



Has the role of the Company Secretary changed: how can one person get across it all?

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- 🔗 **Statutory impositions upon the Company Secretary**
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Given the recent global foofaraw surrounding corporate governance, one really must wonder how the Company Secretary has managed to evade the media spotlight for as long as has been the case. Following Enron, WorldCom, HIH and One.Tel, directors, auditors, chairs, chief executives, financial controllers — almost every executive and non-executive position in the modern corporation — have taken a battering, yet the Company Secretary seems to have managed to fly under the regulatory radar.

One hundred and sixteen years ago, when the Company Secretary was considered to be little more than a mere servant,¹ this oversight may have been understandable. However, now that the Company Secretary has become recognised as the chief administrative officer² and, in certain circumstances, a senior executive officer,³ a little more attention is rightly deserved.

The Honourable Justice Bob Austin has suggested that there are three key causes of this enormous expansion of the role of the Company Secretary.⁴ I propose to deal with two of those: first, the influence of 'direct statutory impositions' upon the responsibilities of the Company Secretary; and second, the 'explosion of regulation of all aspects of commercial activity.'⁵

When KPMG and Chartered Secretaries Australia (CSA) surveyed the technical backgrounds, amongst other things, of Company Secretaries in 1997 and again in 1999, some interesting outcomes appeared which support Justice Austin's observations. Most particularly, according to the KPMG/CSA survey, the move towards increased regulation of the commercial sphere has coincided with an increasing number of Company Secretaries coming from legal backgrounds (13 per cent in 1997, 21 per cent in 1999).

Thus, the importance of the Company Secretary having a working knowledge of a growing list of statutory provisions is both beyond doubt and the impetus behind this article. Subsequently, it begs the question 'how can one person get across it all?' Many secretaries may well argue that no one person can; however, it is hoped that this article may aid Company Secretaries in their attempts to straddle their burgeoning responsibilities.

Direct and developing statutory impositions upon the Company Secretary

The statutory impositions upon the Company Secretary are many and varied. The direct impositions arise largely from the *Corporations Act 2001* (Cth), which imposes duties analogous to those found at common law and in equity. Additionally, there are several developing areas that will have an impact upon the secretary in years to come. The common law continues to interpret the statutory obligations owed by corporate officers and will always be a paradigm of uncertainty and change. Lastly, the global regulatory reform



juggernaut trundles on in the light of the corporate collapses, and the most relevant of these (to the Company Secretary) are also discussed below.

The legislative regime under the Corporations Act 2001

The significance and power of the Company Secretary has been directly acknowledged by the corporate legislation in a number of ways. Most notably is the *Corporations Act 2001* decree that, particularly in relation to the secretary, with power comes responsibility. Thus, both ss 9 and 82A of the *Corporations Act 2001* place the secretary on substantially equal terms to that of corporate directors; at least in regards to their duties as officers of the corporation. To simplify, Company Secretaries are required to discharge their duties as officers of a corporation to the same standard as the board of directors.

As a result, the Company Secretary must, as a bare minimum:

- exercise their powers and discharge their duties with the degree of care and diligence that a reasonable person would exercise if they
 - were a Company Secretary of a corporation in the corporation's circumstances and
 - occupied the office held by, and had the same responsibilities within the corporation as, the Company Secretary (s 180)
- exercise their powers and discharge their duties:
 - in good faith in the best interests of the corporation and
 - for a proper purpose (s 181)
- not improperly use their position to:
 - gain an advantage for themselves or someone else or
 - cause detriment to the corporation (s 182)
- not improperly use information obtained because they are, or have been, a Company Secretary

of a corporation to:

- gain an advantage for themselves or someone else or
- cause detriment to the corporation (s 183).

Additionally, s 188 of the *Corporations Act 2001* imposes specific liability upon the secretary for a company's failure to:

- have a registered office (s 142)
- in the case of a public company, keep that registered office open to the public (s 145)
- lodge annual returns (s 345)⁶ and
- lodge notices with ASIC (s 205B).

