



QUEENSLAND PARLIAMENT **COMMITTEES**

Legal Profession (Strengthening Disciplinary Matters) Amendment Bill 2026

Justice, Integrity and Community Safety Committee



Report No. 37

58th Parliament, July 2026

Justice, Integrity and Community Safety Committee

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Chair's Foreword

This report presents a summary of the Justice, Integrity and Community Safety Committee's examination of the Legal Profession (Strengthening Disciplinary Matters) Amendment Bill 2026 (Bill).

The committee's task was to consider the policy objectives of the legislation and the application of fundamental legislative principles. The committee considered whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. The committee also examined the Bill for compatibility with human rights in accordance with the *Human Rights Act 2019*.

This Bill legislates the recommendations of the *Legal Practitioner Jurisdiction — Queensland Civil and Administrative Tribunal Act Statutory Review 2025–26*, tabled in October 2025 (Report), to transfer legal practitioner disciplinary jurisdiction from the Queensland Civil and Administrative Tribunal (QCAT) to the Supreme Court.

The Bill delivers important reforms to strengthen the disciplinary framework governing legal practitioners in Queensland. The transfer of jurisdiction better reflects the seriousness of disciplinary matters and aligns with the Supreme Court's long-established supervisory role over the legal profession. These reforms respond to longstanding concerns regarding delay and efficiency within the existing system.

I consider that these changes will support more timely and consistent outcomes, while maintaining appropriate safeguards for fairness and the protection of individual rights. By ensuring that disciplinary matters are dealt with in a more efficient and authoritative forum, the Bill represents a practical and considered step toward enhancing public confidence in the regulation of the legal profession.

On behalf of the committee, I thank the individuals and organisations who made written submissions on the Bill and appeared at the committee's public hearing. I also thank our Parliamentary Service staff and the Department of Justice for their assistance with the committee's work.

I commend this report to the House.



Mr Marty Hunt MP

Chair

Executive Summary

On 12 May 2026, the Honourable Deborah (Deb) Frecklington MP, Attorney-General and Minister for Justice and Minister for Integrity, introduced the Legal Profession (Strengthening Disciplinary Matters) Amendment Bill 2026 (Bill) to the Legislative Assembly. The Bill was referred to the Justice, Integrity and Community Safety Committee (committee) for detailed consideration.

The objective of the Bill is to give effect to the recommendations of the Honourable David Thomas in his *Legal practitioner jurisdiction report (Queensland Civil and Administrative Tribunal Act Statutory Review 2025–26)* dated October 2025 and tabled on 12 May 2026.

The Bill proposes to amend the *Legal Profession Act 2007* to:

- transfer legal practitioner disciplinary jurisdiction from the Queensland Civil and Administrative Tribunal (QCAT) to the Supreme Court
- transfer other related matters from QCAT to the Supreme Court.¹

The Bill also seeks to clarify the procedural arrangements applicable for the legal practitioner jurisdiction proceedings in the Supreme Court and the rules regarding costs.²

The committee considered the following evidence:

- 3 written submissions from stakeholders
- written response to submissions provided by the Department of Justice (department)
- written briefing provided by the department
- public briefing and public hearing in Brisbane on 15 June 2026.

The committee is satisfied that the Bill gives sufficient regard to the rights and liberties of individuals and the institution of Parliament as required by the *Legislative Standards Act 1992*. The committee found that the Bill is compatible with human rights as defined in the *Human Rights Act 2019*.

The committee made 1 recommendation, found at page vi of this report.

¹ Explanatory notes, p 1.

² Explanatory notes, p 1.

Recommendations

Recommendation 1	4
The committee recommends that the Bill be passed.	

Glossary

ALA	Australian Lawyers Alliance
Attorney-General	The Honourable Deborah (Deb) Frecklington MP, Attorney-General and Minister for Justice and Minister for Integrity
BAQ	Bar Association of Queensland
Bill	Legal Profession (Strengthening Disciplinary Matters) Amendment Bill 2026
Commissioner	Legal Services Commissioner
committee	Justice, Integrity and Community Safety Committee
department	Department of Justice
FLPs	Fundamental legislative principles
HRA	<i>Human Rights Act 2019</i>
Legal Profession Act	<i>Legal Profession Act 2007</i>
LPAB	Legal Practitioners Admission Board
LPJ	Legal practitioner jurisdiction
LSA	<i>Legislative Standards Act 1992</i>
Pennisi case	<i>Pennisi v LSC</i> [No 2] [2023] QCA 251
QCAT	Queensland Civil and Administrative Tribunal
QCAT Act	<i>Queensland Civil and Administrative Tribunal Act 2009</i>
QLS	Queensland Law Society
Report	<i>Legal Practitioner Jurisdiction - Queensland Civil and Administrative Tribunal Act Statutory Review 2025-26, October 2025</i>
Review	The statutory review of the <i>Queensland Civil and Administrative Tribunal Act 2009</i>
Reviewer	The Honourable David Thomas
Supreme Court	Supreme Court of Queensland
UCPR	<i>Uniform Civil Procedure Rules 1999</i>

