



**JUDICIAL CONFERENCE OF AUSTRALIA**

**EXECUTIVE COMMITTEE**

**MINUTES OF MEETING: 2012/3**

Held by teleconference on **Wednesday 25<sup>th</sup> July 2012**  
commencing at 5.00 pm Eastern Standard time

**Participating**

Justice David Harper, AM (President)                      in the Chair  
Justice Alan Blow, OAM  
Judge Allan Fenbury  
Justice Peter Garling  
Chief Magistrate Graeme Henson  
Justice Philip McMurdo (Vice President)  
Justice Hilary Penfold  
Justice Steven Rares  
Judge Brian Withers (Treasurer)

**Apologies**

Federal Magistrate Michael Baumann  
Chief Magistrate Elizabeth Bolton  
Magistrate Don Jones  
Justice Judith Kelly  
Justice Glenn Martin  
Magistrate Marc Sargent  
Justice Michael Walton

**In attendance**

Christopher Roper, AM (Secretary)

**1 Minutes of the previous meeting**

The minutes of the previous meeting held on 19<sup>th</sup> April 2012 had been circulated.

Resolved:

That the minutes of the meeting held on 19<sup>th</sup> April 2012 be approved.

## **2 President's report and business**

### *Chief Justice of Papua New Guinea*

The President reported that the sedition case against the Chief Justice was yet to be heard. The Chief Justice was expected to attend the opening of the new court buildings in Brisbane in early August.

### *Chief Justice of Nigeria*

The President referred to the letter he proposed to send to the new Chief Justice of Nigeria, congratulating her on her appointment. The meeting agreed that the letter be sent.

### *Federal complaints legislation*

The President reported that there were no developments.

## **3 Treasurer's report**

A financial report for the period 1<sup>st</sup> April to 30<sup>th</sup> June 2012 had been circulated. The Treasurer reported on the current balances at bank. He also reported that, as a result of a reconciliation of reports from Edwards Marshall and AM Meetings Plus, it was now apparent that the 2011 Colloquium had made a small surplus of \$605.

### Resolved:

That the Treasurer's report be received.

That Chris Roper and the Secretariat be thanked for the work they had done in regard to the financial records, especially the reconciliation of the Colloquium expenses.

## **4 Membership report**

A membership report for the period to 30<sup>th</sup> June 2012 had been circulated, and was noted. The Secretary reported that 403 members had renewed to date, which was about two thirds of the membership.

Justice Rares pointed out that the number of Eligible Judicial Officers in the Federal Court was 40, together with 2 others in the AAT and 1 at Fair Work Australia.

In regard to those members who had not yet renewed their membership, it was agreed that the Secretariat would send their names to the relevant Governing Council members and, in addition, prepare a letter to be sent by the President to those members by email.

Judge Henson asked that a list of members of his Court who had not yet renewed be sent to him.

Justice Rares left the meeting at this point.

## **5 Secretary's report**

The Secretary had nothing to report.

## **6 2012 Colloquium**

As Justice Martin was not present, Justice McMurdo reported that he understood that there were 29 registrations to date. The President said he would send a reminder with the next distribution of media clippings.

## **7 Judicial pension entitlements**

Justice McMurdo noted that the Position Paper was now uploaded to the JCA website.

There was then some discussion of a report that the Federal Government had sought legal advice from the Solicitor General as to whether it would be possible to impose a superannuation surcharge which was free of those defects that resulted in its earlier incarnation being made partially ineffective. It was also noted that there had been several articles in *The Australian* about the cost of judges' pensions.

It was noted that there had been talk of another attempt to impose the surcharge just after the decision in *Austin's Case* but that had apparently led to nothing. He reported that at that time it was said that the States would have to impose the surcharge and some States were not willing to do so.

It was noted that it was fortunate that the JCA had its own statement of policy in the Position Paper which would not appear to have been developed in response to these developments but had been in place for some time.

It was noted that there could be others, in addition to judges, who might be affected by a revived surcharge, *ie.* they would be treated as superannuants and then levied on their superannuation entitlements.

The President expressed the thanks of the Executive Committee to Justice McMurdo and his sub-committee for the outstanding work which had been done in the preparation of an excellent paper.

## **8 Language and the Law Conference**

A copy of a wrap-up report had been circulated. It was said that it would be desirable if the previous offer, that papers from the Conference might be provided to the JCA for inclusion on its website, could be taken up. The Secretary said that he had raised this with Justice Kelly who had advised that the relevant person was on leave. A request for access to the papers would be further pursued when that person returned.

## **9 Next meeting**

It was noted that the next meeting would be held on Thursday 13<sup>th</sup> September 2012 at 5.00pm Eastern Standard Time.