

## LEGISLATIVE ENCROACHMENT ON JUDICIAL DISCRETION IN QUEENSLAND

### I. OVERVIEW

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#### (1) *Scope of task & research method*

- 1.1 The Law and Justice Institute (Qld) (**LJIQ**) has requested that we identify Queensland legislation since 2012 that has had the effect of limiting or reducing 'judicial discretion'.
- 1.2 We have reviewed all legislation enacted from 2012 to 2014, as listed on the [Queensland Legislation website](#). The explanatory notes accompanying the relevant bills were a useful aid for understanding the context and purpose of some amendments.
- 1.3 We used a small number of secondary sources for interpreting the effect of particular changes on judicial discretion. A number of these sources have been cited in the footnotes to Section II and web links have been provided where possible.
- 1.4 The report does not contain a summary of bills or other publicly proposed changes. For instance, it does not capture the proposed requirement under the Criminal Law Amendment Bill 2014 that a person who is required to surrender their passport as a bail condition be detained until that condition is fulfilled. Similarly, the report does not outline any non-legislative changes that might have an incidental affect on judicial discretion, such as the abolition of the Murri Court and other specialist magistrates courts through the administrative withdrawal of funding.<sup>1</sup>

#### (2) *Structure & presentation*

- 2.1 Section II summarises the changes in a table (in chronological order). Where an amendment act has introduced changes, the exact provisions of both the amended and amending legislation have been included. It should be apparent from the table that we erred on the side of including items that may have some peripheral impact on judicial discretion.
- 2.2 Section III makes some brief observations about the provisions in the table. This section outlines notable exclusions from the table and categorises some of the different means by which judicial discretion has been curtailed. The observations in the final section are objective. We have deliberately refrained from including any normative commentary on the nature of the changes (as this is a matter for LJIQ). However, we are very willing to discuss our views if this might provide any assistance.

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<sup>1</sup> The Murri Court was established as an extension of the sentencing guideline in s 9(2)(o) of the *Penalties and Sentences Act 1992* (Qld), which requires a court to have regard to relevant community submissions and cultural considerations when sentencing an indigenous offender. See the [related QLS media release](#).

## II. SUMMARY TABLE

Legislation (as passed)	Assent Date	Key changes curtailing judicial discretion & sections of new/amended legislation
<i>Criminal Law (Two Strike Child Sex Offenders) Amendment Act 2012</i>	19 July 2012	<ol style="list-style-type: none"> <li>1. Inserts new <b>Part 9B</b> of the <i>Penalties and Sentences Act 1992 (PSA)</i> to create mandatory sentences for persons who commit certain types of repeat child sex offences: <b>s 7</b></li> <li>2. Amends <b>s 181A</b> of the <i>Corrective Services Act 2006 (CSA)</i> to create a minimum non-parole period of 20 years imprisonment for persons sentenced under new PSA regime: <b>s 3</b></li> </ol>
<i>Penalties and Sentences and Other Legislation Amendment Act 2012</i>	14 August 2012	<ol style="list-style-type: none"> <li>1. Inserts new <b>Part 10A</b> (see esp. <b>179C</b>) of the <i>PSA</i> to impose a levy on all persons who are sentenced for an offence: <b>s 37</b><sup>2</sup> <ol style="list-style-type: none"> <li>a. Associated amendment to <i>Penalties and Sentences Regulation 2005</i>, inserting new <b>s 8A</b> to set the levy amount at \$300 for Supreme or District Court sentences and \$100 for Magistrates Court sentences.</li> </ol> </li> </ol>
<i>Criminal Law Amendment Act 2012</i>	29 August 2012	<ol style="list-style-type: none"> <li>1. Amends <b>s 305</b> of the Criminal Code (<i>CC</i>) to: <ul style="list-style-type: none"> <li>• increase the non-parole period for multiple murders to 30 years imprisonment (from 20); and</li> <li>• create a new non-parole period of 25 years imprisonment for murder where the person killed is a police officer, provided the officer was on duty or the person being sentenced ought to have known that the victim was a police officer: <b>s 3</b></li> </ul> </li> <li>2. Inserts new <b>s 222</b> of <i>PSA</i> to dissolve Queensland's Sentencing Advisory Council: <b>ss 17</b> and <b>222</b><sup>3</sup></li> </ol>

<sup>2</sup> The new s 179C(4) provides that the levy is not a sentence. It might therefore be argued that it is an administrative fine that does not constrain judicial discretion, even though it applies automatically where a judge imposes a sentence. Also note that the levy is retrospective in the sense that it can apply to offending conduct engaged in before the commencement of the amending legislation (s 39 inserting new **Division 4** of **Pt 14** of *PSA*).

