

New South Wales Law Reform Commission

Annual Report
2003-04



Letter to the Minister

The Hon R J Debus MLA

Attorney General
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Attorney

I am pleased to submit the thirty-eighth Annual Report of the New South Wales Law Reform Commission for presentation to the Parliament of New South Wales.

The Report has been prepared in accordance with section 13(3) of the Law Reform Commission Act 1967. The Report covers the year ending 30 June 2004.

Yours sincerely



The Honourable Justice Michael Adams
Chairperson

Professor Hilary Astor
His Honour Judge Robert Bellear
Professor Janet Chan
Dr Duncan Chappell
Professor Michael Chesterman
Associate Professor Andrea Durbach
Associate Professor Jane Goodman-Delahunty
Master Joanne Harrison
The Hon Justice David Hodgson
The Hon Justice David Ipp
The Hon Justice Gregory James
Her Honour Judge Angela Karpin
The Hon Justice David Kirby
The Hon Justice Ruth McColl AM
The Hon Gordon J Samuels AC CVO QC
The Hon Justice Jeff Shaw
Professor Michael Tilbury
Dr Don Weatherburn PSM

ISSN 0816-4525 (Annual Report)

Law Reform in NSW

Why Reform the Law ?

Laws require reform because they may become obsolete or no longer reflect the attitudes and expectations of society.

New situations arise which were not previously contemplated, such as developments in medicine, science and technology.

Our Vision

To be a leader in the field of law reform in Australia.

Our Mission

Provide high quality legal policy advice based on detailed research and reflecting extensive community consultation.

Our Values

We strive to provide quality services and information.

We operate with integrity, honesty and accountability.

We communicate consistently and effectively with our clients/ stakeholders.

We are committed to equity and diversity in the work place.

We respect the contributions of the community.

Clients/Stakeholders

Our principal client is the NSW Attorney General. Our stakeholders include the Attorney General, the Government, the Parliament, the judiciary, the legal profession and the community.

Contents

2003-04 Foreword - Chairperson	1
Advice to the Attorney General.....	2
Goals & Targets	4
Overview of Targets and Achievements	5
Our Functions	6
Our Client	7
The Community	9
Our Organisation	11
Our People	12
Corporate Governance.....	13
Our Structure	14
Commissioners.....	15
Our Finances.....	17
Appendix A	18
Appendix B	19
Appendix C	22

2003-04 Foreword - Chairperson



Chairperson

The Hon. Justice
Michael Adams

During the year ending 30 June 2004, the Commission worked on a diverse range of subject areas, including apprehended violence orders, community justice centres, jurors, consent to medical treatment, people who guarantee other people's debts, succession law, and an aspect of law relating to the time within which legal actions must commence. Working on such a diverse range of subject areas is a challenge for all Commissioners and staff. The Commission has a reputation for high-quality research, widespread community consultation, and the publication of well-written and comprehensive consultation papers and reports. Maintaining this reputation is a challenge as the law reform process requires a significant time commitment, not only for the detailed research and consultation, but also for the data analysis and policy development.

The Commission completed a Report on apprehended violence orders (a review of Part 15A of the *Crimes Act*) in October 2003, although the Report was not tabled in Parliament until June 2004. At the same time, the Government published a comprehensive response to the Report, indicating that a large number of recommendations were being referred to a special committee for further consideration. A draft Report was also circulated for comment dealing with the issue of the time limits on loans payable on demand. Consultation papers were published on the review of the *Community Justice Centres Act*, the law relating to consent to medical treatment by young people, and on the question of whether people who are blind or deaf should be able to serve on juries. A large empirical project on third party guarantees also culminated with the publication of a Research Report, entitled *Darling, please sign this form*. This Research Report was conducted in conjunction with the Law School at the University of Sydney, and reflects extensive research and survey work of people and organisations affected by guarantees. The Report provides a solid basis for proceeding with the preparation of the Commission's final Report on this subject.

There was only limited implementation of Commission Reports during the year. Two Acts were passed to implement the Commission's Report on cross-examination in sexual assault cases. There was also an amendment to the *Legal Profession Act*, which partially implemented the Commission's Report 99, dealing with complaints against lawyers.

The Commission's priorities in the year ahead are to complete three major long-standing projects: the review of the *Property (Relationships) Act*, the law relating to people who guarantee other people's debts, and the laws regulating surveillance. Preparation of final Reports on these projects commenced in the early part of 2004, following completion of other projects the previous year.

The Commission received a new project to review aspects of the *Evidence Act 1995* (NSW). This project will be conducted as a joint project with the Australian Law Reform Commission, which is reviewing the *Evidence Act 1995* (Cth). The Commissions will also be collaborating with Tasmania and the Australian Capital Territory, which have also adopted the uniform evidence legislation, as well as Victoria, which is also giving consideration to adoption. The review of the *Evidence Act* is programmed for completion by December 2005.

The Commission continues to be served by a group of dedicated Commissioners, the majority of whom receive no remuneration for their contribution. The term of only one Commissioner expired during the year, His Honour Judge Christopher Armitage. Judge Armitage has been a part-time Commissioner since March 2000, and I acknowledge the contribution he has made on a number of Commission projects.

I also note that the Hon Leslie Katz SC, a former Federal Court judge and a Solicitor-General for New South Wales, continues to provide regular assistance to the Commission on an honorary basis. His expertise, particularly on statutory interpretation and constitutional law, continues to provide great benefit to the Commission.

The Commission again during this year was well-served by a small number of dedicated staff.

Justice Adams was
appointed Chairperson in
May 1996.

For details of all
Commissioners, please
see pages 15-16.

Advice to the Attorney General

Report 103: Apprehended Violence Orders

Reviews Part 15A of the *Crimes Act 1900* (NSW), which deals with apprehended violence orders, and the offences of stalking and intimidation.

The *Crimes Amendment (Apprehended Violence) Act 1999* (NSW) created two categories of apprehended violence orders:

- (1) apprehended domestic violence orders; and
- (2) apprehended personal violence orders.

The Commission's Report examined the policy objectives of Part 15A to assess their validity and determine whether the provisions of the Part are appropriate for securing those policy objectives.

The key recommendations:

- A new definition of domestic violence to give greater recognition of psychological as well as physical abuse; and a revised definition of domestic relationship to include relationships according to indigenous customs, and between a person and his or her ex-partner's new partner;
- That the AVO legislation should recognise the particularly vulnerable position of children who experience or witness acts of domestic violence, especially when applications are made to revoke or vary AVOs protecting children;
- There should be greater recourse to mediation in neighbourhood or workplace disputes (that is, those not involving allegations of domestic or other serious violence);
- Third parties should be authorised to make applications on behalf of people with intellectual disabilities, or who are under Guardianship orders; and
- The legislation should state that, in situations where violence has actually occurred, or the threat of violence is significant, or the victim has an intellectual disability and no guardian, the victim's reluctance to make a complaint should not in itself be a sufficient reason for the police not to apply for an AVO.

Tabled in Parliament June 2004.

