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ARTICLES

CARGO LOST OVERBOARD IN AUSTRALIAN WATERS: THEIR MANAGEMENT AND AUSTRALIAN LAW

Laura Heit and Michael White

Shipping accidents off the Australian East Coast over recent years have given rise to resentment among many Australians and have demonstrated that very few know about and understand that the Australian shipping management and legal systems are competent to deal with such accidents. This article describes and discusses the importance of the international shipping industry to the Australian economy and explains that, like all transport systems, a small percentage of accidents is inevitable. It then sets out three shipping accidents where containers were lost and describes how the Australian management and maritime law systems deal with such accidents. The article concludes by encouraging Australian lawyers and the wider public to pay more regard to the importance of maritime trade and shipping to the national interest and to understand how the management and legal systems deal with shipping accidents where cargo is lost overboard. 427

DID DAD GET IT WRONG? BURSILL ENTERPRISES PTY LTD V BERGER BROS TRADING CO PTY LTD

The Honourable WV Windeyer

The author, formerly a judge of the Supreme Court of New South Wales, takes issue with his father’s judgment in the High Court in *Bursill Enterprises Pty Ltd v Berger Bros Trading Co Pty Ltd*. 441

WORKERS, APPS AND FAIRNESS: CONTRACTING IN THE GIG ECONOMY

Katrina Woodforde

The gig economy presents one of the reoccurring conundrums in labour law: how should workers be protected while having greater freedom and flexibility over their work? Currently, there is no formal legal regulatory scheme specifically for the gig economy in Australia. One avenue open under existing labour law which has been little discussed as yet is the unfair contract review scheme. This article explores this avenue through considering: first the gig economy’s key features and the implications for worker status; second the availability of the current unfair contract review regime for gig economy workers; and finally, some reform options to strike a better balance between the competing interests operating within the gig economy. Ultimately, this article argues that worker access to unfair contract review is crucial to making the gig economy viable for workers, corporations and consumers. 449

CAN ADR IMPROVE EXPERT EVIDENCE?

Nick Wray-Jones and Jason M Chin

Courts have developed numerous procedures to regulate expert evidence. These procedures aim, in large part, to manage experts’ biases. Recently, the Land Court of Queensland created a new procedure called Court Managed Expert Evidence (CMEE). CMEE’s innovation is the addition of an alternative dispute resolution component – an individual who works with experts and lawyers to manage disputes regarding experts’ opinions. In this article, the authors evaluate this advance against the backdrop of the psychology of

bias and ADR’s capacity to limit that bias, as well as an interview with President Kingham, who developed CMEE. They conclude CMEE provides some innovations that may counter expert bias in ways existing procedures cannot. Still, it is inherently limited due to the unconscious nature of many biases and the fact that it does not demand reliable knowledge. The authors suggest others consider implementing CMEE, especially in complex matters where the benefits outweigh the costs. 467

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