



Penalties and Sentences (Queensland Sentencing Advisory Council) Amendment Bill 2016



Queensland

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2016

A Bill

for

An Act to amend the *Penalties and Sentences Act 1992* to establish a Queensland Sentencing Advisory Council and to amend the Acts mentioned in schedule 1 for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Penalties and Sentences (Queensland Sentencing Advisory Council) Amendment Act 2016*. 4
5
6

Part 2 Amendment of Penalties and Sentences Act 1992 7
8

Clause 2 Act amended 9

This part amends the *Penalties and Sentences Act 1992*. 10

Note— 11

See also the amendments in schedule 1. 12

Clause 3 Amendment of s 4 (Definitions) 13

Section 4— 14

insert— 15

council means the Queensland Sentencing Advisory Council established under section 198. 16
17

Clause 4 Amendment of s 15AK (Use of evidence in giving or reviewing guideline judgments) 18
19

Section 15AK— 20

insert— 21

	<i>Example of matter court may consider—</i>	1	
	any written views of the council about giving or	2	
	reviewing a guideline judgment	3	
Clause 5	Insertion of new pt 12	4	
	After part 11—	5	
	<i>insert—</i>	6	
	Part 12	Queensland	7
		Sentencing Advisory	8
		Council	9
	Division 1	Establishment and	10
		functions	11
	198 Establishment		12
	The Queensland Sentencing Advisory Council is		13
	established.		14
	199 Functions of council		15
	(1) The functions of the council are—		16
	(a) if asked by the Court of Appeal, to give the		17
	court the council's views, in writing, about		18
	the giving or reviewing of a guideline		19
	judgment; and		20
	(b) if asked by the Attorney-General, to advise		21
	the Attorney-General on matters relating to		22
	sentencing; and		23
	(c) to give information to the community to		24
	enhance knowledge and understanding of		25
	matters relating to sentencing; and		26

[s 5]

(d) to publish information about sentencing; and	1 2
(e) to research matters about sentencing and publish the outcomes of the research; and	3 4
(f) to obtain the community's views on sentencing and matters about sentencing.	5 6
(2) To help in performing its functions, the council may consult with, and ask for information from, the judiciary, government departments and other entities.	7 8 9 10
<i>Example of information that may be requested—</i> statistical information about crime held by a government department	11 12 13
(3) In this section— <i>publish</i> includes give information to the judiciary, government departments and other entities.	14 15 16
200 Powers of council	17
The council has the power to do anything necessary or convenient to be done in the performance of its functions.	18 19 20
Division 2 Membership	21
201 Appointment of members	22
(1) The council consists of not more than 12 members appointed by the Governor in Council, by gazette notice, on the recommendation of the Attorney-General.	23 24 25 26
(2) At least 1 member of the council must be an Aboriginal person or Torres Strait Islander.	27 28
(3) In recommending a person to the Governor in Council, the Attorney-General must be satisfied	29 30

the person has expertise or experience relevant to the functions of the council, including, for example, in relation to the following—	1 2 3
(a) victims of crime;	4
(b) justice matters relating to Aboriginal people or Torres Strait Islanders;	5 6
(c) justice matters relating to domestic and family violence;	7 8
(d) vulnerable persons facing the criminal justice system;	9 10
<i>Examples of vulnerable persons—</i>	11
• persons suffering mental illness	12
• persons who have an intellectual or other disability	13 14
• persons who have a substance abuse problem	15
• homeless persons	16
(e) law enforcement;	17
(f) crime prevention;	18
(g) criminal prosecutions;	19
(h) criminal defence representation;	20
(i) civil liberties;	21
(j) corrective services, including offender rehabilitation;	22 23
(k) juvenile justice matters;	24
(l) criminal justice policy;	25
(m) criminal law, including sentencing;	26
(n) criminology.	27
(4) In this section—	28
<i>corrective services</i> see the <i>Corrective Services Act 2006</i> , schedule 4.	29 30

[s 5]

