
Book Review

Editor: David Morrison

CORPORATE MISCONDUCT & WHITE-COLLAR CRIME IN AUSTRALIA: REGULATION, INVESTIGATION & ENFORCEMENT

Reviewed by David Morrison

Corporate Misconduct & White-collar Crime in Australia: Regulation, Investigation & Enforcement, by Michael Legg, Olivia Dixon and Stephen Speirs, Thomson Reuters Lawbook, 2022, 770pp: ISBN 9780455245195. Softcover.

This is an interesting resource because it follows the Royal Commission into Misconduct in the Banking, Superannuation, and Financial Services Industry, the ramifications of which continue to be felt. It is a work primarily concerned with corporate misconduct and it concerns itself with an examination of a wide array of “enforcement” options as well as detailing various requirements and associated topics. It is an important work, gathering the various laws that may be applicable to the instance of corporate misconduct, so while its entirety may not be utilised by the reader in a particular instance, it is a very helpful reference for how all the various laws apply and interact, including considerations that might not be readily apparent at first blush. It is both sufficiently practical and analytical as to the nature and operation of the law while containing other relevant and useful information.

The first chapter commences with the meaning and nature of “white-collar crime” along with the regulatory theories that underpin it, including enforcement. The relevant regulatory agencies are set out (and there are many of them) including the Australian Securities and Investments Commission, (ASIC) and the Australian Taxation Office.

The book is important because corporate conduct does not reside in the hands of one regulator, although ASIC is the first that comes to mind. Similarly for readers of this journal, where a problem arises, it is usually referable to the *Corporations Act 2001* (Cth) (or in the case of personal insolvency to the *Bankruptcy Act 1966* (Cth)), although it is rarely the case that the problem has a singular legal attribute, even if that is the focus of the judgment that follows. For example, where a director causes a company to trade while insolvent, many possibilities arise with respect to the offending director and the actions that might be taken. The contents of the book are therefore usefully split into the kinds of considerations that arise in actions involving corporate misconduct and white-collar crime, and those contents are useful as a handy reference for more straightforward matters. To date, there is no text published that sets out in an authoritative and useful manner the various areas of law in this technically complex area.

The book is divided into five parts: Investigation, Individual or Corporate Liability, Administrative Enforcement, Civil Enforcement and Criminal Enforcement. Chapter 2 deals with powers of investigation and preservation covering off on the various administrative bodies, challenging of search warrants, document production and the underutilised compulsory examination powers. Privilege is dealt with in Chapter 3. Civil penalties and criminal enforcement close the book. Of interest is the juxtaposition of director and officers’ insurance considerations following (in Chapter 5). The consideration of insurance law and its possible moral hazard, together with the kinds of insurance that may be obtained is useful and interesting. Readers will be more familiar with the content of three chapters following being, infringement notices (Chapter 8), banning orders and director disqualification (Chapter 9), and an overview of civil penalties (Chapter 10).

This is a practical and comprehensive work, augmented by useful diagrams and tables, together with guidance as to the requirements of the law, for those seeking a useful reference information point. The authors have done an excellent job and produced a work of high quality. The foreword, penned by The Hon Virginia Bell, former Justice of the High Court of Australia, notes that the book is a “singular achievement” and that all stakeholders “will obtain much benefit from the comprehensive and clear treatment of this specialised and complex area of the ‘criminal’ law”. The sentiment illustrates the usefulness of this reference work that makes it worthy of the library shelf, after reading.