonment for 14 years if—
  - (a) the child is under 15 years or a person with an impairment of the mind; or
  - (b) the person is the child’s parent, grandparent, sibling, uncle, aunt or guardian; or
  - (c) the child is under the person’s care, supervision or authority.
- (3) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (4) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

(5) In this section, the terms parent, grandparent, sibling, uncle and aunt have the meaning as they have in section 222.

(6) In this section—

***intimate relationship***—

(a) An ***intimate relationship*** is a relationship between 2 persons which involves 1 or more of the following—

(i) at least 1 of the persons referring to the relationship as a couple relationship, romantic relationship, partnership or another similar term;

(ii) at least 1 of the persons referring to the other person as a boyfriend or girlfriend, partner or another similar term;

(iii) romantic affection or attraction;

(iv) emotional affection of the kind beyond that displayed between family and friends.

(b) A relationship between 2 persons may be an ***intimate relationship*** even if the relationship does not involve sexual acts, including kissing and hand holding.

***maintain***, an intimate relationship, includes to not end the relationship upon becoming aware that the other person in the relationship—

(a) believes that the relationship is an intimate relationship; or

(b) refers to the relationship as an intimate relationship, couple relationship, romantic relationship, partnership or another similar term; or

(c) refers to the person as a boyfriend or girlfriend, partner, significant other, spouse or another similar term.

*Note*—

Sections 229C, 229D and 229F prescribe defences for this section.

**18 Amendment of s 229BB (Failure to protect child from child sexual offence)**

(1) Section 229BB(1)(d)—  
*omit.*

(2) Section 229BB(1)(a) to (f)—  
*renumber as section 229B(1)(a) to (e).*

**19 Amendment of s 229BC (Failure to report belief of child sexual offence committed in relation to child)**

(1) Section 229BC(1)—  
*omit, insert*—

(1) This section applies to an adult if the adult gains information that causes the adult to believe on reasonable grounds, or ought reasonably to cause the adult to believe, that a child sexual offence is being or has been committed against a child by another adult.

(2) Section 229BC(4)(c), ‘turns 16 years’—  
*omit, insert*—

becomes an adult

**20 Insertion of new ss 229C–229H**

After section 229BC—

*insert*—

**229C Mistake of adulthood defence to charge for ss 210, 213, 215, 217A–217C, 218A–219 and 229B–229BA**

- (1) Subsection (2) prescribes a defence available to a person charged with an offence against section 210, 213, 215, 217A, 217B, 217C, 218A, 218B, 219, 229B or 229BA which is alleged to have been committed in respect of a child at least 15 years.
- (2) It is a defence to prove that the person believed, on reasonable grounds, that the child was an adult.

**229D Similarity of age and marriage defences to charge for ss 210, 215 and 229BA**

- (1) Subsections (2) to (4) prescribe defences available to a person charged with an offence against section 210, 215 or 229BA which is alleged to have been committed in respect of a child at least 15 years.
- (2) It is a defence that—
  - (a) the person is less than 3 years older than the child; and
  - (b) the child is not a person with an impairment of the mind.
- (3) Further, it is a defence to prove that the person believed, on reasonable grounds, that—
  - (a) they were less than 3 years older than the child; and
  - (b) the child was not a person with an impairment of the mind.
- (4) Also, it is a defence that the child is lawfully married to the relevant person.

## **229F Defences to age and capacity circumstances of aggravation for ss 217A–217C, 218A–219 and 229BA**

- (1) Subsections (2) and (3) prescribe defences to a charge of particular circumstances of aggravations for an offence against section 217A, 217B, 217C, 218A, 218B, 219 or 229BA.
- (2) It is a defence to a circumstance of aggravation that the child is under 15 years for the person charged to prove that the person believed, on reasonable grounds, that the child was at least 15 years.
- (3) It is a defence to a circumstance of aggravation that the child is a person with an impairment of mind charged for the person charged to prove that the person believed, on reasonable grounds, that the child was not a person with an impairment of the mind.
- (4) In this section—  
*child* includes an adult the person the adult believes is a child.

## **229G Mistake of fact in relation to consent for ss 210 and 215**

- (1) Section 384(2) to (4) applies for deciding whether, for section 24, a person charged with an offence against section 210 or 215 did an act or omission under an honest and reasonable, but mistaken, belief that another person consented to the act or omission.
- (2) To remove any doubt, it is declared that—
  - (a) this section does not affect the operation of section 229; and

(b) a person does not have a reasonable belief the person consented to the act or omission if the person is incapable of giving consent.

*Note—*

Under section 348AA(3A), a child below a certain age or with an impairment of the mind is incapable of consenting.

*Note—*

Section 24 prescribes a defence of general application for mistake of fact. Section 348(2) to (4) prescribes matters applicable to that defence where the fact mistaken is another person's consent. Under section 24, an honest and reasonable, but mistaken, belief that the other person consented is a defence to the circumstance of aggravation for an offence against section 210 or 215.

## **229H Prosecuting children under 16 years with offence against chapter**

- (1) Leave of the Supreme Court or the District Court is required to present an indictment charging a child under 16 years with an offence against this chapter.
- (2) Leave must not be granted unless there are exceptional circumstances for doing so, including, for example—
  - (a) the conduct that constituted the offence appearing to constitute, in the circumstances, sexual exploitation of the child against whom the offence is alleged to have been committed; or
  - (b) there being a significant difference between the ages of the child and the child against whom the offence is alleged to have been committed.

**21 Amendment of s 286 (Duty of person who has care of child)**

Section 286(1), ‘16 years’—  
*omit.*

**22 Amendment of s 348AA (Circumstances in which there is no consent)**

(1) Section 348AA—

*insert—*

(3A) Unless otherwise provided, the following persons are incapable of giving consent to a sexual act—  
(a) a child under 14 years;  
(b) a child who is a person with an impairment of the mind.

(2) Section 348AA(3A) and (4)—  
*renumber as 348AA(4) and (5).*

**23 Amendment of s 349 (Rape)**

Section 286(3)—  
*omit.*

**24 Amendment of s 363 (Child-stealing)**

Section 286, ‘under the age of 16 years’—  
*omit.*

**25 Amendment of s 363A (Abduction of child under 16)**

(1) Section 363A, heading, ‘under 16’—  
*omit.*

(2) Section 363A, ‘under the age of 16 years’—

*omit.*

(3) Section 363A, from ‘to be of or above the age of 16 years’—  
*omit, insert*—  
was an adult.

**26 Amendment of s 364 (Cruelty to children under 16)**

(1) Section 364, heading, ‘under 16’—  
*omit.*  
(2) Section 364(1), ‘under 16 years’—  
*omit.*

**27 Amendment of s 578 (Charge of offence of a sexual nature)**

(1) Section 578(2), from ‘engaging in’ to ’16 years’—  
*omit, insert*—  
with an offence against section 215  
(2) Section 578(2), ‘217 or 218’—  
*omit, insert*—  
217, 218, 349 or 352

**28 Amendment of s 636 (Evidence of blood relationship)**

Section 636(1), definition *prescribed offence*, paragraph (b),  
'210 or'—  
*omit.*

**29 Insertion of new ch 112**

After chapter 111—  
*insert*—

# **Chapter 112 Transitional provisions for Criminal Justice Legislation (Consent Reform and Minor Protection) Amendment Youth Act 2025**

## **767 Temporary bar on prosecutions**

- (1) A person is not liable to be prosecuted for an offence committed within 3 months after the commencement.

## **768 Continuation of previously lawful conduct defence**

It is a defence to a charge for an offence against chapter 22 that—

- (a) the Commissioner has made a declaration under section 770 in relation to the intimate relationship between the person and the child; and
- (d) the conduct that constitutes the offence is the same as or similar to conduct that was previously lawfully occurring before the commencement.