- 202 Chairperson and deputy chairperson** 1
- (1) The Governor in Council may, on the 2
recommendation of the Attorney-General, 3
appoint— 4
- (a) a member of the council to be the 5
chairperson of the council; and 6
- (b) another member of the council to be the 7
deputy chairperson of the council. 8
- (2) A member may be appointed as the chairperson or 9
deputy chairperson at the same time the person is 10
appointed as a member. 11
- (3) The chairperson or deputy chairperson holds 12
office for the term, ending not later than the 13
person's term of appointment as a member, stated 14
in the person's appointment as chairperson or 15
deputy chairperson. 16
- (4) The deputy chairperson must act as chairperson— 17
- (a) during a vacancy in the office of 18
chairperson; and 19
- (b) during all periods when the chairperson is 20
absent from duty or for another reason can 21
not perform the duties of the office. 22
- 203 Term of appointment** 23
- (1) A member of the council holds office for the term, 24
not longer than 3 years, stated in the member's 25
instrument of appointment. 26
- (2) Subsection (1) does not prevent a member from 27
being reappointed. 28
- 203A Conditions of appointment** 29
- (1) A member is entitled to be paid the remuneration 30
and allowances decided by the Governor in 31

-
- Council. 1
- (2) A member holds office on the terms, not provided 2
for by this Act, decided by the Governor in 3
Council. 4
- (3) The members are appointed under this Act and 5
not the *Public Service Act 2008*. 6
- 203B Vacancy in office** 7
- (1) A member's office becomes vacant if— 8
- (a) the member resigns office by signed notice 9
given to the Attorney-General; or 10
- (b) the member's appointment is terminated by 11
the Governor in Council under subsection 12
(3). 13
- (2) A notice given by a member under subsection 14
(1)(a)— 15
- (a) must— 16
- (i) state the day the member's resignation 17
takes effect; and 18
- (ii) be given to the Attorney-General at 19
least 30 days before the stated day; and 20
- (b) takes effect on the stated day or another day 21
agreed between the member and the 22
Attorney-General. 23
- (3) The Governor in Council may terminate the 24
appointment of a member if the Attorney-General 25
recommends that the member's appointment be 26
terminated. 27
- (4) The Attorney-General may recommend that a 28
member's appointment be terminated only if 29
satisfied that the member— 30
- (a) is incapable of performing the member's 31
duties; or 32

[s 5]

(b) has been convicted, including by summary conviction, of an indictable offence; or	1 2
(c) has neglected the member's duties or performed them incompetently or inefficiently.	3 4 5
203C Council decision not invalidated by defect in appointment or vacancy	6 7
A decision of the council is not invalidated by—	8
(a) a defect or irregularity in the appointment of a member of the council, including in the appointment of the chairperson or deputy chairperson; or	9 10 11 12
(b) a vacancy in the membership of the council.	13
Division 3 Proceedings	14
203D Conduct of business	15
Subject to this division, the council may conduct its business, including its meetings, in the way it considers appropriate.	16 17 18
203E Quorum	19
A quorum for a meeting of the council is a majority of the council's members for the time being.	20 21 22
203F Presiding at meetings	23
(1) The chairperson presides at all meetings of the council at which the chairperson is present.	24 25
(2) If the chairperson is absent from a meeting, the deputy chairperson presides.	26 27

(3) If neither the chairperson nor deputy chairperson is present at a meeting, a member of the council chosen by the members presides.	1 2 3
203G Conduct of meetings	4
(1) A question at a council meeting is decided by a majority of the votes of the members present at the meeting.	5 6 7
(2) Each member present at a meeting has a vote on each question to be decided.	8 9
(3) If there is an equality of votes at a meeting, the member presiding at the meeting also has a casting vote.	10 11 12
(4) A member present at a meeting may abstain from voting.	13 14
(5) A meeting may be held using any technology allowing reasonably contemporaneous and continuous communication between members.	15 16 17
<i>Example of use of technology—</i>	18
teleconferencing	19
(6) A member who takes part in a meeting under subsection (5) is taken to be present at the meeting.	20 21 22
203H Minutes	23
The council must keep minutes of its meetings.	24
Division 4 Other matters	25
203I Council may engage persons to help in performing functions	26 27
(1) The council may, with the chief executive's	28

[s 6]

	approval, engage persons with suitable qualifications and experience to help the council in performing its functions.	1 2 3
(2)	The engagement may be in an honorary capacity or for remuneration.	4 5
	203J Reports	6
(1)	The council must give the Attorney-General a written report—	7 8
(a)	each financial year, by the date requested in writing by the Attorney-General; and	9 10
(b)	otherwise, as requested in writing by the Attorney-General.	11 12
(2)	A report under subsection (1)(a)—	13
(a)	must include information about—	14
(i)	performance of the council’s functions, in particular about the provision of information to the community to enhance knowledge and understanding of matters about sentencing; and	15 16 17 18 19
(ii)	the work to be carried out by the council in the future in performing the council’s functions; and	20 21 22
(b)	must be tabled in the Legislative Assembly by the Attorney-General within 14 sitting days after the Attorney-General receives the report.	23 24 25 26
Clause 6	Omission of s 222 (Dissolution of Sentencing Advisory Council)	27 28
	Section 222—	29
	<i>omit.</i>	30

