

Recent developments in the ACT

By Andrew Freer

The pace of reform has slowed in the Territory since the introduction of the *Road Transport (Third Party Insurance) Act 2008*. The new Act introduced significant changes to the procedural and substantive law applying to motor vehicle accidents that occurred in the Territory after 1 October 2008. Many aspects of the new scheme were drawn from the operation of the legislation in Queensland. There have, however, been some teething problems. These problems are now starting to become the subject of applications before the ACT Supreme Court, on the basis that the Act is covering accidents that occurred within the last 18 months.

Issues of concern relate to the requirement for a compulsory conference and mandatory final offers. The compulsory conference, in turn, requires a Certificate of Readiness signed by a claimant's lawyer. There are also issues in relation to the costs provisions. A classic example of the use of excessively complex legislative regulation can now be found in sections 155 and 156 of the Act. Do not try to read these provisions quickly or at a time when the other preconditions of a headache are present. Of particular concern is the exclusion of general damages awards when calculating costs recoverable under the Act.

The ACT branch committee is continuing to engage the ACT government in relation to issues arising under the Act. Any examples of additional difficulties being experienced should be provided to a member of the local ACT committee.

The operation of the *Victims of Crime (Financial Assistance) Act 1983* has long been on the ACT branch committee agenda. The prohibitive

costs provisions have prevented proper access to the scheme by many victims, who are unaware of their entitlements or need assistance to pursue their entitlements. Little joy has been experienced in current efforts to seek amendments to the scheme. It is understood that an internal government review is underway. Stay tuned for an outcome of the review.

The operation of the ACT workers' compensation scheme has been relatively free of amendment in the last few years.

The Territory court system has seen changes, with more mooted. The ACT Civil and Administrative Tribunal has been operating for 12 months, subsuming more than 15 other Tribunals and the Small Claims Court. Recent policy announcements by the ACT government included an intention to create a 'virtual district court', a third tier, lying between the ACT Magistrates Court and the ACT Supreme Court. Our local members and ACT branch committee are actively analysing the policy announcements and preparing comment and submissions in relation to them.

The Court Procedure Rules, which now apply across the Magistrates and Supreme Courts, are also the subject of continuing update. ACT members are contributing to the amendment and improvement of the operation of the rules.

As with other jurisdictions, there are national issues of concern to our members. The COAG National Legal Professional Reform and the possible form of a so-called National Disability Insurance Scheme are relevant to all members' interests.

On 30 June 2010, I will end my two-year term as a national director of the Australian Lawyers Alliance. My



role has included responsibility for publications, primarily *Precedent* and *ALAn*. Both publications do the organisation proud and are important member services. Being a director and having access to analysis about developments in each Australian jurisdiction, and contributing to policy developments and implementation, are enlightening and rewarding pursuits. But the hurdles we face can also be frustrating at times. I have, however, drawn inspiration from fellow ALA member practitioners and the dedicated ALA office staff. The opportunity to exchange 'war stories', and share tricks and traps, has been a highlight. Bill Andrews will be filling my role as the ACT director and continue the tradition of ACT involvement in the ongoing growth and evolution of the ALA into an effective and premier body representing the interests of our members. ■

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