<sup>3</sup> Although this does not directly affect judicial discretion, it is notable that this body recommended against increased mandatory sentencing in its 2011 [report on minimum standard non-parole periods](#) (see esp. 32), cited in Andrew Trotter and Harry Hobbs (2014) 'The Great Leap Backward: Criminal Law Reform with the Hon Jarrod Bleijie' 36(1) *Sydney Law Review* 1, 15.

		3. Amends <b>s 754(2)</b> of the <i>Police Powers and Responsibilities Act 2000 (PPRA)</i> to create a mandatory minimum penalty for evading police of 50 units / 2 year licence disqualification: <b>s 21</b>
<b><i>Weapons and Other Legislation Amendment Act 2012</i></b>	11 December 2012	<p>1. Amends <b>ss 50, 50B and 65</b> of the <i>Weapons Act 1990 (WA)</i> to create mandatory minimum periods of imprisonment for unlawful possession (50), supply (50B) and trafficking (65) of weapons: <b>ss 15-17</b></p> <p>2. Inserts new <b>s 185B</b> of the <i>CSA</i> to provide that a person convicted under s 50, 50B or 65 of <i>WA</i> is not eligible for parole until minimum sentence is served: <b>s 4</b>.</p>
<b><i>Commercial Arbitration Act 2013</i></b>	14 March 2013	<p><i>Note: The changes in this Act are not unique to Queensland and have been adopted in all State jurisdictions.<sup>4</sup> The Act reflects the Uniform Commercial Arbitration Acts that were proposed by the Standing Committee of Attorneys-General and modelled upon the UNCITRAL Model Law.</i></p> <p>1. Where an action is brought before a court in a matter that is also the subject of an ‘arbitration agreement’, the court must refer the parties to arbitration (unless agreement is null and void, inoperative or incapable of being performed): <b>s 8</b></p> <p>a. Under the former <b>s 53</b> of the former <i>Commercial Arbitration Act 1990 (Qld)</i>, the court had discretion to stay proceedings and give such further directions as the court deemed fit.<sup>5</sup></p> <p>2. A court must recognise an ‘interim decision’ or ‘award’ of an ‘arbitral tribunal’ as binding and enforce that order, except on the limited grounds contained in <b>s 17I</b> (interim decision) or <b>36</b> (awards): <b>ss 17H and 35</b></p>
<b><i>Criminal Proceeds Confiscation (Unexplained Wealth and Serious Drug Offender Confiscation Order) Amendment Act 2013</i></b>	14 May 2013	<p>1. Inserts new <b>ch 2 pt 5A</b> (‘Unexplained Wealth Orders’) of the <i>Criminal Proceeds Confiscation Act 2002</i> which provides, under new <b>s 89G</b>, that the Supreme Court must make an ‘unexplained wealth order’ where it is satisfied that there is a reasonable suspicion of particular matters: <b>s 40</b></p> <p>a. Under new <b>s 89F</b>, an unexplained wealth order requires a person to pay to the state an amount assessed to be the value of the person’s unexplained wealth</p> <p>b. Under new <b>s 89G(2)</b>, the court retains discretion to refuse to make the order if it is satisfied it is not in the public interest to do so<sup>6</sup></p>

<sup>4</sup> See *Commercial Arbitration Act 2010 (NSW)*; *Commercial Arbitration Act 2012 (WA)*; *Commercial Arbitration Act 2011 (TAS)*; *Commercial Arbitration Act 2011 (SA)*; *Commercial Arbitration Act 2011 (Vic)*; *Commercial Arbitration (National Uniform Legislation) Act 2011 (NT)*.