Schedule 1	Acts amended	1
	section 7	2
	Appeal Costs Fund Act 1973	3
1	Section 20A, definition <i>guideline judgment</i>, ‘section 15AA’—	4
	<i>omit, insert—</i>	5
	section 4	6
		7
	Penalties and Sentences Act 1992	8
1	Section 4, definitions <i>guideline judgment</i> and <i>sentence</i>—	9
	<i>omit.</i>	10
2	Section 4—	11
	<i>insert—</i>	12
	<i>Attorney-General</i> , for part 2A, see section 15AA.	13
	<i>chief executive officer of Legal Aid Queensland</i> , for part 2A, see section 15AA.	14
	<i>current parole eligibility date</i> , for part 9, division 3, see section 160.	15
	<i>current parole release date</i> , for part 9, division 3, see section 160.	16
	<i>director of public prosecutions</i> , for part 2A, see section 15AA.	17
		18
		19
		20
		21

<i>fine</i> , for part 4, division 2, see section 52.	1
<i>guideline judgment</i> means a judgment that—	2
(a) is declared to be a guideline judgment by the Court of Appeal; and	3 4
(b) contains guidelines to be taken into account by courts in sentencing offenders, being guidelines applying—	5 6 7
(i) generally; or	8
(ii) to a particular court or class of court; or	9
(iii) to a particular offence, or class of offence, including under a Commonwealth Act; or	10 11 12
(iv) to a particular penalty or class of penalty; or	13 14
(v) to a particular class of offender.	15
<i>guideline judgment for an offence under a Commonwealth Act</i> , for part 2A, see section 15AA.	16 17 18
<i>guideline proceeding</i> , for part 2A, see section 15AA.	19 20
<i>impose</i> , a term of imprisonment on an offender for an offence, for part 9, division 3, see section 160.	21 22 23
<i>licence</i> , for part 3B, see section 43G.	24
<i>original order</i> , for part 4, division 2, see section 52.	25 26
<i>parole eligibility date</i> , for an offender, for part 9, division 3, see section 160.	27 28
<i>parole release date</i> , for an offender, for part 9, division 3, see section 160.	29 30
<i>police banning notice</i> , for part 3B, see section 43G.	31 32
<i>proper officer of the court</i> , for an offender levy,	33

Schedule 1

	for part 10A, see section 179B.	1
	<i>review</i> , a guideline judgment, for part 2A, see section 15AA.	2 3
	<i>sentence</i> —	4
	(a) means a penalty or imprisonment ordered to be paid or served, or another order made, by a court after an offender is convicted, whether or not a conviction is recorded; and	5 6 7 8
	(b) for part 10A—includes an order made by a court to deal with the offender for an offence instead of passing sentence.	9 10 11
	<i>sexual offence</i> , for part 9, division 3, see section 160.	12 13
	<i>SPE Act</i> means the <i>State Penalties Enforcement Act 1999</i> .	14 15
3	Section 4, definition <i>SPER</i>, ‘State Penalties Enforcement Act 1999’—	16 17
	<i>omit, insert</i> —	18
	SPE Act	19
4	Section 5, ‘State Penalties Enforcement Act 1999’—	20
	<i>omit, insert</i> —	21
	SPE Act	22
5	Section 15AA, definition <i>guideline judgment</i>—	23
	<i>omit.</i>	24
6	Sections 33B(1)(b), 36(1)(c), 39A(c), 50(b), 51(b) and 74(7)(c), ‘State Penalties Enforcement Act 1999’—	25 26
	<i>omit, insert</i> —	27
	SPE Act	28

7	Section 179B—	1
	<i>omit, insert—</i>	2
	179B Definition for part	3
	In this part—	4
	<i>proper officer of the court</i> , for an offender levy,	5
	means the proper officer of the court that imposed	6
	the sentence for which the offender is liable to pay	7
	the levy.	8
8	Sections 182A(1)(b) and 185A(1)(b), ‘State Penalties Enforcement Act 1999’—	9
	<i>omit, insert—</i>	10
	SPE Act	11
		12

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