

BUILDING AND CONSTRUCTION LAW JOURNAL

Volume 26, Number 4

August 2010

EDITORIAL

Common law, common sense	225
---------------------------------------	------------

BOOK REVIEW

<i>International Commercial Arbitration and Conciliation in UNCITRAL Model Law Jurisdictions</i> by Dr Peter Binder	226
---	-----

ARTICLES

The Singapore Security of Payment Act: Some lessons to be learned from Australia – Michael Christie SC

Singapore has modelled its Building and Construction Industry Security of Payment Act on the New South Wales Building and Construction Industry Security of Payment Act 1999. The New South Wales Act has also been the model upon which all Australian States except Western Australia have based their analogous statutes. A substantial body of case law has grown in Australia (and in particular in New South Wales and Queensland) and a body of legal principle has developed. The High Court of Singapore has referred to Australian cases in developing its own jurisprudence. This article focuses on three areas of practical importance which have been the subject of significant case law in Australia. It considers the manner in which the principles in those cases have been or may be applied in Singapore. In addition to providing an update on the current state of the law in Australia on these topics, the article raises the question of whether the statutory refinements of the New South Wales model in Singapore ought to be adopted in Australia. 228

Contract works insurance: Loss scenarios and policy response – Patrick Mead

Contract works insurance comprises a critical component of risk allocation in major construction projects. In the June 2008 edition of this Journal, the author considered authorities in relation to contract works policy exclusions enlivened when property is allegedly damaged in consequence of defective workmanship, material or design. The following article examines the distinction which has been drawn by the courts between faulty or defective design on the one hand, and workmanship on the other, before considering the likelihood of contract works policy response with respect to three commonly encountered loss scenarios: (1) road and pavement failure; (2) scratching to glazed surfaces; and (3) stainless steel piping failures. 250

REPORTS

Aquagenics Pty Ltd v Break O'Day Council	263
Sequel Drill & Blast Pty Ltd v Whitsunday Crushers Pty Ltd	288

Submission requirements

All contributions to the journal are welcome and should be emailed to the Production Editor, *Building and Construction Law Journal*, at LTA.bcl@thomsonreuters.com for forwarding to the Editor.

Licences

- It is a condition of publication in the journal that contributors complete a licence agreement. Licence agreements can be downloaded at http://www.thomsonreuters.com.au/support/as_contributors.asp and emailed with the submission or mailed separately to the Production Editor, *Building and Construction Law Journal*, Thomson Reuters (Professional) Australia Limited, PO Box 3502, Rozelle, NSW 2039.

Letters to the Editor

- By submitting a letter to the Editor of this journal for publication, you agree that Thomson Reuters, trading as Lawbook Co, may edit and has the right to, and may license third parties to, reproduce in electronic form and communicate the letter.

Manuscript

- Manuscript must be original, unpublished work that has not been submitted or accepted for publication elsewhere, including for online publication.
- Personal details (name, qualifications, position) for publication and a delivery address, email address and phone number must be included with the manuscript on a separate page.
- Manuscript must be submitted electronically via email in Microsoft Word format.
- Manuscript should not exceed 10,000 words for articles or 2,000 words for section commentary or book reviews.
- An abstract of 100-150 words must be included at the head of articles.
- Authors are responsible for the accuracy of case names, citations and other references. Proof pages will be emailed to contributors but excessive changes cannot be accommodated.
- **Graphics** (diagrams and graphs) to be grayscale; in .jpeg format; no more than 12 cm in width; within a box; of high resolution (at least 300 dpi); font is to be Times New Roman, no more than 10pt. The heading for a graphic should be placed outside the box.

Peer review

- This journal complies with the Higher Education Research Data Collection (HERDC) Specifications for peer review. Each article is, prior to acceptance, reviewed in its entirety by a suitably qualified expert who is independent of the author.

Style

1. **Levels of headings** must be clearly indicated (no more than four levels).
2. **Unpointed style** is to be used – there are no full stops after any abbreviation or contraction.
3. **Cases:**
 - Where a case is cited in the text, the citation follows immediately after the case name, not as a footnote.
 - Authorised reports must be cited where published, and one other reference can be used in addition.
 - For “at” references use media-neutral paragraph numbers within square brackets whenever available.
 - For international cases best references only should be used.
4. **Legislation** is cited as follows:
 - *Trade Practices Act 1974* (Cth), s 51AC (including in full within footnotes).
5. **Books** are cited as follows:
 - Ross D, *Ross on Crime* (3rd ed, Lawbook Co, Sydney, 2006) pp 100-101.
 - In footnotes do not use *ibid* or *op cit*. Repeat author surname and add footnote reference to first mention.
 - ¹ Hayton D, “Unique Rules for the Unique Institution, The Trust” in Degeling S and Edelman J (eds), *Equity in Commercial Law* (Lawbook Co, Sydney, 2005) p 284.
 - ² Hayton, n 1, p 286.
6. **Journals** are cited as follows:
 - Kirby M, “The Urgent Need for Forensic Excellence” (2008) 32 Crim LJ 205.
 - In footnotes do not use *ibid* or *op cit*. Repeat author surname and add footnote reference to first mention.
 - ³ Trindade R and Smith R, “Modernising Australian Merger Analysis” (2007) 35 ABLR 358.
 - ⁴ Trindade and Smith, n 3 at 358-359.
 - Wherever possible use official journal title abbreviations.
7. **Internet references** are cited as follows:
 - Ricketson S, *The Law of Intellectual Property: Copyright, Designs and Confidential Information* (Lawbook Co, subscription service) at [16.340], <http://www.thomsonreuters.com.au/default.asp> viewed 25 June 2007. Underline the URL and include the date the document was viewed.

SUBSCRIPTION INFORMATION

The *Building and Construction Law Journal* comprises six parts a year.

The journal is available for subscription via paper and/or online. An online subscription can include access to archived volumes of the journal dating back to 1985 and has the following benefits: all content is fully searchable; PDF versions are provided for easier reading; users can subscribe to an RSS feed to be instantly informed of updates.

For further information on how to subscribe:

Visit www.thomsonreuters.com.au

Tel: 1300 304 195

Email: LTA.Service@thomsonreuters.com

Advertising inquiries:

Contact Andrew Parsons on (02) 8587 7462 or email a.parsons@thomsonreuters.com

Editorial inquiries: Tel: (02) 8587 7000

Customer service and sales inquiries:

Tel: 1300 304 195 Fax: 1300 304 196

Web: www.thomsonreuters.com.au

Email: LTA.Service@thomsonreuters.com

Head Office

100 Harris Street PYRMONT NSW 2009

Tel: (02) 8587 7000 Fax: (02) 8587 7100



THOMSON REUTERS

© 2010 Thomson Reuters (Professional) Australia Limited ABN 64 058 914 668

Lawbook Co.

Published in Sydney

ISSN 0815-6050

Typeset by Thomson Reuters (Professional) Australia Limited, Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW