
Areas of law currently under review

by Joanna Longley

Administration of estates *see Wills*

Administrative law

ARC

- Multiculturalism and Commonwealth decision making and grievance procedures — The Council's Multicultural Australia project is now finalising its report which will be given to the Attorney-General in July. The project's strategy of promoting administrative review to two specific ethnic communities has been demonstrably successful and the report will recommend a number of ways in which the system can be made accessible to members of ethnic communities throughout Australia.
- Review of the *Administrative Decisions (Judicial Review) Act*: statement of reasons for decisions, Report No. 33, 1991 has been tabled.
- Specialist tribunals — WIH on a DP on Tribunals procedures. This will form part of the program for discussion at a Tribunals conference in Melbourne in October 1991. Queries should be directed to Patricia George at the ARC Secretariat.
- Broadcasting — Review of the Australian Broadcasting Tribunal inquiries procedures, DP, 1991 has been released.
- Informal rule making — a range of submissions on the IP have been received from Commonwealth agencies and other interested parties. The Council conducted a series of half-day workshops in Melbourne, Sydney and Canberra in April and May. A report to the Attorney-General is now being prepared and material from the workshops and submissions will be taken into account.
- Community Services and Health — the next stage in this project is examining the decisions made under certain grants programs within the

Commonwealth Community Services and Health portfolio to determine amenability to administrative review. A DP will be issued shortly and plans to report by the end of the year. Enquiries should be addressed to James Renwick at the ARC Secretariat.

- Intellectual Property — WIH on a draft DP on the review of patents decisions.
- Government Business Enterprises — this project on the amenability of GBEs to administrative review has recently commenced. An IP is due in the middle of the year. At present the Council is considering a number of criteria which may be determinative of the need for review. Enquiries should be addressed to Gina Foster at the ARC Secretariat.

Sen

- Appeals against determinations of the Sex Discrimination Commissioner, Race Discrimination Commissioner and the Privacy Commissioner — receiving submissions

NLRC

- Appeals for administrative decisions — A DP has been released for comment and comments have been received. A draft report is under consideration and will be released in 1991.

QEARC

- Appeals from administrative decisions, IP No. 14, 1991.

California LRC

- Impartial adjudicators: bias, ex parte contacts and separation of functions, 1991.

Alternative dispute resolution

NSWLRC

- Alternative dispute resolution — Report near completion.
- Neighbour and neighbour relations, DP 22, 1991.

Animals

VLCC

- Report upon law relating to stolen goods (live-stock), 1991.

Law Com

- Deer Bill, Law Com No. 197, 1991.

Attorney

Law Com

- Mentally incapacitated adults and decision-making: an overview, Consultation Paper No. 119, 1991.

Alberta LRI

- Enduring powers of Attorney, Report No. 59, 1990.

California LRC

- Recommendations relating to Powers of Attorney: elimination of seven-year limit for durable Power of Attorney for health care; recognition of agent's authority under statutory form Power of Attorney, November 1990.

Broadcasting

ARC

- Broadcasting — Review of the Australian Broadcasting Tribunal inquiries procedures, DP, 1991 has been released.

By-laws and regulations *see Subordinate legislation*

Carriage of Goods

Law Com

- Rights of suit in respect of carriage of goods by sea, Law Com No. 196, 1991.

Censorship

ALRC

- Censorship procedure, DP 47, 1991 was released in April. A report has gone to the Federal Attorney-General and will be tabled in the Budget session of Parliament.

Children

ALRC

- Children's Evidence — The ACT Ordinance allowing the video taping of children's evidence has been extended for a further year so that a more significant number of cases can be evaluated.

WALRC

- Medical treatment for minors — Work on sterilisation of mentally handicapped minors suspended pending the decision being handed down by the High Court in *Re Marion*. Other aspects of reference will be dealt with subsequently.

- Report on evidence of children and other vulnerable witnesses, Project No. 87, 1991 was submitted to the Attorney General in April.

Alberta LRI

- Status of children: revised report, Report No. 60, 1991.

Companies

ALRC, CASAC

- Collective investments — a joint reference with the Companies and Securities Advisory Committee.

H of R

- Corporate practices and the rights of shareholders — Evidence taking is complete. A draft report is in preparation and will be tabled in the Autumn session of Parliament.

Sen

- Mergers, monopolies and acquisitions — receiving submissions.

VLRC

- Harmonisation of the company law — WIH.

Compensation

ACTLRC

- Loss of consortium, IP No. 3, 1990.