Overview of the Bill

The Legal Profession (Strengthening Disciplinary Matters) Amendment Bill 2026 (Bill) was introduced by the Honourable Deborah (Deb) Frecklington MP, Attorney-General and Minister for Justice and Minister for Integrity (Attorney-General), and referred to the Justice, Integrity and Community Safety Committee (committee) for consideration on 12 May 2026.

1. Background to the Bill

The Attorney-General commissioned the Honourable David Thomas (Reviewer) to conduct a statutory review of the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Act) in January 2025 (Review).³

The statutory review of the QCAT Act involves:

- considering the legislative framework that regulates the functions and operations of the Queensland Civil and Administrative Tribunal (QCAT)
- considering the operation of various professional disciplinary lists (including legal practitioners)
- whether QCAT remains the most appropriate forum for these jurisdictions.⁴

The Attorney-General requested that consideration of QCAT's legal practitioner jurisdiction (LPJ) be prioritised and delivered ahead of the broader Review.

On 29 October 2025, the Reviewer provided the Attorney-General with the *Legal Practitioner Jurisdiction - Queensland Civil and Administrative Tribunal Act Statutory Review 2025-26, October 2025* (Report). The Report was tabled by the Attorney-General on 12 May 2026. The Report makes 23 recommendations, including:

- the transfer of the LPJ from QCAT to the Supreme Court of Queensland (Supreme Court), and
- clarification of the procedural and costs arrangements applicable in the Supreme Court.⁵

The policy objective of the Bill is to give effect to all of the Report's 23 recommendations.

The Review identified several systemic issues with the existing LPJ arrangements:

- The transfer of legal disciplinary matters to QCAT in 2009 did not achieve the intended benefits of consistency or efficiency across professional jurisdictions.
- Legal practitioner matters are already effectively court-like proceedings. They are heard by Supreme Court judges and conducted largely in court facilities, undermining the rationale for tribunal-based resolution.

³ Department, written briefing, 22 May 2026, p 1.

⁴ Explanatory notes, p 1.

⁵ Department, written briefing, 22 May 2026, p 1.

- Increasing caseloads have placed significant strain on QCAT resources, particularly judicial members, leading to delay with an average time to finalisation of 93 weeks.⁶

1.1. Key issues under the Bill

This report discusses the following key issues raised during the committee's examination of the Bill:

- the transfer of the LPJ from QCAT to the Supreme Court
- the transfer of other related matters from QCAT to the Supreme Court
- the retention of the Legal Practice Committee's jurisdiction to hear claims of unsatisfactory professional conduct
- the clarification of how decisions of the Supreme Court for the LPJ can be appealed to the Court of Appeal, and
- the retention of QCAT's jurisdiction to:
 - review a decision of the Queensland Law Society (QLS) to disqualify a person as an external examiner under section 278(6) of the *Legal Profession Act 2007* (Legal Profession Act), and
 - hear applications to set aside costs agreements under section 328 of the Legal Profession Act.⁷

2. Inquiry process

The committee received and considered the following evidence:

- 3 written submissions from stakeholders
- written response to submissions provided by the department
- written briefing provided by the Department of Justice (department)
- public briefing and public hearing in Brisbane on 15 June 2026.

3. Consultation

In drafting and developing the Bill, the department consulted with various parties involved with the LPJ, including the Reviewer, the QLS and the Bar Association of Queensland (BAQ). The department advised that '[f]eedback received during the consultation process was taken into account in finalising the Bill'.⁸ During the public briefing, the department elaborated on this process:

[T]he review of Mr Thomas conducted preliminary consultation with key stakeholders including the Chief Justice, QCAT President, Legal Services

⁶ Honourable David Thomas, *Legal practitioner jurisdiction report (Queensland Civil and Administrative Tribunal Act Statutory Review 2025–26)*, October 2025, pp 7-8.

⁷ Department, written briefing, 22 May 2026, p 1.

⁸ Explanatory notes, p 1.

