



**ALTA 2005**  
**The University of Waikato**

**Abstracts from the Company Law Interest Group**

**The financial assistance reform proposal**

Aiman Nariman Mohd-Sulaiman

**Abstract**

It is noted that the financial assistance provision in the selected Commonwealth countries under review were once very rigid although reforms have been made or are being considered to relax the prohibition. Malaysia however still retained the original strict regulatory framework which is primarily a relic of the UK Companies Act 1948. Thus a cross jurisdictional study is relevant and important to provide a benchmark for Malaysia's reform activities. Additionally, the study will also be able to provide a perspective on the approach of these selected countries' regulatory framework concerning financial assistance and whether there is possibility of a convergence of practice in this very important area of corporate law.

**A Director by any Other Name...**

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**Abstract**

Company legislation in New Zealand, Australia and England all include definitions of the term "director." The ambit of each of these definitions extends beyond the duly appointed or de jure director. In this paper we examine the statutory definition of "director" in the three jurisdictions. We analyse the reasons why the legislature has developed or recognised multi-faceted definitions of directorship and the purpose each category is intended to serve.

**One Law for All No More - The Demise of Common Law Contractual Obligations in Stock Exchange Regulation in Australia, New Zealand, the United Kingdom and Ireland**

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**Abstract**

Since the eighteenth century, the relationship between a stock exchange and its listed companies, and between the stock exchange and its members, has been regulated by the terms of a common law contract and its associated rights and obligations. This paper is a review of the approaches taken by four common law jurisdictions to the general regulation of the market place, and more specifically to the regulation of ongoing

corporate disclosure of material information to the market. In all cases, the common law contractual obligations of disclosure have been supplemented to a certain extent by legislation and codes of corporate governance. In two instances, the common law is also complemented by the directives of the European Union.

### **Hanel v. O'Neill: Director's Personal Liability of Debts under Section 197 of Corporations Act**

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#### **Abstract**

"Section 197 of the Corporations Act 2001 (C'th) provides for the circumstances in which directors of trustee companies can be held personally liable for the debts of the company. The South Australian Supreme Court has recently highlighted the uncertainty of s197 by providing multiple interpretations of the provision in Hanel v. O'Neill. The uncertainty was heightened in at least two subsequent cases which are discussed in this article together with the decision of Hanel. In addition, the article provides a detailed evaluation of how the Hanel's decision has severely affected the directors' freedom of management of trustee companies and the areas in which they should take precautionary measures if they continue to act as directors in a trustee company."