

Newsletter



of the



Commonwealth Association of Legislative Counsel

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President's report November 2012

CALC Conference 2013

A lot of effort has been going into the organisation of the CALC Conference which will be held in Cape Town, South Africa, from 10 April to 12 April 2013.

The theme of the conference is *Thirty Years of the Winds of Change in Legislative Drafting: CALC 1983–2013*. The reference to the winds of change is a reference to British Prime Minister Neville Chamberlain's speech about the winds of change blowing across Africa.

CALC will celebrate its 30th birthday in 2013. Its next bi-annual conference in Cape Town will be a fitting occasion to look back on what CALC and its members have accomplished over this time and the developments that have taken place in legislative drafting. It will also be an opportunity to look forward to what the future holds. The winds of change have surely left their mark and will continue to blow for years to come.

The conference will commence with registration at midday on Wednesday 10 April and conclude with a dinner on Friday 12 April.

The conference is open to all CALC members and will also include a General Meeting of CALC and the election of the CALC Council.

The conference sessions will look at the evolution of drafting technique and the influence of the Plain Language Movement over the past 30 years with a view to considering its continuing development



into the future. Other dimensions of legislative drafting to be explored include:

- Impact of Development Assistance on Legislative Drafting
- How Information Technology has Changed Legislative Drafting
- Development of Legislative Drafting Skills
- Legislative Sovereignty and the Globalisation of Law
- Government Context for Legislative Drafting.

The conference will conclude with a Master Class session featuring some of CALC's most gifted legislative counsel.

An outstanding array of speakers from across the Commonwealth has agreed to present papers at the Conference.

I hope that many members will be able to attend.

Details about the conference, including the draft program, and the registration form are available on the CALC website at <http://www.opc.gov.au/calc/conferences.htm>.

Work with the Commonwealth Secretariat

We have continued our work with the Commonwealth Secretariat. This has included being involved in the relaunch of the Commonwealth Foundation. I would like to thank CALC Council member Edward Stell who has been attending these meetings in London on our behalf.

An exciting project that the Commonwealth has commenced is the Working Group on the Development of a Legislative Drafting Software for small jurisdictions.

CALC was involved in lobbying for this to come about and a number of CALC members were involved in preparing submissions supporting it.

The working group has been formed to oversee the project. The terms of reference specifically provide for CALC to be represented on the working group. This is important recognition of CALC's role in relation to legislative drafting offices.

CALC will be represented on the working group by me, Ed Hicks and Therese Perera. Ed Hicks from Canada has a long involvement in IT for drafting offices and was involved with the preparation of material for the Commonwealth that led to the establishment of the committee. Therese is from a smaller jurisdiction (Sri Lanka) and will be able to bring that perspective to the discussion.

It is hoped that we will be able to report progress by the time of the CALC Conference.

Loopholes and Newsletters

We are continuing to produce the *Loopholes* and *CALC Newsletters*.

I would like to acknowledge the work of Council Member John Mark Keyes from Canada for his role as Editor in Chief of the *Loophole*.

I would also like to acknowledge the work of CALC Secretary Fiona Leonard from NZ for her work with the *Newsletters*. I know that she would very much appreciate contributions from CALC members.

Missing members

We get quite a few bouncing emails when we send emails to members. If you change your address, please tell us.

Similarly, if you know other CALC members you could check that they are getting the CALC emails and, if not, suggest that they contact us at calc@opc.gov.au.

Peter Quiggin
CALC President

C5 Forum: Anti-Corruption, West Africa Edition

19–20 June 2012, Accra, Ghana

I was invited by the C5 Forum to take part in a conference entitled "Anti-Corruption, West Africa Edition" in Accra from the 19th-20th June 2012 at the Movenpick Hotel.

The C5 Group works closely with sponsors to create the perfect business development solution catered exclusively to the needs of any practice group, businessline or corporation. It provides business information in a global context.

