

QUEENSLAND LAW SOCIETY CALLS FOR REFORM

07 July 2016 | Australia, Brisbane, Melbourne, Perth, Sydney
Legal Briefings - By **Elizabeth Poulos**, **Bianca Janovic** and **Alice McDonald**

The Supreme Court of Queensland currently has no jurisdiction to hear class actions, but the issue is back in the spotlight following renewed calls from the Queensland Law Society for class actions reform.

In a recent article, Queensland Law Society President Bill Potts voiced strong support for the introduction of a class action regime in Queensland and indicated that such reform would also have the backing of the Queensland Bar Association, many judges and solicitors. According to Mr Potts, class actions are 'often the only way that poorly-resourced victims of disasters and other tragedies can uphold their rights'.

CURRENT STATE OF CLASS ACTIONS IN QUEENSLAND

Class action reform has taken a back seat since January 2015, when a Bill tabled in the Queensland Parliament to address the issue lapsed. That Bill proposed to amend the *Civil Proceedings Act 2011* to introduce a comprehensive statutory regime to facilitate the effective conduct and management of class actions in Queensland.¹

The renewed focus on Queensland's lack of a class actions structure comes as the plaintiffs in the class action concerning the 2011 Queensland floods (commenced in the Supreme Court of New South Wales in July 2014) continue to face delays in their proceeding. A trial has now been scheduled for October 2017, more than three years after the proceeding was commenced.²

Central to Mr Potts' case for reform is that Queenslanders 'shouldn't have to go to another state to get fair compensation when we have suffered harm', as Queensland fails to keep pace with other Australian jurisdictions in this area of law.

The Federal Court first introduced its representative proceedings framework in 1992 and the Supreme Courts of Victoria and New South Wales followed suit in 2000 and 2011, respectively. Western Australia also looks set to develop a proposal for a legislative class actions regime, following the release of a report on representative proceedings from its Law Reform Commission last year.³

Barrister and Professor of Law at the University of Sydney, Dr Peter Cashman, argues that 'Queensland law and practice has failed to keep up with national and international developments'⁴ while Mr Potts characterises the lack of regime as 'an access to justice issue for Queenslanders'.

ARGUMENTS FOR AND AGAINST ESTABLISHING A CLASS ACTION REGIME

Mr Potts considers that if the current ALP Government proposed a statutory class actions regime, it would likely have bipartisan support given the original 2014 bill was drafted by the LNP.

It remains to be seen whether and how the Queensland Parliament will respond to this latest bid to put class action reform back on the State's agenda.

ENDNOTES

1. *Justice and Other Legislation Amendment Bill 2014* (Qld); Queensland Law Society, Legislation Update Issue 48/2014, 3 December 2014, p 12.
2. See [Queensland Floods Class Action](#).
3. Law Reform Commission of Western Australia, Representative Proceedings, Project No 103 - Final Report (2015) 39; Ante Golem and Natalie Hepburn, 'Imminent reform of representative proceedings in Western Australia', Herbert Smith Freehills Legal Briefings, 21 March 2016.
4. Dr Peter Cashman, '[Class Actions: pleading and procedural problems and pitfalls for new players](#)', Hearsay, 9 March 2013.

MORE INFORMATION

For information regarding possible implications for your business, contact [Elizabeth Poulos](#).

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



ELIZABETH POULOS
PARTNER, BRISBANE

+61 7 3258 6575
Elizabeth.Poulos@hsf.com

LEGAL NOTICE

The contents of this publication are for reference purposes only and may not be current as at the date of accessing this publication. They do not constitute legal advice and should not be relied upon as such. Specific legal advice about your specific circumstances should always be sought separately before taking any action based on this publication.

© Herbert Smith Freehills 2022

SUBSCRIBE TO STAY UP-TO-DATE WITH INSIGHTS, LEGAL UPDATES, EVENTS, AND MORE

Close

© HERBERT SMITH FREEHILLS LLP 2022