

Communiqué
Standing Council on Law and Justice
12-13 April 2012

The first meeting of the Standing Council on Law and Justice (SCLJ) for 2012 was held on 12-13 April 2012 in Canberra, Australian Capital Territory (ACT). The ACT Attorney-General chaired the meeting. The Commonwealth, State and Territory Attorneys-General, the Commonwealth Minister for Home Affairs and Justice and the New Zealand Minister of Justice were in attendance.

The Northern Territory Attorney-General was an apology.

Summary of Decisions

Organised Crime

Ministers discussed the importance of a nationally consistent approach to dealing with criminal organisations and the serious threats that these groups pose.

Ministers agreed that consistent State and Territory legislation is essential in cracking down on these groups and disrupting their activities. Ministers agreed that legislation should be aimed at limiting the ability of these groups to organise, support or engage in serious criminal activity.

Ministers agreed that this legislation include the following four key elements:

- Declarations that organisations are criminal organisations
- Orders controlling the activities of members of declared organisations and people involved in serious criminal activity
- The sharing of and protection from disclosure of criminal intelligence
- The forfeiture of assets.

Ministers agreed that the implementation by States and Territories of declarations, control orders and protections for criminal intelligence will ensure there are equally strong measures in place across all jurisdictions. Ministers also agreed that the mutual recognition of interstate declarations and control orders was a highly desirable element of a nationally consistent scheme, with further legal advice on implementation being sought.

The ACT and Queensland did not support the decision. Queensland noted that it had not yet formed a final view on the merits of such legislation. Tasmania did not believe it was presently necessary for it to enact such legislation.

Personal Property Securities (PPS) Register Implemented

Ministers welcomed the commencement of the national Personal Property Securities Register and the Personal Property Securities Act 2009 on 30 January 2012. The reform to personal property securities is an important micro-economic reform that was made possible by the cooperation of all jurisdictions.

House of Representatives Committee on Aboriginal and Torres Strait Islander Affairs Report *Doing Time – Time for Doing*

Ministers noted the Australian Government response to the “*Doing Time – Time for Doing: Indigenous Youth in the Criminal Justice System*” Report.

Report on Australian Law Reform Commission National Classification Scheme Review

Ministers noted the release of the Australian Law Reform Commission’s report on its review of the National Classification Scheme and its recommendations for reform.

Project to build upon the cooperative scheme established by the Service and Execution of Process Act: Driving Micro-economic reform through the establishment of more cohesive and clearer jurisdictional, applicable law and choice of court rules

Ministers agreed to the establishment of a working group that will commence consultations with key stakeholders to determine whether further reform in the

harmonisation of jurisdictional, choice of court and choice of law rules would deliver worthwhile micro-economic benefits for the community.

Cyber Crime

Ministers noted that the National Cybercrime Working Group has endorsed a report into the feasibility of the proposed Australian Cybercrime Online Reporting Network and agreed to the development of a business case for the facility.

Tort Law: Proportionate Liability

Ministers agreed that model proportionate liability provisions, which were released for public comment in September 2011, be revised in light of submissions received from stakeholders.

Implications of *Momcilovic* for Constitutional Inconsistency

In response to the High Court decision in *Momcilovic v The Queen*, Ministers requested the National Criminal Law Reform Committee to undertake work to review existing means for avoiding constitutional inconsistency between Commonwealth criminal laws and State and Territory criminal laws and, if necessary, develop new proposals for avoiding such inconsistency.

Facebook and Privacy

Ministers discussed the position of parents in regard to their children's use of social networking sites.

Suppression Orders

Ministers noted the progress of jurisdictions in implementing the model provisions on suppression and non-publication orders.

Consolidation of Commonwealth Anti-discrimination laws (Cth)

Ministers were briefed on the Commonwealth Anti-discrimination laws consolidation project.

People Smuggling

Ministers discussed the challenges facing States and Territories in hosting people smuggling prosecutions and did not reach agreement.

Optional Protocol to the Convention Against Torture

Ministers agreed to continue to work towards ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and, in particular, to prioritise the preparation of jurisdictional legislation to provide for visits to Australia by the United Nations Subcommittee on the Prevention of Torture.

Update on the referendum proposals on local government and Indigenous recognition

Ministers:

- (a) noted the recommendations of the report released by the Expert Panel on Constitutional Recognition of Local Government
- (b) noted the recommendations of the report released by the Expert Panel on Constitutional Recognition of Indigenous Australians
- (c) noted the funding provided by the Australian Government to Reconciliation Australia to undertake a community awareness initiative to build support for constitutional recognition of Indigenous Australians.

Contract law discussion paper

Ministers noted release by the Australian Government of a discussion paper entitled *Improving Australia's Law and Justice Framework: A discussion paper to explore the scope for reforming Australian contract law*.

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Summary of Out of Session Decisions

ARIA/AMRA Recorded Music Code of Practice Ombudsman's Annual Report

Ministers noted the Annual Report of the Australian Recording Industry Association (ARIA) and the Australian Music Retailers Association (AMRA) Recorded Music Labelling Code of Practice Ombudsman for the period 1 April 2010 to 31 March 2011.