Compensation for criminal injuries

ACTLRC

- Victims of crime, IP No. 8, 1991

Conflict of laws

ALRC

- Final proposals are being discussed with consultants.

Law Com

- Private international law: Choice of law in tort and delict, Law Com 193, 1990.

Constitutional law

Sen

- Shield of the Crown — WIH

VLCC

- Australian Constitutional Commission — no further work has been done on this reference.

Contract

VLRC

- Codification of the law of contract — WIH on DP.

Consumer Protection

VLRC

- Codes of practice — Report will be tabled in the spring session of Parliament.

Trade Practices Commission

- Discussion paper on consumer credit insurance, 1991.

Contracts

ALRC

- Multiculturalism: criminal law, DP 48, 1991 has been released and widely circulated. A summary of the 22 provisional proposals for reform is available in 18 community languages. Extensive community consultation has been done in Queensland, Northern Territory and South Australia. Further consultation and public hearings will be held in Canberra, Sydney and Melbourne in September and October. The third DP, on Contracts, will be released in late August. The deadline for submissions on the Family law and Criminal law DPs has been extended to 1 September.

Courts and judges

NSWLRC

- Alternative dispute resolution — Report near completion.

VLRC

- Costs of litigation — DP on competition within the legal profession to be released in July.

Sen

- Introduction to the issues, Costs of legal services and litigation DP No. 1, 1991.
- Lawyers' fees, Costs of legal services and litigation DP No. 2, 1991.
- Contingency fees, Costs of legal services and litigation DP No. 3, 1991.

Ontario LRC

- Appointing judges: philosophy, politics and practice, papers prepared for the Ontario Law Reform Commission, 1991.

Credit

Trade Practices Commission

- Discussion paper on consumer credit insurance, 1991.

Criminal law and procedure

ACTLRC

- Section 556 of the *Crimes Act 1900 (NSW)*, Report No. 1, 1991.
- Section 556 of the *Crimes Act 1900 (NSW)* as it applies to the Australian Capital Territory, Issues Paper No. 7, 1990.
- Victims of crime, IP No. 8, 1991

ALRC

- Multiculturalism: criminal law, DP 48, 1991 has been released and widely circulated. A summary of the 22 provisional proposals for reform is

available in 18 community languages. Extensive community consultation has been done in Queensland, Northern Territory and South Australia. Further consultation and public hearings will be held in Canberra, Sydney and Melbourne in September and October. The third DP, on Contracts, will be released in late August. The deadline for submissions on the Family law and Criminal law DPs has been extended to 1 September.

NSWLRC

- Police powers in relation to specially vulnerable persons — WIH on report.

QLRC

- To bail or not to bail — a review of Queensland's bail law, DP No. 35, 1991 has been released. WIH on the report.

Tas LRC

- General Criminal Code review — WIH

VLCC

- Report upon law relating to stolen goods (live-stock), 1991 was tabled in the Victorian Parliament on 12 March 1991.
- Establishment of a Bureau of Crime Research and Statistics — Public hearings and the examination of written submission have concluded. The Committee is currently deliberating on the evidence received prior to the preparation of the draft report. It is anticipated that the report will be presented in the Spring session of Parliament.

VLRC

- Review of the *Bail Act 1977* — a DP will be released in July.
- Homicide — Report and Homicide Prosecutions study finalised. These will be tabled in the Spring session of Parliament.
- *Penalties and Sentences Bill* — WIH on a Plain English redraft.
- Rape — Interim report will be tabled in the Spring session of Parliament.

WALRC

- Criminal process and mental disorder — Project No. 69. WIH on report.
- Professional privilege for confidential communications — Project No. 90. WIH on DP.

RCCL

- Fifth interim report, June 1991.

CLRC

- Double jeopardy, pleas and verdicts, WP No. 63, 1991.

Customs and excise

ALRC

- Customs — Consultations with Australian Customs Service, customs agents and industry groups are continuing.

Damages

ALRC

- Pre-judgment interest on damages — WIH.

NSWLRC

- Contribution among persons responsible for the same damage — DP near completion.
- Provisional damages — DP near completion.

NZLC

- Aspects of Damages: employment contracts and the rule in *Addis v Gramophone Co*, Report No. 18, 1991.
- Aspects of damages: the rules in *Bain v Fothergill* and *Joyner v Weeks*, Report No. 19, 1991.

Debts

ACTLRC

- Withdrawal of essential services, IP No. 5, 1990.

BCLRC

- Report on execution against securities, No. 116, 1991
- Report on mortgages: judicial sales and deficiency claims, No. 118, 1991.

Defamation

ACTLRC

- Defamation, Issues Paper No. 1, 1990.