These have been refined after 1 July 2003.

Thus, it can be seen that the Company Secretary is subject to a number of legal obligations under the *Corporations Act 2001*. Some of these duties are additionally reinforced by the common law and equity; and under the legislative scheme can be the basis of either a civil penalty or criminal action brought by ASIC or the Director of Public Prosecutions. The list of obligations above should be considered by the Company Secretary as the overarching duties with which compliance is mandatory; in discharging their role, the secretary should be forever mindful of where their interests lie.

Developing areas of responsibility for the Company Secretary

While the direct statutory impositions appear to begin and end with the list above, the Company Secretary would be well advised to not be so naive as to believe that this is the reality. There are two further influences of which the secretary should be aware vis-à-vis their duties to the corporation: the ever-developing common law and the regulatory reform of corporate legislation across the world.

First, one should be aware of the

general trend in the regulatory environment towards expanding the duties owed by corporate officers, particularly, the potential for an increase in the duty of care owed to the corporation stemming from s 180 of the *Corporations Act 2001*. This potential becomes evident when considering the recent willingness of the New South Wales Supreme Court to expand the responsibilities of the chair of the board under s 180 in *ASIC v Rich*.⁷

In short,⁸ in *ASIC v Rich*, Austin J found that the duty owed by John Greaves as chair of the One.Tel board could arguably be raised by virtue of Mr Greaves' additional role as chair of the Finance and Audit Committee and also by reason of his high qualifications, experience and expertise relative to the other directors.⁹ While this case does not authoritatively state that the chair of the board has a higher duty than that owed by other non-executive directors, there are some important parallels to note in relation to the Company Secretary.

As stated above, the rationale behind the decision of Austin J to entertain a higher duty owed by the chair was the additional responsibilities and the qualifications and experience of Mr Greaves. By parity of reasoning, therefore, it is equally arguable that the Company Secretary may find that the duty owed to the corporation will increase where the secretary undertakes additional roles (for example, general counsel or finance director) and has high level qualifications and extensive experience.

It must be remembered that this is not the state of the law today; rather, it is merely a reasonable submission as to where the law may be heading. It is a submission made all the more plausible by the recent attention paid to the role of the Company Secretary by both the Higgs Review in the United Kingdom and the Australian Stock Exchange Corporate Governance

Council's *Principles of good corporate governance and best practice recommendations*.

Both the Higgs and ASX Corporate Governance Council reports highlighted the role of the Company Secretary, with particular attention given to the provision of information and wide-ranging support to the board of directors. More importantly, perhaps, was the focus of both reports on the necessary accountability of the secretary to the board on all governance matters.

The ASX Corporate Governance Council proposed that:

The Company Secretary plays an important role in supporting the effectiveness of the board by monitoring that board policy and procedures are followed, and coordinating the completion and despatch of board agenda and briefing materials.

The Company Secretary should be accountable to the board, through the chairperson, on all governance matters.¹¹

The Higgs Review went further, stating:

The role of the Company Secretary is important in the provision of information and more widely in supporting the effective performance of non-executive directors. The value of a good Company Secretary was a recurring theme among consultees. Ultimately, the value of a Company Secretary's contribution will be determined by the calibre of the individual concerned. At their best, as a provider of independent impartial guidance and advice, a good Company Secretary is uniquely well placed to assist a non-executive director and to support the chairman in ensuring good use is made of the non-executive directors.

The Company Secretary has a wide range of responsibilities but among those most central to enhancing non-executive director performance are *the facilitation of good information flows, provision of impartial information and guidance on board procedures, legal*

requirements and corporate governance, together with best practice developments.

They can also play a key part in facilitating induction and professional development for board members. To ensure good communication within the board and its committees, it is good practice for the Company Secretary, or their designee, to be secretary to all board committees (emphasis added).

