

Editorial:

This edition opens with a discussion by Loma Steynberg of UNISA of the challenges attending judicial decision-making in the award of delictual damages based on actuarial calculations.

Fair assessments need to take both subjective and objective factors into consideration.

The interpretation of the South African National Credit Act keeps drawing the contentious attention of commercial lawyers and the courts. Corlia van Heerden and Hermie Coetzee of the University of Pretoria analyse the effects of the suspension of both a debtor's position when being reviewed by a debt counsellor to incur further debt and of a credit provider's ability to enforce debt claims against the debtor thus presumed to be in trouble. The question when and how such a debt review can properly be terminated, is generating difficulties.

The vagueness of the same piece of legislation draws the attention of Philip Stoop and Michelle Kelly-Louw of UNISA in their attempt to identify what meaning the concept of a "credit guarantee" should be given in terms of the Act, and particularly whether the common law contract of suretyship must be deemed to fall under this definition for the purposes of addressing reckless lending.

In the second instalment of their exploration of the possibilities for juristic persons to incur criminal liability, Pieter du Toit and Gerrit Pienaar of the North-West University in Potchefstroom investigate legislation of Australia and the United Kingdom in which recognition is given to true corporate or organisational fault based not on the fault of individuals but rather on the manner in which the corporation is structured.

Brighton and Yeukai Mupangavanhu of the University of the Western Cape seek to demonstrate that the design and administration of student discipline at institutions of higher education qualifies to be administrative action, requiring it to be aligned to the imperatives of just administrative action.

Next Wesahl Domingo of the University of the Witwatersrand highlights the difficulties attending divorced parents' rights and obligations regarding the children where the other divorced parent moves away. She points out that the increased mobility of society is causing more frequent applications concerning local and international family relocations to be brought before the courts.

In his note Ngwaru Maghembe of the University of Pretoria again brings to the fore the difficulties emanating from the National Credit Act as it emerges from a decision of the Supreme Court of Appeal in which it was found that instituting sequestration proceedings against a debtor should not be seen as proceedings to enforce a credit agreement.

In another case note Steve Cornelius of the University of Pretoria sets out the degree of clarity provided by the judiciary regarding limitations on the exploitation of the identity of celebrities for commercial gain and, in the last note, Kebolo Selala of the North-West University in Mafikeng critically discusses the decision of the South African Labour Appeal Court regarding jurisdiction to resolve a dispute of unfair dismissal involving a sex worker.

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