

Areas of law under review

Compiled by Joanna Longley

Access to Justice

Sen

- The cost of justice: second report: checks and imbalances: the role of Parliament and the executive, 1993 — WIH on third report

Accidents

ALRI

- Non-pecuniary damages in wrongful death actions — a review of section 8 of the *Fatal Accidents Act*, 1993 (Report No 66)

Administrative Law

ARC

- Review of Commonwealth environmental impact assessment decisions: discussion paper, 1993 — Contact officer for this project is John Atwood on (06) 257 6117
- Administrative review of health, housing and community service programs, 1993 (IP) — the deadline for comments in relation to the paper was extended until 22 October. Anyone wanting a copy of the IP should contact Mary Durkin on (06) 257 6114
- Patents — The Council recently engaged Professor Dennis Pearce to undertake a consultancy relating to review of decisions under the Patents Act 1990. An IP is nearly finished and should be available before the end of the year. Contact Mary Durkin on (06) 257 6114 for more information
- Specialist tribunals — The Council has redirected the focus of this project from a comparison of tribunal procedures to include a discussion of the structure of the Commonwealth review tribunal system. A conference on 'Administrative Tribunals: Value for Money' was held on 15–16 October 1993 for members of the Commonwealth administrative review tribunals. Contact Charles Beltz for more information on (06) 257 6115
- Government business enterprises — The Council's consultations on its DP 'Administrative Review of Government Business Enterprises'

have now been completed. WIH on final report. If you would like a copy of the report contact Linley Rose on (06) 257 6113

- Government response to inquiries into life insurance — Letter of advice prepared for the Minister for Justice
- Review of decisions made under the *Student Assistance Act 1973* — Letter of advice prepared for the Minister for Justice
- Operation of Taxation Relief Boards — Letter of advice prepared for the Minister for Justice
- Senate Standing Committee on Legal and Constitutional Affairs inquiry on exemption of decisions, made pursuant to the *Financial Transaction Reports Act 1988*, from review under the *Administrative Decisions (Judicial Review) Act 1977* — submission made to the inquiry
- Issues concerning remuneration for members of administrative review tribunals — submission made to the Remuneration Tribunal 1993 review
- Review of the Australian Customs Service — Submission made to the review

Adoption

NSWLRC

- Review of the Adoption of Children Act 1965 — WIH on DP

Agricultural Law

Scot Law Com

- *Crofters (Scotland) Bill*, 1993 (Scot Law Com No 141)

Alternative Dispute Resolution

NTRLRC

- Alternative dispute resolution — WIH on an examination of how ADR might be used in the Northern Territory

Vic AGLRAC

- Mediation — WIH on a project conducted with the Victoria Law Foundation involving the drafting of standards for court related mediation of disputes in Victoria

Bail

QLRC

- The *Bail Act 1980*, 1993 (Report No 43)

Bankruptcy

SALC

- Review of the law of insolvency: appeals against sequestration orders, 1993 (Interim Report: Project 63)
- Interim report on the review of insolvency: insolvency interdicts, 1993 (Project 63)

Bioethics

SALC

- Report on surrogate motherhood, 1993 (Project 65)

Blasphemy *see* **Criminal Law**

Child Abuse

ACTCLRC

- Mandatory reporting — WIH on report

Children and Young Persons

ALRC

- Child care: review of legislation administered by Department of Health, Housing, Local Government and Community Services, 1993 (ALRC DP 55) — Public consultations were held around Australia in November and December. WIH on a DP on Aged Care due for release in early 1994

FLC

- Sterilisation and other medical procedures on children: discussion paper, 1993 (DP)

QLRC

- Review of the law relating to consent to medical treatment for minors — WIH

WALRC

- Consent to sterilization of minors — WIH on a draft report. The report is due for completion by the end of 1993

Commissions and Committees

QCJC

- Report on the implementation of the Fitzgerald recommendations relating to the Criminal Justice Commission, 1993

