

LAW REFORM COMMISSION — REPORT RECOMMENDATIONS

4834. Hon Giz Watson to the Parliamentary Secretary representing the Attorney General

I refer to the June 2002 ‘Thirtieth Anniversary Reform Implementation Report’ of the Law Reform Commission of Western Australia (‘the Commission’) which identified, in order of priority, recommendations contained in final reports of the Commission that had not been implemented and that the Commission believed would substantially enhance the quality of the legal system in our State, and I ask which of those recommendations will be implemented this term (for each recommendation identified, please include the priority level attributed to that recommendation at page 258 of the Commission’s report)?

Hon MICHAEL MISCHIN replied:

The Government is aware of the June 2002 ‘Thirtieth Anniversary Reform Implementation Report’ of the Law Reform Commission of Western Australia and has noted the comments of the Commission that there has been a high implementation rate of their recommendations, but that a range of recommendations from a number of reports remain unimplemented.

The Law Reform Commission has also noted that it believes that some of those recommendations are no longer relevant and considers some to be of low priority.

The Government is also aware that the Law Reform Commission believes that some of the recommendations which have not been implemented would enhance the Western Australian legal system. I note that the Law Reform Commission’s 2002 report lists 36 project reports.

Of these 36 project reports, 15 have been considered to be of ‘high priority’ by the Law Reform Commission.

A number of these 15 reports have been proceeded with. These include:

- the Local Courts: Jurisdiction, Procedures and Administration Report and the Enforcement of Judgements of Local Courts report, which resulted in the Civil Judgements Enforcement Act 2004 (WA);
- the Courts of Petty Sessions: Constitution, Powers and Procedures report, which by virtue of the Courts Legislation Amendment and Appeal Act 2004 (WA), the Magistrates Court Act 2004 (WA) and the Magistrates Court (Civil Proceedings) Act 2004 (WA), the local courts and the courts of petty session have now been amalgamated as the Magistrates Court;
- the Medical Treatment for the Dying report, which resulted in the Acts Amendment (Consent to Medical Treatment) Bill 2006 which was assented to in 2008;
- the Police Act Offences report, which resulted in the implementation of recommendations through the Criminal Law Amendment (Simple Offences) Act 2004 (WA);
- the Professional Privilege for Confidential Communications report, which the Standing Committee on Uniform Legislation and Intergovernmental Agreements expressed its preference for enactment of a general judicial discretion in matters of confidential communications;
- the Review of the Criminal and Civil Justice System report, which resulted in many of the recommendations being implemented primarily by the Criminal Procedure Act 2004 (WA) and the Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 (WA), as well as the Magistrates Court (Civil Proceedings) Act 2004 (WA) and the Magistrates Court (Civil Proceedings) Rules 2005.

Of the remaining projects, work is underway within the portfolio of the Attorney General on the following reports:

- the Judicial Review of Administrative Decisions report, this is being undertaken by the Solicitor General;
- the Limitation and Notice of Actions: Latent Disease and Injury report, this is being undertaken by the State Solicitor;
- the Limitation and Notice of Actions report, this is being undertaken by the State Solicitor;
- the Writs and Warrants of Execution, this is being undertaken by the State Solicitor; and,
- the Confidentiality of Medical Records and Medical Research Report, this is being undertaken by the State Solicitor.

The remaining projects fall within other various portfolios for consideration and implementation. These include:

- the Financial Protection in the Building and Construction Industry report for consideration by the Minister for Commerce;
- the Sale of Goods Act report for consideration by the Minister for Commerce; and,

- the Restrictive Covenants report for consideration by the Minister for Planning.

The Law Reform Commission is a highly valued body and the Government frequently supports and implements many of the recommendations contained in the Commission's various reports. All reports produced by the Commission are important and add to the discussion around the operations of our legal system, and the Government continues to draw on the reports long after they are published.