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Government Debt Collection after Robodebt – *Lucinda O'Brien, Vivien Chen, Ian Ramsay and Paul Ali*

In recent decades, Australian public agencies have increasingly adopted the practices of the private sector when recovering debts and have outsourced part or all of their debt collection to private firms. This practice gained notoriety during the Royal Commission into the Robodebt Scheme, which identified "disastrous" failures in the Commonwealth Government's collection of social security debts, both directly and through private agents. These failures caused serious harm to thousands of people, including vulnerable low income earners. This article highlights significant gaps in the legal frameworks concerning debt collection by government agencies and firms acting on their behalf. It outlines law and policy reforms which would address the current lack of consistency and transparency in government debt collection practices, and offer greater protection to individuals when they are pursued for debts by government agencies. It argues that such reforms are vital to ensuring that the mistakes of Robodebt are not repeated. 130

Stubbings v Jams 2 Pty Ltd: Unwritten Law versus Statutory Unconscionable Conduct – *Philip H Clarke*

Statutory prohibitions of unconscionable conduct have existed for several decades. However, the precise relationship between them and the corresponding equitable doctrine remains unresolved and an inclination to rely upon the latter appears to linger. This is evident in the decisions, at all levels, in *Stubbings v Jams 2 Pty Ltd*. It resulted in the case being decided on the basis of the equitable doctrine, rather than the applicable statutory prohibition, which in turn had important implications for the remedies available to the victim and the liability of those responsible for the impugned conduct. This article highlights the ambivalence towards statutory unconscionable conduct apparent in this case and argues that where the formalities for the operation of statutory unconscionable are met, it should be the preferred ground for redress. 158

The Group of Companies Doctrine in International Arbitration: India, Australia, the United States and the United Kingdom – *Robert Walters*

In late 2023, an Indian court revisited the Group of Companies doctrine pertaining to arbitration. This article will undertake a limited examination and comparison of this doctrine between Australia, India, the United States and the United Kingdom. It will be argued that the application of this doctrine is not universally endorsed and today, is limited to India. On that basis, the question that arises is whether it is time for the other jurisdictions that have been compared, to consider adopting the doctrine in light of the developments across the digital economy? This article will introduce smart contracts to the

conversation in relation to the group of companies' doctrine. A notable difference today is that smart contracts are supported generally by blockchain technology and code. Thus, when assessing the application of the group of companies' doctrine, the arbitral tribunal may be required to also assess the smart contract(s) itself, and their code. 177

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