Queensland Parliamentary Committee for Electoral and Administrative Review

- Report on review of parliamentary committees, 1993 (Report No 19)

TasLRC

- Report on the procedural aspects of Royal Commissions and Boards of Inquiry, 1993 (Report No 70)

Community Services *see* **Health and Community Services**

Compensation

ALRI

- Non-pecuniary damages in wrongful death actions — a review of section 8 of the *Fatal Accidents Act*, 1993 (Report No 66)

Confidential Information

H of R

- Confidential personal and commercial information held by the Commonwealth — Written submissions being received and public hearings being held

WALRC

- Report on professional privilege for confidential communications, 1993 (Project No 90)

Consumer Credit

SALC

- The *Usury Act* and related matters: new credit legislation for South Africa, 1993 (WP46; Project 67)

Contracts

Tas LRC

- Harsh and unconscionable contracts — WIH on a report

Costs

NLRC

- Suitors' Costs Fund — WIH on the desirability of and the possible ways of establishing and maintaining a suitors' cost fund

Courts

FLC

- Family law in magistrates courts: discussion paper, 1993 (DP)

ACTCLRC

- Rules of Court — WIH

WALRC

- Enforcement of judgments and orders in Local Courts and Courts of Petty sessions — WIH on a DP

SALC

- Report on the investigation into the courts' powers of review of administrative acts, 1992 (Project 24)

Criminal Investigation

Sen

- Checking the cash: a report on the effectiveness of the *Financial Transaction Reports Act 1988*, 1993

ICAC

- Report on investigation into the conduct of Brian Zouch, 1993

QCJC

- Report on the implementation of the Fitzgerald recommendations relating to the Criminal Justice Commission, 1993
- Report by the Honourable WJ Carter QC on his inquiry into the selection of the jury for the trial of Sir Johannes Bjelke-Petersen, 1993
- Annual Report: year ended 30 June 1993,

Queensland Parliamentary Criminal Justice Committee

- Report of a review of the CJC's use of its power under section 3.1 of the *Criminal Justice Act 1989*: Part A — submissions and minutes of evidence taken on 30 April 1993; Part B — report, conclusions and recommendations, 1993 (Report No 20)

Criminal Law

ILRC

- Consultation paper on sentencing, 1993

NSWLRC

- Provocation, diminished responsibility and infanticide, 1993 (DP 31)
- Blasphemy — WIH on report due at the end of 1993
- Criminal law: common law crime — WIH on DP
- People with an intellectual disability and the criminal justice system: policing issues, 1993 (DP 29) — WIH on a further DP. A report on the intellectually disabled and the criminal law is due in mid 1994

Tas LRC

- Model Criminal Code — The Commission is monitoring the work of the Criminal Law Officers sub-committee of the Standing Committee of Attorneys-General on a model criminal code

Criminal Procedure

NSWLRC

- Criminal procedure: police powers of detention and investigation after arrest: vulnerable persons — reference deferred pending legislation in the Budget session
- People with an intellectual disability and the criminal justice system: policing issues, 1993 (DP 29)

Damages

NSWLRC

- Provisional damages — WIH on report

QLRC

- The assessment of damages in personal injury and wrongful death litigation: *Griffiths v Kerkemeyer*: section 15C *Common Law Practice Act 1867*, 1993 (QLRC R 45)

ALRI

- Non-pecuniary damages in wrongful death actions — a review of section 8 of the *Fatal Accidents Act, 1993* (Report No 66)

Law Com

- Aggravated, exemplary and restitutionary damages: a consultation paper, 1993 (CP No 132)

Debts

Vic AGLRAC

- Book debts — WIH on a project to consider the need to register an assignment of book debts under Part IX of the Victorian *Instruments Act*

Tas LRC

- Debt recovery and enforcement: review of the fairness, efficiency and effectiveness of the Tasmanian system — WIH on a DP due early 1994

De Facto Relationships *see also Family Law*

ACTAG

- A proposal for domestic relationship legislation in the ACT, 1993 (DP)

