

THE QUEENSLAND LAWYER

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ARTICLES

Limited Liability and Risk Dilution: Assessing the Benefits and Drawbacks for Companies and Business Owners – *Arieh Herszberg*

Limited liability is a fundamental concept in business, enabling individuals to conduct commercial activities without being personally liable for the debts and obligations of the company. This commentary briefly explores the development of limited liability, including its economic and social implications. It also examines the legal and regulatory framework that governs limited liability, including the risks and benefits associated with this corporate form. The article considers contemporary debates surrounding limited liability, such as the extent to which it encourages reckless risk-taking and after considering a basic understanding of the benefits and negatives of limited liability, primarily examines the misuse of limited liability by way of risk dilution techniques utilising subsidiary companies. While limited liability can encourage investment and entrepreneurship it can also lead to the anti-social practice of risk dilution, where companies use subsidiaries to hold their assets and limit their liability.

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Diminished Responsibility – The Partial Defence to Murder – *Joseph Briggs and Russ Scott*

By s 304A of the *Criminal Code (Qld)*, when a person accused of murder is proved to have experienced an abnormality of mind which substantially impaired the capacity to understand what the person was doing, the capacity to control the person’s actions or the capacity to know that the person ought not do the act or make the omission, the person will be liable to be convicted of manslaughter only. The partial defence of diminished

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| responsibility is only available in three other Australian jurisdictions. Recently, in <i>R v Smith</i> (aka Stella) the Queensland Court of Appeal interpreted the term “substantial impairment”. | 180 |
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