



Mr P Selth OAM
Executive Director
New South Wales Bar Association
DX 1204 SYDNEY

14 DEC 2010

Dear Mr Selth

Re: Commencement of the *Courts and Crimes Legislation Further Amendment Act 2010*

The *Courts and Crimes Legislation Further Amendment Act 2010* was assented to on 7 December 2010. This Act commenced on assent, unless otherwise noted below. It amends the following Acts:

- (i) ***Administrative Decisions Tribunal Act 1997*** to allow the Tribunal to deal with an application for a review of a decision, where the applicant has also applied for an internal review with the original administrative decision-maker
- (ii) ***Adoption Act 2000, Administrative Decisions Tribunal Act 1997, Children and Young Persons (Care and Protection) Act 1998, Community Services (Complaints, Reviews and Monitoring) Act 1993, and Consumer, Trader and Tenancy Tribunal Act 2001***, to provide additional legal protections to Guardians ad Litem Panel members
- (iii) ***Children's Court Act 1987*** to increase the appointment period for a Children's Magistrate from three to five years
- (iv) ***Children (Criminal Proceedings) Act 1987*** and ***Children (Criminal Proceedings) Regulation 2005*** to make several improvements to the Youth Conduct Orders program as recommended in a recent interim evaluation
- (v) ***Civil Procedure Act 2005*** and the ***Supreme Court Act 1970*** to provide that the Supreme Court may refer a question of foreign law to a foreign court and respond to a question from a foreign court concerning Australian law
- (vi) ***Civil Procedure Act 2005*** to provide for a representative proceedings regime for NSW and to introduce a pre-litigation requirement that before commencing civil proceedings, each person involved in a civil dispute is to take reasonable steps (having regard to the person's situation and the nature of the dispute including the value of the claim and the complexity of the issues) to resolve the dispute by agreement, or to clarify and narrow the issues in dispute, and amendments to support this requirement
- (vii) ***Crimes Act 1900*** to modernise the language and extend the application of section 44
- (viii) ***Crimes (Criminal Organisation Control) Act 2009*** to extend the period of review by the Ombudsman from two to four years

(ix) **Criminal Appeal Act 1912** by giving the protected confider in a sexual assault matter an opportunity to appeal to the Court of Criminal Appeal against a decision to grant leave

(x) **Criminal Procedure Act 1986** to:

- a. conduct a 12-month trial of an 'online court' to manage committal proceedings at the Downing Centre Local Court
- b. increase the maximum value for break and enter offences that can be dealt with summarily by the Local Court
- c. allow an accused person or prosecution to apply for a judge-alone trial, with the court to make a decision should the parties be in disagreement
- d. extend to certain tendency witnesses the special arrangements that apply to the giving of evidence by complainants in sexual offence cases;
- e. clarify that the criminal proceedings to which sexual assault communications privilege applies include pre-trial and interlocutory proceedings
- f. extend the sexual assault offences to which sexual assault communications privilege applies to include acts that would constitute a prescribed sexual offence if they were to occur in this State or at a later date
- g. stop a protected confidence (such as a counselling record) from being produced in court unless the court gives leave
- h. require a court to be satisfied that complainants, counselling services, or anyone else who has a right to be a protected confider knows their rights in this regard
- i. give a complainant and other protected confiders standing if someone attempts to have their records produced in court
- j. ensure each protected confider is given notice of the application for leave

(xi) **Graffiti Control Act 1996** and the **Graffiti Control Regulation 2009** to provide that the definition of 'fine' be according to the *Fines Act 1996*

(xii) **Industrial Relations Act 1996** to provide that legally qualified Commissioners are exercising the jurisdiction of the Industrial Court of NSW when dealing with small claims matters under section 548 of the *Fair Work 2009* (Cth)

(xiii) **Local Court Act 2007** to increase the Local Court's civil jurisdiction to \$100,000 in the General Division (excluding personal injury/death matters) and to validate certain actions made under the *Magistrates Leave Related Provisions Amendment (Extended Leave) Determination 2005*

(xiv) **Mining Act 1992** to enable a party to a dispute about whether something is a significant improvement to land to apply to the Land and Environment Court for a determination

(xv) **Victims Support and Rehabilitation Act 1996** to support streamlined administrative procedures relating to applications for counselling and compensation and reduce the amount of legal and other costs that are paid from the Victims Compensation Fund (so that more money from the Victims Compensation Fund will be directed to compensation for victims as opposed to being paid out in costs); to extend the victims compensation levy to all offences (whereas currently it is limited to offences punishable by imprisonment); and to increase representation of community members on the Victims Advisory Board, and

(xvi) **Victims Rights Act 1996** to implement recommendations arising from a review of the Charter of Victims Rights ("the Charter") to improve implementation of victims' rights under the Charter, including:

- establishing a Charter of Victims Rights Code of Practice
- including a right to complain and to be informed about complaint processes

- expressing victims rights more assertively
- requiring non-government agencies and contractors, funded by the State who provide support to victims to comply with the Charter, and
- clarifying the primary role of Victims Services in implementing the Charter.

Commencement

The amendments above all commenced on assent, except for the following:

- (iv) ***Children (Criminal Proceedings) Act 1987*** and ***Children (Criminal Proceedings) Regulation 2005*** – 25 February 2011 or such earlier day as may be appointed by proclamation
- (vi) ***Civil Procedure Act 2005*** – by proclamation
- (x)(c) ***Criminal Procedure Act 1986*** – 14 January 2011
- (xii) ***Industrial Relations Act 1996*** – by proclamation, or the date of commencement of Schedule 1 [2] to the ***Industrial Relations Further Amendment (Jurisdiction of Industrial Relations Commission) Act 2009***
- (xv) ***Victims Support and Rehabilitation Act 1996*** – by proclamation

Yours faithfully



Laurie Glanfield
Director General