Research Report 11: Darling, please sign this form

A report on the practice of third party guarantees in New South Wales

Sets out the results of an empirical study relating to the use of guarantees and their impact on a guarantor (who is usually in a close personal relationship with the debtor) when a debt is not paid. The Commission participated in the study with academics at the University of Sydney Law School.

The Research Report focuses on relationship debts (also sometimes referred to as "sexually transmitted debts"), which arise when a person guarantees someone else's debt and the debtor fails to repay the loan. In these cases, the lender can require the person who guaranteed the debt to repay the original loan.

The study confirmed the general understanding that a high proportion of women support the borrowing by male partners who are engaged in small business. The evidence shows that women, elderly people and those from non-English speaking backgrounds are disproportionately affected by such guarantees. Those from non-English speaking backgrounds were particularly unlikely to seek legal advice before they signed.

Some of the more surprising findings included:

- the high proportion of older people who support the borrowing of their adult children;
- the relatively small proportion of people who received legal advice before entering a guarantee and the high level of poor practice on the part of solicitors in these cases; and
- a high level of reported poor practice on the part of lenders.

Published October 2003.

Discussion Paper 46: Blind or Deaf Jurors

Considers whether the exclusion from jury service of people who are blind or deaf should remain.

The Discussion Paper suggests that it is a fundamental principle that no group of Australian citizens should be excluded from the duties or rights attaching to citizenship without compelling

and acceptable reasons. Thus, exclusion of any citizen from jury service should occur only in circumstances where that person is incapable of fulfilling the task. At the same time, jurors need to have the capacity of communication for the purpose of evaluating evidence presented in court, which is often a difficult task. Whether or not blind or deaf persons would have greater difficulty in doing this than other jurors, and whether the quality of justice might be adversely affected if a blind or deaf person served on a jury are key issues the Commission is considering. Other issues raised in the Discussion Paper include:

- are technologies now available to enable blind or deaf people to discharge the duties of a juror?
- the cost implications of making these technologies available in court
- the implications of the use of peremptory challenges
- the availability of Auslan interpreters for deaf jurors (both in court and in the jury room).

Published March 2004.

Issues Paper 23: Community Justice Centres

Examines the future form of community mediation to resolve neighbourhood and other disputes.

Community mediation is conducted in New South Wales by Community Justice Centres (CJCs), a government agency first established in 1980. CJCs were established to provide a means of dealing with the sort of disputes for which conventional court-based procedures are unsuited – domestic or neighbourhood disputes where the disputing parties had, or once had, an ongoing relationship, including disputes between family members, partners, friends, workmates, members of social groups and other community organisations, neighbours, landlords and tenants, flatmates and so on.

The review looks at all aspects of the operation of the Community Justice Centres Act. Some specific issues being considered are:

- the mediation “model” adopted by CJCs;
- the provision of mediation services to Aboriginal communities;
- the consequences of requiring parties to attempt mediation at a CJC before going to court;
- the role of CJCs in Apprehended Violence Order proceedings; and
- mediator accreditation, training and remuneration.

Published October 2003.

Issues Paper 24: Minors’ Consent to Medical Treatment

Considers whether the current law, which is a patchwork of common law and statute, provides a clear yardstick for those concerned with the provision of medical services to minors (a person below the age of 18).

In New South Wales, people below the age of 18 cannot consent to medical treatment unless they are legally competent, that is, they have sufficient understanding and intelligence to allow them to understand fully the treatment that is proposed. If a young person is not legally competent, consent must usually be obtained from his or her parents. A medical practitioner who treats a young person without first obtaining a valid consent is potentially liable in tort. There are certain situations where a medical practitioner can treat a young person without a valid consent, such as in emergency situations.

There are certain types of medical treatment to which parents, and competent young people, do not have the power to consent, such as, for example, sterilisation, or long-lasting injectable hormone treatment. A medical practitioner cannot perform these types of medical procedures unless authorisation has been granted by the NSW Guardianship Tribunal, the NSW Supreme Court, or the Family Court.

The Issues Paper also considers:

- whether the current law strikes an appropriate balance between the rights and interests of young people, on the one hand, and their parents or guardians, on the other;
- identifying the factors that are relevant to reform of the law that more appropriately balances the rights and interests of those involved in the decision-making process;
- the role that parents and the courts should play in authorising more serious forms of medical treatment;
- whether the grounds of liability are sufficiently clear for medical practitioners who treat young people without first obtaining a legally valid consent, and whether medical practitioners are adequately protected;
- whether there is a need to reform the law relating to medical practitioners’ duty of confidentiality to young patients, and the disclosure of young patients’ medical records;
- whether codification of the law in this area is desirable.

Published June 2004.

Goals & Targets

Our 2004-05 Goals and Strategies

OUR CLIENT

Provide high quality advice with clear policy directions

Complete the following projects:

- Apprehended Violence Orders
- Sentencing: Young Offenders
- Third Party Guarantees
- Surveillance
- Review of the Property (Relationships) Act
- Blind or Deaf Jurors

THE COMMUNITY

Increase community input by raising awareness of LRC projects

- Increase media coverage of LRC publications.

OUR ORGANISATION

Improve management and forward planning processes

- Review current project management processes.

OUR PEOPLE

Develop and improve staff skills

- Review electronic performance management system.
- Conduct seminars on
 - Legal research skills
 - Wording in plain english

Performance and the Year Ahead

Measuring Performance

The most accurate measurement of the Commission's performance is the amount of work that was completed on each project within the year.

Targets

The Commission sets targets for each stage of its projects. However the nature of research work, community consultation and other external factors often mean priorities given to projects need to be regularly reviewed.

What affects our performance?

In any given year, the following external factors may affect the Commission's performance:

- allocation of new references;
- expiry of terms of Commissioners and appointment of new Commissioners;
- the work commitments of part-time Commissioners (for example major trials, judicial circuits, sabbaticals);
- the availability of community groups for consultation;
- financial resources;
- political sensitivity of some projects; and
- the balance of power in the Parliament.

Implementation

The implementation of Commission reports, once tabled in Parliament, is a matter for the government. The Commission does not regard implementation of its reports as an appropriate measure of Commission performance, although it takes a special interest in tracking implementation and is requested from time to time to assist in the implementation process.

See page 22 for further details.

See page 5 for an overview of all our achievements in 2003-2004.

Overview of Targets and Achievements

TARGET	ACHIEVEMENT	NOTES
--------	-------------	-------

Our client: NSW Attorney General

TARGETS SET 2003 — Complete reports on:

Apprehended Violence Orders	completed	See page 2 for details
Sentencing: Young Offenders	95% completed	See page 7 & 20 for details
Third Party Guarantees	80% completed	See page 2, 8 & 20 for details
Surveillance	75% completed	See page 7 & 20 for details
Review of the Property (Relationships) Act	75% completed	See page 7 & 19 for details
Sentencing: Legislative Sentencing	Not completed	See page 7 & 20 for details

TARGETS SET 2003 — Publish consultation papers on:

Blind or Deaf Jurors	Completed	See page 2 & 19 for details
Minor's consent to medical treatment	Completed	See page 3 & 19 for details
Community Justice Centres	Completed	See page 3 & 8 for details

UNSCHEDULED TARGETS SET 2004 — Begin the following projects:

Time Limit on Loans Payable on Demand	Completed	See page 21 for details
---------------------------------------	-----------	-------------------------

The community

Increase media coverage of LRC publications	Completed	See page 9 for details
---	-----------	------------------------

Our organisation

Review current project management process	Completed	See page 11 & 13 for details
Update Website	Completed	See page 9 for details

Our people

Review workers' compensation and sick leave history	Completed	See page 13 for details
Implement electronic performance management system	Completed	See page 13 for details

Our Functions

The Commission operates under the umbrella of the NSW Attorney General's Department. The Attorney has ministerial responsibility for the NSW Law Reform Commission.

