

## Law reforms to give Australian insurers the global edge\*

Strategic changes to Australian laws should give Australian companies a competitive edge in the A\$22 billion global marine insurance market as well as providing greater fairness for consumers, the Australian Law Reform Commission said.

"Australia's marine insurance market is the 13th largest in the world — with estimated revenue of A\$400 million — which is very significant considering the dominance of shipping giants such as Japan, the UK and the USA," ALRC President David Weisbrot said.

"Marine insurance is seen as a highly technical and legally complex area, but its application in the marketplace can have a big influence on Australia's economy and balance of trade."

Professor Weisbrot's comments follow the tabling in federal parliament of the ALRC's latest report, *Review of the Marine Insurance Act 1909* (ALRC 91), containing 44 recommendations for change.

"Australian insurers cover ships and cargo from all over the world. They are competing with international marine insurance companies, but they are operating under legislation that hasn't been updated in almost a century," Professor Weisbrot said.

"The ALRC report has recommended legislative changes to remove unfairness and bring our laws into line with contemporary commercial practices and modern technology," he said.

The Commissioner in charge of the inquiry and leading expert in maritime insurance law, Mr Ian Davis, said that the recommendations would "soften the sometimes harsh and disproportionate impact" on insured parties claiming on marine insurance.

"The ALRC's recommendations would also change the way insurance contracts are written to ensure parties know the terms they are required to comply with and the ramifications of any breach," Mr Davis said.

"The ALRC has sought to remove some of the confusion over the demarcation between contracts of insurance covered by the *Marine Insurance Act* and most other areas of insurance that are covered by the *Insurance Contracts Act 1984* (Cth)."

"We believe the changes, if implemented, will produce a legal regime that is clearer and fairer for both insurers and their clients," Mr Davis said.

He said that the ALRC recommended repealing archaic sections of the *Marine Insurance Act*, which had their origin in the 17th century. However, some of the poetry remains, for example, in the definition of marine perils as:

"... *perils of the seas, fire, war perils, pirates, rovers, thieves, captures, seizures, restraints, and detainments of princes and peoples, jettisons, barratry...*"

The reason for keeping such terminology is to retain more than a century of judicial decisions that interpret these phrases rather than open up new litigation, even if the descriptions now seem somewhat quaint, Mr Davis said.

**\*This is the text of the ALRC's media release issued on 23 May 2001. The report and an executive summary are available on the ALRC's website at <[www.alrc.gov.au](http://www.alrc.gov.au)>. To purchase a copy of the report, please contact the ALRC.**