The effectiveness of the Company Secretary will hinge on the nature of their working relationship with the chairman. The Company Secretary should be accountable to the board through the chairman on all governance matters.¹²

Thus, the Company Secretary, at the very least, is accountable for:

... Company Secretaries are required to discharge their duties as officers of a corporation to the same standard as the board of directors.

- monitoring board policy and procedure and ensuring that both are followed
- the completion and despatch of board agenda and briefing materials
- the facilitation of good information flows to the board
- developing best practice
- the induction and professional development of the board members and
- the provision of impartial advice and guidance on board policy, legal requirements and corporate governance.

It is the last of these responsibilities that is particularly demanding. For a secretary to be able

to provide guidance and advice on relevant legal obligations and corporate governance would be no small task were it to be considered in isolation. However, when it is considered as being only one on a list of duties that defies definitive enumeration, the challenge is all the more imposing. It is a task that requires the maintenance of a watching brief over myriad areas of law, some of which are discussed in the following section.

A regulatory explosion in the commercial sphere

It is beyond the scope of this article to even begin to attempt to discuss all of the areas of law that impact upon a corporation, and, therefore, derivatively upon the Company Secretary. What follows is a précis of a selection of relevant areas that are currently of particular relevance and interest.

The Commonwealth Criminal Code

The *Criminal Code Act 1995* (Cth) began operation on 1 January 1997. However, little was made of its assent and it was not until 15 December 2001 that the *Criminal Code* gained any great relevance. The *Criminal Code* was designed to come into effect, therefore, in two stages.

The first stage required that any Commonwealth enactment that created new criminal offences after 1 January 1997 was to clearly set out the necessary physical and mental elements that constitute the offence. The second stage of the operation of the *Criminal Code* took effect from 15 December 2001, and required that all Commonwealth enactments be amended so as to clearly set out the necessary physical and mental elements that constitute each offence.

The *Criminal Code* rules that any offences contained within a Commonwealth enactment that



remained unlabelled after 15 December 2001 are to have the default fault elements implied. These so-called 'default fault elements' are a codification of the common law principles of criminality and are therefore closely analogous to the common law concept of *mens rea* (intention, knowledge, recklessness and negligence).¹³

The end result of the passing of the 15 December 2001 deadline was that all Commonwealth statutes were amended so as to clearly state whether an offence provision was to be categorised as strict, fault, or absolute liability.

Another important outcome from the advent of the *Criminal Code* is the concept of corporate criminal responsibility, contained within Part 2.5 of the *Criminal Code*.

Significantly, Part 2.5 allows for a corporation to be found guilty of an offence where it can be proven:

that a corporate culture existed within the body corporate that directed, encouraged, tolerated or led to non-compliance with the relevant provision or

that the body corporate failed to create and maintain a corporate culture that required compliance with the relevant provision.¹⁴

Thus, a corporation may be found guilty of an offence where it either had a culture of non-compliance or where it failed to create and maintain a culture of compliance. However, exactly what steps will satisfy these requirements for a corporate culture of compliance is a little unclear. As far back as 1996, Professor Fels suggested that:

Management literature is full of discussions about corporate culture which talks about predominant value sets which drive decision making and performance of the corporation. A company with a culture of compliance is one in which *a dominant value from top to bottom favours activities which support compliance with laws*.¹⁵ (emphasis added)

It may be that it is the Company

Secretary to whom this issue is delegated; however, the secretary must be aware and make clear to the board that instilling a corporate culture is not something that can be done wholly and solely by the secretary. Rather, the board must determine and display its dominant values and seek to instil these throughout the company. Achieving this will be no mean feat. One should accept from the beginning that merely having a policy document outlining the corporate culture of compliance locked away in a filing cabinet will not be a defence to a prosecution based on a failure to create and maintain a culture of compliance. Thus, merely paying lip service to the concept of corporate culture is unlikely to be seen as taking the necessary steps that will provide the company with a defence.