The NSW Attorney General's Department is made up of 39 agencies, some operating independently of each other.

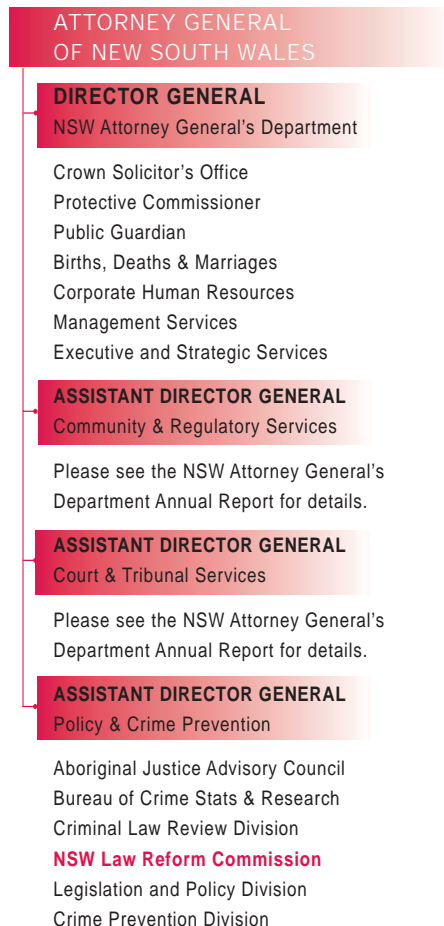
As the roles of these agencies are diverse, they have been grouped into programs to focus operations and planning:

- Community and Regulatory Services
- Court and Tribunal Services
- Policy and Crime Prevention

For details of Department Programs and other agencies, see the NSW Attorney General's Department Annual Report.

The Department

NSW Attorney General's Department



See "Our Structure" at page 14 for details about the corporate structure of the Commission.

Legislative Functions

The Commission was established in 1966 and given an independent statutory basis in 1967. It was the first permanent body in Australia with the task of reforming the general law. The Commission's functions are set out in section 10(1) of the *Law Reform Commission Act 1967* (NSW).

Our responsibilities

We are required to consider the laws of New South Wales with a view to:

- repealing obsolete or defective laws;
- consolidating, revising or modernizing the law;
- adopting new or more effective methods for the administration of the law.

The Commission does not:

- have a general responsibility to oversee all the laws of NSW;
- review the laws of other governments;
- offer legal advice or intervene in legal matters.

Who decides what the Commission researches?

It is an important feature of the Commission's activities that its work is generated by referral from the Attorney General.

The Commission has limited powers to initiate its own inquiries.

Under the Community Law Reform Program, the Commission assesses proposals for reform from members of the public and must decide whether the subject matter is appropriate to request a referral from the Attorney General.

See page 11 for further details on the Community Law Reform Program.

Our Client: The Attorney General

STRATEGY

Provide high quality publications with clear policy directions.

Completed Projects

During the year under review 2 projects were completed:

- Apprehended Violence Orders
- Darling, please sign this form (RR 11)

Ongoing Projects

Other areas of the law that the Commission is currently reviewing are listed below. See Appendix B on pages - for additional information on each project

Sentencing Laws

The Commission is reviewing the law of sentencing. This is a long term project and has been divided into phases: see pages 20-21 for details.

Young Offenders

Offenders who are aged between 10 and 17 years at the time they commit an offence, and who are under 21 when charged, are sentenced under a separate system to adults.

While earlier legislation dealing with people aged under 18 years refers to them as “children” or “juveniles”, the relevant New South Wales legislation uses the term “young offender”.

In the second phase of its reference on sentencing, the Commission is reviewing the particular issues that arise in sentencing young offenders. Following on the publication in July 2001 of Issues Paper 19, the Commission is now completing its final report recommending changes to the law relating to sentencing young offenders.

Report due December 2004

Legislative Sentencing

The Commission has employed the term “legislative sentencing” as a general description of legislative schemes of sentencing that constrain the exercise of judicial discretion. Some schemes impose mandatory minimum terms, others specify a range within which sentences should be imposed but allowing

departure either upwards or downwards as circumstances vary.

Although Discussion Paper 33 and Report 79, looked at some of these schemes, the Commission decided to revisit the question of legislative sentencing in light of the enactment of relevant legislation in the Northern Territory (since repealed) and Western Australia as well as increasing public debate about levels of sentencing.

The subsequent enactment of the *Crimes (Sentencing Procedure) Amendment (Standard Minimum Sentencing) Act 2002* (NSW), which provides a form of legislative sentencing, has reinforced the Commission’s view about the importance and timeliness of this review.

Work to recommence as resources become available.

Property Relationships

Review of the Property (Relationships) Act 1984

After allowing for an extended consultation period on Discussion Paper 44, progress on the drafting of the report has been further affected by the recent referral of State powers over de facto property matters to the Commonwealth. The Commonwealth intends to introduce amendments to the *Family Law Act 1975* (Cth) to cover de facto partners in 2004. Most States and Territories have agreed to transfer their powers to the Commonwealth so that de facto partners Australia-wide will have access to the broader property provisions available under the *Family Law Act*, including the new superannuation splitting arrangements.

However, the Commonwealth has made it clear that it will only extend the provisions of the *Family Law Act* to cover heterosexual de facto relationships. This means that couples in same sex relationships and those in close personal relationships will continue to be covered under State legislation. The Commission’s report will now focus specifically on these groups.

Report due December 2004

Surveillance

The Commission was asked to undertake further consultation with media organisations regarding the impact of recommendations from Interim Report 99 on surveillance activities conducted by the media.

In July 2002, the Commission held a round-table meeting with representatives from electronic media organisations to discuss issues raised in the Interim Report.

The Final Report will cover aspects of surveillance conducted by the media and other issues that have developed or emerged since the release of the Interim Report, such as electronic surveillance in the workplace and cyber privacy in the wake of September 11.

Final Report due December 2004

Third Party Guarantees

Guaranteeing someone else's debts

Since 2000 the Commission has participated in an empirical study being conducted by researchers from the University of Sydney Law School.

The research involves a systematic study of the operation of the law and has involved surveys of guarantors, lawyers, judges and lenders as well as a survey of relevant case law. The results of this study were published as a Research Report in October 2003.

The Commission will use the findings in this study to prepare its final report and recommendations on third party guarantees in the second half of 2004.

