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Swings and roundabouts – developments in arbitration in Australia – *AA de Fina*

The introduction of amendments to the International Arbitration Act and domestic arbitration acts is widely seen as establishing a new and beneficial environment for arbitration in Australia. The reality is that little has changed. Courts in differing jurisdictions still interpret provisions inconsistently and the suggestion that Australia is an arbitration friendly environment is not supportable on careful analysis. Much more needs to be done from knowledge rather than political expediency. 169

Enforcement of upstream duties relating to OHS in Victoria: Lessons from proportionate liability? – *David Ulbrick and Edward Harrison*

As well as a number of “direct duties” on employers, employees and persons in the workplace regarding health and safety, the various statutes in the Commonwealth contain a variety of “upstream duties” on designers, manufacturers importers and installers of plant and equipment used in the workplace and, indeed, workplaces themselves. These “upstream duties” are difficult to enforce and therefore pursued with less vigour by the various inspectorates. The article draws on the concept of proportionate liability and proposes a similar regime whereby the upstream duties might be more regularly and diligently enforced, and therefore adhered to as an extra limb to ensuring health and safety in the workplace. 176

“From my cold, dead hands” – addressing the moral rights of design consultants – *Andrew Murray*

After over a decade, the moral rights provisions of the Copyright Act 1968 (Cth) (the Act) still have not been the subject of significant judicial comment. High profile disputes have thrown up a number of issues about their application to the construction industry and yet, there is still no definitive guide for parties on how to address them – either during the drafting process or when substantive alteration or demolition of structures is contemplated. This article discusses moral rights in the context of the construction industry and provides some practical suggestions as to how the processes envisioned by the Act may work in practice. 189

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