

Drafting Binding Financial Agreements, Affidavits & Consent Orders

Tuesday, 29th March 2011

9.15 am - 1.00 pm

It is easy to make mistakes when drafting financial agreements, consent orders and affidavits.

As is well-known, problems abound in the law relating to binding financial agreements and these naturally cause drafting problems. Moreover, many practitioners inadvertently draft consent orders as if they are agreements, and some not infrequently draft affidavits without regard to the rules of form or evidence.

This seminar will consider the law, rules and practice of drafting all three kinds of documents: financial agreements, affidavits and consent orders.

In particular, this seminar will consider the following:

Financial Agreements

- The provisions of Parts VIIIA (“Financial Agreements”) and VIIIB (“Superannuation Interests”) of the *Family Law Act 1975 (Cth)* and especially the problems that arise from these provisions and the resulting drafting difficulties that they create for legal practitioners.
- The requirements of a binding financial agreement and whether the 2009 amendments to the provisions of s90G (“When financial agreements are binding”) make the previous state of the law better or worse.
- The provisions of Part 5A, Division 3 (“Financial Agreements”) of the *Family Court Act 1997 (WA)* and how these differ from the provisions in Part VIIIA of the *Family Law Act*.

Affidavits

- The general rules relating to drafting affidavits.
- The requirements of Part 15.2 (“Affidavits”) of the *Family Law Rules 2004*.

Consent Orders

- The nature of consent orders.
- The difference between drafting a deed or agreement on the one hand and drafting consent orders on the other.



Competency Area 1 Legal Skills and Practice

CPD Points: 3.5

About the Presenter

The presenter at this seminar will be Anthony Dickey QC. Anthony has been practising in the field of Family Law since 1978. In 1993 he was Western Australia's first Family Law specialist to be appointed Queen's Counsel. He is the author of the textbook *Family Law* (5th edn 2007) and co-author (with Martin Davies) of *Shipping Law* (3rd edn 2004). He was the inaugural President of the Family Law Practitioners' Association of Western Australia, 1979-1981.

Planning Law Update for WA Practitioners

Tuesday, 29th March 2011

2.00 pm - 5.45 pm

Environmental Planning Law (Planning Law) is the body of laws involved in controlling land use.

There have been many significant changes in WA Planning Law in the last decade, principally affected by the establishment of the State Administrative Tribunal (SAT) in 2004; the coming into operation in April 2006 of the *Planning and Development Act 2005*; and more recently, the enactment of the *Approvals and Related Reforms (No. 4) (Planning) Act 2010*.

The purpose of this seminar is to provide practitioners with an update on the various areas of Planning Law they are likely to encounter in practice, including:

1. The expanding role of State planning policy
2. The significance of the newly proposed WAPC Improvement Schemes
3. The extent to which landowners may influence the making and amending of Region Schemes and Local Planning Schemes
4. The interrelationships of WA planning instruments including:
 - State Planning Policies
 - Improvement Schemes
 - Region Schemes
 - Local Planning Schemes
 - Redevelopment Schemes
5. The growing significance of Structure Plans and Development Contribution Plans in developing greenfields sites, and their roles and operation
6. Review of planning decisions in SAT

7. Special issues relating to s214 Directions and their review
8. Significant changes in the laws relating to compensation for injurious affection arising out of the making and amendment of schemes

The points of potential involvement for legal practitioners in the land use control processes have increased progressively in recent decades but the rate of change in the last decade has been exponential. There are significant benefits for practitioners in keeping up to date.



Competency Area 3 Legal Knowledge - Substantive Law

CPD Points: 3.5

About the Presenter

The presenter at this seminar will be Denis McLeod. Denis has practised law in WA for 42 years and in the last 31 years specialising in Environmental Planning Law and Local Government Law. He is Managing Partner of McLeods, a firm that specialises in those areas of law.

Denis is Adjunct Professor at Curtin University and at UWA, and has taught Environmental Planning Law to planning students for 31 years. He is also a councillor of the Law Society of WA, Honorary Fellow of the Planning Institute of Australia and Life Member of the Local Government Planners Association.