Directors' and officers' insurance

With the level of liability faced by corporate officers increasing, the natural corollary is to turn to insurance to help offset the potential for an expensive claim. It is important, however, that the Corporate Secretary, who may find themselves charged with the task of reviewing directors' and officers' insurance (D&O insurance) policies, is aware of the limitations imposed upon indemnification, both by the common law and by statute.

First, I would like to dispose with something of a commonly held misconception of the common law's position on insuring against criminal acts. It is an oft-stated aphorism that one cannot ever insure against a criminal act on public policy grounds alone.

It is a fundamental principle of law that a contract which is forbidden by a statute or which is contrary to the criminal law is illegal and void. This principle finds application in the law of liability insurance in the general refusal of

the courts to enforce a policy which promises to indemnify the insured against liability for damage or injury which is the foreseeable result of an intended criminal act or, in respect of a fine or other punishment, on grounds of public policy.

Thus, judicial focus has often been upon the criminal act being 'intentional'; in the law of insurance, a line is often drawn between criminal acts that are inadvertent (and are therefore insurable against) and intentional criminal acts (which are excluded from indemnification).¹⁶ It has also been suggested that a criminal act will need to be a 'serious criminal act' before it is excluded from indemnification.¹⁷

Secondly, s 199A(2) of the *Corporations Act 2001* prohibits a company from indemnifying a director for:

a liability owed to the company or related body corporate for a pecuniary penalty order under section 1317G or a compensation order under 1317H or

a liability that is owed to someone other than the company or a related body corporate which did not arise out of conduct in good faith.

An indemnity granted by a company in contravention of this section is void.

A loophole therefore appears to exist for indemnifying officers for breach of financial services civil penalty provisions of the Act which result in compensation orders as these are contained in s 1317HA.

Further, s 199B of the *Corporations Act 2001* precludes a company from purchasing an insurance policy which insures the director for a liability (other than legal costs) arising out of:

conduct involving a wilful breach of duty in relation to the company or

a contravention of s 182 (improper use of position) or s 183 (misuse of information).

A policy (such as a D&O policy) that seeks to provide cover for directors' breaches of such duties is void.

It would appear that s 199B of the *Corporations Act 2001*, which prohibits a company from paying a premium for a contract insuring an officer against liability arising out of a wilful breach of duty or a contravention of ss 182 or 183, mirrors the common law requirement for a 'wilful' or intentional breach of the law. It does not specifically mention criminal conduct, although a breach of duty or of either ss 182/183 may, in certain circumstances, also be an offence. Therefore, it may be concluded that *inadvertent breaches of duties owed to the company would appear to be insurable*, including (but not limited to) ss 180 (care and diligence), 181 (good faith) and 184 (criminal breaches).

Many D&O liability policies now provide cover for civil penalties (sometimes as an extension to the standard cover). Whether such policies are void on grounds of public policy has not been tested.

Occupational health and safety

Occupational health and safety, or workplace health and safety, is an area of concern for all employers that often falls to the Company Secretary. It is a very broad area of law, which imposes duties both in statutory form and those created by the common law. In certain areas, these duties may tend to overlap, but do co-exist at the same time. Thus, the Company Secretary will need to maintain a watching brief over developments in both these sources of law.

In recent years, at least in New South Wales, there have been some significant changes made to the statutory regime. The two key pieces of legislation of which the secretary should be aware are the *Occupational Health and Safety Act 2000* (NSW) and the *Occupational Health and Safety Regulation 2001* (NSW).¹⁸ Section 8 of

the Act outlines the general duty of employers to 'ensure the health, safety and welfare at work of all the employees of the employer.' The Act also places directors and each person concerned in the management of the corporation in the same place in terms of liability as the corporation where a contravention of the Act occurs.

