



12 April 2017

BY EMAIL: lacsc@parliament.qld.gov.au

Acting Committee Secretary
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Acting Committee Secretary

Submission on the Court and Civil Legislation Amendment Bill 2017

Thank you for your call to make a submission on the Court and Civil Legislation Amendment Bill 2017 (**the Bill**) to the Legal Affairs and Community Safety Committee (**Committee**).

The Women Lawyers Association of Queensland (**WLAQ**) is an organisation dedicated to advancing the interests of women in the law, whether they are jurists, practising professionals, legal academics, legal graduates or students of law. In addition to providing networking opportunities for our members, WLAQ liaises with other peak bodies and supports the mentoring of more junior members. An important part of our function is to advocate for the rights and interests of women in the profession and the broader community. A representative of WLAQ may also be called on by the Attorney-General to sit on the Judicial Appointments Advisory Panel.

Response to call for submission

We provide the following submission in relation to the Bill.

Increase the age limit for Acting Magistrates to 75 years

We agree with the proposed amendments to the *Magistrates Act 1991* (Qld) (**the Magistrates Act**) and in particular to increase the age limit for Acting Magistrates to 75 years on the terms proposed. The Magistrates Act provides for the process of appointing an Acting Magistrate, which can include a retired Magistrate. The Magistrates Act (in its current form) contemplates that a retired magistrate is one who has not yet reached the age of 70 and has retired under ss42(a) or 42(b). The proposed amendment increases this age limit to 75 years. In our view, the change is positive as it allows Magistrates who have retired early to again hold judicial office and assist in filling a vacancy of office.

We would not agree with a proposal which allows Magistrates, as they approach the age of 70 years, to be unilaterally appointed as an Acting Magistrate effective the day following their 70th birthday; essentially having a continuation of appointment, albeit as an Acting Magistrate as opposed to a Magistrate. Our

interpretation of the Bill is that it is not expected to operate in this manner, rather is to afford the Attorney-General the option to fill a vacancy and meet the community's needs on a short term basis.

Outside of the Bill, we have a concern regarding the appointment of Acting Magistrates in general, as the Magistrates Act does not provide any limitation on the duration of their appointment. We have recently become aware of a number of Acting Magistrates who have held the position for some years and it seems that there is limited intention to appoint them a Magistrate. The role of Acting Magistrate, in our view, is not intended to be a long term appointment¹ and perhaps this is an opportunity for the Committee to consider this issue.

Finally, it must be considered whether or not the appointment of Acting Magistrates in circumstances proposed under the Bill will fall within the scope of the Judicial Appointment Advisory Panel and whether or not expressions of interest should be called for. It extends beyond the scope of the call for submission to further comment on this, rather we raise it so that the Committee could further consider this point.

Facilitate the making of domestic violence notations on a person's criminal history or a formal record of conviction

WLAQ has a longstanding relationship with services such as the Women's Legal Service and organisations such as Australia's CEO Challenge. We are also supporting the National Domestic Bench Book Reception on 7 June 2017, which is hosted by the TC Beirne School of Law at the University of Queensland with the support of the Commonwealth Attorney-General and The Australian Institute of Judicial Administration Inc.

The Government, both at a State and Federal level, has committed to addressing the epidemic of domestic violence. WLAQ applauds the Committee for their proposed changes to the *Penalties and Sentences Act 1992 (Qld) (PSA)* to address this issue.

The proposed amendment addresses two key concerns WLAQ has, namely the onus of proving a domestic violence offence and the possible administrative burden for all parties involved. WLAQ members act for both complainants and respondents. It is important that the proposed amendments address the responsibility of all parties (including the Prosecution), with the aim being the protection and wellbeing of the public, for the complainant and for her/his family. Similarly, if a respondent has no conviction recorded this should be evidenced (as is proposed by the Bill). However WLAQ would not support a position where, if the Court finds that an act of domestic violence has occurred but decides not to record a conviction, no notation is made on the criminal history.

WLAQ's main concern with the proposed amendments is the process of information sharing to other States and Territories. The Bill will not achieve its intended purpose if there is not a clear process about this if the Bill is passed. The purpose of the notation, in our view, goes to assisting and protecting the community, the complainant and her/his family. If other Police Services are not aware of the notation, then the intention of the proposed changes may ultimately fail. WLAQ appreciates that this is outside the scope of the Committee and is dependent on the actions of entities outside of Queensland. This is an opportune time for the Commonwealth Government to consider the implementation of a National process in line with the Bill's proposals.

¹ A term of say 2 years would be appropriate.

Clarify, update and strengthen legislation for the regulation of the legal profession

The proposed amendments to the *Legal Profession Act 2007* (Qld) (**the LPA**) are supported. The amendments are, in our opinion, uncontroversial and sensible. In particular, we agree with the proposed change to s330(7) of the LPA in relation to electronic bills and consider that this reflects the current state of affairs in the industry, in which the majority of bills are given electronically.

While we have not had an opportunity to review any submission of the Queensland Law Society, WLAQ would ultimately defer to the QLS on any finer issues this proposed amendment may have for Queensland's legal profession.

Further Comment

WLAQ considers that a formal response is not required to the balance of the Bill given WLAQ's objectives and welcomes the opportunity to further discuss this response, and invites the Committee to contact us if there are any questions.

I would like to acknowledge and thank WLAQ Advocacy Sub-Committee Chair, Borcsa Vass and sub-committee member Ellen Corrigan, for their assistance in the preparation of this submission.

Yours Faithfully

Women Lawyers Association of Queensland

[Redacted]
[Redacted]

Cassandra Heilbronn
President

[Redacted]
[Redacted]
[Redacted]