

Newsletter of the Law

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Reviewing the care of our most vulnerable citizens

The Australian Government recently asked the Productivity Commission to review the costs and benefits of replacing the current system of disability services.

The Commission's subsequent report recommended a new no-fault National Disability Insurance Scheme (NDIS) and a complementary National Injury Insurance Scheme (NIIS).

Queensland Law Society welcomed the release of the Productivity Commission's recommendation for a national insurance scheme for the disabled, but is cautious about any potential negative impacts on people's rights.

The NDIS would benefit people who are born with or develop a disability but who currently receive inadequate financial assistance. The aim is to maximise opportunities for independence, participation and productivity through investment in individual capacity, and building an inclusive, and more diverse community.

The full federal takeover of disability services will see the establishment of the National Disability Services Agency who will assess and fund the scheme of disability care and support throughout the country.

NDIS funding will be available for physical and psychological therapies, domestic help, home and vehicle modifications and personal care needs.

Under the scheme all Australians will be covered in the event of significant disability with an initial roll out beginning in 2014.

In 2015 the NDIS will expand nationally focusing on all new cases of significant disability and the most vulnerable groups including children under five, people cared for by aging parents and young people in nursing homes. It is hoped that the NDIS will be fully functional by 2018.

The smaller National Injury Insurance Scheme strengthens state based schemes that provide support and services to people who suffer a catastrophic injury such as loss of limb, acquired brain injury or spinal cord injury.

What's inside ...

- Practical driving test reforms
- Property owners set to pay thousands more in fees
- In short: Banning tobacco advertising
- In short: defeating hoons and dangerous drivers
- Legislating against cybercrime
- New initiatives for the coming wet season

Currently the extent of service provision and support depends on how, when and where the injury occurred.

The aim of the NIIS is to ensure support and services are available to those who can't find an at-fault party to sue.

The full report can be downloaded at:
<http://pc.gov.au/projects/inquiry/disability-support/report>

Navigating the new boating safety reforms

New recreational boating safety reforms will come into effect from January 2012.

The reforms include enhanced night and electronic navigation training incorporated into the existing BoatSafe course, extending the number of coastal bars where personal flotation devices must be worn, additional safety equipment requirements for personal watercraft operating offshore, and higher standards for new large recreational boat operators.

These operators will also be subject to a new boating licence class that will take effect from January 2013 but will not affect current marine driver and commercial master licence holders or the size of vessel they can operate.

Full details are available on Maritime Safety Queensland's website at www.msq.qld.gov.au



Practical driving tested

Queenslanders are being called on to give feedback and ideas for improving Queensland's practical driving test, known as Q-SAFE.

Q-SAFE is designed to evaluate a person's ability to drive safely and correctly in different situations, however the driving test has not been reviewed in more than a decade.

Recommendations to date included: development of best practice practical driving tests, suitable 'cooling off' or waiting period following a failed driving test and qualifications for driver examiners.

You can download the discussion paper and have your say at www.getinvolved.qld.gov.au.

Closing date for feedback is 14 October 2011.

From learner to provisional

In July 2007 the Queensland Government introduced the Graduated Licensing System (GLS) to reduce fatalities on our roads, particularly among young motorists.

Although the Graduated Licensing System is not part of the Q-SAFE review, it is also being independently evaluated by the Q-SAFE panel.

Extensive community consultation will be undertaken with independently facilitated workshops with key stakeholders, and community forums are also planned.

The panel will assess their findings and inform the Queensland Government in late 2011.

The results are expected to be released next year.

Property owners set to pay thousands more

From 1 August 2011 Queenslanders are no longer able to apply for the 'principle place of residence' stamp duty discount after the State Government cancelled the concession for transfer duties.

After this date, consumers will pay up to 30 percent more in transfer duties, equating to thousands of dollars being added to their property purchase, regardless of whether the new property is owner-occupied or investment purchase.

Transfer duty is a State government tax, previously called stamp duty, that is calculated on the value of the property being bought and sold.

The change to the duty was brought about due to the Queensland Building Boost program and the abolition of the ambulance levy.

The Building Boost program is designed to help the construction industry by offering people buying a brand new home an additional \$10,000.

For first home buyers, this can be in addition to the Commonwealth first home owner grant.

However, the Building Boost program will have a limited life with the grant available to 31 January 2012.

The goal of the Building Boost program is to assist recovery in the Queensland housing construction sector following the Queensland natural disasters and subsequent market slump.

Find out more at: <http://boost.treasury.qld.gov.au>.

Banned tobacco advertising in shops

Recent amendments to the *Tobacco and Other Smoking Products Act 1998* now severely restrict smoking displays and advertising at retail outlets.

These new laws banning point of sale tobacco displays are aimed at reducing cigarette uptake, particularly among younger Queenslanders. Smoking kills an estimated 3,400 Queenslanders every year and more than 30,450 people are admitted to hospitals each year for smoking-related illnesses.

Defeating hoons and dangerous drivers

Hoons and repeat dangerous drivers will lose their vehicles for seven days – up from the current two days – for their first offence (type 1 offence) under changes to be made to the State's vehicle impoundment laws.

Those caught for a second time (type 2 offence) will lose their vehicle for 28 days - up from 48 hours - with police able to apply to the court for up to three months impoundment.

Legislation will be amended to allow different types of type 2 offences to be counted cumulatively rather than the current situation where repeat offences have to be the same type of offences such as continual driving of an unregistered vehicle.

Almost 28,000 vehicles have been impounded since laws were introduced in 2002, with 30 percent of offenders going on to re-offend and 330 having their vehicles removed permanently.

The changes are expected to be passed in Parliament at the end of the year.

Legislating against cybercrime

Australia's Federal Attorney-General Robert McClelland recently reported that cybercrime has overtaken the drug trade as the most profitable form of crime in the world.