VLRC

- Defamation — WIH on drafting a plain English Bill implementing the policy decisions made by the AGs of New South Wales, Queensland and Victoria.

Ireland LRC

- Consultation paper on the civil law of defamation, March 1991.

Discrimination

H of R

- Equal opportunity and equal status for Australian women — WIH.

Sen

- Appeals against determinations of the Sex Discrimination Commissioner, Race Discrimination Commissioner and the Privacy Commissioner — receiving submissions

Electricity and Gas

ACTLRC

- Withdrawal of essential services, IP No. 5, 1990.

Evidence

ALRC

- Children's Evidence — The ACT Ordinance allowing the video taping of children's evidence has been extended for a further year so that a more significant number of cases can be evaluated.

QLRC

- The protection of statements made to religiously ordained officials, Report No. 41, 1991.

WALRC

- Report on evidence of children and other vulnerable witnesses, Project No. 87, 1991 was submitted to the Attorney General in April.
- Professional privilege for confidential communications — Project No. 90. WIH on DP.

NZLC

- Evidence law: principles of reform: a discussion paper, Preliminary paper No. 13, 1991.
- Evidence law: codification: a discussion paper, Preliminary paper No. 14, 1991.
- Evidence law: hearsay: a discussion paper, Preliminary paper No. 15, 1991.

Family law

ALRC

- Multiculturalism: criminal law, DP 48, 1991 has been released and widely circulated. A summary of the 22 provisional proposals for reform is available in 18 community languages. Extensive community consultation has been done in Queensland, Northern Territory and South Australia. Further consultation and public hearings will be held in Canberra, Sydney and Melbourne in September and October. The third DP, on Contracts, will be released in late August. The deadline for submissions on the Family law and Criminal law DPs has been extended to 1 September.
- Family law: issues in the Vietnamese community, Multiculturalism and the Law Research Paper 1, 1991 has been released.

QLRC

- The division of property acquired by two or more people who have lived together — WIH.

Jamaica FRC

- Report on matrimonial property law reform, 1990.

Scot Law Com

- Confidentiality in family mediation, DP No. 92, 1991.

Human Rights

Sen

- Appeals against determinations of the Sex Discrimination Commissioner, Race Discrimination Commissioner and the Privacy Commissioner — receiving submissions

Industrial Relations

VLRC

- Plain English Commercial Clerks Award completed.

Intellectual Property

ARC

- Intellectual Property — WIH on a draft DP on the review of patents decisions.

International law

H of R

- Islands in the sun: the legal regimes of Australia's external territories and the Jervis Bay territory, 1991. Report was tabled in the Autumn session of Parliament.

Judgments and Orders

BCLRC

- Interim report on enforcing judgments from outside the province, No. 117, 1991

Landlord and tenant

ACTLRC

- Residential tenancy law, IP No. 6, 1990

NSWLRC

- Unilateral severance of a joint tenancy — DP near completion.

Law Reform

Nigerian LRC

- Focus on law reform (1979-1990), 1991.

Limitation of actions

WALRC

- Limitation and notice of actions — Project No. 36. WIH on DP.

Medicine, science and the law

WALRC

- Medical treatment for minors — Work on sterilisation of mentally handicapped minors suspended pending the decision being handed down by the High Court in *Re Marion*. Other aspects of reference will be dealt with subsequently.

CLRC

- Human dignity and genetic heritage, Study paper, 1991.

Mental illness

ACT Mental Health Review Committee

- Balancing rights: a review of mental health legislation in the ACT, 1990

NSWLRC

- Wills for people lacking will-making capacity — report near completion.

QLRC

- The rights of mentally and intellectually disabled people — WIH

WALRC

- Criminal process and mental disorder — Project No. 69. WIH on report.

Law Com

- Mentally incapacitated adults and decision-making: an overview, Consultation paper No. 119, 1991.

Mortgages

BCLRC

- Report on mortgages: judicial sales and deficiency claims, No. 118, 1991.

Motor traffic law

VLRC

- Death caused by dangerous driving — A DP will be released in July.

VLRC

- *Road Traffic Regulations 1991* (made under the *Road Safety Act 1986*): discussion paper jointly prepared by the Law Reform Commission of Victoria and Vic Roads, 1991.

Multiculturalism

ARC

- Multiculturalism and Commonwealth decision making and grievance procedures — The Council's Multicultural Australia project is now finalising its report which will be given to the Attorney-General in July. The project's strategy of promoting administrative review to two specific ethnic communities has been demonstrably successful and the report will recommend a number of ways in which the system can be made accessible to members of ethnic communities throughout Australia.