*Commissioner, Queensland Law Society and Bar Association of Queensland and, as stated in the report, there was broad consensus to transfer the jurisdiction to the Supreme Court. The Department of Justice then undertook consultation through multiple consultation drafts provided to the reviewer the Hon. Mr Thomas, the Legal Services Commissioner, Queensland Law Society, Bar Association and relevant heads of jurisdiction, and feedback from those stakeholders shaped the drafting of the bill, noting that the recommendations of the report ultimately guided how the bill was developed.*⁹

4. Legislative compliance

The committee's deliberations included assessing whether the Bill complies with the requirements for legislation as contained in the *Parliament of Queensland Act 2001*, the *Legislative Standards Act 1992* (LSA) and the *Human Rights Act 2019* (HRA).



4.1. Fundamental Legislative Principles

The LSA requires explanatory notes to be circulated when the Bill is tabled. The explanatory notes set out the information required to understand the policy objectives of the Bill. The explanatory notes must also examine the Bill's consistency with fundamental legislative principles (FLPs).¹⁰

Committee comment



The committee is satisfied that the explanatory notes contain the information required by Part 4 of the LSA, including a sufficient level of background information and commentary to facilitate understanding of the objectives and purpose of the Bill.

The committee's assessment of the Bill's compliance with the LSA identified the following key issues relating to FLPs which are analysed in the report:

- rights dependent on administrative power
- appropriate standard of proof
- amendment of an Act other than by an Act, and
- retrospectivity.



4.2. Human rights compliance

A statement of compatibility was tabled with the introduction of the Bill as required by section 38 of the HRA.

⁹ Public briefing transcript, 15 June 2026, p 4.

Committee comment

The committee is satisfied that the statement of compatibility contains a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

The committee found that the Bill is compatible with human rights as set out in the HRA. It considered that any potential incompatibility with human rights was justified in the circumstances and necessary to achieve the purposes of the Bill.

5. Should the Bill be passed?

The committee is required to determine whether or not to recommend that the Bill be passed.

**Recommendation 1**

The committee recommends that the Bill be passed.

Examination of the Bill

This section discusses key themes raised during the committee's examination of the Bill. It is limited to those matters which formed the substantive body of evidence received by the committee and does not consider every issue raised by stakeholders.

6. Transfer of legal practitioner jurisdiction from QCAT to the Supreme Court

The Bill proposes to amend the Legal Profession Act to give effect to the recommendations of the Report by transferring the LPJ from QCAT to the Supreme Court. The key matters arising under this proposal are discussed below.

6.1. Transfer of jurisdiction for discipline applications

Currently, QCAT has original jurisdiction to hear and determine a disciplinary proceeding application brought by the Legal Services Commissioner (Commissioner) for an order against a legal practitioner.¹¹

The main objective of the Bill is to transfer the LPJ from QCAT to the Supreme Court. The Bill proposes to transfer jurisdiction for discipline applications so that:

- the Commissioner may apply to the Supreme Court for an order against an Australian legal practitioner in relation to a complaint or an investigation matter (i.e., a matter arising from an investigation initiated by the Commissioner) against the legal practitioner instead of applying to QCAT (recommendation 1)

¹¹ Department, written briefing, 22 May 2026, p 2.

- the amendments in the Bill will not affect the Supreme Court's inherent jurisdiction in relation to legal practitioners (recommendation 22)
- discipline applications will be heard by a single judge of the Supreme Court in its original jurisdiction, enabling the Chief Justice to manage the workload of the jurisdiction more efficiently (recommendations 3 and 11)
- the Bill retains existing provisions for how a disciplinary proceeding is conducted and applies these to the Supreme Court instead of QCAT, together with additional provisions modelled on the QCAT Act to ensure proceedings generally remain consistent with the current approach (recommendation 20)
- the *Uniform Civil Procedure Rules 1999* (UCPR) will apply to the proceedings, where not inconsistent with the Legal Profession Act (recommendation 20)
- the Supreme Court will be able to make use of existing mechanisms, such as active case management, to refine the issues in dispute, consistent with its usual jurisdiction (recommendation 18)
- the parties will continue to have a right to legal representation in proceedings (recommendation 19)
- on commencement, any existing proceedings in QCAT will be moved to the Supreme Court, unless QCAT has already started to hear and decide the application (recommendation 23).¹²

In response to a question on notice taken at the public briefing regarding the number of LPJ matters that are currently active in QCAT, the department advises that, as at 1 June 2026, there were 43 matters active in relation to disciplinary matters and 3 matters active in relation to legal costs agreements.¹³

6.2. Use of panel members

Key aspects which arise under the Bill concerning the use of panel members for discipline applications include that:

- both a legal professional member and a layperson member must be appointed from a panel to assist the Supreme Court to decide disciplinary proceedings (recommendations 12 and 13)
- the court may only continue in the absence of a panel member if it is in the interests of justice and not continuing would cause undue delay or costs (recommendation 14)

¹² Explanatory notes, p 2.