The sub-theme of the conference was "Tailoring Effective Anti-Corruption Compliance Strategies when Operating in a High Risk Developing Region".

There were two keynote speakers, one the British High Commissioner to Ghana, Mr Peter Jones, whose topic was "Guidance for British Companies on the Application of the UK Bribery Act". The other keynote speaker was Mr Smile Kwawukume, Senior Public Sector Specialist of the World Bank, whose topic was "How the Development Banks are Cracking Down on Corruption in the Procurement Process: Ten Steps to Avoid Sanctions or Disbarment when Working on Development Bank Projects".

I was asked to make a presentation on "West African Legislative and Community Initiatives and Enforcement Priorities for Anti-Corruption and Bribery: What Progress is Being Made to Crack Down on Corruption and Bribery". My topic was "Legislating Anti-corruption Initiatives the Ghana Perspective".

The object of the conference was to:

- Install a culture of compliance awareness and proactive prevention
- Accurately identify who is and is not a "government official" by monitoring third party activities and relationships
- Prepare companies for the enforcement of the new UK Bribery Act and the impact of its broad jurisdictional reach of operation in the West African region
- Establish and maintain business partnerships and work within local content requirements while minimising corruption risks
- Manage cultural expectations for gifts and hospitality—knowing when a gift or payment is acceptable
- Undertake successful due diligence in hostile environments where public records are scarce or unreliable.

The participants were:

- Regional general counsel
- International counsel
- Trade counsel
- Ethics and compliance officers
- International contract managers
- Private practice lawyers specialising in international trade, corporate compliance and governance, white-collar crime, investigations, international commercial transactions and joint ventures
- Accounting and consultancy firms.

Estelle Appiah
Legislative Counsel (EALC), Accra, Ghana

10th Congress of the International Association of Legislation: Regulatory Reforms in Russia—Implementation and Compliance

28–29 June 2012, Veliky Novgorod, Russia

The IAL was formerly the European Association of Legislation (founded in 1991) but became “International” in 2008. It has over 170 active members in academia and practice.

The majority of the papers at the Congress were given by professors or other academic contributors with keynote speeches from practitioners and Russian state and federal-level politicians, including Garry Minkh the Presidential Envoy to the Russian State Duma. My plenary paper covered CALC, a summary of implementation and compliance issues arising from a number of comparative (International, European, UK and New Zealand) legislative proposals and adopted legislation that I have worked on and finally a summary of regulatory reforms currently being implemented here in the UK and in New Zealand. On the second day, panels examined reform of legal regulation in relation to social legislation, online government, economics and legislative procedures. Details of the programme of the Congress can be found on the IAL website (www.ial-online.org) and the papers and associated power-point presentations will be published in due course.

There was a significant delegation from South Korea (both academics and public servants) since their next Congress is planned to be in Seoul in 2014. The IAL has made contact with an Asian-wide legislation society which has a very substantial membership of practitioners across a number of (non-Commonwealth) countries on that continent and so they are keen to develop links with their Asian membership.

The chairman of the association was Prof Dr Luzius Mader, Head of the Public Law Division – Legislative Projects and Methodology Unit in the Swiss Federal Department of Justice and Police but after 6 years in the chair he stepped down at the formal meeting of the association and has been replaced by Professor Wim Voermans from Leiden University, a specialist in Dutch and European legislative studies and jurisprudence.

The IAL is governed by a board and there is an advisory council which provides advice to the board.

The IAL is keen to have greater involvement with CALC where possible. There are already some overlapping memberships. It may be possible to run a joint workshop at the forthcoming Cape Town CALC conference for African drafters, for example, with members of the IAL as a link between the common law tradition of commonwealth African nations and the civil law traditions of other African countries.

