

# BUILDING AND CONSTRUCTION LAW JOURNAL

Volume 24, Number 5

October 2008

## EDITORIAL

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## ARTICLES

### **Project disputes – conduct and management of large arbitrations on minerals and energy projects – *AA de Fina OAM***

No arbitration is ever the same as any other arbitration. The issues, the facts, and the law may have some degree of commonality but where the dispute referred to arbitration arises in a specific industry which has of itself a certain uniqueness of terms and practices and ordinarily involves large quantum of claims, an arbitration should be tailored and conducted to accommodate the particular circumstances. .... 306

### **Resolving construction disputes the ASEAN way – *Dr Philip Chan Chuen Fye and Dr Asanga Gunawansa***

The Association of South East Asian Nations (ASEAN) way of settling disputes tends to be more consensual and less confrontational. The aim of the consensual approach is to reach a harmonious solution, preserving the relationship of the parties. For example, in most ASEAN jurisdictions, mediation and conciliation appears to be the most preferred method of dispute settlement. Further, in the practice of ASEAN countries such as Indonesia and Singapore, one can find the unique combination of mediation and arbitration being used in the same proceeding, as opposed to the traditional approach in the West of treating conciliation and arbitration as two separate approaches. This approach is different to the confrontational approach used in the West, which is more formal and inflexible and, hence, may adversely affect the relationship of the parties involved. .... 313

### **Troubleshooting in 2008: Federal independent contractor legislation under the Rudd Government – *Dr Louise Floyd***

This article examines the topical issue of federal independent contractor legislation under the Rudd Government; in particular, why the Rudd Government has so far retained and will likely continue to adopt the former Liberal government's independent contractor laws of 2007. It also explores several concepts arising from these laws which are especially relevant to the construction industry, including the common law definition of "employee", sham contracts, drafting of contracts, union activity, corporate group structures and security of payments, and group contractor activity. .... 325

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5. Austin, n 4, p 56.

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7. Sheehy et al, n 6 at 221.

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© Thomson Legal & Regulatory Limited ABN 64 058 914 668 trading as Lawbook Co.

ISSN 0815-6050

Typeset by Lawbook Co., Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW