

ClearingHouse

Areas of Law Under Review

*Compiled by Sue Morris**

Aborigines
see **Indigenous people & Customary law**

Access rights

ILRC

- The acquisition of easements and profits à prendre by prescription, 2002 (R 66).

Scot Law Com

- Report on law of the foreshore and seabed, 2003 (Scot Law Com 190).

Administrative law

ARC

- Automated assistance in administrative decision-making, 2003.
- Procedural discretions of review tribunals—WIH on a paper that will focus on tribunal discretion, time limits, standing and stays of decisions.
- Coercive investigative powers of government agencies—WIH on a new project examining the range of investigative powers of Commonwealth government agencies which have penalties attached to compel compliance. A DP will be produced.

ILRC

- Public inquiries including tribunals of inquiry, 2003 (CP 22).

Adoption
see **Family Law**

Ageing

ALRI

- Elder law—WIH assessing whether pensions and retirement plans warrant protection from creditors.

Alternative dispute resolution

LRCHK

- The family dispute resolution process, 2003.

NZLC

- Dispute resolution in the Family Court, 2003 (R 82).

Arbitration

NZLC

- Improving the Arbitration Act 1996, 2003 (R 83).

Assisted reproduction

LRCWA

- Eligibility for Assisted Reproduction and Adoption (CP).

Biotechnology

see also Genetics

ALRC

- Gene patenting and human health, 2003 (IP 27). A DP is due to be released early 2004 and the final report in mid-2004.

Building law

Nova Scotia LR

- Builders' liens in Nova Scotia: Reform of the Mechanics' Lien Act: final report, 2003.

Child abuse

Law Com

- Children: Their Non-accidental Death or Serious Injury (Law Com 282).

TLRI

- Physical Punishment of Children IP. WIH on the final report.

Child care

SALC

- Report on the review of the Child Care Act, 2002 (P 110).

Children and the law

FLC

- WIH on a report clarifying the role of child representatives in family law proceedings.
- The Paramountcy Principle—WIH continues on s 65E of the *Family Law Act 1975* (Cth) where a court must regard the best interests of the child as the paramount consideration.

LRCHK

- WIH on a report dealing with custody and access to children.

NSWLRC

- Informed consent to medical treatment by minors—WIH on an IP.
- Sentencing: Young Offenders—WIH on final report.

Class actions

IFRC

- Multi-party litigation (class actions), 2003 (CP 25).

Classified information

see Security

Coercive powers

ARC

- Coercive investigative powers of government agencies—WIH on a new project examining the range of investigative powers of Commonwealth government agencies which have penalties attached to compel compliance. A DP will be produced.

Commissions of Inquiry

TLRI

- Commissions of Inquiry Act 1995, 2003 (R)

Company law

Law Com; Scot Law Com

- Partnerships—WIH continues on a final report due late 2003.

NSWLRC

- Sentencing: Corporate Offenders (R 102).

Scot Law Com

- Registration of rights in security of companies—WIH on a final report, due end of 2003.

Compensation

Law Com

- Towards a compulsory purchase code—WIH on a final report, due 2003.

Constitutional law

QLCAFC

- Review of the Queensland Constitutional Review Commission's recommendations regarding entrenchment of the Queensland Constitution, 2003 (R 41).

Contempt

LRCWA

- WIH on a final report on the law of contempt due late 2003.

NSWLRC

- Contempt by Publication, 2003 (R 100).

Contracts

Law Com; Scot Law Com

- Unfair terms in contract—WIH on a final joint report due in 2004.

Conveyancing

see also Land law

ILRC

- Land law and conveyancing: (7) positive covenants over freehold land and other proposals, 2003 (R 70).
- e-Conveyancing—WIH considering how technological advances could reduce time taken in conveyancing transactions.

Copyright

AG

- IPs were released in August 2003 dealing with

digital agenda copyright reforms. They deal with libraries, archives and educational copying; carrier & carriage service providers; technology and rights; circumvention device and services; technological protection measures and rights management information. Consultation forums have been scheduled for Melbourne and Sydney.

Courts

ALRC

- Protecting Classified and Security Sensitive Information, 2003 (BP 8). Consultations are underway and WIH on a DP, due in late 2003. A final report is due in February 2004.

ALRI

- Rules of Court Project: Consultation Memoranda.
- 12.6 Promoting Early Resolution of Disputes by Settlement.
- 12.7 Discovery and Evidence Issues: Commission Evidence, Admissions, Pierringer Agreements and Innovative Procedures.

NZLC

- The structure of the courts—WIH on the final report due 2004.

Criminal law

see also Sentencing

ILRC

- Criminal law and procedure—WIH on two CPs: the first will examine the plea of provocation, and the second will examine legitimate defences in homicide cases.

Law Com

- Children: Their Non-accidental Death or Serious Injury (Law Com 282).

CC

- Together with other agencies, WIH continues on amendments to the Criminal Code to remedy

procedural defects or promote substantial changes in the law.

