

Newsletter of the Law

ARCURI
LAWYERS



December 2011

The information in this newsletter is merely a guide and is not a full explanation of the law. This firm cannot take responsibility for any action readers take based on this information. When making decisions that could affect your legal rights, please contact us for professional advice.

Holiday shake-up for Queensland

There will be an extra day off for Queensland workers in 2012 following the passage of laws through State Parliament recently.

In a proposal to spread public holidays more evenly throughout the year the Queensland Government asked for community consultation on their paper titled 'Getting the balance right: A proposal on holidays in Queensland'.

Feedback was sought on three proposals:

- Moving the Queen's birthday to create a new summer public holiday
- Allocating an extra public holiday when Christmas, Boxing Day or New Year's Day fall on a weekend
- Expanding state school Easter holidays from six days to two weeks.

85 per cent of Queenslanders surveyed voted in favour of moving the Queen's Birthday public holiday to the second half of the year.

As such, from 2012 the Queen's Birthday will now be celebrated in October with a special one-off 'Queen's Diamond Jubilee holiday' granted on the June long weekend to allow community and sporting events previously planned for that weekend to continue without disruption.

Extra public holidays will now be allocated for workers when Christmas Day, Boxing Day or New Year's Day fall on a weekend. Currently a substitute public holiday is allocated for the next available working day but because these days are not designated public holidays workers are not paid the applicable penalty rates. The new amendments will address this inequity and ensure those working on these significant days are paid public holiday penalty rates.

State school Easter holidays will now also be extended to two weeks with a restructure of the pupil free days.

The bill introduced into Parliament will now make the required amendments to the *Holidays Act 1983* for the creation of these new holiday arrangements in 2012.

What's inside ...

- Reintroduction of student union fees
- Overhaul of Queensland's domestic and family violence legislation
- Queensland community urged to 'get ready'
- Unaccompanied learners to lose
- Combatting crime in community
- New animal laws introduced
- Review of games censorship and classification

Student union fees back in 2012

The Federal Government has reintroduced student amenities fees with the passing of the Higher Education Support Amendment (Student Services and Amenities) Bill recently. These fees were scrapped under the Howard government in 2005.

With the fees now reintroduced the student services and amenities fee will provide universities with more than \$250 million over four years.

Under the new legislation universities can now charge up to \$263 per student for support services.

Some of these services include sporting and recreational activities, employment and career advice, child care, financial advice, counselling and food services.

Payment of the fees can now be deferred through the HECS system. Universities will also be required to be transparent and consult with students on how they plan to use the services and amenities fees.

The bill allows some discretion to set the fee at different levels. Universities are expected to take into account students who are studying part-time or via distance education with fees expected to be set proportionately.



Lifting the standards on early childhood education

Queensland Parliament aims to improve early childhood education with the passage of the Education and Care Services National Law (Queensland) Bill 2011. The new Act would apply to more than 2600 early childhood services in Queensland with a new National Quality Framework coming into force on 1 January 2012.

The framework will include a quality rating system for early childhood services that intends to give parents reliable information about the quality of early childhood services.

More information is available on the Department of Education and Training website at:
www.det.qld.gov.au/earlychildhood

Family violence – just a phone call away

The Queensland Government recently introduced legislation to parliament which will represent the first major overhaul of Queensland's domestic and family violence legislation in over 20 years.

The Domestic Violence and Family Violence Protection Bill 2011 included proposed changes to improve the safety and protection of people affected by domestic and family violence and to reduce the exposure of children to this violence.

The draft Bill which is available for public comment, proposes to introduce police issued protection notices to provide protection of victims by holding the perpetrators immediately accountable for their actions.

The Bill also seeks to increase penalties for breaking domestic violence orders.

As part of the overhaul of domestic and family violence legislation reforms,

the Government has also just announced extra funding for the DVconnect million over three years to continue their vital work providing counselling, information and referral services.

For women and their children seeking refuge from domestic violence situations, DVconnect womens line is a statewide 24 hour, 7 day a week service.

The team is staffed by dedicated professional counsellors who in the last year alone received over 51,000 calls for assistance.

On a national level, as part of a commitment under the *National Plan to Reduce Violence against Women and their Children 2010-22*, the former Australian Attorney-General Robert McClelland recently announced an agreement with all State and Territory Police Ministers to support a new nationally coordinated scheme for domestic and family violence orders (DVOs).

The draft legislation proposes that all States and Territories automatically recognise each other's DVOs. This will allow persons currently protected by a DVO to be able to move across State and Territory borders and remain covered, rather than the current requirement to register their DVO in a new jurisdiction to maintain protection, which involves more court time and considerable stress to the person seeking the new order.

The legislation is expected to be finalised by the Standing Council of Law and Justice (SCLJ) by early 2012 with the aim of implementing the national DVO scheme by early 2013.