Report due December 2004

CJCs

Review of the Community Justice Centres Act 1983

This review looks at all aspects of the operation of the *Community Justice Centres Act 1983* (NSW), including:

- the role of Community Justice Centres as a statewide conflict management and mediation service;
- the provision of mediation services to Aboriginal communities; and
- mediator accreditation, training and remuneration.

An Issues Paper was published in October 2003 (IP 23).

Report due November 2004

TIME LIMITS ON LOANS PAYABLE ON DEMAND

Terms of reference for this project were received under the Community Law Reform Program on 11 February 2004. A draft report with preliminary recommendations was circulated to interested parties in June 2004 with a deadline for submissions of 23 July 2004.

Report due October 2004

UNIFORM SUCCESSION LAWS

The Commission has been asked to review the existing law and procedure relating to succession and, in doing so, to participate in a national uniform succession law project that is being co-ordinated by the Queensland Law Reform Commission. This is a long term project and has been divided into five phases: see page xx for details.

The timetable for completion of publications is determined by the National Committee. It is therefore not feasible for the Commission to commit to any targets in relation to this project.

Family Provision

The National Committee has completed work on a supplementary report and draft bill on Family Provision which will be presented to the Standing Committee of Attorneys General (SCAG) in July 2004. This will complete the Committee's work on Family Provision. The Commission is considering producing a short commentary on the draft bill which will also incorporate material from the report and drafting instructions that were presented to the SCAG in December 1997.

Intestate Succession

The Commission has agreed to produce an issues paper and report on intestate succession as part of the work of the National Committee. Work will commence on the issues paper in the second half of 2004.

Issues Paper due December 2004

STRATEGY

Increase community input by raising awareness of LRC projects.

Consulting with the Community

On all its projects the Commission seeks to involve the community in developing law reform proposals.

The extent of this involvement depends largely on the area of law under review. Some projects are of a highly technical nature and may be of particular concern to specialised interest groups and the legal profession, while others are of wide-spread community interest.

The Commission primarily involves the community in its projects by seeking submissions on Issues Papers and Discussion Papers. Copies are sent to key members of the legal profession, public and university libraries, the judiciary, and government departments both interstate and overseas for their review and any comments/ submissions. The Commission distributes them free of charge, to persons wishing to read and comment on law reform proposals.

The Commission's website, which is part of the Attorney General's Department's Lawlink website, continues to make a large volume of the Commission's publications available to the general public. The site now contains 82% of the Commission's publications dating back to 1966, with all publications since 1988 now available on-line. The site also contains media releases, conference and seminar papers and other information about the Commission and its activities.

In the period July 2003 - June 2004 the Commission's website recorded 1,154,340 hits, an average of 96,195 hits per month.

In the first half of 2004 the content and structure of the website were extensively reviewed as part of the rollout of the new Lawlink databases. The work on revising the website has been substantially completed and the changeover to the new version is expected in the second half of 2004.

The community was invited to a public seminar on young people, consent and medical treatment as part of Law Week 2004.

The Commission hosted a lunchtime seminar on the legal issue of consent of young people to medical treatment. The panel included legal officers, a Law Reform Commissioner and medical expert.

The public seminar was held in the Jubilee Room of Parliament House, Macquarie Street, Sydney.

Some of the legal issues involved in the Commission's enquiry into the consent of young people to medical treatment included:

- Whether the rights and interests of young people and of parents and guardians are appropriately recognised.
- Whether medical practitioners are adequately protected.
- Whether codification and/or amendment of the law is necessary.

Consulting with other Stakeholders

Reference Groups

Reference Groups are established for projects that require external experts to offer specialist advice and guidance. Recent reference groups have been established for

- Minor's consent to medical treatment (See list in IP 24)

External Committees

Commissioners and staff are called on from time to time to be members of external committees that provide input into policy formulation:

- NSW Aboriginal Justice Plan Reference Group, Commission representative: Catherine Gray
- National Committee for Uniform Succession Laws, Commission representatives: Professor Michael Tilbury, Peter Hennessy and Joseph Waugh
- Post Adoption Resource Centre Advisory Committee, Commission representative: Peter Hennessy

Visitors

The Commission had a large number of overseas visitors during the year. In March, the Commission hosted a half-day seminar for a large group of Indonesian judges. Later the same month, the Commission hosted a Chinese delegation of primarily government lawyers from different parts of that country.

Other eminent visitors included the President of the Sri Lankan Court of Appeal in April 2004 and Professor Judith Resnik from Yale University in June 2004. The Commission also continues to provide assistance to overseas law reform commissions, particularly those in less-developed countries, who often have limited access to law reform materials.

Law Conference

Professor Michael Tilbury, full-time Commissioner, and Mr Peter Hennessy, Executive Director, attended the meeting of Australasian Law Reform Agencies in Wellington, New Zealand, in April 2004.

This gathering of law reformers is held every two years, and provides an excellent forum to share expertise and knowledge of law reform developments from around many Commonwealth countries.

Community Law Reform Program

The Commission only investigates and reports on projects referred to it by the Attorney General. However, under the Community Law Reform Program, members of the community are invited to suggest areas where they believe law reform is needed.

The Commission regularly receives suggestions for law reform from judges, legal practitioners and members of the community. Some matters coming to the Commission's attention through the media have been considered as part of the Community Law Reform Program.

For further details of the Community Law Reform Program please contact the Commission.

STRATEGY

Improve management and forward planning processes.

Environmental Scanning

The Commission undertakes major reviews of its operations every two years, which requires environmental scanning, and trend analysis. Annual reviews are also undertaken as part of the preparation of the Annual Business Plan. A meeting of the full Commission for this purpose is scheduled for 1 July 2004.

Commission representatives attend the Australasian Law Reform Agencies Conference (ALRAC) every two years. Law reform agencies from Australia and New Zealand and several other Commonwealth countries meet to discuss issues of common concern. These meetings provide opportunities for informal benchmarking.

CCQG Review

Council on the Cost and Quality of Government

In May 2003, the Council on the Cost and Quality of Government commenced a review of many business centres within the Attorney General's Department, including the Policy and Crime Prevention program, in which the Commission participates.

The Commission responded promptly to the review, collecting together several volumes of information on its operation and management for the Council's perusal, and responding to interviews and questionnaires by the Council.

The review was completed in the first quarter of 2004.

Workplace Improvements

Library Services Review

Relationship building

The Commission's librarian, Anna Williams, takes an active role in establishing and maintaining relationships with librarians in law commissions and other legal institutions in Australia and overseas.

In June 2003, Ms Williams, the Commission's librarian attended the British and Irish Association of Law Librarians' Conference in Cardiff, Wales and visited the libraries of the Law Commission of England and Wales in London and the Scottish Law Commission in Edinburgh. These contacts have already led to valuable exchanges of information.

An Access database has been established to monitor the flow of interlibrary loans and recorded 350 transactions in the first three and a half months of operation.

A review of all the libraries within the Attorney General's portfolio, including the Law Reform Commission library, commenced in May 2003. The review was completed in December 2003.

In May 2004 a major reorganisation of the Attorney Generals Department was announced. This reorganisation included major changes to the Attorney General's Department Library Services, including the closure of the Departments primary library in the Goodsell Building and the partial relocation to the Downing Centre Court complex.

