

Senate Legal and Constitutional References Committee

Parliament House Canberra 2600 ACT

Friday, 19 September 2003

Dear Sir or Madam:



Thank-you for the opportunity to make a submission to the Inquiry.

The Foundation is an independent, public benefit organisation with a statutory charter. Governed by the *Victoria Law Foundation Act 1978* (Vic) and funded through the Public Purpose Fund, the broad objects of the Foundation include:

- Developing community legal education and training;
- · Publishing and communicating legal information and ideas in plain language;
- · Conducting professional legal education, training and development;
- · Establishing and maintaining law libraries; and,
- Conducting research to advance the law, the legal system and the administration of
  justice.

The Foundation produces high-quality plain-language legal information, administers a grants program and undertakes projects which encourage community engagement with the law. Through its Pro bono Policy Secretariat, the Foundation supports the development of best practice in the delivery of pro bono legal services. The Foundation also works with Community Legal Centres to help them better meet the needs of their target constituencies.

Current Foundation projects relevant to the Inquiry's terms of reference include, 'Rural Law Online', 'Law @ your library' and the 'Justice Museum'. These projects, designed to improve access to justice for rural and regional Victorians, are detailed in the submission.

Please don't hesitate to contact me should you require any further information about the matters raised in this submission. You are welcome to contact me by phone on (03) 9602 2877 or via email at <a href="mailto:klaster@victorialaw.org.au">klaster@victorialaw.org.au</a>.

Yours sincerely,

Professor Kathy Laster Executive Director

#### 1. Introduction

The Victoria Law Foundation supports the equitable delivery of legal assistance to all Australians wherever they reside. It views the provision of legal services to rural and regional areas as critical to the operation of an equitable legal system.

This submission focuses on the ways in which <u>better provision of information</u> can enhance people's understanding of, and access to, law and legal services. The Foundation's experience is that such information also promotes more efficient use of scare legal resources. There is also benefit in improving the capacity of existing services to meet the needs of their constituencies. A number of Foundation projects designed to achieve these objectives are detailed below.

# 2. Supporting rural and regional areas

#### 2.1 Rural Law Online

Following the success of the *Rural Law Handbook* (2002), the Foundation has been funded to develop **Rural Law Online**, an interactive website designed to provide access to free, user-friendly, plain-language information about law for primary producers and their families.<sup>1</sup>

#### Rural Law Online will:

- Bring together information from a variety of media on relevant areas of the law.
- Provide links to legal referral services and resources, including private practitioners, pro bono assistance schemes and community support agencies.
- Feature discussion forums on 'hot topics' of immediate relevance to rural and regional residents. The hot topics might be associated with regional television and radio programming. It will build communities so that residents in rural and regional areas can share their experience, knowledge and expertise with each other.

## 2.2 Law @ your library

Following the recommendation of the Victorian Parliamentary Law Reform Committee Review of Legal Services in Rural and Regional Victoria (2001), the Foundation is exploring State and national opportunities for a library legal information service modelled on NSW's Legal Information Access Centre (LIAC). The LIAC model is a proven, cost-effective and equitable scheme that has been operating successfully for over 13 years in that State. The Foundation is seeking to establish the Law @ your library service in public libraries throughout Victoria.

<sup>3</sup> Review of Legal Services in Rural and Regional Victoria (2001) Parliament of Victoria, Law Reform Committee, Melbourne, p. 52.

<sup>&</sup>lt;sup>1</sup> A higher proportion of rural homes have access to the Internet relative to those in metropolitan areas *Who's online and what are they doing there? Australians on the Internet* (1999) Environmentrics URL: <a href="http://www.environmetrics.com.au/aust-internet.pdf">http://www.environmetrics.com.au/aust-internet.pdf</a>, accessed 5 September 2003

Victoria's public library network operates throughout the state through branch and mobile libraries. It is a truly universal service, since over 56% of Victorians are registered members of a public library. The experience of LIAC in NSW is that increasing consumer knowledge about law promotes informed, confident consumer engagement with lawyers and the legal system leading to higher levels of consumer satisfaction with justice. Law @ your library represents an innovative approach to communicating legal information to the rural and regional communities in order to encourage such a growth in confidence.