QLRC

- De facto relationships, 1993 (QLRC R 44)

Vic AGLRAC

- Property law — WIH on a project to consider whether Part IX of the Victorian *Property Law Act* should be extended so that the re-allocation of property rights on the breakdown of a de facto relationship would include such property as businesses, chattels and choses in action

Defamation

ACTCLRC

- Defamation — WIH

NSWLRC

- Defamation, 1993 (DP 32)

Designs

ALRC

- WIH on a comprehensive industry survey. Consultants meetings are being held. A DP is due for release in March 1994

Diminished Responsibility

NSWLRC

- Provocation, diminished responsibility and infanticide, 1993 (DP 31)

Discrimination

ALRC

- Equality before the law, 1993 (DP 54) — Public hearings were held around Australia. WIH on an interim report on the definition and legal protection of equality, access to justice and violence against women. It will be tabled in the Autumn session of Federal Parliament

Sen

- Gender attitudes and the judiciary — WIH on report. Due for tabling 9 December 1993

NSWLRC

- Review of the Anti-Discrimination Act 1977 — WIH on DP. A report is due mid 1994

Vic Scrutiny

- Review of the Victorian Equal Opportunity Act 1984 — an interim report on procedural matters arising out of the inquiry was tabled on the 19 October, and the final report of the inquiry was tabled on the 25 November

Divorce *see also* Family Law

Law Com

- Family Law: the effect of divorce on wills, 1993 (Law Com No 217)

SALC

- Jewish divorces, 1993 (WP45; Project 76)
- Investigation into the possibility of making provision for a divorced woman to share in the pension benefits of her former husband: matters relating to the *Divorce Amendment Act 7 of 1989*, 1993 (WP43; Project 41)

Domestic Violence

ACTCLRC

- Domestic Violence, 1993 (RP 1) — WIH on reference

PNGLRC

- Final report on domestic violence, 1992 (Report No 14)

Drugs

Queensland Advisory Committee on Illicit Drugs

- Cannabis and the law in Queensland, 1993 (DP)

Enforcement of Judgments

WALRC

- Enforcement of judgments and orders in Local Courts and Courts of Petty sessions — WIH on a DP

Environmental Law

ARC

- Review of Commonwealth environmental impact assessment decisions: discussion paper, 1993 — Contact officer for this project is John Atwood on (06) 257 6117

NSWLRC

- Enforcement of environmental legislation — WIH on DP

Equality Before the Law *see* Discrimination

Ethics

Manitoba LRC

- Ethical investments by trustees, 1993 (Report No 79)

Evidence

Tas LRC

- Uniform *Evidence Act* — WIH on consideration of the ALRC work on Evidence and the NSW draft bill

Equal Opportunity *see* Discrimination

Family Law *see also* De Facto Relationships

ALRC & FLC

- Intractable access — WIH

FLC

- Comments on the report of the Joint Select Committee on the Operation of the *Family Law Act*, 1993
- Family law in magistrates courts: discussion paper, 1993 (DP)

ALRI

- The *Domestic Relations Act* (DRA): Phase 1: family relationships: obsolete actions, 1993 (Report No 65)

Law Com

- Family law: the effect of divorce on wills, 1993 (Law Com No 217)

SALC

- Investigation into the possibility of making provision for a divorced woman to share in the pension benefits of her former husband: matters relating to the *Divorce Amendment Act 7 of 1989*, 1993 (WP43; Project 41)
- Jewish divorces, 1993 (WP45; Project 76)

Female Offenders

PNGLRC

- Ol Kalabus Meri: a study of female prisoners in Papua New Guinea, 1992 (Occasional Paper No 21)

Freedom of Information

QLRC

- Review of Section 48 of the *Freedom of Information Act* (secrecy provisions in legislation) — A draft report has been selectively distributed

Health and Community Services

ALRC

- Child care: review of legislation administered by Department of Health, Housing, Local Government and Community Services, 1993 (ALRC DP 55) — Public consultations were held around Australia in November and December. WIH on a DP on Aged Care due for release in early 1994