Indeed, authorities worldwide now recognise that law reform and international cooperation will be essential to combat cybercrime and cyber security threats.

In June 2011, a new Cybercrime Legislation Amendment Bill 2011 was introduced to strengthen cyber security laws and enhance Australia's ability to combat international cybercrime.

The introduction of new legislation will bring us closer to global international best practice through international cooperation.

A common policy will also help lawmakers deal with multi-national crimes committed on computer networks around the world and offences such as fraud, copyright infringement, child pornography and violations of network security.

The Bill sets out the legislative framework to enable Australia to sign the Council of Europe Convention on Cybercrime which is the only binding international treaty on cybercrime.

Over 40 nations have either signed or become a party to the convention, while 100 are also using it as the basis for strengthening their own cybercrime legislation.

The key changes will be the addition of procedures to make investigations more efficient, such as the collection of data from other countries, establishing a 24/7 network to provide immediate assistance to investigators and facilitating the exchange of information between countries.

Of particular concern is the increasing incidence of threats within the social networking environment.

The increase in online social networking sites such as Bebo, Facebook and MySpace has provided the stage for the younger generation to create a web presence and share it with the world.

However the increase in cyber-bullying, offensive content and identity theft has prompted authorities to include social networking in their cybercrime discussions.

A new website called ThinkUKnow Australia has been set up as a partnership between the Australian Federal Police and Microsoft Australia.

It has been designed to raise awareness among parents, carers and teachers of younger people and how to keep them safe online.

A separate section on the website has been set up specifically for young people aged 11 to 17 to access information on internet safety including the option to 'Report Abuse'.

For more information go to www.thinkuknow.org.au



Home and hosed for our senior citizens

Selling the family home to pay huge accommodation bonds for residential care places will soon be a thing of the past under the government's sweeping changes proposed for new consumer credit reform.

Older people will now be able to use the equity in their home to fund an aged-care place through a form of federal government-backed reverse mortgage.

The new changes amend the *National Consumer Credit Protection Act 2009*.

The family home will now be counted as an asset via a reverse mortgage when calculating a person's financial capacity to contribute to their aged care.

The draft legislation will offer more protection when dealing with lenders, some of whom ask seniors to pay more than the value of their home.

It will also require better disclosure of the financial consequences of entering into 'reverse mortgage' contracts, with a stronger obligation on lenders to take reasonable steps to let a borrower know that they are in default so they can rectify the situation before the lender takes further action.

The changes were proposed in the Productivity Commission's recent report 'Caring for Older Australians'.

See www.pc.gov.au/projects/inquiry/aged-care/report

What is a reverse mortgage?

A 'reverse mortgage' is an equity release product during which the consumer, usually over the age of 60, borrows money against the equity in their home, in return for a lump sum, line of credit or regular payment. The debt does not need to be repaid until the home is sold.

New initiatives for the coming wet season

In August the Commission of Inquiry into the 2010/2011 Queensland floods released its interim report with 175 recommendations focused on changes to be implemented before the next wet season.

More than 660 written public submissions were received and sworn statements obtained from emergency personnel, employees of relevant corporations and government agencies, and representatives of local and state government.

Evidence was heard from 167 witnesses at the commission's first round of public hearings held over 31 days in Brisbane, Toowoomba, Dalby, Goondiwindi, St George, Ipswich, Rockhampton and Emerald.

Public meetings were also held in 13 locations in central and western Queensland, and the Lockyer Valley.

The Queensland Government accepted the findings of the commission of inquiry and 104 recommendations applying to the state government will be fast-tracked including an investigation into raising the Wivenhoe Dam wall to increase the flood mitigation buffer.

Other key initiatives already underway include:

- establishment of a new Flood Operation Centre
- recruitment of more duty engineers and flood officers
- investigations into enhancing data collection by increasing the number of rainfall gauges in the catchment
- supply level ahead of the coming wet season.

- technical reviews including investigating enhanced modelling of major rainfall and flooding events and better training programs to reflect a potential change in Wivenhoe Dam's water

The Commission's next round of hearings will be held in Brisbane, Emerald, Bundaberg, Maryborough, Gympie and Ipswich throughout September and October 2011.

These hearings will include questions of insurance and land use planning. The final flood report is due 24 February 2012.

You can check dam levels at <http://www.seqwater.com.au/public/dam-levels>.

Increasing cyclone shelters

Ten new multi-purpose public cyclone shelters will be built in North Queensland to withstand category 5 cyclones. This will now bring the total number of category 5-rated shelters to 14.

Shelters located in Cooktown, Kowanyama, Innisfail and Redlynch will be joined by shelters in Mackay, Bowen, Cairns, Ingham, Port Douglas, Proserpine, Townsville, Tully, Weipa and Yeppoon.

The new shelters will be available for year-round use by communities taking the form of auditoriums, theatres, school multi-purpose centres, community halls, gymnasiums, and indoor sports centres due for completion by 2013.

The initiative is funded by a joint \$60 million fund established by the Emirate of Abu Dhabi and the Queensland Government.

More information on the shelters can be found at the relevant local council website.

Extending flood and cyclone grant assistance

Flood and cyclone assistance for primary producers, small businesses and not-for-profit organisations has been extended to 31 January 2012.

Under Natural Disaster Relief and Recovery Arrangements (NDRRA) Category C, assistance consists of grants up to \$25,000 for small business and primary producers in affected areas.

Category D assistance includes special concessional loans of up to \$650,000 for eligible businesses, primary producers and not-for-profit organisations suffering extreme damage, with a grant component of up to \$50,000.

For more information contact the Queensland Rural Adjustment Authority on 1800 623 946 or visit qraa.qld.gov.au



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