¹³ Department, correspondence, 19 June 2026, p 1.

- the legal professional panel member will be entitled to remuneration, to provide equity with lay panel members who are already remunerated and encourage participation by the profession (recommendation 15).¹⁴

The rationale for using panel members is described in the explanatory notes:

*The use of panel members will ensure that the views of both the profession and the community are represented and reflects fundamental principles of fairness, impartiality, openness and accountability in the complaints and disciplinary process for legal professionals.*¹⁵

6.3. Costs orders

The Bill also sets out how:

- costs are to be awarded for disciplinary proceedings involving mixed findings in relation to multiple charges of prescribed conduct
- nothing in current section 462 of the Legal Profession Act will require a disciplinary body to make an order requiring the person to pay costs for conduct that was not proven to be professional misconduct or unsatisfactory professional conduct (recommendations 16 and 17).

The purpose of the amendment is to enshrine the approach from the case of *Pennisi v Legal Services Commissioner [No 2]* [2023] QCA 251 (Pennisi case) which considered how costs should be awarded under section 462 of the Legal Profession Act. The amendment clarifies how costs will be awarded in disciplinary proceedings where there are mixed findings for multiple charges. At the public briefing, the department explained:

*The bill will make clear that nothing in the existing cost provisions under section 462 of the Legal Profession Act requires the court to make cost orders against the respondent lawyer for the whole proceeding when some charges have been successfully defended.*¹⁶

6.4. Appeal of decisions of the Legal Practice Committee for discipline applications

The Bill also provides that:

- decisions of the Legal Practice Committee may be appealed to a single judge of the Supreme Court by way of a rehearing on the evidence before the Legal Practice Committee including decisions relating to legal practice employees
- the Supreme Court may give leave to introduce further evidence, whether fresh, additional or substituted, if the court considers the further evidence may be material to the appeal.¹⁷

¹⁴ Department, written briefing, 22 May 2026, p 3.

¹⁵ Explanatory notes, p 2.

¹⁶ Public briefing transcript, 15 June 2026, p 2.

¹⁷ Explanatory notes, p 3.

7. Transfer of other related matters from QCAT to the Supreme Court

The Bill also proposes to transfer other related matters of the LPJ from QCAT to the Supreme Court as outlined below.

7.1. Appeal of decisions of the QLS, BAQ, LPAB

Currently, QCAT has jurisdiction under the Legal Profession Act to conduct merit reviews of a range of decisions by the QLS, BAQ and the Legal Practitioners Admission Board (LPAB) about the issue, renewal, suspension or cancellation of a practising certificate.

The department advises:

While these are not strictly disciplinary proceedings, they are nevertheless related to the disciplinary jurisdiction in so far as they relate to whether a person is a fit and proper person to practise.¹⁸

The Bill:

- transfers the current ‘review’ rights to QCAT regarding decisions of the QLS, BAQ and LPAB to ‘appeal’ rights to the Supreme Court in its original jurisdiction, and
- specifies how the Supreme Court will hear an appeal (recommendation 4).¹⁹

The department further advises:

The bill specifies that these appeals will be by way of a fresh hearing by the Supreme Court, meaning the appeals will not be dependent on identifying an error of fact, law or exercise of discretion in the original decision and the Supreme Court will be able to consider fresh evidence.²⁰

The explanatory notes provide the following examples:

- a QLS or BAQ decision to refuse to grant or renew a local practising certificate or impose a condition on the certificate may be appealed to the Supreme Court
- a QLS decision to wholly or partly disallow a claim on the fidelity fund may be appealed to the Supreme Court.²¹

7.2. Original decisions required from the Supreme Court in the first instance

The Bill also transfers to the Supreme Court several matters that currently require an order or decision of QCAT in the first instance. For example, the Bill will provide that the LPAB may apply to the Supreme Court for a direction about whether a matter will affect a person being a fit and proper person to be admitted to the legal profession.²²

¹⁸ Department, written briefing, 22 May 2026, p 5.

¹⁹ Explanatory notes, p 3.

²⁰ Public briefing transcript, 15 June 2026, p 2.

²¹ Explanatory notes, p 3.

²² Explanatory notes, p 4.

