



Health Alert December 2008

This Alert contains information on the following topics:

- > *Residents force changes to the Retirement Villages Bill*
- > *Inquiry to identify difficulties in accessing the NSW health care complaints system*
- > *Release of the final report of the Special Commission of Inquiry into Acute Care Services in NSW Public Hospitals*
- > *Regulation of charities and not for profits*

Residents force changes to the Retirement Villages Bill

As we outlined in the last edition of Health Alert, the *Retirement Villages Bill 2008* (NSW) (**Bill**) is set to introduce some significant amendments to the *Retirement Villages Act 1999* (NSW) (**Act**). Probably the most significant (and definitely most controversial) initiative proposed under the Bill is its approach to capital maintenance and capital replacement.

Under the existing legislation residents generally bear the cost of capital maintenance and operators generally bear the cost of capital replacement. The NSW Government argues that this has led to items of capital being 'repeatedly repaired beyond their economic life simply because residents have to foot the bill'.

The Bill had proposed to deal with this problem by removing the distinction between capital maintenance and capital replacement and treating both types of expenditure under the heading 'capital works'. Residents would be liable to pay up to 50% of the cost of 'capital works'.

This proposal met with strong objections from resident lobby groups such as the Retirement Villages Residents Association as residents were concerned about being required to pay half the cost of expensive

capital replacement items such as driveways. The residents' objections were vigorously championed by the NSW opposition in the legislative council, and as a result the Government was unable to get the numbers necessary to pass the Bill.

On 13 November 2008 the Minister for Fair Trading, Virginia Judge, announced that the proposed amendments to capital maintenance and capital replacement would be scrapped and the Bill would be amended so that the existing distinction and cost split between capital maintenance and capital replacement would be retained. This amendment will more clearly define capital maintenance and capital replacement in an effort to avoid disputes.

The Bill passed through NSW parliament on 4 December 2008. In the next edition of Health Alert, we will comment on the progress of the Bill.



Inquiry to identify difficulties in accessing the NSW health care complaints system

In an attempt to overcome any unnecessary complexities in the current operation of the *Health Care Complaints Act 1993* (NSW), the NSW Joint Parliamentary Committee on the Health Care Complaints Commission will be undertaking an inquiry. The aim of that inquiry is to identify any difficulties NSW health care consumers experience in accessing the health care complaints system. Particularly, the Committee will assess the appropriateness of the current system and investigate powers of the Health Care Complaints Commission to achieve its aim of protecting the health and safety of the public.

Release of the final report of the Special Commission of Inquiry into Acute Care Services in NSW Public Hospitals

The report can be found at:

http://www.lawlink.nsw.gov.au/lawlink/Special_Projects/ll_splprojects.nsf/pages/acsi_finalreport

Regulation of charities and not for profits

There has been considerable debate about the Senate enquiry into the Disclosure Regime and the recent Public Hearing relating to the regulation of charities and not for profits (NFPs).

Some of the emerging issues in the regulation of charities are:

- > Strong support for standard and consistent reporting regime by charities and NFPs.
- > A national model of regulation through a separate body, for example, similar to the UK's Charity Commission.
- > Should charities with deductible gift recipient status have the same reporting obligations as corporations, and other charities and NFPs?
- > There is an ongoing debate with the ATO about commercial activities of charities that is yet to be resolved. In the next edition of Health Alert, we will report on the outcome of the High Court Appeal in the Word Investments case.

Stop press: the Senate has released its report which we will also comment on in the next edition of Health Alert.

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