

## Acts under review

The Commercial Lawyers Committee met on Wednesday 15 September 1999 at the offices of its new member, Bill Parish of Morgan Buckley. As usual Mr Peer Schroter of Povey & Stirk in Alice Springs joined the meeting by way of telephone conference.

### Commercial and Private Agents Licencing Act

As part of the national intergovernmental agreement regarding the implementation of competition policy, a review has been undertaken as to the anti-competitive aspects of the Commercial and Private Agents Licencing Act, the Act which licenses commercial agents, inquiry agents, process servers and private bailiffs. A detailed paper has been released conducting the exercise of weighing the anti-competitive disadvantages of the Act with the advantages of proper regulation. At this stage the Committee does not think any action is warranted however a more detailed review is being undertaken by Mr Parish.

### Company Law Review Act

In the last edition of *Balance* the decision of Chief Justice Martin was noted on the impossibility of incorporating a legal practising company in the Northern Territory, due to the requirement for a memorandum and articles of association.

Feedback in response to last week's column pointed to the possibility of using s2 of the Legal Practitioners (Incorporation) Act, which provides that the Incorporation Act is to be read as one with the Legal Practitioners Act and the Corporations Law.

However the need to test such an argument has been removed by the introduction of the Statute Law Revision Bill (No. 2) 1999 on 18 August 1999 and which is expected to be debated and passed during the October 1999 sittings of the Legislative Assembly.

The Statute Law Revision Bill updates all references in Northern Territory Acts to

memorandum and articles of association to a reference to a constitution, with saving and validation provisions where relevant.

### Instruments Act

Section 9A of the Instruments Act provides that the registration of bills of sale last for five (5) years unless renewed for a further period of five (5) years. There was some doubt as to whether there could be a renewal on more than one occasion. Section 2 of the Statute Law Revision Bill (No. 2) 1999 removes any doubt that the registration of a bill of sale may be extended for one or more times for further periods of five (5) years by the grantee of the bill of sale applying for an extension by way of an approved form before the expiry of the then effective period of registration and paying the prescribed fee.

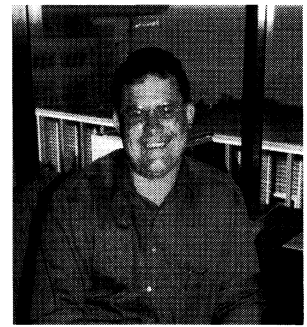
### Franchising Code of Conduct

There are approximately 44,000 franchisees in Australia with a total annual turnover in the sector of an estimated \$81.4 billion (and you always wondered why all shopping centres in Australia look the same).

On 1 July 1998 a mandatory code in relation to franchising was prescribed under the Trade Practices Act. The purpose of the Franchising Code of Conduct is to assist franchisees or franchisors to make an informed decision prior to entering a franchise agreement and to provide a framework for dispute resolution.

The main elements of the Franchising Code of Conduct are the requirement for disclosure statements containing prescribed information, setting a certain minimum terms which must be met in a franchise agreement (particularly relating to a cooling off period, providing a copy of any lease, prohibitions on general releases from liability, provisions in relation to the transfer and termination of a franchise) and a dispute resolution procedure.

The Franchising Code of Conduct is currently the subject of a review by the



Chairman of the Committee,  
Kevin Stephens.

Franchising Policy Council. The review will commence on Tuesday 1 December 1999 with a report containing advice and recommendations to be submitted to the Minister for Employment, Work Place Relations and Small Business by 31 May 2000.

The Committee has determined that no specific action or recommendation should be made in relation to the review however any practitioner regularly dealing with franchises may wish to consider a submission or to monitor the outcome.

### Planning Act

As has been widely publicised amendments have been proposed to the Planning Act. The Commercial Lawyers Committee was of the opinion that there may be significant client issues which arise but that there are no issues universal to lawyers which need to be addressed by the Committee.

If any practitioner wishes to raise an issue for consideration by the Committee please do not hesitate to contact any one of the committee members:

Ms Alison Cassells, Clayton Utz.  
Mr David Winter, David de L Winter.  
Mr Peer Schroter, Povey & Stirk.  
Mr Bill Parish, Morgan Buckley.  
Mr Alastair Shields, Attorney General's Department.  
Mr Kevin Stephens, Ward Keller.

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