7.3. Procedural and costs arrangements

The Bill provides that:

- when hearing these appeals or matters, the Supreme Court is not bound by the rules of evidence, and the Supreme Court can inform itself in any way it considers appropriate and act with as little formality and technicality as possible
- each party will be responsible for their own costs unless the Supreme Court considers the interests of justice require a costs order.²³

These changes will ensure that these proceedings generally remain the same as how they are currently conducted by QCAT and will ensure access to justice is preserved in transferring these matters to the Supreme Court. Otherwise, the UCPR will apply to the proceedings, where not inconsistent with the Legal Profession Act (recommendation 20).²⁴

8. Jurisdiction of the Legal Practice Committee

The Bill retains the Legal Practice Committee's jurisdiction to hear claims of unsatisfactory professional conduct (recommendation 2).²⁵

This includes the requirement for the Legal Practice Committee to provide an information notice with reasons for its decisions (recommendation 7).²⁶

9. Jurisdiction of the Court of Appeal

The Bill clarifies how decisions of the Supreme Court for the LPJ can be appealed to the Court of Appeal. In this regard, the Bill provides that decisions of the Supreme Court in relation to discipline applications or appeals of decisions of the QLS, BAQ or LPAB can be appealed to the Court of Appeal, consistent with the current approach under the Legal Profession Act (recommendations 8 and 10).²⁷

However, for a decision of the Supreme Court in relation to an appeal of a decision of the Legal Practice Committee for a discipline application, the Bill specifies that the appeal to the Court of Appeal must be with leave and on a question of law only (recommendation 9).²⁸

10. Jurisdiction retained by QCAT

Under the Bill, QCAT will retain its merits review jurisdiction for a decision by the QLS to disqualify a person as an external examiner.²⁹ However, the Bill provides that these

²³ Explanatory notes, p 4.

²⁴ Explanatory notes, p 4.

²⁵ Explanatory notes, p 4.

²⁶ Explanatory notes, p 4.

²⁷ Explanatory notes, p 4.

²⁸ Explanatory notes, p 4.

²⁹ Explanatory notes, p 4.

reviews are no longer required to be heard by a judicial member, and QCAT will instead be constituted at the discretion of the President (recommendation 5).³⁰

Additionally, both the Supreme Court and QCAT will have jurisdiction to hear applications to set aside costs agreements. The Bill provides that QCAT will instead be constituted by a legally qualified member in hearing these matters, rather than a judicial member (recommendation 21).³¹



11. Stakeholder views and departmental response

11.1. Stakeholder views

Three submissions were received in relation to the Bill with all three being, in essence, supportive of the proposals. Each of these submissions are summarised below.

11.1.1. Australian Lawyers Alliance submission

The Australian Lawyers Alliance (ALA) supports the Bill and considers the Supreme Court to be the appropriate forum for the matters covered by the Bill given its inherent disciplinary jurisdiction. The ALA further submits that the proposed shift from QCAT to the Supreme Court ‘properly aligns the seriousness of the decision with the rigour of the process’.³² The ALA also welcomes the codification of the approach established in the Pennisi case. The ALA submits that the codification will provide greater certainty for practitioners and regulators and also protect practitioners who successfully defend disciplinary charges.³³ The ALA considers that the preservation under the Bill of the two-member panel structure, comprising one lay member and one legal practitioner, is important to ensure continued community representation and ongoing professional insight in disciplinary decisions.

11.1.2. Queensland Law Society submission

The QLS generally supports the Bill. While endorsing its policy objectives, the QLS identifies a range of technical drafting and practical issues, largely relating to the transition from a tribunal-based system to a court-based model.³⁴ The submission is focused on ensuring clarity, fairness, and accessibility, rather than opposing the reforms in principle.³⁵ The QLS also highlighted that the Bill departs from the QCAT framework concept of a merits review.

During the public hearing, the QLS confirmed ‘the transfer to the Supreme Court as being a very good thing’ and that it is ‘very supportive of’ the Bill. The QLS noted that ‘there had been quite a significant delay in matters being dealt with in QCAT’. The QLS also stated that under the current system ‘there is also a significant mental health impact on legal

³⁰ Explanatory notes, p 4.

³¹ Explanatory notes, p 4.

³² Submission 1, p 1.

³³ Submission 1, p 1.

³⁴ Submission 2, p 2.