## **769 Proceedings for offences committed before commencement**

- (1) This section applies in relation to an offence committed by a person before the commencement.

- (2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if the *Criminal Justice Legislation (Consent Reform and Minor Protection) Amendment Youth Act 2025*, sections 2 to 28 and 30 to 32 had not commenced.
- (3) Subsection (2) applies despite section 11.

## **770 Declarations for s 768**

- (1) A person may, within 3 months after the commencement, apply to the Commissioner for a declaration that—
  - (a) the child was at least 16 years at the commencement; and
  - (b) an intimate relationship exists at the commencement between the person and the child; and
  - (c) either—
    - (i) if the person was at least 25 years at the commencement—person and the child were in an intimate relationship for at least 3 months before the commencement; or
    - (ii) otherwise—the person and the child were in an intimate relationship for at least 6 months before the commencement; and
  - (d) the child consents to the continuation of the intimate relationship; and
  - (e) either—

- (i) the child's parents' consent to the continuation of the intimate relationship; or
- (ii) it is appropriate for the intimate relationship to continue despite the child's parents not consenting to the continuation of the intimate relationship; and
- (f) the intimate relationship does not constitute sexual, physical or emotional exploitation of the child.

(2) The application must—

- (a) be made in the approved form; and
- (b) be accompanied by any supporting documents required by the Commissioner.

(3) The Commissioner must consider each application and decide whether to make the declaration sought.

(4) However, the Commissioner must make a declaration if the Commissioner is satisfied, on the balance of probabilities, that the matters mentioned in section (1) are established.

(5) If the Commissioner refuses to make a declaration, the Commissioner must provide written reasons.

## **771 Appointment of Commissioner**

- (1) There is to be a Commissioner.
- (2) The Commissioner is appointed by the Governor in Council on the recommendation of the Minister.
- (3) The Minister may recommend a person for appointment only if the Minister is satisfied the person is appropriately qualified.

(4) The Commissioner is to be appointed under this Act and not the *Public Sector Act 2022*.

### **772 Term of appointment**

- (1) The Commissioner holds office for the term stated in the Commissioner's instrument of appointment.
- (2) The term for which the Commissioner holds office is to be no more than 3 years.
- (3) The Commissioner may be reappointed at the Minister's discretion.

### **773 Conditions of appointment**

- (1) The Commissioner is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) The Commissioner holds office on the terms and conditions, not otherwise provided by this Act, that are decided by the Governor in Council.

### **774 Preservation of rights**

- (1) This section applies if a public service officer is appointed as the Commissioner.
- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the Commissioner were a continuation of service as a public service officer.
- (3) At the end of the person's term of office, or on resignation as the Commissioner, the person's service as the Commissioner is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

### **775 Leave of absence**

- (1) The Minister may approve a leave of absence for the Commissioner.
- (2) The Minister may appoint another person to act in the office of the Commissioner during the leave of absence.

### **776 Resignation**

- (1) The Commissioner may resign by signed notice given to the Minister.
- (2) The resignation takes effect on—
  - (a) the day the notice is given; or
  - (b) if a later day is stated in the notice—the later day.

### **777 Disclosure of conflict of interests**

- (1) If the Commissioner considers that the Commissioner cannot independently consider and decide a particular application for a existing intimate relationship declaration, the Commissioner must give the Minister a notice (a *disclosure notice*) stating—
  - (a) the particular application in sufficient detail to enable the Minister to identify the application; and
  - (b) the reasons the Commissioner is not able to independently consider and decide the application; and
  - (c) that the Commissioner will not participate in the process leading to a decision for the application.
- (2) Without limiting subsection (1), the Commissioner must give a disclosure notice to the

Minister if—

- (a) the commissioner becomes aware of a direct or an indirect interest the commissioner has in the application; and
- (b) the interest could conflict with the proper performance of the commissioner's functions and powers.

