

MEDIA RELEASE

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TASMANIA LAW REFORM INSTITUTE



UNIVERSITY
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ATTENTION: Chiefs of Staff, News Directors

Today the Tasmania Law Reform Institute released its Final Report No 9:

Criminal Liability of Organizations

This report makes seven recommendations concerning the attribution of criminal responsibility to organizations. The recommendations in this paper do not change the normal rules of criminal responsibility which apply to individuals. The suggested reforms apply to the organization as an entity, as distinct from the individuals that make up an organization.

Organizations can already be prosecuted for breaches of environmental, workplace safety, consumer protection and other laws but it is the view of the Institute that the current criminal law does not provide a means to adequately hold organizations criminally liable in the rare case where the organisation itself (rather than the individuals involved) has real culpability for traditional crimes. To address this inadequacy, the Institute recommends introducing specialised principles of criminal responsibility for organizations to address the very serious cases where the conduct of an organization has been so reprehensible that it should be punished using the criminal law. These suggested reforms address the broad issue of the criminal responsibility of organizations, rather than focusing solely on laws affecting workplaces and employees. Although the recommendations apply more broadly, the report is concerned with the criminal law that applies when corporations and other entities wrongfully cause the death or serious injury. This is most likely to be relevant to workplace deaths and injuries or 'public disasters' (for example a gas explosion or a ferry sinking). In relation to workplace safety, the Institute advises that these reforms are intended to sit at the top of the all the enforcement provisions that apply to workplace health and safety under the *Workplace Health and Safety Act*. In other words the recommended reforms are intended to improve the operation of the very tip of the regulation enforcement pyramid.

Changes are also recommended to the principles of sentencing that apply to organizations. Currently, the type of sentence usually imposed on a corporation is a fine. In many instances a fine may be ill suited to achieving the aims of punishment such as denunciation and deterrence, particularly in relation to serious breaches of the law that cause death or serious injury. This Report makes recommendations to provide a greater range of sentencing options relevant to corporations such as adverse publicity orders and orders disqualifying an organization from undertaking specific commercial activities.

FURTHER INFORMATION/INTERVIEWS: Kate Warner 6226 2067

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The Report can be downloaded from www.law.utas.edu.au/reform/
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