Under the reforms instituted by the *Occupational Health and Safety Act 2000*, employers are required to play a proactive role in the management of workplace safety. This is essentially because the Act incorporates a number of new objectives that reflect the principles of prevention through risk

... it may be concluded that inadvertent breaches of duties owed to the company would appear to be insurable...

management, equity, participation and the acceptance of responsibility through consultation and community awareness.¹⁹

The *Occupational Health and Safety Regulation 2001* is a significant set of further guidelines on what these duties mean, how they apply, and what is expected of employers in discharging them. These Regulations are an invaluable resource for the Company Secretary in determining compliance and codes of practice.

Trade practices

There is no need to over-emphasise the influence of the *Trade Practices Act 1974* (Cth) on the day-to-day activities of the Company Secretary — to do so would merely be an exercise in superfluity. There

can be no doubt that this area is of ongoing and increasing concern for all corporate entities and, as a result, their secretaries.

Section 52 of the *Trade Practices Act 1974* continues to be a heavily replicated and heavily litigated provision. It covers misleading or deceptive conduct in trade or commerce, and has analogous provisions in each State of Australia (for example, s 42 *Fair Trading Act 1987* (NSW)) and numerous other embodiments in Commonwealth statutes, including ss 670A, 728, 953A, 1022A and 1041H of the *Corporations Act 2001* (Cth) and ss 12DA and 12DF of the *Australian Securities and Investments Commission Act 2001* (Cth)).

In the last five years, the Australian Competition and Consumer Commission (ACCC) has had numerous high profile victories over telecommunications, pharmaceutical and financial giants in litigation concerning s 52 of the *Trade Practices Act 1974*. Both the ACCC, particularly under the leadership of Professor Fels, and ASIC have not been afraid to flex their regulatory muscle in relation to misleading or deceptive conduct, with no fewer than 22 actions brought in the last five years within the financial services sphere alone.

There is, of course, far more to the *Trade Practices Act 1974* than just misleading or deceptive conduct; far more than can be discussed here. However, it is important for the Company Secretary to stay abreast of matters relating to competition law, particularly given the recent wide-ranging report of the Dawson inquiry into the *Trade Practices Act 1974*.²⁰ The Dawson inquiry examined and made recommendations in relation to areas such as:

- the importance and application of competition law in Australia
- compliance with the Act



- mergers under s 50 of the Act
- misuse of market power under s 46 of the Act
- price discrimination
- the cease and desist powers of the ACCC
- the Wilkinson Review into certain aspects of Part IV of the Act
- collective bargaining
- exclusionary provisions under the Act
- exclusive dealing in the form of third-line forcing
- joint-venture exceptions under s 45A(2) of the Act
- the treatment of dual listed companies
- the applicability of criminal penalties, particularly in relation to serious cartel behaviour
- the applicability of civil penalties calculated as a multiple of the gain from a contravention or a proportion of the company's turnover
- the accountability of the ACCC
- the need for a consultative committee to the ACCC
- the handling of complaints against the ACCC
- the use of the media by the ACCC
- the investigative powers of the ACCC and
- the considerations of legal professional privilege vis-à-vis ACCC requests for information.

How can one person get across it all?

How can one person get across all these areas of concern and relevance? It is no small task. However, there are a number of electronic resources available to make the task of keeping up-to-date and informed considerably easier. Some of these resources may be suitable to provide you with information on a daily basis, some on a weekly basis and some more or less often than both. What follows is by no means an exhaustive or exclusive list of resources, rather they are resources I use on a regular basis and can recommend.

Resources for daily updates

There are numerous electronic update services available free of charge that will deliver relevant information in summary form to your email inbox on a daily basis. Three in particular immediately spring to mind, which I have either trialled or use regularly myself.

LexisNexis Butterworths Legal Express

<<http://www.lexislegal.com/aus/butterworths/ProductInfo/legalexpress/n.htm>>

Legal Express delivers legal news, case law, and legislative changes in one email to your inbox on a daily basis. It is free of charge, and allows you to select the areas of law in which you are interested. Additionally, an archive of all past editions of Legal Express is kept online and is searchable. You need to register for Legal Express by following the link above.