More information about the draft Bill can be found by visiting:
www.communityservices.qld.gov.au/violenceprevention

DVconnect womensline:
1800 811 811 – 24 hours, 7 days

DVconnect mensline:
1800 600 636 – 9am to 12.00pm, 7 days

Community urged to 'get ready'

Queensland Emergency Services has just launched a \$3.8 million public education campaign aiming at ensuring Queenslanders are fully prepared for this year's wet season.

The campaign was developed in response to interim recommendations from the Queensland Floods Commission of Inquiry and from the Bureau of Meteorology's prediction of another possible busy storm and cyclone season.

The campaign titled 'Get ready Queensland' has been developed to help Queenslanders better understand potential weather-related hazards in their communities and provide advice on how to prepare, and where to find additional information and assistance.

Campaign advertising has been developed to encourage people to prepare in advance for the possibility of being without electricity and phone for three days during the wet season.

With more than 30 Queensland lives lost and three still unaccounted for in the last wet season the campaign will focus on making sure Queenslanders are proactive in preparing for natural disasters.

All Queenslanders will be sent information to help them assess the risks in their neighbourhood and create their own emergency action plan.

Ahead of the next wet season the *Disaster Readiness Amendment Act 2011* just introduced to Queensland Parliament will formally implement recommendations of the Queensland Floods Commission of Inquiry Interim Report and will improve the State's disaster preparedness.

This Act amends a number of previous Acts of legislation to provide regulatory frameworks for water levels, dam levels and flood information for people living immediately downstream of the dams, response and recovery including the publication of disaster management plans on websites, road use management and repairs to community infrastructure that are damaged in the event of a disaster.

To assist with management in the event of disasters a new council called the Standing Council on Police and Emergency Management (SCPEM) was recently formed bringing together previously separate police and emergency management ministerial councils with a strategy emphasising shared responsibility and better planning and investment in disaster management.

Ministers discussed a number of new initiatives that will provide avenues of communication with the public and increased connectivity to better inform and prepare them ahead of the wet season.

A new smartphone app will be available by the end of 2012 which will provide users with smartphone mobiles access to information about natural disasters and assist them about what to do and how to prepare.

There will also be a national approach to improving State and Territory Triple Zero call services at times of high demand including adoption of national phone numbers for State Emergency Services and Police Assistance and further enhancement on the Emergency Alert system.

For information on how to 'Get Ready' for the wet season visit:
www.qld.gov.au/GetReady

For more information on safety during a storm visit:
www.emergency.qld.gov.au/emq/css/beprepared.asp

To update your mobile phone details for Emergency Alert disaster warning text messages visit:
www.ema.gov.au

Unaccompanied learners to lose

Learner drivers found driving unaccompanied will lose their licence under proposed new road safety rules.

Under current rules, learner drivers are issued with four demerit points when successfully gaining their learner plates. If they are found driving solo they are issued a \$160 fine and lose one demerit point.

In the period May 2010 to May 2011, 13,824 infringements were issued to unaccompanied learner drivers and riders, with police voicing their concerns about road safety and the dangers to other drivers on the roads.

Currently learner drivers risk having their licence suspended if they accumulate four or more demerit points in a 12 month period.

In light of increasing police concerns, State Cabinet recently agreed to increase the penalties for learner drivers found driving unaccompanied from one demerit point to four demerit points.

Learner drivers will have their licence suspended and will risk delaying their application for a provisional licence.

Learners must be accompanied during their training by an adult who has held a current open licence of the same class for more than one year. The new rules will apply to all learners of all ages driving any type of vehicle.

The changes will come into effect in early 2012.



Combatting crime in the community

According to the Australian Crime Commission serious and organised crime is estimated to cost Australia \$10 to \$15 million dollars every year. With organised crime frequently crossing borders there are many law enforcement agencies collecting intelligence on their activities.

Queensland police will now be able to use criminal intelligence obtained from other law informant agencies in a bid to outlaw criminal organisations under legislation introduced to Parliament in October. Technical amendments have been made to the *Criminal Organisation Act 2009* which will enable the Police to restrict and severely hamper the activities of organisations involved in serious criminal activity.

The amendments will allow intelligence to be put before the courts without the informant being identified or criminal history being provided, which in some cases, might put the informant at risk from others in the criminal community.

Combatting crime is a priority for the Federal Government who believe all Australians should feel safe in their community. For many, feeling safe at home is the key to independence and a good quality of life for older people as well as others who may be vulnerable to crime.

Set up in 1983 to encourage communities to work together to reduce crime, Neighbourhood Watch is Australia's largest community based crime prevention program covering over three million homes in Australia.

Additional funding from the Federal Government of \$1.5 million has just been announced for expansion of its work enabling it to expand its coverage to even more homes and communities, including remote areas.