ARC

Administrative review of health, housing and community service programs, 1993 (IP) — the deadline for comments in relation to the paper was extended until 22 October. Anyone wanting a copy of the IP should contact Mary Durkin on (06) 257 6114

Tas LRC

- Operation of retirement villages — a RP and DP have been prepared. WIH on a report due at the end of 1993

ALRI & Alberta Health Law Institute

- Advance directives and substitute decision-making in personal healthcare, 1993 (Report No 64)

Law Com & Scot Law Com

- *Health Service Commissioners Bill*: report on the consolidation of the legislation relating to the Health Service Commissioners, 1993 (Law Com No 213; Scot Law Com No 143)

Hearsay Evidence

Law Com

- The hearsay rule in civil proceedings, 1993 (Law Com No 216)

Immigration Law

Sen

- *Migration Laws Amendment Bill 1993*, 1993 — tabled on 5 October 1993

Intellectual Property

ALRC

- WIH on a comprehensive industry survey. Consultants meetings are being held. A DP is due for release in March 1994

ARC

- Patents: The Council recently engaged Professor Dennis Pearce to undertake a consultancy relating to review of decisions under the Patents Act 1990. An IP is nearly finished and should be available before the end of the year. Contact Mary Durkin on (06) 257 6114 for more information

Judicial Review of Administrative Action

SALC

- Report on the investigation into the courts' powers of review of administrative acts, 1992 (Project 24)

Juries

QCJC

- Report by the Honourable WJ Carter QC on his inquiry into the selection of the jury for the trial of Sir Johannes Bjelke-Petersen, 1993

Jurisdiction

SALC

- Jurisdictional lacuna in the *Supreme Court Act 59 of 1959*, 1993 (WP47; Project 87)

Landlord and Tenant

ACTCLRC

- Residential tenancy law — WIH on 2 reports. The report on Private Residential Tenancy Law is due for release by the end of the year. A report on Public Residential Tenancy Law is expected in 1994

NSWLRC

- Unilateral severance of a joint tenancy — WIH on report

WALRC

- Joint tenancies — WIH on draft report

Law Reform

H of R

- Role and function of the Law Reform Commission of Australia — written submissions being sought

QLRC

- Annual report 1992 — 1993, 1993

TasLRC

- Fourth annual report for the year ended 30 June 1992, 1993

BCLRC

- Annual report 1992/93, 1993 (LRC 132)

Manitoba LRC

- Twenty-second annual report, 1993

Ontario LRC

- Annual report 1992-93, 1993

ILRC

- Fourteenth report (1992), 1993

Kenya LRC

- Seventh annual report, 1993
- Eighth annual report: 1 September 1989 — 31 August 1990, 1993

- Ninth annual report: 1 September 1990 — 31 August 1991, 1993

NZLC

- Report for the year ended 30 June 1993, 1993 (Report No 26)

PNGLRC

- Law reform: newsletter of the Law Reform Commission of PNG (Vol. 4 No 2, 1992 — Vol 5 No 1, 1993)

SALC

- Twentieth annual report 1992, 1992

Law Com

- Law under review: a quarterly bulletin of law reform projects, (No 24, Spring 1993 — No 25, Summer 1993)
- Twenty-seventh annual report 1992, 1993 (Law Com No 210)

Michigan LRC

- 27th annual report 1992, 1993

Legal Profession

Sen

- The cost of justice: second report: checks and imbalances: the role of Parliament and the executive, 1993

NSWLRC

- Scrutiny of the legal profession — Accountability of government legal services — reference deferred pending a restructure of the Crown Solicitor's Office and Legal Aid Commission
- Barrister's practising certificates — WIH on report

Legislation

H of R

- Clearer Commonwealth Law: report of the inquiry into legislative drafting by the Commonwealth, 1993