- Defences to murder. An option paper has been released for the reference examining the law relating to defences and partial excuses to murder. A final report will be released in 2004.
- Questioning of Complainants by Unrepresented Accused in Sexual Offence Trials, 2003 (R 101).
- Seeking justice: an inquiry into the handling of sexual offences by the criminal justice system, 2003.
- Sexual offences report, 2002 (P 107).
- WIH on the final report on the review of the defences of insanity and diminished responsibility. The report is due late 2003.
- Custody, arrest and police bail, 2003 (R 1).
- Sexual offences: interim report, 2003.
- WIH on a DP on defences to homicide.

Customary law

- WIH on a report on the recognition of customary law marriages.
- The Commission has been involved in extensive community consultation. A series of BPs on Aboriginal customary laws in Western Australia will be published late 2003–early 2004. A final report will be published in 2005.

Damages

- WIH on the issue of court-ordered structured settlements in the context of personal injury damages awards. Significant work has been completed on an IP.

Diminished responsibility see Mental health

Ethics

- Essentially Yours: The Protection of Human Genetic Information in Australia, 2003 (R 96).

Evidence

- Protecting Classified and Security Sensitive Information, 2003 (BP 8).
- Administration of justice offences: DP, 2003.

Family law

- WIH on a review of a government proposal to introduce the *Adult Interdependent Partnership Act*.
- WIH on the determination of an appropriate point in time between separation and trial for property valuation following a marriage breakdown.
- WIH on a report clarifying the role of child representatives in family law proceedings.
- The Paramountcy Principle—WIH continues on s 65E of the *Family Law Act 1975* (Cth) where a court must regard the best interests of the child as the paramount consideration.

FLC; LCA

- Best Practice Guidelines for Lawyers Doing Family Law Work, 2003.

LRCHK

- The family dispute resolution process, 2003.
- WIH on a report dealing with custody and access to children.

LRCWA

- Eligibility for Assisted Reproduction and Adoption (CP).

LRDC of Namibia

- WIH on a project to bring Namibia's divorce laws into line with worldwide developments.

N7L

- Dispute resolution in the Family Court, 2003 (R 82).

TLRI

- Adoption by same sex couples, 2003 (R 2).

Genetics

ALRC; AHEC

- Essentially Yours: The Protection of Human Genetic Information in Australia, 2003 (R 96)

ALRC

- Gene patenting and human health, 2003 (IP 27). A DP is due to be released early 2004 and the final report in mid-2004.

ILR

- WIH on a CP examining the issue of establishing a DNA databank in Ireland.

Homicide

VLRC

- WIH on a DP on defences to homicide.

Indictable offences

ILRC

- Penalties for minor offences, 2003 (R 69).

Indigenous people

see also Customary law

QICAR

- Hands on Parliament: a parliamentary committee inquiry into Aboriginal and Torres Strait Islander Peoples' participation in Queensland's democratic process, 2002.

Intellectual disability

VLRC

- WIH on a final report into compulsory care and treatment of people with intellectual disabilities

Judicial review

ARC

- The scope of judicial review, 2003.

ILRC

- A consultative seminar on the findings of a CP on judicial review procedure was held in July 2003.

Juries

NSWLRC

- Eligibility of jurors: should people who are blind or deaf be able to serve on juries? WIH on a DP.

Land law

see also Conveyancing

ALRI

- Limitations Act: adverse possession and lasting improvements, 2003 (R 89).

- Title by adverse possession of land, 2002 (R 67).
- The acquisition of easements and profits a prendre by prescription, 2002 (R 66).
- Land law and conveyancing: (7) positive covenants over freehold land and other proposals, 2003 (R 70).
- Report on irritancy in leases of land, 2003 (Scot Law Com 191).

Landlord and tenant

- Business tenancies, 2003 (CP 21).
- Report on irritancy in leases of land, 2003 (Scot Law Com 191).

Legal centres

- Review of the *Community Justices Centres Act 1983* (NSW)—WIH on a DP.

Liability

- Corporate homicide—WIH on a CP examining the liability of corporations for wrongful death.

Medical law

- Essentially Yours: The Protection of Human Genetic Information in Australia, 2003 (R 96)
- WIH continues on the withholding or withdrawing of life sustaining treatment. A final report is due soon.

- Informed consent to medical treatment by minors—WIH on an IP.

Mental health

- Damages for psychiatric injury—WIH on a report due in 2004.
- WIH on the final report on the review of the defences of insanity and diminished responsibility. The report is due late 2003.

Parliament

- Hands on Parliament: a parliamentary committee inquiry into Aboriginal and Torres Strait Islander Peoples' participation in Queensland's democratic process, 2002.
- The role of the Queensland Parliament in treaty making—review of tabling procedure (R 39).

Patents

- Gene patenting and human health, 2003 (IP 27). A DP is due to be released early 2004 and the final report in mid-2004.

Police

- On the beat: an evaluation of beat policing in Queensland, 2003.
- Public perceptions of the Queensland Police Service: findings from the 2002 Public Attitudes survey, 2003.
- The Volkens case: examining the conduct of the police and prosecution, 2003.

