

114. T Butler

Full name: Ms Terri Butler MP

Proposal 4.1:

I support the establishment of a statutory cause of action for serious invasion of privacy.

Proposal 4-2 :

I agree with this proposition.

Proposal 5-1 :

I have nothing to add.

Proposal 5-2 :

I have nothing to add.

Proposal 5-3 :

Proposal 5-4 :

I agree.

Proposal 6-1 :

I agree.

Proposal 6-2 :

I agree.

Proposal 7-1 :

I agree.

Proposal 7-2 :

I agree.

Proposal 8-1 :

This element will make the cause of action susceptible to differing application depending on the philosophical position of the judge/s constituting the court for the particular case. For greater consistency, at the least some further guidance would need to be included, perhaps in the objects of the legislation.

Proposal 8-2 :

I repeat my concern, as stated in respect of proposal 8-1 above.

Proposal 9-1 :

Agree.

Question 9-1 :

In Queensland, the Civil and Administrative Tribunal ought to have jurisdiction, as a different costs regime can apply which might facilitate access to justice. A monetary limit could be placed on the tribunal, eg the tribunal could be conferred with jurisdiction to hear claims for which proceedings could be brought in the district court or lower.

Proposal 9-2 :

As Plaintiffs, yes. Obviously non-natural persons could be defendants.

Proposal 9-3 :

I agree.

Proposal 9-4 :

I agree.

Proposal 9-5 :

I agree.

Proposal 10-1 :

I agree.

Proposal 10-2 :

I agree.

Proposal 10-3 :

Yes.

Proposal 10-4 :

A publication in breach of privacy is an appropriation of one's private information. A defamatory publication is not necessarily able to be described as an appropriation of someone's good name. I suggest considering whether this defence should also be defeated if the plaintiff proves that the conduct of the defendant was actuated by a desire to profit from publishing the plaintiff's private information.

Question 10-1 :

I think the torts are analogous but for the reasons stated at proposal 10-4 above I don't believe they are perfectly so.

Proposal 10-5 :

I agree.

Proposal 10-6 :

I agree.

Question 10-2:

Yes.

Proposal 10-7 :

I agree.

Question 10-3 :

That the intermediary has taken all reasonable steps to prevent publication of information obtained in serious breach of privacy.

Proposal 11-1:

I agree. The Act ought to explicitly allow for general damages.

Proposal 11-2 :

I agree.

Proposal 11-3 :

I agree. Another aggravating factor might be that the defendant was in a position of power or trust vis-a-vis the plaintiff.

Proposal 11-4 :

I disagree. It should be a matter for the courts to decide how compensation ought to be awarded.

Proposal 11-5 :

I agree.

Proposal 11-6 :

I agree.

Proposal 11-7 :

I agree.

Proposal 11-8 :

I agree.

Proposal 11-9 :

I agree. And to ensure the injunctive powers are effective, they ought to be able to be exercised where the court considers that serious invasion of privacy is likely or has been threatened.

Proposal 11-10 :

I agree.

Proposal 11-11:

I agree.

Proposal 11-12:

I agree.

Proposal 11-13 :

I agree.

Question 11-1 :

In the courts costs should follow the event, including in matters where the plaintiff is represented pro bono. In the tribunals, different costs regimes may apply, such as costs only where the public interest requires such an order to be made, or where the action has been brought vexatiously, or the party has caused the other to incur costs unreasonably.

Proposal 12-1 :

I agree.

Proposal 12-2 :

The court should be required to consider all of the circumstances of the matter, including the public interest.

Proposal 13-1 :

I agree. In addition, employee records should no longer be exempted from the Privacy Act, or, in the alternative, ought to be subjected to some form of privacy protection.

Proposal 13-2 :

I agree.

Proposal 13-3 :

I disagree.

Proposal 13-4 :

I suspect such a defence would be difficult to administer.

Question 13-1 :

Either.

Proposal 13-5 :

I agree.

Question 13-2 :

Proposal 14-1 :

Proposal 15-1 :

I agree.

Proposal 15-2 :

I agree.

Question 15-1 :

Question 15-2 :

Yes.

Proposal 15-3 :

I agree.

Other comments:

As stated above, employee records are presently exempted from the Privacy Act, and are largely unregulated. Any privacy reform legislation should take the opportunity to correct this problem.

File 1:

File 2: