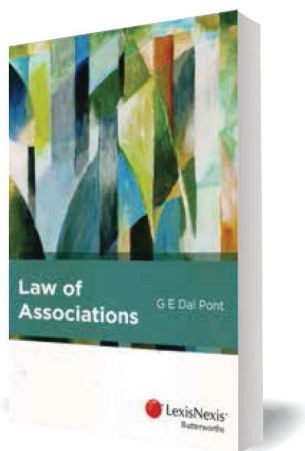


IN_PRINT

This month's books cover Law of Associations, Commercial Tenancy Law, Water Resources Law and The Restraint of Trade Doctrine e4.



Law of Associations

GE Dal Pont, LexisNexis Butterworths, 2018, pb \$162

I began by asking what can Professor Dal Pont's text offer that Dr Fletcher's seminal 1986 work *The Law Relating to Non-Profit Associations in Australia and New Zealand* cannot? Fletcher's outdated text was an excellent introduction to associations and Dal Pont's text is a worthy successor.

Dal Pont begins with the proposition that an association is "some form of combination of persons with a common interest" and expands from there. He discusses unincorporated associations and associations created by statute. Readers will note historical references and comment on copious case law.

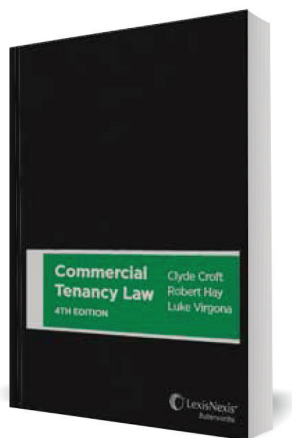
The "law of associations" is a dynamic topic and it is too much to expect this respected academic to provide more than an authoritative introduction. For example, while Dal Pont acknowledges that association general meetings can be

"a vital tool for members to hold decision-makers to account"; he does not discuss situations where committees and members comprise the same people or "presidential" governance. In *Cambodian Buddhist Society* [2017] NSWSC 1433 (published after Dal Pont's statement of law) the Court acknowledged a view that a presidential style was antithetical to "transparent, accountable and democratic" governance.

These contemporary practices challenge assumptions about association governance and are worth critical discussion.

In summary, as an authoritative introduction I heartily recommend *Law of Associations* to law students and practitioners alike. I expect it will be well used and appreciated.

Derek Mortimer, DF Mortimer and Associates



Commercial Tenancy Law

C Croft, R Hay and L Virgona, (4th edn), LexisNexis Butterworths, 2018, hb \$320

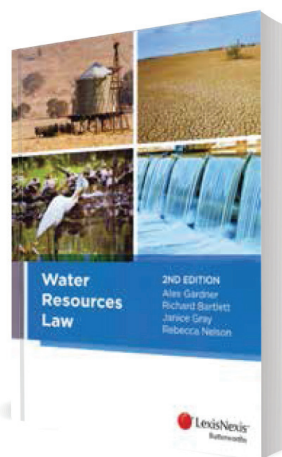
A lot has happened in commercial tenancy law since the third edition of this text was published in 2009, and not just in the law. The changes in authorship are that C Croft QC is now Justice Croft of the Supreme Court of Victoria; R Hay, barrister, is now R Hay QC; and Victorian barrister Luke Virgona has replaced Professor Bradbrook as an author.

One of the more controversial areas recently is the interaction between leasing law and contract law (specifically, for example, the question arose whether a liquidator can disclaim a lease despite the proprietary rights that accompany a lease – see the High Court decision in *Wilmott Growers Group Inc v Wilmott Forests Ltd (recs and mgrs apptd) (in liq)* (2013) 251 CLR 592). In that case, the High Court decided that the liquidator could disclaim the lease (under a statutory power), overriding the tenant's proprietary rights.

Another development since the previous edition is the introduction of the Australian Consumer Law, which is dealt with in Chapter 12. Specifically, the new regime replaces a plethora of slightly different state, territory and federal laws with a uniform law; there are some specific issues that apply to leasing, such as the restrictive clauses contained in a number of commercial leases.

The text provides a detailed study of all forms of commercial tenancy law in Australia. In that regard, it is a comprehensive text of nearly 1000 pages, and a "must own" for all practitioners and students who want to know the current state of play in commercial tenancy law. ■

WG Stark, Hayden Starke Chambers



Water Resources Law

A Gardner, R Bartlett, J Gray and R Nelson, (2nd edn), LexisNexis Butterworths, 2018, pb \$240

This book is a must for your bedside table if you want to understand the national water reform agenda and its implementation state by state. However, this is not your “go to” reference text for answers to questions concerning, for instance, water licence applications or renewals, or rights to receive or restrict flows from neighbouring lands or rights to access water flowing in a watercourse or the intricacies of water authorities’ fees and charges.

This is the second edition of what is becoming a seminal text in national water resource law for planners and students. The authors have stated the relevant regulatory controls as at July 2016. The book provides an account of the history and policy development of nationally driven water reforms over the past 25 years.

The book outlines the constitutional and administrative framework for national water resource management, the nature of water resource access, water resource planning, water trading, and an evaluation of the Australian model for access rights including mining and petroleum sector interactions. A key value of the book is its analysis of the *Commonwealth Water Act 2007*, the Murray Darling Basin Plan and local responses. The authors have skilfully analysed the relevant policies, laws and regulations on a national and state-by-state basis.

There are few authoritative texts concerning the control and regulation of water resources, water rights, liabilities arising from water use and the environmental impacts of water. This text fills part of that void.

Robert Sadler, barrister



LAW BOOKS



The Restraint of Trade Doctrine e4

J D Heydon, Member: \$175.50
Non-member: \$195

This fourth edition analyses the history and scope of the doctrine at common law. The work discusses not only the detailed rules associated with the doctrine but also the fundamental principles and functions which underlie their operation.

www.liv.asn.au/RestraintOfTrade

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