³⁵ Submission 2, p 3.

practitioners who are awaiting finalisation or determination of particular disciplinary matters against them'.³⁶

11.1.3. Legal Services Commission submission

The Commissioner notes long-standing support for this reform and acknowledges that the Bill broadly reflects feedback provided during earlier consultation processes. However, the Commissioner identifies specific drafting and technical issues requiring refinement to ensure the legislation operates as intended.³⁷ The Commissioner also raises concerns about whether the Bill adequately ensures that the Court of Appeal has full powers in disciplinary matters, including the ability to make orders equivalent to those available to the Supreme Court, particularly costs and disciplinary orders. To address this, the Commissioner proposes amending the definition of disciplinary body to include the Court of Appeal when determining appeals or introducing a separate provision conferring equivalent powers.³⁸

11.2. Departmental response

The department provided a response to the submissions both in writing and during the public briefing.³⁹ Some key points in the department's response are set out below.

In response to the QLS's concerns about filing requirements and fees to support accessibility and consistency in the administration of appeals, particularly in relation to Fidelity Guarantee Fund matters, the department responded that before the changes commence, it will consider whether amendments to those procedures and rules are necessary in consultation with the Rules Committee.⁴⁰

Regarding the QLS's queries whether the absence of an express 'standing in the shoes of the decision maker' reference suggests an intention to move away from the previous scope of the nature of merits review, the department confirmed that:

The Court will not stand in the shoes of the decision maker, but rather exercises its original jurisdiction to consider the judgement which ought to have been given at the time of the hearing of the appeal. ...

This change is necessary given the nature of the Supreme Court in reviewing these types of decisions, to ensure the jurisdiction is a judicial function of the Court, and to remain consistent with the Court's approach to administrative decision appeals.⁴¹

In response to the Commissioner's proposal about amending the definition of disciplinary body to include the Court of Appeal, the department responded that those sections

³⁶ Public hearing transcript, 15 June 2026, p 3.

³⁷ Submission 3, pp 1-2.

³⁸ Submission 3, p 2.

³⁹ See the committee's website for both the department's written response to submissions dated 10 June 2026 and the transcript for the public briefing held on 15 June 2026.

⁴⁰ Department, written response to submissions, 10 June 2026, p 3. See also public briefing transcript, 15 June 2026, p 2.

⁴¹ Department, written response to submissions, 10 June 2026, p 4.

referred to by the Commissioner that are within the scope of the Report are sufficiently broad enough to include a reference to the Court of Appeal.⁴²

12. Consistency with fundamental legislative principles

12.1. Rights dependent on administrative power

Legislation should make rights and liberties, or obligations, dependent on administrative power only if subject to appropriate review.⁴³ The explanatory notes provide that ‘where individual rights and liberties are in jeopardy, a merits-based review is generally considered the most appropriate form of review’.⁴⁴

The Bill seeks to revise the process for reviewing certain decisions that were previously subject to a merit review by QCAT. Under the proposed changes, this process will be replaced with an appeal to the Supreme Court, exercised within the Court’s original jurisdiction. The appeal will take the form of a de novo hearing, allowing the matter to be reconsidered in its entirety. This approach enables the Supreme Court to fully examine the facts and circumstances ensuring a thorough and comprehensive review. Although this represents a shift from a merits-based review to an appellate framework, the move to a de novo hearing in the Supreme Court is considered appropriate.⁴⁵

The Supreme Court’s original jurisdiction offers a suitable forum for determining these matters, maintaining adherence to principles of natural justice while supporting timely and effective decision-making. The de novo process further guarantees that individual rights and liberties are protected, as the Supreme Court is empowered to consider all relevant evidence and reach its own independent determination.⁴⁶

Committee comment



The committee is satisfied that the changes proposed under the Bill, to move the jurisdiction of the review of disciplinary matters of the legal profession from a merits review by QCAT to an appeal to the Supreme Court in its original jurisdiction, is consistent with fundamental legislative principles.

12.2. Appropriate standard of proof

Legislation must provide for an appropriate standard of proof for matters arising under the legislation.⁴⁷

The explanatory notes explain that the Bill amends section 656C (Standard of Proof) of the Legal Profession Act to make it relevant to the Supreme Court. This amendment raises the issue of whether the standard of proof applied under the amended provision is

⁴² Department, written response to submissions, 10 June 2026, pp 8-9.

⁴³ LSA, s 4(3)(a).

⁴⁴ Explanatory notes, p 5.

⁴⁵ Explanatory notes, p 5.

⁴⁶ Explanatory notes, p 5.

⁴⁷ LSA, s 4(3)(a).

appropriate, particularly given the potential seriousness of the consequences of an adverse finding.

