

Book Review

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H A J Ford, R P Austin & I M Ramsay, *An Introduction to the CLERP Act 1999, Australia's New Company Law*, Butterworths 2000 124pp

During the 1990s, dramatic changes were made to corporate legislation in Australia at regular, periodic intervals. Since 1995, we have seen the passage of the *First Corporate Law Simplification Act* 1995, the *Company Law Review Act* 1998 (originally proposed as the *Second Corporate Law Simplification Bill*), the *Managed Investments Act* 1998 (originally proposed as the *Collective Investments Bill*), and the *Corporate Law Economic Reform Program Act* 1999 (the 'CLERP Act'). For both practitioner and academic alike, the volume and pace of these alterations has made their assimilation and comprehension a daunting task. This new title, released quickly after the passage of last year's recent legislation, was welcome assistance for those struggling to remain current in their knowledge of corporate law.

The authors of this introductory book are highly respected authorities in this field. They are also the authors of the well-regarded corporate law text, *Ford's Principles of Corporations Law*.¹ Rather than provide a completely self-standing explanation of the changes brought about by the recent *CLERP Act*, the authors have assumed that their readers will have access to their primary text. In their preface, the authors indicate that their presentation is less than comprehensive, their analysis and explanation not as full as they would desire had time and space permitted. Notwithstanding these limitations, the authors have achieved their stated aim of identifying the important changes made by the *CLERP Act*, and providing some analysis and comparison with the law as it existed prior to 13 March 2000, the commencement date of the *CLERP Act*.

Before proceeding to the substance of the text itself, mention should be made of the ancillary items provided by this book. As is always the case with law texts, there are useful tables of cases and statutes which have been mentioned in the text itself. More significant in this case is the inclusion of a table of destinations indicating what has now happened to sections of the *Corporations Law* as it existed prior to 13 March 2000 (the date of implementation of the *CLERP Act*). Those who have already attempted to rely upon the equivalent tools in the legislation itself would comprehend immediately the benefits of a user-friendly table which provides some guidance to the consequences of the *CLERP Act*'s 'cut and paste' methodology as applied to broad swathes of

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¹ 10th edn Butterworths Sydney 2001.

legislation. The systematic and useful table of destinations itself is indicative of a level of care which one has come to expect from the work included in Professor Ford's texts over the years.

As might be expected, this book approaches the changes brought about by the *CLERP Act* in relatively straightforward structure. A review of the processes leading to the enactment is found in the introductory chapter, with the specific areas legislatively altered providing the remaining chapters: corporate governance, accounting standards, fundraising by sale and issue of securities, takeovers, and compulsory acquisitions. Reflecting the relative importance and significance of the changes made, the great majority of the text is committed to an explanation of the corporate governance, fundraising and takeovers changes. The chapters on accounting standards and compulsory acquisitions consist of only six and eleven pages respectively. This structure parallels that of the *CLERP Act* itself, with the exception of the recognition of compulsory acquisitions as a subject area warranting treatment independent of takeovers (where it is found in the Act itself).

Within this book review, it would be virtually impossible to deal with all of the changes which have been made by the *CLERP Act* and to review Ford, Austin and Ramsay's treatment of them (as the book review itself would approach eighty pages). The book achieves its goal of providing guidance to the *CLERP Act*; however, due to the obvious time constraints, it has tended toward assuring comprehensive treatment rather than detailed, analytical treatment of all of the significant alterations. As an example of this, the compulsory acquisitions chapter covers the new statutory procedure, but does not directly mention the *Gambotto*² decision. Undoubtedly, this approach makes the book immediately useful, yet it may prove, on occasions, to require further research to resolve the difficulties raised by the legislative changes and the policy supporting those changes. So long as reference to the more substantial text is available, this approach should not be a major deficiency.

One would consequently have to say that the same attributes of *An Introduction to the CLERP Act 1999* are both its strengths and weaknesses. It advances an explanation of the *CLERP Act*, dealing comprehensively with its provisions, yet stops short of full analytical coverage. In places, the authors have provided their insight into the potential applications of the *CLERP Act*, while in other areas, the book only highlights the likely effect of the legislation in view of the legislative intent. The book would have been a useful addition to any corporate law library for the year 2000, though more complete corporate law reference books have now been produced which consolidate its coverage.

It is clear that the authors had to consider several factors when preparing this book. These factors included the need for immediate assistance to the profession covering the entirety of a detailed piece of legislation; a requirement of some brevity to allow the book to be accessible; and the need to add value by providing their own considerable knowledge to an analysis of the changes in corporate law arising from the legislation. Having faced these factors, the authors found a very workable compromise. Despite the fact that I was quite pleased to have *An Introduction to the CLERP Act 1999* to assist in clarifying the operation of the *CLERP Act*, I am thankful of its incorporation into *Ford's Principles of Company Law*.

² *Gambotto v WCP Limited* (1995) 182 CLR 432.