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Update Summary

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UPDATE 88-89

JUNE 2021

FEDERAL CIRCUIT COURT GUIDEBOOK

NOTE:

**This Update is a consolidated print update
containing updated content from Updates 88
and 89.**

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Update 88
NOVEMBER 2020
Updated Commentary

Human Rights and Equal Opportunity

Mr Flecknoe-Brown has comprehensively updated and restructured the "Human Rights and Equal Opportunity" chapter to integrate relevant case law with commentary and provide more relevant guidance for practitioners. Notable updates include:

[HUM.100] Jurisdiction

Discussion regarding the principle that federal anti-discrimination legislation generally operates concurrently with State regimes of the same nature, meaning an applicant whose circumstances are covered by both State and federal laws could generally pursue remedies under either.

[HUM.200] Subject-matter limits

Commentary has been updated with regard to the correspondence between the subject-matter of the application to the Court and the complaint which was made to the AHRC.

Mr Flecknoe-Brown has discussed the possibility that respondents addressing this issue by way of interlocutory application will take upon themselves a more challenging burden to demonstrate that the limitation on jurisdiction is exceeded (especially if the applicant is self-represented: see, eg, *Kimber v Owners of Strata Plan No 48216* (2017) 258 FCR 575.

[HUM.250] Relief

New commentary has been added discussing the principle that whether or not economic loss is proved, damages are commonly awarded for non-economic loss as a form of "solatium" for pain and suffering, in a quantum normally up to about \$20,000.

The case of *Wotton v State of Queensland (No 5)* [2016] FCA 1457 has been analysed regarding orders for a respondent to give an apology. The authorities on the power to make such orders, and the discretionary considerations involved, are discussed.

UPDATE 89
JUNE 2021
Updated Commentary

Child Support — Assessment & Collection

Ms Kathryn Mcmillan has comprehensively updated and restructured the "Child Support — Assessment & Collection" chapter to integrate relevant case law with commentary and provide more relevant guidance for practitioners. New content can be found in relation to the following topics:

- Introduction, at [CHI.1000];
- Jurisdiction, at [CHI.1020];
- Payment orders, at [CHI.1060];
- Declarations, at [CHI.1080];
- Appeals on assessment errors, at [CHI.1100];
- Special departure orders, at [CHI.1120];
- Lump sum, substitution orders, at [CHI.1160];
- Application to have a court set aside an agreement, at [CHI.1180];
- Urgent maintenance orders, at [CHI.1220]; and
- Further reading, at [CHI.1240].

Intellectual Property

Mr Flecknoe-Brown has comprehensively updated and restructured the "Intellectual Property " chapter to integrate relevant case law with commentary and provide more relevant guidance for practitioners. New content can be found in relation to the following topics:

- Jurisdiction generally, at [IP.100];

- Copyright jurisdiction and powers, at [IP.110];
- Trade marks jurisdiction and powers, at [IP.120];
- Designs jurisdiction and powers, at [IP.130];
- Plant breeder's rights, at [IP.140];
- Practice and procedure, at [IP.150];
- Forms, at [IP.200]; and
- Further reading, at [IP.250].

Mr Flecknoe-Brown has comprehensively updated and restructured the " Bankruptcy" chapter to integrate relevant case law with commentary and provide more relevant guidance for practitioners. New content can be found in relation to the following topics:

- Jurisdiction, at [BAN.100];
- Further reading, at [BAN.450];
- Service of bankruptcy notices, at [BAN.1020];
- Form and contents of bankruptcy notice, at [BAN.1040];
- Variation and extension of time for bankruptcy notice, at [BAN.1080];
- Second bankruptcy notice, at [BAN.1100];
- Setting aside bankruptcy notices, at [BAN.1120];
- Review of registrar's decision on application to set aside, at [BAN.1140];
- Creditor's petitions generally, at [BAN.1200];
- Creditor's petitions: amendment and effluxion of time, at [BAN.1220];
- Issue of sequestration order, at [BAN.1240];
- Adjournment of creditor's petition, at [BAN.1400];
- Debtor's petition, at [BAN.1420];
- Applications for stays, at [BAN.1440];
- Costs in bankruptcy, at [BAN.1460];
- Transactions void against trustee, at [BAN.1800];
- Possession of property, at [BAN.1820];

- Other applications by trustee, at [BAN.1840];
- Inquiry into administration of estate, at [BAN.1950];
- Removal of a registered trustee in bankruptcy, at [BAN.1960];
- Appointment of trustee under s 50, at [BAN.1970];
- Protection of property, at [BAN.2040];
- Preferred payments, at [BAN.2060];
- Second sequestration order, at [BAN.2100];
- Review of trustee's decision to accept proof of debt, at [BAN.2120];
- Leave to proceed against a bankrupt or former bankrupt, at [BAN.2140];
- Annulment, at [BAN.2160];
- Setting aside a composition, at [BAN.2180]; and
- Application to review objection to discharge, at [BAN.2220].

Forms have been updated and new forms were included as below:

- Notice of withdrawal as lawyer, at [FRM.125];
- Initiating application (Family Law), at [FRM.150];
- Initiating application (Family Law – Do it yourself kit), at [FRM.155];
- Financial statement, at [FRM.210];
- Financial statement kit, at [FRM.215];
- Notice of child abuse, family violence or risk of family violence, at [FRM.226];
- Notice of child abuse, family violence or risk of family violence (current case), at [FRM.227];
- Affidavit for e-filing application (divorce), at [FRM.305]; and
- Credit Card Payment Form, at [FRM.335].

Practice Directions and Information Notices has been updated to include:

- Practice Direction No 3 of 2020 – Lighthouse Project and Evatt List, at [PD.95];
and
- Joint Practice Direction 1 of 2021: Joint Practice Direction 1 of 2021 – The COVID-19 List, at [PD.98].