The common law implies a sliding scale for the standard of proof, ranging from ‘on the balance of probabilities’ to ‘beyond reasonable doubt’ depending on the seriousness of the matter. The Bill applies a standard of proof whereby the Supreme Court must be satisfied on the balance of probabilities that an allegation is true. This standard of proof is consistent with the approach previously applied by QCAT.⁴⁸

Committee comment



Given that the standard of proof is consistent with the well-established approach previously applied by QCAT, it is the committee’s view that the Bill does not inappropriately impinge upon this fundamental legislative principle.

Amendment of an Act other than by an Act

In general, a Bill should only authorise the amendment of an Act by another Act.⁴⁹ If a Henry VIII clause (that is, a provision which permits an Act of Parliament to be amended by subordinate legislation⁵⁰) is included in a Bill, adequate justification should be provided.⁵¹ Henry VIII clauses are commonly included in Bills, particularly in transitional provisions,⁵² in case the powers are needed.⁵³ It is best practice for transitional regulation-making powers to be limited to a maximum of 2 years and therefore subject to a sunset clause.⁵⁴

The Bill proposes to delegate wide legislative power to the executive to make transitional regulations. These powers include the power to make transitional regulations that may effectively amend an Act, and may have retrospective operation.⁵⁵ The Bill includes a number of transitional provisions which provide for changes to the operation of the Legal Profession Act.⁵⁶ The transitional regulation-making power is presumably included in the Bill to enable a regulation to cover any matters that may have been overlooked in the drafting of the Bill.

⁴⁸ Explanatory notes, pp 5-6.

⁴⁹ LSA, s 4)(4)(c).

⁵⁰ Legislative Assembly of Queensland, Scrutiny of Legislation Committee, *The use of “Henry VIII clauses” in Queensland legislation*, 1997, pp i, 1.

⁵¹ Legislative Assembly of Queensland, Scrutiny of Legislation Committee, *The use of “Henry VIII clauses” in Queensland legislation*, 1997, p 26.

⁵² For example, *Trusts Act 2025*, s 310; *Brisbane Olympic and Paralympic Games Arrangements and Other Legislation Amendment Act 2024*, s 26 (*Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, s 115); *Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Act 2024*, s 34 (*Work Health and Safety Act 2011*, s 361).

⁵³ Legislative Assembly of Queensland, Scrutiny of Legislation Committee, *The use of “Henry VIII clauses” in Queensland legislation*, 1997, pp 11, 47.

⁵⁴ Legislative Assembly of Queensland, Scrutiny of Legislation Committee, *The use of “Henry VIII clauses” in Queensland legislation*, 1997, p 50.

⁵⁵ Bill, cl 95 (LP Act, new s 807).

⁵⁶ See Bill, cl 95 (LP Act, new ss 789-806).

Committee comment

In determining whether the Bill is consistent with fundamental legislative principles in this regard, the committee notes that transitional regulation-making powers are commonly included in legislation to assist in ensuring a smooth transition to new legislative frameworks and that the relevant provisions in the Bill are subject to a 2-year sunset provision. The committee is satisfied that adequate justification is provided for provisions under the Bill which permit an Act to be amended by subordinate legislation.

12.3. Retrospectivity

To have sufficient regard to the rights and liberties of individuals, legislation should not adversely affect rights and liberties, or impose obligations, retrospectively.⁵⁷

The Bill would allow a transitional regulation to have retrospective operation to a day not earlier than the day of commencement of the empowering provision.⁵⁸

The explanatory notes acknowledge the inclusion of a transitional regulation-making power, including that the power may have retrospective operation from no earlier than the commencement of the provision. However, the regulation-making power, and any regulations made under it, include a sunset provision and would expire 2 years after the commencement of the relevant clause.⁵⁹

Committee comment

In determining whether the Bill has sufficient regard to the institution of Parliament and rights and liberties of individuals, the committee notes that the transitional regulation-making powers are limited in their retrospectivity and the provisions are subject to a 2-year sunset provision. The committee is therefore satisfied that the retrospective operation of the transitional regulation-making power is consistent with fundamental legislative principles.

13. Compatibility with human rights**13.1. Right to a fair hearing**

Under the HRA, a person has the right to a fair hearing.⁶⁰ The right is concerned with procedural fairness, not with the fairness of the merits of a particular decision.⁶¹ The requirement for a person to have a fair hearing varies from case to case.⁶²

⁵⁷ LSA, s 4(3)(g).

⁵⁸ Bill, cl 95 (LP Act, new s 807(2)).

⁵⁹ Bill, cl 95 (LP Act, new s 808).

⁶⁰ HRA, s 31.

⁶¹ Kylie Evans and Nicholas Petrie, *Annotated Queensland Human Rights Act*, Lawbook Co, 2023, p 282.