(3) In this section—

*interest*, in relation to an application, includes a familial interest or a financial interest.

## **778 Vacancy in office**

- (1) The office of the commissioner becomes vacant if the Commissioner—
  - (a) gives notice of resignation under section 775; or
  - (b) is convicted of an indictable offence; or
  - (c) is removed from office by the Governor in Council.
- (2) The Minister may suspend the Commissioner for up to 60 days by signed notice to the Commissioner if—
  - (a) there is an allegation of misconduct against the Commissioner; or
  - (b) the Minister is satisfied that a matter has arisen in relation to the Commissioner that may be grounds for removal under this section.

## **779 Functions**

The Commissioner has the following functions—

- (a) to independently consider and decide each request for a declaration under section 770; and
- (b) to ensure the proper, efficient and effective performance of the office; and
- (c) to provide advice, or make recommendations, to the Minister about the operation of this chapter and the office; and
- (d) to promote public awareness of the Commissioner's functions and the office; and
- (e) any other function conferred on the Commissioner under this Act or another Act.

## **780 Commissioner not subject to direction**

The Commissioner is not subject to direction by any person about the way the Commissioner performs the Commissioner's functions or exercises the Commissioner's powers.

## **781 Office of the Commissioner**

- (1) An office called the Office of the Commissioner is established.
- (2) The office's function is to help the Commissioner perform the Commissioner's functions.
- (3) The office consists of the Commissioner and the officers of the office.
- (4) The Commissioner controls the office.
- (5) Officers of the office are appointed under the *Public Sector Act 2022*.
- (6) An officer of the office is not subject to direction by any person, other than from within the office,

about the way the Commissioner's functions or powers under this Act are performed or exercised.

- (7) The Commissioner may ask the chief executive to give or make available to the office the administrative support services and facilities the office requires to perform its functions effectively.
- (8) The commissioner may arrange with the chief executive for the services of officers or employees of the department to be made available to the commissioner.
- (9) An officer or employee whose services are made available under subsection (8)—
  - (a) continues to be an officer or employee of the department; and
  - (b) continues to be employed or otherwise engaged by the department on the same terms and conditions applying to the officer or employee before the services were made available; and
  - (c) is, for the period the services are made available and for carrying out the office's functions, taken to be an officer of the office.

## **782 Reporting**

- (1) The Commissioner must prepare an annual report about the performance of their functions and the operation of this chapter, including—
  - (a) the number of declarations made, refused, or withdrawn;
  - (b) any significant issues in the administration of this chapter;

- (c) any recommendations for legislative amendment or administrative reform.
- (2) The report must be given to the Minister within 3 months after the end of each financial year.
- (3) The Minister must cause a copy of the report to be tabled in the Legislative Assembly within 14 sitting days of receiving it.

## Part 3

## Amendment of Penalties and Sentences Act 1992

### 30 Act amended

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

### 31 Amendment of s 161A (When an offender is convicted of a serious violent offence)

- (1) Section 161A—

*insert*—

- (aa) the offender is—

- (i) convicted on indictment of an offence—

- (A) against Criminal Code, section 210, 213, 215, 219 with a circumstance of aggravation that the conduct that constitutes the offence occurred without the child's consent; or

- (B) of counselling or procuring the commission of, or attempting or conspiring to commit, an offence against a provision mentioned in Criminal Code, section 210, 213, 215, 219 with a

circumstance of aggravation that the conduct that constitutes the offence occurred without the child's consent; and

(ii) sentenced to a term of imprisonment for the offence; or

(2) Section 161A(aa) and (b)—

*renumber* as section 161A(b) and (c).

**32 Amendment of s 161B (Declaration of conviction of serious violent offence)**

Section 161A, after 'section 161A(a)'—

*insert*—

or section 161A(b)