CPD Information

Mandatory Continuing Education Scheme

There is a mandatory continuing education scheme in operation in Western Australia. To comply with this scheme, most certified practitioners are required to earn a minimum of 10 CPD points in each CPD period (1 April to 31 March).

Competency Areas

CPD points are to be made up from three Competency Areas:



Competency Area 1 - Legal Skills and Practice

Those skills and attributes relevant to or necessary for an individual practitioner's practice



Competency Area 2 - Values

Ethics and professional responsibility



Competency Area 3 - Legal Knowledge

Substantive Law

Practitioners of less than five years post-admission experience, are required to complete a minimum of 4 CPD points in Competency Area 1 and a minimum of 4 CPD points in Competency Area 2 in each CPD period.

Practitioners of five years or more post-admission experience are required to complete a minimum of 2 CPD points in Competency Area 1 and a minimum of 2 CPD points in Competency Area 2 in each CPD period.

QA Provider

CPDS is an organisation that has been approved by the Legal Practice Board of Western Australia as a quality assured provider of professional development activities.

Enquiries

For all enquiries regarding application of CPD points to individual seminars:
Continuing Professional Development Seminars
Postal Address: PO Box 598, North Melbourne, VIC 3051
Telephone: (03) 9328 2688
Facsimile: (03) 9328 4688
Email: seminars@cpds.com.au
Website: www.cpds.com.au

Please note that the above is provided for informational purposes only and is based on information supplied by the Legal Practice Board of Western Australia at the time of publication. Practitioners should make their own enquiries before relying on the information supplied above.



- Drafting Binding Financial Agreements Affidavits & Consent Orders
- Planning Law Update
- Inheritance -The Decline of Testamentary Freedom
- Essential Issues in Sentencing

CPDS Seminars March 2011

Perth
Duxton Hotel
1 St Georges Terrace

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Essential Issues in Sentencing in Western Australia

Tuesday, 29th March 2011

9.15 am - 1.00 pm

The purpose of this seminar is to outline some essential matters that practitioners should consider when making a plea in mitigation. The seminar will deal with the more important aspects of plea making in all jurisdictions including the Magistrate’s Court, District Court and Supreme Court.

A. MITIGATING FACTORS

Significant matters to be dealt with in pleas of guilty or in mitigation being:-

1. The discount for a plea of guilty
 - “Fast-track” pleas and pleas of guilty generally. What is the appropriate range of discounts in these circumstances?
 - “Fast-track” discounts and the meaning of “a plea at the first reasonable opportunity”
2. Co-operation with prosecuting authorities and the Courts - discounts for previous co-operation; promised future co-operation and other types of co-operation and when a discount is appropriate
3. Mental illness in the sentencing process - what type of mental illness may attract a discount and whether there needs to be a causal connection between the offence and the mental illness
4. Remorse and contrition - discounts for genuine remorse
5. Delay and rehabilitation - When can delay be considered as a mitigating factor?

B. AGGRAVATING FACTORS

- What is an aggravating factor?
- When does an aggravating factor increase a sentence?
- What is not an aggravating factor?

C. TOTALITY IN THE SENTENCING PROCESS

- Concurrent or Cumulative Sentences?
- The meaning of the phrase “the one transaction rule”
- Considerations when multiple offences are dealt with in the sentencing process

D. CONFISCATION OF PROPERTY IN SENTENCING

- The effect of the confiscation of property and how it should be considered in the sentencing process
- Whether confiscated property can be taken into account as a mitigating factor

E. MANDATORY SENTENCING

- What offences attract mandatory sentencing?



Competency Area 3
Legal Knowledge - Substantive Law

CPD Points: 3.5

About the Presenter

The presenter at this seminar will be Laurie Levy SC. Laurie is a barrister who practises almost exclusively in the area of criminal law. In December 2008 he was appointed Senior Counsel for Western Australia and subsequently joined the West Australian Bar. Over the last 20 years he has conducted hundreds of criminal trials and appeals. His advocacy experience includes acting as counsel in Western Australia, Victoria, New South Wales and the High Court of Australia and includes many murder cases. Laurie has also recently coauthored a legal textbook on criminal procedure “*Criminal Process in Queensland and Western Australia*”.