⁶² See *Victoria Police Toll Enforcement v Taha* (2013) 49 VR 1; [2013] VSCA 37 at [205] cited in Kylie Evans and Nicholas Petrie, *Annotated Queensland Human Rights Act*, Lawbook Co, 2023, p 282.

The Bill may limit the right to a fair hearing because it transfers the LPJ from QCAT to the Supreme Court, where filing fees and legal costs are generally higher.⁶³ This may affect access to justice,⁶⁴ such as by deterring some individuals, in particular those who have limited financial resources, from appealing their matter to the Supreme Court or the Court of Appeal.

The purpose of the limitation on the right to a fair hearing is to reduce QCAT's workload to ensure 'more timely and efficient decision-making for LPJ matters'.⁶⁵ It is also intended that the LPJ aligns with the Supreme Court's inherent jurisdiction to discipline members of the legal profession.⁶⁶

At present, there is a backlog of LPJ matters in QCAT.⁶⁷ In relation to this, the Legal Services Commission asserts:

*The growing concern is that while professional conduct matters are not able to be addressed by QCAT in a timely way due to competing demands on resources, there is less deterrence achieved, both personal and general. This in turn appears to be resulting in increased conduct challenges, with greater risks to members of the public and consumers of legal services.*⁶⁸

There was evidence before the committee that the transfer of the LPJ from QCAT to the Supreme Court would achieve the purpose of alleviating QCAT's workload.⁶⁹

According to the statement of compatibility, the Supreme Court is better suited to managing the LPJ. This is on the basis that, while the Supreme Court, like QCAT, is managing significant demand, the Supreme Court has more judges and its registry has expertise in complex legal matters.⁷⁰ Notwithstanding this, legal practitioner matters in QCAT are currently required to be heard by a judicial member—either a sitting Supreme Court judge or a retired court judge. It is anticipated the Bill will provide a greater pool of available judges and registry to deal with the jurisdiction.⁷¹

⁶³ Statement of compatibility, p 2; explanatory notes, p 2.

⁶⁴ Statement of compatibility, p 2.

⁶⁵ Statement of compatibility, p 2. See also the Honourable David Thomas, *Legal practitioner jurisdiction report (Queensland Civil and Administrative Tribunal Act Statutory Review 2025–26)*, October 2025, p 8.

⁶⁶ Statement of compatibility, p 2; Honourable David Thomas, *Legal practitioner jurisdiction report (Queensland Civil and Administrative Tribunal Act Statutory Review 2025–26)*, October 2025, p 6. See also, *Legal Profession Act 2007* (Qld) ss 13, 14.

⁶⁷ Legal Services Commission, *Annual report 2024-25*, p 36.

⁶⁸ Legal Services Commission, *Annual report 2024-25*, pp 36-37. See also, statement of compatibility, p 2.

⁶⁹ Public briefing transcript, 15 June 2026, p 6.

⁷⁰ Statement of compatibility, p 2.

⁷¹ Public briefing transcript, 15 June 2026, p 5.

Committee comment

If the Bill is passed, the transfer of the LPJ from QCAT to the Supreme Court would reduce the workload of QCAT. With its greater resources, the Supreme Court should be better positioned to resolve matters in a more timely manner. It would be expected that this would be beneficial to all parties involved, and it may also deter professional misconduct.

In relation to the possible higher filing fees and legal costs in the Supreme Court, compared to QCAT, limiting the right to a fair hearing of some individuals, the committee is satisfied that any limitation on the right to a fair hearing is reasonable and demonstrably justified. Additionally, the committee notes the department advised that before the changes commence, the department, in consultation with the Rules Committee, will consider whether amendments to the Supreme Court filing fees and legal costs are necessary.⁷²

⁷² Department, written response to submissions, 10 June 2026, p 3. See also Public briefing transcript, 15 June 2026, p 2.

Appendix A – Submitters

<i>Sub No.</i>	<i>Name / Organisation</i>
1	Australian Lawyers Alliance
2	Queensland Law Society
3	Legal Services Commissioner

Appendix B – Public Briefing, Brisbane, 15 June 2026

Department of Justice

Leanne Robertson	Assistant Director-General, Strategic Policy and Legislation
Leighton Kraa	Director, Strategic Policy and Legislation
Joanna Eisemann	Principal Legal Officer, Strategic Policy and Legislation

Appendix C – Public Hearing, Brisbane, 15 June 2026

Queensland Law Society

Matt Dunn QLS Chief Executive Officer

Lauren Fitzgerald QLS General Counsel