

25 NOV 2009

## Trans-Tasman Proceedings Bill 2009

### Second Reading Speech

#### *Introduction*

Australia's links with our New Zealand neighbours are strong and diverse. The relationship extends across government, business, community and sport, and is a rock-solid alliance.

In fact, I'm very happy to welcome the New Zealand Minister for Justice, the Hon Simon Power who is with us here in the chamber today.

The Australia New Zealand Closer Economic Relations Trade Agreement cemented these links, and the trans-Tasman economic and trade relationship has prospered since its inception in 1983.

That Agreement, and a range of others under it, has led to a steady increase in the movement of people, assets and the provision of services across the Tasman.

It is inevitable that such a close relationship will give rise to the greater possibility of legal disputes with a trans-Tasman element. But, despite our close relationship, there are currently only limited civil legal cooperation arrangements in place between Australia and New Zealand.

In many ways our two legal systems treat trans-Tasman disputes in the same way as they would treat a dispute involving any other foreign country.

This is clearly something that must change. We need structures that reflect our close relationship, our shared common law heritage and our strikingly similar legal systems.

With the introduction of the Trans-Tasman Proceedings Bill 2009, this is now set to change.

The Bill will operate alongside its companion New Zealand legislation introduced into the New Zealand Parliament yesterday.

Together, both Bills will significantly enhance current arrangements and improve access to justice by establishing a cooperative scheme to make trans-Tasman litigation simpler, cheaper and more efficient.

### ***Trans-Tasman Agreement***

Most significantly, the Bill implements into Australian law the *Agreement between the Government of Australia and the Government of New Zealand on Trans-Tasman Court Proceedings and Regulatory Enforcement*, which I had the pleasure of signing in Christchurch on 24 July 2008.

The Agreement draws on the commonalities between the legal values and institutions in Australia and New Zealand, and enshrines a range of innovative reforms which will benefit litigants in both countries.

### ***Reforms in the Bill***

The Bill sets up a 'trans-Tasman regime' for the conduct of court proceedings between Australia and New Zealand. The regime is modelled on the cooperative scheme established by the Commonwealth *Service and Execution of Process Act 1992*, which regulates legal proceedings between Australian States and Territories.

This Bill includes a range of measures to improve the procedure for conducting trans-Tasman litigation.

For example, the Bill allows a plaintiff to serve Australian civil initiating process on a defendant in New Zealand without having to seek leave, or prove that a particular connection exists between the proceeding and the Australian court.

Importantly, the Bill, along with its New Zealand equivalent, broadens the range of judgments able to be recognised and enforced, and simplifies the process for this.

Currently only money judgments can be enforced between the two countries – but this can often leave a party without an effective remedy to which they are entitled. The regime addresses this problem by allowing non-money judgments, like injunctions, to be enforced. Eligible judgments will also be subject to a more streamlined process of registration.

The Bill also allows the greater use of technology in trans-Tasman proceedings. In many cases, parties will be able to participate in proceedings in the other country without having to leave their home jurisdiction.

### ***Regulatory enforcement***

The Bill also enhances the effectiveness of regulatory institutions in both countries.

It allows for certain civil pecuniary penalties and criminal fines in regulatory matters to be registered between the two countries. For example, penalties imposed for

serious breaches of the Australian *Trade Practices Act* or New Zealand *Commerce Act*.

These reforms are a recognition of the mutual interest our two countries have in the effective operation and integrity of trans-Tasman markets and the enforcement of judgments imposed for breaches of such regimes.

### ***Incorporation of existing legislative provisions***

Along with implementing the Agreement, this legislation rolls in existing provisions dealing with Trans-Tasman proceedings, to create a ‘one-stop shop’ for laws governing the conduct of trans-Tasman disputes. This will make proceedings simpler for litigants.

The *Evidence and Procedure (New Zealand) Act 1994* currently sets up a cooperative regime for the taking of evidence and service and enforcement of subpoenas between Australia and New Zealand. That Act is moved into the Bill with minor amendments and subsequently repealed.

The *Federal Court Act 1976* currently has special rules for the conduct of proceedings regarding damage to competition in trans-Tasman markets. These rules have been moved into the Bill, with minor amendments, and will continue to operate to facilitate effective resolution of market proceedings.

### ***Stakeholder support***

This project has benefited from consistent support from stakeholders in both countries.

In particular, I would like to acknowledge the engagement of the States and Territories in developing the framework for the regime and the collaborative way in which the Agreement has been implemented in corresponding legislation in both countries.”

And of course I again recognise the support of the New Zealand Government, driven by Simon Power.

### ***Conclusion***

The regime established by this Bill, and its New Zealand equivalent, demonstrates the strong shared respect for, and confidence in, each others justice systems and regulatory institutions.

The legislation underpins an unprecedented level of legal cooperation between out two countries. It is also consistent with the Government’s Strategic Framework for Access to Justice.

The Trans-Tasman Proceedings Bill, and its New Zealand equivalent, stand as an example of what can be achieved when two countries commit to finding more efficient and cost-effective ways to resolve cross-border disputes.

I commend the Bill.

25 NOV 2009

# Trans-Tasman Proceedings (Transitional and Consequential Provisions) Bill 2009

## Second Reading Speech

### **Introduction**

The Trans-Tasman Proceedings (Transitional and Consequential Provisions) Bill 2009 contains a range of transitional measures and consequential amendments to support a smooth transition to the new arrangements established by the Trans-Tasman Proceedings Bill 2009.

The Bill makes clear how various aspects of the regime will apply to the conduct of trans-Tasman legal proceedings commenced before the Trans-Tasman Proceedings Bill comes into operation.

It also makes consequential amendments to existing legislation. The primary Bill is designed to be a single point of reference for people on how to conduct trans-Tasman legal proceedings. This Bill repeals the *Evidence and Procedure (New Zealand) Act 1994*, and the trans-Tasman market proceedings provisions of the *Federal Court Act 1976*. These provisions have been moved into the primary Bill with minor amendments.

This Bill is necessary to ensure the Trans-Tasman Proceedings Bill 2009 can operate as intended.

I commend the Bill.