David Noble
Chief Parliamentary Counsel, New Zealand

Pacific Legislative Drafters' Technical Forum

23–25 July 2012, Suva, Fiji

The third meeting of the Drafters' Forum, hosted by the Pacific Islands Forum Secretariat, was attended by parliamentary counsel, senior legislative drafters, and senior government lawyers from Forum Island Country Members—the Cook Islands, Federated States of Micronesia, Kiribati, Palau, Papua New Guinea, Nauru, Niue, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu, Australia, New Zealand—along with national, regional and international organisations providing drafting assistance or involved in law reform in the region.

In opening the Drafters' Forum, the Secretary General of the Pacific Islands Forum Secretariat, Mr Tuiloma Neroni Slade, emphasised that the work of legislative drafters is critical in the maintenance of the rule of law, and in enabling governments to develop the legislation necessary to give legal effect to national policies as well as commitments under regional and international treaties. The Secretary General further emphasised the importance of Forum Island countries having access to high quality legislative drafting services, and highlighted the need for regional cooperation.

Parliamentary counsel and government lawyers of Forum Island countries shared their respective countries' approaches to, and experiences of, providing legislative drafting services to their governments. The discussions indicated that some jurisdictions had in recent years significantly enhanced the resources and processes for legislative drafting and publication of laws. For other jurisdictions, the allocation of dedicated resources for legislative drafting remains a challenge due to financial and human resources constraints. Participants highlighted the importance of governments allocating sufficient resources to support effective legislative drafting services.

Participants also considered the various forms of assistance that were available from national, regional and international organisations in relation to legislative drafting and law reform. They expressed their particular support for the assistance for legislative drafting provided by the Attorney-General's Department and Office of Parliamentary Counsel of Australia, and the New Zealand Parliamentary Counsel Office. Participants also discussed ways of better managing the provision of donor funded legislative drafting assistance to promote quality control, noting that insufficient appreciation of the role of, and required qualifications for, legislative drafters often resulted in the provision of unsuitable legislative products.

An action plan was developed to further the goal that Forum Island countries have ready access to high quality legislative drafting services. The plan includes proposals to:

- review legislative drafting courses provided in the region
- share between jurisdictions legislative drafting resources, such as drafting manuals
- develop strategies to improve the standard of policy advice and drafting instructions
- recommend improved terms and conditions of employment for legislative drafters
- pursue advanced and specialised legislative drafting training
- develop processes for the management and quality control of legislation drafted by consultants
- improve administrative support for legislative drafting and publication of laws.

For more information about the Drafters' Forum and other Pacific Islands Forum Secretariat meetings, visit www.forumsec.org.

People

Honoured: Eamonn Moran



Eamonn Moran was awarded the Silver Bauhinia Star (SBS) as announced in the 2012 Establishment Day Honours List for Hong Kong.

The Silver Bauhinia Star (Chinese: 銀紫荊星章, SBS) is the second rank in the Order of the Bauhinia Star in Hong Kong, awarded to people who have taken a leading part in public affairs or voluntary work over a long period. The award was created in 1997 to replace the British honours system (such as Order of the British Empire) after the transfer of sovereignty to the People's Republic of China and the establishment of the Hong Kong Special Administrative Region.

Invitation: International Law Reform Conference, Cape Town



Commonwealth Association of Law Reform Agencies
Encouraging international cooperation on law reform

Invitation to an International Law Reform Conference 13 and 14 April 2013 Cape Town, South Africa

You are warmly invited to the biennial Conference of the Commonwealth Association of Law Reform Agencies (CALRAS). The Conference is being arranged by CALRAS, with the kind assistance of the South African Law Reform Commission.

The Conference will be held in Cape Town, South Africa, widely regarded as one of the most beautiful cities in the world and home to Table Mountain, one of the new natural wonders of the world.

Venue: The Commodore Hotel, Victoria and Albert Waterfront, Cape Town
Commencement: 08:30 on Saturday 13 April 2013
Conclusion: Afternoon of Sunday 14 April 2013

A CALRAS General Meeting will be held on Sunday afternoon after the Conference.