The Law Reform Commission Library became the major library provider in the Goodsell Building and now provides services to all the policy development parts of the Department as well as the Executive Branch, the Solicitor General and the Crown Advocate.

Business Continuity Plan

In February 2003 the Commission finalised a Business Continuity Plan. The Plan outlines the procedures to be followed by Commission staff in the event of a major disruption to the workplace. The Plan covers three scenarios:

- An impending disaster is known and there is time to evacuate.
- The destruction or major disruption of the work premises - no computers, telephones, power or water.
- The premises are sound but there are systems failures to computers, telephones, power or water

The plan will be revised in mid 2004.

Our People

STRATEGY

Develop and improve staff skills.

Conferences, Seminars and Training

Legal officers are required continually to enhance their research and writing skills through internal and external training and by peer review.

During the year, staff participated in the following conferences/seminars/training:

- Catherine Gray attended the Strengthening our Leadership Program run by the Attorney Generals Department (April-June 2004).
- Peter Hennessy attended a Professional Standards Council Seminar on "Soft Skills".
- Peter Hennessy attended the State Conference of the Institute of Public Administration, Australia, in Sydney (May 2004).
- Peter Hennessy and Professor Michael Tilbury attended a Constitutional Law Conference, organised by the Centre for Public Law, UNSW (20 February 2004).
- Joseph Waugh attended an Alternative Dispute Resolution Research Round Table in Melbourne (21 February 2003).
- Peter Hennessy and Professor Michael Tilbury attended the Australian Law Reform Agency Conference in Wellington, NZ (April 2004).
- Wendy Stokoe attended a course on Performance Planning and Development (September 2003).
- All legal staff participated in a series of training courses conducted by LBC Thomson and Butterworths on e-line research.

Cadetship

Aboriginal and Torres Strait Islander Cadetship Program for the NSW Public Sector

In July 2002, the Commission offered a cadetship to Joshua Smith under the *Aboriginal and Torres Strait Islander Cadetship Program for the NSW Public Sector*, a joint initiative between the Office of the Director of Equal Opportunity in Public Employment (NSW), Department of Employment, Workplace Relations and Small Business (Cth), Department of Education, Training and Youth Affairs (Cth) and the NSW Premier's Department.

The program provides opportunities for NSW Public Sector agencies to support Aboriginal and Torres Strait Islander people in combining tertiary study with employment in an agency.

From December 2002 to February 2003, during the summer break from his law degree studies at University of Technology, Mr Smith worked full-time as a paralegal at the Commission.

At the successful completion of his cadetship, Mr Smith will be offered full-time employment with the Commission.

Temporary Staff

- Brendan Atkinson was employed as a paralegal during the reporting period.
- Philippa O'Dowd, a senior legal officer at the former Compensation Court, was seconded to the Commission in January 2004. She continued the secondment throughout the financial year.
- Alex Apler, a psychiatrist, completed a placement as part of his professional training for admission as a legal practitioner.

The following students completed tertiary placement at the Commission during the reporting period:

- Tori Edwards (University of Sydney).
- Karen Vidler.
- Rhys Bortignon (University of Wollongong).

The Law Reform Commission participates in the policy development process of the Attorney General's Department. The Commission adopts these policies for its own internal operations, as well as developing specific policies relating to the Commission.

Corporate Policies

Departmental policies

The Commission regularly contributes to and participates in the process of developing Attorney General's Department policies. The Departmental policies also cover the Commission. Examples include:

- Disability Strategic Plan
- Commitment to the Community
- Code of Conduct and Ethics
- Electronic Service Delivery Plan 2003-2004
- People Management and Development Strategy 2003-2005
- Corporate Records and Information Management 2003-2004
- Waste reduction review
- Energy Management Plan: Master Control Report

Publication Style Guide

The Commission publishes a Style Guide in an endeavour to ensure that its publications maintain a high level of consistency and quality.

Office Procedures Manual

The Commission publishes its own office procedures manual to ensure that all of its internal policies and practices comply with all legislative requirements and reflect best practice.

Management Training

The Commission seeks to maintain its level of corporate governance by ensuring that its Executive Director and staff update their leadership and management skills (See Conference/seminars/training). The Executive Director attends the annual leadership conferences organised by the Attorney General's Department and the quarterly meetings of the Attorney General's Department senior managers within the Policy and Crime Prevention Program. The Executive Director also regularly attends presentations by the Institute of Public Administration.

Ms Catherine Gray attended a leadership, development program entitled 'Strengthening our Leadership' conducted within the Attorney General's Department.

Internal Audits

As part of the internal audit services provided to the Attorney General's Department, Deloitte Touche Tohmatsu Enterprise Risk Services performed audits relating to Commission practices.

Risk management

The Attorney General's Department internal audit plan is reviewed and updated each year. It has both a financial and operational emphasis and is prepared and monitored by the Department's internal auditors.

Key areas of activity covered under the plan include information technology systems, contract management and tendering, product sales and levy of fees, corporate and business planning, and performance-management systems.

The Department continues to implement Control Self-Assessment to enable improved management of risks within the Department and to increase staff awareness.

Other reviews

Other Departmental reviews relevant to the Commission included:

- Council on the Cost and Quality of Government (May 2003)
- Deloitte's Fraud Risk Assessment (2003)
- Service & Resource Allocation Agreement 2003-2004: Review of key performance indicators
- Review of Library Services Project Plan Summary (May 2003)
- Attorney General's Department OHS Action Plan (May 2003 to January 2004) (draft document in progress)

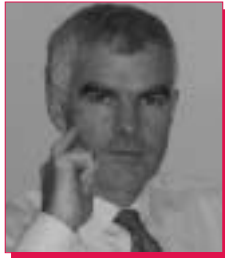
Freedom of information

The Commission did not receive any requests for information under the *Freedom of Information Act 1989* (NSW).

Our Structure

On 30 June 2004, the Commission comprised 19 part-time Commissioners, a full-time Commissioner, an Executive Director, and 15 full-time and part-time members of staff.

In addition, temporary paralegal staff are employed as the need arises.



Executive Director

Mr Peter Hennessy

Mr Hennessy has over 20 years experience in law reform having previously worked as a principal legal officer at the Australian Law Reform Commission. He is currently on a five year Senior Executive Service contract commencing October 2003.

Peter is responsible for the day to day management of the Commission and is involved in all the Commission's projects.

He also represents the Commission in the Attorney General's Department's strategic planning process.

Commissioners

Commissioners are statutory office holders appointed by the government on the recommendation of the NSW Attorney General.

Commissioners are responsible for determining the scope and direction of the Commission's projects.

See pages 15-16 for details of current Commissioners.

Chairperson

The Chairperson appoints Divisions of the Commission to work on particular projects based on each Commissioner's expertise and experience.

See pages 19-20 for details of current projects and divisions.

Full-time Commissioner

The full-time Commissioner attends meetings and provides advice to the Commission. In addition, the full-time Commissioner gives advice and guidance to Legal Officers.

