

NOTICEBOARD

Health - Validity of referral of medical practitioner

In *Freeman v. Health Insurance Commission* ([2004] FCA 453; 19.04.2004) North J considered whether the conduct of a medical practitioner had been adequately specified in the referral to the Professional Services Review Tribunal under Part VAA of Health Insurance Act 1973 (Cth). He further considered whether the decision of the Determining Authority failed to take into account a relevant matter or was unreasonable.

Copyright - Infringement - Copy of "substantial part"

In *Tamawood Ltd v. Henley Arch P/L* ([2004] FCAFC 78; 31.03.2004) a Full Court considered whether copyright in plans for a project home had been infringed contrary to the Copyright Act 1968 (Cth) where the alleged infringer intended to copy plans but to incorporate differences in the final building.

Administrative law - Reviewable decisions - Whether freeway a "controlled action"

In *Mees v. Kemp* ([2004] FCA 366; 31.03.2004) Weinberg J concluded that a decision to construct a freeway in Victoria did not involve decisions under the Environment Protection and Biodiversity Conservation Act 1999 (Cth) that were reviewable under the AD (JR) Act 1977 (Cth).

Industrial law - Dismissal for membership of registered organisation

In *Australian Nursing Fed v. Alcheringa Hostel Inc* ([2004] FCA 375; 6.04.2004) Ryan J considered how a penalty should be imposed on a respondent employer under ss198U(1) of the Workplace Relations Act 1996 (Cth) on proof of dismissing workers for union membership contrary to s298K(1) of that Act. Consideration of whether the Court had jurisdiction to make declarations as a "associated matter" as to the status of a residential aged care facility under State law.

Discrimination - Refusal of travel insurance to woman with breast cancer

In *QBE Travel Insurance v. Bassanelli* ([2004] FCA 396; 7.04.2004) Mansfield J dismissed an appeal by an insurer against a conclusion of a Federal Magistrate that in refusing to grant travel insurance to an individual with breast cancer for a short overseas holiday an insurer had unlawfully discriminated against the person contrary to ss5, 24 of the Disability Discrimination Act 1992 (Cth).

Broadcasting - Community Broadcasting licence

In *Community Television Sydney Ltd v. ABA* ([2004] FCA) In *Re James*; Election for Office in the AFMEPKI Union ([2004] FCA 462; 20.04.2004) *Lander J considered a candidate for a union election was not entitled to stand on the basis of employment in the industry where the candidate was willing, but unable to, obtain employment.*

COURT LIBRARY NOTES

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Photocopying

The library has a revised photocopying policy; here is an overview.

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NT LEGISLATION

Legislative changes in March 2004, notified in the NT Government Gazette

New Acts

- 13/2004 Swimming Pool Safety Act 2004 (15.3.04)
- 14/2004 Liquor Amendment Act 2004 (5.5.04)
- 15/2004 Local Government Amendment Act 2004 (N/C)
- 16/2004 Mining Amendment Act 2004 (15.3.04)
- 17/2004 National Environment Protection Council (Northern Territory) Amendment Act 2004 (15.3.04)
- 18/2007 Statute Law Revision Act 2004 (N/C)
- 19/2004 Firearms Amendment Act 2004 (s.4 – N/C, Rest - 28.4.04)
- 20/2004 Food Act 2004 (N/C)
- 21/2004 Health Practitioners Act 2004 (N/C)
- 22/2004 Fire and Emergency Amendment Act 2004 (N/C)
- 23/2004 Radiation Protection Act 2004 (N/C)
- 24/2004 Animal Welfare Amendment Act 2004 (28.4.04)
- 25/2004 Consumer Affairs and Fair Trading Amendment Act 2004 (28.4.04)
- 26/2004 Racing and Betting Amendment Act 2004 (N/C)
- 27/2004 Unlawful Betting Amendment Act 2004 (N/C)
- 28/2004 First Home Owner Grant Amendment Act 2004 (s.5 – 10.11.03, s.11 – 1.12.00, Rest – N/C)
- 29/2004 Stamp Duty Amendment Act 2004 (s.4(b) – 10.11.03, s.6 – 17.3.04, Rest – N/C)
- 3/1979 Associations Incorporation Regulations – Repealed by Act 56-2003
- 7/1984 Associations Incorporations Regulations Amendment – Repealed by Act 56-2003
- 12/1986 Associations Incorporation Regulations – Repealed by Act 56-2003
- 36/1987 Associations Incorporation Regulations – Repealed by Act 56-2003
- 1/1996 Associations Incorporation (Accountability) Regulations – Repealed by Act 56-2003
- 37/1996 Northern Territory Electoral Regulations - Unit Titles Act – 18.3.03
- Waste Management and Pollution Control Act – 1.5.03