#### 2.3 Justice Museum

The Foundation is working with the National Trust of Australia to establish a Justice Museum in Melbourne. This museum will increase public engagement with the Law. The Foundation plans to tour a number of Justice Museum exhibits through rural and regional areas.

#### 2.4 Law Week

In conjunction with the Law Institute of Victoria, the Foundation organizes Law Week annually. Law Week showcases the law and legal institutions and allows community members to engage with justice on their own terms. Law Week will be extended to rural and regional areas. In 2004, for instance, the Foundation will offer small grants to regional Community Legal Centres to conduct legal education activities during Law Week.

# 3. Meeting diverse information needs

Availability of legal information can go some way to mitigating the vulnerability of members of the community without equitable access to legal assistance. High-quality plain-language information can provide a better understanding of the legal and procedural context of particular legal problems.

The Foundation produces free, at cost or heavily subsidized publications to improve understanding of specific legal issues. An outline of the Foundation's publications is attached and is also available on the website.

Issues affecting a diverse range of people have been addressed in Foundation publications, including the Rural Law Handbook (2002) for primary producers and rural and regional residents; Teachers, Students and the Law (2002); Applying for and Responding to Intervention Orders (2001) and The Coroner's Process: information for family and friends (2000) for families; and Future Seekers – Refugees and the Law in Australia (2002) for refugees. Addressing the needs of the community for useful information provides an important source of legal assistance. Moreover, provision of information allows users of the justice system to make more appropriate, informed and efficient use of scare legal resources.

<sup>&</sup>lt;sup>4</sup> Council of Australian State Libraries (2002) Submission to Senate Environment, Communications, Information Technology and the Arts Reference Committee, Inquiry into the role of libraries in the online environment, p 2.

# 4. Supporting community and pro bono legal services

Promoting the development of a pro bono ethos among Law students and early in a legal practitioner's career is an essential part of encouraging a life-time commitment to public benefit work. The Foundation has, for example, established the "Chief Justice's Medal for Excellence and Community Service", to be awarded to the law student with a demonstrated commitment to pro bono values. Distinguished Pro Bono Certificates are also presented by the Foundation to practitioners for long standing commitment to community service. Both these initiatives are aimed at acknowledging and thereby fostering a pro bono ethos among the legal profession. Rural and regional practitioners do valuable work for their communities and their commitment should be recognized and honoured.

# 5. Support for best practice

Much can be done to improve the capacity of already existing services so that they can become more efficient. The Foundation's "Capacity Building" program support Community Legal Centres and non-profit organisations improve their services through workshops and training as well as assistance with improving their management and administrative infrastructure. For instance, the Foundation provides checklists and fact sheets on various topics as well as consultancy services.

Best practice support increases the capacity of current agencies to deliver high quality legal services to meet community needs for legal assistance.

#### 6. Conclusion

There is an urgent need to improve legal assistance and access to justice. Developing, assisting and improving services for rural and regional Australia should be a key part of this strategy.

Innovative ways of improving the provision of legal information, as well as support and assistance to service providers can enhance equitable access to justice.

High-quality plain-language legal information should target areas of need, such as rural, regional and remote communities. Effective legal information supports self-help and eases the burden on legal services. Activities and projects that engage the public with law and the legal system are also important parts of a strategy to improve the quality and access to legal services for all Australians.

#### 7. Attachments

List of Contents for the Rural Law Handbook List of Victoria Law Foundation publications

# **CONTENTS**

# FOREWORD

## 1 LAWS AND OUR LEGAL SYSTEM

History

Making laws

Types of law; Changing laws

A fair trial

Juries; The court system; Australian courts; Key players in the legal system

# 2 LAND AND ITS USES

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Agistment

Responsibilities of agistors?; Responsibilities of animal owners; Failing to pay agistment fees; Fire, drought or flood; Animal welfare and cruelty

Share farming

Written agreements; A typical written agreement

Tenants and leases

Why a lease?; Arrangements for leasing a farm; Maintenance and repairs; A fair rent; Renting or leasing the farmhouse; Share farming or leasing?