Part-time Commissioners

Part-time Commissioners attend meetings and provide advice and expertise to the Commission.

Fees

Part-time Commissioners are paid \$5000 a year plus \$400 per sitting day. Fees are not paid to Commissioners who are judicial officers or otherwise employed by the government.

Legal Staff

Legal Officers (Grades I-III)

Francesca Di Benedetto (p/t)
 Catherine Gray (p/t)
 Donna Hayward (p/t)
 Robyn Johansson (p/t)
 Rebecca Kang (p/t)
 Ani Luzung
 Judy Maynard (p/t)
 Sharminie Niles
 Joseph Waugh
 Alex Apler (p/t legal consultant)
 Brendan Atkinson (paralegal)
 Joshua Smith (Aboriginal cadet)

Administrative Staff

Administrative Officer

Suzanna Mishhawi

Clerical Trainee

Sally-Anne Smith

Computer Systems Manager

Terence Stewart

Executive Assistant

Wendy Stokoe

Librarian

Anna Williams

— Direct line of responsibility
 Indirect line of responsibility
 m/l Maternity Leave
 p/t Part-time

The Commissioners

Chairperson

The Hon Justice Michael Adams *appointed May 1996*

Judge of the NSW Supreme Court (1998-current).

Part-time Commissioner of the NSW Law Reform Commission (1995-1996).

Deputy Chairperson

The Hon Justice Jeff Shaw *appointed March 2001*

Judge of the NSW Supreme Court (2003-current).

Barrister (2000-2003).

NSW Attorney General and Minister for Industrial Relations (1995-2000).

Full-Time Commissioner

Professor Michael Tilbury *appointed July 2002*

Inaugural Director of the Centre for Commercial Law in the University of Zimbabwe (2000-2002).

Part-time Commissioner of the NSW Law Reform Commission (1996-2000).

Professor of Law at the University of Melbourne (1996-2000).

Full-time Commissioner of the NSW Law Reform Commission (1994-1996).

Part-Time Commissioners

Professor Hilary Astor *appointed October 1999*

Abbott Tout Professor of Litigation and Dispute Resolution and Pro-Dean of the Faculty of Law at the University of Sydney (1997-current).

Inaugural Chairperson of the National Alternative Dispute Resolution Advisory Council (1995-1997).

His Honour Judge Robert Bellear *appointed November 1996*

Judge of the NSW District Court (1996-current).

Professor Janet Chan *appointed March 2001*

Head of the School of Social Science and Policy at the University of New South Wales (1999-current).

Dr Duncan Chappell *appointed May 2002*

President of the Mental Health Review Tribunal (2001-current).

Deputy President of the Administrative Appeals Tribunal (Cth) (1990-2000).

Professor Michael Chesterman *appointed January 1999*

Professor Emeritus, School of Law (and former Dean) at the University of New South Wales.

Part-time Commissioner of the NSW Law Reform Commission (1993-1996).

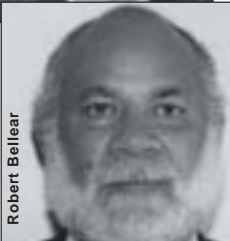
Full-time Commissioner of the Australian Law Reform Commission (1983-1986) leading its review of the law of contempt.

Ms Andrea Durbach *appointed October 1999*

Director of the Public Interest Advocacy Centre and Co-ordinator of the Public Interest Law Clearing House (1991-current).

Member of the Human Rights Council of Australia.

Part-time member of the Administrative Decisions Tribunal.

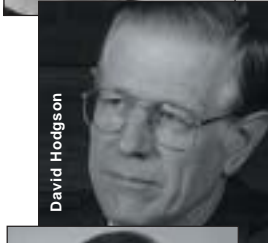




Andrea Durbach

**Associate Professor
Jane Goodman-Delahunty**
appointed May 2002

Director of the Forensic Psychology Postgraduate Program at the University of New South Wales and Editor of the *Psychology, Public Policy and Law Journal* (2001-current).



David Hodgson

Master Joanne Harrison
appointed January 1999

Master of the NSW Supreme Court (1997-current).



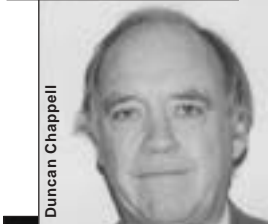
Michael Tilbury

The Hon Justice David Hodgson
appointed January 1994

Judge of the NSW Court of Appeal (2001-current).

Chief Judge in Equity in the NSW Supreme Court (1997-2001).

Judge of the NSW Supreme Court (1983-1997).



Duncan Chappell

The Hon Justice David Ipp
appointed May 2002

Judge of the NSW Court of Appeal (2002-current).

Acting Judge of the NSW Supreme Court (2000-2002).

Judge of the WA Supreme Court (1989-2000).



Angela Karpin

The Hon Justice Greg James
appointed January 1999

Judge of the NSW Supreme Court (1998-current).

Part-time Commissioner of the NSW Law Reform Commission (1985-1989).



Jane Goodman-Delahunty



Gordon Samuels



Jeff Shaw

Her Honour Judge Angela Karpin
appointed May 1995

Judge of the NSW District Court (1991-current).

Deputy Chief Magistrate of the NSW Local Courts (1989-1991).

Member of the Review Committee which led to the *Mental Health Act 1990*.

The Hon Justice David Kirby
appointed May 2002

Judge of the NSW Supreme Court (1998-current).

The Hon Justice Ruth McColl
appointed October 1998

Judge of the NSW Court of Appeal (2003-current).

President of the NSW Bar Association (1999-2001).

President of the NSW Women Lawyer's Association (1996-1997).

**The Hon Gordon Samuels
AC CVO QC**
appointed August 2001

Governor of New South Wales (1996-2001).

Chairperson of the NSW Law Reform Commission (1993-1996).

Judge of the NSW Court of Appeal (1974-1992).

Chancellor of the University of New South Wales (1976-1994).

Dr Don Weatherburn
appointed May 2002

Director of the NSW Bureau of Crime Statistics and Research (1988-current).

Our Finances

The Commission's financial information is incorporated in the consolidated financial statements of the NSW Attorney General's Department which have been certified by the Auditor General.

The audit certificate for these records appears in the NSW Attorney General's Department Annual Report.

The following financial statement gives an indication of the Commission's income and expenditure for the 2003/2004 financial year, with comparisons for the two previous years.