ALRC

- Multiculturalism: criminal law, DP 48, 1991 has been released and widely circulated. A summary of the 22 provisional proposals for reform is available in 18 community languages. Extensive community consultation has been done in Queensland, Northern Territory and South Australia. Further consultation and public hearings will be held in Canberra, Sydney and Melbourne in September and October. The third DP, on Contracts, will be released in late August. The deadline for submissions on the Family law and Criminal law DPs has been extended to 1 September.
- Family law: issues in the Vietnamese community, Multiculturalism and the Law Research Paper 1, 1991 has been released.

Negligence

ACTLRC

- Defence of contributory negligence, Issues Paper No. 2, 1990.

Occupiers' liability *see* Torts

Patents

ARC

- Intellectual Property — WIH on a draft DP on the review of patents decisions.

Perpetuities and accumulations

NTLRC

- Rules against perpetuities and accumulation — WIH: A report is being prepared in conjunction with the Land Law Review Committee and is expected to be released in 1991.

California LRC

- Recommendation relating to uniform statutory rule against perpetuities, September 1990.

Personal property securities

ALRC, VLRC, NSWLRC & QLRC

- Personal property securities — Preliminary proposals have been circulated among key interest groups. The QLRC has now joined this reference.

Police

NSWLRC

- Police powers in relation to specially vulnerable persons — WIH on report.

Police Offences

WALRC

- Police Act Offences — WIH on report.

Privacy

VLRC

- Privacy — WIH on a DP identifying major substantive issues which need resolving.

Proceeds of crime

Ireland LRC

- The confiscation of the proceeds of crime, 1991.

Real property and conveyancing

NSWLRC

- Torrens title compensation for loss — Report near completion.

QLRC

- Consolidation of *Real Property Acts*, Report No. 40, 1991.

VLRC

- Land law — WIH on a new *Land Titles Bill* to finalise the reference. The report on Easements and covenants will be tabled in the Spring session of Parliament.

California LRC

- Recommendations relating to commercial real property leases: remedies for breach of assignment or sublease covenant use restrictions, May 1990.

Securities

BCLRC

- Report on execution against securities, No. 116, 1991

Sexual Discrimination

ACTLRC

- Loss of consortium, IP No. 3, 1990.

H of R

- Sex discrimination legislation: operation and effectiveness, a joint seminar with the Royal Institute of Public Administration (ACT Division), 1-2 November 1990.

- A chance to have a say: equity for women in sport, a joint seminar with the Australian Sports Commission, 27-28 February 1991.

Statute Law

QLRC

- Statute Law Revision, Working Paper No. 34, 1991.

VLRC

- Plain English — The Commission has completed a redraft of the *Road Traffic Regulations* and is working of a redraft of the *Penalties and Sentences Bill*.
- Electronic consolidation of the Statute Book — WIH on a low cost computerised Statute Book, consolidating both statutes and regulations. The system will be launched in July.

Law Com

- *The Water Resources Bill; The Water Industry Bill; The Statutory Water Companies Bill; The Land Drainage Bill; The Water Consolidation (Consequential Provisions) Bill*: report on the consolidation of legislation relating to water, Law Com No. 198, 1991.

Stock

VLCC

- Report upon law relating to stolen goods (livestock), 1991.

Succession

Ireland LRC

- The Hague Convention (1989) on the law of succession to estates of deceased persons, 1991.

Subordinate legislation

VLCC

- Subordinate legislation — The Committee is responsible for reviewing all the statutory rules made in Victoria under the *Subordinate Legislation Act 1962* and has considered individual rules up to SR 69/1991.
- Twentieth report on subordinate legislation concerning *Second-Hand Dealers and Pawnbrokers Regulations 1990* (SR No. 243/1990).

VLRC

- Plain English — The Commission is working on a redraft of the *Penalties and Sentences Bill*.
- *Road Traffic Regulations 1991* (made under the *Road Safety Act 1986*): discussion paper jointly prepared by the Law Reform Commission of Victoria and Vic Roads, 1991.
- Electronic consolidation of the Statute Book — WIH on a low cost computerised Statute Book, consolidating both statutes and regulations. The system will be launched in July.

Summary offences

VLRC

- *Summary Offences and Vagrancy Acts* — WIH on a DP

Torts

ACTLRC

- Occupiers' liability, Report No. 2, 1991.
- Occupiers' liability, Issues Paper No. 4, 1990.

NSWLRC

- Contribution among persons responsible for the same damage — DP near completion.
- Provisional damages — DP near completion.