New South Wales Attorney General's Department

- *Legal Profession Reform Bill* 1993, 1993

Vic Scrutiny

- Report on the *Subordinate Legislation Act* Inquiry, 1993 — tabled on 9 November 1993

WALRC

- United Kingdom statutes in force in Western Australia — WIH on a draft report which will be circulated to interested commentators

Law Com & Scot Law Com

- Statute law revision: fourteenth report: draft *Statute Law (Repeals) Bill*, 1993 (Law Com No 211; Scot Law Com No 140)

Legislative Drafting

H of R

- Clearer Commonwealth Law: report of the inquiry into legislative drafting by the Commonwealth, 1993

Limitation of Actions

WALRC

- Limitation and notice of actions — WIH on report

Media

Sen

- Rights and obligations of the media — Receiving submissions and planning public hearings on contempt and shield laws

Medical Law *see also* Bioethics

FLC

- Sterilisation and other medical procedures on children: discussion paper, 1993 (DP)

ACTCLRC

- Natural death reference — Consideration of this reference has been suspended pending consideration of the issue by a Committee of the ACT Legislative Assembly

QLRC

- Review of the law relating to consent to medical treatment for minors — WIH

WALRC

- Consent to sterilization of minors — WIH on a draft report. The report is due for completion by the end of 1993

Mistake

Scot Law Com

- Recovery of benefits conferred under error of law, 1993 (DP No 95)

Nationality

Sen

- *Australian Citizenship Amendment Bill* 1993, 1993 — tabled on 17 August 1993

Neighbour Relations

NSWLRC

- Neighbour and neighbour relations — WIH on Rights of access report and Trees and noise report

Patents *see* Intellectual Property

Pensions *see also* Superannuation

SALC

- Investigation into the possibility of making provision for a divorced woman to share in the pension benefits of her former husband: matters relating to the *Divorce Amendment Act* 7 of 1989, 1993 (WP43; Project 41)

Law Com & Scot Law Com

- *Pension Schemes Bill*: report on the consolidation of the legislation relating to pension schemes, 1993 (Law Com No 212; Scot Law Com No 142)

Perpetuities and Accumulations

NTLRC

- Perpetuities and Accumulations — WIH on the rule against perpetuities, the rule against accumulations and the rule in *Whitby v Mitchell*

Personal Injuries

QLRC

- The assessment of damages in personal injury and wrongful death litigation: Griffiths v Kerkemeyer: section 15C *Common Law Practice Act 1867*, 1993 (QLRC R 45)

Personal Property

NSWLRC

- Personal property securities — WIH on report due mid 1994

QLRC

- Personal property securities — WIH

Vic AGLRAC

- Property law — WIH on a project to consider whether Part IX of the Victorian *Property Law Act* should be extended so that the re-allocation of property rights on the breakdown of a de facto relationship would include such property as businesses, chattels and choses in action

Persons with Disabilities

NSWLRC

- People with an intellectual disability and the criminal justice system: policing issues, 1993 (DP 29) — WIH on a further DP. A report on the intellectually disabled and the criminal law is due in mid 1994

Scot Law Com

- Mentally disordered and vulnerable adults: public authority powers, 1993 (DP No 96)

Police

NSWLRC

- People with an intellectual disability and the criminal justice system: policing issues, 1993 (DP 29)

Police Law

QCJC

- Report on a review of police powers in Queensland, 1993

Powers of Attorney

ALRI & Alberta Health Law Institute

- Advance directives and substitute decision-making in personal healthcare, 1993 (Report No 64)

Prescribed Interests

ALRC

- Collective investments: other peoples money, 1993 (ALRC 65)
- A review of collective investment schemes in overseas jurisdictions, 1993 (Collective Investments RP No 2)

Privacy

H of R

- Confidential personal and commercial information held by the Commonwealth — Written submissions being received and public hearings being held

Privilege

WALRC

- Report on professional privilege for confidential communications, 1993 (Project No 90)

Probation

Law Com

- *Probation Service Bill*: report on the consolidation of certain enactments relating to the probation service, 1993 (Law Com No 214)