Attendance is open to all, especially those interested in law reform. Attendance is limited to 80 persons. There is no charge for attending the Conference, but attendees are responsible for their own travel and accommodation arrangements and expenses.

The Conference includes the following:

- Coffee and tea with snacks on arrival Saturday morning 13 April 2013.
- Full conference package with lunch and morning and afternoon tea.
- Conference dinner the evening of Saturday 13 April 2013.

Further information about the CALRAS Conference will be distributed as soon as it becomes available. Interested persons are invited to contact Michael Sayers by **8 March 2013** (contact details below).

The CALRAS Conference will be held before the Commonwealth Law Conference (CLC), an entirely separate, large and prestigious international event. The CLC will take place in Cape Town from the evening of 14 April to 18 April 2013 and is likely to include a session on law reform. See www.commonwealthlaw2013.org for details.

Please pass this invitation on to all you know who might be interested.

Looking forward to seeing you in Cape Town!

MICHAEL SAYERS
Hon General Secretary
CALRAS
Email: thesayers@hotmail.com
Telephone: +44 (0)1483 575366

Membership

New CALC members

The following have been recorded as members of CALC since the publication of the last *CALC Newsletter* in May 2012.

Name	Country
Adeyamo, Ade	Nigeria
Adhikarie, Zuraya	South Africa
Apinelu, Eselealofa	Tuvalu
Bednar-Giyose, Jeannine	South Africa
Bell, Thomas William	New Zealand
Bentley, Shannon	Canada
Burke, E. Scott	Canada
Carolus, Rosabel Ellen	Seychelles
Crowe, Richard Mark	United Kingdom
Davies, Manon	United Kingdom
Faasau, Nola	Samoa
Galal, Nassir	South Africa
Garlipp, Linda	South Africa
Gomez-Bruzon, Joyleen	Gibraltar
Hall, Bardine	South Africa
Isaac, Sueanne Samantha	South Africa
Jolly, Cuthburt	Trinidad and Tobago
Joshi, Vihar	Canada
Kang'ong'a, Josephine	Kenya
Kassan, Daksha	South Africa
Knight, Philip	Canada
Lanre-Iyanda, Olusegun	Nigeria
Lim, Su Ching	Singapore
Loots, Barbara	South Africa
Madoc-Jones, David Huw	United Kingdom
Magzoub, Tarig Mubarak Mohamed	Sudan
Mahlale, Nomsa	South Africa
Makabeni, Sisa	South Africa
Makola, Bethuel	South Africa
Masondo, Khwezi Mbali	South Africa
Matthews, Pippa	Ireland

Melim, Michelle	South Africa
Mnyikiso, Ntombebandla	South Africa
Nguqu, Monabwisi	South Africa
Njai, Isatou Combete	Nigeria
Nkunika, Andrew	Zambia
Nyangu, Tennieson	Zambia
Paul, Bukelwa	South Africa
Purcell, Sophia	Ireland
Ramcharan, Thameshni	South Africa
Reetoo, Dinay	Mauritius
Rhoda, Gary	South Africa
Richter, Shaun Wesley	South Africa
Rood, Erik	South Africa
Sanguinetti, Yvette	Gibraltar
Shabalala, Sibusiso	South Africa
Shongwe, Bhekumusa Cusana	Swaziland
Stokes, Robert	Canada
Subramanian, Hema	Singapore
Sukraj, Raneer	South Africa
Swift, Christine Ruth	Australia
van Aswegen, Yolande	South Africa
Van Der Merwe, Charmaine	South Africa
Van Der Schyff, Lionel Diederich	South Africa
Vanara, Ntuthuzelo	South Africa
Vargas, Barbara	St Lucia
Williams, Jonathan R Esq	Liberia

Secretary contact details

If you wish to contact the CALC Secretary, Fiona Leonard, regarding membership or any other CALC matters, her email address is:

fiona.leonard@parliament.govt.nz