	2002*	2003*	2004 Actual	2004 Budget
REVENUE				
other revenue	55	1,040	4,409	4,541
sale of publications	4,791	3,689	5,448	5,952
TOTAL REVENUE	4,846	4,729	9,857	10,493
EXPENSES: Employee Related				
salaries and wages	880,884	1,110,929	1,082,692	1,060,563
allowances	637	846	710	0
overtime	0	0	0	1,285
leave entitlements	8,963	18,936	8,844	13,505
workers compensation insurance	4,501	5,483	6,052	5,536
payroll tax	60,250	83,543	73,030	67,353
fringe benefits tax	997	588	473	1,819
Crown liabilities	113,914	152,828	157,162	133,249
TOTAL	1,070,146	1,373,153	1,328,965	1,283,310
EXPENSES: Maintenance & Working				
Depreciation	40,799	33,871	33,963	36,459
advertising and publicity	8,028	472	1,225	2,141
bank charges	52	70	140	0
consultancies	1,800	0	0	8,647
electricity and gas	15,945	15,748	20,190	14,799
fees	69,431	48,177	45,836	59,435
freight and cartage	0	0	0	537
general expenses	735	235	325	3,192
grants	10,000	0	0	0
insurance	1,805	1,867	2,492	2,492
interpreters and translations	0	221	150	0
maintenance contracts	347	477	503	4,889
motor vehicle	760	0	1,988	0
postal expenses	12,143	9,629	11,351	26,434
printing	32,025	10,064	39,520	51,561
publications	42,577	46,563	44,864	41,982
rates and charges	8,335	8,075	7,880	8,491
removal costs	1,706	5,926	0	0
rent	252,799	249,579	247,278	255,638
staff expenses	10,950	5,803	9,886	20,374
stores and stationery	8,816	11,398	14,216	8,439
telephone	18,122	16,053	12,459	18,356
travel	28,916	12,494	14,795	12,538
other expenses	10,705	11,618	11,603	11,603
TOTAL	576,796	488,340	520,664	588,007
TOTAL EXPENSES	\$1,646,942	1,861,493	1,849,627	1,871,317
LESS Revenue	4,846	4,729	9,893	10,493
LESS Crown Liabilities	113,914	152,828	157,162	133,249
NET COST OF SERVICES	1,528,182	1,703,936	1,682,572	1,727,575
LESS Depreciation	40,799	33,871	33,963	36,459
NET POSITION	1,487,383	1,670,065	1,648,609	1,691,116

* amended

Appendix A - Project Stages

Projects are unique and require individual methodologies.

However, generally projects follow the course outlined.

Phase 1

Initiation of project

Division and research team formed

The Attorney General writes to the Commission asking it to inquire into and report on the need for reform of the law on a particular topic.

The Chairperson appoints Commissioners to be responsible for the project and the Executive Director allocates staff to work on it. Sometimes the Commission will engage consultants to assist with the reference.

Preliminary research and issues identified

Work at this stage includes: planning the initial research and publication program; and identifying defects in the law, any existing proposals for reform and finding the relevant law in other States and overseas.

Invite preliminary submissions

Work at this stage includes: consulting people and organisations with a special interest in the area; and publicising the inquiry.

Phase 2

Preliminary Papers

The major method by which the Commission seeks to involve the public in the process of law reform is by publishing papers which discuss the issues and options for reform and seek comments on proposals for change.

The number and content of such publications depends on the needs of each reference. Publications are distributed widely to lawyers, academics, organizations, individuals and the media.

Issues paper published

Issues papers take a preliminary look at issues and principles which could guide proposals for reform.

Discussion paper published

Discussion papers are more detailed than issues papers. They explain the legal problems, discuss options for reform and make tentative proposals for reform.

Research reports

Research reports publish the results of research conducted by the Commission. Research reports are useful for understanding a problem or evaluating solutions.

Phase 3

Research and consultations

Further research and consultation

The Commission undertakes further research and consultation.

Submissions received

Members of the community are consulted for their views as well as judges, lawyers and experts in the topic under review. Anyone is welcome to make a submission.

Submissions can contain comments on matters raised in a consultation paper, or can discuss anything relevant to the topic under review.

Submissions are usually written but they can be oral for example, a telephone call.

Public hearings, focus groups, seminars

Other consultation methods include:

- public meetings
- surveys
- talk-back radio interviews

Naturally there are many differing, often conflicting, views advanced by the community. The Commission's task is to consider carefully all the information presented to it before publishing its report.

Phase 4

Report to Parliament

Analyse all feedback and prepare final report

Commissioners working on the reference consider submissions received from the public and research carried out by staff and consultants. They determine what the recommendations for reform will be. If they do not all agree the report will include dissenting recommendations and reasons.

The Commission's report to the Attorney General contains all the recommendations for reform and explains the reasons for them.

If appropriate, a report will contain draft legislation which can be adopted by the Government if the recommendations are accepted.

Report published

The NSW Attorney General tables the report in Parliament. However, there is no guarantee that the Government will accept the Commission's advice and implement its recommendations.

See page 22 for details of the implementation of reports.

Appendix B - Current Projects

CJCs

Review of the Community Justice Centres Act 1983

Received: 2 October 2002

The Commission is to review the role of Community Justice Centres as a statewide conflict management and mediation service, whether the current structure meets the needs of the indigenous community and the role and entitlements of mediators.

Commissioners

Hon Justice Michael Adams
Hon Justice David Kirby
Ms Andrea Durbach
Professor Hilary Astor
Master Joanne Harrison
Professor Michael Tilbury*

Legal research

Joseph Waugh

Publications

Issues Paper 23 (October 2003)

Medical Treatment

Consent to medical treatment by minors

Received: 14 August 2002

To inquire into the laws relating to the consent of minors to medical treatment, with particular reference to whether: the rights and interests of minors and of parents and guardians are appropriately recognised; medical practitioners are adequately protected; and codification and/or amendment of the law is necessary.

Commissioners

Hon Justice Michael Adams
Assoc Prof Jane Goodman-Delahunty
Master Joanne Harrison
Hon Justice David Hodgson
Hon Gordon Samuels AC CVO QC
Professor Michael Tilbury*

Legal research

Alex Apler
Rebecca Kang
Leslie Katz SC
Ani Luzung

Publications

Issues Paper 24 (June 2004)

Jurors

Received: 19 March 2002

To inquire into and to report on whether persons who are profoundly deaf or have a significant hearing or sight impairment should be able to serve as jurors.

Commissioners

Hon Justice Michael Adams
Assoc Prof Jane Goodman-Delahunty
Hon Justice David Ipp
Hon Justice Greg James
Hon Justice David Kirby
Hon Justice Ruth McColl AM
Hon Gordon Samuels AC CVO QC*
Hon Justice Jeff Shaw
Professor Michael Tilbury

Legal research

Judy Maynard

Publications

Issues Paper 24 (February 2004)

Property Relationships

Review of the Property (Relationships) Act 1984

Received: 6 September 1999

The Commission is to inquire into and report on the operation of the *Property (Relationships) Act 1984*.

