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Carbon laws face new challenges

By Kate Gibbs

AS COPENHAGEN looms, the future of Australia's carbon trade scheme was thrown into confusion yesterday as several opposition lawmakers resigned their party positions in open revolt over the carbon laws.

The government expects the upper house Senate to vote on the scheme this afternoon, but the resignation of six opposition frontbenchers yesterday throws the Opposition's support of leader Malcolm Turnbull's backing for the scheme into question.

In a day of turmoil for the beleaguered Turnbull, his senior lawmaker Tony Abbott led a series of frontbench resignations, demanding the party does a policy u-turn on backing the carbon trade bills.

Turnbull, meanwhile, refused to budge, and he remains confident that enough of his lawmakers will support the package of 11 bills.

The government needs seven of the 32 opposition Liberal Party senators to support the bills in order for them to pass the Senate. Seventeen have already said they are likely to vote against the bills.

Questions are now being raised about how Australia will approach the approaching talks in Copenhagen.

Grant Anderson, partner at Allens Arthur Robinson in Melbourne, told

Boardroom Radio in an audio interview published on The New Lawyer site, that it is clear there will not be any comprehensive legally binding climate change agreement come out of the process.

"At best we will see a high level political contact, which probably will set out the process for negotiating some of the more contentious issues over the next 6 to 18 months."

He said they are likely to include what targets the developed countries will accept, and what commitments the developing countries will make to restrain the growth of their emissions.

Anderson, who specialises in energy and resources as well as climate change law, said this doesn't mean Copenhagen will be a failure.

"There are a number of second order issues that could well be agreed at Copenhagen. Foremost among those the extension of the clean development mechanism and the joint implementation mechanism, which are a means by which the developing countries are able to generate emissions reductions, which can then be used by the developed countries to meet their own international and domestic emissions target commitments.

"And that is very important for countries like Australia, Japan and presumably the US," he said.

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Govt tables plan on older people and the law

OLDER people may have better access to legal services and will have clearly defined powers of attorney rights if the federal government's plans for older people in the law, tabled yesterday in Parliament, are successful.

Attorney General Robert McClelland has tabled the government's response to the House of Representatives Legal and Constitutional Affairs Committee's report on older people and the law.

The report makes 48 recommendations addressing legal issues facing older Australians, including fraud and financial abuse, powers of attorney, advance health care planning, guardianship and administration, and barriers to accessing legal services.

The various states' responses to older people and the law are also targeted in the Committee's recommendations. The federal government said it would bring these recommendations to the relevant body in each jurisdiction.

The Committee was charged with investigating whether legislative regimes were adequately addressing the legal needs of older people in 2006, by then Attorney General Philip Ruddock.

Committee chairman, Peter Slipper MP, said of financial abuse of older Australians at the time: "Studies have suggested that older people are less likely to take legal action where abuse has occurred."

Slipper said the Committee would focus on those aged 65 and over in its inquiry.

"At present, 12 per cent of the Australian population is aged 65 and over, and by 2030 this is estimated to rise to more than 22 per cent," he said. The report can be found at

www.aph.gov.au

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ASIC to pay costs in One-Tel debacle

ONE-TEL founder Jodee Rich and the company's former finance director Mark Silbermann have been awarded costs in a landmark win over the corporate regulator.

The NSW Supreme Court had dismissed the Australian Securities and Investments Commission's case against the pair.

In court today, Justice Robert Austin ordered ASIC pay both men their legal costs from the proceedings. Both have requested lump sums, plus interest, be paid to them.

The NSW Supreme Court had said earlier this month that ASIC had failed to prove any aspect of its allegations, which claimed Rich and Silbermann had failed to meet their duty of care in the months leading to the former company's collapse in 2001.

The amount the pair will receive and the way the sum is to be calculated remains undecided.

As reported by The Australian newspaper today, defence counsel, David Williams SC, told reporters outside the court that he could not talk about the size of the costs, but Rich has earlier indicated they were around the \$15 million mark.

The Court's Justice Austin, said its cost assessment procedure was not suited to cover a large litigation case in which cost would reach "some millions of dollars".

ASIC's barrister, Philip Durack SC, indicated that his client had no objection to paying costs on a so-called "party-party" basis, which typically involves a court official or lawyer chosen from a court panel assessing reasonable costs.

Meanwhile, barrister Williams said his clients want the sum to be determined by mediation or, failing that, for Justice Austin to determine a lump sum.

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Bakers, Allens, advise on \$400m institutional placement

LAW firm Baker & McKenzie's Australian office has advised Sims Metal Management on its newly announced \$400 million institutional placement. Allens Arthur Robinson advised the underwriters on the deal.

Sims Metal Management, a global leader in metals and electronics recycling, said it completed the placement at \$21 per share on 20 November. Settlement of about 19 million new shares issued under the placement was scheduled to take place on Thursday this week, with the target of raising A\$75 million.

Allens partner Vijay Cugati, with senior associate Eve Regnard, advised the underwriters UBS and CommSec in relation to the fully underwritten institutional placement.

"It was important that the transaction was executed quickly and smoothly for Sims Metal Management to then be able to focus on its plans to repay debt and pursue growth opportunities," said Cugati.

Sims Metal Management CEO, Dan Dienst, said: "The capital puts the company in an enviable position to strengthen its existing business and fund acquisition growth opportunities. We are very pleased with the success of the placement."

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Litigation funding conference building awareness



ARGENTUM LITIGATION INVESTMENTS HAS ANNOUNCED A SERIES OF CONFERENCES DESIGNED TO RAISE AWARENESS ABOUT LITIGATION-LEAD INVESTING

Conferences promoting Litigation as a Distinct Asset Class will be held in Asia early next year as Argentum Litigation continues to penetrate the rapidly growing Litigation Funding sector.

"Argentum have already played an active sponsorship role in a number of UK Litigation conferences with Lexis Nexis/ Butterworths but are now seizing the opportunity to better educate investors rather than litigators or industry insiders on this new but very distinct asset class" said Alex Toe, non-executive Board Member. "Argentum will use the conferences to promote awareness of their own Litigation Funding projects including their recently announced class-action venture with Keating Aviation. The venture is a great example of how individuals can finance an action, in this case, funding a large group of pilots seeking substantial damages from two leading airlines for wrongful dismissal".

Invitations have already been extended to institutional investors, family offices and fund

managers who will have the opportunity to hear from several UK-based key note speakers and litigation funders alike.

A leading Asian event management company, Aspect Marketing will stage the conferences in Singapore (March 5) and Bangkok (March 19) and delegates are expected to be attending from around Australasia.

Argentum have extended an open invitation to other Litigation Funders, Law Firms and industry bodies to become involved in what they hope will become a platform to promote interest in this emerging asset class.



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