<sup>5</sup> Link to [Commercial Arbitration Act 1990 \(repealed\) as at last amendment on 16 August 2002](#)

		<p>2. Inserts new <b>ch 2A</b> ('Serious Drug Offender Confiscation Scheme') which provides</p> <ol style="list-style-type: none"> <li>Under new <b>s 93M</b>, that the Supreme Court must make a restraining order in relation to property if there are reasonable grounds for suspicions on which the application for the order is based</li> <li>Under new <b>s 93ZZB</b>, that the Supreme Court must make a 'serious drug offender confiscation order' where the respondent has been convicted of a qualifying offence for which a serious drug offence certificate has been issued (provided application for order made within 6 months after issue of certificate)</li> </ol> <p>However, a discretion to refuse the orders on public interest grounds is contained in both sections: <b>s 42</b></p> <p>3. Inserts new <b>s 161G</b>, which requires that a court imposing a sentence on an offender relating for a serious drug offence must issue a certificate containing the matters in new <b>s 161H</b> (see also new s 161I(3)): <b>s 63</b></p>
<b><i>Criminal Law and Other Legislation Amendment Act 2013</i></b>	13 August 2013	<ol style="list-style-type: none"> <li>Inserts new <b>s 182A</b> of the <i>CSA</i> to require a prisoner who is in jail for a drug trafficking offence to serve 80% of the term of imprisonment before becoming eligible for parole: <b>s 7</b></li> <li>Inserts new <b>part 5</b> of the <i>PSA</i> and new <b>s 176</b> of the <i>Youth Justice Act 1992</i> to require a court to make a 'graffiti removal order' for certain graffiti offences (provided offender is not incapable of complying with order because of disability): <b>s 47</b> and <b>83</b></li> </ol>
<b><i>Health Ombudsman Act 2013</i></b>	29 August 2013	<ol style="list-style-type: none"> <li>In considering whether to award compensation, the court must have regard to any relevant offences committed by the claimant: <b>s 232(5)</b></li> </ol>
<b><i>Education and Care Services Act 2013</i></b>	23 September 2013	<ol style="list-style-type: none"> <li>In considering whether to award compensation, the court must have regard to any relevant offences committed by the claimant: <b>s 185(5)</b></li> </ol>
<b><i>Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment 2013</i></b>	17 October 2013	<ol style="list-style-type: none"> <li>Amends <b>s 199</b> of the <i>Crime and Misconduct Act 2001</i> to impose mandatory minimum sentences for repeat instances of contempt: <b>s 30</b></li> <li>Insertion of new <b>ss 60A – 60C</b> of <i>CC</i> to create new offences carrying a minimum 6 months</li> </ol>

<sup>6</sup> Despite the discretion under s 89G(2), the [Queensland Law Society has criticised the amendments](#) on the basis that they do not sufficiently "protect the discretion of the Supreme Court." In particular, the submission of the QLS sought that the provisions be amended to state that "the Supreme Court may (not must) make an unexplained wealth order" (page 3).

		<p>imprisonment for participants of criminal organisations being knowingly present together in public places, entering prescribed places and recruiting new participants: <b>s 42</b></p> <p>3. Amendment to <b>ss 72</b> (affray), <b>320</b> (grievous bodily harm) and <b>340</b> (serious assaults) of the <i>CC</i> to create mandatory minimum period of imprisonment where an offender is a ‘participant in a criminal organisation’: <b>s 43</b></p>
<b><i>Vicious Lawless Association Disestablishment Act 2013</i></b>	17 October 2013	<p>1. When sentencing a ‘vicious lawless associate’ for a ‘declared offence’, a court must impose an additional 15 years on top of the sentence imposed for the actual (declared) offence, or a further 25 years if the ‘vicious lawless associate’ was an office bearer of the relevant association: <b>s 7(1)(a)-(c)</b></p> <p>2. A court may not mitigate or reduce the further sentences under any Act or law: <b>s 7(2)(a)</b></p> <p>3. A court must order the sentences to be served cumulatively: <b>s 7(2)(b)</b></p> <p>4. As a court can only impose a further sentence on one ‘declared offence’, where a court sentences an associate for more than one ‘declared offence’, the court must choose to impose the further sentence on the offence that will result in the longest term of imprisonment: <b>s 7(5), (6)</b></p> <p>5. A ‘vicious lawless associate’ is ineligible for parole during the entire period of a further sentence imposed under the Act: <b>s 8(1)</b></p>
<b><i>Workers’ Compensation and Rehabilitation and Other Legislation Amendment Act 2013</i></b>	29 October 2013	<p>1. Replacement of <b>s 306F</b> of the <i>Workers’ Compensation and Rehabilitation Act 2003</i>, with the effect that the court cannot award damages for the cost of domestic services gratuitously provided to a worker who usually performs those domestic services before sustaining the injury: <b>s 79<sup>7</sup></b></p> <p>2. Similarly, replacement of <b>s 306H</b> of the <i>Workers Compensation and Rehabilitation Act 2003</i> providing that a court can not award compensation for domestic services which were not required/provided before the injury: <b>s 80</b></p>
<b><i>G20 (Safety and Security) Act 2013</i></b>	7 November 2013	<p>1. A police officer may enter and search any premises in a restricted area without a warrant: <b>s 33</b></p> <p>2. Despite <b>ss 7 and 9</b> of the <i>Bail Act 1990</i>, a court (or police officer authorised to grant bail) must</p>