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Repealed by Act 11-2004
42/1996 Associations Incorporation (Accountability) Regulations – Repealed by Act 56-2003
63/1996 Associations Incorporation (Accountability) Regulations – Repealed by Act 56-2003
62/2002 Swimming Pool Fencing Regulations - Repealed by Act 13-2004
12/2003 Swimming Pool Fencing Regulations - Repealed by Act 13-2004

New Regulations

5/2004 Swimming Pool Safety Regulations (16.3.04)
6/2004 Electricity Reform (Administration) Regulations (29.3.04)
7/2004 Community Welfare Regulations (31.3.04)
8/2004 Planning Regulations (31.3.04)
9/2004 Legal Practitioners Regulations (1.5.04)
10/2004 Legal Practitioners Regulations (28.4.04)
11/2004 Associations Regulations (28.4.04)
12/2004 Police Administration (Fees) Regulations (28.4.04)
13/2004 Northern Territory Aboriginal Sacred Sites Regulations (28.4.04)
14/2004 Building Regulations (28.4.04)

New Reprints

Aboriginal Land Act – 17.3.04
Bail Act – 15.6.02
Cemeteries Act – 17.3.04
Commercial Passenger (Road) Transport Act – 1.10.03
Consumer Affairs and Fair Trading Act – 7.7.03
Criminal Records (Spent Convictions) Act – 17.3.04
Debits Tax Act – 18.3.03
Education Act – 2.4.03
Financial Institutions Duty Act – 30.1.02
Financial Management Act – 30.6.03
Kava Management Act – 12.11.03
Lands and Mining Tribunal Act – 11.12.01
Legislative Assembly Members' Superannuation Act – 17.3.04
Licensed Surveyors Act – 15.3.04
Marine Act – 15.7.01
Menzies School of Health Research – 1.1.04
Motor Vehicles Act – 1.8.03
Nitmiluk (Katherine Gorge) National Park Act – 1.12.00
Northern Territory Treasury Corporation Act – 30.10.02
Ombudsman (Northern Territory) Act – 15.3.04
Parole of Prisoners Act – 11.2.04
Pastoral Land Act – 17.3.04
Petroleum (Submerged Lands) Act – 1.5.03
Places of Public Entertainment Act – 20.8.03
Planning Act – 18.3.03
Plumbers and Drainers Licensing Act – 18.9.03
Powers of Attorney Act – 1.12.00
Price Exploitation Prevention Act – 1.10.02
Public Trustee Act – 17.3.04
Residential Tenancies Act – 15.3.04
Superannuation Act – 17.3.04
Crimes (Victims Assistance) – 1.11.02

Cemeteries Regulations – 30.3.98
Education (College and School Councils) Regulations – 7.11.02
Financial Institutions Duty Regulations – 1.7.00
Fisheries Regulations – 7.1.04
Juries Regulations – 15.3.04
Kava Management Regulations – 3.3.04
Mining Regulations – 7.7.03
Pastoral Land Regulations – 12.5.99
Pay-roll Tax Regulations – 6.11.02
Petroleum Regulations – 2.7.03
Small Claims Rules – 4.12.02

Commencements

51/2003 Legal Practitioners Amendment (Incorporated Legal Practices and Multi Disciplinary Partnerships) Act 2003 (1.5.04)
56/2003 Associations Act 2003 (5.5.04)
11/2004 Electoral Act 2004 (15.3.04)
12/2004 Electoral (Consequential Amendments) Act 2004 (15.3.04)

