

Justice & Other Legislation Amendment Bill

Submission to the Justice, Integrity and Community
Safety Committee

18 March 2025

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Who we are

The **Australian Lawyers Alliance (ALA)** is a national association of lawyers, academics and other professionals dedicated to protecting and promoting access to justice and equality before the law for all individuals.

Our members and staff advocate for reforms to legislation, regulations and statutory schemes to achieve fair outcomes for those who have been injured, abused or discriminated against, as well as for those seeking to appeal administrative decisions.

The ALA is represented in every state and territory in Australia. We estimate that our 1,500 members represent up to 200,000 people each year across Australia.

Our head office is located on the land of the Gadigal people of the Eora Nation. As a national organisation, the ALA acknowledges the Traditional Owners and Custodians of the lands on which our members and staff work as the First Peoples of this country.

More information about the ALA is available on our website.¹

¹ www.lawyersalliance.com.au.

Introduction

1. The ALA welcomes the opportunity to have input to the Justice, Integrity and Community Safety Committee (the Committee) on *Justice and Other Legislation Amendment Bill 2026*.
2. The ALA is a national association of lawyers, academics and advocates who practise in and promote justice in personal injury and civil litigation matters. Our members regularly act for injured and vulnerable Queenslanders seeking access to the civil justice system.
3. The ALA **does not support** the proposed amendment to section 68 of the *District Court of Queensland Act 1967* to increase the District Court's monetary jurisdiction from **\$750,000 to \$1.5 million**, unless accompanied by corresponding reform to costs recovery frameworks and a commitment to provide additional judicial and administrative resources.
4. Without such reform, the proposal risks reducing access to justice, particularly for individuals pursuing complex personal injury claims

Access to justice and cost recovery

5. Legal costs are a critical determinant of access to justice. Even where a party is successful, party/party costs rarely indemnify the full cost of litigation. The gap between recoverable costs and actual solicitor–client costs is already significant in Queensland.
6. Increasing the District Court's jurisdictional limit without increasing the Scale of Costs in Schedule 1 of the *Uniform Civil Procedure Rules 1999* will:
 - a. increase the number of high-value, complex matters confined to a costs regime that does not reflect the real cost of running those cases;
 - b. expose successful litigants to greater unrecovered legal costs, even where costs are awarded in their favour; and
 - c. discourage individuals of ordinary means from pursuing meritorious claims due to the financial risk involved.
7. In practical terms, **justice becomes unaffordable**, not because claims lack merit, but because the economics of litigation no longer support their pursuit. The losses to these individuals don't just go away, instead of being properly and fairly compensated usually paid by an insurer, if an individual does not bring a claim or has to accept a smaller offer due to the

commercial realities of pursuing litigation, the individual will then have an increased reliance on government services such as Centrelink and the public health system.

Impact on personal injury claimants

8. The access to justice impact is particularly acute in personal injury litigation.
9. Personal injury matters are commonly conducted on a speculative (“no win, no fee”) basis. Queensland law already imposes strict limits on what lawyers may charge injured clients, including the 50/50 rule, which ensures claimants retain at least half of their compensation.
10. Where recoverable costs under the District Court scale do not reflect the work required to properly run a high-value claim:
 - a. law practices must absorb the shortfall; or
 - b. unrecovered costs effectively reduce the claimant’s net compensation outcome.
11. Either outcome undermines the purpose of civil compensation schemes and **penalises injured plaintiffs**, particularly those with complex injuries requiring extensive expert evidence.
12. As a result, some claims will not be taken on at all, not because they lack merit, but because they are economically unviable under the existing costs framework.

Scale of Costs are outdated and inadequate

13. The current Supreme and District Court Scale of Costs was last increased on 1 July 2024, consistent with routine indexation. These increases do not reflect the true cost of modern litigation, particularly for matters involving:
 - a. extensive expert evidence;
 - b. complex medico-legal issues;
 - c. multiple interlocutory disputes; or
 - d. prolonged case management.
14. Even now, parties who succeed in Supreme Court or District Court proceedings frequently face a significant financial burden, notwithstanding a costs order in their favour.

15. Doubling the District Court’s jurisdictional limit **without reforming the Scales** will exacerbate this problem and undermine any intended access to justice benefits of the proposal.

Practice Direction 22 of 2018 – unintended costs consequences

16. The proposed amendment also has unintended consequences for the application of Practice Direction 22 of 2018, which governs allowances for care, skill and conduct.
17. At present:
 - a. matters up to \$1.5 million commenced in the Supreme Court would typically attract a care and conduct loading in the range of 15–30%; and
 - b. if those same matters are forced into the District Court, they fall within categories attracting a lower range of 10–25%.
18. Accordingly, matters that are identical in complexity and value may attract lower recoverable costs solely because of the jurisdictional change.
19. If this is not the policy intent of the Government, amendment to the Scale of Costs or Practice Direction 22 should be expressly considered.

Workload of the District Court

20. The District Court of Queensland is already operating under significant workload pressures. According to the Court’s 2022–23 Annual Report, civil lodgements increased by 8.2% to 3,867, with a further rise to 4,096 in 2023–24. The civil clearance rate was just 92.2%, meaning more cases were filed than finalised, and nearly one in four pending civil cases were over 12 months old. These figures reflect a growing backlog and delays in the timely resolution of matters.
21. The Chief Judge has described the District Court as “*one of the largest and busiest of the higher courts in Australia,*” and has repeatedly highlighted that Queensland has fewer District Court judges per capita than any other comparable jurisdiction. Until the recent appointment of three additional judges in late 2023, the Court’s workload was described as “*unsustainable,*” with judicial and registry resources stretched to their limits.
22. Any increase in the District Court’s monetary jurisdiction will inevitably shift a substantial number of complex, high-value cases from the Supreme Court to the District Court. Without a corresponding increase in judicial and administrative resources, this reform risks

exacerbating existing delays and undermining access to justice. The ALA submits that the jurisdictional increase cannot proceed unless it is accompanied by a clear commitment to provide the District Court with the additional resources necessary to manage the increased caseload efficiently and fairly.

ALA position and recommendations

23. ALA submits that increasing the District Court's monetary jurisdiction without costs reform will reduce, rather than enhance, access to justice.
24. If the Committee is minded to support the jurisdictional increase, ALA strongly recommends that it be accompanied by:
 - a. An immediate increase to the Scale of Costs in Schedule 1 of the UCPR to better reflect the real cost of litigation;
 - b. A comprehensive review of the Scale of Costs, including its suitability for higher-value and more complex matters;
 - c. Amendment to Practice Direction 22 of 2018 to ensure that higher-value District Court matters are not subject to a reduced allowance for care, skill and conduct compared with equivalent Supreme Court matters; and
 - d. A commitment to provide additional judicial and administrative resources to the District Court, including the appointment of further judges and investment in court infrastructure, to ensure the Court can efficiently manage the increased caseload resulting from the jurisdictional change.
25. Absent these reforms, ALA submits that the proposed amendment should **not proceed**.

Conclusion

2. The ALA welcomes the opportunity to have input to the Committee on the proposed Bill.
3. Access to justice is not achieved merely by reallocating jurisdiction between courts. It requires that individuals can **afford to bring and run their cases properly** and that successful litigants are not left financially worse off for having vindicated their rights.

4. Without meaningful reform to costs recovery, the proposed increase in the District Court's monetary jurisdiction risks denying justice to the very people the civil justice system exists to protect.
5. We are happy to provide further assistance to the Committee on the issues raised in this submission.



Peter Gibson

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