

Commonwealth Disability Services Legislation Inadequate

The Australian Law Reform Commission, in its report on the *Disabilities Services Act 1986* (Cth), maintains that new disability services legislation must be enacted to ensure that funding decisions for services recognise the rights and interests of people with a disability.

The report - *Making Rights Count* - was released in October and recommends that the statutory objectives of such legislation should include achieving increased independence, worthwhile employment opportunities and self esteem for the 18% of the Australian population who have disabilities.

President Alan Rose suggests that the current legislation is "narrowly and rigidly focused on regulating the funding and accountability of providers of disability services" and as a result does not meet the requirements of most of those who need the services.

The Commission sees a lack of coherence in the funding and provision of services by different government depart-

ments, both state and Commonwealth.

"Current funding arrangements do not meet the social justice, access and equity policies Australia has adopted and the obligations it has under international law," continued Mr Rose.

New legislation should be rights-based and create a national framework for integrated policy, service planning and provision. A statement of principles should be included in the legislation to ensure equal access, fair assessment, the right to be consulted about planning issues that affect service users as well as the right to complain about deficiencies.

Among other recommendations, the report suggests the establishment of an Office of the Equal Status of People with a Disability with a view to creating a national coordination of services and data collection.

The report can be accessed on the ALRC's home page at:

<http://uniserve.edu.au/alrc>

Legal Risk in International Transactions – Overview

Legal Risk in International Transactions is a report recently released by the ALRC which assesses the scope for law reform in this area, focussing on civil remedies in international commerce.

The report concludes that it is both feasible and necessary to systematically develop and reform the law in relation to those remedies.

Work is required in the area of litigation and other formal dispute resolution mechanism, but more so in the matter of how the law can support crossborder transactions where there is no dispute, given that disputes usually emerge where a transaction has gone badly and the parties seek redress through the courts.

Further work on international agreements that set out substantive principles and regulatory arrangements applied to international commerce is required. Presently laws supporting cross-border transactions are patchy and incomplete.

Systematic reform will require input from business and government and the Commission recommends creation of an advisory committee, comprised entirely of business leaders, reporting jointly to the Attorney-General, the Treasury and the Department of Foreign Affairs and Trade.

ALRC on Renewed Mandate

The Australian Law Reform was re-established under new legislation on November 11, 1996.

The recently modernised legislative Charter, the *Australian Law Reform Commission Act 1996* was passed through both Houses of the federal parliament with bipartisan support. In his Second Reading speech, Federal Attorney-General, Daryl Williams QC declared that the Act was a "demonstration of the government's commitment to having a viable law reform agency which is able to advise on keeping Australia's laws up to date.

Shadow minister for Aboriginal Affairs, Mr Daryl Melham described the ALRC as a "dynamic organisation that

was producing quality reports and was giving quality independent advice to government."

The new Act incorporates all but a very few of the recommendations of the 1994 Report on the Commission by the House of Representatives Standing Committee on Legal and Constitutional Affairs. The Committee's report noted the Commission's impressive measurable output, the significance of its contribution and the continuing need for a commission to carry out law reform functions.

The new Act allows for a leading edge management structure which gives the President and Board of Management full responsibility for financial and staff-

ing matter, thereby freeing it from the complexity of the Public Services Act and Commonwealth Public Account administration.

Among other things, the ALRC is currently preparing a major review of the federal adversarial system of judicial dispute resolution, an inquiry into the effects of legal processes on children and is about to deliver a report on complaints against the AFP and NCA.

Possible new references include an inquiry into the investigative powers of federal regulatory agencies such as the ASC and the ATO, the development of a new law to deal with electronic commercial transactions and a review of marine insurance law.