

Communiqué
Standing Committee of Attorneys-General

4 & 5 March 2011

The first meeting of the Standing Committee of Attorneys-General (SCAG) for 2011 was held on 4 & 5 March 2011 in Wellington, New Zealand. The New Zealand Minister of Justice chaired the meeting. The Commonwealth Attorney-General, the Commonwealth Minister for Home Affairs and the Northern Territory and Victorian Attorneys-General were in attendance. The Queensland Attorney-General took part by teleconference.

The Australian Capital Territory Attorney General was represented by the Chief Executive of the Department of Justice and Community Safety.

The New South Wales Attorney General was not present at the meeting as New South Wales is in caretaker mode. The New South Wales Attorney General was represented by the Director General of the Department of Justice and Attorney General.

The South Australian Attorney-General was represented by the Minister for Industrial Relations, State/Local Government Relations and Gambling.

The Tasmanian Attorney-General was represented by the Secretary of the Department of Justice.

The Western Australian Attorney General was represented by the Parliamentary Secretary to the Attorney General.

The Norfolk Island Attorney-General also attended the meeting as an observer.

The New Zealand Minister of Justice arranged a tour of the New Zealand Supreme Court for Ministers.

Summary of Decisions

R 18+ Classification for Computer Games

Ministers:

- (a) considered draft new Guidelines for the Classification of Computer Games
- (b) considered the proposed amendments to the National Classification Code to support the introduction of an R 18+ classification for computer games
- (c) agreed to make a decision regarding the introduction of an R 18+ classification at the July 2011 SCAG meeting.

Classification of Mobile and Online Games

In December 2010, SCAG agreed to the Commonwealth Attorney-General providing a reference to the Australian Law Reform Commission (ALRC) to conduct a broad review of the National Classification Scheme. It is anticipated that long-term solutions to the issue of regulating mobile phone and online games will be considered as part of this review.

Ministers considered a number of options to address the classification requirements for mobile and online games in the short-term, considering the extent of required legislative change, the timeframe for implementation, and overall effectiveness.

In light of this it is considered that the best approach is to obtain agreement that mobile and online games be treated similarly to other online content, rather than stand alone computer games. This interim solution will be subject to a sunset clause of up to two years.

There would be no change to the treatment of online and mobile games that would be refused classification.

Legal Aid

The General Manager of the Legal Services Agency of New Zealand, Mr Stuart White, gave a presentation on reforms to legal aid in New Zealand.

Criminal Procedure Simplification

The New Zealand Minister of Justice provided information on reforms to simplify criminal procedure in New Zealand.

Implementation of the Trans-Tasman Treaty on Court Procedure

Ministers:

- (a) noted progress made on the final phase of implementation of the *Agreement between the Government of New Zealand and Government of Australia on Trans Tasman Court Proceedings and Regulatory Enforcement*, following the passage of legislation in both countries in 2010
- (b) noted that the new regime is intended to enter into force in the second half of 2011.

New Zealand Treaty of Waitangi Settlements

The New Zealand Minister for Treaty of Waitangi Negotiations and Attorney-General, the Hon Christopher Finlayson, gave a presentation on Treaty of Waitangi settlements and issues surrounding marine and coastal areas in New Zealand.

National Plan to Reduce Violence Against Women and their Children – National Scheme for Domestic and Family Violence Orders

Ministers agreed to a national domestic and family violence order (DVO) scheme involving:

- (a) States and Territories introducing model provisions that provide automatic recognition across jurisdictional borders of court issued DVOs
- (b) subject to Police Ministers' agreement, the establishment and funding of a national DVO information-sharing capability using CrimTrac's National Police Reference System.

Cyber Crime

Ministers:

- (a) noted the progress of the National Cyber Crime Working Group in developing a national response to cyber crime

(b) agreed to the development of a detailed proposal for the establishment of a national online reporting facility for cyber crime.

Use of Privately Obtained Sexual Images without Consent

Ministers discussed the work being undertaken in Victoria to consider options for developing a legislative response to address cases of obtaining, forwarding, display or publication of privately obtained sexual images without consent.

SCAG Communiqué

Summary of Out of Session Decisions

Uniform Evidence Law

Ministers considered whether to introduce provisions to protect vulnerable witnesses into the model Uniform Evidence Bill. Ministers noted that significant harmonisation already exists in relation to many vulnerable witness protections across jurisdictions. Ministers also noted that vulnerable witness provisions are inextricably linked to a jurisdiction's court procedures. Accordingly it is not appropriate to incorporate vulnerable witness provisions in the model Uniform Evidence Bill which is intended to be a comprehensive statement of the laws of evidence.

Ministers noted that jurisdictions may choose to enact further improvements to such protections taking into account the approach to court procedures in each jurisdiction.

SCAG has now considered all of the key recommendations arising from the Australian, NSW and Victorian Law Reform Commissions' 2005 report on Uniform Evidence Law. Ministers have therefore agreed to remove uniform evidence law from the SCAG agenda.

Judicial Complaints Handling

Ministers agreed to consider establishing mechanisms for judicial complaints handling in their jurisdiction, noting some jurisdictions already have mechanisms in place, and agreed to remove this item from the SCAG agenda.

Laws Relating to Cults

Ministers discussed whether there was a need for new criminal offences targeting harmful behaviours of cults. Ministers agreed that existing offences are sufficient at this time.

ARIA/AMRA Recorded Music Labelling Code of Practice Ombudsman's Annual Report

Ministers noted the Annual Report of the Australian Recording Industry Association (ARIA) and the Australian Music Retailers Association (AMRA) Recorded Music Labelling Code of Practice Ombudsman for the period 1 April 2009 to 31 March 2010.