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ARTICLES

PROBLEMS OF HUMAN RIGHTS LEGISLATION: WHAT DIFFERENCE CAN A HUMAN RIGHTS CHARTER MAKE?

Rt Hon Lord Walker of Gestingthorpe

This article reviews the first seven years of the operation of the Human Rights Act 1998 (UK) and compares it with the Charter of Human Rights and Responsibilities Act 2006 (Vic), which comes fully into force on 1 January 2008. It considers in particular the court's duty to interpret legislation compatibly with human rights; the effect of the new measures on judicial review, especially in the field of personal liberty; and the position of non-governmental public authorities. It suggests some reasons why the Human Rights Act has been coolly received by the general British public. 923

TERMINATION AND SETTING ASIDE OF WINDING-UP ORDERS

Kristin van Zwieten and R P Austin

This article reviews the substantial body of case law dealing with an application for termination of winding up under s 482 of the Corporations Act 2001 (Cth), an application to set aside a winding-up order under general rules of court or the inherent jurisdiction, and an appeal from the making of a winding-up order. The conceptual differences between the three kinds of applications are explored. The case law on terminations under s 482 is considered, with particular emphasis on the solvency requirement. Applications to set aside winding-up orders are classified, according to whether there is alleged to have been serious unfairness to the defendant. The relevance of proof of solvency where there is, and is not, an element of serious unfairness, is considered. The principles applied in an application to set aside a winding-up order are compared with the principles applicable in an appeal. 932

RELIGIOUS VILIFICATION, ANTI-DISCRIMINATION LAWS AND RELIGIOUS MINORITIES IN AUSTRALIA: THE FREEDOM TO BE DIFFERENT

Patrick Parkinson

Australian laws concerning religious vilification and the prohibition of discrimination on the basis of religious belief pose a danger to the future of multiculturalism. They have a chilling effect on legitimate expressions of religious freedom because of the impact that "folk law" and risk-averse management have on people's behaviour. They may also create conflict by establishing a new forum for disputes that courts can never resolve. Communities who share values based on faith need the freedom to argue their understanding of truth and to discriminate between right and wrong as they see it. A new approach to multiculturalism is proposed that balances the different interests involved and which may benefit other minorities as well. 954

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