Over the next three years this funding will allow Neighbourhood Watch to expand its efforts with the creation of a national office with full time staff to support the efforts of people in local communities who volunteer their help.

Events grants will be offered to increase engagement with local communities, build partnerships with police and local government and help protect remote, hard to reach and vulnerable communities.

The funding for Neighbourhood Watch comes under the *Proceeds of Crime Act 2002*, a non-recurrent grant scheme which enables money from proceeds of crime confiscated under Commonwealth law to be returned to the community.

More information on the impact of organised crime in Australia is available at:
crimecommission.gov.au

For more information on Neighbourhood Watch Queensland visit:
www.nhwq.com.au

IN SHORT

Caring for the carers

A new Carer Action Plan 2011-14 has been announced for 500,000 Queensland carers.

In 2010 the estimated replacement value of informal care provided across Australia was \$40.9 billion, although the true value and contribution of carers is irreplaceable.

Launched by the Queensland Government this plan will provide a blueprint to ensure Queensland carers get the support they need to continue their important roles.

With carers often juggling their own family or study commitments, this plan addresses the importance of supporting the carer with plans to improve carers' health and wellbeing, increased community assistance and supporting carer participation in education, training and the workforce.

Neighbourhood disputes legislation now in effect

New legislation making it easier for neighbours to resolve their disputes over trees and fences is now in effect.

The new *Neighbourhood Disputes Resolution Act* now places the onus on the proper care and maintenance of a tree with the tree keeper and provides greater choices for neighbours about trees affecting their property. The Act also clarifies who is responsible for building and maintaining dividing fences and who is responsible for ensuring trees and branches do not impose on someone else's property.

If someone believes a tree poses a danger or it is adversely affecting their land they can now write to the owner and request for the tree to be trimmed or removed. They will also be able to recover up to \$300 for professional services to trim a tree less than 2.5 metres if either parties cannot agree on a resolution.

The new Act also includes a clear definition of a sufficient dividing fence, guidance for fence replacement and how installation costs should be apportioned.

If disputes cannot be informally resolved, the Queensland Civil and Administrative Tribunal (QCAT) can deal with these matters.

Learn more about the Queensland Civil and Administrative Tribunal processes at: www.qcat.qld.gov.au

New animal laws introduced

A number of bills have recently been submitted to Queensland Parliament relating to the treatment of animals with the introduction of amendments to create a new offence of serious animal cruelty under the Criminal Code.

Anyone convicted of this offence will be automatically banned from owning animals of the same type for a minimum of two years and face a maximum sentence of seven years in jail.

Further amendments under the *Animal Care and Protection Act*, would allow the courts to impose interim bans during legal proceedings, increase the maximum jail sentence to three years and increase the maximum fine to \$200,000.

The laws were introduced over concerns from RSPCA where people being investigated for animal cruelty were still allowed to keep animals in their care.

It is expected that the legislation will become law before the end of 2011.

The State Government will also examine whether amendments need to be made to the Queensland Criminal Code for owners of dangerous dogs who do not take reasonable steps to stop their dogs injuring or killing people or animals.

Local Governments, the RSPCA, breeders and other interested parties were consulted on the proposed changes and the Government is currently reviewing these responses.

More information about the draft legislation can be found at:
www.justice.qld.gov.au/corporate/community-consultation/community-consultation-activities/current-activities/amendments-dangerous-dogs-laws



Review of games censorship and classification



In March the Attorney-General tasked the Australian Law Reform Commission (ALRC) with the job of conducting public consultation across the community and industry on the National Classification Scheme.

The review was to take into consideration the rapid pace of technological change, the need to improve classification information available to the community, the effect of media on children and the desire to have a strong content and distribution industry in Australia. All of which would take into account the existing Commonwealth, State and Territory classification laws.

The ALRC are now working on developing options to ensure the system of classification in Australia is adequately equipped to accommodate both current and future developments in technology.

However the current legislation does not cater for mobile phone games applications or online games.

In light of this, the introduction of the Classification (Publications, Films and Computer Games) Amendment (Mobile and Online Computer Games) Bill as an interim measure will now ensure Australians have continued access while the classification review is taking place.

A proposed new adult category is the R18+ classification with the release of guidelines for the introduction of Australia's new adult category for computer games.

The introduction of this new classification will give parents better advice about what games are suitable for their children, while allowing adults to view material designed for the 18+ category.

The existing MA15+ games classification will also be reviewed, with any games showing frequent and unduly repetitive strong and realistic violence being refused classification under the MA15+ category.

The proposed guidelines are available at:

www.classification.gov.au



This newsletter is a free service from your solicitor. If there is any issue you would like us to cover in a future newsletter please call us. Also, if there is anyone you know who would like to receive this newsletter please let us know and we'll add their name to our distribution list.

However, if you do not wish to continue receiving it please let this firm know and we will not send it to you again.