CCH Daily Email Alerts

<http://www.cch.com.au/registration_page0.asp>

CCH Daily Email Alerts provide you with a daily summary of legal news and commentary on recent legislative changes, cases of interest, and the movements of the corporate regulators. It is free of charge, and allows you to select the areas of law in which you are interested. Additionally, an archive of all past editions of CCH Daily Email Alerts is kept online and is searchable. You need to register for Daily Email Alerts by following the link above.

FindLaw Newsletters

<<http://www.findlaw.com.au/emallists/register.asp>>

FindLaw Newsletters provide a range of resources, such as a business and commercial newsletter, free legal news, case updates and legislative change alerts. It is free of charge, and allows you to select the areas of law in which you are interested.

Additionally, an archive of all past editions of FindLaw Newsletters is kept online and is searchable. You need to register for FindLaw Newsletters by following the link above.

Resources for weekly updates

All of the following websites provide information that, depending upon your areas of interest, you may need to check only weekly, but are usually updated more often than that.

ASIC Media Releases <<http://www.asic.gov.au/asic/asic.nsf>>

ACCC Media Releases <<http://www.accc.gov.au/media/mediar.htm>>

APRA Media Releases <<http://www.apra.gov.au/media-releases/>>

ASX News <http://www.asx.com.au/WhatsNew_HP2.shtm/>

The Commonwealth Treasurer's Media Releases <<http://www.treasurer.gov.au/>>

The Commonwealth Parliamentary Secretary's Media Releases <<http://parlsec.treasurer.gov.au/>>

The Commonwealth Minister for Revenue and Assistant Treasurer's Media Releases <<http://assistant.treasurer.gov.au/>>

The Commonwealth Attorney-General's Media Releases <<http://www.ag.gov.au/www/agdHome.nsf/HearingPagesDisplay/Latest+News?OpenDocument>>

Other relevant resources for the Company Secretary

The following resources may also be worth keeping an eye on where necessary as they may have valuable information on particular areas of concern.

Commonwealth Parliament Committee Inquiries <http://www.aph.gov.au/committee/inquiries_subject.htm>

Commonwealth Attorney-General's Legislation²¹ <<http://scaleplus.law.gov.au/>>

NSW Parliamentary Counsel's Office²² <<http://www.legislation.nsw.gov.au/>>

Australasian Legal Information Institute²³ <<http://www.austlii.edu.au/>>

Caselaw NSW²⁴ <<http://www.lawlink.nsw.gov.au/caselaw/caselaw.nsf/pages/index>>

Chartered Secretaries Australia
<http://www.CSAust.com/>

Conclusion

Legislation, the common law, equity, law reform programs, peak bodies, guidance notes, policy papers, ethics and morality are but some of the impositions on the daily life of the Company Secretary. All of these influences are ever-changing and amorphous, yet the Company Secretary is expected to deal confidently with them all on a regular basis.

The HIH Royal Commission has provided an insight into the problems that a Company Secretary of a major corporate failure may face, when held accountable in the eyes of the regulators, the courts, the public and one's professional colleagues and family friends. The job of a Company Secretary is probably more important now than at anytime in history and this will continue for sometime yet.

It is my hope that this article will provide a useful insight into recent developments and provide some guidance as to quickly and easily obtaining resources to help the very busy Company Secretary.