Repealed legislation

49/1963 Associations Incorporations Ordinance 1963 – Repealed by 56/2003
22/1969 Associations Incorporations Ordinance 1969 – Repealed by 56/2003
22/1979 Associations Incorporations Act 1978 – Repealed by 56/2003
75/1981 Associations Incorporations Amendment Act 1981 – Repealed by 56/2003
46/1989 Associations Incorporations Amendment Act 1989 – Repealed by 56/2003
58/1989 Legal Practitioners (Incorporation) Act 1989 – Repealed by 51-2003
57/1990 Associations Incorporations Amendment Act 1990 – Repealed by 56/2003
37/1995 Northern Territory Electoral Act 1995 - Repealed by 11/2004
41/1995 Associations Incorporations Amendment Act 1995 – Repealed by 56/2003
2/1996 Associations Incorporations Amendment Act 1996 – Repealed by 56/2003
11/1997 Associations Incorporations Amendment Act 1997 – Repealed by 56/2003
66/2002 Swimming Pool Fencing Act 2002 - Repealed by 13/2004
70/2002 Associations Incorporations Amendment Act 2002 – Repealed by 56/2003
53/2003 Swimming Pool Fencing Amendment Act 2003 - Repealed by 13/2004

RECENT ARTICLES

Aborigines, Aust - criminal law

Chan, Jenny - Regulating police discretion: an assessment of the impact of the NSW Young Offenders Act 1997

Young, P W - Sentencing of Aboriginal alleged paedophile, Australian Law Journal, Vol 78(4) 2004 pp: 219-220

Aborigines, Aust - health

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Aborigines, Aust - prisons

Lawrie, Rowena - Speak out strong, *Australian Indigenous Law Reporter* Vol 8(2) 2003 pp: 81-84

Aborigines, Aust - reconciliation

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Admiralty law

Jonsson, Michael - The statutory right of action in rem *Australian Law Journal* Vol 78(4) 2004 pp: 262-278

Autopsies

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Bankruptcy

Caudwell, Ian - Bankruptcy without a bankruptcy notice *Law Institute Journal* Vol 78(4) 2004 pp: 50-53

Caveats

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Civil procedure

May, RHLJ - The English High Court and expert evidence *Judicial Review* Vol 6(4) 2004 pp: 353-382

Kremer, Ben - Preliminary discovery in the Federal Court: Order 15A of the Federal Court Rules *Australian Bar Review* Vol 24(3) 2004 pp: 235-261

Castelan, Justin - Service of proceedings overseas *Law Institute Journal* Vol 78(4) 2004 pp: 54-57

Twigg-Flesner, Christian - Human rights as a bar to enforcement of a foreign judgment *Law Quarterly Review* Vol 120 2004 pp: 211-218

Class actions

Wilcox, Murray - Class actions in Australia *Judicial Review* Vol 6(4) 2004 pp: 417-428

Commercial law

Thompson, Stephen - E-commerce, e-security and contracting *Australian Business Law Review* Vol 32(2) 2004 pp: 132-138

Company law

Clarke, Andrew - The relative position of employees in the corporate governance context: an international comparison *Australian Business Law Review* Vol 32(2) 2004 pp: 111-131

Competition law

Marshall, Brenda - Access to essential facilities under Section 36 of the Commerce Act 1986: lessons from Australian Competition Law *Canterbury Law Review* Vol 9 2003 pp: 248-267

Constitutional law

Malcolm, David - The judiciary under the Constitution: the future of reform *University of Western Australia Law Review* Vol 31(2) 2003 pp: 129-141

de Garis, Brian - The history of Western Australia's

Constitution University of Western Australia Law Review Vol 31(2) 2003 pp: 142-153

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Kirby, Michael - The High Court of Australia and the Supreme Court of the United States: a centenary reflection *University of Western Australia Law Review* Vol 31(2) 2003 pp: 171-201

Contracts law

Getzler, Joshua - Forfeiture for breach of a time condition *Law Quarterly Review* Vol 120 2004 pp: 203-208

