

# AUSTRALIAN BUSINESS LAW REVIEW

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## ARTICLES

### **An Impending “Avalanche”: Debt Collection and Consumer Harm After COVID-19 – *Lucinda O’Brien, Vivien Chen, Ian Ramsay and Paul Ali***

Debt collection activity is expected to rise significantly in 2021, as financial hardship becomes more prevalent due to the economic impact of the COVID-19 pandemic. Consumer advocates have warned of an impending “avalanche in debt collection” and have called for better enforcement of laws designed to protect consumers from harassment as well as unfair, misleading and deceptive conduct by debt collectors. Women’s groups have also pointed to a rise in economic abuse, and resulting indebtedness, in the context of a general escalation in family violence during the pandemic. This article examines the legal framework governing the Australian debt collection industry. Drawing on recent case law and a series of focus groups conducted by the authors, it outlines law reform and enforcement measures that would better protect consumers from harmful debt collection practices. These include specific measures to address the financial, social and psychological impacts of family violence and economic abuse. .... 84

### **A New Worker Category under the Personal Service Income Regime in Australia – *Christina Allen***

In the past, Australia’s tax laws responded to the ever-changing legal environment within which businesses operate, while employing anti-avoidance provisions. Introduced in 2000, the tax regime known as “personal service income”, which treats certain contractors and business owners/managers as employees, diverged from this approach. This article explores the factors driving the formulation of the regime and whether the pre-existing anti-avoidance provisions were ineffective. It finds that the regime was motivated by counterbalancing the fiscal impact of the proposed corporate tax rate reduction and consequently brought about a new category of workers who have all legal rights and obligations outside the existing tax laws as independent contractors but are treated as employees for tax purposes. These workers are akin to dependent contractors – which has no legal or commercial meaning in Australia. These findings indicate a potential opening for a new method of legislating tax laws. .... 116

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