<sup>7</sup> Prior to this amendment, the decision in *Forster & Anor v Cameron* [2011] QCA 48 left a potential gap permitting the conversion of gratuitous services (lawn-mowing) into paid services for the purpose of the Act, where before the injury the worker had paid for some of the services and received some gratuitously.

		<p>refuse to grant bail for offences involving acts mentioned in s 82(1), unless the defendant shows cause as to why the defendant's detention in custody is not justified: <b>s 82(2)</b><sup>8</sup></p> <p>3. NB. No appeal or review process has been included in the Act, despite the serious restrictions on the public's rights and liberties.<sup>9</sup></p>
<b><i>Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013</i></b>	27 November 2013	<p>1. Inserts <b>s 16(3A)</b> into the <i>Bail Act 1980</i>, which provides that a court must refuse to grant bail to a defendant who is a participant of a criminal organisation, unless the defendant can show cause as to why the defendant's detention custody is not justified: <b>s 7</b></p>
<b><i>Youth Justice and Other Legislation Amendment Act 2014</i></b>	28 March 2014	<p>1. Amends <b>s 150</b> of the <i>Youth Justice Act 1992</i> to provide that, in sentencing a child for an offence, the court <i>must not</i> have regard to the principle that detention should be imposed only as a last resort: <b>s 9</b></p> <p>2. Inserts <b>s 176B</b> of the <i>Youth Justice Act 1992</i> to provide that a court must make a boot camp order for a child found guilty of a vehicle offence where the child is a 'recidivist vehicle offender': <b>ss 9B and 206A(1)</b></p> <p>3. Replaces former <b>Part 8, Division 2A</b> of the <i>Youth Justice Act 1992</i> (which gave courts discretion over the decision to order the transfer of offenders to an adult correctional facility on turning 18 or on turning 17 where they have previously been held in prison), with new Division 2A, requiring that offenders who have turned 17 in a detention facility with 6 months or more to serve in detention, and offenders who are aged 17 upon sentencing and are sentenced to a period of detention of 6 months or more, must be automatically transferred to an adult correctional facility: <b>s 20</b></p> <p>4. Omits the principle enshrined in Schedule 1 of the Charter of the Youth Justice Principles of the <i>Youth Justice Act 1992</i>, to the effect that the court must not have regard to the principle that a sentence of imprisonment or detention should be imposed as a last resort: <b>s 25</b></p>

<sup>8</sup> NB. The G20 Act contains a 'sunset clause' in section 101; the presumption against bail, as with the majority of the provisions of the Act itself, expires on 17 November 2013. Note however there are several continuing provisions which do not expire until 17 November 2015 (see section 101(4)), including provisions which provide for the creation of new offences (Part 7).

<sup>9</sup> For example the Act allows for a person to be prohibited or excluded from entry into any security area during operation of the Act. This clearly has significant implications for the individual's ability to carry on employment and pursue social activities, and has particularly severe ramifications for individuals who may ordinarily reside inside a security area (see Part 5, Divisions 1 and 2).