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Criminal law

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DNA

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Gunn, Ben - An intelligence-led approach to policing in England and Wales and the impact of developments in forensic science, *Australian Journal of Forensic Sciences*

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Drugs

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Evidence

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Forensic science

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High Court

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Judges

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Landlord and tenant

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Lawyers – biography

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Liability

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Litigants in person

Faulks, John - The end of the beginning or the beginning of the end? Assessing and responding to the challenge of self-represented litigants, Judicial Review Vol 6(4) 2004 pp: 403-415

Media law

Gibson, Stuart - Privacy in the limelight, Law Institute Journal, Vol 78(4) 2004 pp: 34-37

Burrows, John - The news media and the law, Canterbury Law Review Vol 9 2003 pp: 229-239

Native title

Pearson, Noel - The High Court's abandonment of 'the time-honoured methodology of the common law' and its interpretation of Native Title in Mirriuwung Gajerrong and Yorta Yorta, Australian Indigenous Law Reporter, Vol 8(2) 2003 pp: 1-10

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Paedophilia

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Police

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Privacy

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Prosecutions

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Public law

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Refugee law

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Sale of goods

Becroft, Ross - Navigating through the fog - possessory liens in sale of goods transactions, *Law Institute Journal* Vol 78(4) 2004 pp: 46-49

Sentencing

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Service

Castelan, Justin - Service of proceedings overseas, *Law Institute Journal*, Vol 78(4) 2004 pp: 54-57

Stare decisis

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Trade practices

Niblett, Anthony - Structural and behavioural market power under the Trade Practices Act: An application to predatory pricing, *Australian Business Law Review*, Vol 32(2) 2004 pp: 83-110

Corones, Stephen - Has the High Court crippled the effectiveness of s 46 of the Trade Practices Act?, *Australian Business Law Review*, Vol 32(2) 2004 pp: 142-147

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Trials

Heydon, J D - Practical impediments to the fulfilment of judicial duties, *Judicial Review*, Vol 6(4) 2004 pp: 429-443

Trusts and trustees

Dal Pont, G E - Timing, insolvency and the constructive trust, *Australian Bar Review*, Vol 24(3) 2004 pp: 262-279

War law

Conte, Alex - All necessary means to maintain peace and security: did the United Nations authorise the use of force in Iraq?, *Canterbury Law Review*, Vol 9 2003 pp: 306-321

Witnesses

Lusty, David - Proposed witness anonymity laws violate the right to a fair trial and arguably infringe Chapter III of the Constitution, *Criminal Law Journal*, Vol 28(2) 2004 pp: 110-114

Women

Lawrie, Rowena - Speak out strong, *Australian Indigenous Law Reporter*, Vol 8(2) 2003 pp: 81-84

AFL tipping update

After round 12, just over half way through the regular season, the competition is tough.

There is only a handful of points separating the leader from a large pack of chasers and with ten rounds still to go, anyone could win.

Cassandra Tys and Jodeen Carney share the lead, with Glen Dooley in second and Julia Munster in third place.

Cassandra Tys (self) 134; Jodeen Carney (Shadow AG) 134; Glen Dooley (ODPP) 132; Julia Munster (NTLAC) 130; Elizabeth Morris (Coroner's) 128; Peter Walker (self) 126; Bill Piper (self); Pipina Papazglou (De Silva Hebron) 124; Peter Fanning (HNR Lawyers) 124; Barbara Bradshaw (LSNT) 124; Zoe Malone (LSNT) 124; Trevor Riley (Judge) 122; Mark Johnson (Edmund Barton) 122; Vic Feldman (Ombudsman) 122; Richard Coates (DOJ) 122; David Winter (self) 118; Vincent Luppino (Magistrate) 116; Robert Bradshaw (DOJ) 116; Lyn Bond (Dept of Chief Minister) 116; Sarah Wilkie (DOJ) 114; Peter Boyce (Ombudsman) 114; Graham Chandler (Dept of Chief Minister) 108; Sally Sievers (Cridlands) 106; Brian Johns (self) 106; Peter Tiffin (NAALAS) 98; Sean Bowden (self) 98; Sonya Ingham (LSNT) 96.



DEADLINES

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