

# Précis

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## The Law Council's Weekly Update

### Key Dates

- ⊙ **23 October** - Law Council Executive Meeting, Canberra
- ⊙ **27 November** - Law Council Executive Meeting, Canberra
- ⊙ **28 November** - Law Council AGM and Directors Meeting, Canberra

### Recent Submissions

- ⊙ **16 October:** Super System Review - Phase One: Governance. To: Super System Review – From: Legal Practice Section
- ⊙ **11 October:** Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill. To: Attorney-General's Department – From: Law Council
- ⊙ **9 October:** Telecommunications (Interception and Access) Amendment Bill 2009. To: Senate Legal and Constitutional Affairs Committee – From: Law Council

All LCA submissions available at <http://www.lawcouncil.asn.au/library/submissions.cfm>

### Crimes Legislation Amendment (Serious and Organised Crime) Bill (No.2) 2009

The Law Council made a submission on 19 October to the Senate Legal and Constitutional Affairs Committee on the Crimes Legislation Amendment (Serious and Organised Crime) Bill (No.2) 2009.

The submission addressed:

- ⊙ The introduction of four new offence provisions into the Criminal Code Act 1995 (the Criminal Code), specifically:
  - Associating with a person engaged in criminal activity in a manner which may facilitate organised crime;
  - Providing material support to a criminal organisation;
  - Directing the activities of a criminal organisation; and
  - Committing an offence for the benefit of or at the direction of a criminal organisation.
- ⊙ Amendment to the Australian Crime Commission Act 2002 (the ACC Act) to reinstate the requirement that written reasons must be recorded prior to the issue of a summons or a notice to produce;
- ⊙ Amendment to the ACC Act to introduce a new power to refer uncooperative witnesses to court to face contempt proceedings; and
- ⊙ Amendment to the search and seizure powers in the Crimes Act 1914 (Crimes Act) to make it easier for law enforcement officers to access and copy data from electronic equipment located at premises in relation to which a warrant is in force.

The Law Council believes that newly proposed offences are unnecessary and potentially expose people to sanction not on the basis of their individual conduct but on the basis of their associations.

Its view is that the existing provisions in the Criminal Code already adequately enable the investigation and prosecution of those who engage in, assist, plan or commit serious criminal offences.

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The Law Council has advocated since 2007 for the repeal of changes to the ACC Act which allowed ACC examiners to issue summonses and notices to produce without recording reasons prior to their issue. It is pleased that this position has been accepted by legislative amendment, following its representations to the Senate Committee on Legal and Constitutional Affairs and the Minister for Home Affairs.

The Council wants safeguards introduced to ensure that the court deals with all relevant issues raised by an alleged contempt of the ACC rather than leaving the determination of some of those issues to the ACC.

It has also proposed that some limitations be introduced to the proposed search and seizure powers to ensure that there is sufficient nexus between the exercise of the power and a reasonable belief that the electronic equipment searched contains evidence of an offence.

The Committee's report is due on 16 November.

## Monitoring Economic, Social and Cultural Rights: the South African Experience

On 19 October, representatives from the Law Council attended a seminar at the Australian National University presented by Cameron Jacobs from the South African Human Rights Commission.

Mr Jacobs supplied an overview of the South African Constitution and how it incorporates economic, social and cultural rights, in order to reflect the variety of work that is done by the South African Human Rights Commission.

As a researcher he was also able to give a unique insight into the housing, land and education problems facing many South Africans.

He will continue his tour of Australia, heading to other major cities, to give further seminars on the role of the South African Human Rights Commission in monitoring economic, social and cultural rights.

The issue of the extent to which economic, social and cultural rights should be incorporated in an Australian Human Rights Act has been raised by the report of the National Human Rights Consultation Committee, which the Government is currently considering.

The seminar was therefore very relevant to possible further advocacy by the Law Council in relation to an Australian Human Rights Act.

## Human Rights Policy and Practice Forum 2009

Law Council representatives this week attended a Human Rights Policy and Practice Forum in Melbourne. The forum brought together leading policy makers, managers and executives responsible for the implementation of a human rights approach by Commonwealth, State and Territory Government agencies. The forum also addressed the issue of whether Australia should have a Human Rights Act and what form such an Act should take by examining relevant experience from jurisdictions such as Victoria, New Zealand and the UK.

A number of prominent national and international speakers attended, including:

- ⊙ Malcolm Fraser, former Prime Minister
- ⊙ Ian Govey, Deputy Secretary, Commonwealth Attorney-General's Department
- ⊙ Priyanga Hettiarachi, Assistant Secretary, Dept of Prime Minister and Cabinet
- ⊙ Luke Cornelius, Assistant Commissioner, Victoria Police
- ⊙ Louise Glanville, Executive Director, Dept of Justice, Victoria
- ⊙ Susan Biggs, Director, NZ Human Rights Commission
- ⊙ Geoffrey Robertson QC, Barrister, London

## 2008-09 Annual Report

The Law Council's 2008-09 Annual Report has been finalised and is available on the LCA's website.

The report contains financial information, Section reports, communications highlights and details of some of the significant areas of work undertaken, and major events organised, by the Law Council between 1 July 2008 and 30 June 2009.

It also contains messages from the Law Council President and Secretary-General.

While the report will primarily be an electronic publication, a small number of hard copies will be produced.

The report is available at [www.lawcouncil.asn.au](http://www.lawcouncil.asn.au)

For more information on the Annual Report, contact Ben Caddaye on (02) 6246 3725 or email [ben.caddaye@lawcouncil.asn.au](mailto:ben.caddaye@lawcouncil.asn.au)

## ACLA National Conference and Annual Dinner 2009

ACLA will hold its National Conference and Annual Dinner on 12 and 13 November in Melbourne at the Sofitel Hotel.

This year's conference features once again an outstanding faculty of Australian and international keynote speakers including Beat Hess from Royal Dutch Shell, and Tunku Abdul Aziz Ibrahim, from Transparency International in Malaysia.

The conference theme is "Opportunity Beckons: Performance in the Face of Change" and the program will focus on the key challenges facing Australian business and explore ways in which in-house counsel can identify, adapt and capitalise on future opportunities.

For more information, visit [www.lexisnexis.com.au/acla](http://www.lexisnexis.com.au/acla)

## Dispute Resolution Courses

Gold Coast-based Bond University Dispute Resolution Centre, in conjunction with AIFLAM, is running the following courses during 2009: 6-7 November – Assessment Course (Melbourne); 26-29 November – Basic Mediation; 30 November – Family Mediation (Gold Coast). For details, contact Kate Bolas – email [kate.bolas@lawcouncil.asn.au](mailto:kate.bolas@lawcouncil.asn.au)

## Federal Inquiries Update

The latest issue of the Law Council's online Fortnightly Federal Inquiries Update is available on the Council's website.

The Federal Inquiries Update is designed to alert Constituent Bodies, Directors, the Executive and Section Chairs to important inquiries and reviews being undertaken at the Federal level which are of interest to and/or may require submissions to be made by the Law Council.

The latest online Federal Inquiries Update is available at: <http://www.lawcouncil.asn.au/library/federalinquiries/federal-inquiries.cfm>