

Newsletter of the Law



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Summer 2011

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.

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>

What we do...

Are you aware of the various areas of law in which we practise?

We concentrate on the following areas:

- Asset Protection
- Business Advice
- Commercial Law
- De facto Property Settlements
- Estate Administration
- Family Law
- Leases and Agreements
- Property Transactions
- Wills and Powers of Attorney

If you have any queries in relation to any of these areas of law, please call Julie or Naomi on 5586 2222 for an appointment.

Our Solicitors are Mark Reaburn, David Lobbezoo, Joelene Seaton and Mal Chalmers.

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Merry Christmas from Reaburn Solicitors

To all our valued clients

***We wish you a very
Merry Christmas
and a safe and happy
New Year***

Please note that our office will close at 5.00pm on Thursday 22 December 2011 and will re-open on Wednesday 4 January 2012



Land Title Scam Hits WA

Registrar issues fraud warning to practitioners

Practitioners may be aware of the recent frauds in Western Australia, where persons based in Nigeria fraudulently sold properties while the registered owners of the properties were living overseas.

It appears that in both cases the fraudsters claimed to be the registered owners and convinced the real estate agents managing the rental properties that they wished to sell. Purchasers were found for the properties, and the relevant titling documents and monies changed hands. The transfers were then registered, providing the new bona fide owners with indefeasible title to the properties.

The Registrar of Titles adopts a number of fraud risk mitigation strategies and internal controls to prevent these incidents occurring in Queensland, including staff training, and investigation and scrutiny of witnessed dealings.

Preventing fraud of this nature is an industry-wide responsibility which requires all conveyancing industry participants (including legal practitioners, real estate agents and Justices of the Peace) to take proactive steps to ensure that the person they are communicating with is entitled to deal with the land in question.

Landgate in Western Australia, in conjunction with the consumer protection authority and the Western Australia Police, has emphasised the need for conveyancing industry participants

dealing with absentee property owners (whether overseas, interstate or intrastate) to apply stringent measures to ensure the person they are dealing with is the legitimate owner. The standard 100-point identity check used by some banks and other institutions should be used as a minimum.

Inquiries should also be made and additional evidence sought whenever:

1. There has been a recent change in address or other contact details;
2. The transaction originates from overseas, especially from countries known for scams, such as Nigeria;
3. There is a request for funds to be sent to a different bank account to that normally used by the client, or to offshore accounts (for example, in China);
4. The sale is said to be urgent, as funds are required for investment in a business venture;
5. Generic email addresses are used – for example, hotmail, yahoo or gmail;
6. Communication is not in the usual style used by the owner, or the English used is uncharacteristically poor;
7. Official documents use poor English;
8. Witnesses are listed as “Notary Public” especially if residing in a different country to the owner;
9. There is any doubt as to the legitimacy of the person or the documents presented.

Property owners set to pay thousands more

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

After this date, consumers will pay up to 30percent 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 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



This newsletter is a free service from Reaburn Solicitors. 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 on 5586 2222.

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