Crown land

Private use of Crown land; Mining or quarrying on Crown land; Information about Crown land

Neighbours and fencing; Damaging or destroying a fence; Fencing costs: landowner's or tenant's?; Fixing your own fence; Fences and tax incentives; Failing to maintain your fences

Boundaries

Incorrect boundaries; Fencing a river frontage

Inland water

Who controls water?; Your rights to water; What is a waterway?; Water licences; Building a farm dam; Unsafe or leaking dams; Maintaining water quality; Salinity problems

Protecting fish passage and aquatic habitat

Land rates and charges

Fixing your rates; Exemptions; Incorrect rates; Failing to pay rates; Rates on Crown land; Valuations

Mining and quarrying

Mineral exploration on your land; Mining on your land; Mining near a farm house; Miner's rights; Disposal of water and tailings; Rehabilitating your land; Abandoned mining drill holes; Quarrying on your land; Mining or quarrying yourself

Native title

Mabo and Wik – the background; The Wik judgment; The Native Title Amendment Act 1998; Association with the land; The present state of affairs; Further reading

Right to farm

Farmers and their urban neighbours; A legal guarantee of the 'right to farm'?; What is 'unreasonable'?; Health risks – a 'nuisance'?; Informing prospective buyers; Restrictions from neighbours; Settling disputes out of court; (See also Dispute resolution); Restrictions on the right to farm; Wrongful acts

Negligence

An overview; The duty of care; When are you negligent ?; What about the damage?; What if the victim was also negligent ?; Can you be liable for the negligence of others?; Can words result in negligence?; Insuring against negligence

Trespass

Who may enter your land?; Stopping trespassers

### 3 ENVIRONMENT AND PLANNING

Introduction

**Bushfires** 

Managing the risk of bushfires; Legislation; Fire danger period and permits; Total fire bans; Fighting bushfires; The CFA's powers; Volunteer firefighters

Droughts and floods

Government assistance droughts; After EC declarations are revoked; Tax incentives for drought mitigation plans; Floods

Chemicals and fertilisers

Controlling agricultural and veterinary chemicals; Chemical residues in food; The Victorian Government and agvet chemicals; Agricultural Chemical User Permits; Record-keeping; How do you get an ACUP?; Commercial operator's licence; Commercial operators' legal obligations; Who can do aerial spraying?; Restrictions in chemical control areas; A Code of Good Practice; Transport of chemicals; Storage; Disposing of farm chemicals safely; Veterinary chemicals; Standards for fertilisers

Fishing

Catching fish; Illegal or restricted fishing practices and equipment; Licences for protected fish; Banned as bait; Catch limits and closed seasons; Protecting native fish and aquatic habitat

Hunting

What can you hunt in Victoria?; Deer hunting; Duck hunting; Hunting other birds in Victoria; Where can you hunt in Victoria?; Hunting licences and permits; Permitted breeds of hunting dogs; Care of dogs when hunting; Training your gun dog or hound

Native animals and birds

Listing protected species; New listings; Can you own native wildlife?; Orphaned or injured wildlife; Pest possums; Problem kangaroos; Nuisance cockatoos; Can you keep dingoes?

Native plants

Commonwealth laws; Victorian laws; Agencies controlling protected flora; Local council powers; Voluntary community groups; Compensation for preserving native vegetation

Vermin control

Owning or trading pest animals; Record-keeping and reports; Controlling and eradicating pest animals

Noxious weed control

Regionally prohibited weeds; Regionally controlled weeds; State prohibited weeds; Restricted weeds; Noxious weeds on your property; Remiss landowners; Other restrictions

Planning law

What is a planning scheme?; Changing a planning scheme; When do you need a planning permit?; Objecting to an application for a permit; Effects on the environment; Codes of practice

Pollution control

Types of rural pollution; Controlling or preventing pollution; Dealing with a pollution problem; Pollution abatement notices; Pollution abatement notice requirements; Pollution abatement notice penalties; How is waste managed?; Dealing with dead stock; Crying over spilt milk; Foul air; In the poo?; Contaminated water and soils from mining; EPA licences for potentially polluting activities; Works approvals

