

Who Should Pay?

Who should pay when everything goes wrong?

In the face of massive corporate failures, it is the person or company with the most money who ends up paying, regardless of their contribution to the loss. But is this fair?

Draft legislation released for public comment as a joint Commonwealth and NSW Government exercise proposes a new regime in this area of the law. The draft is based on the recommendations in the final Davis report on the Inquiry into the Law of Joint and Several Liability.

Recent experience has demonstrated that auditors and accountants – usually the ones with the deepest pockets – are facing vast insurance payouts and spiralling premiums as a result of the existing law which imposes joint and several liability on defendants.

As the Parliamentary Secretary to the Commonwealth Treasurer, Senator Brian Gibson says, "Under current law, auditors and other well insured defendants can end up paying all the damages in a corporate collapse, even though others have been much more to blame for the loss. The draft Bill proposes a framework to address this situation."

The NSW Attorney-General and Minister for Industrial Relations, Mr Shaw, said, "The key provision in the Bill would result in liability only in proportion to the degree of fault. Under existing law, a person suffering loss can either sue all the parties responsible or a number of them, or just one, which can result in one party paying for the negligence of the others."

Copies of the Draft Model Provisions to Implement the Recommendations of the Inquiry into the Law of Joint and Several Liability are now available and public comment and discussion is invited by 14 October.

Copies are available from Ms Jane Ryan on 06 250 6087

AFP and NCA Complaints System Inadequate, says ALRC

The Australian Law Reform Commission has released a Draft Recommendations Paper in which it suggests that the complaints and disciplinary systems of the Australian Federal Police and the National Crimes Authority are deficient.

Alan Rose, President of the ALRC says, "the AFP complaint system does not deliver adequate independent scrutiny, accountability or creditability."

They are also too slow and cumbersome. There is currently no one entity or person who accepts responsibility for the integrity of the whole system and who can vouch for the health of the AFP." There is no formal NCA complaints or disciplinary system and no

established mechanism for external review.

The Commission recommends the establishment of a National Integrity and Investigations Commission to investigate or supervise the investigation of complaints or corruption in relation to the AFP and NCA.

The Commission also recommends the abolition of the Federal Police Disciplinary Tribunal and the introduction of administrative review on the merits to be provided by the Administrative Appeals Tribunal.

A copy of the Draft Recommendations Paper is available from the ALRC on tel: 06 284 6333.

Land Titles Office – New Scale of Fees

The Office of the Registrar General advises that a new scale of fees will operate as a result of proposed amendments to the Registration

Regulations in respect of Land Titles Office services.

The new fees are expected to be in place from 1 October 1996.

1. The following fees for an inspection (search) of the title register will apply:

- for an inspection of the register where the inspection is performed by a client using remote access facilities – \$5
- for an inspection of the register where the inspection is performed by a client using equipment in the LTO in Darwin or Alice Springs – \$7.50
- for an inspection of the register where the retrieval of information from the register is carried out by staff of the LTO – \$10

This tiered pricing for the title searching service is based on the level of staff intervention required and the usage of Government equipment involved in the search.

The pricing policy is being introduced as a means of encouraging clients to utilise the automated services developed by the office.

2. Statutory Restriction Notice

The fee for a memorandum of Purposes of Statutory Restriction Notice has been abolished.