EDITORIAL

Parties’ intention versus prevention too far ......................................................... 119

BOOK REVIEW – Thomas Gibbons
The Leaky Buildings Crisis: Understanding the Issues by Steve Alexander ............ 120

ARTICLES

Termination for convenience – not as easy as it sounds – Jennifer McVeigh and
Kimie Tsukakoshi
Termination for convenience clauses are often inserted into construction contracts to
provide parties with the flexibility to cancel projects before completion without cause. In
these uncertain economic times, such clauses may come under greater scrutiny as
increasing numbers of entities consider early termination as part of cost-cutting measures.
Despite the apparent simplicity of the termination for convenience clause, its use may be
complicated by a requirement to exercise the power to terminate in good faith. The case
law demonstrates that it is not yet certain whether or not an obligation of good faith
applies to a termination for convenience clause, and it is therefore prudent for a party
wishing to exercise those rights to turn its mind to the potential constraints imposed by the
possible implication of an obligation to act in good faith. ................................................... 122

The use of formulae to calculate liquidated damages and stipulated
sums – Richard Manly SC
This article supports the use of formulae to calculate liquidated damages or stipulated
sums in contracts that are complex or in situations where the loss and damages that
contracting parties may suffer are difficult to pre-estimate. Formulae also have a beneficial
role to play in the calculation of loss entitlements in a range of commercial contracts that
are also reviewed in this article. ............................................................................................ 127

REPORTS

Austman Pty Ltd v Mount Gibson Mining Ltd ........................................................... 154