

## BOOK REVIEWS

Bates, G and Lipman, Z (1998)  
**Corporate Liability for Pollution**

Law Book Company, Sydney. ISBN 0 455 21611 8. 361pp. (Price not stated).

This is a very useful book. Gerry Bates and Zada Lipman have successfully collaborated in co-authoring this work which tackles complex and wideranging issues of responsibility for environmental harm. While the title implies a focus on the private sector, much of the material is equally applicable to the public sector; indeed, most of the statute law cited no longer exempts the Crown.

Chapter 1 discusses the basis of liability, defines pollution and environmental harm, and examines the delegation (and dereliction?) of Commonwealth responsibilities, to the States. Chapter 2 considers the policy context of Ecologically Sustainable Development, the introduction of National Environmental Protection Measures, and the myriad carrot and stick tools available to authorities charged with preventing and managing pollution. The use of each of these regulatory and economic incentives illustrates that the law is but one method of ensuring compliance; cooperative, preventative approaches may prove far more successful in the long run.

Chapters 3, 4 and 5 set out the administrative, civil and criminal liabilities and remedies for pollution incidents. Advantages and disadvantages of each approach are helpfully illustrated, and defences are discussed; the use of due diligence is given particular attention, which emphasises the importance of establishing an effective environmental management system. The precautionary, polluter and user pays principles are shown to underlie much of the law, and the need to incorporate them in any system is stressed.

Chapter 6 examines the important and topical issue of contaminated land, with a particular focus on remediation and financial liability. Common and statute law approaches Australia-wide are discussed. Chapter 7 considers marine pollution, which is included for the sake of completeness; this deserves extensive treatment in its own right, and it is recommended that any consideration of this Chapter be supplemented by one of the many other detailed texts on the subject.

The authors must however to be commended for this significant and comprehensive work, which provides a detailed explanation of Australian pollution control law, and highlights weaknesses in existing regulatory regimes; as such, it is of interest to both the practitioner who must advise his client on practical liability issues, and the academic who is interested in the potential for law reform. Weaknesses identified include the lack of integrated resource management, the 'whole of government' approach that is so urgently needed to respond to diffuse source pollution.

Preventative measures for avoiding liability are given extensive attention in the book, which is particularly important. Environmental management systems, environmental improvement plans and programs, environmental auditing, risk assessment and insurance protection are all discussed at some length. In practice, prioritising such measures will prevent or minimise future occurrences of environmental harm, and avoid the need for recourse to the law.

Indeed, some restructuring of the book could be beneficial to focusing the corporate mind on measures of these kinds, the cost effectiveness of which has been proven time and again. While the nature of any defence is such that it is rarely considered until a charge has been laid, perhaps a section (or Chapter) could be included much earlier in any future editions, collectively examining the preventative measures that may be employed to avoid liability. This is the best way to avoid corporate liability for pollution.

Simon Marsden.