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A Guide to Arbitration Practice in Australia

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The ADR Bulletin

Book review

A Guide to Arbitration Practice in Australia

Waye V (ed) University of Adelaide and Institute of Arbitrators and Mediators Adelaide 2001

Nadja Alexander

Although both arbitration and mediation are forms of alternative dispute resolution (ADR) in the sense that they are alternative processes to trial, the two dispute management processes are usually not dealt with together in the literature or in training. There are obvious reasons for this, including the fact that arbitration and mediation are very different processes requiring very different sets of skills.

Nevertheless, as the ADR market and consumers themselves become more sophisticated in their knowledge of dispute management options, there is a growing need for ADR professionals, whether or not qualified both to arbitrate and mediate, to be aware of other ADR processes and how they operate within the Australian legal system.

Although this is clearly a book on arbitration of commercial and professional transactions, *A Guide to Arbitration Practice in Australia* (the Guide) recognises the broader dispute management context of ADR and the legal system within which it operates. The first chapter, 'The Australian legal system', provides a plain English introduction to how law is made and works in Australia — this is extremely useful for non-lawyer ►

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arbitrators. There are also chapters on 'Conflict management and dispute resolution' and 'Mediation and other ADR processes'.

Unlike many other arbitration texts, the Guide not only takes into account the broader ADR context, but also provides a useful and logical structure for both the novice arbitrator with limited legal knowledge and the practitioner seeking a reference on a particular point.

The collection of essays by various authors, and edited by Waye, is divided into two parts. The first part focuses on arbitration as an ADR process and its place within the Australian legal system. The second part discusses the legal principles with which practising arbitrators must be familiar — such as contract and torts law, waiver and estoppel, the *Trade Practice Act 1974* (Cth), evidence and expert witnesses — in order to determine matters according to law. Each of the 19 chapters contains references to further readings.

A separate supplement to the book — containing updates on Australian laws, rules and statutory or institutionally recognised processes governing

Sixth National Mediation Conference

Canberra 18-20 September 2002

'Pathways toward dispute management'

The 6th National Mediation Conference will be held in Canberra from 18 to 20 September 2002 at the National Convention Centre.

The biennial National Mediation Conference has an excellent reputation and pedigree. Previous conferences have drawn up to 500 participants from throughout Australia and overseas. The Conference committee is confident that the Canberra 2002 conference will attract the same high level of interest.

The Conference Committee consists of practitioners and academics from a range of institutions and organisations working in a co-operative framework.

Over the last decade an increasing range of new and innovative processes for dispute management has been available. Recent amendments to legislation have recognised the value of mediation and other primary dispute resolution processes within courts and tribunals. This has happened not only in the legal arena, but also in such disparate areas as the commercial, community and family, cultural, organisational, environmental and global peacekeeping spheres.

Dispute resolution practices, and at their core the mediation process, continue to have a major impact on the way in which individuals, organisations, communities and governments perceive and manage disputes.

The new millennium has brought with it unforeseen changes and challenges to those who work in the field of dispute management. Given the growth and increasing use of these processes, this conference will address the vital needs of practitioners to gain a depth of understanding in emerging areas of dispute management.

This Conference will provide a stimulating forum for participants to explore a new range of diverse opportunities and challenges for the practice of dispute management in the 21st century.

Conference themes

- Business of ADR
- Commercial and organisational dispute management
- Community issues
- Family relations
- Where theory meets practice
- Cultural diversity
- Global peacekeeping
- Courts/tribunals and PDR
- Innovation in PDR
- Environmental issues

Who should attend

- Mediators
- Conciliators
- Lawyers
- Complaints officers
- Courts and tribunals staff
- Academics and researchers
- Defence personnel
- Health professionals
- Police
- Policy makers
- Government department employees
- Social service professionals
- Students

Call for papers

A call for papers has been issued and the closing date for submission of 300 word abstracts is 30 April 2002. Abstracts should be sent to Conference Co-ordinators, PO Box 139, Calwell ACT 2905 Australia.

To assist in the review of abstracts the conference committee has convened a panel of esteemed Australian experts in dispute resolution who are familiar with the current state of, and trends in, dispute resolution in Australia. The panel comprises Professor Jennifer David, Susan Gribben, Sir Laurence Street and Professor John Wade.

Conference co-chairs

- Tania Brass, Relationships Australia, Canberra and Region
- Professor Tom Altobelli, University of Western Sydney

Conference committee

- Alysoun Boyle, Jennifer David and Associates and Institute of Arbitrators and Mediators
- Jon Elwood, Relationships Australia National
- Kathryn Heuer, Family Court
- Gabrielle Jess, Institute of Arbitrators and Mediators
- Helen Marks, Defence
- Kevin Percival, Family Court
- Scott Pettersson, LEADR

The ADR Bulletin
The monthly newsletter on dispute resolution

arbitration and other forms of ADR — will be published annually.

In terms of its usefulness as a reference guide and text for its specific target market of students undertaking the National Professional Certificate in Arbitration and Mediation in Australia, the Guide is excellent. In addition, however, it also provides a very user friendly, readable and comprehensive collection of essays for all arbitrators wanting to update their knowledge in the context of the broader ADR movement, and for all mediators wanting to increase their knowledge (and perhaps eventually practice) in determinative ADR processes such as arbitration.

The Guide is a joint publication of the Law School of The University of Adelaide and the Institute of Arbitrators and Mediators Australia. ●

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A V A I L A B L E N O W

Tax Administration in the 21st Century

This Intelligence Report collects the papers presented at the Fourth International Tax Conference on Tax Administration held by ATAX. This conference was successful in bringing together participants from around the world who have pooled their knowledge and experience to contribute to a better understanding of the common problems and provide the opportunity to discuss new approaches to the problems within administration.

The contributors to this publication present an appropriate balance of legal and financial expertise from both Australia and overseas, thus providing an opportunity to assess the methodologies and progress in various regions and countries as they currently operate within their respective environments and economies. The text is often accompanied by a range of charts, tables and graphs to facilitate and reinforce the presentation.

As Sir Anthony Mason states in the preface:

> … the topics discussed range over many of the major taxation issues which confront governments, revenue authorities and practitioners in the new era of globalisation.

These issues include such contemporary matters as the impact of globalisation itself and of the new technologies on tax administration, the integration of tax and benefit systems, compliance problems and the new Australian tax measures of GST and PAYE.

To purchase or inquire about *Tax Administration in the 21st century* please contact Customer Relations on 1800 772 772 or by email to:

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