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Ipsso Facto

GCDLA



Gold Coast District Law Association 10th Annual General Meeting Proudly sponsored by Worrells Solvency & Forensic Accountants and Macquarie Bank

Our Annual General Meeting is scheduled to take place on Friday 18 June 2010 at L'Esprit on the Water, Southport.

It is with great delight we announce that our keynote speakers will be His Honour Chief Justice Paul de Jersey, Supreme Court of Queensland and Dr John de Groot, Chairman of the Queensland Community Foundation.

The cost is \$85.00 per head for members and \$105.00 per head for non-members and includes a sumptuous three course luncheon, table wine, soft drink and coffee.

Book your seat on or before Friday 5 June 2009 to get the early bird rate of \$75.00 per head for members and \$95.00 per head for non-members!

Details of the luncheon are as follows:

Date: Friday 18 June 2010
Time: 12.00pm
Where: L'Esprit on the Water
Rivage Royale Building
75 Brighton Parade, Southport

We are pleased to announce that Worrells Solvency & Forensic Accountants are continuing their support of your Association. We are similarly delighted that Macquarie Bank has also joined a sponsor. We are incredibly appreciative of both companies' support over the past year.

Onsite undercover and on-street parking available.

For more details or to download a registration form, visit our website www.gcdla.com.au or contact Administrative Assistant Annabelle Cottee on Annabelle.Cottee@gcdla.com.au.

Seating is limited, so please book now to avoid disappointment.

Record turnout for Autumn Drinks!



PHOTO: GCDLA President Ross Lee with Secretary Matthew Harman.

The Gold Coast District Law Association held its first social function for 2010 on Friday 16 April 2010 at the Judicial Cafe, Southport.

The event was a huge success, with over 50 local practitioners and esteemed members of the judiciary in attendance, making it the Association's best attended evening drinks function yet.

Notable attendee's included Magistrate Dermot Kehoe and Judge Clive Wall from the Queensland District Court. The event was even featured in the Gold Coast Bulletin on 21 April 2010.

Particular thanks must go to Macquarie Bank and Worrells Solvency & Forensic Accountants for their generous support of this event.



PHOTO: Guests enjoying themselves at the GCDLA's Autumn Drinks function.

QLS Gold Coast Regional Symposium 2010

Have you registered for the upcoming Gold Coast Symposium on **Friday 21 – Saturday 22 May** at the Surfers Paradise Marriott Resort?

This timely annual program is devoted to a raft of reforms including the Moynihan review, PAMDA amendments, changes to Civil Liability and an update on the directions for WorkCover, plus a summary of reforms affecting business law.

To view the final program or to register now for the Gold Coast Symposium, visit the QLS website at qls.com.au and access discounted online registration via the 'Professional Development' tab.

Register for the Symposium and meet all your CPD requirements for 2010/11.

Civil & Criminal Jurisdiction Reform and Modernisation Bill 2010

**By Michael Campbell
Barrister at Law**

History

In 2008 former Justice of the Supreme Court Martin Moynihan QC was appointed by the Government to conduct a review of the civil and criminal justice system in Queensland.

A report was required on the workings of the Queensland Courts in the civil and criminal jurisdiction with respect particularly to the following matters:

- Monetary limits for the civil jurisdiction
- Summary disposition of indictable offences
- Reform of the committal proceedings process
- Sentencing discounts for an early plea
- Case conferencing

Moynihan Report

In 2009 Moynihan QC's report entitled "Review of the Civil and Criminal Justice System in Queensland" was provided to the Queensland Government and the Government's response together with the report were publicly released.

The Government's response will be implemented in the Queensland Legislative Assembly in two stages.

The Civil and Criminal Jurisdiction Reform and Modernisation Amendment Bill 2010 was introduced into the Parliament on 13 April, 2010.

Cost

The explanatory notes indicate that the costs associated with implementation of the bill are envisaged to be met from existing resources. It is said that "while some of the reforms based on the report will increase the jurisdiction of Magistrates Courts the risk of any increase in workload is considered minimal, particularly given other cost saving reforms on the bill".

I doubt whether His Honour Judge Newton and the other Judges of the District Court at Southport or His Honour Dr Kilner M and his brother and sister magistrates would readily agree.

Whether or not the prophecy contained in the explanatory notes occurs only time will tell. However it is worth noting that "the impact of the reforms will be closely monitored and subject to an elevation".

Objectives

The objectives of the bill are to:

- Expand the jurisdiction of the Magistrates Court to determine indictable offences in the Criminal Code and *Drugs Misuse Act 1986*
- Increase the general criminal jurisdiction of the District Court from offences with a maximum

penalty of 14 years or less to those with a maximum of 20 years or less.

- Increase the monetary limits for civil disputes in the District Court to \$750,000.00 and in the Magistrates Court to \$150,000.00
- Provide specific powers for the Courts to deal with non compliance with disclosure obligations in criminal cases
- Streamline the committal process and the management of matters in the Magistrates Court which proceed by way of ex officio indictment.