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Notes

- 1 *Barnett, Hoares & Co v The South London Tramways Co* (1887) 18 QBD 815 (per Lord Esher MR).
- 2 *Club Flotilla (Pacific Palms) Ltd v Isherwood* (1987) 12 ACLR 387, 390 (per Needham J).
- 3 *Minlabs Pty Ltd v Assaycorp Pty Ltd* [2001] WASC 88; (2001) 37 ACSR 509, 517 (per Roberts-Smith J). Section 9 of the *Corporations Act 2001* (Cth) also recognises the Company Secretary as falling within the definition of an 'officer' of a corporation.
- 4 R P Austin, 'The Company Secretary: Then and Now' (Paper presented at the Celebration of the Centenary of the grant of the Royal Charter to the Institute of Company Secretaries and Administrators, Sydney, 19 November 2002) p 3.
- 5 *Ibid.*
- 6 It is worth noting, however, that the liability of the Company Secretary in relation to the lodgment of annual returns has changed somewhat in the light of the *Corporations Legislation (Amendment) Act 2002* (Cth). The Act, which forms part of the seventh tranche of the Corporate Law Economic Reform Program (CLERP 7), commenced on 1 July 2003 and primarily removes the requirement for companies to lodge annual returns. Rather, companies will be required to respond to an 'extract of particulars' to be issued by ASIC each year.
- 7 [2003] NSWSC 85; (2003) 44 ACSR 341.
- 8 For a complete analysis of the findings in *ASIC v Rich*, see Michael Adams, 'Are All Directors Created Equal? Reassessing the Role of the Chair in the Light of *ASIC v Rich*' (2003) 55(4) *Keeping good companies* 204.
- 9 [2003] NSWSC 85, [4]; (2003) 44 ACSR 341, 342.
- 10 Derek Higgs, United Kingdom Department of Trade and Industry, *Review of the role and effectiveness of non-executive directors*, (January 2003).
- 11 ASX Corporate Governance Council, 'Principle 8: Encourage Enhanced Performance', *Principles of good corporate governance and best practice recommendations*, 48.
- 12 Higgs, above n 10, 50–51.
- 13 See cl 2.1, 3.1 and 5.1 *Criminal Code Act 1995* (Cth).
- 14 Cl 12.3(2)(c) and 12.3(2)(d).
- 15 Professor Allan Fels, Australian Competition and Consumer Commission, 'Corporate Australia Needs Culture of Compliance' (Press Release, 1 July 1996).
- 16 *Australian Aviation Underwriting Pty Ltd v Henry* (1988) 12 NSWLR 121, 124.
- 17 *Ibid* 127.
- 18 Similar statutes exist in other States of Australia: *Occupational Health and Safety Act 1985* (VIC); *Workplace Health and Safety Act 1995* (QLD); *Occupational Health, Safety and Welfare Act 1986* (SA); *Occupational Safety and Health Act 1984* (WA); *Workplace Health and Safety Act 1995* (TAS); *Work Health Act 1986* (NT); *Occupational Health and Safety Act 1989* (ACT).
- 19 J Catanzariti, J Darams, L Cowan and J Wood, 'Employment Law: Occupational Health and Safety' in CCH (eds) *Australian Master Business Guide* (2002) 834, 843.
- 20 Sir Daryl Dawson, Commonwealth Department of the Treasury, *Review of the competition provisions of the Trade Practices Act* (2003). Available to be downloaded from the Treasury website devoted to the review <<http://tpareview.treasury.gov.au/content/report.asp>>.
- 21 I would recommend SCALEplus as the most valuable full-text Commonwealth legislation resource available. It is provided by the Commonwealth Attorney-General's Department and, subsequently, is the most accurate and up-to-date source. I would recommend it over AustLII, which tends not to be updated as regularly or as quickly as SCALEplus.
- 22 Again, this is the best online resource for NSW legislation. I would recommend it over AustLII for the same reasons as stated in n 21 above, vis-à-vis Commonwealth legislation.
- 23 AustLII is the one of the better providers of full-text judgments of the High Court and the Federal Court of Australia.
- 24 Caselaw NSW is the pre-eminent resources for recent (since 1998, generally) judgments handed down by any tribunal of fact in NSW. For earlier judgments, I would recommend you use AustLII.