		<p>5. Amends ss <b>9(7A)</b> and <b>(7B)</b> of the <i>PSA</i> to prevent the court, when sentencing an offender, from having regard to the offender levy imposed under s 179C, whether the offender may become / is subject to a dangerous prisoners application or may become subject to an order because of a dangerous prisoners application: s <b>34(11)</b></p> <p>6. Inserts s <b>9A</b> into the <i>PSA</i>, requiring that the court must not have regard to any principle that a sentence of imprisonment should be imposed as a last resort: s <b>34(13)</b></p>
<i>The Criminal Code and Another Act (Stock) Amendment Act 2014</i>	9 April 2014	<p>1. Minor adjustments to penalty amounts (which has a fairly insignificant impact on judicial discretion) by increasing the minimum fines under:</p> <ul style="list-style-type: none"> <li>• s 398 of the <i>Criminal Code (CC)</i> from \$1000 to 10 penalty units or \$1,100: s <b>4</b></li> <li>• s 444A of the CC from \$200 to 10 penalty units or \$1,100 (also increasing maximum fine to 455 penalty units): s <b>5</b></li> <li>• ss 444B, 445, 446, 447, 448 and 448A of the CC, increasing the minimum in each case from \$200 to 4 penalty units or \$440 (also increasing maximum fine to 455 penalty units): ss <b>6, 7, 8, 9, 10, 11</b> respectively<sup>10</sup></li> </ul>
<i>Agents Financial Administration Act 2014</i>		<p>1. A court which makes an order that an agent's license be cancelled (provided the agent is an individual), <i>must</i> also make an order that the individual be disqualified from holding a license under the Agents Act and/or performing a debt collection activity as authorised under the <i>Debt Collectors (Field Agents and Collection Agents) Act 2014</i>: s <b>145(3)</b></p>
<i>The Debt Collectors (Field Agents and Collection Agents) Act 2014</i>	21 May 2014	<p>1. A court which makes an order that a field agent's license be cancelled (provided the agent is an individual), or that a subagent's registration be cancelled, <i>must</i> also make an order that that individual be disqualified from holding a license, being registered as a subagent, or performing a debt collection activity as authorised under part 2, division 3 – either permanently or for a stated period: s <b>143</b> of the <i>Debt Collectors (Field Agents and Collection Agents) Act 2014</i></p>
<i>Motor Dealers and Chattel</i>	21 May 2014	<p>1. If a person is convicted of an offence against ss 87(2) or 88(2), and the court is satisfied on the balance of probabilities that the person recovered or retained from someone (client) an amount of</p>

<sup>10</sup> NB. The explanatory memorandum of this Bill noted that the increases in minimum fines were to reflect inflation, considering that the fines were expressed in dollar figures rather than penalty units. In most cases there appears to be minimal increases in the minimums.



<b><i>Auctioneers Act 2014</i></b>		<p>commission to which the person was not entitled – then the court <i>must</i> order the person to pay the amount to the client, whether or not any penalty is imposed on the conviction: <b>s 89</b></p> <p>2. Where a court orders the cancellation of a licensee’s license or a motor salesperson’s registration certificate, it must also order that they be disqualified from holding a license or registration certificate under the Act – permanently or for a stated period: <b>ss 229(2) and (3)</b></p>
<b><i>Property Occupations Act 2014</i></b>	21 May 2014	<p>1. If a person is convicted of an offence against sections 88(2), 89(2), 90(3), or 155(2) or (3) and the court is satisfied on the balance of probabilities that the person recovered or retained from someone (client) an amount of commission to which the person was not entitled – then the court <i>must</i> order the person to pay the amount to the client, whether or not any penalty is imposed on the conviction: <b>ss 91 and 156</b></p> <p>2. A court which makes an order under subsection (1) <i>must</i> also make an order that the individual be disqualified from holding a license or registration certificate – either permanently or for a stated period: <b>s 227(2) &amp; 228(2)</b></p>
<b><i>Public Guardian Act 2014</i></b>	28 May 2014	<p>1. Inserts <b>s 113(4)</b> into the <i>Child Protection Act 1999</i> which has the effect of confirming that the Public Guardian’s power to require access to documents and other things under s108D is not subject to the discretion of the Children’s Court: <b>s 204</b></p>
<b><i>Child Protection (Offender Reporting) Amendment Act 2014</i></b>		<p>1. A court must not award costs in relation to an appeal under Part 4A of the <i>Child Protection (Offender Reporting) Act 2004</i>: <b>s 67J(6)</b></p>



### III. Observations

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#### (1) Notable matters excluded from table

In some cases, it was not immediately apparent whether a particular amendment had the effect of curtailing judicial discretion. We have outlined (out of an abundance of caution) some items that were excluded from the table but may nonetheless be of interest to the LJJIQ.