The Bill also deals with reforms to the *Workers Compensation and Rehabilitation Act 2003* and with miscellaneous amendments to legislation such as the *Public Trustee Act*, the *State Penalties Enforcement Act*, the *Body Corporate and Community Management Act*, the *Bail Act* and the *Queensland Civil and Administrative Tribunal Act*.

The purpose of this article is not to cover all of the proposed matters in which the Court and other systems will be modernised but to highlight some of the proposed changes.

In the criminal sphere the Courts will now be allowed to determine applications for directions on the papers by means of a bill to amend the criminal practice rules which allows the Court to dispose of an application for directions without requiring the parties to attend before the Court, that is on the papers.

The *Queensland Civil and Administrative Tribunal Act* is to be amended to clarify the costs that can be claimed in an application to the Tribunal for default judgment in a proceeding to recover a debt or liquidated demand of money up to the amount of \$25,000.00 - this is a major debt claim and part of QCAT's minor civil jurisdiction.

Criminal Code

There are numerous amendments to the Criminal Code.

A new section 552BA details charges of indictable offences that must be heard and determined summarily thereby creating a new category of indictable offences not involving any election which must be heard and determined summarily.

A new section 552BB operates to determine whether or not certain matters must be dealt with on indictment and not summarily under the new section 552BA.

A new section 590AA deals with pre trial directions and rulings and section 590AAA deals with non compliance with directions about disclosure.

Justices Act

There are also numerous amendments to the *Justices Act*.

A new concept is the registry committal by means of which persons with legal representation can be committed for hearing to higher jurisdictions without having to appear before a Magistrate.

A new section 83B provides for non compliance with a direction about disclosure and in such instances if a satisfactory explanation is not provided by Affidavit the Court may adjourn the proceedings to allow enough time for the person to obey the requirement and the Defendant to consider the evidence disclosed. There may be cost consequences which flow.

The *Property Law Act* is to be amended in section 147 (arrears, rent etc) to ensure consistency with the amendments to the bill to amend the *Magistrates Court Act 1921* which increases the monetary limits for the civil jurisdiction in the Magistrates Court to \$150,000.00.

Costs

The *Uniform Civil Procedure Rules 1999* are to be amended in relation to the costs in the Magistrates Court where the amount recovered by the litigant is greater than \$50,000.00. The new scale is the same scale that applies in the District Court and the Supreme Court but at a rate of approximately 20% less than the amounts recoverable for items under the District Court scale.

Unfortunately for fellow practitioners the scale in schedule 3 which practitioners have considered to be deficient for many years will continue to apply to proceedings where the amount recovered is less than \$50,000.00.

Practitioners are invited to view the new bill and explanatory notes on the Queensland Parliamentary Counsel's website.

**By Michael Campbell
Barrister at Law**

Call for Committee Members

Would you like to make a valuable contribution to the GC legal profession?

Nominations are open to serve on the Committee to assist in our goals of *'protecting, improving and promoting the profession'*.

Nominations for the Committee will close on Friday 4 June 2010. If you would like a nomination form please email [Annabelle Cottee](mailto:Annabelle.Cottee@gcdla.com.au) at Annabelle.Cottee@gcdla.com.au.

The Committee meets monthly on the first Friday from 7.30am to 9.00am in Southport. Committee members enjoy the opportunity of sharing problems in a collegiate manner and working towards solutions.

Free Case Alerts

Research Tip from Paul White, Bond University Law Librarian.

Last issue we discussed how to keep track of Federal Bills as they pass through parliament. In this issue we will continue with the theme of current awareness in law. However, instead of Bills we will look at a free alerting service related to Australian cases. The Internet contains a variety of free options available that can help you keep up to date with the latest decisions from various Australian courts. A relatively new site called Jade (Judgments and Decisions Enhanced) has a free service that allows you to monitor specific Australian courts and receive alerts in the form of an RSS feed (the service is called Jade Digests). RSS feeds are a type of alerting system that does away with the need to use e-mail.

A common problem with many e-mail users is that they receive too many e-mails. In some cases, more than can be practically managed. RSS feeds can help alleviate this problem by making alerts available from your internet browser instead of your e-mail account. Web browsers like Internet Explorer and Firefox enable you to view RSS feeds. Viewing RSS feeds is similar to the way you use your favourites in Internet Explorer to visit a website. However, the difference is that an RSS feed can tell you if there is new content to view. It also remembers what content you have already seen so you will not waste time reviewing cases that you have already read.

Jade's coverage of Australian courts includes the High Court, Federal Court and Supreme Courts from the States and Territories. They also cover a variety of tribunals and lower courts from a number of Australian jurisdictions. The RSS feeds for Australian cases is one of a few free features on the Jade site.

For an explanation on RSS feeds, how they work with Jade's case alerting system, and how to subscribe, go to:

<http://jade.barnet.com.au/Jade.html#t=help&ts=User%20guides%20-%20Digests>

Paul White is the Law Librarian for Bond University and teaches online research skills. The Bond University Law Library is open to the public. You can search the library catalogue at <http://library.bond.edu.au:8991/F>. Look out for other research tips in coming issues.