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Inheritance - The Rise of Testamentary Duty and the Decline of Testamentary Freedom

Tuesday, 29th March 2011

2.00 pm - 5.45 pm

Significant changes to the *Inheritance (Family and Dependants Provision) Act 1972* (“Act”) are proposed by the *Inheritance (Family and Dependants Provision) Bill 2007*.

The proposed changes, *inter alia*, broaden the class of persons who can make claims under the *Inheritance Act* by allowing claims to be made by step children in certain circumstances and by recognising Aboriginal and Torres Strait Islander kinship relationships.

The proposed amendments will also make significant procedural modifications to proceedings under the Act. This will allow the making of interim orders for provision, operate to reduce the level of formality and costs involved with claims in respect of small estates, provide for the power to vary an award where undisclosed property is discovered after an order for provision has been made, enable letters of administration to be granted in respect of an estate purely to facilitate the bringing of a claim under the Act, and to facilitate the giving of evidence of statements made by the deceased about, amongst other things, potentially disqualifying conduct of an applicant.

The Bill has been making slow progress through the Parliamentary system but is expected to pass into law at some stage.

This seminar will review the proposed legislative changes in detail and will also consider:

- Who can make a claim under the Act before and after the changes come into effect
- In what circumstances an order for financial provision will be made out of an estate to a claimant
- The type of evidence that is relevant and should be led in respect of Inheritance claims

- Quantification of claims and how the Court deals with competing interests of claimants and beneficiaries
- Practice and procedure applicable to claims
- Applications for bringing claims out of time
- The making of orders for provision against assets which have already been distributed by the Executor or Administrator to beneficiaries

The seminar will also workshop a number of different Inheritance claim scenarios.



Competency Area 1
Legal Skills and Practice

CPD Points: 1.0



Competency Area 3
Legal Knowledge - Substantive Law

CPD Points: 2.5

About the Presenter

The presenter at this seminar will be Robert Nash. Robert has been admitted to legal practice since 1987. He has practised as an independent barrister for 13 years out of Francis Burt Chambers. He has a broad practice which is primarily focused on commercial disputes, estate matters, and criminal law.

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Registration Form & Tax Invoice

Please Register me for:

- ☐ Drafting Binding Financial Agreements, Affidavits & Consent Orders
- ☐ Planning Law Update for WA Practitioners
- ☐ Essential Issues in Sentencing in WA
- ☐ Inheritance - The Rise of Testamentary Duty and the Decline of Testamentary Freedom

Registration Fees \$440 each seminar

Registration fees are inclusive of 10% GST. A tax invoice will be issued upon payment. Discounts are also available for early registration, online registration and group bookings – see below for details.

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PO Box 598
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Venue

Duxton Rooms One, Two, Three and Four
Duxton Hotel
1 St Georges Terrace
Perth

Discounts

A discounted registration fee of \$395 is available for all fully paid registrations received at least 30 days prior to the date of the seminar. A group discount of 10% off the full registration fee is offered for bookings of three or more persons from the same firm. Please send all registrations together clearly labelled “group booking”. A discounted registration fee of \$395 is also available for all online registrations. You can search and register for all CPDS seminars at www.cpbs.com.au. Only one discount category can be claimed for each registration.

Cancellations

Registrations may be cancelled up to 14 days prior to the seminar or workshop and a refund will be provided but an administrative fee of \$44 will be deducted. No refunds will be available within 14 days of the seminar or workshop. Should a seminar or workshop be cancelled by CPDS for any reason, a full refund of all fees paid will be made. CPDS reserves the right to cancel or reschedule courses, and to change speakers or revise content as necessary.

Mandatory CPD Schemes

If this particular educational activity is relevant to your immediate or long term needs in relation to your professional development and practice of the law, then you should claim one “unit” for each hour of attendance, refreshment breaks not included. Further Information is provided on the back of this brochure.

Enquiries

For all enquiries regarding the course content or registration: Continuing Professional Development Seminars
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