Public Order

ACTCLRC

- Public assembly and street offences — WIH on DP

Real Property

NSWLRC

- Torrens title: compensation for loss — WIH on report
- Rights of support from adjoining land — WIH on report

Restitution

Scot Law Com

- Recovery of benefits conferred under error of law, 1993 (DP No 95)

Royal Commissions

TasLRC

- Report on the procedural aspects of Royal Commissions and Boards of Inquiry, 1993 (Report No 70)

Sale of Goods

WALRC

- *Sale of Goods Act* — WIH on an IP on implied terms. An IP on remedy of rescission will be prepared shortly and further IPs on property, title and remedies are contemplated

Law Com & Scot Law Com

- Sale of goods forming part of a bulk, 1993 (Law Com No 215; Scot Law Com No 145)

Scot Law Com

- Report on formation of contract: Scottish law and the United Nations Convention on Contracts for International Sale of Goods, 1993 (Scot Law Com No 144)

Securities

SALC

- The protection of a purchaser of shares: proposed amendment of section 138 of the *Companies Act 61 of 1973*, 1993 (WP48 (Project 62))

Sentencing

ILRC

- Consultation paper on sentencing, 1993

Sex Discrimination *see* Discrimination

Sexual Offences

- Sexual Assault — WIH on a DP

Statute Law *see* Legislation

Sterilisation

FLC

- Sterilisation and other medical procedures on children: discussion paper, 1993 (DP)

Stocks and Shares

SALC

- The protection of a purchaser of shares: proposed amendment of section 138 of the *Companies Act 61 of 1973*, 1993 (WP48 (Project 62))

Succession

QLRC

- Intestacy rules, 1993 (Report No 42) — WIH on the development of uniform Succession Law

Superannuation *see also* Pensions

ALRC

- A review of regulatory arrangements applying to superannuation schemes in Australia, 1993 (Collective Investments RP No 1)

Law Com & Scot Law Com

- *Pension Schemes Bill*: report on the consolidation of the legislation relating to pension schemes, 1993 (Law Com No 212; Scot Law Com No 142)

Surrogacy

SALC

- Report on surrogate motherhood, 1993 (Project 65)

Taxation

ARC

- Operation of Taxation Relief Boards — Letter of advice prepared for the Minister for Justice

Sen

- *Taxation (Deficit Reduction) Bill (Nos 1 and 2) 1993* — Reports tabled on 6 October 1993. WIH on further report
- Constitution aspects of the *Taxation (Deficit Reduction) Bill 1993* — tabled on 20 September 1993

Testator's Family Maintenance

Vic AGLRAC

- Testator's Family Maintenance — WIH on project to consider definition of 'eligible applicant'

Torrens System *see* Real Property

Torts

NSWLRC

- Contribution among joint tortfeasors — WIH on DP

BCLRC

- Recreational injuries: liability and waivers in commercial leisure activities, 1993 (CP No 70)

Trade Practices

ALRC

- Compliance with the *Trade Practices Act 1974*, 1993 (ALRC DP 56) — the DP has been released. The closing date for submissions is 25 February 1994. The final report is due on 30 June 1994

Tribunals

ARC

- Specialist tribunals — The Council has redirected the focus of this project from a comparison of tribunal procedures to include a discussion of the structure of the Commonwealth review tribunal system. A conference on 'Administrative Tribunals: Value for Money' was held on 15–16 October 1993 for members of the Commonwealth administrative review tribunals. Contact Charles Beltz for more information on (06) 257 6115

Trusts and Trustees

QLRC

- *Trusts Act* — WIH

Manitoba LRC

- Ethical investments by trustees, 1993 (Report No 79)

Victims of Crime

ACTCLRC

- Victims of crime, 1993 (Report No 6)

Wills

Law Com

- Family law: the effect of divorce on wills, 1993 (Law Com No 217)

Writs

WALRC

- Writs and warrants of execution — WIH on draft report