

Chapter 2

Adoption of the Uniform Evidence Legislation: So Far and No Further?

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Australia's common law of evidence now qualifies for 'heritage' protection.¹

The vision of a single Evidence Act across Australia would appear to be stymied as the three 'hold-out' States of Queensland, South Australia and Western Australia have no present or future intention of relinquishing control of their respective Evidence Acts. This statement is based on letters received by the author (in response to an inquiry as to whether the respective State was considering adopting the uniform evidence legislation) from the Attorney-Generals of each State indicating satisfaction with their own respective Evidence Act. The salient extracts from these letters are reproduced below so that (1) the reasons behind the decision to reject the uniform evidence legislation can be better understood and (2) their respective merits can be assessed.

The Queensland Attorney-General's response indicated that there was no current need for Queensland to adopt uniform evidence laws for the following reasons:

- Queensland's evidence laws are well known to the legal profession and work very well in practice;
- There has been no call from the legal profession to change the current system;
- Before a new system could be implemented, there would need to be a comprehensive review of the evidence laws in Queensland. This would be potentially a lengthy and costly exercise and would divert resources from the Queensland Government's priority areas for reform; and
- It would take some time for the judiciary and the legal profession to become familiar with new uniform evidence laws.

The Queensland Attorney-General went on to point out that Queensland was not alone in choosing not to adopt the uniform evidence laws, singling out South Australia and Western Australia. Furthermore, the Queensland Attorney-General noted that Queensland would still be able to consider individual reforms as they are developed under the uniform evidence legislation, and then be able to decide whether it was appropriate to implement these individual reforms.²

¹ J Gans and A Palmer, *Uniform Evidence* (OUP, 2nd edn, 2014), 1-2.

² Letter from the Hon Jarrod Bleijie MP, Queensland Attorney-General and Minister for Justice to Andrew Hemming, 29 April 2013.

This is a preview. Not all pages are shown.