Index

Administrative Appeals Tribunal	Bills of rights see Individual liberty
recidivism after estoppel, 61–63	Book reviews
s 25(4A) approach, 63	Administrative Law in Context (2nd ed)
s 33 approach, 61–62	(Flood & Sossin), 102–103
s 42B approach, 62	Disqualification for Bias (Tarrant), 104–106
Administrative law	Pizer's Annotated VCAT Act (Pizer), 103–104
Canada (book review), 102–103	Business self-regulation, 34–45
Aliens	architecture of self-regulatory systems, 37–38
constitutional meaning of term, 89-101	Black's constitutionalising, 40–41
alien status & sovereignty, 99–100	contract & collective regulatory power, 41–42
Australian case law, 89–90	judicial review of decisions made within self-
other definitions, 93–98	regulatory systems, 38–40
common law at 1900, 93-95	procedural regulation/regulated autonomy,
international & comparative law,	42–44
95–98 Parliament's ability to define for	self-regulation within the regulatory state, 36–
purposes of s 51(xix), 91–93	self-regulatory systems, 34–35
Singh, 91	sen-regulatory systems, 54–55
Apprehended bias see Bias	Canada
Asylum-seekers	administrative law (book review), 102–103
offshore processing (Plaintiff M70), 109–112	
Australian Consumer Law (ACL) see Contracts	Common law rights see Individual liberty
Autonomous sanctions, 149–167	Consent declarations
2011 Act, 151–153	Federal Court (ACCC v MSY Technology), 4
2011 Regulations, 154-157	Constitutional law
definition of "sanctions", 150	aliens see Aliens
problems & prospects, 157-166	external affairs power, 56–57
broad reach of regime, 162-163	Consumer contracts see Contracts
infringing personal rights & liberties,	Contracts
165–166	fair government contracts for community
modelling on multinational sanctions,	service provision, 19–33
159–160	contract review, 26–27
potential for inconsistent application,	external benchmark (ACL), 22–26
163–165	ACL, consumers & NFPs, 22–24
public law aspects, 160–162	operation of ACL, 24–26
rationale for regime, 151	significant problematic terms, 27–31
Barristers	entry and search, disclosure (cl 5.5), 27–28
Senior Counsel	indemnity (cl 20), 28–29
administrative law issues, 57–58	termination (cll 22, 23), 29–31
Bias	Courts
apprehended (ICAC, NSW), 171	closed, 117–120
disqualification for (book review), 104–106	,
	I

Decision writing	Independent Commission Against Corruption
giving reasons & natural justice, 76-88	(ICAC, NSW)
Canada, 81	apprehended bias, 171
England, 78–81	Individual liberty
Federal Court, 82	death of common law rights, 64–69
NAIS, 86–87	Al-Kateb and Haskins, 64–65
NSW, 82–83	Bills of Rights no panacea, 67–68
Osmond, 76–78	Brockhill, 65
reconsideration, 87–88	charters of human rights, 66
procedural fairness, 84–86	Human Rights Act (UK), 68
Qld, 81–82	Kable, 65–66
"special circumstances", 78	new model, 68–69
critique of approach, 83–84	principle of legality, 64
precedent, 55–56	Ruddock v Taylor, 64
Declarations by consent	Industrial relations see Labour law
Federal Court (ACCC v MSY Technology), 4	
Detention, indefinite	Judgments see Decision writing
procedural fairness, 73–74	Judicial review <i>see also</i> Jurisdictional error
Disqualification for bias (book review), 104–106	grounds of review, 132–148
Disqualification for bias (book feview), 104–100	beyond Peko-Wallsend propositions.
Employment law see Equal employment	140–144
Employment law see Equal employment opportunity; Labour law	enforcing principles through
Equal employment opportunity	statutory interpretation, 143-
Workplace Gender Equality Act 2012, 113–	144
116	general principles & particular
background, 113–114	considerations, 141–143
legislative changes, 114–115	proper, genuine & realistic
Ministerial powers to set indicators &	considerations, 140–141
minimum standards by	Dranichnikov, 183–198
legislative instrument, 115–116	boundaries of judicial review, 195- 196
External affairs	
constitutional power, 56–57	extension of natural justice, 186– 187
	Federal Court post-Dranichnikov.
Federal Court	191–195
consent declarations (ACCC v MSY	future of Dranichnikov principle.
Technology), 4	196–198
Foreign affairs	High Court's avoidance approach,
constitutional power, 56–57	188–191
Freedom of speech	principle of natural justice, 185–186
false claims (US v Alvarez), 4–5	environmental principles & relevant considerations, 134–139
Gender. See also Equal employment opportunity	dimensions of relevant
legal recognition (AB v Western Australia),	considerations ground, 135-
16–18	136
Human rights see Individual liberty	legislative principles & weighing considerations, 137–139
Immigration see Migration	sustainability principles, 134–135

whether administration bound to	K1rk, 46–48
consider legislative principles, 136–137	NK Collins Industries v President, Industrial Court (Qld), 49–50
reasons for restraint, 144-147	NK Collins Industries v Twigg, 48–49
environmental principles & "political" decisions, 146–147	NK Collins Industries v Twigg (No 2), 50–51
principles and interests, 145–146 principles structure administrative decisions, 141–145	Outsourcing see Private sector
Jurisdictional error	Precedents
Public Service Association (SA) Inc v	decision writing, 55–56
Industrial Relations Commission (SA)	Private sector
(casenote), 11–15	human services provision, 208–221
Labour law	outsourcing, accountability & redress, 210–215
equal employment opportunity see Equal	public-private law divide, 251–220
employment opportunity	Procedural fairness
Fair Work Ombudsman	courts, 117–120
enforceable undertakings, 180–183	legitimate expectations (<i>Plaintiff S10</i>)
Qantas dispute (2011), 6–10	(casenote), 126–131
Ministerial dictate, 6–7	Migration Review Tribunal, 177
peacetime precedents, 9	Plaintiff M47 (casenote), 70–75
power of direct intervention, 7–8	indefinite detention and <i>Al-Kateb</i> , 73–74
wartime precedents, 8–9	public interest, 71–72
Legislation drafting	time limits, 175
complexity & understandability, 3	
complexity & understandability, 3	Sanctions see Autonomous sanctions
Migration	
Migration Review Tribunal	Security assessments <i>see</i> National security
adjournment for new skills assessment	Self-regulation see Business self-regulation
(Minister for Immigration v Li)	Senior Counsel
(casenote), 174–179	administrative law issues, 57–58
security assessments see National security	
	Trade
National security	Anti-Dumping Review Panel, 121–124
Independent Reviewer for Adverse Security Assessments, 199–207	binding decision or recommendation, 124 decisions reviewable, 122–123
comparison with international counterparts, 205–207	example of review, 122 future, 125
practical operation, 199-205	normative function, 124
Natural justice see Procedural fairness	public or private review, 123–124
New South Wales	scope of review, 123
Independent Commission Against Corruption (ICAC)	special duties, 121–122
apprehended bias, 171	Tribunals see also Administrative Appeals
Not-for-profit (NFP) organisations see Contracts	Tribunal; Migration Review Tribunal Victorian Civil and Administrativ Tribunal
Occupational health & safety (OHS)	
particularisation of breaches (Qld), 46-52	reasons & findings, 172
harmonisation: Work Health and Safety Act 2011 (Qld), 51	Tousons & Intellige, 172

Unreasonableness

Migration Review Tribunal, 174–176 Victorian Civil and Administrative Tribunal (VCAT)

legislation (book review), 103-104

Workplace safety see Occupational health & safety