Commissioners

Hon Justice Michael Adams
Professor Hilary Astor
Professor Michael Chesterman
Master Joanne Harrison
Hon Gordon Samuels AC CVO QC
Hon Justice Jeff Shaw*
Professor Michael Tilbury

Legal research

Ms Francesca Di Benedetto
Ms Donna Hayward
Ms Sharminie Niles

Publications

Discussion Paper 44 (April 2002)

* Denotes Commissioner-in-charge

Sentencing Laws

Received: 12 April 1995

The Commission is reviewing the laws of sentencing. The project has been expanded and divided into phases:

- (1) General Principles (completed)
- (2) sentencing of groups of offenders who require special consideration:
 - Corporate Offenders (completed);
 - Young Offenders;
 - Aboriginal Offenders (completed)
- (3) Maximum Penalties
- (4) Mandatory Penalties

Commissioners

Hon Justice Michael Adams*
Judge Robert Bellear
Professor Janet Chan
Dr Duncan Chappell
Ms Andrea Durbach
Hon Justice David Ipp
Hon Justice Greg James
Judge Angela Karpin
Hon Justice Jeff Shaw
Hon Gordon Samuels AC CVO QC
Professor Michael Tilbury
Dr Don Weatherburn

Legal research

Catherine Gray
Robyn Johansson
Rebecca Kang
Mel Keenan
Ani Luzung
Joseph Waugh

Publications

Discussion Paper 33 (April 1996)
Report 79 (December 1996)
Report 96 (October 2000)
Issues Paper 19 (July 2001)
Issues Paper 20 (December 2002)
Report 102 (June 2003)

Surveillance

Received: 5 May 1995

The Commission is required to review the scope and operation of the *Listening Devices Act 1984* and the need to regulate the overt and covert use of other surveillance equipment.

Commissioners

Hon Justice Michael Adams*
Professor Michael Chesterman
Assoc Prof Jane Goodman-Delahunty
Hon Gordon Samuels AC CVO QC
Hon Justice Jeff Shaw
Professor Michael Tilbury

Legal research

Ms Donna Hayward
Ms Judy Maynard

Publications

Issues Paper 12 (May 1997)
Report 98 (February 2001)

Third Party Guarantees

Guaranteeing someone else's debts

Received: 2 March 1999

The Commission has been asked to examine the legal framework that protects guarantors of small business and other loans.

Commissioners

Hon Justice Michael Adams
Master Joanne Harrison
Ms Andrea Durbach
Hon Justice David Hodgson
Hon Justice Ruth McColl AM
Professor Michael Tilbury*

Legal research

Robyn Johansson
Joseph Waugh

Publications

Issues Paper 17 and Summary (April 2000)
Research Report 11 (October 2003)

* Denotes Commissioner-in-charge

Uniform Succession Laws

Received: 5 May 1995

The Commission has been asked to review the existing law and procedure relating to succession. These laws relate to the distribution of a person's property after death. The project has been divided into five phases:

- (1) Law of Wills (completed)
- (2) Family Provision
- (3) Administration of Estates
- (4) Recognition of Interstate and Foreign Grants of Probate and Letters of Administration
- (5) Intestate Estates

Commissioners

Master Joanne Harrison
Hon Justice David Hodgson*
Hon Gordon Samuels AC CVO QC
Professor Michael Tilbury

Legal research

Joseph Waugh

Publications

Issues Paper 10 (February 1996)
Issues Paper 11 (February 1996)
Report 85 (April 1998)
Discussion Paper 42 (Sept 1999)
Issues Paper 21 (May 2002)

Additional information

Law reform agencies in each State and Territory are participating in this project. The timetable for completion of reports and consultation papers is largely determined by the coordinating agency, the Queensland Law Reform Commission.

Time Limits on Loans Payable on Demand

Received: 11 February 2004

The Commission has been asked "to investigate and report on the issue of time limits on loans payable on demand".

Commissioners

The Hon Justice Michael Adams
Hon Justice David Hodgson
Hon Gordon Samuels AC CVO QC
Professor Michael Tilbury*

Legal research

Joseph Waugh

Inactive Projects

The Commission has four other long-standing references on which no work was planned during the financial year. These projects are:

- Civil Procedure: Discovery and Interrogatories
- Common Law Crime: A review of all common law offences, in particular, conspiracy (especially procedural and evidentiary aspects), complicity and attempt.
- Environmental Penalties: To inquire into the use of civil processes and remedies as a means of enforcing environmental laws.
- Personal Property Securities: Whether any changes should be made to the law relating to securities over personal property.

No further work has been undertaken on these projects, and the Commission does not plan to conduct further work on any of these projects without prior consultation with the Attorney General.

* Denotes Commissioner-in-charge

Appendix C - Implementation

The Government has implemented recommendations in approximately 62% of all Law Reform Commission Reports.

This rate remains the same as last year but is significantly lower than the historical rate (75%) because only 11 of the 29 reports produced in the past ten years have been implemented to date.

Implementation

Reports not yet substantially implemented

The reports set out below published between 1994-2003, have not yet been substantially implemented although several are under active consideration.

Complex or controversial reports can often take many years to implement. Other reports of a technical nature or dealing with obscure areas of law are often not accorded a high legislative priority.

Report 74 (November 1994)
Blasphemy

Report 75 (September 1995)
Defamation

Report 78 (September 1996)
Provisional Damages

Report 80 (December 1996)
People with an Intellectual Disability and the Criminal Justice System

Report 83 (October 1997)
Partial Defences to Murder: Provocation and Infanticide

Report 85 (April 1998)
Uniform Succession Laws: The Law of Wills

Report 87 (November 1998)
Review of Section 409B of the Crimes Act 1900

Report 88 (November 1998)
Neighbour and Neighbour Relations

Report 90 (July 1999)
Review of the Community Services (Complaints, Appeals and Monitoring) Act 1993

Report 91 (July 1999)
Review of the Disability Services Act 1993

Report 92 (November 1999)
Review of the Anti Discrimination Act 1977

Report 93 (December 1999)
Review of Section 316 of the Crimes Act 1900

Report 94 (February 2000)
Set-Off

Report 96 (October 2000)
Sentencing: Aboriginal Offenders

Report 98 (February 2001)
Surveillance: An Interim Report

Report 100 (June 2003)
Contempt by Publication

Report 102 (June 2003)
Sentencing: Corporate Offenders

GUARANTEE OF SERVICE

The Commission adopts the following principles as its guarantee of service to its clients

All Commission publications may be relied on for their accuracy and authoritative statements about current law.

The Commission will provide opportunities for the public to participate in the law reform process.

All correspondence will either be responded to immediately or acknowledged within five working days. Where feasible, the acknowledgement will provide a timeframe for anticipated action.

A contact name will be provided in all correspondence and telephone inquiries.

All Law Reform Commission Consultation Papers and Reports will conform to the Commission standards of high quality research, will be written in plain English and will comply with the Commission's publication style.

The Commission will continue to ensure that its staff are well-trained and provide professional and competent service.

Service standards will be monitored regularly via client feedback. Results will be reported in the Commission's Annual Report.

Your invitation to participate

The Commission invites members of the public to take part in law reform in New South Wales and in particular to contribute to the Community Law Reform Program. Participation in this Program ensures that issues of community concern receive the attention of those responsible for the reform of the law.

Your comments and criticisms

The Commission welcomes comments on ways to improve its service, please contact Mr Peter Hennessy, Executive Director (contact details appear on the back cover).

ADDRESS

Level 17, Goodsell Building
8-12 Chifley Square, Sydney

GPO Box 5199, Sydney

DX 1227, Sydney

TELEPHONE

+61 2 9228 8230

FACSIMILE

+61 2 9228 8225

TTY

+61 2 9228 7676

INTERNET

www.lawlink.nsw.gov.au/lrc

EMAIL

nsw_lrc@agd.nsw.gov.au