Soil conservation

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# 4 LIVESTOCK AND PETS

Introduction

Animal welfare

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## Transporting livestock

Codes of practice

#### Animal disease

Quarantine and disease inspection; Quarantine laws; Breaches of quarantine laws; Controlling livestock disease in Victoria; Preventative restrictions and prohibitions; Reporting a notifiable disease; Identification of prescribed livestock; Isolation of livestock; Destruction or disposal of livestock; Tests and records; Quarantine areas; Special provisions for exotic diseases; Infected places or vehicles; Restricted areas; Control areas

## Exporting live animals and animal products

Registering export premises; Inspecting prescribed goods; Export documentation; Exporting live animals and reproductive material

### Impounding livestock

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#### Breeding

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#### Large stock: cattle

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#### Large stock: dairy cattle

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## Large stock: sheep

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## Large stock: horses

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Changes in the pork industry; Planning laws and piggeries; Tattooes and ear tags; Buying and selling tagged or tattooed pigs; Slaughtering unidentified pigs; Pigs entering Victoria

#### Small stock: poultry

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#### Small stock: bees

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#### Small stock: aquaculture

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# 5 CROPS

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## **6 BUSINESS AND FINANCE**

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Going broke?

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Companies that go broke

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Companies

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#### Insurance

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## Mortgages, liens and guarantees

Introduction

Mortgages

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Liens

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Social security

Types of Centrelink payments; Applying for a payment; Activity tests; Exemptions from activity tests; 'Suitable' paid work; Actively seeking work; Travelling to a job; Being breached; Means tests

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Income tests

**Assets** 

Assets tests; Valuing assets; Disposal of assets; Transferring the farm; Assets test hardship provisions; Farm help scheme

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Taxation

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Businesses in primary production

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Buying a vehicle

New vehicles; Secondhand vehicles

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Firearm licences

Firearm categories; Licence conditions and restrictions; Junior licences; Collectors licences; Licences issued in another state

Owning firearms

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Industry sectors

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Leave entitlements

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Records

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Accident compensation

Introduction; Compulsory insurance; Influencing the cost of insurance; Requirements for employers; An accident at work; Does insurance cover all costs?; Compensation under the Act; Independent contractors; Are sharefarmers employees?; False and misleading information; Investigating a claim; Helping injured employees back to work; Inadequate compensation; Summary

Occupational health and safety

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Anti-discrimination law

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Occupational superannuation

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De facto relationships

Financial arrangements; Having a child; Workers compensation; Criminal injuries compensation; Superannuation; Discrimination

Relationship breakdown

Marriage breakdown

Separating; Applying for a divorce; Need for a lawyer; Money matters; Property;

Superannuation; Spouse maintenance

De facto relationship breakdown

The children

Child support; Calculating an assessment; The formula; Child support agreements

Family violence

Getting help; Intervention orders

Managing your affairs

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Wills and farm transfer planning

Your will; A valid will; Your executors; Marriage, divorce and your will; Your will and your family; Keeping your will up-to-date; Dying without a will; Land and your will; Farm transfer planning; Transferring management or control

Family communication

Young people

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# 10 DISPUTES: LOCAL, GOVERNMENT, LEGAL

Disputes — some general principles

Alternative dispute resolution

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Dealing with government

How government works; Disputes with government agencies; Ombudsman; Administrative Appeals Tribunal; Victorian Civil and Administrative Tribunal; Freedom of information

Getting legal advice

Finding a lawyer; Dealing with your lawyer; Complaints about lawyers; Legal aid; Legal advice; Legal assistance; Community legal education; Community legal centres; Victorian Aboriginal Legal Service; Telephone legal information; Contact points

# **DIRECTORY OF SERVICES**

Government departments

Commonwealth Government; Victorian Government; Local government; Freedom of information (FOI)

Law and legal

Courts; Magistrates Courts; Review and appeals tribunals; Ombudsman; Victoria Legal Aid offices; Community Legal Centres

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ABBREVIATIONS LEGISLATION INDEX