Trade Practices

Sen

- Mergers, monopolies and acquisitions — receiving submissions.

VLRC

- Competition law: the introduction of restrictive trade practices legislation in Victoria, DP No. 22, April 1991.

Tribunals

ARC

- Specialist tribunals — WIH on a DP on Tribunals procedures. This will form part of the program for discussion at a Tribunals conference in Melbourne in October 1991. Queries should be directed to Patricia Georgee at the ARC Secretariat.

VLRC

- Tribunals — Should some or all of the judicial functions conferred on tribunals be transferred to

the courts or further consolidated under the Administrative Appeal Tribunal? — a new reference.

Trusts and Trustees

Law Com

- The law of trusts: delegation by individual trustees, Consultation Paper No. 118, 1991.

Water

Law Com

- The *Water Resources Bill*; *The Water Industry Bill*; *The Statutory Water Companies Bill*; *The Land Drainage Bill*; *The Water Consolidation (Consequential Provisions) Bill*: report on the consolidation of legislation relating to water, Law Com No. 198, 1991.

Wills

NSWLRC

- Wills for people lacking will-making capacity — report near completion.

WALRC

- Wills: Marriage and divorce — WIH on report.

California LRC

- Recommendations relating to probate law, 1990.
- Revised and supplemental comments to the new Probate Code, 1990.

Ireland LRC

- The Hague Convention (1989) on the law of succession to estates of deceased persons, 1991.

Ontario LRC

- Report on administration of estates of deceased persons, 1991.

Other

NSWLRC

- Neighbour and neighbour relations, DP 22, 1991.

New references

ALRC, CASAC

- Collective investments — a joint reference with the Companies and Securities Advisory Committee.

VLCC

- *Witness Protection Act 1991* — a new reference on the most appropriate mechanism for monitoring the operation of this act.

VLRC

- Plain English — WIH on the following projects:
- The contract of training in trade — for the State Training Board
- Re-writes of various banking documents with the Banking Ombudsman
- A consumer credit contract for the Trade Practices Commission
- A domestic building contract for the Ministry of Consumer Affairs

- A redraft of Division 16E of Part 3 of the Income Tax Assessment Act 1936
- A redraft of the *Infertility (Medical Procedures) Act 1984* at the request of the Standing Review and Advisory Committee on Infertility

- Tribunals — Should some or all of the judicial functions conferred on tribunals be transferred to the courts or further consolidated under the Administrative Appeal Tribunal? □

New law reform publications

Australia

ALRC

- Censorship procedure, DP 47, 1991.
- Multiculturalism: criminal law, DP 48, 1991.
- Family law: issues in the Vietnamese community, Multiculturalism and the Law Research Paper 1, 1991.

ARC

- Review of the *Administrative Decisions (Judicial Review) Act*: statement of reasons for decisions, Report No. 33, 1991.
- Review of the Australian Broadcasting Tribunal inquiries procedure, DP, 1991.

H of R

- Islands in the sun: the legal regimes of Australia's external territories and the Jervis Bay territory, 1991.
- Sex discrimination legislation: operation and effectiveness, a joint seminar with the Royal Institute of Public Administration (ACT Division), 1-2 November 1990.
- A chance to have a say: equity for women in sport, a joint seminar with the Australian Sports Commission, 27-28 February 1991.

RCCL

- Fifth interim report, June 1991.

Sen

- Introduction to the issues, Costs of legal services and litigation DP No. 1, 1991.

- Lawyers' fees, Costs of legal services and litigation DP No. 2, 1991.
- Contingency fees, Costs of legal services and litigation DP No. 3, 1991.

Trade Practices Commission

- Discussion paper on consumer credit insurance, 1991.

Australian Capital Territory

ACTLRC

- Section 556 of the *Crimes Act 1900 (NSW)*, Report No. 1, 1991.
- Occupiers' liability, Report No. 2, 1991.
- Defamation, Issues Paper No. 1, 1990.
- Defence of contributory negligence, Issues Paper No. 2, 1990.
- Loss of consortium, IP No. 3, 1990.
- Occupiers' liability, Issues Paper No. 4, 1990.
- Withdrawal of essential services, IP No. 5, 1990.
- Residential tenancy law, IP No. 6, 1990
- Section 556 of the *Crimes Act 1900 (NSW)* as it applies to the Australian Capital Territory, Issues Paper No. 7, 1990.
- Victims of crime, IP No. 8, 1991

New South Wales

NSWLRC

- Annual report, 1990.
- Neighbour and neighbour relations, DP 22, 1991.