##### (a) Judicial Review

- 1.1 In the context of this project, we have understood ‘judicial discretion’ to mean the extent of a court’s autonomy to decide between possible orders in the circumstances of an individual case.<sup>11</sup> While the table included legislation that directed a court in the *exercise* of an existing power, it did not outline provisions that removed the capacity for a court to review particular decisions. A separate table summarising those provisions is at pages 12-13 of this document.
- 1.2 A number of the Acts we reviewed contained provisions (in very similar terms) stating that certain decisions could not be reviewed under the *Judicial Review Act 1991* (Qld) unless the Supreme Court determined that the decision was affected by a jurisdictional error. Examples include s 58 of the *Tattoo Parlours Act 2013*, s 203 of the *Motor Dealers and Chattel Auctioneers Act 2014*, ss 9(4)-(6) of the *Vicious Lawless Association Disestablishment Act 2013* and the recently introduced s 273C of the *Hospital and Health Boards Act 2011*.<sup>12</sup>
- 1.3 The most notable and extensive example of limiting judicial review is contained in the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*. This Act introduced provisions in nine other Acts that had the effect of preventing “identified participants” in criminal organisations from holding particular licences. The amendments to those Acts also provided that decisions to cancel or refuse the relevant licences would not be subject to judicial review (except in the case of jurisdictional error).<sup>13</sup>

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<sup>11</sup> This is consistent with the definitions that Wendy Lacey surveys on page 3 of her article on [Judicial Discretion and Human Rights](#).

<sup>12</sup> Inserted by s 9 of the *Health Legislation Amendment Act 2013*.

<sup>13</sup> See ss 18, 68, 91, 135, 153, 167, 180, 203 and 227.

(b) Overall effect of amendments not reducing discretion

- 1.4 There were one or two cases where a change was not noted because its inclusion in the table would have mischaracterised the overall effect of the amending legislation on judicial discretion.
- 1.5 For instance, the *Youth Justice (Boot Camp Orders) and Other Legislation Amendment Act 2012* removed a sentencing option of ‘youth justice conferencing’ that had previously been available to a court. However, Part 2 of that Act introduced the additional sentencing option of a ‘Boot Camp Order’.

(2) **Categories**

- 2.1 While we were not requested to categorise the changes we identify, it might be helpful to outline some of the different means by which the changes in Section II reduced judicial discretion. These include:

(a) **Mandatory / increased minimum sentences**

This is perhaps the most common example.

(b) **Requirements regarding how a sentence is to be served**

The *Vicious Lawless Association Disestablishment Act 2013* requires that particular sentences be served cumulatively. A number of Acts, such as the *Criminal Law (Two Strike Child Sex Offenders) Amendment Act 2012*, also imposed minimum non-parole periods as part of increased minimum sentences.

The *Youth Justice and Other Legislation Amendment Act 2014* has also limited discretion in relation to the correctional facility in which an offender serves a sentence.

(c) **Preventing consideration of individual circumstances**

Legislation such as the *Vicious Lawless Associate Disestablishment Act 2013* and the *Criminal Law (Criminal Organisations Disruption) and other Legislation Amendment Act 2014* requires a court to make orders by reason of an individual belonging to a particular class of persons.

**(d) Preventing consideration of particular sentencing principles**

The *Youth Justice and Other Legislation Amendment Act 2014* provided that a court must not take into account the principle that youth detention should be a last resort. Conversely, there are a number of Acts that have required a court to consider particular matters when exercising discretion.

**(e) Limiting power to grant bail or effect conditions of detention**

The *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013* and *G20 (Safety and Security) Act 2013* have each introduced provisions that require a court to refuse bail unless a defendant can show cause why their detention is unjustified.

**(f) Making orders or administrative acts consequential upon other court orders**

Acts such as the *Agents Financial Administration Act 2014* require a court to make a particular order on the basis that it has made some other order.

The *Penalties and Sentences and Other Legislation Amendment Act* has also created an ‘offender levy’ that is imposed whenever a person is sentenced for an offence. The *Youth Justice and Other Legislation Amendment Act 2014* altered the *PSA* to prevent a court from taking into account this levy when sentencing.