Power of attorney

A'RI

- Enduring powers of attorney: safeguards against abuse, 2003 (R 88).

Privacy
see also **Surveillance**

ALRC; AHEC

- Essentially Yours: The Protection of Human Genetic Information in Australia, 2003 (R 96).

LRCHK

- WIH of an ongoing review of the law of privacy and media intrusion. A final report is expected 2004.

VLRC

- WIH on a DP on workplace privacy

Privilege

QLIC

- Review of the abrogation of the privilege against self-incrimination, 2003 (DP).

Property

scot Law Com

- WIH continues on the final report dealing with the conversion of long leases.
- WIH on a DP reviewing the Land Registration (Scotland) Act 1979. The DP is due late 2003.
- WIH continues on the project examining the completion of title to land following the seller's receivership.

Prosecutions

QCMC

- The Volkers case: examining the conduct of the police and prosecution, 2003.

Revenue law

ILRC

- A fiscal prosecutor and a revenue court, 2003 (CP 24).

Relationships
see also **Family law**

ILRC

- Rights and duties of cohabittees—WIH examining the law in relation to the rights and duties of cohabittees.

NSWLRC

- Relationships and the law—WIH on the final report.

TLRI

- Adoption by same sex couples, 2003 (R 2).

Security

ALRC

- Protecting Classified and Security Sensitive Information, 2003 (BP 8). WIH on consultations. A DP is due towards the end of 2003 and the final report, early 2004.

SALC

- Report on review of security legislation (Terrorism): Section 54 of the Internal Security Act, 1982 (Act No 74 of 1982), 2002 (P 105).

Sentencing

ILRC

- WIH examining the power of the DPP to appeal unduly lenient sentences.
- WIH on a CP examining the use of court poor boxes.
- WIH on a CP on restorative justice and alternatives to custodial sentencing.

- Legislative sentencing—WIH on a DP.
- Sentencing: Corporate Offenders, 2003 (R 102).
- Sentencing: Young Offenders—WIH on final report.

Sexual offences

- Questioning of Complainants by Unrepresented Accused in Sexual Offence Trials, 2003 (R 101).
- Seeking justice: an inquiry into the handling of sexual offences by the criminal justice system, 2003.
- Sexual offences report, 2002 (P 107).
- Sexual offences: interim report, 2003.

Surveillance

- Surveillance—WIH on the final report.

Technology

- Automated assistance in administrative decision-making, 2003.

Trade

- Consolidated legislation pertaining to international co-operation in civil matters, (P 121)—WIH.

Treaties

- The role of the Queensland Parliament in treaty making—review of tabling procedure (R 39).

Trusts and trustees

- CP on the variation and termination of trusts, 2003.
- Breach of Trust, 2003 (DP 123).
- Apportionment of Trust Receipts and Outgoings, 2003 (DP 124).
- WIH on a third DP dealing with the assumption, resignation and removal of trustees, their power to administer the trust estate and the role of the courts.

Uniform laws

- Together with other agencies, WIH on the modernisation and harmonisation of Canada's commercial laws. For example, amendments to the Personal Property Security Act and the Uniform Enforcement of Foreign Judgments.
- Together with other agencies, WIH on amendments to the Criminal Code to remedy procedural defects or promote substantial changes in the law.

Wills and succession

- **R**
- Report on a succession consolidation statute, 2002 (R 87).
- Wills and Succession Legislation, 2003 (R 108).

- WIH on a report pertaining to succession estate matters.
- Protected disclosures (P 123)—WIH.

Witnesses

- Reform of the Nova Scotia Wills Act, 2003 (DP).
- Administration of justice offences: DP, 2003.

Whistleblowers

- Protecting Classified and Security Sensitive Information, 2003 (BP 8).

Abbreviations and Acronyms

AG	Attorney-General's Department (Australia)
AHEC	Australian Health Ethics Committee of the National Health and Medical Research Council
ALRI	Alberta Law Reform Institute
ALRC	Australian Law Reform Commission
ARC	Administrative Review Council
BCLI	British Columbia Law Institute
BP	Background paper
CP	Consultation paper
FLC	Family Law Council
IP	Issues paper
ILRC	Ireland Law Reform Commission
Law Com	Law Commission (England & Wales)
LCA	Law Council of Australia
LCC	Law Commission of Canada
LRCHK	Law Reform Commission of Hong Kong
LRCWA	Law Reform Commission of Western Australia
LRDC of Namibia	Law Reform and Development Commission of Namibia
Nova Scotia LRC	Nova Scotia Law Reform Commission
NSWLRC	New South Wales Law Reform Commission
NZLC	New Zealand Law Commission
P	Project
QCMC	Queensland Crime and Misconduct Commission
QLCARC	Queensland Legal, Constitutional and Administrative Review Committee
QLRC	Queensland Law Reform Commission
R	Report
SALC	South African Law Commission
Scot Law Com	Scottish Law Commission
TLRI	Tasmanian Law Reform Institute
VLRC	Victorian Law Reform Commission
VPLRC	Victorian Parliament Law Reform Committee
WIH	Work in hand

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