

Journal of Contract Law

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(Articles and Case Notes included in this part are linked to the LexisNexis platform)

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Articles

[Sustainability-linked loans: Current issues, untapped potential](#)

— *Isabelle Lim*

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Sustainability-linked loans (SLLs) are a highly popular form of sustainability-linked debt instrument globally. Despite this, some have raised concerns regarding their effectiveness in encouraging borrowers to become more sustainable.

This article identifies potential reasons for the ineffectiveness of SLLs and proposes reforms from the perspective of contract law. It argues that with the way SLLs are commonly drafted presently, lenders would likely struggle to obtain meaningful remedies from the courts where borrowers breach sustainability-related obligations in SLLs. This contributes to a lack of effective sanctions to enforce borrowers' compliance with sustainability-related obligations.

However, contract law also provides lenders with the latitude to design a wide variety of contractual terms to build in more effective sanctions/incentives to deter breaches of sustainability-related obligations within the contract itself. Lenders can and should take advantage of this flexibility rather than relying solely on the limited remedies for breach that the courts may or may not provide.

[‘Better forgiveness than permission’: The application of the principle in *Treloar v Bigge* to commercial contracts](#)

— *Seung Chan Rhee*

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A recurring feature of commercial contracts are clauses which provide that one party must not ‘unreasonably withhold consent’ to another party (Reasonable Consent Clauses). Their operation in lease assignment clauses has been well-established since the seminal English case of *Treloar v Bigge* in 1874. That case held that such clauses do not oblige the party giving consent to not withhold its consent. Instead, they operate as a proviso to the obligation of the party seeking consent, such that that party may unilaterally take action without permission. Until very recently, this principle has not been applied outside of the real property context to commercial contracts generally. This article argues that there is no justifiable basis for the disjunction between the way such clauses would be construed in a lease and other kinds of commercial agreements. Courts construing Reasonable Consent Clauses should adopt an approach informed by the principle in *Treloar v Bigge* and depart from it only where there are compelling reasons to do so.

Case Notes

Repudiation and good faith misinterpretation: *C H Leaman Investments Pty Ltd v Tuesday Enterprises Pty Ltd* [2024]

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— *Ryan Catterwell*

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Reasons and remoteness: *Elisha v Vision Australia Ltd* [2024]

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— *Timothy Pilkington*

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