**(g) Indirect impact on judicial discretion**

This category would include the abolition of the Sentencing Advisory Council under the *Criminal Law Amendment Act 2012*.

#### IV. LIST OF PROVISIONS CONCERNING SCOPE OF JUDICIAL REVIEW

Legislation (as passed)	Assent Date	Relevant provisions
<i>South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2012</i>	17 February 2012	1. <b>23:</b> insertion of s 92CJ ('Order final') and 92CL ('Application of Judicial Review Act 1991 to particular decisions') in <i>South-East Queensland Water (Distribution and Retail Restructuring) Act 2009</i>
<i>South East Queensland Water (Restructuring) and Other Legislation Amendment Act 2012</i>	5 December 2012	1. <b>51:</b> insertion of s 360Y ('Limitation of Review') in <i>Water Act 2000</i>
<i>Queensland Rail Transit Authority Act 2013</i>	3 May 2013	1. <b>90</b> ('Decisions not reviewable')
<i>Vegetation Management Framework Amendment Act 2013</i>	23 May 2013	1. <b>58:</b> insertion of s 68CB ('Limitation of review and appeal') in <i>Vegetation Management Act 1999</i>
<i>Queensland Independent Remuneration Tribunal Act 2013</i>	13 August 2013	1. <b>37</b> ('Limitation of review and appeal')
<i>Tattoo Parlours Act 2013</i>	17 October 2013	1. <b>58</b> ('Application of Judicial Review Act 1991') concerning decision of chief executive to refuse to grant/suspend/cancel a licence
<i>Vicious Lawless Association Disestablishment Act 2013</i>	17 October 2013	1. <b>9(4), (5), (6)</b> ('Cooperation with law enforcement authorities to be taken into account) providing that the decision of the Commissioner of the Queensland Police Service to refuse or accept the offer for cooperation is not subject to judicial review under the Judicial Review Act 1991 (except where it is affected by jurisdictional error)
<i>Criminal Law Amendment (Public Interest Declarations) Amendment Act 2013</i>	29 October 2013	1. <b>6:</b> insertion of s 22K ('Limitation of review and appeal') in <i>Criminal Law Amendment Act 1945</i>
<i>Health Legislation Amendment Act 2013</i>	7 November 2013	1. <b>9:</b> insertion of s 273C ('Decisions not reviewable') into <i>Hospital and Health Boards Act 2011</i>
<i>North Stradbroke Island Protection and Sustainability and Another Act Amendment Act 2013</i>	27 November 2013	1. <b>9:</b> insertion of s 11F ('Limitation of review and appeal') to <i>North Stradbroke Island Protection and Sustainability Act 2011</i>
<i>Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment</i>	27 November 2013	1. <b>18:</b> insertion of s350B ('Application of Judicial Review Act 1991') to <i>Corrective Services Act 2006</i>

<b>Act 2013</b>		<ol style="list-style-type: none"> <li>2. <b>68:</b> insertion of s174 ('Application of Judicial Review Act 1991') to <i>Electrical Safety Act 2002</i></li> <li>3. <b>91:</b> insertion of s 38(1) ('Application of Judicial Review Act 1991') to <i>Liaur Act 1992</i></li> <li>4. <b>135:</b> insertion of s 87B ('Application of Judicial Review Act 1991') to <i>Queensland Building Services Authority Act 1991</i></li> <li>5. <b>153:</b> insertion of s 242B ('Application of Judicial Review Act 1991') to <i>Racing Act 2002</i></li> <li>6. <b>167:</b> insertion of s 107B ('Application of Judicial Review Act 1991') to <i>Second-hand Dealers and Pan Brokers Act 2003</i></li> <li>7. <b>180:</b> insertion of s26B ('Application of Judicial Review Act 1991') to <i>Security Providers Act 1993</i></li> <li>8. <b>203:</b> insertion of s 31 ('Application of Judicial Review Act 1991') to <i>Tow Truck Act 1973</i></li> <li>9. <b>227:</b> insertion of s 144 ('Application of Judicial Review Act 1991') to <i>Weapons Act 1990</i></li> </ol>
<b>Motor Dealers and Chattel Auctioneers Act 2014</b>	21 May 2014	<ol style="list-style-type: none"> <li>1. <b>203</b> ('Application of Judicial Review Act 1991')</li> </ol>