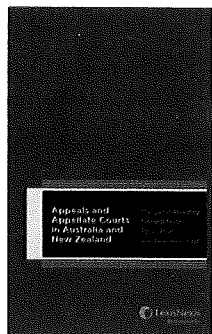


Appeals & Appellate Courts in Australia and New Zealand



Justice M Beazley,
Dr Paul Vout and
Sally Fitzgerald

LexisNexis
RRP \$204.60

This is the first edition of a text dealing with appeals and appeal procedures. Prior to this publication there was no Australian text which dealt generally with this subject.

Appeals are creatures of statute and preparing a book of this nature requires a careful analysis of many hundreds of legislative provisions across each jurisdiction. At 600 pages with close to 3000 footnotes the book deals with this area of the law comprehensively.

The introductory chapters of the text deal generally with the system of courts and appeal processes and consider key legal principles in this area including the principles of *stare decisis* and *ratio decidendi*.

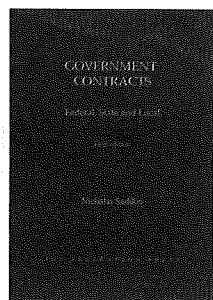
The second part of the book considers in detail the practice and methodology of appeals. Any practitioner who needs to consider the basis for an appeal will find this section useful. Included here are common grounds of appeal — such as bias and failure to admit evidence — together with less common grounds such as misconduct by counsel and the discovery of fresh evidence after trial. Other sections dealt with include seeking leave to appeal, preparing appeal books and seeking a stay of execution.

The third and final section of this text will be of particular interest to litigation practitioners. It deals with specific appeal provisions relating to particular courts, boards, commissions and tribunals. There are over 35 Australian national boards, tribunals and offices considered and over 70 state and territory boards discussed. These passages provide a useful snap shot of the key elements to be observed in lodging an appeal from each body.

The publication of this text will be welcomed by litigators. Those sections providing practical and substantive advice on the preparation of appeal documentation will be required reading for practitioners preparing an appeal.

Garrath O'Keefe

Government Contracts — Federal, State and Local



Nicholas Seddon
5th edition
Federation Press
RRP \$165

The 5th edition of this worthy volume incorporates new material, including commentary on the *Competition and Consumer Act 2010* and the Australian Consumer Law which replaced the Trade Practices Act. Seddon considers the more philosophical issues surrounding public contracting as a government activity. The application of the rules of contract law to government contracts raises many questions.

There is a detailed explanation of government privileges and immunities including the doctrine of executive necessity. Chapter 5 examines the rule against fettering and the possibility that a contract may be overridden by statute. Seddon carefully considers the scope of the shield of the Crown.

Seddon deals in considerable detail with the cases of *Pape v Commissioner of Taxation* and *Williams v Commonwealth* and their impact of the Commonwealth's spending power.

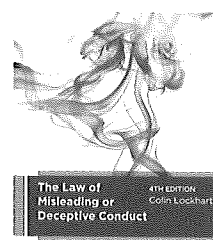
Of interest to government lawyers is the section dealing with Ministerial directions to statutory corporations. Seddon explores the dilemma when overriding policy reasons are the basis for a Minister making a direction that is at odds with an existing contract. Seddon considers it arguable that it is not an actionable breach, although there is judicial reasoning that would allow damages to be payable.

Where the government is undertaking ordinary commercial dealings, Seddon argues that estoppel could be pleaded except where the doctrine of executive necessity or fettering arises.

There is an extensive chapter on government and competition and consumer legislation. Seddon analyses the meaning of “carries on a business” as it applies to government. Seddon's work is the “go-to” volume in the area of government contracts, and this latest edition continues that fine tradition.

Jane Grace, Australian Communications and Media Authority

The Law of Misleading or Deceptive Conduct



Colin Lockhart
4th edition
LexisNexis
RRP \$220

As the author notes in the Preface to this edition, in the three years since the third edition was published, the various statutory provisions of misleading or deceptive conduct, and the remedies and machinery provisions that supplement and support them, have continued to generate a torrent of case law. Indeed, the table of cases and the table of statutes run to some 119 pages. As the author points out, virtually every paragraph in the current edition has been amended to take into account the new decisions and their implications.

The book is helpfully divided into two parts. In Part A the author carefully considers the prohibition of misleading or deceptive conduct; while in Part B, he examines the legal consequences, including that most important issue of limitation periods.

Of particular interest is the author's lengthy consideration of the professional conduct of members of professions, including law, medicine and dentistry. Traditionally, these professions have been occupying a field separate and apart from trade or commerce. However, after a closely reasoned argument, the author opines that the circumstances are likely to be rare in which the rendering of professional services for a fee will not be conduct in trade or commerce on the basis that the services consist of pure advice, even in those statutes without an extended definition of the phrase. This is of interest and relevance to both health and legal practitioners, whose conduct is also regulated by express statute.

The author is a respected authority in the subject. His clear expression and user friendly format will prove invaluable to the busy practitioner who seeks an easy to understand analysis of this important area of law. I have no hesitation in recommending the book to all practitioners, the judiciary and academics alike.

Don Malcolmson