

## FUNDING FOR LEGAL ASSISTANCE

Sections 12 and 13 of the *Fair Trading Act 1987* provide for consumers who wish to bring proceedings in relation to the supply of goods or services, or the disposal to the person of an interest in land, to apply for financial assistance in the conduct of the proceedings. Such assistance extends to the costs of legal representation and prescribed expenses. Under s14, the director-general may assign a case to an Australian legal practitioner who has indicated a willingness to undertake the conduct of the cases of assisted persons. ■

**Notes:** **1** Consumer, Trader and Tenancy Regulation 2002, cl 20. **2** *Moloney & Maloney v Katsianos* (Home Building) [2008] NSWCTTT 1144 (7 July 2008). **3** Consumer, Trader and Tenancy Regulation 2002, cl 20(2). **4** *Ibid*, cl 20(3). **5** *Ibid*, cl 20(4). **6** *Diamond v KAV Building Services Pty Ltd* (Home Building) [2008]

NSWCTTT 1013 (23 May 2008). **7** *Cachia v Hanes* (1994) 179 CLR 403. **8** *Woodcrest Homes Pty Ltd and Fair Trading Tribunal* [2002] NSWSC 552 (1/07/2002). **9** *Ibid*, at [25]. **10** *Trust Company of Australia Limited v Skiwing Pty Ltd* (2006) 66 NSWLR 77. **11** *Da Silva and Da Silva Constructions P/L v Bresond* (Home Building) [2007] NSWCTTT 380 (16 July 2007). **12** *Da Silva and Da Silva Constructions Pty Ltd v Bresond Pty Ltd & Anor* [2008] NSWSC 158 (29 February 2008). **13** *Trust Company of Australia Limited v Skiwing Pty Ltd* (2006) 66 NSWLR 77 at 82. **14** *Ibid*, at 59. **15** *Da Silva v Bresond* (Home Building) [2008] NSWCTTT 1120 (30 June 2008). **16** Consumer, Trader and Tenancy Act 2005, s28(5)(j). **17** For example, see *Diamond v Birdon Contracting Pty Limited & Anor* [2008] NSWLEC 302 (21 October 2008).

**Phillipa Alexander** is a specialist in legal costs with *Costs Partners*. **PHONE** (02) 9006 1033  
**EMAIL** [Phillipa@costspartners.com.au](mailto:Phillipa@costspartners.com.au).

# Make your voice heard!

By Kimberley Moran

As many of you will be aware, on 10 December 2008 the federal government announced a national consultation on human rights in order to seek the views of the Australian community on how human rights and responsibilities should be protected in the future. Father Frank Brennan, professor at the Australian Catholic University, has been charged with heading a consultation committee aimed at ascertaining community opinions on:

- which human rights (including corresponding responsibilities) should be protected and promoted?
- are these human rights currently sufficiently protected and promoted?
- how could Australia better protect and promote human rights?

A key issue is whether Australia should adopt a federal charter of rights. The government has expressly stated that it will not consider a constitutionally entrenched charter of rights. The issue, therefore, is whether Australia should adopt a charter in the form of a human rights act, such as that already operating in the ACT and Victoria.

The Australian Lawyers Alliance supports the adoption of a charter, as it believes that formally enshrining human rights in legislation would both protect individuals and foster a community that is more conscious and respectful of the needs and rights of others. We encourage all members to become involved in the consultation process and have their say by:

1. writing a submission to the committee. The deadline for submissions is 29 May 2009. Submissions can be made at [www.humanrightsconsultation.gov.au](http://www.humanrightsconsultation.gov.au); emailed to [humanrightsconsultation@ag.gov.au](mailto:humanrightsconsultation@ag.gov.au); or mailed to National Human Rights Consultation Secretariat Attorney-General's Department Central Office Robert Garran Offices National Circuit BARTON ACT 2600
2. attending a community roundtable to debate the issues and options. Dates and details for community roundtables will be posted on [www.humanrightsconsultation.gov.au](http://www.humanrightsconsultation.gov.au).
3. signing the petition and emailing a politician at [www.charterpetition.com.au](http://www.charterpetition.com.au).
4. talking to friends and families and encouraging them to become involved.
5. writing to local newspapers to inform people in your community about the issues and how to become involved in the process.

Over the coming months, a number of Alliance members who specialise in human rights will be speaking to community groups about the possible impact of a charter and the reasons for introducing one. Community groups keen to offer the Alliance such speaking engagements should email [kimberley@lawyersalliance.com.au](mailto:kimberley@lawyersalliance.com.au).

If you have any queries about how a human rights act would operate, or would like some more information on the issue, feel free to contact the Alliance's Legal and Policy Officer, Tilda Hum, at [tilda@lawyersalliance.com.au](mailto:tilda@lawyersalliance.com.au) or call 02 9258 7700. A detailed discussion paper can also be viewed online at [www.hrlrc.org.au](http://www.hrlrc.org.au) by clicking on the feature article link.

**Kimberley Moran** is the Alliance's Charter Project Officer. **EMAIL** [Kimberley@lawyersalliance.com.au](mailto:Kimberley@lawyersalliance.com.au)